

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

13992

2005 HOUSE AGRICULTURE
HB 1392

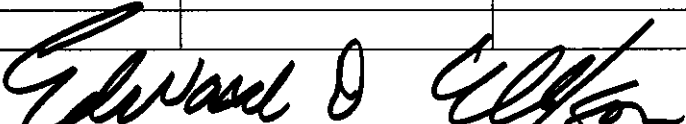
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1392

House Agriculture Committee

Conference Committee

Hearing Date 1---27---05

Tape Number	Side A	Side B	Meter #
FIVE	A		25.9 TO 31.1
Committee Clerk Signature 			

Minutes:

CHAIRMAN NICHOLAS: Committee Members, we will open on HB 1302. Anita would you like to start.

ANITA THOMAS: LEGISLATIVE COUNCIL: During the 2003 legislative session it was the intent to maintain current law through June 30, 2006.

What you have in front of you is the ten year old. We just cleaned up some old language.

There of and there after etc. It was also the intent to include a new section which began in July 1, 2006 to require brands rerecordings every five years. {{please see Anita's printed testimony which appears to look like a bill}} Anita told the Chair that the testimony she read is about as clear as I can make that for you.

CHAIRMAN NICHOLAS: Wade Moser.

WADE MOSER: N.D.STOCKMANS ASSOCIATION: We appreciate Anita making changes.

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House Agriculture Committee
Bill/Resolution Number HB 1392
Hearing Date 1---27---05

We have been asked by Board of Animal Health to help. We see this need will expand. We will need more fieldmen. What I would like to do is address the other sections of the BILL. Currently under state law our Chief Brand Inspector and two fieldmen have police powers when it comes to cattle brands. {Wade Moser is going through Bill as his testimony.} {Please read the bill along with Anita's changes which she went through in her testimony.}

We may get where we will be inspecting Canadian trucks coming into the states. We might need more than two fieldmen in that event. The field men must be graduates of the police academy. They must maintain about forty hours of continued education. Section three of the bill should be read.

CHAIRMAN NICHOLAS: Any other question. Any other testimony for or against Bill.

CHAIRMAN NICHOLAS CLOSED ON HB 1392.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1392

House Agriculture Committee

Conference Committee

Hearing Date 1--28--05

Tape Number	Side A	Side B	Meter #
ONE	A		30 TO 38.4
Committee Clerk Signature <i>Edward D. Goff</i>			

MADAM CHAIRWOMAN KINGSBURY: Committee Members, we will reopen on

HB 1392. What are the committees wishes on HB 1392

REPRESENTATIVE UGLEM: I'LL MAKE A MOTION FOR A DO PASS.

REPRESENTATIVE BOE: I SECOND THE MOTION

**MADAM CHAIRWOMAN: COMMITTEE MEMBERS WE WILL TAKE THE ROLL
ON HB 1392 FOR A DO PASS.**

THE ROLL WAS TAKEN THERE WERE 10 YES

0 NO

3 ABSENT

REPRESENTATIVE UGLEM CARRIED THE BILL

CLOSED.

FISCAL NOTE
 Requested by Legislative Council
 01/18/2005

Bill/Resolution No.: HB 1392

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill will have no fiscal impact on state or local entities.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

This will have no effect on state revenues.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

This will have no effect on state expenditures.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

This will have no effect on state appropriations.

Name:	Jeff K. Weispfenning	Agency:	Agriculture
Phone Number:	328.4758	Date Prepared:	01/20/2005

HB 1392

1-28-05

Date:
Roll Call Vote #:

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House HOUSE AGRICULTURE COMMITTEE Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By UGLEM Seconded By BOE

Representatives	Yes	No	Representatives	Yes	No
REP. EUGENE NICHOLAS CHAIRMAN			REP. TRACY BOE	✓	
REP. JOYCE KINGSBURY VICE CHAIRMAN	✓		REP. ROD FROELICH	✓	
REP. WESLEY BELTER			REP. PHILLIP MUELLER	✓	
REP. M. BRANDENBURG	✓		REP. KENTON ONSTAD		
REP. CHUCK DAMSCHEN					
REP. CHAIG HEADLAND	✓				
REP. GARY KREIDT	✓				
REP. GERALD UGLEM	✓				
REP. JOHN WALL	✓				

Total (Yes) 9 No 0

Absent 4

Floor Assignment UGLEM

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 28, 2005 12:09 p.m.

