

ANIMALS

CHAPTER 10

H. B. No. 62—(Committee on Livestock)

BANG'S DISEASE

REIMBURSEMENT OF OWNERS OF CATTLE AFFECTED WITH BANG'S DISEASE AND PAYMENT OF EXPENSES IN CONNECTION THEREWITH

An act to provide for the reimbursement of owners of cattle destroyed by order of the North Dakota Livestock Sanitary Board on account of being affected with Bang's disease and to pay expenses in connection therewith, and providing for the creation of a fund therefor, limiting the liability of the State of North Dakota, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHEREAS, during the past fiscal year ending June 30th, 1938 the U. S. Congress provided that indemnity on cattle reacting to the blood test for Bang's disease will not be provided for after May 1st, 1939 unless matched by an equal indemnity by the States,

THEREFORE, each State must make provisions to meet this indemnity or lose the aid of the Federal Government in Bang's disease control work in cattle.

§ 2. NOTICE, HOW SERVED.] Whenever any cattle have been adjudged to be infected with Bang's disease by the North Dakota Livestock Sanitary Board, it shall be the duty of said board, or its duly authorized agent, to serve a written notice upon the owner or keeper of such decision before the killing of the animal or animals condemned, which notice shall contain the provisions for a protest according to Section 6 of this act, and if no protest is made by the owner or keeper, such animal or animals shall be appraised according to the provisions contained in Section 3 of this act.

§ 3. APPRAISAL, HOW MADE.] Whenever any cattle have been adjudged to be infected with Bang's disease by the North Dakota Livestock Sanitary Board and have been ordered killed by said board and are killed in accordance therewith, the actual value of said animal or animals at the time of appraisal shall be determined by the North Dakota Livestock Sanitary Board, or its authorized agent, within twenty-four hours after the killing is ordered and before it or they are killed; provided, that if the owner or keeper is aggrieved by such appraisal he may cause a board of appraisers to be appointed according to Section 4 of this act.

§ 4. APPRAISERS, HOW APPOINTED.] In case the owner

of cattle to be killed under the provisions of this act, or his agent, is not satisfied with the appraisal made by the North Dakota Livestock Sanitary Board, or its agents, he may protest against the same, whereupon a board of three appraisers is to be formed, of which one member shall be the agent of the North Dakota Livestock Sanitary Board, one member shall be selected by the owner of the animal or animals involved, and a third member shall be selected by the first two members, as herein provided, whereupon an appraisal of animal or animals involved shall be made by the board of appraisers, according to Section 5 of this act, and in case all three appraisers or any two of them agree upon a certain valuation, this appraisal shall be regarded as final.

§ 5. MAXIMUM VALUATION.] In no case shall the appraised value of grade cattle of two years old or more exceed eighty dollars, nor that of grade cattle under two years old exceed forty dollars; provided, in the case of purebred cattle, accompanied by a certificate of registration in a recognised [recognized] herd book, the appraised value of said purebred cattle of two years old or over shall not exceed one hundred fifty dollars, nor that of said purebred cattle under two years old exceed seventy-five dollars.

§ 6. PROTEST, HOW MADE.] Providing the owner or his agent is aggrieved with the diagnosis of the North Dakota Livestock Sanitary Board, or its agents, said owner may within twenty-four hours make protest against the diagnosis; and be entitled to consultation, in accordance with the provisions of Section 10 and 11 of Chapter 169 of Session Laws of 1907.

§ 7. FEES, HOW PAID.] The two members of this board of appraisers, not connected with the North Dakota Livestock Sanitary Board, shall be entitled to one dollar per day for their services, to be paid out of the fund created for the purpose of carrying out this act, upon presentation of vouchers to the State Auditor and duly approved by the North Dakota Livestock Sanitary Board.

§ 8. WHO MAY TAKE ADVANTAGE OF THIS ACT.] The owner of cattle affected with Bang's disease, or so adjudged by the North Dakota Livestock Sanitary Board, and appraised in accordance with this act shall be entitled to the amount named in the appraisal providing that the owner or owners of such cattle have applied to the North Dakota Livestock Sanitary Board for a Bang's test to be made under the supervision of said board.

§ 9. CLAIMS, HOW PAID.] The return of appraisers made under this act shall be in writing, and signed by the North Dakota Livestock Sanitary Board, or its agents making the appraisement, or by the board of appraisers in case of protest, and also signed by the owner of said cattle condemned and certified to by the executive officer of the North Dakota Livestock Sanitary Board to the State

Auditor, who shall draw a warrant on the State Treasurer in favor of the owner for the amount thereof; provided that the amount of indemnity paid by the State shall not exceed one-third of the difference between the appraised value of such cattle and the net value of the salvage thereof, and must not exceed nine dollars in the case of grade cattle nor more than fifteen dollars in the case of purebred cattle; further providing, that in the event that the Federal Government fails to provide an equal amount of indemnity with the State then the owner shall be paid one-half of the difference between the appraised value of such cattle and the net value of the salvage thereof, and must not exceed fourteen dollars in the case of grade cattle. Providing further that the State of North Dakota shall not be liable for any indemnity whenever the amount hereby appropriated shall be exhausted or in any sum larger than the sum hereby appropriated.

