2019 SENATE AGRICULTURE

SB 2177

2019 SENATE STANDING COMMITTEE MINUTES

Agriculture Committee
Roosevelt Park Room, State Capitol

SB 2177
1/17/2019
30975

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Dan Johnston II

Explanation or reason for introduction of bill/resolution:

Relating to due process and accounting for animals to be seized.

Minutes: 2 attachment

Chairman Luick: Opens hearing on SB 2177.

Chairman Luick: Presented SB 2177.

Julie Ellingson: See attachment #1 for testimony in support of SB 2177.

Vice Chair Myrdal: Is there an estimated cost to this?

Julie Ellingson: The cost of an inspection is $1.50. That would be the only additional piece.

Senator Larsen: Is the reason sheep and hog are not added to this because there isn't the population in North Dakota?

Julie Ellingson: The reason that cattle, horses and mules are specified as different, is because those already fall under owner identification rules within Century Code. Any time those species move through marketing channels or across state lines, an inspection is required. There is not the same kind of inspection requirement for those other kinds of animals.

Senator Hogan: Have there been problems with cattle getting inner mixed and confused because you didn't have that identification system in place? Is this trying to solve a problem? If so how big of a problem has it been.

Julie Ellingson: It is very common for animals to get intermingled and sometimes it is deliberate, people trying to claim animals as their own. In other cases animals simply stray, they don't always stay within the confines of their fences. There is also change of ownership as well.

Senator Hogan: Can the board of inspectors get to the situation quickly enough.

Julie Ellingson: Fortunately, there are not a lot of these situations where a seizer is deemed appropriate. But, we do have a very robust inspection team, with inspectors located all across the state, there are about 200 of them.

Senator Klein: Are there more cases than what makes the news?

Julie Ellingson: Definitely.

Vice Chair Myrdal: Sometimes what is and what isn't a starving animal is a bit subjective; do you do any public outreach on helping to identify what is or isn't a starving animal?

Julie Ellingson: We have a unique structure and so have different roles and responsibilities. As a livestock organization of we assert and expect our members to be good stewards of animals. We support programs like the beef quality assurance program, to make sure that animals are treated appropriately, in a fashion that is reflective of our industry. So education and outreach are very much a part of what we do.

Deana Wiese: See attachment #2 for testimony in support of SB 2177.

No Further Testimony.

Vice Chair Myrdal: Moved a Do Pass.

Senator Osland: Seconded.

A Roll Call was held: 6 yea, 0 nay, 0 absent.
Motion Carries.
Vice Chair Myrdal will carry the bill.

Vice Chair Myrdal: Moved to reconsider SB 2177.

Senator Larsen: Seconded.

A Roll Call was held: 6 yea, 0 nay, 0 absent.
Motion Carries.

Vice Chair Myrdal: Moved to adopt amendment 19.0725.01001.

Senator Larsen: Seconded.

A Roll Call was held: 6 yea, 0 nay, 0 absent.
Motion Carries.

Vice Chair Myrdal: Moved a Do Pass as amended on SB 2177.

Senator Osland: Seconded.

A Roll Call was held: 6 yea, 0 nay, 0 absent.
Motion Carries.
Vice Chair Myrdal will carry the bill.

19.0725.01001
Title.02000

Prepared by the Legislative Council staff for
Senator Luick
January 17, 2019

PROPOSED AMENDMENTS TO SENATE BILL NO. 2177

Page 1, line 13, remove "disposition"

Renumber accordingly

Date: 1/17/2019
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2177

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 Vice Chair Myrdal Seconded By Senator Osland

Senators	Yes	No	Senators	Yes	No
Senator Luick-Chairman	X		Senator Hogan	X	
Senator Myrdal-Vice Chair	X				
Senator Klein	X				
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Vice Chair Myrdal

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

Date: 1/17/2019
Roll Call Vote #: 2

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2177

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 Vice Chair Myrdal Seconded By Senator Larsen

Senators	Yes	No	Senators	Yes	No
Senator Luick-Chairman	X		Senator Hogan	X	
Senator Myrdal-Vice Chair	X				
Senator Klein	X				
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

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

Date: 1/17/2019
Roll Call Vote #: 3

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2177

Senate Agriculture Committee

☐ Subcommittee

Amendment LC# or Description: 19.0725.01001

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 Vice Chair Myrdal Seconded By Senator Larsen

