

A-Engrossed
Senate Bill 236

Ordered by the Senate March 29
Including Senate Amendments dated March 29

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Creates lifetime brand inspection for Equidae. Expands State Department of Agriculture authority to collect brand inspection service fee. **Sets maximum service fee department may collect at \$25.** Removes brand inspection certificate requirements for livestock other than cattle. Expands branding law application for sheep. Replaces fee refund system with fee exemption for certain transported cattle.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to brands; creating new provisions; amending ORS 599.269, 603.075, 604.005, 604.046,
3 604.066, 604.071 and 604.992; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 604.005 is amended to read:

6 604.005. As used in this chapter, unless the context requires otherwise:

7 (1) "Brand" means a distinctive design, mark or other means of identification applied to a des-
8 ignated location of the hide, wool or skin of livestock, by methods prescribed by administrative rule
9 of the State Department of Agriculture promulgated pursuant to ORS chapter 183.

10 (2) "Brand inspection" means the department's:

11 (a) Examination of the brands, tags, breed, flesh marks including dewlaps and wattles, earmarks,
12 coloring, sex, age or other distinguishing characteristics of livestock;

13 (b) Examination of documents and other evidence of ownership or right to possession of live-
14 stock; and

15 (c) Issuance or refusal to issue a brand inspection certificate.

16 (3) "Brand inspection certificate" means a document issued by the department [*which shall only*
17 *be*] **that is** valid for eight days, unless otherwise specified therein, and [*which*] **that** includes:

18 (a) The date and place of issuance;

19 (b) The quantity of livestock inspected and a description of the distinguishing characteristics
20 of hides or of livestock examined, including brands, tags, breed and sex;

21 (c) The name and address of the person to whom issued and the name and address of the owner;

22 (d) [*The destination of the livestock, if transportation thereof is to take place;*] **If the livestock**
23 **are to be transported, the destination;**

24 (e) A statement of any limitation on the use of the certificate, or on its period of validity; and

25 (f) A signed certification of the department's brand inspector that the brand inspector has ex-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 amined the described hides or livestock and documents associated therewith and that to the best
 2 of the inspector's knowledge the hides or livestock are owned or in the lawful possession of the
 3 person presenting the hides or livestock for brand inspection.

4 (4) "Custom slaughtering establishment" shall have the meaning set forth in ORS 603.010.

5 (5) "Department" means the State Department of Agriculture.

6 (6) "Document of title" shall have the meaning set forth in ORS 71.2010.

7 (7) "**Equidae**" means a horse, mule or ass.

8 [(7)] (8) "Livestock" means cattle, [*horses, mules, asses*] **Equidae, sheep** and any other animals
 9 designated by the administrative rule of the department[, *and for the purposes of ORS 604.027 and*
 10 *604.056 shall include sheep*].

11 [(8)] (9) "Livestock auction market" shall have the meaning set forth in ORS 599.205.

12 [(9)] (10) "Livestock carrier" means the person who transports livestock by rail, motor vehicle,
 13 boat, aircraft or on the hoof, either as a common carrier who is available to the public to perform
 14 this service for compensation, as a contract carrier who enters into agreements with specific indi-
 15 viduals to perform this service for compensation, or as a private carrier who performs this service
 16 without compensation as an owner, lessee or bailee of livestock.

17 [(10)] (11) "Slaughterhouse" shall have the meaning set forth in ORS 603.010.

18 **SECTION 2.** ORS 604.046 is amended to read:

19 604.046. (1) Brand inspection and the issuance of a brand inspection certificate is required in
 20 this state [*in the following instances*] **for**:

21 (a) [*Livestock*] **Cattle** to be transported from any place in this state to or through any place
 22 outside of this state;

23 (b) [*Livestock*] **Cattle** to be transported from any place in this state to a range or pastureland
 24 outside of this state and destined to be ultimately returned to this state;

25 (c) Except as provided in subsection [(5)(c)] (5)(b) of this section, [*livestock*] **cattle** destined for
 26 sale or slaughter at any livestock auction market or other sales facility or slaughterhouse in this
 27 state, and prior to such sale or slaughter; and

28 (d) [*In order to prevent fraud or dishonesty being perpetrated upon livestock purchasers of this*
 29 *state, livestock*] **Except as provided in subsection (5)(a) of this section, cattle** transported from
 30 any place outside of this state to any livestock auction market or other sales facility or
 31 slaughterhouse in this state for sale within this state[, *unless exempted therefrom under subsection*
 32 *(5)(b) of this section*].

