

Frequently Asked Questions re: Brand Inspection

Why is brand inspection important?

Livestock inspection, whether or not the animal is branded, is legally required and is important for a number of reasons, including:

- Deters theft
- Helps determine ownership
- Enables brand inspectors and law enforcement personnel to return stolen or missing livestock to their owners
- Prevents unlawful sale or transport of livestock
- Facilitates commerce by providing a system of checks and balances that is well understood and valued in the marketplace
- Helps protect livestock owners and the livestock industry by putting trained personnel in the field to keep an eye out for stolen or missing livestock
- Helps protect lenders and financial institutions that have an economic interest in the animals
- Creates an accurate record of livestock movement that is critical in the event of a disease outbreak
- Assists livestock owners/transporters if stopped by brand inspectors or law enforcement agencies when hauling livestock

When is a brand inspection required?

Colorado law and regulations require that livestock (including cattle, calves, horses, mules, donkeys, burros and, when requested, sheep), whether or not they are branded, be inspected before (1) any change of ownership (whether by gift or sale), (2) transport over 75 miles within the state of Colorado (determined by the most direct driving route), (3) transport to a destination outside Colorado (regardless of the distance), (4) transport to sale, and (5) transport to slaughter. While there are a number of Colorado statutes that govern brand inspection and determination of ownership, the principal ones are found in Title 35, Articles 41, 43, 44 and 53 of the Colorado Revised Statutes (C.R.S.).

Who is responsible for arranging for a brand inspection?

The seller/transporter is responsible for obtaining the brand inspection and must be present, in person or by agent appointed in writing and authorized in advance by the brand inspector, during the inspection. When scheduling a brand inspection, be sure to tell the inspector what documents you have that will help establish proof of ownership so that any potential problems can be addressed before the inspection occurs.

Does the buyer need to be present during a brand inspection?

No, although it is a good practice to be there if possible so that if a problem arises, there is a better chance of getting it resolved quickly. And, the buyer must sign the inspection certificate – whether at the time of the inspection or upon receipt of the certificate signed by the seller/transferor – so being present is often the simplest and best practice.

How do I determine who my brand inspector is and how to reach him/her?

If you have Internet access, go to www.colorado.gov/agbrands and click on the *Livestock Inspection* tab, then on the *Brand Inspectors* tab. That will bring up an interactive map of Colorado. Click on the region of the state in which you are located, and the name and contact information for your brand inspector will appear. If you do not have Internet access, call the Brand Office (303.869.9160) and someone will help you.

How much does a brand inspection cost?

That depends on what species of livestock is being inspected. Go to www.colorado.gov/agbrands and click on the *Fee Schedule*. You will see cost information for (1) the minimum inspection fee for cattle and horses, (2) per head inspection fees for each, (3) fees collected for the Beef Board and Colorado Horse Development Authority, and (3) in the case of horses, the fee for permanent travel cards should you wish to get one. When speaking with the brand inspector to arrange your inspection, tell him/her the circumstances and the inspector will be able to tell you the cost. Payment is due at the time the inspection is performed and may be made by check or in cash. We cannot accept credit cards.

What information must I have to obtain a brand inspection?

The brand inspector's job is to ensure that you are the owner of the animal or have legal authority to sell or transport it. So, in the case of both cattle and horses, if they are branded with a Colorado brand registered with the Brand Office, that will be sufficient proof of ownership/authorization absent some evidence to the contrary. In the case of horses, if the horse is unbranded and is a Colorado horse, you must have the Bill of Sale Copy (or Transportation Copy if you are merely transporting the horses) of a brand inspection certificate, or a permanent travel card. If the horse is not from Colorado but came from a brand state, you must have a brand inspection certificate from the state of origin showing you as the owner. If the horse came from a non-brand state, you should have a legal bill of sale. Additional evidence of ownership, such as a Coggins test certificate, certificate of veterinary inspection (CVI), veterinary records, breed registrations, etc. is helpful in establishing ownership.

Is a registered Colorado livestock brand dispositive proof of ownership?

No. A registered livestock brand creates what the law refers to as a "rebuttable presumption" of ownership. Put another way, if your registered Colorado livestock brand is on an animal, that animal is presumed to be yours absent evidence to the contrary. (An example of the latter might be if you stole a neighbor's unbranded calf, put your brand on the calf, and then declared the calf yours because it has your brand on it. If it is determined that you stole the calf and then put your brand on it, the brand will not confer ownership.)

