Chapter 604

1963 REPLACEMENT PART

Brands and Marks

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DEFINITIONS; GENERAL PROVISIONS

604.010 "Brand" defined. (1) As used in ORS 165.405, 165.410 and 604.110 to 604.230, the term "brand" means a distinctive design made on the hide, skin or wool of:

(a) Sheep, goats, hogs, poultry or foxes in a specified location by a heated iron, tattoo, caustic chemical substance or paint.

(b) Horses, cattle or mules in a specified location by a heated iron or caustic chemical substance.

(2) As used in ORS 604.010 to 604.050 and 604.310 to 604.550, unless otherwise required by the context, the term "brand" means a design, pattern or insignia made for the purpose of identifying livestock, either by burning it into the hide, hoofs or horns of livestock, by means of a hot iron, by the use of acid or chemicals, by tattooing in the ears or lips, by tags, flesh marks or any other means of identification.

[Amended by 1957 c.287 §1]

604.020 "Brand inspection," "brand inspection certificate" and "special brand inspection certificate" defined. As used in ORS 604.010 to 604.050 and 604.310 to 604.550, unless otherwise required by the context, the term:

(1) "Brand inspection" of livestock means the examination of such livestock by a brand inspector for brands, tags, flesh marks or earmarks, dewlaps, wattles, color, sex, age or any other form of identification to establish ownership or to prevent theft of livestock. "Brand inspection" also means the inspection necessary to insure the identity of livestock which may be affected with communicable or contagious disease.

(2) "Brand inspection certificate," which shall not be valid for a period of more than 15 days from the date of issuance, means a written document in a form approved by the department which shall contain:

(a) The date of issuance.

(b) A description by sex, predominating breed, brands, marks or other identifying characteristics of the livestock inspected.

(c) The name of the person in possession and, if such person is not the owner, the name of the owner.

(d) The point where the shipment originated.

(e) A signed statement by the brand inspector that he has inspected the livestock and that to the best of his knowledge the person in possession is the lawful owner or such owner's agent.

(f) The destination of the shipment if the inspection is performed other than at the destination.

(g) Such other information as the department may prescribe.

(3) "Special brand inspection certificate," which shall be valid during the calendar year in which it is issued, means a written document in a form approved by the department which shall contain:

(a) The date of issuance.

(b) A description by sex, predominating breed, brands, marks or identifying characteristics of the livestock inspected.

(c) The name and address of the owner.

(d) A signed statement by the brand inspector that he has inspected the livestock and that to the best of his knowledge the livestock are owned by the person named thereon.

[Amended by 1953 c.358 §15; 1959 c.396 §1; 1961 c.267 §1]

604.030 "Brand inspector," "committee," "common carrier," "contract carrier," "department" and "director" defined. (1) As used in ORS 604.010 to 604.050 and 604.310 to 604.550, unless otherwise required by the context, the term:

(a) "Brand inspector" means a person appointed pursuant to ORS 604.531 to inspect livestock as to brands.

(b) "Committee" means the Livestock Advisory Committee.

(c) "Common carrier" means any person who transports for hire or who holds himself out to the public as willing to transport for hire, compensation or consideration by rail, motor vehicle, boat or aircraft from place to place, persons or property, or both, for those who may choose to employ him.

(d) "Contract carrier" means any person engaged in transportation by rail, motor vehicle, boat or aircraft of persons or property, or both, for compensation, under special and individual agreements, leases or other arrangements and not included in the term "common carrier" as defined in paragraph (c) of this subsection.

(2) As used in this chapter the term:

(a) "Department" means the State Department of Agriculture.

(b) "Director" means the Director of Agriculture.

604.040 "Livestock," "livestock auction sale," "market agency," "memorandum brand inspection certificate," "packer" and "private carrier" defined. As used in ORS 604.010 to 604.050 and 604.310 to 604.550, unless otherwise required by the context, the term:

(1) "Livestock" means all cattle, horses, mules and asses.

(2) "Livestock auction market" means a livestock auction market licensed as such by the state.

(3) "Market agency" means any person engaged in the business of buying or selling livestock at a stockyard on a commission basis, or furnishing stockyard services.

(4) "Memorandum brand inspection certificate" is a written document in a form prescribed by the department. It shall be issued free of charge to any person purchasing livestock at a stockyard, livestock auction market or other place wherein brand inspection is required and where such brand inspection has been performed by an Oregon brand inspector. The purpose of such certificate shall be to authorize the transportation of the livestock described therein directly to the point or destination contained therein. It shall contain such information as the department may deem necessary to show the livestock described therein have been brand inspected but including, among other things, the destination of the livestock and the date of issuance. It shall not be valid for the authorization for transportation or slaughter for a period of more than eight days from date of issuance.

(5) "Packer" means any person engaged in the business of buying livestock for purposes of slaughter or manufacture or preparing meats or meat products for sale or shipment.

(6) "Private carrier" means any person not included in the term "common carrier" or "contract carrier," who transports by rail, motor vehicle, boat or aircraft property of which he is the owner, lessee or bailee, when such transportation is for the purpose of sale, lease, rent or bailment or in the furtherance of any commercial enterprise. [Amended by 1953 c.358 §15; 1961 c.267 §2]

604.050 "Record of transfer," "slaughterhouse," "stockyard," "transported" and "transportation certificate" defined. As used in ORS 604.010 to 604.050 and 604.310 to 604.550, unless otherwise required by the context, the term:

(1) "Record of transfer" means a legible, dated writing which recites the transfer of ownership of certain livestock described by brands, marks and other identifying characteristics from one named person to another and which is signed by the transferor. It need not set forth the consideration for the sale if such be the case. If the transfer of ownership is subject to acceptance and payment of a check, bill of exchange, other credit instrument or is subject to any other condition, the transferor may so indicate.

(2) "Slaughterhouse" means any building, plant or establishment where animals are killed or dressed, the meat or meat products of which are to be offered for sale.