§ 10. CARCASSES, HOW DISPOSED OF.] All and any money realized from the sale of the whole or any part of cattle killed on account of Bang's disease may be paid to the owner of said condemned cattle, and the amount thereof deducted from the appraised value of said condemned cattle.

§ 11. OWNER SHALL NOT BE INDEMNIFIED IN THE FOLLOWING CASES.] The right to be indemnified shall not exist, and payment shall not be made, in the following cases:

First: For animals belonging to the United States, or any county, city, township, or village in the State.

Second: When the owner at the time of coming into possession of the animal or animals knew it or them to be diseased or suspected of it or them being diseased.

Third: For animals found to have been diseased at the time of their arrival in this State.

Fourth: When the owner is a non-resident and not engaged in the breeding of livestock in this State.

Fifth: When the animal or animals at the time of its or their killing had been in the State less than six months.

Sixth: When the owner shall have been guilty of negligence by wilfully exposing his animal or animals to Bang's disease or if he has previously injected live Bang's disease organisms into his cattle in the form of so-called Bang's disease vaccines.

§ 12. FUND, HOW CREATED.] For the purpose of creating a fund to provide for the expenses incurred in carrying out the provisions of this act, there is hereby created a fund to be known as the Bang's Disease Fund.

§ 13. APPROPRIATION.] There is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the

sum of \$50,000.00, or as much thereof as may be necessary for the purpose of indemnifying the owners of animals infected with Bang's disease and destroyed, and to pay expenses in connection therewith.

§ 14. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 16, 1939.

CHAPTER 11

H. B. No. 61—(Livestock Committee)

BANG'S TEST IN TOWNSHIPS

An act relating to the application of the Bang's test in townships in counties in North Dakota under the direction of the North Dakota Livestock Sanitary Board by petition of seventy-five per cent of the freeholders or livestock owners in such townships, fixing penalty for violation.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Upon receipt of a petition signed by not less than seventy-five per cent of the resident freeholders or livestock owners of any township in any county in North Dakota petitioning for the application of the Bang's test to all cattle within such township, the North Dakota Livestock Sanitary Board is authorized and empowered to enforce the Bang's testing of all such cattle in such township, in accordance with the laws providing for the eradication of Bang's disease and reimbursement of owners of cattle slaughtered on account of Bang's disease and the regulations of the North Dakota Livestock Sanitary Board.

Provided, that in any circumscribed area as established by the North Dakota Livestock Sanitary Board, where all the cattle in said area are to be Bang's tested and said Bang's test is undertaken under the direction of the North Dakota Livestock Sanitary Board, no other cattle shall enter said area unless Bang's tested under the direction of the North Dakota Livestock Sanitary Board or are accompanied by a proper Bang's test health certificate, except under special permit and restrictions provided by the North Dakota Livestock Sanitary Board.

§ 2. PENALTY.] Any person who refuses to assist or endeavors to prevent the North Dakota Livestock Sanitary Board, or its agent, in carrying out the purposes of or violates any of the provisions of this act shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five

hundred dollars (\$500.00), or by imprisonment in the county jail not less than thirty days nor more than ninety days, or both such fine and imprisonment.

Approved March 16, 1939.

CHAPTER 12

H. B. No. 110—(Schmidt of Sheridan)

FUR-BEARING ANIMALS

An act to amend and re-enact Sub-section 1 of Section 32, Chapter 148, Session Laws of 1931, relating to fur-bearing animals; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Sub-section 1 of Section 32, Chapter 148, of the Session Laws of North Dakota for 1931 is hereby amended and re-enacted to read as follows:

§ 32. (1) FUR-BEARING ANIMALS.] No person shall hunt, shoot, trap, take, disturb, molest or imprison in any manner any fur-bearing animals except during the open or lawful season as established by this act; provided, that it shall be lawful to take at any time, any wild fur-bearing animal not specifically protected by this act, and, provided further, that animals may be taken for breeding or domestication as hereinbefore authorized.

§ 2. EMERGENCY.] This act is hereby declared to be an emergency measure, and shall be in full force and effect immediately upon its passage and approval.

Approved March 1, 1939.

CHAPTER 13**S. B. No. 134—(Flatt and Watt)**

**PERMITTING KILLING OF DOGS, WOLVES AND COYOTES
UNDER CERTAIN CIRCUMSTANCES**

An act permitting the killing of dogs, wolves and coyotes kept as domestic animals when caught in the act of killing, chasing, worrying or damaging livestock or poultry, providing owners of livestock and poultry killing such animals shall not be held civilly liable and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. That any owner of livestock or poultry may kill any dog, wolf or coyote kept as a domestic animal when he sees such dog, wolf or coyote in the act of killing, chasing, worrying or damaging any livestock or poultry, and he shall not be held liable in any civil action to the owner of the dog, wolf or coyote kept as a domestic animal so killed.

