

Amendment No. 260

Senate Amendment to Senate Bill No. 112	(BDR 54-821)
<b>Proposed by:</b> Senate Committee on Natural Resources	
<b>Amends:</b> Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION	Initial and Date		SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/>	Not <input type="checkbox"/>
Receded <input type="checkbox"/>	Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

ALA/WLK



Date: 4/13/2021

S.B. No. 112—Exempts certain products for the treatment of domestic animals from regulation under state law. (BDR 54-821)





SENATE BILL NO. 112—SENATOR HANSEN

FEBRUARY 9, 2021

Referred to Committee on Commerce and Labor

SUMMARY—Exempts certain products for the treatment of ~~domestic~~ certain animals from regulation under state law. (BDR 54-821)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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 pharmacy; exempting certain veterinary biologic products for the treatment of ~~domestic~~ certain animals from regulation under state law; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 Existing federal law regulates viruses, serums, toxins and analogous products for use in  
2 the treatment of domestic animals. (21 U.S.C. § 154) That federal law preempts any state law  
3 that regulates viruses, serums, toxins and analogous products for use in the treatment of  
4 domestic animals. (57 Fed. Reg. 38,758, 38,759 (August 27, 1992); *Lynnbrook Farms v.*  
5 *Smithkline Beecham Corp.*, 79 F.3d 620, 624-30 (7th Cir. 1996)) In accordance with federal  
6 law, this bill excludes ~~viruses, serums, toxins and analogous~~ certain veterinary biologic  
7 products ~~use in the treatment of domestic animals~~ administration to certain livestock  
8 from regulation under Nevada law governing drugs and medicines.

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

1 **Section 1.** ~~NRS 639.005 is hereby amended to read as follows:~~  
2 ~~639.005 “Chemical” means all chemicals intended, designed and labeled for~~  
3 ~~use in the cure, treatment, mitigation or prevention of disease in humans or other~~  
4 ~~animals. The term does not include any virus, serum, toxin or analogous product~~  
5 ~~for use in the treatment of domestic animals.] (Deleted by amendment.)~~  
6 **Sec. 2.** ~~NRS 639.007 is hereby amended to read as follows:~~  
7 ~~639.007 1. “Drug” and “medicine” mean~~  
8 ~~[1.] (a) Articles recognized in the official United States Pharmacopoeia, the~~  
9 ~~official Homeopathic Pharmacopoeia of the United States, or official National~~  
10 ~~Formulary, or any supplement to any of them;~~  
11 ~~[2.] (b) Articles and devices intended for use in the diagnosis, cure, mitigation,~~  
12 ~~treatment or prevention of disease in humans or other animals;~~  
13 ~~[3.] (c) Articles, other than food, aspirin and effervescent saline analgesics,~~  
14 ~~intended to affect the structure or any function of the body of humans or other~~  
15 ~~animals;~~

~~[4.] (d) Articles intended for use as a component of any article specified in subsection 1, 2 or 3; paragraph (a), (b) or (c); and~~

~~[5.] (e) Any controlled substance.~~

~~2. "Drug" and "medicine" do not include any virus, serum, toxin or analogous product for use in the treatment of domestic animals. (Deleted by amendment.)~~

Sec. 2.5. Chapter 639 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter and any regulations adopted pursuant thereto do not apply to a veterinary biologic product that is:

(a) Licensed for production under a product license; and

(b) Directly marketed by a manufacturing facility holding an establishment license for administration to livestock.

2. As used in this section:

(a) "Establishment license" means a U. S. Veterinary Biologics Establishment License issued by the Administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture pursuant to the Virus-Serum-Toxin Act, 21 U.S.C. §§ 151 to 159, inclusive, and any amendments to or replacements of the Act, and any regulations adopted pursuant to the Act.

(b) "Livestock" has the meaning ascribed to it in subsections 1 and 3 to 6, inclusive, of NRS 571.022.

(c) "Product license" means a U. S. Veterinary Biological Product License issued by the Administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture pursuant to the Virus-Serum-Toxin Act, 21 U.S.C. §§ 151 to 159, inclusive, and any amendments to or replacements of the Act, and any regulations adopted pursuant to the Act.

(d) "Veterinary biologic product" has the meaning ascribed to "biological product" in 9 C.F.R. § 101.2.

Sec. 3. [NRS 453.081 is hereby amended to read as follows:

~~453.081 1. "Drug" means substances;~~

~~(a) Recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;~~

~~(b) Intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;~~

~~(c) Other than food, intended to affect the structure or any function of the bodies of humans or animals; and~~

~~(d) Intended for use as a component of any article specified in paragraph (a), (b) or (c).~~

~~2. "Drug" does not include [devices].~~

~~(a) Devices or their components, parts or accessories.~~

~~(b) Any virus, serum, toxin or analogous product for use in the treatment of domestic animals. (Deleted by amendment.)~~

Sec. 3.5. Chapter 453 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The provisions of this chapter and any regulations adopted pursuant thereto do not apply to a veterinary biologic product that is:

(a) Licensed for production under a product license; and

(b) Directly marketed by a manufacturing facility holding an establishment license for administration to livestock.

