

### **Short Ballot Title**

An initiative to create a state animal identification system and nullifying federal law

### **Long Ballot Title**

An initiative related to animal identification; amending Title 25, Chapter 20, Idaho Code, to create a state animal identification system; to prohibit the state from participating in a national animal identification system or any other similar source of verification program and nullifying any extant cooperative agreements between this state and the federal government or other states.

### **Text of Initiative**

SECTION 1. DECLARATION. (1) The ninth amendment to the United States Constitution states, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people." The people of Idaho recognize that the ninth amendment protects Idahoans' natural rights not to have their animals tracked by an overbearing federal government. The implicit right to privacy embodied in the fourth amendment also protects the people from being spied on by the federal government without probable cause.

(2) The tenth amendment to the United States Constitution prevents the federal government from regulating any intrastate commerce, and any attempt to expand the federal National Animal Identification System and premises identification system to small livestock producers not engaged in interstate commerce would be blatantly unconstitutional.

(3) Article I, Section 10 of the United States provides that "no state shall ... pass any ... law impairing the obligation of contracts...." However, contracts protected by this section must be valid in the first place, and the parties involved in executing such contracts must have the authority to enter into such agreements. When and if the federal government enters into a contract without adhering to the limits to its power as enumerated by the United States Constitution, the federal government having exceeded its authority, the contract is null and void. Any contract entered into between the federal government and any state which would impose a federal mandate upon the state or the citizens of such state affecting intrastate commerce or violating the constitutional rights to privacy under the fourth and ninth amendments to the United States Constitution is null and void and not protected by the "Contract Clause" of the United States Constitution.

(4) The livelihood and economic viability of small livestock producers would be severely threatened by implementation of the National Animal Identification System as originally conceived, burdening them with substantial fixed costs of compliance.

SECTION 2. That Section 25-207B, Idaho Code, be, and the same is hereby amended to read as follows:

25-207B. IDENTIFICATION OF LIVESTOCK, POULTRY OR FISH -- RULES FOR DISEASE CONTROL. (1) In order to provide for disease control and increase the traceability of infected or exposed animals or fish, the division of animal industries, in cooperation with the state brand board, is authorized to promulgate rules for the identification of livestock, poultry or

fish and the registration of premises where such animals or fish are held.

(2) All data and information collected by the division of animal industries or the state brand board pursuant to the provisions of this section, or rules promulgated hereunder, shall not be considered a public record and shall be exempt from public disclosure requirements as provided in section 9-340D, Idaho Code.

(3) Any rules promulgated for the identification of livestock, poultry or fish and the registration of premises where such animals or fish are held under this section shall be subject to the restrictions described in 25-207C, Idaho Code.

SECTION 3. That Chapter 2, Title 25, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 25-207C, Idaho Code, and to read as follows:

25-207C. ANIMAL IDENTIFICATION SYSTEMS. (1) As used in this chapter, the following terms mean:

- (a) "Animal", all members of the animal kingdom except humans and insects. Animal does not include undomesticated animals living in the wild;
- (b) "Department", the Idaho department of agriculture;
- (c) "Director", the director of the department of agriculture;
- (d) "Livestock", equines (horse, mules, donkeys, burros), bovines (cattle and bison), cervids (deer and elk), ovine (sheep), caprine (goats), porcine (swine), camelids (llamas and alpacas), poultry (chickens, ducks, emu, geese, guineas, pheasants, quail, turkeys), and any other animal that the federal government may include in a national animal identification system. Livestock does not include undomesticated animals living in the wild;
- (e) "Person", individuals, corporations, partnerships, associations, or other legal entities and agents of such entities;
- (f) "Premises", a location where livestock are raised, held, or boarded;
- (g) "Source verification program", a program that tracks individual animals or groups of animals in order to determine the origin of such animal or group, the identity of all other animals that have been in contact with it, and the location of premises at which it has been held in its lifetime.

(2)(a) The state of Idaho shall not establish or participate in the national animal identification system or any other similar source verification program beyond the existent tracking systems implemented by the state of Idaho as part of a program confined to the state of Idaho in effect as of October 31, 2010.

(b) The prohibition in this section also applies to the components of a source verification program, including premises registration and databases, animal identification and databases, and animal movement tracing and databases beyond the minimum necessary for the extant Idaho verification program.

(c) All cooperative agreements between the federal government and this state, or between this state and other states, established before the effective date of this section and related to the establishment of animal tracking, tagging, registration, or information databases, premises registration, or information databases, use of electronic identification for animal tagging purposes, and other matters related to the national animal identification system are hereby terminated and null and void as to this state's participation.

(d) Immediately upon the effective date of this section, any identification lists or databases created using, in whole or in part, federal funds under the national animal identification system

shall be void and shall not be used for any purpose by any governmental, public, or private person or entity. Such restriction does not include lists and databases that were created solely for the purposes of addressing specific diseases in specific species of livestock, except to the extent that such lists have been used for the national animal identification system program.

(3) The department of agriculture shall:

(a) Immediately notify all citizens whose premises information previously has been submitted to the United States Department of Agriculture National Premises Information Repository without their full and informed consent; and

(b) Develop a procedure with the United States Department of Agriculture whereby such citizen's data shall be expunged from the USDA National Premises Information Repository as well as the Idaho animal identification plan system.

(4) Nothing in this section shall be construed as:

(a) Prohibiting the state from establishing or participating in disease control programs specifically designed to address a known disease in a specific species of livestock;

(b) Prohibiting the state from operating livestock identification, brand registration, and inspection programs as authorized under state law;

(c) Prohibiting private agricultural industry organizations from establishing voluntary source verification programs for their own members or others who elect to participate; except that, any private system shall be subject to the following conditions and limitations:

(i) The program shall provide for full and informed consent of all participants, including disclosure of the entire program, the possible uses of information collected under the program, and every entity or person to whom such information may be disclosed;

(ii) Persons who voluntarily enroll in the program shall be permitted to withdraw from the program at any time and their personal information shall be permanently removed from program records;

(iii) No public moneys shall be used to support such a program;

(iv) The private program shall not be used to gain unfair competitive advantage, but shall be considered a commercial term subject to laws restricting unfair competition; and

(v) A private source verification program identification device or marking shall not supplant, supersede, or make unreadable this state's or any local entity's brand or mark on any animal. A source verification program's rules shall not supersede this state's brand or marking system rules as a matter of law; and

(d) Authorizing the department of agriculture to establish any requirement of participation in the Idaho specific source verification program on the part of any cattle grower or to establish additional source verification programs on state level for any other species of livestock.

(5)(a) No essential services, licenses, permits, certifications, insurance or risk management coverage, or other incentives shall be provided by any public or private person, directly or indirectly, to any participant in an animal identification or premises registration program based solely on such person's participation in the program.

(b) No services, compensation, favors, payments, credits, benefits, licenses, permits, certifications, insurance or risk management coverage, special consideration, or other incentives shall be denied, revoked, or limited by any public or private person, directly or indirectly, based solely on such person's lack of participation in an animal identification or

premises registration program.

(c) Neither this state nor any political subdivision of this state shall require any of its suppliers to participate in a premises registration or animal identification program as a condition of supplying goods or services.

(d) Failure to participate in a premises registration or animal identification program or the providing of services to persons who are not participants in a premises registration or animal identification program shall not be deemed a crime, nor evidence of any negligence or gross negligence on the part of any livestock owner or provider of goods or services.

**SECTION 4. SEVERABILITY.** If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.