
ASSEMBLY BILL NO. 407—ASSEMBLYMEN CARPENTER,
GOICOECHEA, MCCLEARY, SHERER AND GRADY

MARCH 24, 2005

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Establishes judicial procedure for determination of ownership of livestock seized by certain governmental entities. (BDR 50-685)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to livestock; establishing a judicial procedure for the determination of ownership of livestock seized by certain governmental agencies; requiring such a governmental agency that seizes livestock to notify the State Department of Agriculture and file a report of seizure with the district court; requiring the deposit of proceeds of certain sales of livestock into the Livestock Inspection Account; prohibiting the issuance of brand inspection clearance certificates and permits to remove animals under certain circumstances; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 561.335 is hereby amended to read as follows:
2 561.335 1. The Revolving Account for Agriculture Working
3 Capital in the amount of \$10,000 is hereby created for the use of the
4 Department.
5 2. The Account must be used specifically for carrying out the
6 provisions of NRS 569.005 to 569.080, inclusive, and 569.100 to
7 569.130, inclusive ~~and~~, *and sections 6 to 10, inclusive, of this act.*
8 3. The Account may be used for:



1 (a) Paying the expenses of all programs and laws administered
2 by the Department, except expenses related to estrays and feral
3 livestock which are required to be paid pursuant to NRS 569.090.
4 The Account must be reimbursed promptly from the proper funds in
5 the State Treasury by claims paid as other claims against the State
6 are paid for any expenses paid pursuant to this paragraph.

7 (b) Providing advance money to officers and employees of the
8 Department for travel expenses and subsistence allowances arising
9 out of their official duties or employment. Such an advance
10 constitutes a lien in favor of the Department upon the accrued wages
11 of the requesting officer or employee in an amount equal to the sum
12 advanced, but the Director may advance more than the amount of
13 the accrued wages of the officer or employee. Upon the return of the
14 officer or employee, he is entitled to receive any authorized
15 expenses and subsistence in excess of the amount advanced, and a
16 sum equal to the advance must be paid into the Revolving Account
17 for Agriculture Working Capital.

18 (c) Making grants and loans for any purpose authorized by
19 subsection 2 of NRS 561.445. Any loan or grant made pursuant to
20 this paragraph must be reimbursed promptly, as other claims against
21 the State are paid, from the money deposited in the State Treasury
22 pursuant to subsection 1 of NRS 561.445.

23 4. The Revolving Account for Agriculture Working Capital
24 must be deposited in a bank or credit union qualified to receive
25 deposits of public money and the deposit must be secured by a
26 depository bond satisfactory to the State Board of Examiners.

27 **Sec. 2.** NRS 561.344 is hereby amended to read as follows:

28 561.344 1. The Livestock Inspection Account is hereby
29 created in the State General Fund for the use of the Department.

30 2. The following special taxes, fees and other money must be
31 deposited in the Livestock Inspection Account:

32 (a) All special taxes on livestock as provided by law.

33 (b) Fees and other money collected pursuant to the provisions of
34 chapter 564 of NRS.

35 (c) Fees collected pursuant to the provisions of chapter 565 of
36 NRS.

37 (d) Unclaimed proceeds from the sale of estrays and feral
38 livestock by the Department pursuant to NRS 569.005 to 569.130,
39 inclusive, or proceeds required to be deposited in the Livestock
40 Inspection Account pursuant to a cooperative agreement established
41 pursuant to NRS 569.031 ~~or~~ *or pursuant to section 9 of this act.*

42 (e) Fees collected pursuant to the provisions of chapter 573 of
43 NRS.



1 (f) Fees collected pursuant to the provisions of chapter 576 of
2 NRS.

3 (g) Laboratory fees collected for the diagnosis of infectious,
4 contagious and parasitic diseases of animals, as authorized by NRS
5 561.305, and as are necessary pursuant to the provisions of chapter
6 571 of NRS.

7 3. Expenditures from the Livestock Inspection Account must
8 be made only for carrying out the provisions of this chapter and
9 chapters 564, 569, 571, 573 and 576 of NRS.

10 4. The interest and income earned on the money in the
11 Livestock Inspection Account, after deducting any applicable
12 charges, must be credited to the Account.

