

SENATE BILL NO. 9
INTRODUCED BY DEVLIN

A BILL FOR AN ACT ENTITLED: "AN ACT TO LIMIT TO FIVE THE NUMBER OF BRANDS THAT MAY BE RECORDED OR RERECORDED BY ONE PERSON; TO REVISE THE DEFINITION OF LIVESTOCK; AMENDING SECTIONS 81-3-102, 81-3-103, 81-3-104, 81-3-105, 81-3-106, 81-3-108, AND 81-3-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 81-3-201, MCA, is amended to read:

"81-3-201. Definitions. Unless the context requires otherwise, in this part chapter, the following definitions apply:

(1) "Deputy state stock inspector" means a person designated by the department as a deputy state stock inspector who does not receive a salary or compensation from the department.

(2) "Feedlot" means a confined livestock feeding operation where the owner or operator of the feedlot feeds livestock belonging to others for a fee.

(3) "Livestock" means any bovine animal, horse, mule, or ass, regardless of its age or sex, and includes llama, bison, sheep, and elk.

(4) "Person" means an individual, partnership, corporation, association, firm, or any entity not enumerated capable of owning or controlling livestock.

(5) "State stock inspector" means an employee of the department of livestock designated by the department as a state stock inspector."

Section 2. Section 81-3-102, MCA, is amended to read:

"81-3-102. Recording of brands required -- limit. (1)

It is unlawful for a person ~~or firm or corporation~~ to artificially brand, mark, or cause to be artificially branded or marked any domestic animal or livestock running at large on the public domain or open range or which that may run or stray at large or on the public domain or open range, unless the artificial brand or mark has been recorded or rerecorded with the department in the name of the person ~~firm or corporation~~ within the period of 10 years immediately preceding the branding or marking.

(2) No more than five brands may be recorded or rerecorded by one person."

Section 3. Section 81-3-103, MCA, is amended to read:

"81-3-103. Application for recording -- record of brands. (1) A person ~~firm or corporation~~ desiring to have recorded an artificial mark or brand for use in distinguishing or identifying the ownership of any domestic animal or livestock shall make application for the mark or

1 brand to the department. The application must be in writing
 2 and must contain the name, residence, and post-office
 3 address of the applicant and the species of the animals on
 4 which the mark or brand is to be used. An applicant may
 5 apply for a seasonal mark or brand that is designated for
 6 use only for a specific period of time and that is subject
 7 to renewal upon termination of that period.

8 (2) The department shall designate for the applicant's
 9 use some practical form of mark or brand distinguishable
 10 with reasonable certainty from all other marks and brands
 11 recorded or rerecorded, within the period of 10 years
 12 immediately preceding the time of filing the application, in
 13 the name of some person~~7-firm7-or-corporation~~ other than the
 14 applicant. The department shall designate the position on
 15 the animals ~~on-which~~ where the mark or brand ~~shall~~ must be
 16 placed and the species of animals on which the mark or brand
 17 may be used.

18 (3) The department shall keep a record in a book kept
 19 by it for that purpose of the particular mark or brand, the
 20 position on the animal~~s~~ animals where the mark or brand is to
 21 be used, the species of animals on which the mark or brand
 22 is to be used, and the date of recording. The record is a
 23 public record and is prima facie evidence of the facts
 24 recorded in it."

25 **Section 4.** Section 81-3-104, MCA, is amended to read:

1 **"81-3-104. Designation of years for rerecording brands.**
 2 Each 10th year after 1921 is the year for rerecording
 3 artificial marks and brands used to distinguish and identify
 4 the ownership of domestic animals and livestock. ~~The Subject~~
 5 to the provisions of 81-3-102(2), the department shall, on
 6 the application of a person~~7-firm7-or-corporation~~ or the
 7 transferee of the person~~7-firm7-or--corporation~~ made in a
 8 year ~~which~~ that is a year for rerecording marks and brands,
 9 rerecord a mark or brand ~~which~~ that at the time of the
 10 application stands of record in the department in the name
 11 of the person~~7-firm7-or-corporation~~. A mark or brand ~~which~~
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 17 interest between the time of the application and the
 18 rerecording year last preceding the application is not of
 19 record in the department."

