

2017 HOUSE AGRICULTURE

HB 1208

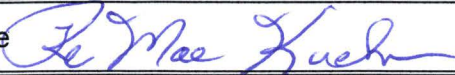
2017 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

HB 1208
1/26/2017
Job #27448

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to livestock bills of sale; and to provide a penalty

Minutes:

Attachment #1

Chairman Dennis Johnson, Sponsor: This is dealing with the bill of sale for livestock. This is being introduced for the Stockmen's Association. The seller must deliver a bill of sale to the purchaser within 15 days of the date of the sale. That is to follow the livestock through its life.

Julie Ellingson, North Dakota Stockmen's Association: (Attachment 1)

Representative Hogan: How often does this happen?

(6:07)

Julie Ellingson: Livestock transactions are happening all the time. Ownership is changed often. Always require that legal proof of ownership is given. The bills of sale are kept in the individual's hands. In the cases of market clearance or a local inspection, that is documentation that the Stockmen's Association maintains in its office. With a bill of sale, the only paperwork transfer is between the buyer and the seller. The only area this will be utilized would be the extreme cases where there is a problem getting the bill of sale. Then the Stockmen's Association is called and then we get our brand inspection and law enforcement officers involved.

Representative Hogan: Do have any mechanism to track the number of problems?

Julie Ellingson: We have three licensed peace officers in our brand inspection program. Often our team is able to reach out to the seller and get the paperwork.

Chairman Dennis Johnson: If this does get hung up, how long before the cases are resolved?

Julie Ellingson: Many are easily resolved as all that is needed is a reminder. Adding this language provides clarity in the law and instruction to livestock producers.

Chairman Dennis Johnson: I was thinking of an older producer who passes away with no bill of sale.

Representative Magrum: Could we lower the age for the brand? There are a lot of younger people that want to own cattle.

Julie Ellingson: Not aware of prohibition of any age? This bill doesn't speak to that. There are requirements for registering a brand. A child needs to be able to sign his/her name to be listed on a registered brand.

Representative Magrum: I thought it said they have to be 18.

Chairman Dennis Johnson: Page 1, line 13 on Section 1. "Of at least 18 years of age."

Julie Ellingson: That is who can be a witness to the bill of sale.

Representative Skroch: Can it be in handwritten form or is it a specific document?

Julie Ellingson: Page 1 of this bill is what constitutes a legal bill of sale. The Stockmen's Association can provide a form for free from the website but it can be also handwritten. Just don't forget the witness signature.

Kathleen Murray, Wells County States Attorney: This happens very often. This will help honest sellers. It provides a trail to show healthy disease free livestock. This also helps to protect public policy for banks. Only the brand owner can give a bill of sale. A dishonest seller could claim the ownership to the brand without a bill of sale.

Without the time period there is no measure and allows a delay and no criminal enforcement.

The vehicles section which is similar to this, I have only prosecuted that 15-day time period twice since 1997 and have written hundreds of letters to help honest buyers.

This would help clarify the law. Recommends a Do Pass.

(20:07)

Representative Headland: Why doesn't the brand release work as a bill of sale?

Kathleen Murray: That is one form of a way to do it. Only the brand owner can do that. The field inspector may not be available. The dishonest people use the bill of sale. They don't have a brand release.

Representative Headland: That makes this a problem. You make sure you have a brand release. If you sell without a brand release you will not get your money. If we are using a bill of sale as evidence that they paid for them without a brand release, isn't that a slippery slope?

Kathleen Murray: The dishonest dealer does have that possibility. The bill of sale law is here. We just want to have a time period.

Representative Headland: I do have issue if someone is going to get their money from my branded cattle without a brand release.

Vice Chair Trottier: Did you ever buy any unbranded cattle?

Representative Headland: Yes. But I made sure my brand was on pretty quick.

Representative Satrom: Would it be wise to have something additional in regard to brands?

Kathleen Murray: There are separate areas for brand release. I wouldn't recommend it. This just has to do with the bill of sale.

Vice Chair Trottier: If buyers would not give the check until they get the Bill of Sale, is that good advice?

Kathleen Murray: The 15-day time period is the time for a check to clear. This is to help encourage people to do it sooner. What if the cattle die? It allows for better enforcement of honest dealings.