13 **Sec. 3.** Chapter 565 of NRS is hereby amended by adding
14 thereto a new section to read as follows:

15 *For livestock seized by any federal, state or local governmental*
16 *agency, the Department or its authorized inspector shall refuse to*
17 *issue brand inspection clearance certificates or permits to remove*
18 *animals from a brand inspection district without brand inspection*
19 *as provided in this chapter, subject to brand inspection under the*
20 *provisions of this chapter, if the livestock do not bear brands or*
21 *brands and marks of legal record in the name of the person*
22 *claiming lawful possession of and applying for inspection of the*
23 *animals, until the right to legal possession of the livestock has*
24 *been determined pursuant to sections 6 to 10, inclusive, of this act.*

25 **Sec. 4.** NRS 565.150 is hereby amended to read as follows:

26 565.150 1. Whenever, incident to any brand inspection under
27 the provisions of this chapter, any inspector ~~[shall find]~~ *finds* in
28 the possession of any persons offering animals for inspection any
29 animals to which such person or persons cannot establish their legal
30 ownership or right to possession, and the inspector ~~[shall be]~~ *is*
31 unable to determine by means of the brands or brands and marks on
32 such animals, or otherwise, the actual legal owners of the animals,
33 or, if in the judgment of the inspector such action is necessary to
34 safeguard the legal owners of the animals, if known to the inspector,
35 against their loss, the inspector shall immediately seize and take
36 possession of such animals and proceed to dispose of the same,
37 under the provisions of NRS 569.010 , ~~[or]~~ 569.040 to 569.130,
38 inclusive ~~[,]~~ *, or sections 6 to 10, inclusive, of this act.*

39 2. Such seizure and disposal by an inspector shall in no way
40 relieve the persons in whose possession the animals were found of
41 any civil or criminal liability arising out of the unlawful removal of
42 such animals from the grazing commons or the unlawful possession
43 of the same.



1 **Sec. 5.** Chapter 569 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 6 to 10, inclusive, of this
3 act.

4 **Sec. 6. 1.** *A federal, state or local governmental agency that*
5 *seizes any livestock shall:*

6 (a) *Notify the Department within 2 hours after seizing the*
7 *livestock; and*

8 (b) *File a report of the seizure of the livestock with the district*
9 *attorney and the clerk of the district court in the county in which*
10 *the livestock was seized. The report of seizure must include:*

11 (1) *A general description of the livestock seized, including*
12 *any brands or brands and marks;*

13 (2) *If known, the names of each person alleged to own the*
14 *livestock that was seized;*

15 (3) *A description of the place where the livestock was*
16 *seized;*

17 (4) *The reason the livestock was seized;*

18 (5) *The estimated value of the livestock seized; and*

19 (6) *A request that the owner of the livestock be cited to*
20 *appear and prove ownership of the livestock.*

21 2. *The clerk of the district court with whom a report of*
22 *seizure is filed shall file the report of seizure as any other case or*
23 *proceeding pending in the court and give it a docket number as an*
24 *action by the governmental agency against the alleged owners of*
25 *the livestock, if known, and if not known, against the unknown*
26 *owners of the livestock.*

27 **Sec. 7. 1.** *After filing a report of seizure pursuant to section*
28 *6 of this act, the clerk of the district court shall enter a brief*
29 *statement of the seizure on the docket and set a date and time for*
30 *hearing evidence of the ownership of the livestock, which must not*
31 *be less than 10 days or more than 20 days after the date on which*
32 *the report of seizure is filed.*

33 2. *The clerk shall issue a citation to each person alleged to*
34 *have an ownership interest in the livestock that was seized*
35 *directing those persons to appear at the date and time set and offer*
36 *proof of ownership of the livestock. The citation must be*
37 *returnable, be heard as in civil actions and:*

38 (a) *Be addressed to those whom it may concern;*

39 (b) *Set forth substantially the facts given in the report; and*

40 (c) *Be delivered to the governmental agency that filed the*
41 *report of service.*

42 3. *At least 1 day before the date set for the hearing, a*
43 *constable or the sheriff of the county in which the livestock was*
44 *seized shall serve the citation on each person named in the report*



1 *of seizure as allegedly having an ownership interest in the*
2 *livestock. A copy of the citation must be posted in at least three*
3 *public and conspicuous places in the county in which the livestock*
4 *was seized for at least 8 days before the date set for the hearing.*

5 *4. At the date and time set for the hearing, an authorized*
6 *representative of the governmental agency that seized the livestock*
7 *shall make return of the citation to the court. If it appears that due*
8 *service of the citation has been made and no person appears to*
9 *claim ownership over any part of the livestock, the court shall*
10 *adjudge the livestock to be forfeited to the governmental entity that*
11 *filed the report of seizure. If a state or local governmental agency*
12 *filed the report of seizure, the court shall order the livestock to be*
13 *sold or otherwise disposed of pursuant to section 9 of this act.*