20 **Section 5.** Section 81-3-105, MCA, is amended to read:

21 **"81-3-105. Right of owner of recorded brand.** A person~~7~~
 22 ~~firm7-or-corporation~~ in whose name a mark or brand is
 23 recorded is entitled to the exclusive use of the mark or
 24 brand on the species of animal and in the position
 25 designated in the record. A copy of the record certified by

1 the department is prima facie evidence of this right, and
 2 the certificate is also prima facie evidence that the
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8 "81-3-106. Publication of notice of rerecording brands.
 9 Between January 1 and June 30 in each rerecording year, the
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 12 state, in which a newspaper is published, a notice to the
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 16 firm, and corporation in whose name a mark or brand stands
 17 of record, a similar notice addressed to the person, firm,
 18 or corporation at his or-its post-office address as shown by
 19 the records in the department."

20 **Section 7.** Section 81-3-108, MCA, is amended to read:

21 "81-3-108. Penalty. Any A person, firm, or corporation
 22 violating any provision of this part shall be deemed is
 23 guilty of a misdemeanor and shall be punished by a fine of
 24 not exceeding \$1,000 or imprisonment be imprisoned in the
 25 county jail for a term not to exceed 1 year, or both such

1 fine-and-imprisonment."

2 NEW SECTION. **Section 8.** Effective date -- retroactive
 3 applicability. [This act] is effective on passage and
 4 approval and applies retroactively, within the meaning of
 5 1-2-109, to brands required to be recorded or rerecorded on
 6 or after January 1, 1991.

-End-

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

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THE DEPARTMENT OF LIVESTOCK TO IMPLEMENT A SYSTEM FOR
STAGGERED RECORDING AND RERECORDING OF MARKS AND BRANDS;
AMENDING SECTIONS 81-3-102, 81-3-103, 81-3-104, 81-3-105,
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designated by the department as a deputy state stock
inspector, who does not receive a salary or compensation
from the department.

(2) "Feedlot" means a confined livestock feeding
operation where the owner or operator of the feedlot feeds
livestock belonging to others for a fee.

(3) "Livestock" means any bovine animal, horse, mule,
or ass, regardless of its age or sex, and includes llama,
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 9 use only for a specific period of time and that is subject
 10 to renewal upon termination of that period.

11 (2) The department shall designate for the applicant's
 12 use some practical form of mark or brand distinguishable
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21 (3) The department shall keep a record in a book kept
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 23 position on the ~~animal~~ animals where the mark or brand is to
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 25 is to be used, and the date of recording. The record is a

1 public record and is prima facie evidence of the facts
 2 recorded in it."

3 **Section 4.** Section 81-3-104, MCA, is amended to read:

4 "**81-3-104.** Designation of years for rerecording brands.
 5 Each (1) UNTIL A SYSTEM IS DEVELOPED UNDER SUBSECTION (2),
 6 EACH 10th year after 1921 is the year for rerecording
 7 artificial marks and brands used to distinguish and identify
 8 the ownership of domestic animals and livestock. The Subject
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2 "81-3-105. Right of owner of recorded brand. A person~~7~~
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8 NEW SECTION. Section 8. Effective date~~====retroactive~~
9 ~~applicability7--(This--act)--is--effective--on--passage--and~~
10 ~~approval--and--applies--retroactively7--within-the-meaning-of~~
11 ~~1-2-1997--to-brands-required-to-be-recorded-or-rerecorded--on~~
12 ~~or--after--January-17-19917. [THIS ACT] IS EFFECTIVE JANUARY~~
13 1, 1992.

-End-

SENATE BILL NO. 9
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THIRD READING



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24 or--corporation at his or-its post-office address as shown by
25 the records in the department."

1 **Section 7.** Section 81-3-108, MCA, is amended to read:

2 "81-3-108. Penalty. Any A person,--firm,--or--corporation
3 violating any provision of this part shall--be deemed is
4 guilty of a misdemeanor and shall be punished by a fine of
5 not exceeding \$1,000 or imprisonment be imprisoned in the
6 county jail for a term not to exceed 1 year, or both such
7 fine-and-imprisonment."

8 NEW SECTION. Section 8. Effective date----retroactive
9 applicability---{This--act}---is--effective--on--passage--and
10 approval--and--applies--retroactively,--within--the--meaning--of
11 1-2-1997,--to--brands--required--to--be--recorded--or--rerecorded--on
12 or--after--January-17-1991-. [THIS ACT] IS EFFECTIVE JANUARY
13 1, 1992.

-End-