

HOUSE BILL REPORT

ESSB 5959

As Reported by House Committee On:
Rural Development, Agriculture, & Natural Resources

Title: An act relating to livestock identification.

Brief Description: Revising livestock identification law.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Warnick).

Brief History:

Committee Activity:

Rural Development, Agriculture, & Natural Resources: 3/26/19, 4/3/19 [DPA].

**Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)**

- Increases the number of members on the Livestock Identification Advisory Committee from six to 12.
- Changes certain types of fees for livestock inspection and brand recording, and authorizes the Washington State Department of Agriculture (WSDA) to reduce fees under certain circumstances.
- Requires the WSDA to track the Livestock Inspection Program's (Inspection Program's) income and expenditures, and provides that the WSDA may not maintain more than eight months of operating funds in reserve.
- Specifies certain provisions for brand record renewal and transfer.
- Authorizes the WSDA to certify individuals as field livestock inspectors.
- Requires the WSDA to report on the Inspection Program by September 1, 2020.
- Provides for the expansion of the use of the Electronic Cattle Transaction Reporting System.
- Requires the WSDA to maintain appropriate staffing levels to efficiently provide brand inspections.

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.

HOUSE COMMITTEE ON RURAL DEVELOPMENT, AGRICULTURE, & NATURAL RESOURCES

Majority Report: Do pass as amended. Signed by 9 members: Representatives Blake, Chair; Dent, Assistant Ranking Minority Member; Chapman, Dye, Fitzgibbon, Kretz, Orcutt, Pettigrew and Springer.

Minority Report: Without recommendation. Signed by 3 members: Representatives Shewmake, Vice Chair; Lekanoff and Walsh.

Minority Report: Do not pass. Signed by 2 members: Representatives Ramos and Schmick.

Staff: Rebecca Lewis (786-7339).

Background:

Livestock Inspection Program.

The Washington State Department of Agriculture's (WSDA) 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.

Through 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-inspected slaughter plants; at licensed, certified feedlots; at change of ownership; and prior to leaving the state.

Livestock Identification Advisory Committee.

Established by the Legislature in 1993, the six-member Livestock Identification Advisory Committee provides advice about the Inspection Program, including inspection and license fees, to the Director of the WSDA (Director). The committee'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.

Veterinarian Certification.

The Director may enter into agreements with Washington-licensed and accredited veterinarians, who have been certified by the Director, to perform livestock inspections. Fees for livestock inspections performed by certified veterinarians must be collected by the veterinarian and remitted to the Director. The Director may adopt rules necessary to implement livestock inspections performed by veterinarians.

Livestock Inspection and Brand Recording Fees.

Fees paid by the livestock industry fund the Inspection Program. The fee for identified cattle is \$1.10 per head and \$1.60 per head for nonidentified cattle. The inspection fee at cattle processing plants with a daily capacity of 500 head or fewer is \$4 per head. An annual inspection certificate is \$20 per head and \$60 for a lifetime certificate. The fee for inspections of cattle or horses performed by a WSDA inspector is the greater of the per-head fee or time and mileage at \$17 per hour and a mileage rate set by the Office of Financial Management.

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.

Any person wishing to record a brand in Washington must submit an application and a \$120 recording fee to the Director.

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. 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.

Summary of Amended Bill:

Livestock Inspection Program.

Livestock Identification Advisory Committee.

Through July 1, 2023, the membership of the Livestock Identification Advisory Committee (Advisory Committee) is increased to 12 members with two members, instead of one, representing each of the groups currently represented. No more than two members of the Advisory Committee may reside in the same county. The Advisory Committee must meet at least twice per year at the call of either the Director of the Washington State Department of Agriculture (Director), the Advisory Committee Chair, or a majority of the Advisory Committee. An Advisory Committee member may appoint an alternate to serve on the committee in their absence. The alternate must meet the same qualifications as the Advisory Committee member. The Director may remove a member from the Advisory Committee if the member has two or more unexcused absences during a single calendar year.

Veterinarian Certification and Field Livestock Inspectors.

Veterinarians and individuals who apply to be certified to perform livestock inspections must submit an application and complete training. The Washington State Department of Agriculture (WSDA) must actively recruit and maintain a list of field livestock inspectors who are certified to perform livestock inspections, divided into at least six geographic regions. Training for veterinarians and individuals who apply to be field livestock inspectors includes:

- reading of printed brands;
- reading of brands or other marks on animals, including the location of brands on animals;
- reading of a microchip or other electronic official identification of cattle;
- completion of official documents; and
- review of satisfactory ownership documents.

The Director may adopt fees to cover the costs associated with providing training. A certified veterinarian or a field livestock inspector is not considered an employee of the WSDA. The Director may suspend or revoke certification of certified veterinarians and field livestock inspectors under certain circumstances.

Livestock Inspection and Brand Recording Fees.

The inspection fee for unbranded and unidentified cattle is changed from \$1.60 to \$3 per head. The inspection fee for identified cattle is \$1.25 per head, and the inspection fee for horses is \$2.40 per head. A call-out fee of \$20 is collected for inspections, including inspections at a processing plant, certified feedlot, or livestock market. The provision that WSDA may charge a time and mileage fee is removed. The annual license fee for a certified feedlot is changed to \$935. The annual fees for livestock markets are \$165, \$330, or \$495, depending on projected average gross sales of the market. The new livestock inspection fees expire July 1, 2023. The WSDA must maintain appropriate staffing levels to efficiently provide brand inspections.