(3) "Stockyard" means any establishment where services or facilities are furnished to the public in connection with the receiving, buying or selling of livestock on a commission basis or at auction, involving any change of ownership.

(4) "Transported," "transporting" and "transportation" refer to and mean any movement of livestock whether by common carrier, contract carrier, private carrier or on the hoof.

(5) "Transportation certificate" means a certificate signed by the owner or person in lawful possession of the livestock to be transported, on a form to be approved by the department, containing the following:

(a) The owner.

(b) The point of origin and the point of destination of such transportation.

(c) Description by marks, brands or

other identifying characteristics of the livestock to be transported.

(d) A form for record of transfer.

(e) Such other information as the department may prescribe.

[Amended by 1953 c.358 §15; 1961 c.267 §3]

604.060 Marking domestic animals on the ear. (1) No person, in marking domestic animals on the ear, shall cut, mark or remove any part of the ear exceeding one-half.

(2) All justices of the peace have jurisdiction over violations of this section.

604.070 Killing unbranded or improperly branded cattle. No person shall kill, or cause to be killed for sale, or use, any unbranded neat cattle which during any period of the year run at large upon the public range, or any such cattle on which the brand has not peeled off and fully healed, unless such cattle have an older and recorded brand. No person shall purchase and kill, or cause to be killed, for sale or use, any such neat cattle having a brand not legally owned by such person, without having taken a duly executed and acknowledged bill of sale for them, from the owner thereof.

604.080 to 604.100 [Reserved for expansion]

RECORDING OF BRANDS

604.110 Recording brands with department; furnishing copies of brands. (1) The department shall record livestock brands.

(2) The department, upon request, shall furnish to the county sheriffs of the respective counties a copy of all brands used by stock growers and stock owners within such county.

[Amended by 1957 c.287 §2]

604.120 Adjustment of conflicting brands. The department shall adjust conflicting stock brands and make such changes thereof as may be necessary. Such changes are conclusive and such brands as the department indicates may be recalled or adjusted at any time by means of written notice from the department given to the owner of the brand.

604.130 Restrictions on use of brands and place of recording. (1) Similar brands shall not be used by more than one person. No brand shall be recorded in this state elsewhere than in the office of the department.

(2) On horses, cattle and mules, only a brand made by a heated iron, tattoo or caustic chemical substance may be used and recorded.

604.140 Recording and re-recording of brands. (1) Any person desiring to adopt any brand on any species of livestock or poultry, shall make and sign an application setting forth:

(a) A facsimile and description of the brand.

(b) Its definite location on the animal.

(c) A statement of the desire to adopt it.

(2) He shall file the application with the department, which shall record the brand, if available, in a book or file kept by it for that purpose and issue a certificate to the person adopting it. After the issuance of such certificate the person has exclusive right to use such brand within the state subject to the conditions prescribed by this section.

(3) Such person, upon requesting a brand be recorded, or upon requesting a brand be re-recorded, shall pay to the department for recording or re-recording it, as provided by this section, a fee to be fixed by the department in an amount reasonably necessary to cover the cost of administration of this section not to exceed $10 to record each brand and not to exceed $5 to re-record each brand, on each species of livestock or poultry on which such brand is to be used. The department shall so adjust the fees collected under this section as to meet the expenses of administering the provisions of this section and may prescribe on a uniform basis a different fee for each species of animal.

(4) Between July 1, 1954, and January 1, 1955, and during the same period of every fifth year thereafter, every owner of a recorded brand shall re-record it by paying the appropriate fee and filing with the department an application for re-recording of brand form approved by the department. If the department verifies the application is proper and the person or persons making such request are entitled to re-record such brand, it shall make an appropriate entry in its book or file of recorded brands showing receipt and approval of the application for re-recording of brand form. The entry shall constitute a re-recording of brands covered by the application. Upon re-recording, the department shall issue to such person a renewal certificate which entitles the holder and owner thereof to the right to continue the exclusive

use of such brand. No person shall claim or own any animal or poultry brand which is not recorded or re-recorded with the department in accordance with this section. Failure to re-record a brand, as required by this section, shall be deemed an abandonment of it, and any other person shall be at liberty to adopt, record and use any brand so abandoned. However, no person shall be at liberty to claim or use any such abandoned brand until after it has been recorded in his own name in the manner prescribed in this section.

(5) The department during the first month of any re-recording period shall notify the owner of every animal or poultry brand recorded, that the recording will terminate at the end of such re-recording period, and that the owner is privileged to re-record such brand. Such notice shall be given by letter with postage prepaid, and addressed to the owner at the postoffice address named upon the records of the department.

(6) No person has the right to record any brand consisting of three letters or figures on the shoulders of cattle, or any brand on the jaw of any cattle. Such positions and characters are reserved to the owners of livestock for the purpose of indicating age, breeding or such other information as he may desire. However, nothing in this section shall be construed to prevent the use by the department of any brand authorized by law. The provisions of this section relating to the use of brands consisting of three letters or figures on the shoulder of cattle shall not be construed to affect the privilege of persons presently having such brands recorded from continuing their use. No person using such brand for identification shall use figures or letters in combination in such a way as to conflict with a three letter or figure brand recorded with the department for the purpose of indicating ownership.

[Amended by 1957 c.287 §3; 1959 c.16 §1]

604.150 Certified copy of record. At any time after the recording of any brand as provided in ORS 604.140, any person may procure from the department a certified copy of the record of such brand by paying therefor the sum of $1.

604.160 Recorded brand as property; transfer of brands. (1) Any brand recorded in compliance with ORS 604.140 is the property of the person causing such record to be made. It shall be subject to sale, assignment, transfer, devise and descent as personal property.

(2) If the record holder of a brand is deceased and has not bequeathed it by will, the persons entitled to such deceased person's personal property may relinquish all their interest in such brand to any other distributee or a third person by executing an affidavit to that effect. The affidavit shall state:

(a) That the decedent was the owner and record holder of the brand.

