

The National Agricultural
Law Center



University of Arkansas School of Law
NatAgLaw@uark.edu • (479) 575-7646

An Agricultural Law Research Article

**State Identification Statutes: Confidentiality Provisions
Relating to Animal and Premises Identification**

by

Eric Pendergrass

January, 2007

www.NationalAgLawCenter.org

State Identification Statutes: Confidentiality Provisions Relating to Animal and Premises Identification

Eric Pendergrass*

National Agricultural Law Center Graduate Assistant

In recent years, the USDA has contemplated implementing a National Animal Identification System (NAIS) with three phases of implementation that include premises registration, animal identification, and the combination of the other two phases to allow for traceability and animal tracking.¹ The stated purpose of this system is to allow for the 48 hour trace back of animals to their source of origin if there is a disease outbreak that threatens animal health.² Premises will be given a unique identifier; animals will be given a number, either as a lot or individually, depending on the species; and that information is to be used to track the whereabouts of that animal after it enters commerce.³ One of the most prominent issues facing animal identification programs today is the concern over the confidentiality of information contained within the registration systems.⁴ In a partnership with the USDA and industry, the various states have undertaken the task of implementing their own animal identification programs that comply with NAIS guidelines.⁵

This activity by the individual states has lead to a wide variety of laws that address concerns over confidentiality of information that is gathered under the premises and animal identification systems. Each of these laws has its own unique citation and location within the states statutory scheme. The following table sets out the premises registration, animal identification, and confidentiality statutes for each of the identified states. The first column, entitled "Premises ID" includes the statutes relating to premises registration. These premises registration statutes establish the process by which the locations where livestock are held and managed are registered with the state and assigned a unique identification number.⁶ The "Animal ID" column identifies the statutes that address the identification of animal under the NAIS. As the second phase in the NAIS process, animal identification involves physically

* The author wishes to thank Doug O'Brien, Center Co-Director and Research Assistant Professor of Law, for his guidance in this project.

¹ Doug O'Brien, *Animal Identification and the Next Farm Bill*, National Agricultural Law Center, p.3, available at http://www.nationalaglawcenter.org/assets/articles/obrien_animalid-newfarmbill.pdf (2006).

² *Id.* at 1.

³ *Id.* at 2.

⁴ See Michael Roberts and Doug O'Brien, *Animal Identification: Confidentiality of Information*, National Agricultural Law Center, p.1 available at <http://imic.info/memberspublic/animalID/fs05.pdf> (2004).

⁵ Margaret Rosso Grossman, *Animal Traceability: Background and Issues*, American Agriculture Law Association, Agriculture Law Symposium (2006).

⁶ USDA-APHIS, *(NAIS) National Animal Identification System: A Draft Users Guide and Additional Information*, (November 2006), p.3, available at http://animalid.aphis.usda.gov/nais/naislibrary/documents/instructions_guidelines/NAIS-UserGuide.pdf

identifying animals either by lot, if they stay together throughout life, or individually, if the animals are managed on an individual basis, with a unique number that follows the animal/s throughout its life.⁷ The third column, entitled “Confidentiality,” identifies how the state specifically addresses confidentiality within its statutory scheme. No two states have chose to protect the confidentiality of information gathered under the premises and animal identification systems in exactly the same manner, but this table includes the citations for the varying approaches taken by the states.

The table includes states that have enacted legislation relating to confidentiality of the NAIS and the corresponding state system. The various enabling statutes that allow the state and its agencies to regulate toward animal health and movement are not identified. This table does not cover states that have enacted the animal identification program through its regulatory system or have legislation currently pending. The National Agricultural Law Center and its staff will use its best efforts to update the table as relevant developments occur.

⁷ *Id.* at 3-4.

Statutes by State

State	Premises ID	Animal ID	Confidentiality
Alabama	Ala. Code § 2-1-12	Ala. Code § 2-1-11	Ala. Code § 2-1-11 (c)
Alaska		AS 03.05.011 ⁸	
Arizona			Ariz. Rev. Stat. § 3-1207
Arkansas			
California			
Colorado			
Connecticut			
Delaware			
Florida			
Georgia			
Hawaii			Haw. Rev. Stat § 92F-13 (3)
Idaho	Idaho Code § 25-207B (1)	Idaho Code § 25-207B (1); Idaho Code § 25-370 ⁹	Idaho Code § 25-207B (2)
Illinois			5 Ill. Comp. Stat. 140/7
Indiana	Ind. Code § 15-2.1-3-13	Ind. Code § 15-2.1-3-13	
Iowa			
Kansas	K.S.A. § 47-674 (a)	K.S.A. § 47-674 (a)	K.S.A. § 47-674 (g)
Kentucky			
Louisiana			
Maine			Me. Rev. Stat. Ann. Tit. 7, § 20
Maryland			Md. Code Ann., Agriculture § 3-101 (d)
Massachusetts			
Michigan		Mich. Comp. Laws Ann. § 287.710; 287.711	
Minnesota			Minn. Stat. § 13.643 (6)
Mississippi			
Missouri			Mo. Ann. Stat. § 268.063
Montana			
Nebraska	Neb. Rev. Stat. § 54-702	Neb. Rev. Stat. § 54-702	Neb. Rev. Stat. § 54-701.01
Nevada			

⁸ This statute provides for general animal disease control within the state of Alaska.

⁹ Idaho Code § 25-370 applies to cervid registration only. Animal identification is generally controlled by Idaho Code § 25-207B(1).

New Hampshire			
New Jersey			
New Mexico			
New York			
North Carolina			N.C. Gen. Stat. § 106-24.1
North Dakota		ND ST § 36-09-25	ND ST § 36-09-28
Ohio			
Oklahoma	2 Okla. St. Ann. § 4-20	2 Okla. St. Ann. § 4-20	2 Okla. St. Ann. § 4-20 (F)
Oregon			
Pennsylvania			
Rhode Island			
South Carolina			
South Dakota			S.D. Codified Laws §§ 40-3-27 to 40-3-29
Tennessee			Tenn. Code Ann. § 10-7-504(a)(9)
Texas	Tex. Agric. Code Ann. § 161.056 (b) (1)	Tex. Agric. Code Ann. § 161.056 (a)	Tex. Agric. Code Ann. § 161.056 (e)
Utah			U.C.A § 63-2-304 (49)
Vermont			6 Ver. Stat. Ann. § 61
Virginia			
Washington		Wash. Rev. Code § 16.57.353 (b)	
West Virginia		W. Va. Code § 64-10-3 ¹⁰	W. Va. Code § 19-9-7a
Wisconsin	Wis. Stat. Ann. § 95.51		Wis. Stat. Ann. § 95.51 (5)
Wyoming			Wyo. Stat. Ann. § 11-19-117

¹⁰ W.Va. Code § 64-10-3 applies to cervid registration only.