Do breed registration papers constitute legal proof of ownership?

No. They may help in establishing a chain of title, but they do not prove ownership. The breed registries do not consider them proof of ownership, and the documents are only as good as the last time they were updated.

Is a microchip legal proof of ownership under Colorado's livestock laws?

No. It can be helpful collateral information in establishing a chain of title, but it is not proof of ownership. Colorado statutes do not recognize it as such, and as in the case of breed registration papers, for example, the data on the chip is only as good as the last time it was updated. That said, brand inspectors will read microchips in horses if requested by the person seeking the brand inspection, and the chip information will be recorded on the inspection certificate as additional potentially useful data.

Which copy of the brand inspection certificate should be given to the buyer?

Assuming the seller has been paid in full for the livestock, the seller must give the Bill of Sale Copy of the brand inspection certificate to the buyer. (The Bill of Sale Copy used to be printed on blue paper. It is now on white thermal paper and has three Colorado state seals across the bottom of the certificate. It also is crimped with the Brand Board's seal. The Transportation Copy is also printed on white thermal paper, but it does not have the State seals and is not crimped with the Brand Board's seal.) If the seller/transferor does not receive payment in full at the time of the brand inspection, it is good practice for the seller to retain the Bill of Sale Copy of the certificate and give the buyer the Transportation Copy pending payment in full. That will enable the prospective buyer to show that he/she is authorized to have the horse in his/her possession, but it does not transfer ownership to the prospective buyer. Once payment in full is made, the Bill of Sale Copy should be given to the buyer, thereby legally transferring ownership.

What do I do if I accepted payment in full for a horse by check, gave the buyer the Bill of Sale Copy of the brand inspection certificate, and the check bounced (or the buyer stopped payment on it)?

Advise the local brand inspector and the local sheriff's office and demand immediate payment from the buyer in writing. Ask the buyer to return the horse to you. If payment is not made and the buyer refuses to return the horse, recourse is in the civil courts. Alerting the brand inspector may help avoid the buyer's selling the horse to a third party, but the inspector cannot seize the animal for you. The better practice is to ensure that the check clears before the Bill of Sale Copy of the brand inspection certificate is given to the buyer.

What do I do if a brand inspection was completed and the buyer backed out after the inspection?

Advise the brand inspector and he/she will reverse the transaction by noting that the buyer refused delivery.

What information must be contained in a “legal bill of sale” (used for non-brand inspection state livestock sales)?

The bill of sale must contain (1) the seller’s name, address, and contact information (including email address if applicable), (2) the buyer’s name, address, and contact information (including email address if applicable), (3) a complete description of the livestock being purchased (species, number of head, color, sex, breed, markings (including brands, if any), and registrations numbers if applicable. For cattle, the description should also include ear marks, dewlaps and waddles. The bill of sale must be signed by both seller and buyer in the presence of a witness, who must also sign, and it must be dated as of the date of the sale/transfer of ownership. As noted above, the Bill of Sale Copy of the brand inspection certificate is the bill of sale required in Colorado.

Do I need to get a brand inspection if I am giving my horse away, not selling it?

Yes. See the answer to *When Is a Brand Inspection Required* above.

Do I need to get a brand inspection if I am donating my horse to a horse rescue?

Yes. See the answer to *When Is a Brand Inspection Required* above.

I operate a horse rescue and our contract provides for a trial period with a prospective adopter before ownership transfers. Do I need to get a brand inspection to transfer possession (but not ownership) of the horse to the adopter during that trial period?

If the horse is to be transported over 75 miles to the prospective adopter’s property, yes. Even if the facility is less than 75 miles away, a brand inspection will help clarify the roles of the parties. You (the rescuer) would keep the Bill of Sale Copy of the inspection certificate, and you would give the Transportation Copy to the prospective adopter. That will enable the prospective adopter to demonstrate that he/she has legal authority to have the horse in his/her possession during the trial period. At the end of the trial period, and assuming that you have determined that the prospective adopter has met your requirements for adoption, you would give the Bill of Sale Copy to the adopter, thereby legally transferring ownership.

Do I need to get a brand inspection if I am leasing a horse to someone? If I have a permanent travel card for my horse, can I just give the card to the person leasing the horse?

