

LIVESTOCK

CHAPTER 241

H. B. No. 646

(Miller of Walsh, Kelly, Overbo, Leet, Currie, Powers,) (Hagen, Davis of Dunn, Schuler, Heller, Tescher)

LICENSING AUCTION MARKETS

AN ACT

To amend and reenact sections 36-05-03, 36-05-04, 36-05-05, 36-05-06, 36-05-09, and 36-05-13 of the North Dakota Century Code, relating to the licensing of livestock auction markets.

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

§ 1. **Amendment.)** Section 36-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-03. License Required—Application—Fee.) No person, partnership, firm, or corporation shall establish or operate a livestock auction market within this state without first procuring a license to do so from the livestock sanitary board. An applicant for such license shall:

1. Make a written application therefor in the form prescribed by the livestock sanitary board;
2. File with the livestock sanitary board a statement showing that he or it is financially responsible to operate such an auction market and that he or it will own or control adequate facilities for the care, sorting, feeding, loading and unloading, and shipment of livestock;
3. Pay to the livestock sanitary board a license fee of one hundred dollars;
4. File with the livestock sanitary board a schedule of the fees and commissions which will be charged to owners, sellers, or their agents; such schedule shall likewise be posted conspicuously at the auction market. This schedule shall not be altered except upon notification to the livestock sanitary board and reposting of the changed schedule;
5. State the place where applicant proposes to operate a livestock auction market;
6. Make a complete and detailed description of the property and facilities proposed to be used in connection with such livestock market.

§ 2. **Amendment.)** Section 36-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-04. Bond to Accompany Application for License — Amount—Approval—Conditions—Term.) Each applicant for a license to operate a livestock auction market shall file his application for such license, or for a renewal thereof, a surety bond in the minimum amount of ten thousand dollars. Such bond shall be approved as to amount, form, and surety by the livestock sanitary board. The livestock sanitary board shall be the obligee in the bond, and it shall be for the benefit of, and for the purpose of protecting, any person selling to or through or buying livestock through or from the licensee or his or its agent. The livestock sanitary board may demand an additional bond of the licensee whenever in its judgment the volume of the business of the licensee warrants such demand. The bond shall be conditioned for:

1. The payment of all money received by the licensee and operator of such livestock auction market as such operator, less reasonable expenses and agreed commissions;
2. The faithful performance by the licensee of his duties as such licensee; and
3. The faithful performance by the licensee of all the provisions of this code relating to the purchase, sale or holding of livestock.

Such bond shall cover the entire license period.

§ 3. **Amendment.)** Section 36-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-05. Expiration and Renewal of License—Fee Returned Upon Failure to Issue or Renew License.) Each license issued under the provisions of this chapter shall expire on the thirty-first day of January next following the date of issuance thereof. Each license shall be renewed annually on or before January thirty-first. The fee for a renewal license shall be the same as that prescribed for an original license. If the livestock sanitary board does not issue a requested original license or renewal license, the fee paid shall be refunded to the applicant.

§ 4. **Amendment.)** Section 36-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-06. Investigation of Auction Market—Hearing Conducted to Determine Whether License Should Be Issued or Revoked.) The livestock sanitary board upon its own motion

or upon a complaint by any person, may enter into an investigation of the sales and transactions of any livestock auction market and of the conditions under which its business is conducted. The livestock sanitary board when it deems it necessary, may conduct a hearing to determine whether the license of any auction market should be revoked or whether the application of the owner or operator of a livestock auction market for an original or renewal license should be denied.

§ 5. Amendment.) Section 36-05-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-09. Records To Be Kept by Operator of Auction Market—Contents—Examination—Report.) The operator of each livestock auction market shall keep on file an accurate record of:

1. The date on which each consignment of animals was received and sold;
2. The name and address of the buyer and seller of such animals;
3. The number and species of the animals received and sold; and
4. The marks and brands on each such animal.

Such record, together with the gross selling price, commission, and other proper care, handling, and sales charges on each consignment of livestock shall be available for inspection by the livestock sanitary board or its authorized inspector, and a copy thereof shall be supplied to the owner of such livestock. All records of sales during the preceding twelve months shall be kept readily accessible for immediate examination.

§ 6. Amendment.) Section 36-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-13. Use of Fees Collected by Livestock Sanitary Board—Grounds for Refusal or Revocation of License—Procedure on Revocation and on Default of Licensee.) All fees collected by the livestock sanitary board under the provisions of this chapter shall be credited to the general fund of the state treasury. A license to operate a livestock auction market may be refused or revoked for any of the reasons specified in section 36-04-10, and the provisions of section 36-04-11 shall govern the procedure under which a hearing shall be had before the livestock sanitary board to determine whether such license shall be revoked. When the holder of a license issued under the provisions of this chapter shall default in any of the conditions of any bond filed with the livestock sanitary

board by such licensee this board shall become trustee of such bond and the provisions of sections 36-04-12 to 36-04-19, both inclusive, shall govern the procedure to be followed.

§ 7.) Section 36-05-13.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

36-05-13.1. Review by the Court.) The action of the livestock sanitary board in denying an application for a license or in revoking or suspending a license may be appealed to the district court of Burleigh County by procedure applicable to appeals taken in the manner provided in chapter 28-32 of the title Judicial Procedure, Civil, as now or hereafter amended, except that the livestock sanitary board's order revoking or suspending the license may be stayed by the court appealed to upon filing with the clerk of said court a bond approved by and in the amount set by the judge of said district court for the faithful observance of the laws of the state relative to the operation of the business licensed during the pendency of the appeal.

