

# HOUSE BILL REPORT

## HB 2075

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**As Passed House:**  
March 13, 2019

**Title:** An act relating to removing the authority of the department of agriculture to conduct livestock brand inspections.

**Brief Description:** Removing the authority of the department of agriculture to conduct livestock brand inspections.

**Sponsors:** Representatives Chandler and Ormsby; by request of Department of Agriculture.

**Brief History:**

**Committee Activity:**

Rural Development, Agriculture, & Natural Resources: 2/20/19, 2/22/19 [DP];  
Appropriations: 2/26/19, 2/28/19 [DP].

**Floor Activity:**

Passed House: 3/13/19, 89-7.

**Brief Summary of Bill**

- Removes the Washington State Department of Agriculture's authority to conduct livestock brand inspections and repeals provisions relating to the creation, administration, and enforcement of the Livestock Inspection Program.

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### HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

**Majority Report:** Do pass. Signed by 13 members: Representatives Blake, Chair; Shewmake, Vice Chair; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Kretz, Lekanoff, Pettigrew, Ramos, Schmick, Springer and Walsh.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Orcutt.

**Staff:** Rebecca Lewis (786-7339).

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### HOUSE COMMITTEE ON APPROPRIATIONS

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** Do pass. Signed by 32 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Macri, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Springer, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

**Staff:** Dan Jones (786-7118).

**Background:**

Animal Health, Generally.

The Washington State Department of Agriculture (WSDA) Animal Health Program (Animal Health Program) is charged with protecting animals and the public from communicable animal diseases. Animal Health Program officials monitor movement of animals across state lines, set requirements for reporting and controlling diseases, and conduct testing and investigations.

Livestock Inspection Program.

Under the Livestock Inspection Program (Inspection Program), the WSDA records brands, licenses feedlots and public livestock markets, and conducts surveillance and inspection of livestock at time of sale and upon out-of-state movement. Cattle and horses are inspected for permanent identification, such as brands and ownership documents: at public livestock markets; at United States Department of Agriculture (USDA)-inspected slaughter plants; at licensed, certified feedlots; at change of ownership; and prior to leaving the state. The Inspection Program is funded by fees that are set in statute and paid by the livestock industry. The Inspection Program does not receive General Fund dollars.

*Inspection Fees.*

The inspection fee at a USDA-inspected slaughter plant is \$4 per head. The minimum fee for the issuance of an inspection certificate is \$5. The minimum fee does not apply to livestock consigned to a public livestock market or inspected at a slaughter plant. The fee for an individual inspection certificate is \$20 per year, or the time and mileage fee, whichever is greater. The time and mileage fee is \$17 per hour and the current mileage rate is set by the Office of Financial Management (OFM). The OFM mileage rate is \$0.58 per mile as of October 1, 2018.

When livestock inspection is required at a public livestock market, the proprietor of the livestock market must collect and remit to the WSDA an inspection fee as provided by law. If the total fees collected for inspection in one day do not exceed \$100, the proprietor must pay \$100 for the inspection services.

*Livestock Identification Advisory Board.*

Established by the Legislature in 1993, the six-member Livestock Identification Advisory Board (Board) provides advice about livestock identification programs to the Director of the WSDA (Director). The Board's six members are appointed by the Director and include a beef producer, a public livestock market representative, a horse owner, a cattle feeder, a dairy farmer, and a meat processor.

#### Electronic Cattle Transaction Reporting System.

In 2015 the Legislature authorized the WSDA to establish, by rule, an Electronic Cattle Transaction Reporting (ECTR) system to electronically report to the WSDA transactions involving unbranded dairy cattle that are individually identified through a WSDA-authorized identification method to the WSDA. Transactions that may be reported electronically include any sale, trade, gift, barter, or any other transaction that constitutes a change of ownership of unbranded dairy cattle that are individually identified through a WSDA-authorized identification method. The system is an alternative to the mandatory cattle inspections that are implemented pursuant to WSDA rule.

In order to electronically report transactions involving unbranded dairy cattle, a person needs an ECTR license (license) issued by the WSDA. Licensees must transmit to the WSDA, within 24 hours of a qualifying transaction, a record of the transaction containing the unique identification of each individual animal as assigned through a WSDA-authorized identification method. Licensees must: keep accurate records of all transactions involving unbranded dairy cattle on the property; make such records available for inspection by the WSDA upon request; and keep such records for at least three years.

The WSDA has the authority to adopt rules that designate conditions of licensure and the use of the ECTR system. Additionally, application fees, license renewal fees, and fees to be paid by a licensee for electronically reporting transactions involving unbranded dairy cattle are established in WSDA rule. Any fees must, as closely as practicable, cover the cost of the development, maintenance, fee collection, and audit and administrative oversight of the system.