Opposition: None

Representative Magrum: Moved Do Pass

Representative Blum: Seconded the motion.

A Roll Call vote was taken: Yes 14, No 0, Absent 0.

Do Pass carries.

Representative Magrum will carry the bill.

Date: 1/26/2017

Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1208**

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation

:

- ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Magrum Seconded By Rep. Blum

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		Rep. Joshua Boschée	X	
Vice Chairman Wayne Trottier	X		Rep. Kathy Hogan	X	
Rep. Jake Blum	X				
Rep. Craig Headland	X				
Rep. Michael Howe	X				
Rep. Dwight Kiefert	X				
Rep. Jeffery Magrum	X				
Rep. Aaron McWilliams	X				
Rep. Bill Oliver	X				
Rep. Bernie Satrom	X				
Rep. Cynthia Schreiber Beck	X				
Rep. Kathy Skroch	X				

Total Yes 14 No 0

Absent 0

Floor Assignment Rep. Magrum

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

REPORT OF STANDING COMMITTEE

HB 1208: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO PASS**
(14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1208 was placed on the
Eleventh order on the calendar.

2017 SENATE AGRICULTURE

HB 1208

2017 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

HB 1208
3/3/2017
Job # 28661

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Emmery Brothers

Explanation or reason for introduction of bill/resolution:

Relating to livestock bills of sale; and to provide a penalty

Minutes:

Attachment: #1

Chairman Luick: Opened the hearing on HB 1208. All committee members were present.

Representative D. Johnson, District 15: Introduced HB 1208. The bill before you is a bill of sale bill which talks about everything that has to be on a bill of sale. We are trying to tighten up the window to fifteen days when a bill of sale has to be offered to the purchaser.

Senator Klein: Up until this point, there was no limit on when the bill of sale had to be provided?

Representative D. Johnson: To my understanding that is true.

(3:10 – 6:10) **Julie Ellingson, Stockman's Association:** Testified in Support of HB 1208 (See Attachment #1).

Chairman Luick: Closed the hearing on HB 1208.

Committee Discussion: Senator Larsen asked about in cases where the cattle are rebranded. In response to a question from Senator Larsen, Stan Misek, ND Stockman's Association, said a person has to own a brand to sign the bill of sale for it. Mr. Misek said the brand identification was part of the bill of sale document.

Senator Osland: Moved Do Pass on HB 1208.

Senator Myrdal: Seconded the motion.

A Roll Call Vote Was Taken: 6 yeas, 0 nays, 0 absent.

Motion carried.

Senator Osland will carry the bill to the floor.

Date: 3/3
Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1208

Senate Agriculture Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Sen. Osland Seconded By Sen. Myrdal

Senators	Yes	No	Senators	Yes	No
Senator Luick	<input checked="" type="checkbox"/>		Senator Piepkorn	<input checked="" type="checkbox"/>	
Senator Myrdal	<input checked="" type="checkbox"/>				
Senator Klein	<input checked="" type="checkbox"/>				
Senator Larsen	<input checked="" type="checkbox"/>				
Senator Osland	<input checked="" type="checkbox"/>				

Total Yes 6 No 0

Absent 0

Floor Assignment Sen. Osland

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

REPORT OF STANDING COMMITTEE

HB 1208: Agriculture Committee (Sen. Luick, Chairman) recommends DO PASS
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1208 was placed on the
Fourteenth order on the calendar.

2017 TESTIMONY

HB 1208

1

Julie Ellingson

Testimony on HB 1208
Jan. 26, 2017

Good morning, Chairman Johnson and House Agriculture Committee members. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association. The NDSA is an 87-year-old beef industry trade organization representing more than 3,000 cattle-ranching members. Additionally, the organization has statutory responsibilities as the administrator of the state's brand inspection and brand recording programs.

As was described, HB 1208 is a bill aimed to clarify the timeline expectation for a livestock seller to deliver a livestock purchaser a bill of sale. As you probably know, state law requires a livestock seller to give the purchaser some type of legal proof of ownership. In North Dakota, that can be one of three forms: 1) a market clearance, 2) a local inspection certificate, or 3) a bill of sale, which is commonly used in private treaty transactions.