Module No: HR-19-1317
Carrier: Uglem
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1392: Agriculture Committee (Rep. Nicholas, Chairman) recommends DO PASS
(9 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1392 was placed on the
Eleventh order on the calendar.

2005 SENATE AGRICULTURE

HB 1392


2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1392

Senate Agriculture Committee

Conference Committee

Hearing Date February 25, 2005

Tape Number	Side A	Side B	Meter #
1	x		4979 - end
1		x	0 - 210
Committee Clerk Signature 			

Minutes:

Chairman Flakoll opened the hearing on HB 1392, a bill relating to the costs of brand reinspection; relating to brand recording and fieldmen; relating to the cancellation and rerecording of brands. All members were present.

Anita Thomas, attorney from Legislative Council, appeared to explain the first page of the bill. (written testimony) (meter 4979) Sometimes a simple concept can get quite complicated when the Legislative Council applies their normal drafting rules, they can get even more complicated when they misapply their normal drafting rules. In 2003 the North Dakota Stockmen's Association wanted to make a few changes to the brand laws. They wanted to keep the 10 year rerecording law through 2006 and then go to a five year rerecording period. They have cleaned up the language and removed redundant language (example 1 attached). Then they provided the necessary language to change the rerecording period to five years (example 2 attached). They then wrote language for a sunset for the 10 year rerecording however they used an expiration date

that would have also reinstated the old language before the clean up as well as the new 5 year language. Page 1 of the bill is the attempt to get it right this time.

Representative Nicholas introduced the bill. (meter 5451) Anita Thomas has provided the technical details and Wade Moser can answer any other questions. Over a long period of time the North Dakota Stockmen's Association has provided a tremendous service to North Dakota with the brand inspection program.

Wade Moser, executive director North Dakota Stockmen's Association, testified in favor of the bill.. He introduced Nancy Dawson, head brand recorder who will be retiring next year. Section 2 of the bill recognizes with the new animal ID and possible branding of Canadian cattle entering the US they may need to increase their force of brand inspectors and those additional staff will need police powers and so must attend the police academy. It is a 13 week program with 40 hours of continuing education every 2 years. This allows all fieldmen to have police powers. Section 3 is the result of some things happening in brand states across the country. There are occasions when brand inspectors make a mistake and producers ask for a reinspection. There are also situations when a producer thinks their neighbor is stealing from them and have the brand inspectors come out to double check with the neighbor. This bill clarifies that if the brand inspectors need to do a reinspection due to their mistake, they will pay for it. However, if it is a "wild goose chase", the producer must pay for it. This is a result of some cattle that were in Nebraska. The only way the Nebraska brand inspectors would go out and look at it (the brand states often help each other) was if it was a mistake by North Dakota or if they knew who was going to pay for it. Many brand states are making these changes to their laws. The producer would be expected to reimburse for costs which would be mileage and a day rate.

Page 3

Senate Agriculture Committee

Bill/Resolution Number HB 1392

Hearing Date February 25, 2005

Senator Urlacher asked if they ever have to reinspect a slaughter cow.

Mr. Moser said it is almost impossible unless the facility has a back tag or you can go through the hide pile.

Chairman Flakoll closed the hearing on HB 1392. (meter 167)

Senator Taylor moved a do pass on HB 1392.

Senator Erbele seconded the motion.

The motion passed on a roll call vote 6-0-0.

Senator Taylor will carry the bill.

Date: 2/25/05
Roll Call Vote # 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1392

Senate Agriculture Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken No Pass

Motion Made By Sen. Taylor Seconded By Sen. Erbele

Senators	Yes	No	Senators	Yes	No
Senator Flakoll	✓		Senator Seymour	✓	
Senator Erbele	✓		Senator Taylor	✓	
Senator Klein	✓				
Senator Urlacher	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Taylor

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 25, 2005 9:45 a.m.