(b) The time and place of his death.

(c) A description of the brand.

(d) The names and addresses of his surviving spouse and issue, if any.

(e) The fact of intestacy.

(f) That all the distributees who might have a claim to the brand are parties to the affidavit and that they mutually agree that the ownership of it is to be vested in a designated person.

(3) If such decedent bequeaths the privilege of using a brand to more than one person, such persons may release their interest in such brand in the same manner as in the case of intestacy.

(4) The affidavit shall be executed and filed with the department not later than 60 days from the date of issuance of the order of distribution by the probate court, relating to such classes of personal property. However, if the estate of any deceased person who is a record holder of a brand is not probated, the affidavit must be executed and filed with the department not later than six months from the death of the record holder of the brand. If the affidavits provided for by this section are not filed within the time limited in this section, the privilege of use of such brand shall terminate. No person shall claim or use a terminated brand until after it has been recorded in his own name and the recording fee has been paid as authorized by ORS 604.140.

(5) Instruments of writing evidencing the sale, assignment or transfer of such brand shall be acknowledged or witnessed by two witnesses and shall be recorded, when accompanied by an application properly filled out and signed by the new owner of such brand as provided by ORS 604.140, by the department in a book or file to be kept for that purpose, upon the payment to the department of a fee not to exceed $5. The recording of such instrument and the application shall have the same force and effect as

to third parties as the recording of instruments affecting real estate, and a certified copy of the record of any such instrument and the application may be introduced in evidence, the same as is provided for certified copies of instruments affecting real estate. [Amended by 1959 c.396 §4]

604.170 Publication of brand and mark book; disposition of fees. (1) The department may publish a state livestock, animal and poultry brand and mark book and supplements thereto, which may be sold at cost throughout the state.

(2) All fees paid the department as provided by ORS 604.140 to 604.170, shall be deposited by the department with the State Treasurer, who shall deposit them in the General Fund to the credit of the Department of Agriculture Account. All such fees are appropriated to the department to be used for carrying out the provisions of ORS 603.160, 604.110, 604.130 to 604.190 and 604.230.

604.180 Brand as prima facie evidence; proof of right to use brand. (1) In all suits at law or in equity, or in any criminal proceedings, when the title or right of possession is involved, the brand of any animal shall be prima facie evidence that the animal belongs to the owner of the brand, and that such owner is entitled to possession of the animal at the time of the action, if such brand has been recorded as provided by ORS 604.140.

(2) Proof of the right of any person to use such brand shall be made by a copy of the record, certified to by the department in accordance with ORS 604.150, or the original certificate issued to him by the department or by the former state veterinarian. Parol evidence is inadmissible to prove the ownership of a brand.

604.190 Recordation as requisite to admissibility of brand. No evidence of ownership of stock by brands shall be permitted in any court of this state unless the brand has been recorded as provided by ORS 604.140. However, in the case of sheep, goats and hogs, evidence of ownership may be considered in any suit at law or in equity, or in any criminal proceeding, as provided by ORS 604.230. On the trial of any person charged with the violation of any of the stock laws, the prosecution may prove, as tending to show conversion by the accused, that the animal was branded into a brand, or marked into a mark, claimed by the accused to be his brand or mark, although neither such brand or mark is recorded.

604.200 Branding and recording brands of foxes. All foxes raised or bred in captivity or inclosures are personal property. The owners of such foxes may mark them by tattoo marks for the purpose of identification and establishing proof of ownership. Such tattoo marks may be recorded with the department in the same manner and with like effect as brands are recorded under ORS 604.140.

604.210 Public record of brands and marks on horses and cattle received in stockyards. Every person who owns, operates, manages or has charge or control of any stockyard, or any yard or place through or by which horses or cattle are shipped, or are received for the purpose of placing or loading for transportation or shipment, shall make and keep a public record of all brands and marks on all horses and cattle so received at or in, or shipped by or through, such stockyard, or other yard or place. Such record shall also include the names of the persons from whom any such horses or cattle were received. The record shall, during business hours, be open to inspection or examination by any person desiring to inspect or examine it. However, this section does not apply to any stock unloaded out of cars for the purpose of feeding.

604.220 Use of unrecorded brand. No person shall use or cause to be used, any brand upon a horse, gelding, mare, mule, ass, jenny, foal, bull, steer, cow, heifer or calf without first having the brand recorded in the office of the department, and permission granted for its use.

604.230 Use of earmarks, wool and tattoo marks. The owners of animals other than sheep, goats or hogs in this state may use earmarks and they shall be taken in evidence in connection with the owner's recorded brand in all suits at law or in equity, or in any criminal proceedings, when the title to such property is involved, or proper to be proved. Owners of sheep, goats or hogs may also use earmarks. However, in no case shall the person using such earmarks cut off more than one-half the ear so marked, nor cut the ear on both sides to a point. In the case of sheep, goats or hogs, the earmarks, as well

as the paint, wool or tattoo brand thereon, shall be considered in evidence in all suits at law or in equity, or in any criminal proceeding, when the title to such property is involved, or proper to be proved, whether or not the brand has been recorded under ORS 604.140.

604.240 to 604.300 [Reserved for expansion]

BRAND INSPECTION CERTIFICATE; TRANSPORTATION OF LIVESTOCK

604.310 Certificates required for transportation of livestock. (1) Livestock transported from any point in the state to or through any point outside of the state, regardless of final destination, must be inspected before leaving the state and must be accompanied by a brand inspection certificate or a memorandum brand inspection certificate.

(2) Livestock transported from a place within this state to a range outside this state and returned to a place within the state after movement therefrom shall be inspected as to brands before removal from the state.

(3) (a) Livestock transported, the destination of which is any stockyard, livestock auction market or market agency within the state, shall be accompanied by either a brand inspection certificate, a memorandum brand inspection certificate or a transportation certificate. If accompanied by a transportation certificate or a memorandum brand inspection certificate only, a brand inspection must be made and the brand inspection fee collected at the point of destination.