#### Impounded Livestock.

Livestock that has been found running at large and is subsequently declared a public nuisance may be impounded by either the county sheriff or the nearest brand inspector. All impounded livestock must be brought to the nearest livestock market, or other place approved by the Director. If a brand inspector was not involved in the impounding, one must be notified. A brand inspector must examine the impounded animal in an attempt to ascertain ownership. If a registered brand is found, the owner must be notified through the mail of the animal's impoundment.

The brand inspector is also responsible for publishing information about the impounded animal in a newspaper published in the county where the animal was found. The notice must include information about the animal and where it was found, along with information regarding any pending sale of the animal at auction.

#### **Summary of Bill:**

The Washington State Department of Agriculture's (WSDA's) authority to conduct livestock brand inspections is removed, and provisions relating to the creation and administration of the Livestock Inspection Program (Inspection Program) are repealed. This includes: repealing the Inspection Program fees; deleting provisions creating and requiring identification certificates and inspection certificates for livestock generally, including for transporting livestock; repealing all provisions related to WSDA's certification of feedlots; and repealing the WSDA's inspection and enforcement authority related to the Inspection Program. The Director of the WSDA may allow for cattle transactions to be reported through the Electronic Cattle Transaction Reporting system.

The authority for brand inspectors to impound livestock at large and publish a notice of impounding is removed, but retained for the sheriff of the county where the livestock was found. The requirement for a brand inspector to examine impounded livestock to ascertain ownership by brand, tattoo, or identifying characteristic is removed. Proceeds from the sale of impounded livestock are no longer directed to the WSDA.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony** (Rural Development, Agriculture, & Natural Resources):

(In support) This bill makes it clear that there is going to be a change. There is a hope that all parties can find a way to resolve the issues with the Livestock Inspection Program (Inspection Program). It is unusual to testify in support of a bill while advocating for its defeat, but this is a last resort if all else fails. The Washington State Department of Agriculture (WSDA) finds itself in the untenable position of not being able to fund the Inspection Program. Fees for the Inspection Program have not been increased since 2011. There was an agency request bill in 2017 increasing Inspection Program fees; however, the bill did not pass and the Inspection Program continued to struggle. The WSDA had to use funds from other programs to fund the Inspection Program. The Governor's Office and the Office of Financial Management (OFM) directed the WSDA to propose this legislation to close the Inspection Program and cease inspections. The WSDA is committed to finding a clear path forward. There may be an amendment to continue the practice of certifying feedlots. There are still conversations occurring with multiple competing interests at the table, but this bill needs to move forward.

(Opposed) Many rights and responsibilities are not addressed in this bill, and there is a great deal of concern about the WSDA abandoning its statutory responsibility. It is unclear whether or not counties are prepared to take on the responsibilities related to impounded livestock.

(Other) The OFM and the Governor's Office directed the WSDA to propose this legislation. It puts the WSDA and the sponsor in an unenviable position. There has been

work by legislators to bring the stakeholders together. Senate Bill 5959 represents a possible solution, but if it does not pass, this bill will come into effect. This bill should move forward in the case that Senate Bill 5959 does not. The cattle feeders have been working with the WSDA to find a way to continue the practice of certifying feedlots. The WSDA has been using Agriculture-Local funds for the brand inspection program.

**Staff Summary of Public Testimony (Appropriations):**

(In support) The Livestock Identification Program (Program) has faced financial struggles for several years. The last fee increase was in 2011, and a proposal to raise fees failed to pass the Legislature in 2016. The Department of Agriculture (Department) has had to use funds from other unrelated programs to backfill the Program. There is no clear solution. The Department was directed to run this bill closing the Program. It may be a work in progress. The Department must do things differently. There has been work done among the stakeholders, but this bill needs to move forward in case a new solution cannot be found.

(Opposed) The Program is critical to the livestock industry. There is work being done with all the stakeholders on ways to bring the program out of the red. Sheriffs do not have enough resources to take on the responsibility for impounding stray cattle.

(Other) An amendment is in progress to continue the certification of feedlots, which will provide a good path forward. The bill retains the framework of the Program.

**Persons Testifying (Rural Development, Agriculture, & Natural Resources):** (In support) Representative Chandler, prime sponsor; Laura Butler, Washington State Department of Agriculture; and Jay Gordon, Washington Dairy Federation.

(Opposed) Cindy Alia, Cattle Producers of Washington.

(Other) Jack Field, Washington Cattle Feeders Association.

**Persons Testifying (Appropriations):** (In support) Laura Butler and Jodi Jones, Washington State Department of Agriculture; and Jay Gordon, Washington State Dairy Federation.

(Opposed) Mark Streuli, Washington Cattlemen's Association; and John Snaza, Thurston County Sheriff's Office and Washington State Sheriffs' Association.

(Other) Jack Field, Washington Cattle Feeders Association.

**Persons Signed In To Testify But Not Testifying (Rural Development, Agriculture, & Natural Resources):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.