33 (2) Brand inspection may be performed, upon request of the owner or person in possession of
 34 livestock, at either a regular brand inspection location or a place designated by the person re-
 35 questing the brand inspection. [*In the latter case,*] The State Department of Agriculture may require
 36 payment of its time and travel costs as a condition to performing the brand inspection. [*In the event*
 37 *the requested brand inspection is at a place other than an auction market or registered feedlot,*] The
 38 department [*shall*] **may** also assess and collect a service fee [*of \$10*], **not to exceed \$25**.

39 (3) In addition to brand inspections under subsections (1) and (2) of this section, the department
 40 [*is also authorized to*] **may** establish and carry out a system of brand inspection at the times and
 41 places as an intrastate, regional movement of cattle takes place, or as a change of ownership takes
 42 place. In establishing any system authorized by this [*section*] **subsection**, the department shall con-
 43 sider the customs, practices and theft or ownership problems of the [*livestock*] **cattle** industry, the
 44 economic feasibility of carrying out a system, the volume of [*livestock*] **cattle** movement within the
 45 state or within specific areas of the state, the laws and regulations of the United States and the

1 desirability for a system as evidenced by a majority of persons who would be affected by the system.
 2 Such a system, established in accordance with the provisions of ORS chapter 183, may include:

3 (a) That the brand inspection may be in addition to or in lieu of other brand inspections required
 4 or allowed by this chapter and the circumstances or conditions under which the alternatives shall
 5 be allowed;

6 (b) The times and places the brand inspection shall take place in relation to the time of move-
 7 ment or location change, or the change of ownership;

8 (c) The establishment of a brand inspection fee and the person responsible for payment thereof;

9 (d) The establishment of geographic, regional or political areas within the state in which brand
 10 inspection is required; and

11 (e) The circumstances or conditions under which an exemption from or modification of the sys-
 12 tem's requirements may be allowed, considering their feasibility in relation to movement or sale of
 13 minimum numbers of *[livestock]* **cattle**.

14 (4) In addition to brand inspections under subsections (1)*], (2) and]* **to** (3) of this section, the
 15 department *[is also authorized to]* **may** inspect any hides or livestock at any time, and at any public
 16 or private place, building or livestock carrier, if there is a need to identify diseased or suspected
 17 diseased livestock, or if *[there is reasonable cause or suspicion to believe]* **the department reason-**
 18 **ably suspects that** any provisions of this chapter, *[or]* the administrative rules *[thereunder, or of]*
 19 **adopted under this chapter or** any criminal laws relating to the possession of livestock, are being
 20 violated. This authority is in addition to any authority granted police officers, the department's
 21 brand inspectors, livestock police officers and investigative officers under ORS 133.525 to 133.703
 22 relating to search and seizures. **The department may undertake any of the actions described**
 23 **in ORS 604.056 (1) if:**

24 (a) An inspection results in a finding that a brand inspection certificate accompanying the hides
 25 or livestock is false, erroneous or incomplete in any material respect*], or if]*;

26 (b) There is a question *[of]* whether the person in possession **of the hides or livestock** is the
 27 owner *[of the hides or livestock or is in lawful possession thereof, or if]* **or a lawful possessor; or**

28 (c) The person in possession of the livestock fails to submit evidence requested under ORS
 29 604.051 (1)*], the department may undertake any of the actions described in ORS 604.056].*

30 (5) In lieu of the brand inspection and the issuance of a brand inspection certificate required
 31 by subsection (1) of this section*], an alternative document specified hereafter may accompany livestock*
 32 *in each of the following instances]:*

33 *[(a) Horses, when accompanied by a special nontransferable brand inspection certificate identifying*
 34 *such horses and issued by the department for an indeterminate time to the owner of the horses;]*

35 *[(b)] (a) [Livestock] Cattle that are* transported to any slaughterhouse in this state from any
 36 place outside this state, if entering this state **may be** accompanied by a brand inspection certificate
 37 or similar document issued by the other state, provided that such other state has brand inspection
 38 comparable to the inspection of this state; or

39 *[(c)] (b) Cattle, in lots not to exceed 15 head, presented by one person for slaughter at [any] a*
 40 *slaughterhouse [when] may be* accompanied by a special slaughterhouse certificate issued by the
 41 department for which a fee, **equal to the brand inspection fee** established by the department under
 42 ORS 604.066 (2), has been paid.