(b) Livestock transported from any of the places or agencies designated in this section, following brand inspection therein, destined to a point within the state or to a point outside of this state, may be so moved when accompanied by a memorandum brand inspection certificate. Other livestock may be transported from places or agencies mentioned in this section accompanied by a transportation certificate executed by the owner thereof or his authorized agent.

(4) Subject to the provisions of subsection (5) of this section, all livestock transported in any manner must be accompanied by a transportation certificate, a brand inspection certificate, a special brand inspection certificate or a memorandum brand inspection certificate, and, when the movement is accompanied by a transportation certificate and a change of ownership or right to possession occurs as an incident to or in connection with the movement, such certificate shall be accompanied by a record of transfer. Upon arrival of the livestock at a point where brand inspection is required a copy of the transportation certificate and record of transfer or the brand inspection certificate or memorandum brand inspection certificate, as the case may be, must be submitted to the brand inspector.

(5) A transportation certificate is not required for the following movements of livestock within Oregon:

(a) Movement by the owner or person in lawful possession of livestock when drifted, herded or trailed to or from pasture or range, in the regular course of ranch operation; or

(b) Movement by the owner or person in lawful possession of horses used for handling, herding or trailing livestock, or horses used for rodeo work or purposes, or horses used for showing, displaying or exhibition.

(6) Racing horses being moved or transported within Oregon, must be accompanied by at least one of the following documents:

(a) Adequate evidence of ownership or the right to the possession of such horses;

(b) A transportation certificate;

(c) A brand inspection certificate; or

(d) A special brand inspection certificate as authorized by ORS 604.312.

[Amended by 1953 c.358 §15; 1957 c.287 §4; 1961 c.267 §4]

604.312 Special brand inspection certificate furnished in certain cases. (1) Any owner or person in lawful possession of livestock for showing, displaying or exhibiting them or for livestock used for handling, herding, trailing, racing, or used for rodeo work, may apply to the department for a special brand inspection certificate.

(2) Notwithstanding the provisions of this chapter, the department may issue such person a special brand inspection certificate or certificates covering the livestock. A fee to be fixed by the department, of not more than 60 cents per head, shall be charged for issuing the certificate or certificates.

(3) Upon presentation of a valid special brand inspection certificate during the period for which it is issued, no further Oregon brand inspection is necessary for livestock named therein which are being moved out of state or into this state if there has been no change of ownership since the date of issuance of the certificate. It is not the intent of this section to eliminate the requirement that such livestock must be brand inspected at

places where brand inspection is otherwise required by law, such as at livestock auction markets or stockyards.
[1961 c.267 §9]

604.315 Out-of-state certificates or documents in lieu of Oregon papers; inspection fees. (1) The department may accept brand inspection certificates or similar documents from other states in lieu of Oregon brand inspection certificates, memorandum brand inspection certificates or further brand inspection of livestock moved or transported into Oregon through an auction market or stockyard in Oregon which has been posted by the Federal Government, providing:

(a) The state from which the livestock originates has a brand inspector stationed at such posted auction market or stockyard; and

(b) The brand inspection services and procedures of such other state meet the minimum procedures and standards of the laws of Oregon and have been approved by the department; and

(c) The Federal Government has approved and authorized such other state to provide brand inspection services in the posted auction market or stockyard located in Oregon.

(2) Nothing in this section shall be construed to mean that brand inspection fees shall be collected by the department on livestock being moved or transported into Oregon, unless such authority is otherwise provided by this chapter.
[1959 c.396 §3]

604.320 Submitting proof of ownership or right to possession of livestock subject to brand inspection; seizure and sale of livestock upon failure to do so. (1) Any person in possession of livestock shall, whenever such livestock become subject to brand inspection as required by ORS 604.310 to 604.550, submit proof of his ownership or right to possession of them.

(2) Before issuing a brand inspection certificate the brand inspector shall satisfy himself that the person in possession is the owner of the livestock or has a right to its possession. When the person in possession of livestock fails to furnish proof of ownership or right to possession, the brand inspector may, in addition to refusing to issue a brand inspection certificate, either:

(a) Seize, hold, unload for inspection or otherwise impound or prevent the movement of such livestock; or

(b) Permit the sale of the livestock and impound the proceeds of such sale.

(3) Whenever the proceeds from the sale of livestock are impounded, all of such proceeds remaining after payment of the costs of sale and related charges shall be transmitted to the department and shall be held in a suspense account in the Department of Agriculture Account in the State Treasury for three years; provided that any person holding proceeds of sale impounded by the department may retain them in his possession for a period not to exceed 60 days from the date of impounding after which time the proceeds shall immediately be transmitted to the department. These proceeds shall not be subject to tithing or in any other manner treated as moneys of the department during such period.
[Amended by 1953 c.358 §15]

604.322 Payment of proceeds of sale of impounded livestock to owner; settling adverse claims to proceeds; disposition of proceeds if no satisfactory claim. (1) Any proceeds of sale impounded as provided in ORS 604.320 shall be held subject to claim and proof of ownership thereof at any time during the three-year-holding period. If a person claiming ownership of the proceeds of sale in the custody of the department provides satisfactory evidence of ownership of such proceeds, they shall be paid to him. If more than one person, each claiming adversely to the other, makes claim to proceeds of sale impounded by the department during the three-year period, the right, if any, of such persons to the proceeds shall be determined as provided in this section.

(2) Upon notice that several persons claim the right to receive such proceeds, the department shall give notice to the adverse claimants that a hearing will be held at a stated time and place for the purpose of determining which, if either, is legally entitled to the proceeds. For the purpose of assuring a speedy determination of the issues between the respective parties, the department shall in accordance with the applicable provisions of ORS chapter 183 promulgate regulations relating to the procedures to be followed at such hearing. In all other particulars the department shall so far as necessary and proper be governed by analogy to the laws of civil procedure and laws of evidence governing the civil courts of this state.