The WSDA may provide for self inspections for 25 or fewer horses at a time, and no more than 100 horses per year.

The brand recording fee is increased from \$120 to \$132. The Director must establish a staggered schedule for brand renewals and may adopt either an annual or biennial renewal schedule if necessary. An application to transfer a brand must include a notarized form that includes a facsimile of the brand, a description, information about the current owners, and a transfer fee of \$27.50. The transfer fee for "legacy brands," brands that have been in continuous use for at least 25 years, is \$100.

Credit and debit cards may be used for paying fees. The WSDA must track all income and expenditures, and must maintain no more than eight months operating expenses in reserve. Fees may be reduced by the WSDA if conditions warrant, or if necessary to not exceed the maximum reserve amount.

Reporting.

The WSDA must submit a report on the Livestock Inspection Program (Inspection Program) to the agriculture and fiscal committees of the Legislature and the Advisory Committee by September 1, 2020, and each year thereafter. The report must include amounts collected, expenditures, and recommendations for making the Inspection Program more efficient, improving the Inspection Program, or modifying the livestock inspection fees to cover the costs of the Inspection Program. The reporting requirement expires July 1, 2023.

Electronic Cattle Transaction Reporting System.

The use of the Electronic Cattle Transaction Reporting (ECTR) System is expanded to all cattle. The ECTR System may be used to report the inspection of animals that are being moved out of state. A person may report a cattle ownership change by first obtaining an ECTR license from the WSDA.

Amended Bill Compared to Engrossed Substitute Bill:

The amendment retains all provisions of the underlying bill, with the following changes:

- authorizes the Washington State Department of Agriculture (WSDA) to provide for self-inspections for up to 25 horses at a time, and no more than 100 per year;
- provides that the WSDA must actively recruit field livestock inspectors;
- specifies that the WSDA must track Livestock Inspection Program revenues and expenditures, and may not hold more than eight months of operating expenditures in reserve;
- provides that the WSDA must maintain appropriate staffing levels to efficiently provide brand inspections;
- allows the use of credit and debit cards to pay livestock inspection fees; and
- changes livestock inspection fees as follows:
 - increases the inspection fee for cattle at licensed feedlots from \$0.25 to \$0.40, and for identified and branded cattle from \$1.21 to \$1.25;
 - reduces inspection fees for unbranded cattle from \$4 to \$3, and for horses from \$3.85 to \$2.40;
 - restores to current law other livestock inspection fees that are increased by 10 percent in the underlying bill; and

- provides that fees may be reduced by the WSDA by rule as conditions warrant, or if necessary to maintain the maximum reserve.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill is the result of many conversations between most of the stakeholders involved in this issue. There is still work to be done, and the fiscal note is still indeterminate. The Livestock Inspection Program (Inspection Program) has been operating in the red for a while. The Livestock Identification Advisory Committee is the appropriate entity to provide guidance to the Washington State Department of Agriculture (WSDA) with regard to fees, so the membership was increased. Both the dairy and beef industries would like to have electronic options available. This bill will help the industries and provide accountability. This bill provides modernizations to the Inspection Program that could result in cost savings. Without a brand, there is no true legal proof of ownership. Banks are unwilling to issue loans without such security. Inspections create a public record which can be used to track where animals are coming from and going. The fee increase for unbranded cattle is supported, as it could provide an incentive to brand or identify cattle.

Cattle in feedlots are inspected regardless of change of ownership. Elements of this bill provide an opportunity for efficiencies for cattle feeders. The cattle feeders agree that there should be a way to pay fees by credit card. Feedlot fees should remain at \$0.25 per head. The WSDA supports the bill. While there are some uncertainties, this bill is a move in the right direction for policy. In 2023 the federal government plans to transition to electronic identification, and this bill covers costs through 2023. There is support among stakeholders for this bill as written, and concern about raising fees for different sectors. Everyone should pay the same fees. There has been opposition to fee increases in the past, but this approach is supported. The brand inspection program is about asset protection. There should not be an overreliance on electronic tags as they can fall off or be removed. State brand inspectors are a neutral third party, and there is concern about delegating brand inspection activities to individuals.

(Opposed) Dairy farmers have been a part of all of the conversations regarding this issue, and the industry appreciates the work that has been done. Dairy farmers do not support the bill for several reasons. This bill contains a huge increase on producers who opt to not use brands. The \$4 for slick animals is too high for inspection of unidentified cattle. About 60 percent of dairy farmers use radio frequency identification (RFID) tags, and about 40 percent do not use either a brand or RFID tags. More discussion needs to occur on disease traceability. There will be a need to move to a more individualized disease traceability

system as people move to electronic identification. Recently, milk prices have been very low, and farms have closed. The dairy industry is tired of being a part of the brand program.

Persons Testifying: (In support) Senator Warnick, prime sponsor; Mark Streuli, Neil Kayser, Clay Schuster, Travis Miller, Bill Sieverkropp, Jim Hutton, and Rick Nelson, Washington Cattlemen's Association; Scott Nielsen and Nate Hair, Cattle Producers of Washington; Dennis Eagle, Washington Federation of State Employees; Paul Berendt, Agri Beef; Jack Field, Jared Easterday, and Clint Carl, Washington Cattle Feeders Association; Laura Butler and Evan Sheffels, Department of Agriculture.

(Opposed) Jay Gordon, Washington State Dairy Federation.

Persons Signed In To Testify But Not Testifying: None.