It is not necessary to get a brand inspection when leasing a horse unless the horse is being transported over 75 miles within Colorado or to a destination outside Colorado. If that is the case, a brand inspection is necessary and the Transportation Copy of the brand inspection certificate should be given to the lessee. If you have a permanent travel card, no brand inspection is required to lease the horse irrespective of transport distance. However, a permanent travel card is personal to the owner of the horse and should not be given to the lessee. Providing the lessee with a copy of the permanent travel card and a letter signed by the lessor identifying the lessee as a person authorized to have the horse in his/her possession will help clear up any potential confusion.

Do I need to get a Colorado brand inspection on a horse bought from a non-brand state? If so, how long do I have to get one after the horse enters Colorado?

If you want to transfer ownership of the horse, or travel over 75 miles within Colorado or to a destination outside Colorado, you will need to get a brand inspection. If you never do any of those things, you do not need a brand inspection. That said, the best practice is to get a brand inspection as soon as possible to head off any potential future problems and give you the flexibility to sell or give the horse away, transport it when you want to, and get a permanent travel card should you want one.

What happens if I buy a horse from another state and it has the same brand as a Colorado registered brand owned by another person?

Be sure you have a brand inspection certificate from the state in which you bought the horse, and contact the Colorado Brand Office and your brand inspector to advise them of the situation.

If I am buying a horse or am receiving one as a gift, what should I require from the seller/giver?

See the answer to *What Information Must I Have to Obtain a Brand Inspection* above. You will want the seller/giver to have obtained a brand inspection identifying you as the new owner. If the seller/giver is unable to get a brand inspection because he cannot prove that he is the owner of the horse being sold/given to you, you should not go forward with the sale/gift without first contacting your brand inspector and determining what is necessary to resolve the problem.

What should I do if my brand inspector is not available when I want to sell my horse?

Talk with your brand inspector. If he/she can't be available on the planned date of sale and that date cannot be changed, he/she may be able to arrange to have the horse looked at by the inspector at the receiving end of the transaction. Do not proceed without first contacting your brand inspector and making whatever arrangements can be made to accommodate the situation.

Can I transport livestock over 75 miles within Colorado without first getting a brand inspection, and then just get one at the transport destination?

Not without first arranging that with your local brand inspector.

I have had a cow/horse since it was a month old. Can I say it was "home raised"?

No. "Home raised" refers to livestock that did not originate elsewhere. For example, if a cow or horse you own calves or foals, the calf or foal would be classified as home raised. Otherwise, the animal came from somewhere, and you need to have the necessary documents to establish your ownership.

Is it bad to say that an animal was "home raised" if it wasn't?

Yes. That could be charged as an attempt to influence a public servant by deceit (lying to a brand inspector), which is a class 4 felony potentially punishable by payment of a fine, imprisonment, or both. (C.R.S. 18-8-306)

I have had a horse/cow for many years. I don't have any proof of ownership, and it was not born on my property. But, don't I own it by default because I have had it for a long time?

No. No matter how long you have had it, length of possession does not by itself constitute proof of ownership.

What is the penalty for failing to get a brand inspection?

Failure to get a brand inspection is a misdemeanor punishable upon first conviction by a fine of not less than \$200 nor more than \$1,000, or by imprisonment in the county jail for not less than 90 days nor more than one year, or both. Upon a second conviction, the fine ranges from \$500 to \$1,000 and prospective jail time remains the same. A third violation is a class 6 felony. (C.R.S. 35-53-112)

How long is a brand inspection good for?

It depends.

Change of ownership. If a brand inspection is conducted in connection with a change of ownership (whether by sale or gift), the Bill of Sale Copy of the brand inspection certificate is given to the new owner/transferee, and that copy constitutes valid proof of ownership until the new owner transfers ownership of the livestock.

Transportation. If livestock is transported over 75 miles within Colorado or to a destination outside Colorado, the owner must first obtain a brand inspection each time that occurs unless the owner has a permanent travel card (see next question). Ownership does not change as a result of such inspections, so the bill of sale portion of the brand inspection certificate is not filled out, and the certificate is issued solely for the purpose of permitting transport by the owner.

Permanent Travel Card. If the owner of a horse wishes to avoid having to get a brand inspection each time the horse is transported over 75 miles within Colorado or to a destination outside Colorado, he/she can obtain a "permanent travel card" (discussed below). That permanent travel card is further evidence of ownership of the horse, and it permits the holder to travel within and without Colorado without having to first get a brand inspection. A permanent travel card is good for as long as the holder owns the horse.

What is a "permanent travel card" for horses, and how much does it cost?