(3) Within 10 days from the conclusion of such hearing the department shall give the parties notice of its decision. Such decision shall become final unless any of the parties shall, within 30 days from the time of receiving notice of such decision, file a suit in equity against the department, in which case the decision of the department shall remain in abeyance until final action by the court.

(4) If a suit in equity is filed as provided in subsection (3) of this section and ownership is not therein established, the clear proceeds of such sale, after deducting the expenses of the department in conducting administrative and legal proceedings relating to the claims, shall be paid to the State Treasurer for deposit in the Common School Fund.

(5) At the expiration of the three-year-holding period, if satisfactory evidence of ownership has not been furnished to the department or if adverse claimants have not asserted claims as provided in this section, the clear proceeds from such sale shall be paid to the State Treasurer for deposit in the Common School Fund.

[1953 c.358 §15; 1961 c.425 §12]

604.324 Method of proof of ownership of livestock or right to proceeds of sale. (1) Proof of ownership of livestock or of entitlement to the proceeds of sale of livestock may be, except as otherwise required or modified in this section, by any means which tend to logically and credibly establish ownership, or in situations involving the right to possession such means as logically and credibly tend to establish such right.

(2) In all cases where livestock subject to brand inspection bear a brand currently recorded in the office of the department as provided in ORS 604.110 to 604.220, full weight shall be accorded such brand consistently with the provisions of ORS 604.180. In cases, however, where livestock bear a brand not recorded with the department as required by ORS 604.110 to 604.220, the disputable presumption of ownership arising from either possession, common reputation or the exercise of acts of ownership shall prevail as against a person claiming solely by or under an unrecorded brand. When livestock bear a brand recorded to a person other than the person in possession, such livestock or the proceeds of sale may be held at least until the person in possession furnishes the department a release executed by the owner of the recorded brand or a record of transfer tracing title to the owner of the recorded brand.

(3) Whenever the brand inspector in the course of his duties has doubts as to the ownership of livestock and it becomes necessary for the person in possession to furnish additional proof of ownership, such proof may be made by appropriate record of transfer, bills of sale, affidavit or other means suitable to the circumstances of the situation.

[1953 c.358 §15]

604.330 Taking up transportation certificates; disposition. Brand inspectors, at the time of inspecting livestock as to brands, shall take up transportation certificates accompanying such livestock. Such certificates shall be filed with the department where the originals or copies thereof shall be available for use by the department and peace officers for a period of at least three years.

[Amended by 1953 c.358 §15; 1961 c.267 §5]

604.340 Carrier to receive proper certificate before transporting livestock; delivery of certificate to consignee. (1) No common carrier, contract carrier or private carrier shall transport any livestock without receiving from the person in possession of such livestock a brand inspection certificate, memorandum brand inspection certificate or transportation certificate, as the case may be. Such certificates shall be retained by the carrier and accompany the livestock to their destination and be delivered to the consignee. Each carrier shall be entitled to receive and retain two copies of each transportation certificate, brand inspection certificate or memorandum brand inspection certificate or record of transfer, as the case may be.

(2) A carrier who violates the provisions of this section shall, in addition to any criminal liability which may accrue against him or it, be liable for any damage to another person thereby injured, in the amount of such damage, costs and reasonable attorney's fees.

[Amended by 1953 c.358 §15]

604.350 Impounding and disposing of livestock or part believed not owned by possessor. (1) Any livestock, part or hide thereof may be inspected at any time or place by any enforcing officer. If an enforcing officer finds from such inspection:

(a) That any brand inspection certificate, memorandum brand inspection certifi-

cate or transportation certificate accompanying such livestock and purporting to describe and authorize the movement of such livestock is false or erroneous in any material respect; or

(b) That such livestock or any of them, or any part or hide thereof, is not owned by the person in possession, whether accompanied by a brand inspection certificate, memorandum brand inspection certificate or transportation certificate or not, such officer may seize, embargo or otherwise impound such livestock, part or hide until satisfactory proof of ownership or the right to possession is established. In addition to such action the enforcing officer may take such other action as may be authorized by law.

(2) Whenever an enforcing officer seizes, embargoes or impounds livestock as authorized by ORS 604.310 to 604.550, he shall deliver it into the custody of the sheriff of the county where he impounds it. This shall be done by notifying the sheriff of the impounding and placing it within an enclosure designated by the sheriff, whereupon the brand inspector and the department shall be relieved of all responsibility for the care, safekeeping or disposal of such livestock. Unless prosecution in connection with such impounded livestock is pending or contemplated, the same shall be treated as an estray and disposed of accordingly.

(3) Hides or parts impounded as authorized by subsection (1) of this section, shall be delivered to the sheriff by notifying him of the seizure or holding thereof and placing them where he directs, whereupon the brand inspector and the department are relieved of all responsibility for the safekeeping or disposal of such property. The sheriff shall store such hides and parts in a suitable place within the county where impounded. If no prosecution is pending or contemplated in regard thereto and if the owner is not ascertained within 10 days, the sheriff shall sell, as upon an execution, as much of the property as may be saleable and may destroy the remainder, after entering in his permanent records a description of the brands, marks and other identifying characteristics of each item placed in his custody under authority of this section. The clear proceeds of such sale, after satisfying the costs of sale, shall be placed in the treasury of such county subject to the claim of the owner upon satisfactory proof to the county court. If no such claim is established within three years, such clear proceeds shall be paid by the county treasurer to the State Treasurer, for deposit in the Common School Fund.

(4) Every brand inspector or peace officer, upon seizing or impounding pursuant to this section any livestock, part or hide in the possession of any common carrier, contract carrier, private carrier or person, shall issue to such carrier or person a certificate of seizure in a form to be prescribed by the department. Such certificate shall operate to relieve the carrier or person from liability to the owner or shipper of such livestock, part or hide or to the consignee thereof for loss or damage resulting from such seizure or impounding.