43 (6) Brand inspection at slaughtering establishments or other facilities where cattle are slaugh-
 44 tered or cattle hides are received, may be required of cattle hides under a system established by the
 45 department in accordance with the provisions of ORS chapter 183. In establishing any system au-

1 thorized by this [section] **subsection**, the department shall consider theft or ownership problems
 2 associated with slaughtered cattle, the economic feasibility of carrying out the system, the attitudes
 3 of the affected members of the [livestock] **cattle** industry of this state, the volume of slaughtered
 4 cattle within the state or within specific areas of the state, and the laws and regulations of the
 5 United States. Any system established under this [section] **subsection** may include:

6 (a) The designation of geographic, regional or political areas within the state in which cattle
 7 hide inspection is required;

8 (b) The use of tags, stamps or other devices evidencing ownership of the cattle slaughtered; and

9 (c) The methods, locations and times for cattle hide inspection.

10 (7) By written agreement with the appropriate agencies in the States of California, Nevada,
 11 Idaho or Washington, the department may recognize brand inspections performed in any of such
 12 other states in lieu of the brand inspections required by this chapter. Any such agreement shall
 13 provide that recognition of brand inspections of any such other state shall be effective only while
 14 brand inspections performed pursuant to this chapter are recognized in such other state.

15 **SECTION 3.** ORS 604.066 is amended to read:

16 604.066. (1) Except as provided in subsection (2) of this section, the State Department of Agri-
 17 culture shall charge and collect a brand inspection fee in accordance with the following:

18 [(a) \$20 for the brand inspection described in ORS 604.046 (5)(a); or]

19 **(a) \$30 for a lifetime brand inspection for Equidae;**

20 **(b) \$10 per head for a brand inspection for Equidae, if the brand inspection certificate**
 21 **utilized is valid for more than eight days but less than a lifetime; or**

22 [(b)] **(c) [\$5] \$10 per head for a brand inspection [when] on livestock other than Equidae, if**
 23 **the brand inspection certificate utilized is valid for [a period in excess of] more than eight days.**

24 (2) In accordance with the provisions of ORS chapter 183, the department shall establish a brand
 25 inspection fee [of] **on cattle and cattle hides for which a brand inspection certificate is valid**
 26 **for eight days. The fee shall be** not less than [50] **85** cents and not more than [75 cents] **\$1** per
 27 head of cattle [or per cattle hide, and of not more than \$3.75 per head of horses, mules and asses] **and**
 28 **not more than \$2 per hide.**

29 (3) [The brand inspection fee, including assessments under ORS 577.512, shall be paid to the de-
 30 partment by] **Except as provided in this subsection or subsection (4) of this section,** the person
 31 requesting or requiring brand inspection to be performed **shall pay the State Department of Ag-**
 32 **riculture a brand inspection fee and the assessments authorized under ORS 577.512.** Livestock
 33 auction markets, slaughterhouses and custom slaughtering establishments at which brand inspection
 34 is performed shall collect the fees [therefor and forthwith pay] **and assessments and forward** them
 35 to the department. [A brand inspection fee may not be collected by livestock auction markets on live-
 36 stock] **The person requesting or requiring brand inspection for cattle delivered to a livestock**
 37 **auction market is not required to pay a brand inspection fee on cattle** whose value is \$10 or
 38 less.[, unless the animal is destined for slaughter or shipment out of this state or on] **The person**
 39 **requesting or requiring brand inspection is not required to pay a brand inspection fee on**
 40 **cattle not more than 90 days of age that are to be transported with their mothers** to a range or
 41 pastureland outside of this state. [However, any assessments under ORS 577.512 are still payable to
 42 the department.]

43 (4) **The person requesting or requiring brand inspection is not required to pay a brand**
 44 **inspection fee or pay assessments** [A person may claim a refund of brand inspection fees paid on
 45 *Oregon livestock*] **when Oregon cattle are being** transported from any place in this state to any

1 place outside of this state and then returned to this state, if the movement is continuous without
 2 unloading enroute, is done in the usual course of ranch operations and is not related to a change
 3 of ownership. [*The refund may be claimed only for brand inspection fees paid on the identical livestock*
 4 *transported. A written claim for refund shall be submitted to the department within 90 days from the*
 5 *initiation of the livestock movement, accompanied by an affidavit prescribed by the department con-*
 6 *firming the circumstances set forth in this paragraph.*]

7 (5) Except as provided in ORS 577.512, the department shall deposit all fees paid to it under this
 8 chapter in the State Treasury to the credit of the Department of Agriculture Service Fund, and such
 9 fees are continuously appropriated to the department for administering and enforcing this chapter.
 10 The provisions of ORS 561.144 apply to such fees.