§ 2. An emergency is hereby declared to exist and this act shall be in full force from and after its passage and approval.

Approved March 7, 1939.

CHAPTER 14**H. B. No. 306—(Knutson)**

LIVESTOCK DEALERS, REGULATION

An act to amend and re-enact Section 2 of Chapter 5 of the 1937 Session Laws.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 2 of Chapter 5 of the 1937 Session Laws is hereby amended and re-enacted to read as follows:

§ 2. LICENSE AND BOND REQUIRED.] All dealers in livestock, as herein defined, shall be duly licensed as hereinafter provided. No agent shall act for any such livestock dealer unless the dealer is duly licensed and has designated such agent to act in his behalf and notified the Board of Railroad Commissioners in his application for license or in writing of such appointment, and requested the commission to issue to such agent an agent's license; and the dealer shall be accountable and responsible for all the acts of his agent.

Each dealer, before entering in the business of dealing in livestock, shall annually on or before January 1 of each year, file an

application with the Board of Railroad Commissioners on a form prescribed by it for a license to transact such business. The applicant shall state the nature of the business as herein above set forth, the name or names of persons applying for the license, and if the applicant is a firm, association, partnership or corporation the full name of each member of such firm, association, or partnership, or the names of the official officers of the corporation, and the name of the agent or agents of such person, firm, association, partnership or corporation, the post office address and the principal place of business of the applicant, and if a foreign corporation it must state its principal place of business without the State and the name of the State incorporated in and it must also state that it has complied with the corporation laws of this State relating to foreign corporations, and such other facts as the commissioners may prescribe.

Each applicant shall file with his application a surety company bond to be approved as to amount, form and sufficiency and surety by the commission in the sum of not less than \$1,500.00 for principal's bond and that the amount of said bond be increased not less than \$500.00 for each applicant appointed by the dealer and licensed by the commission, in which the commissioners shall be the obligee but which shall be for the benefit and purpose of protecting any person, and shall be for the benefit of all persons selling livestock or poultry, or both, to such licensed livestock dealer or his agent. Such bond shall be conditioned upon the faithful performance of his duties as a dealer in livestock and all of the provisions of law relating to the purchase of livestock or poultry, or both, by such livestock dealer, and for the payment by said livestock dealer of all livestock purchased by such dealer, as a dealer in livestock, and for the purpose of protecting any person which bond shall cover the entire license period; provided, however, that a separate bond for each agent appointed and licensed, may be given in the sum of \$1,500.00, in lieu of the additional amount on the principal bond; provided further that the commission may demand at any time additional bond for either principal or agent when in the discretion and judgment of the commission the volume of business of the principal or any agent named by such principal warrants it.

The commissioners shall thereupon issue to such applicant on the payment of the sum of five dollars a license entitling the applicant, his agent, to conduct the business of dealing in livestock as herein defined, at the place or places named in the application until the 31st day of December next following; provided that for each agent to whom a license is issued, the sum of five dollars shall be paid to the commission.

Provided, however, that if a buyer desires to buy poultry only, he may upon the payment of the sum of \$2.00, receive a license which will entitle him to buy nothing but poultry, and, in such event, he need only post a bond as aforesaid, in the sum of \$1,000.00

for the principal bond and \$500.00 additional for each agent as heretofore provided.

Approved March 16, 1939.

CHAPTER 15

H. B. No. 82—(Committee on Livestock)

PUREBRED CATTLE, CERTIFICATE OF HEALTH

An act to amend and re-enact Section 2761 of the Compiled Laws of the State of North Dakota for 1913 as amended by Chapter 64, Session Laws of 1915, prohibiting the sale of purebred cattle and nonregistered bulls for any other purpose except slaughter, unless accompanied by a certificate of health, and providing a penalty therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2761 of the Compiled Laws of the State of North Dakota for 1913 as amended by Chapter 64, Session Laws of 1915 is hereby amended and re-enacted to read as follows:

§ 2761. CERTIFICATE OF HEALTH OF PUREBRED CATTLE AND NONREGISTERED BULLS REQUIRED.] All persons selling purebred cattle and nonregistered bulls for any purpose except slaughter shall, before delivery, make application to the State Livestock Sanitary Board, indicating the number of cattle sold or to be sold, purebred name and registry number, age and sex, and before delivery thereof such cattle shall be tested with tuberculin under the direction of the State Livestock Sanitary Board, or some person duly authorized by said board, and if found free from disease a certificate of health shall be issued by the State Livestock Sanitary Board to the owner to be delivered to the purchaser; said certificate to be valid for one year from the date of said test.

Provided, that no health certificate shall be required for an animal under six months of age.

Provided, further, that it shall not be required that negative herds of cattle in modified accredited tuberculosis-free counties be submitted to further tuberculin tests in order to comply with this act.

§ 2. PENALTY.] Any person who shall sell or dispose of any purebred cattle or nonregistered bulls for any purpose except slaughter, without furnishing a certificate of health, as provided for in Section 1 of this act, shall be guilty of a misdemeanor and be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment not less than thirty days nor more than ninety days.

Approved March 7, 1939.