A permanent travel card is a one-time inspection certificate that provides evidence of ownership for you for as long as you own the horse. It is not transferable. It is valuable both as a time saver and a cost saver if you often transport your horse over 75 miles within Colorado or out of Colorado – to events, shows, ropings, cuttings, etc. – because you do not have to arrange for a brand inspection for each such trip. See www.colorado.gov/agbrands Fee Schedule for the cost.

When I am transporting my livestock, what paperwork should I have with me?

Whatever proof or evidence of ownership (or the owner's permission to have the animal in your possession) you have will help head off a problem – including possible impoundment pending your coming up with satisfactory proof/evidence. So, where horses are concerned if you have any or all of

the following, it will help in your discussion with the brand inspector or state patrolmen/sheriff who pulls you over: brand card showing you as the owner of the brand (assuming the horse is branded); permanent travel card in your name; brand inspection certificate showing you as the owner; transportation brand inspection certificate authorizing you to transport the horse; bill of sale showing you as the owner; Coggins papers showing you as the owner; certificate of veterinary inspection (CVI) showing you as the owner; breed registration papers showing you as the owner.

If I lose my brand inspection certificate or permanent travel card, how do I replace it?

Call the Brand Office (303.869.9160).

How do I report missing or stolen livestock?

Contact your local brand inspector immediately and he/she will help you file a Missing or Stolen Report so the information can be disseminated to brand inspectors throughout Colorado and neighboring states, law enforcement personnel, sale barns, industry trade groups, etc.

What do I do if I find stray livestock on my property? Can I keep it or sell it?

If you know the owner of the livestock, you must call him/her and request that he/she pick up the livestock as quickly as possible. Pending the owner's doing so, you are responsible for the care and feeding of the livestock, and you may charge a reasonable fee as determined by your local market for such care and feeding. If you do not know the owner of the livestock, you must report the stray to your brand inspector no later than 5 days after you notice it. Failure to do so is a felony. (C.R.S. 35-44-107, 108) Until the brand inspector takes custody of the animal, you are responsible for its care and feeding and will be reimbursed a reasonable amount for such care and feeding as determined by your local market.

In no circumstances may you keep or dispose of the stray livestock.

I run a boarding facility. Should I require that prospective boarders provide me with lawful proof of ownership before I contract with them to board their horse?

Yes. There is no legal requirement that you do so, but you will save yourself a lot of potential headaches should the relationship break down and the horse's ownership become an issue, whether for purposes of your obtaining a valid agistor's lien, your commencing an abandonment proceeding, or otherwise.

I run a boarding facility. Can I keep an animal as payment for unpaid board?

No. Contact your brand inspector. One of two avenues for resolving the problem may be available to you – agistor's lien, or abandonment. Each has its pluses and minuses which your brand inspector or the Brand Office can help you understand. However, neither permits you to keep or dispose of the animal. Only the owner or a civil court can do that.

What if my boarding contract provides that upon non-payment or other default by the owner, I can keep the horse as a result of the breach? Can I keep it?

No. Contact your brand inspector. The contract language will generally not trump Colorado statutes governing livestock ownership. Your potential remedies include an agistor's lien or abandonment

proceedings as noted above, and/or litigation in civil court for breach of contract. If a court decides to award you the horse in lieu of damages, the Brand Office will honor that order.

How do I get a brand?

Contact the Brand Office (303.869.9160) or go to www.colorado.gov/agbrands and review the brand application process.

Is ownership of a brand transferable?

Yes. Contact the Brand Office (303.869-9160) or to go and review the brand transfer instructions.

Is my ownership of a registered Colorado livestock brand sufficient to make it unnecessary for me to get a brand inspection before transporting my horse over 75 miles in Colorado or to a destination outside Colorado (assuming I do not have a permanent travel card)?

No. Ownership of a registered Colorado livestock brand in your name creates a presumption of ownership of the branded animal. However, it does not negate the need to have the animal looked at before such transport. Remember, when you request a brand inspection you must prove ownership of the animal before the certificate can be written. The brand is one way of proving such ownership (absent evidence to the contrary), but it does not render the inspection unnecessary.

WHEN IN DOUBT, CALL THE BRAND OFFICE (303.869.9160) OR YOUR BRAND INSPECTOR FIRST. THAT MAY HELP SOLVE A POTENTIAL PROBLEM BEFORE IT BECOMES AN ACTUAL ONE.