11 **SECTION 4.** ORS 604.071 is amended to read:

12 604.071. [*No person shall*] **A person may not:**

13 (1) Purchase, sell, handle or transport hides or livestock in violation of ORS 604.005 to 604.071,
 14 604.640, 604.650 and 604.670 or the administrative rules promulgated thereunder;

15 (2) While marking livestock on the ear, either cut, mark or remove more than one-half of the
 16 ear;

17 (3) Except for the normal sheepshearing process, cut, burn or otherwise obliterate or disfigure
 18 the brand, earmark, dewlap or other distinguishing characteristics upon hides or livestock;

19 (4) Purchase, sell or hold for sale any hides or livestock in the condition described in subsection
 20 (3) of this section;

21 (5) As a custom slaughterer, fail to identify livestock hides and the persons from whom they
 22 were obtained;

23 (6) **Apply an unrecorded brand on livestock;**

24 (7) Use a recorded brand or similar design on livestock unless the person is the current re-
 25 corded holder [*thereof*] **of the brand**, or use a brand recorded in another state, except in accordance
 26 with rules adopted by the State Department of Agriculture;

27 [(7)] (8)(a) Transport [*livestock*] **cattle** out of this state without a brand inspection certificate
 28 having been issued to the person presenting the [*livestock*] **cattle** for transport[, or];

29 (b) Fail to have a document identifying each load of [*livestock*] **transported cattle** as a part of
 30 the [*livestock*] **cattle** described on the brand inspection certificate accompanying each load[,]; or

31 (c) Fail to deliver the brand inspection certificate to the [*livestock*] consignee upon **the trans-**
 32 **ported cattle** reaching the intended destination;

33 [(8)] (9) Refuse to permit the department to inspect hides or livestock, or refuse to permit hides
 34 or livestock to be sheared or otherwise handled so as to enable the department to determine the
 35 brands thereon; [or]

36 [(9)] (10) Knowingly make or issue any false, misleading or incomplete certificate, affidavit, ap-
 37 plication, proof of claim, document of title or other written instrument required or allowed under
 38 the provisions of ORS 604.005 to 604.071, 604.640, 604.650 and 604.670[.]; or

39 (11) **Knowingly present cattle for brand inspection that are not owned by the person re-**
 40 **questing the inspection.**

41 **SECTION 5.** ORS 604.992 is amended to read:

42 604.992. (1) Violation of any of the provisions of this chapter, or the administrative rules or or-
 43 ders promulgated thereunder, is a Class B misdemeanor.

44 (2) Notwithstanding ORS 14.030 to 14.080, an action for violation of brand inspection require-
 45 ments may be commenced and tried in either the county where the [*livestock*] **cattle** movement

1 originated or the county where the [*livestock*] **cattle** movement terminated.

2 **SECTION 6.** ORS 599.269 is amended to read:

3 599.269. Before any livestock auction market can sell cattle[, *horses or other livestock*] as desig-
4 nated by the State Department of Agriculture, at an auction open to public bidding, or on consign-
5 ment or commission basis, a brand inspector shall be present to carry out the brand inspection
6 provisions of ORS chapter 604 and this chapter. It is necessary therefor that the department recover
7 at least in part its actual costs of maintaining such inspection and related services. During any
8 24-hour period if the brand inspection fees [*which*] **that** the department is authorized to collect
9 through and in a livestock auction market under ORS chapter 604 do not total \$50, the livestock
10 auction market licensee shall include and at the same time pay to the department the difference
11 between the actual brand inspection total fees collected and \$50. This section also applies to sales
12 by breed or livestock associations, fairs or other groups, but does not apply to sales by Future
13 Farmer or 4-H groups.

14 **SECTION 7.** ORS 603.075 is amended to read:

15 603.075. **The State Department of Agriculture may impose on** any establishment required
16 by the laws of this state to have brand inspection [*shall after the first service call during a calendar*
17 *week pay to the State Department of Agriculture for such subsequent services the fees*] **the service fee**
18 established under ORS [604.066 (2), *which shall not be less than the fees equivalent to the inspection*
19 *of five head of livestock per service call*] **604.046 (2)**. Such [*fees are*] **fee is** appropriated as set forth
20 in ORS chapter 604. [*For the purposes of this section a calendar week is defined as the period com-*
21 *mencing at 12:01 a.m. on Sunday and ending at 12 midnight Saturday.*] **Notwithstanding ORS**
22 **604.046 (2), the department may waive the service fee under circumstances the department**
23 **deems appropriate.**

24 **SECTION 8.** The amendments to ORS 599.269, 603.075, 604.005, 604.046, 604.066, 604.071 and
25 604.992 by sections 1 to 7 of this 2007 Act apply to brand inspections conducted, and brand
26 inspection certificates issued, on or after July 1, 2007.

27 **SECTION 9.** This 2007 Act being necessary for the immediate preservation of the public
28 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
29 on its passage.

30