

LIVESTOCK

CHAPTER 296

HOUSE BILL NO. 1326

(Representatives Berg, Brandenburg, Froelich, D. Johnson)
(Senators Taylor, Wanzek)

AN ACT to create and enact a new section to chapter 36-01 of the North Dakota Century Code, relating to requested certification by livestock producers and processors; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 36-01 of the North Dakota Century Code is created and enacted as follows:

State board of animal health - Certification of livestock - Fees - Continuing appropriation.

1. a. At the request of a livestock producer, the board shall provide inspection and verification services for the purpose of certifying that livestock have been or are being raised according to standards and protocols articulated by the producer.
- b. At the request of a livestock processor, the board shall provide inspection and verification services for the purpose of certifying that the meat products and manner of processing meet or exceed standards, descriptions, or specifications articulated by the processor.
- c. The board shall determine the nature and scope of the inspection and verification services necessary to provide the certification requested under this subsection.
2. The board may establish and charge fees for the requested services. The board shall forward all moneys received under this section to the state treasurer for deposit in the agriculture commissioner's operating fund.

Approved March 24, 2009
Filed March 24, 2009

CHAPTER 297**HOUSE BILL NO. 1491**
(Representatives D. Johnson, S. Meyer)
(Senators Erbele, Klein)

AN ACT to amend and reenact sections 36-09-17, 36-09-20, 36-09-20.1, 36-09-22, and 36-09-23 of the North Dakota Century Code, relating to penalties imposed for violation of brand laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-09-17 of the North Dakota Century Code is amended and reenacted as follows:

36-09-17. Defacing brands and unlawfully branding - Penalty. ~~Any A~~ person ~~who shall:~~

- ~~4. Alter or deface, or attempt is guilty of a class A misdemeanor for a first offense and a class C felony for a second or subsequent offense if the person:~~
 - ~~1. Alters, defaces, or attempts to alter or deface, the mark or brand upon on any animal; the property of owned by another for the purpose of deceiving others as to the animal's ownership; or~~
 - ~~2. Willfully and unlawfully mark or brand, or cause marks, brands, or causes to be marked or branded; any animal; the property of owned by another; is guilty of a class A misdemeanor for the purpose of deceiving others as to the animal's ownership.~~

SECTION 2. AMENDMENT. Section 36-09-20 of the North Dakota Century Code is amended and reenacted as follows:

36-09-20. Bill of sale to be given and kept - Copy with shipment - Effect - Penalty.

1. A person may not sell cattle, horses, mules, or any other livestock carrying a registered brand unless:
 - a. The seller is the owner of the registered brand and delivers a bill of sale for the cattle, horses, mules, or other livestock to the purchaser; or
 - b. The seller delivers to the purchaser a bill of sale executed by the owner of the registered brand and endorsed by the seller evidencing the later transaction.
2. The bill of sale must include:
 - a. The date;
 - b. The name, address, and signature of the seller;

- c. The name, address, and signature of an individual who is at least eighteen years of age and who can verify the name and signature of the seller;
 - d. The name and address of the buyer;
 - e. The total number of animals sold;
 - f. A description of each animal sold as to sex and kind; and
 - g. A description of the registered brands.
3. The bill of sale must be kept by the buyer for two years and as long thereafter as the buyer owns any of the animals described in the bill of sale.
 4. A copy of the bill of sale must be given to each hauler of the livestock, other than railroads, and must go with the shipment of the livestock while in transit.
 5. The bill of sale or a copy of the bill of sale must be shown by the possessor on demand to any peace officer or brand inspector.
 6. The bill of sale is prima facie evidence of the sale of the livestock described in the bill of sale.
 7. A bill of sale is not required relative to sales of livestock covered by a legal livestock brand inspection.
 8. Any person ~~who~~ who that willfully violates this section is guilty of ~~an infraction~~ a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

SECTION 3. AMENDMENT. Section 36-09-20.1 of the North Dakota Century Code is amended and reenacted as follows:

36-09-20.1. False proof of ownership - Sale of livestock - Penalty. A person that ~~knowingly~~ willfully provides false proof of ownership in conjunction with the sale of livestock is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

SECTION 4. AMENDMENT. Section 36-09-22 of the North Dakota Century Code is amended and reenacted as follows:

36-09-22. Sale of animal under false registration ~~certificates~~ certificate - Changing marking - ~~Auctioneer~~ - Penalty. ~~No~~

1. A person may not willfully:
 4. a. Sell ~~any an~~ animal with a certificate of registration or breeding that the person knows does not belong to ~~said~~ the animal.
 2. b. ~~Change in any way the~~ Alter any animal's certificate of registration or breeding ~~of any animal.~~

3. ~~c. Falsely represent~~ Misrepresent any production record specified in ~~any a~~ registration certificate.
4. ~~d. Change the markings of any animals~~ animal with intent to deceive the purchaser ~~or misrepresent.~~
 - e. Misrepresent the sire to which such animal has been bred.