(5) As used in this section, "enforcing officer" means any brand inspector or peace officer.

[Amended by 1953 c.358 §15]

604.360 Brand inspection before sale or slaughter of livestock. (1) No packer or person operating a slaughterhouse shall slaughter or permit the slaughter of any livestock at such an establishment until such livestock has been inspected by a brand inspector of this state and a brand inspection certificate issued, or, in cases where the livestock arrive at such establishment accompanied by a memorandum brand inspection certificate, the brand inspector has endorsed such certificate.

(2) No person operating any stockyard, livestock auction market or market agency shall sell or offer for sale any livestock in or through such establishment until such livestock has been inspected by a brand inspector of this state and a brand inspection certificate issued therefor. Whenever any livestock is offered for sale at such place and not sold, the identical animals may be offered for sale at the same stockyard, livestock auction market or market agency within eight days of the original date such livestock was offered for sale without being required to pay a second brand inspection fee upon presentation of the prior brand inspection certificate. In any such instance the unsold livestock must be presented for brand inspection without animals having been taken from or other animals having been added to such lot or group of livestock and must be retained on the premises where first offered for sale until again offered for sale within the time limited.

(3) Each of the persons indicated in subsections (1) and (2) of this section shall keep or cause to be kept a copy of all brand

inspection certificates, including memorandum brand inspection certificates, of livestock for a period of one year next succeeding the date of issuance thereof and shall make such certificate available for inspection by representatives of the department.
[Amended by 1953 c.358 §15]

604.370 Permitting inspection. No person shall refuse to permit inspection of any livestock, part or hide, while in transit or thereafter, by a brand inspector or police officer. No person shall refuse to permit his livestock to be sheared or to have any other action taken to make the brands visible.
[Amended by 1959 c.396 §6]

604.380 Making false representation. No person shall knowingly make any false certificate, affidavit or record of transfer or make or induce any false inspection, or certify to any material fact required by ORS 604.310 to 604.430 to be set forth in any of such writings or documents knowing it to be untrue.
[Amended by 1953 c.358 §15]

604.390 Brand inspection fee; payment of travel expenses for inspections not made at official station. (1) A fee to be fixed by the department, of not more than 30 cents per head, shall be charged for brand inspection in this state. Such fee shall be paid by the person at whose instance the brand inspection is made.

(2) Upon request of the owner or person in charge, the department may perform brand inspection of livestock at such place as may be designated by the person requesting same. In all such cases the department may as a condition of performing such inspection require the payment of the reasonable cost of the time and travel to and from the brand inspector's official station.
[Amended by 1953 c.358 §15]

604.395 Exemption from brand inspection fee. (1) Notwithstanding ORS 604.310 to 604.550, no brand inspection fee shall be collected by the department at a livestock auction market or stockyard on any animal where the sale price, or the value of the animal if sale is not involved, is not more than $17.50. The determination by the department as to the sale price, or the value or other factors which result in noncollection of the brand inspection fee, shall be conclusive and final.

(2) The provisions of subsection (1) of this section do not apply to animals going to or being sold for slaughter or being exported or shipped out of the state.
[1957 c.287 §5; 1963 c.357 §1]

604.400 Collection and disposition of brand inspection fee. (1) The operators of all stockyards, slaughterhouses, packing plants and livestock auction markets are responsible for the collection of brand inspection fees at such places, respectively, except when brand inspection certificates accompany the livestock to such places. They shall promptly pay over and deliver to the brand inspector making inspection at such places all brand inspection fees collected by them.

(2) All fees paid the department as provided in ORS 604.390, shall be deposited by the department with the State Treasurer, who shall deposit them in the General Fund to the credit of the Department of Agriculture Account.

604.410 Refunding of inspection fees. (1) Should the identical livestock transported to or through a point outside of the state as provided in subsection (1) of ORS 604.310 be returned to the state without unloading en route, and in continuation of the same shipment or movement, and if no change of ownership has occurred or is involved, and if such movement constitutes a normal ranch operation of the owner of such livestock, such owner is entitled to a refund of the brand inspection fees paid by him in connection with such movement. In order to obtain the refund the owner shall make claim for it to the director within 90 days from the inception of such movement, on a form of affidavit to be provided by the department. The affidavit shall contain the information required by the rules and regulations referred to in ORS 604.510. Upon receipt of such affidavit and claim, the director shall make the refund to which the claimant is entitled. Payment shall be made from the Brand Inspection Account.

(2) If livestock described in subsection (2) of ORS 604.310 is returned to a place within the state within eight months from date of origin of movement from this state, the owner or person in lawful possession may apply to the department for a refund of one-half of the fee for such brand inspection. Application for such refund shall be made to the department, on forms supplied by the department, within 90 days after the

return of such livestock to the state. It shall be accompanied by certificates of brand inspection issued upon removal of such livestock from this state and certificates of brand inspection, if any, issued by any other state, authorizing the return of the livestock to this state. In addition, the applicant for refund shall attach his affidavit declaring that the animals described in the Oregon brand certificate, as to which a refund is requested, were moved to such other state and returned to Oregon on respective dates stated, and are the identical animals described in the brand certificate issued by such other state. Upon proof so established the director shall make the refund to which the claimant is entitled, making payment from the Brand Inspection Account.
[Amended by 1961 c.267 §6]

604.420 Collecting fees in stockyards under federal jurisdiction. The department shall apply to the United States Secretary of Agriculture for authorization to charge and collect fees in stockyards subject to the jurisdiction of such secretary, for the inspection of brands and other identifying characteristics of livestock. The department shall also register as the market agency of the state for such purpose and do all other things necessary or advisable, in conformance with 7 U.S.C.A. §217a for the protection of livestock and the prevention of livestock theft.
[Amended by 1957 c.287 §6]