Senators	Yes	No	Senators	Yes	No
Senator Luick-Chairman	X		Senator Hogan	X	
Senator Myrdal-Vice Chair	X				
Senator Klein	X				
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Page 1, Line 13, remove "disposition"

Date: 1/17/2019
Roll Call Vote #: 4

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2177

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 Vice Chair Myrdal Seconded By Senator Osland

Senators	Yes	No	Senators	Yes	No
Senator Luick-Chairman	X		Senator Hogan	X	
Senator Myrdal-Vice Chair	X				
Senator Klein	X				
Senator Larsen	X				
Senator Osland	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Vice Chair Myrdal

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

REPORT OF STANDING COMMITTEE

SB 2177: Agriculture Committee (Sen. Luick, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2177 was placed on the Sixth order on the calendar.

Page 1, line 13, remove "disposition"

Renumber accordingly

2019 HOUSE AGRICULTURE

SB 2177

2019 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Peace Garden Room, State Capitol

SB 2177
2/28/2019
Job #32981

☐ Subcommittee
☐ Conference Committee

Committee Clerk: ReMae Kuehn

Explanation or reason for introduction of bill/resolution:

Relating to due process and accounting for animals to be seized

Minutes: Attachments #1 & 2

Senator Larry Luick, Sponsor: Introduced the Bill.

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

(8:17)
Chairman Dennis Johnson: If the animals aren't branded, do you still have the brand inspector's identification?

Julie Ellingson: Inspection of cattle, horses, and mules is required regardless if they are branded or not.

Vice Chair Wayne Trottier: When the animals are moved to a feedlot for care, who is responsible for payment?

Julie Ellingson: This bill doesn't change that. The way the law is now, it is the county or whoever seizes the animals that is responsible for their care while the court decision is being considered.

Representative McWilliams: Does this bill come as a result of any action in the last two years.

Julie Ellingson: There was a case in western North Dakota with question. Does the owner have the right to make the case before animals are disposed? That protection is already in law but there is a gray area.

Deana Wiese, North Dakota Veterinary Medical Association: (Attachment #2)

(12:00)
Pete Hanebutt, North Dakota Farm Bureau: In support of the bill.

Neutral:

Susan Keller, State Veterinarian: We support the bill. The case in western North Dakota was handled at the county level. We were not the overseers of how actions were taken at that time. What is in the bill is a policy that we normally try to follow.

Representative Satrom: Moved Do Pass

Representative Fisher: Seconded the motion.

A Roll Call vote was taken: Yes 12, No 0, Absent 2.

Do Pass carries.

Representative Dobervich will carry the bill.

Date: 2/28/2019

R ollCall Vote #: 1

2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2177

House **Agriculture** Committee

☐ Subcommittee

Amendment LC# or Description:

Recommendation

☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee R ecommendation
☐ As Amended ☐ R ereferto Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ R econsider ☐

Motion Made By R ep.Satrom Seconded By R ep.Fisher

Representatives	Yes	No	Representatives	Yes	No
Chairman Dennis Johnson	X		R ep.R uthBuffalo	X	
Vice Chairman Wayne Trottier	X		R ep.Gretchen Dobervich	X	
R ep.Jake Blum	X				
R ep.Jay Fisher	X				
R ep.Craig Headland	AB				
R ep.Dwight Kiefert	AB				
R ep.Aaron McWilliams	X				
R ep.David R ichter	X				
R ep.Bernie Satrom	X				
R ep.Cynthia Schreiber Beck	X				
R ep.Kathy Skroch	X				
R ep.Bill Tveit	X				

Total Yes 12 **No** 0

Absent 2

Floor Assignment Rep. Dobervich

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

REPORT OF STANDING COMMITTEE

SB 2177, as engrossed: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2177 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2177

Attachment #1 Pg 1
SB 2177
1-17-19

North Dakota Stockmen's Association

Testimony to the Senate Agriculture Committee on SB 2177

Jan. 17, 2019

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, an 89-year-old beef cattle trade organization representing 3,000 North Dakota cattle-ranching families. The Stockmen's Association also has some statutorily assigned responsibilities as the administrator of the state's brand programs.

The concepts outlined in SB 2177 were adopted as priorities of our members at our recent annual convention. The bill aims to clarify existing statute pertaining to animal seizures and ensure that animals in those cases are properly identified.