State law prescribes what constitutes a legal bill of sale. The assumption has always been that the bill of sale is to be delivered at the time of the sale, yet the law is silent on the timeline when that must occur, which can cause challenges.

That's because, without it, the purchaser has no legal claim to the animal or animals.

To make this simpler to understand, I've attached a schematic to illustrate why HB 1208 will be helpful to livestock producers.

In this example, Joe sells Bob 10 head of cattle, but fails to provide him with a bill of sale. Bob later decides to resell the animals but has no proof of ownership, and so the proceeds of the sale are held and he is unable to collect his money.

In situations where the seller fails to provide a bill of sale to the purchaser and state's attorneys must get involved, the bill of sale law missing a definitive due date can complicate the situation for the livestock purchaser and, in this example, make Bob sad.

Based on the advice of state's attorneys who have dealt with these cases, such as Wells County State's Attorney Kathleen Trosen Murray, who will follow me, inserting a timeline into the law will help in these cases, as well as give livestock producers reasonable instruction as to when this paperwork needs to be provided.

The 15-day timeline was selected as it mirrors the 15-day timeline assigned to vehicle title transfers. We feel that that is an appropriate comparison, as a bill of sale is essentially the "title" to cattle, horses or mules.

1

This concept was discussed at our annual convention and was met with favor from our industry members.

We think HB 1208 clarifies the law and will better protect livestock producers' investments by helping assure they receive the paperwork they need to make legal claim to their animals in a reasonable amount of time.

For these reasons, we ask for your favorable consideration of this bill.

I would also point out to the committee that the North Dakota Stockmen's Association's three licensed peace officers, who are charged with enforcing the livestock laws of the state, are here as well today. I invite you to ask any of them or me any questions you might have.

Thank you for the opportunity to comment.

Private Livestock Transactions

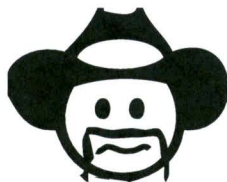
State law requires a livestock seller to provide a livestock buyer with legal proof of ownership. In private transactions, that can be either a local brand inspection certificate OR a bill of sale.

Example of why HB 1208 is needed:

Joe sells Bob 10 head of cattle.
Joe fails to provide Bob with a bill of sale.



Bob later decides to resell the animals. He is not the owner of the brand on the animals and does not have proof of ownership indicating that he bought the animals. Bob cannot collect the proceeds of the sale of the animals he doesn't have legal proof of ownership for.



Bob asks Joe for a bill of sale to clear up the hold.
Joe doesn't give him one. Bob cannot get his money.
Bob has bills to pay. Bob is sad.



A state's attorney makes the case to the judge that Joe failed to provide proof of ownership to Bob. The judge said the law doesn't specify a timeline in which he has to provide one, so there is no recourse for Bob. HB 1208 provides a timeline – 15 days – just like that is required in transferring a vehicle title.

North Dakota Stockmen's Association

Testimony on HB 1208

March 3, 2017

Good morning, Chairman Luick and Senate Agriculture Committee members. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association. The NDSA is an 87-year-old beef industry trade organization representing more than 3,000 cattle-ranching members. Additionally, the organization has statutory responsibilities as the administrator of the state's brand inspection and brand recording programs.

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In situations where the seller fails to provide a bill of sale to the purchaser and state's attorneys must get involved, the bill of sale law missing a definitive due date can complicate the situation for the livestock purchaser and, in this example, make Bob sad.

Based on the advice of state's attorneys who have dealt with these cases, such as Wells County State's Attorney Kathleen Trosen Murray, who offered some supportive remarks here yesterday, inserting a timeline into the law will help in these cases, as well as give livestock producers reasonable instruction as to when this paperwork needs to be provided.

The 15-day timeline was selected as it mirrors the 15-day timeline assigned to vehicle title transfers. We feel that that is an appropriate comparison, as a bill of sale is essentially the "title" to cattle, horses or mules.

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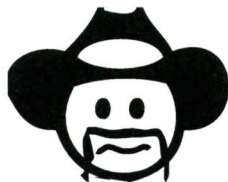
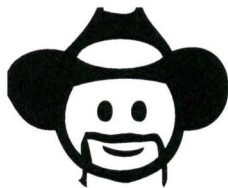
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