2. As used in this section:

1 (a) “Establishment license” means a U. S. Veterinary Biologics  
 2 Establishment License issued by the Administrator of the Animal and Plant  
 3 Health Inspection Service of the United States Department of Agriculture  
 4 pursuant to the Virus-Serum-Toxin Act, 21 U.S.C. §§ 151 to 159, inclusive, and  
 5 any amendments to or replacements of the Act, and any regulations adopted  
 6 pursuant to the Act.

7 (b) “Livestock” has the meaning ascribed to it in subsections 1 and 3 to 6,  
 8 inclusive, of NRS 571.022.

9 (c) “Product license” means a U. S. Veterinary Biological Product License  
 10 issued by the Administrator of the Animal and Plant Health Inspection Service of  
 11 the United States Department of Agriculture pursuant to the Virus-Serum-Toxin  
 12 Act, 21 U.S.C. §§ 151 to 159, inclusive, and any amendments to or replacements  
 13 of the Act, and any regulations adopted pursuant to the Act.

14 (d) “Veterinary biologic product” has the meaning ascribed to “biological  
 15 product” in 9 C.F.R. § 101.2.

16 **Sec. 4.** ~~[NRS 454.005 is hereby amended to read as follows:~~

17 ~~454.005 “Chemical” includes all chemicals intended, designed and labeled for~~  
 18 ~~use in the cure, treatment, mitigation or prevention of disease in humans or other~~  
 19 ~~animals. The term does not include any virus, serum, toxin or analogous product~~  
 20 ~~for use in the treatment of domestic animals.] (Deleted by amendment.)~~

21 **Sec. 4.5.** Chapter 454 of NRS is hereby amended by adding thereto a  
 22 new section to read as follows:

23 1. The provisions of this chapter and any regulations adopted pursuant  
 24 thereto do not apply to a veterinary biologic product that is:

25 (a) Licensed for production under a product license; and

26 (b) Directly marketed by a manufacturing facility holding an establishment  
 27 license for administration to livestock.

28 2. As used in this section:

29 (a) “Establishment license” means a U. S. Veterinary Biologics  
 30 Establishment License issued by the Administrator of the Animal and Plant  
 31 Health Inspection Service of the United States Department of Agriculture  
 32 pursuant to the Virus-Serum-Toxin Act, 21 U.S.C. §§ 151 to 159, inclusive, and  
 33 any amendments to or replacements of the Act, and any regulations adopted  
 34 pursuant to the Act.

35 (b) “Livestock” has the meaning ascribed to it in subsections 1 and 3 to 6,  
 36 inclusive, of NRS 571.022.

37 (c) “Product license” means a U. S. Veterinary Biological Product License  
 38 issued by the Administrator of the Animal and Plant Health Inspection Service of  
 39 the United States Department of Agriculture pursuant to the Virus-Serum-Toxin  
 40 Act, 21 U.S.C. §§ 151 to 159, inclusive, and any amendments to or replacements  
 41 of the Act, and any regulations adopted pursuant to the Act.

42 (d) “Veterinary biologic product” has the meaning ascribed to “biological  
 43 product” in 9 C.F.R. § 101.2.

44 **Sec. 5.** ~~[NRS 585.080 is hereby amended to read as follows:~~

45 ~~585.080 1. “Drug” means:~~

46 ~~(a) Articles recognized in the official United States Pharmacopoeia, official~~  
 47 ~~Homeopathic Pharmacopoeia of the United States or official National Formulary,~~  
 48 ~~or any supplement to any of them;~~

49 ~~(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or~~  
 50 ~~prevention of disease in humans or other animals;~~

51 ~~(c) Articles, other than food, intended to affect the structure or any function of~~  
 52 ~~the bodies of humans or other animals; and~~

~~(d) Articles intended for use as a component of any article specified in paragraph (a), (b) or (c).~~

~~2. "Drug" does not include [devices].~~

~~(a) Devices or their components, parts or accessories.~~

~~(b) Any virus, serum, toxin or analogous product for use in the treatment of domestic animals.] (Deleted by amendment.)~~

**Sec. 5.5. Chapter 585 of NRS is hereby amended by adding thereto a new section to read as follows:**

**1. The provisions of this chapter and any regulations adopted pursuant thereto do not apply to a veterinary biologic product that is:**

**(a) Licensed for production under a product license; and**

**(b) Directly marketed by a manufacturing facility holding an establishment license for administration to livestock.**

**2. As used in this section:**

**(a) "Establishment license" means a U. S. Veterinary Biologics Establishment License issued by the Administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture pursuant to the Virus-Serum-Toxin Act, 21 U.S.C. §§ 151 to 159, inclusive, and any amendments to or replacements of the Act, and any regulations adopted pursuant to the Act.**

**(b) "Livestock" has the meaning ascribed to it in subsections 1 and 3 to 6, inclusive, of NRS 571.022.**

**(c) "Product license" means a U. S. Veterinary Biological Product License issued by the Administrator of the Animal and Plant Health Inspection Service of the United States Department of Agriculture pursuant to the Virus-Serum-Toxin Act, 21 U.S.C. §§ 151 to 159, inclusive, and any amendments to or replacements of the Act, and any regulations adopted pursuant to the Act.**

**(d) "Veterinary biologic product" has the meaning ascribed to "biological product" in 9 C.F.R. § 101.2.**

**Sec. 6. This act becomes effective upon passage and approval.**