The provisions of this section do not apply to any auctioneer or agent acting in good faith under the direction of the owner.

Any

2. ~~A person who that violates any of the provisions of this section is guilty of a class B A misdemeanor for a first offense and a class C felony for a second or subsequent offense.~~

SECTION 5. AMENDMENT. Section 36-09-23 of the North Dakota Century Code is amended and reenacted as follows:

36-09-23. Removal Transportation of livestock from state - Brand inspection - Penalty.

1. ~~No A person may remove not transport or attempt to transport cattle, horses, or mules from this state or to within a mile [1.61 kilometers] of any boundary of the state for the purpose of removal unless the livestock has been inspected for marks and brands by an official brand inspector of the North Dakota stockmen's association and a. A certificate of inspection must accompany the livestock to its destination. This subsection does not apply to a person that:~~
 - a. Transports cattle, horses, or mules from this state to obtain for the animals emergency medical treatment by a licensed veterinarian; or
 - b. Transports cattle, horses, or mules from this state to an auction market that is located in a bordering state and which has been designated by rule as an official brand inspection market.
2. ~~It is unlawful for the~~ The owner or possessor ~~to remove any of livestock may not remove the livestock~~ from any place of regular official brand inspection ~~unless and until an official brand inspection has been made and the brand inspection certificate has been issued.~~
3. A person ~~who that~~ willfully violates this section is guilty of a class ~~B A~~ misdemeanor. A person ~~who that~~ violates this section a second time within ~~fifteen~~ five years or violates this section three or more times is guilty of a class C felony.

Approved April 8, 2009
 Filed April 9, 2009

CHAPTER 298

HOUSE BILL NO. 1496

(Representative Froelich)
(Senator Miller)

AN ACT to create and enact a new section to title 36 of the North Dakota Century Code, relating to an equine assessment; to provide for an equine processing facility feasibility study; to create an advisory committee; to provide an appropriation; to provide a continuing appropriation; and to provide for legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to title 36 of the North Dakota Century Code is created and enacted as follows:

Assessment - Continuing appropriation - Provision of grants.

1. For each equine processed at an equine processing facility in this state, the owner of the facility shall submit to the agriculture commissioner, at the time and in the manner directed by the commissioner, an assessment in the amount of five dollars. The commissioner shall forward the assessment to the state treasurer for deposit in the equine processing fund.
2. All moneys in the equine processing fund are appropriated on a continuing basis to the agriculture commissioner to be used as follows:
 - a. The agriculture commissioner shall return to the state general fund the fifty thousand dollars appropriated to the department of commerce for the equine processing facility feasibility study.
 - b. Upon completion of the requirement set forth in subdivision a, the commissioner shall:
 - (1) Provide an annual grant equaling forty percent of any assessments collected to Dickinson state university in support of the equine management program;
 - (2) Provide an annual grant equaling forty percent of any assessments collected to North Dakota state university in support of the equine studies program; and
 - (3) Provide an annual grant equaling twenty percent of any assessments collected to public or private entities conducting equine research or offering hippotherapy to individuals with disabilities.

SECTION 2. EQUINE PROCESSING FACILITY FEASIBILITY STUDY.

1. During the 2009-10 interim, the department of commerce shall conduct an equine processing facility feasibility study. The study must begin

with a review of federal laws, regulations, policies, and guidelines regarding equine processing and an evaluation of the potential for amendments and modifications. If an equine processing facility is determined to be permissible under existing laws, the study may proceed to:

- a. Address the cost of constructing a new equine processing facility in this state;
 - b. Determine whether any existing structures could be converted to an equine processing facility and the cost of converting the structures;
 - c. Determine the nature and scope of existing and potential markets, both domestic and international, for equine meat and other byproducts of equine processing; and
 - d. Examine the potential for obtaining loans, grants, and other incentives in order to further the development of an equine processing facility.
2. The department shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

SECTION 3. ADVISORY COMMITTEE - REIMBURSEMENT FOR EXPENSES. The department of commerce may appoint a five-member committee to provide advice and guidance to the department regarding the feasibility study provided for in section 2 of this Act. The department may use up to \$5,000 of the amount appropriated under section 4 of this Act to provide reimbursement for expenses, as allowed by law for state officers, to any member of the advisory committee who does not serve on the committee by virtue of the individual's public office or public employment.