Many of you were part of a massive effort in 2013 wherein the state's animal stewards – farmers, ranchers, veterinarians, pet shelter workers, zookeepers and animal industry regulators – worked together with lawmakers to comprehensively rewrite the animal treatment statute. Building on time-honored language, the rewrite was designed to create clearer definitions, clarify the responsibilities of those who must respond in cases of mistreatment and enumerate appropriate exemptions to distinguish legitimate acts from acts of mistreatment, and it has made significant strides in accomplishing those objectives.

One area that has created some confusion, however, is what happens after an animal is seized. At the time of the rewrite, Legislative Council drafters had indicated that it was not necessary to repeat in statute due process language inherent in the Constitution as well as the civil rules of procedure, so it was not included here. Even though those areas of law provide basic due process protection that we can all agree upon, some have indicated that, with the rest of the procedures intimately detailed

in Century Code but the statute being silent on the disposition procedures, it leads some to believe that due process is not afforded in these cases. That, however, is not the intention and not the case.

Still, we do not want to leave any doubt that an animal owner has the right to make his or her case before a court determines the outcome of those animals and that is why a clarification of that very point is included on page 3 of this bill.

The second part of SB 2177 pertains to cases of cattle, horses and mules – three species that require brand inspection as they change ownership and move through marketing channels. This bill adds an official inspection of those animals before they are seized and following the court ruling on the disposition of the animals. The reason: 1) to determine the ownership, 2) to make sure there are not animals included that are owned by another party and 3) to create an accurate accounting of the animals before they are moved. Following the court's determination of the animals' disposition, this bill also calls for an inspection on the back end, so we can assert that the same animals are returned or adopted (or whatever the outcome is) and to make sure there is a clear paperwork trail on those animals as they move through marketing channels, as the inspection serves as the title to them.

The role of the chief brand inspector in this process is simply to provide ownership identification, which should be a benefit to all parties involved. This bill does not change the role or responsibility of law enforcement, the Board of Animal Health, veterinarians, judges or anyone else. It simply supplements the process to ensure accurate identification of animals.

So, basically, here's how it works: There is a bad actor. A law enforcement officer calls the Board of Animal Health. The Board of Animal Health sends an approved veterinarian to do an assessment, which is then presented to the law enforcement officer. If the assessment warrants action, law enforcement must make the case to the court and petition for a court order in order to seize the animals. All that

happens now. What would be new would be that, after the court order is received, the law enforcement officer would reach out to the chief brand inspector if the case involved cattle, horses or mules (but not if it was iguanas, for example) and request an inspection be done on those animals before they leave the premises.

Let's say this is a case of cattle and the animals are moved to a feedlot for care. The owner requests a hearing and the determination by the court is to return the animals to the owner. The chief brand inspector is again notified and sent to do an inspection of those animals so they are certainly the same ones they started with and the document can accompany them back home. It's the same story if the determination is different – the inspection will identify the animals and provide the documentation they will need as they move on.

So, in summary, SB 2177 clarifies due process for animal owners and ensures proper identification of animals already subject to brand inspection. Our organization believes this is an important piece of legislation and urges your do-pass recommendation on it.

SB2177

Attachment # 2

1-17-19

North Dakota Veterinary Medical Association

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E-mail: execdir@ndvma.com • **Website:** www.ndvma.com

Testimony of Deana Wiese
North Dakota Veterinary Medical Association
In Support of SB 2177
January 17, 2019

Chairman Luick and Members of the Senate Agriculture Committee:

My name is Deana Wiese, and I am representing the North Dakota Veterinary Medical Association (NDVMA). I am here today in support of SB 2177, which provides clarification regarding due process and accounting for animals to be seized.

NDVMA has spent more than a century representing the interests of veterinarians, their clients and patients. Today, the organization has more than 275 members representing small, large animal, exotic, bovine and equine practitioners and those veterinarians working in research, academic and government capacities.

NDVMA was one of the organizations that provided input in the rewrite of the Animal Welfare Code several sessions ago. We are comfortable with the proposed changes as we see them providing clarifications, but not altering, the seizure process.

Therefore, NDVMA encourages a Do Pass recommendation on SB 2177.

#1

North Dakota Stockmen's Association

Testimony to the House Agriculture Committee on SB 2177

Feb. 28, 2019

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, an 89-year-old beef cattle trade organization representing 3,000 North Dakota cattle-ranching families. The Stockmen's Association also has some statutorily assigned responsibilities as the administrator of the state's brand programs.

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Code but the statute silent on the disposition procedures, it leads some to believe that due process is not afforded in these cases. That, however, is not the intention and not the case.

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#2

North Dakota Veterinary Medical Association

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In Support of SB 2177
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