Module No: SR-35-3654
Carrier: Taylor
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1392: Agriculture Committee (Sen. Flakoll, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1392 was placed on the
Fourteenth order on the calendar.

2005 TESTIMONY

HB 1392

ANITA THOMAS

During the 2003 legislative session, it was the intent to maintain current law through June 30, 2006. That's the ten year rerecording requirement.

Example 1

36-09-09. Cancellation of brands - Rerecording - Limitation on brands. On the first day of January 1966, each ~~and every~~ livestock brand or mark must be canceled and no person, ~~copartnership, company, firm, or corporation~~ may use or have any right, title, or interest in or to any livestock brand or mark previously recorded in this state. If a person, ~~copartnership, company, firm, or corporation~~ should desire to continue ownership thereof of a brand or mark, the brand or mark must be rerecorded on or before January first, and each ten years thereafter. Rerecording is not required from an owner who has registered for a new brand within six months prior to the date provided for the rerecording of brands thereafter.

It was also the intent to include a new section that beginning July 1, 2006, would require brand rerecordings every five years.

Example 2

36-09-09.1 Cancellation of brands - Rerecording - Limitation on brands. On the first day of January 2006, each livestock brand or mark must be canceled and no person may use or have any right, title, or interest in or to any livestock brand or mark previously recorded in this state. If a person should desire to continue ownership of a brand or mark, the brand or mark must be rerecorded on or before January first, and every five years thereafter. Rerecording is not required from an owner who has registered for a new brand within six months before the date provided for the rerecording of brands.

What we needed to have done was repeal 36-09-09 and make the repeal effective on July 1, 2006.

What we in fact did, was use an expiration date. We said "36-09-09 is effective through June 30, 2006 and after that date is ineffective." What none of us caught at the time was that by using the expiration date, it did sunset the language in example 1 on June 30, 2006, but then it reinstated that same section without the overstrikes and underscores. So, the code now contained the even older version of 36-09-09 .

Example 3

36-09-09 Cancellation of brands - Rerecording - Limitation on brands. On the first day of January 1966, each and every livestock brand or mark must be canceled and no person, copartnership, company, firm, or corporation may use or have any right, title, or interest in or to any livestock brand or mark previously recorded in this state. If a person, copartnership, company, firm, or corporation should desire to continue ownership thereof, the brand or mark must be rerecorded on or before January first, and each ten years thereafter. Rerecording is not required from an owner who has registered for a new brand within six months prior to the date provided for the rerecording of brands thereafter.

Because none of the changes would occur before July 1, 2006, we indicated to the Stockmen's Association that we would ask for the necessary amendments during the 2005 session.

House Bill 1392 therefore overstrikes the older version of 36-09-09 (example 3) so, we won't be going back to that in 2006. It also uses a repeal and an effective date so that last year's version of 36-09-09, which was intended to remain until July 1, 2006, will stay until that time and no longer. The language that will take effect on July 1, 2006 is on the books as 36-09-09.1 and ready to go on the appropriate date. (See, example 2)

EXAMPLE 1

36-09-09. Cancellation of brands - Rerecording - Limitation on brands. On the first day of January 1966, each ~~and every~~ livestock brand or mark must be canceled and no person, ~~copartnership, company, firm, or corporation~~ may use or have any right, title, or interest in or to any livestock brand or mark previously recorded in this state. If a person, ~~copartnership, company, firm, or corporation~~ should desire to continue ownership ~~thereof~~ of a brand or mark, the brand or mark must be rerecorded on or before January first, and each ten years thereafter. Rerecording is not required from an owner who has registered for a new brand within six months prior to the date provided for the rerecording of brands ~~thereafter~~.

EXAMPLE 2

36-09-09.1 Cancellation of brands - Rerecording - Limitation on brands. On the first day of January 2006, each livestock brand or mark must be canceled and no person may use or have any right, title, or interest in or to any livestock brand or mark previously recorded in this state. If a person should desire to continue ownership of a brand or mark, the brand or mark must be rerecorded on or before January first, and every five years thereafter. Rerecording is not required from an owner who has registered for a new brand within six months before the date provided for the rerecording of brands.