SECTION 4. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000, or so much of the sum as may be necessary, to the department of commerce for the purpose of conducting the equine processing facility feasibility study as provided under section 2 of this Act, for the biennium beginning July 1, 2009, and ending June 30, 2011. The department may expend the moneys appropriated under this section only if matching funds are obtained on a dollar-for-dollar basis.

SECTION 5. LEGISLATIVE INTENT - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - CONSIDERATION OF GRANT PROPOSAL. It is the intent of the legislative assembly that the agricultural products utilization commission consider making a grant available under section 4-14.1-03.1 to assist with the requirement for matching funds as provided under section 1 of this Act.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 299

HOUSE BILL NO. 1112

(Agriculture Committee)

(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact section 36-24-26 of the North Dakota Century Code, relating to penalties for violating meat inspection laws; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-24-26 of the North Dakota Century Code is amended and reenacted as follows:

36-24-26. General penalty Penalties. ~~Violation of this chapter or a rule adopted under this chapter is a class A misdemeanor. The commissioner is not required to report for prosecution or for the institution of injunctive proceedings a minor violation of this chapter if the commissioner believes that the public interest will be adequately served by a suitable written warning.~~

1. A person who violates a provision of this chapter is guilty of a class A misdemeanor.
2. A person willfully violating this chapter or a rule adopted under this chapter is subject to a civil penalty not to exceed two hundred fifty dollars for each violation. The civil penalty may be imposed by a court or by the agriculture commissioner in an administrative proceeding.
3. Imposing a penalty allowed in subsection 1 or 2 does not preclude the commissioner from seeking to impose other sanctions or from seeking other remedies for violation of this chapter or rules adopted under this chapter.

Approved April 24, 2009
Filed April 29, 2009

CHAPTER 300**HOUSE BILL NO. 1110**

(Agriculture Committee)

(At the request of the Agriculture Commissioner)

AN ACT to create and enact chapter 36-26 of the North Dakota Century Code, relating to feral swine; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 36-26 of the North Dakota Century Code is created and enacted as follows:

36-26-01. Definitions. As used in this chapter:

1. "Board" means the state board of animal health.
2. "Feral swine" means a hog, boar, or pig that:
 - a. Appears to be untamed or undomesticated;
 - b. Appears to have reverted from a domesticated to a wild state; and
 - c. Is freeroaming.

36-26-02. Board - Authority. The board is responsible for the control and eradication of feral swine on state lands and on private lands in this state.

36-26-03. Prohibited actions.

1. A person may not import, transport, or possess live feral swine.
2. A person may not intentionally, knowingly, or negligently allow swine to live in a feral state.
3. a. A person may not:
 - (1) Hunt or trap feral swine;
 - (2) Sponsor or promote the hunting or trapping of feral swine;
 - (3) Assist in the hunting or trapping of feral swine;
 - (4) Profit from the release of feral swine; or
 - (5) Profit from the hunting or trapping of feral swine.
- b. Paragraphs 1 through 3 of subdivision a do not apply to a state or federal agency or any person authorized by a state or federal agency to engage in the control or eradication of feral swine.

36-26-04. Presence of feral swine - Notification of board - Immediate threat.

1. Any person having reason to believe that feral swine are present on property owned by or legally occupied by that person shall notify the board and cooperate with the board in controlling or eradicating the feral swine.
2.
 - a. Notwithstanding any other provision of this chapter, if a person encounters a feral swine on property owned by or legally occupied by that person and determines that the feral swine poses a threat of harm or destruction of property, the person may immediately eradicate the feral swine.
 - b. Any person eradicating a swine under this subsection shall notify the board as soon as practicable, but in no event later than twenty-four hours after the time of the eradication. The person shall follow any instructions given by the board with respect to the handling of the carcass, preservation of the carcass for testing, and disposal of the carcass.

36-26-05. Civil penalty.

1. Any person violating section 36-26-03 is subject to:
 - a. A civil penalty in an amount not exceeding five thousand dollars per violation; and
 - b. A claim for the actual costs of control or eradication incurred by any state or federal government agency as a result of the person's violation.
2. Any person violating section 36-26-04 is subject to a civil penalty in an amount not exceeding two hundred fifty dollars for a first offense and a civil penalty in an amount not exceeding five thousand dollars for a subsequent offense.

Approved April 28, 2009
Filed May 1, 2009