604.425 Reciprocal agreements with other states; authority with respect to livestock entering Oregon. The director shall have authority to enter into reciprocal agreements with other states in the prevention of livestock theft. When the laws of such states require an official brand certificate for interstate shipment of livestock, livestock from such states that enter Oregon without official brand certificates may be declared estrays and handled in the same manner as Oregon estrays. The director or his authorized agent shall have authority to hold animals or hold proceeds from the sale of said estrays and transmit proceeds to the proper state authority of the state of origin. Notwithstanding all other laws to the contrary and where not in conflict with the law or regulations of the Federal Government, for the protection of livestock and the livestock industry of this state and the prevention of livestock theft, livestock entering Oregon may be subjected to brand inspection and animals without proper brand inspection certificates may be treated as estrays.
[1957 c.287 §12]

604.430 Issuance and disposition of certificate forms. (1) The department shall issue brand inspection certificate forms and memorandum brand inspection certificate forms, and provide for the disposition thereof, as may be required for compliance with the provisions of ORS 604.010 to 604.050 and 604.310 to 604.550 and the rules and regulations promulgated thereunder.

(2) The department shall provide transportation certificate forms, the use of which is authorized under the provisions of ORS 604.310. Such forms may be sold by the department at cost and the proceeds used to reimburse the department for expenses incurred in connection therewith.
[1953 c.358 §13; 1963 c.66 §1]

Note: Sections 2 to 6 of chapter 462, Oregon Laws 1961, as amended, have not been compiled because they are temporary, but they are set out for the convenience of the user. Section 7 has been compiled as subsection (7) of ORS 604.990.

Sec. 2. In addition to and not in lieu of the provisions of ORS chapter 604, the department may require brand inspection or inspection of livestock before, during or after such animals are moved or transported intrastate or interstate. In addition to other guide posts and standards as prescribed by ORS chapter 604, the department is authorized and shall take into consideration:

(1) Procedures which will provide more positive protection against the theft of livestock and at the same time provide a more efficient and economical brand inspection service and program for the owners or persons in possession of livestock in all areas of the state.

(2) Procedures reasonably necessary to efficiently identify livestock, the ownership thereof and additional practical methods of more easily tracing back such ownership.

(3) Procedures necessary to reduce inspection methods, time and cost of providing brand inspection services to the livestock industry.

(4) Procedures which will be reasonably self-supporting from fees received by the department.

(5) The laws and regulations of other governmental agencies.

Sec. 3 [Repealed by 1963 c.87 §5]

Sec. 4. Before promulgating, amending or repealing rules and regulations under section 2 of this 1961 Act, the department shall receive the approval of the Livestock Advisory Committee established by ORS 604.510 and 604.520. [Amended by 1963 c.87 §1]

Sec. 5. No person shall purchase, sell, move, transport or handle livestock in violation of regulations promulgated under section 2 of this 1961 Act. [Amended by 1963 c.87 §2]

Sec. 6. Sections 2, 4 and 5 of this Act, and subsection (7) of ORS 604.990, and all subsequent amendments thereto, shall expire and stand repealed on July 1, 1965. [Amended by 1963 c.87 §3]

604.440 to 604.500 [Reserved for expansion]

PERSONS ADMINISTERING BRANDING LAWS; JURISDICTION OF COURTS

604.510 The department, assisted by the Livestock Advisory Committee, to administer brand inspection laws. (1) The department, with the advice and assistance of the committee, shall administer ORS 604.310 to 604.430 and promulgate such rules and regulations as are deemed necessary for the enforcement of such sections.

(2) The committee shall advise and assist the department in connection with all matters prescribed or required by such sections.

604.520 Appointment, organization and compensation of the Livestock Advisory Committee. (1) The Livestock Advisory Committee shall be composed of the following members, appointed by the Governor for three-year terms:

(a) One member whose name was submitted by the Western Oregon Livestock Association.

(b) One member whose name was submitted by the Oregon Dairymen's Association.

(c) Three members whose names were submitted by the Oregon Cattlemen's Association.

The director shall be ex officio a member of the committee. The chairman and secretary of the committee shall be elected from its membership. Members shall serve until their successors have been appointed and qualified.

(2) If a vacancy occurs in such committee, a successor to the member whose position has become vacant shall be appointed by the Governor to serve for the unexpired term of such member. If within 10 days from the date of occurrence of a vacancy the association from which such member was appointed has not submitted the names of two persons from whom his successor may be chosen, the Governor shall appoint such qualified person as he deems proper to fill such vacancy. A vacancy shall be deemed to exist when a member of the committee dies, resigns, moves from the state or, without excuse deemed adequate by the Governor, fails to attend two successive meetings of the committee.

(3) The committee shall meet at least once each six months or oftener upon call of the director or the chairman. Committee members other than the director shall be paid $10 per day, including necessary travel time, while actually engaged in the business of the committee and their subsistence and actual traveling expenses, from funds provided by ORS 604.310 to 604.430. A majority of the members present at any meeting shall constitute a quorum and a majority vote of the quorum at any meeting shall constitute an official act of the committee.

[Amended by 1957 c.287 §7]

604.530 [Repealed by 1957 c.287 §8 (ORS 604.531 enacted in lieu of ORS 604.530)]

604.531 Appointment, qualifications and compensation of brand inspectors. (1) The department shall appoint brand inspectors to carry out and enforce the provisions of law listed in ORS 604.540.

(2) In making appointments under subsection (1) of this section, the department may appoint as brand inspectors persons in the unclassified service of state civil service who possess the necessary experience, knowledge and qualifications and pay them on any reasonable and fair basis. However, at any time the average monthly compensation received by such a person during a six-month period equals or exceeds the minimum wage or starting step of the pay range or schedule established for brand inspectors by the State Civil Service Commission, then the person and the position are subject to classified civil service. If such person in the opinion of the department has satisfactorily carried out his duties as a brand inspector, he shall be given regular civil service status and shall be entitled to be hired by the department upon successfully passing a noncompetitive examination for this classification.

