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About the National Animal Identification System (NAIS)

### Part 23: Without the Consent of the Governed

By Bruno Schmidt

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What does a new law look like that targets a certain segment of the population with monetary fines whenever they travel over the state's public roads even though they do no harm, or pose no danger, to anybody? Washington state's lawmakers just recently enacted such a law with Senate Bill 5204. Here is a quote from what is being added to RCW 16.36 (emphasis added):

*New Sec. 1. "...Vehicles transporting animals on the public roads of this state are subject to inspection and must stop at any posted inspection point established by the director ... appointed officers are authorized to stop a vehicle transporting animals ... at a place other than an inspection point if there is reasonable cause to believe the animals are being transported in violation of this chapter or its rules."*

Over the strong opposition voiced by the state's farmers, this law will go into effect on July 22, 2007. Based on the countless phone calls, and a great many letters, emails and papers sent to Olympia, it was quite clear that the lawmakers did not have the "consent of the governed". Yet this law – along with the other six oppressive provisions in this bill – passed the Senate and the house with all-eyes.

What this demonstrates is that "the Consent of the Governed" apparently does not seem to matter anymore to our Representatives and Senators. Instead of voting according to the will of their constituents, the lawmakers railroaded this bill through the assembly, from introduction to enactment, undeterred by the concerns of those who will ultimately be affected: the state's farmers, livestock owners and caregivers. This bill became law without any findings of fact, no expressed legislative intent, without a shred of evidence justifying enactment of this bill, merely at the "request" of WSDA. Obviously, we have "representatives", but do we have "representation"?

The whole point in electing our representatives is to have them "mind the store" in Olympia while we are busy farming, making a living, and caring for our animals and livestock. If we cannot trust our elected representatives to preserve and defend our rights, to vote down unjust laws, and hold government accountable, who then CAN we trust? Perhaps it is time to remind our representatives of another guiding principle expressed on our state's Constitution:

#### **ARTICLE I -- DECLARATION OF RIGHTS**

#### **SECTION 32 -- FUNDAMENTAL PRINCIPLES.**

*A frequent recurrence to fundamental principles is essential to the security of individual right and the perpetuity of free government.*

The above provision is printed on page 70 of Washington state's "2005-2006 Legislative Manual", a book every lawmaker keeps on his or her desk in Olympia. What it means is that we have the undisputed RIGHT to frequent recurrence to *Fundamental Principles*. When applied to

the lawmakers' tedium of drafting bills and amendments, and voting their conscience, the lawmakers have the expressed duty to their constituents – We-the-People – to be vigilant and ensure that our fundamental rights are being protected and respected. They are charged with protecting the “security of individual right” rather than voiding it, as is so plainly obvious from SB 5204.

What is so troubling about this bill? SB 5204 provides the government with a broad “launch pad” for whatever rules WSDA wants to pronounce from here on out in regards to the enforcement of animal health, animal identification and inspection, disease reporting, animal movement into, out of, and within the state, to name a few that are already coming our way.

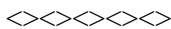
No matter what the public sentiment may be, the department's rule-making authority is plenary and very difficult to challenge. Even worse, the final adoption of any rule – whether supported, objected to or protested against by those affected – occurs solely at the discretion of the Department's Director. Combined with the newly added, civil-infracton provisions authorized by SB 5204, the Department's “chokehold” on the farmers thus is near-absolute, with little oversight by or accountability to the legislature:

- Rule making, permitting and licensing
- Enforcement (laws, rules, permits and licenses)
- Prosecution (civil and criminal)

It is important to keep in mind that all livestock-related documents (such as Animal Health Certificates, Certificates of Veterinary Inspection, Interstate Certificates of Veterinary Inspection, Self-Inspection Certificates, Certificates of Permit, etc.) are either issued by Department-licensed veterinarians or authorized inspectors, or obtained from the Department, and in the end are being filed with the Department.

Therefore, the “all-seeing” and “all-knowing” Department is about to add “all-permitting” and “all-punishing” to its many authorities.

What does that have to do with the NAIS? Thanks to SB 5204, the Department no longer needs a state law to require participation in the NAIS: participation now can be required by rule – and the discretionary assessment of civil infraction penalties could be used to “bring around” (or target) those farmers that hold out against the NAIS.



*Bruno & Charlene Schmidt are co-authors of the self-published “Farmer’s Field Guide to the NAIS”. They have spent in excess of 1500 hours over the past four years researching the National Animal Identification System including applicable laws, regulations and rules. For more information and latest updates, please visit [www.FarmersFieldGuide.com](http://www.FarmersFieldGuide.com)*