14 **Sec. 8. 1.** *If any person appears at the date and time fixed*
15 *for the hearing and claims ownership of the livestock, the judge*
16 *shall enter upon the minutes of the court the fact that the claim*
17 *was made and the hearing must proceed as in civil actions.*

18 *2. If, after the hearing:*

19 *(a) The livestock is adjudged by the court to be owned by a*
20 *person claiming ownership, the livestock must be released to that*
21 *person, upon payment of the costs of transporting and the expense*
22 *of feeding and caring for the livestock.*

23 *(b) Ownership of the livestock cannot be established by any*
24 *person claiming ownership, the livestock must be forfeited to the*
25 *governmental entity that seized the livestock.*

26 *3. An appeal from the judgment may be taken as in civil*
27 *actions and must be governed by the same provisions that apply to*
28 *appeals from the district court.*

29 **Sec. 9. 1.** *Livestock that is forfeited to a state or local*
30 *governmental entity pursuant to subsection 4 of section 7 or*
31 *paragraph (b) of subsection 2 of section 8 of this act must be:*

32 *(a) Sold by the Department; or*

33 *(b) Held by the Department until the livestock is given a*
34 *placement or other disposition through a cooperative agreement*
35 *established pursuant to NRS 569.031.*

36 *2. The proceeds from any sale made pursuant to subsection 1*
37 *must be deposited into the Livestock Inspection Account.*

38 **Sec. 10.** *The district attorney for the county in which the*
39 *livestock is seized shall represent the state or local governmental*
40 *entity that files a report of seizure and the interest of the State in*
41 *any proceeding under sections 6 to 10, inclusive, of this act.*

42 **Sec. 11.** *NRS 569.005 is hereby amended to read as follows:*

43 *569.005 As used in NRS 569.005 to 569.130, inclusive, and*
44 *sections 6 to 10, inclusive, of this act, unless the context otherwise*



1 requires, the words and terms defined in NRS 569.006 to 569.0085,
2 inclusive, have the meanings ascribed to them in those sections.

3 **Sec. 12.** NRS 569.020 is hereby amended to read as follows:

4 569.020 ~~[1.—Any county, city, town, township or other peace
5 officer or poundmaster who impounds under the provisions of any
6 state law or county or municipal ordinance any livestock shall,
7 immediately after impounding the livestock, send a written notice to
8 the Department.~~

9 ~~—2. The notice must contain a full description, including all
10 brands and marks, sex, age, weight, color and kind of each animal
11 so impounded.~~

12 ~~—3.]~~ For the sale of livestock if the owner of the livestock is not
13 known, and for the sale of the impounded livestock as prescribed by
14 law, all notices posted or advertisements published by any officer or
15 other person having charge of the sale must include, unless the
16 livestock is feral livestock, a complete description of each animal to
17 be sold, including all brands and marks, sex, age, weight, color and
18 kind.

19 **Sec. 13.** NRS 569.070 is hereby amended to read as follows:

20 569.070 *Except as otherwise provided in sections 6 to 10,
21 inclusive, of this act:*

22 1. Except as otherwise provided in subsection 4, if the owner
23 or probable owner of an estray cannot with reasonable diligence be
24 determined by the Department or its authorized agent, the
25 Department shall advertise the estray or cause it to be advertised.

26 2. A notice of the estray, with a full description, giving brands,
27 marks and colors thereon, must be published in a newspaper
28 published at the county seat of the county in which the estray was
29 taken up. If there is no newspaper published at the county seat of the
30 county, the notice must be published in the newspaper published at
31 the nearest point to that county.

32 3. Expenses incurred in carrying out the provisions of
33 subsections 1 and 2 must be deducted from the proceeds of the sale
34 of the estray advertised.

35 4. The Department may sell an injured, sick or otherwise
36 debilitated estray if, as determined by the Department, the sale of
37 the estray is necessary to facilitate the placement or other
38 disposition of the estray. If an estray is sold pursuant to this
39 subsection, the Department shall give a brand inspection clearance
40 certificate to the purchaser.

41 **Sec. 14.** NRS 569.120 is hereby amended to read as follows:

42 569.120 Estrays and feral livestock may be taken up by
43 authorized agents of the Department. The disposal of the estrays and



- 1 feral livestock must be conducted in the manner set forth in the
- 2 provisions of ~~[NRS 569.040 to 569.130, inclusive.]~~ *sections 6 to 10,*
- 3 *inclusive, of this act.*

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