(3) In making appointments under subsection (1) of this section, the department may appoint as brand inspectors persons subject to classified civil service. At any time in any area where the work load decreases or other facts or conditions require only the part-time services of a person in a classified position, the department may declare the position to be unclassified.

(4) The department may require brand inspectors, as principal, to execute a bond payable to the state, with a surety company authorized to do business within the state as surety, conditioned that such brand inspector shall faithfully perform his duties prescribed by law.

[1957 c.287 §9 (enacted in lieu of ORS 604.530); 1961 c.267 §7]

604.535 Appointment of employes of other governmental agencies as brand inspectors. (1) "Agency," as used in this section, means state, county or city government.

(2) The department, by written agreement with an agency or its employe, may appoint as a brand inspector a person employed by an agency, including but not limited to peace officers, police officers, sheriffs, town marshals and their deputies.

(3) Whenever any employe of an agency, with the approval of the department, is engaged in carrying out and enforcing any of the provisions of this chapter, or regulations promulgated thereunder, as authorized by this section:

(a) The duties, responsibilities and authority provided by this chapter are in addition to and not in lieu of the duties, responsibilities and authority already held by the employing agency or the employe thereof. The provisions of this chapter shall be considered in pari materia with the law under which such agency or its employe is authorized to act in its official capacity.

(b) The employe shall carry out and enforce the provisions of this chapter under the direction and control of his agency.

(c) The employe shall have the power and authority of a brand inspector and the same power and authority as employes of the department engaged in a similar capacity or type of work.

(d) The employe shall comply with the provisions of this chapter and the instructions or regulations promulgated by the department.

(4) The agency or its employe may be reimbursed by the department for the services performed by the employe, on any basis that is fair and reasonable. The agency or its employe is authorized to receive such payment. If payment is made to the agency, it is hereby authorized to expend the money in carrying out and enforcing the provisions of this chapter or the provisions of a law, ordinance or order under which it otherwise acts in its official capacity.

(5) Notwithstanding other laws to the contrary, the department without hearing may revoke the appointment of a brand inspector appointed pursuant to the provisions of this section.

(6) Any agency or its employes, with the approval of the department, are authorized to and are responsible for the collection of brand inspection fees. Such fees shall be promptly paid to the department.
[1959 c.396 §7]

604.540 General powers and duties of brand inspectors and police officers. (1) In carrying out ORS 142.070 to 142.090, 164.370, 164.380, 164.710 to 164.740 and 165.405 to 165.440 and ORS chapters 596, 597, 599, 600, 601, 603, 604, 605, 607 and 619, all brand inspectors have the powers of peace officers to make arrests, stop the movement of livestock, parts or hides, impound the proceeds from the sale thereof, serve and execute warrants of arrest, warrants of search and seizure and take such other steps as may be deemed necessary or proper in accomplishing the enforcement of such sections.

(2) All brand inspectors and police officers shall note and investigate the movement of livestock, parts or hides for the purpose of preventing theft thereof.
[Amended by 1957 c.287 §11]

604.545 Department's powers regarding use and recording of brands; review of decision. (1) Before a terminated brand provided for in subsection (4) of ORS 604.160 is recorded in the name of a new owner, the department may investigate all matters relating to the brand, including but not limited to the time and date of death of the owner, the names and locations of persons entitled to the deceased person's personal property, the reason for failure to file affidavits as required by ORS 604.160, the past and present use of the brand, as well as the ownership and number of animals on which the brand appears.

(2) If it appears that an affidavit can be filed within a time to be established by the department in the manner provided for in ORS 604.160 or there are other reasonable facts as to why the brand should be recorded in the name of some person or persons who were entitled to the deceased person's personal property or the brand should be vested in a person designated by them as authorized by ORS 604.160, the department in its discretion may authorize and shall record the brand in the name of such person rather than in the name of a new applicant or person.

(3) The decision of the department as to the recording and use of any brand shall be final unless an appeal is taken to the Circuit Court of Marion County, Oregon, within 60

days after the date of a recording of such brand. The decision of the department shall not be changed or set aside unless there is conclusive proof to the court sitting without a jury that the decision of the department is unreasonable, capricious or arbitrary. [1959 c.396 §5]

604.550 Jurisdiction of courts. Justice courts, district courts and circuit courts have concurrent jurisdiction of violations of ORS 604.070 and 604.310 to 604.430.

604.560 to 604.980 [Reserved for expansion]

PENALTIES

604.990 Penalties. (1) Violation of any of the provisions of ORS 604.310 to 604.540 is punishable, upon conviction, by a fine not exceeding $500 or by imprisonment in the county jail not exceeding six months, or both.

(2) Wilful violation of ORS 604.060 is punishable, upon conviction, by a fine of not less than $5 nor exceeding $100 or imprisonment in the county jail for not less than five nor exceeding 50 days, or both.

(3) Violation of ORS 604.070 is punishable, upon conviction, by a fine of not less than $50 nor exceeding $200.

(4) Violation of ORS 604.210 is punishable, upon conviction in a justice court in the county where the crime was committed or is triable, by a fine of not less than $50 nor exceeding $200.

(5) Violation of ORS 604.220 is punishable, upon conviction, by a fine not exceeding $100 or imprisonment in the county jail not exceeding three months, or both.

(6) Violation of regulations promulgated under this chapter is a misdemeanor.

(7) Violation of the regulations promulgated under section 2 of chapter 462, Oregon Laws 1961, is punishable, upon conviction, by a fine of not more than $500.

[Subsection (6) enacted as 1961 c.267 §10; subsection (7) enacted as 1961 c.462 §7; subsection (7) amended by 1963 c.87 §4]

Note: For text of sections 2 to 6 of chapter 462, Oregon Laws 1961, as amended, see note following ORS 604.430. Sections 2, 4, 5 and 7, chapter 462, Oregon Laws 1961, are repealed effective July 1, 1965.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on December 1, 1963.

Sam R. Haley
Legislative Counsel