Approved March 17, 1961.

CHAPTER 242

H. B. No. 664
(Trom, Otos, Fraase)

RENDERING DONE BY CERTAIN PACKING PLANTS

AN ACT

To amend and reenact section 36-07-11 of the North Dakota Century Code, relating to rendering done by packing plants operating under federal inspection, and declaring an emergency.

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

§ 1. **Amendment.)** Section 36-07-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-11. Rendering Done by Packing Plants Operating Under Federal Inspection—Exception.) All rendering done by a packing plant operating under federal inspection in a building adjacent to or on the same premises as said packing plant shall be exempt from the provisions of this chapter, except that the transportation by such packing plant or a rendering plant of carcasses and other animal substances on any public highway or street shall be subject to the sanitary

requirements of this chapter and the rules and regulations of the state livestock sanitary board made pursuant thereto.

§ 2. **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 February 20, 1961.

CHAPTER 243

H. B. No. 697

(Link, Davis of Dunn, Stallman,) (Dick, Tescher)

DIRECTORS OF GRAZING ASSOCIATIONS

AN ACT

To amend and reenact section 36-08-05 of the North Dakota Century Code, relating to election of directors of co-operative grazing associations.

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

§ 1. **Amendment.)** Section 36-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-08-05. Election of Directors.) The association may establish through its bylaws various sub-districts within the grazing district. When sub-districts are so established, one director of the association shall be elected from each sub-district by the majority vote of the members therein who are eligible to vote. If sub-districts are not established by the association, one director shall be elected from each congressional township in the district by the majority vote of the members in such township who are eligible to vote. However, in a small acreage group, all of the directors may be elected from any one or more congressional townships.

Approved February 28, 1961.

CHAPTER 244

H. B. No. 699

(Link, Davis of Dunn, Stallman,
(Dick, Tescher)

LIVESTOCK OWNERS' LIABILITY

AN ACT

To amend and reenact section 36-11-07 of the North Dakota Century Code, relating to liability of owners of livestock inflicting damage to persons or property of another.

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

§ 1. **Amendment.)** Section 36-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-11-07. Liability of Owners of Horses, Mules, Cattle, Sheep and Swine Injuring Persons or Property of Others.) The owner or possessor of any horse, mule, head of cattle, sheep or swine, which shall inflict any damage or injury to motor vehicles or their occupants upon a public highway within a grazing area shall not be civilly liable to any person sustaining such damage or injury providing proper signs, approved by the state highway commissioner, indicating such limited liability are posted at a point adjacent to such highway not less than two hundred (200) feet nor more than four hundred (400) feet from the entrance of such highway into such grazing area and so posted as to be plainly visible to persons approaching such entrance. For the purpose of this section a "grazing area" shall mean any area designated as such by the board of county commissioners and used primarily for the purpose of grazing livestock and enclosed by a fence or other suitable means.

Except as hereinabove provided, the owner or possessor of any horse, mule, head of cattle, sheep or swine which shall inflict any damage to the crops or other property of another or which shall trespass upon the lands of another, whether such lands are fenced or unfenced, shall be liable to the persons sustaining the injuries or to the owner of the lands for all damages suffered by him, together with the statutory costs of the action to recover such damages, and a reasonable attorney's fee therein to be allowed by the court.

Approved March 7, 1961.

CHAPTER 245

H. B. No. 744

(Annear, Tescher)

IMMUNIZATION OF SWINE AT STATE OR COUNTY FAIRS,
REPEAL

AN ACT

To repeal section 36-14-08 of the North Dakota Century Code, relating to the immunization of all swine to be exhibited at any state or county fairs.

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

§ 1. Repeal.) Section 36-14-08 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1961.

CHAPTER 246

H. B. No. 893

(Miller of Walsh, Rickford, Collette,)

(Currie, Tescher, Johnson)

CONDEMNATION AND APPRAISAL OF DISEASED ANIMALS,
PAYMENT OF CLAIMS

AN ACT

To amend and reenact subsection 3 of section 36-15-01, section 36-15-02, section 36-15-04, section 36-15-09, and subsection 7 of section 36-15-11 of the North Dakota Century Code, relating to the condemnation, and the appraisal, by the livestock sanitary board or its agents of diseased animals afflicted with tuberculosis or paratuberculosis (Johne's disease), providing for maximum indemnity payments to livestock owners, and providing when livestock owners may not be indemnified; and to repeal section 36-15-05 of the North Dakota Century Code, relating to maximum valuations of diseased animals.

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

§ 1. Amendment.) Subsection 3 of section 36-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Diseased", when used to describe any animals, shall mean animals infected with either bovine tuberculosis or paratuberculosis (Johne's disease); and

§ 2. **Amendment.)** Section 36-15-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-02. Notice of Condemnation of Diseased Animal — Animal To Be Destroyed Within Fifteen Days, Exception.) Whenever any animal has been adjudged by the board to be infected with bovine tuberculosis or paratuberculosis, such board or its authorized agent shall serve a written notice of its decision upon the owner or keeper of the animal before the condemned animal is killed. Such animal shall be destroyed within fifteen days after notice of condemnation, in either a federal or state inspected slaughtering plant, or under the supervision of an agent of the board. The fifteen-day period may be extended by the state veterinarian if he deems it advisable due to the circumstances involved in each case, and such extension must be in writing. Such notice shall advise the owner or keeper of his right to protest against the diagnosis and determination of the board within twenty-four hours after the service of the notice upon him. If no protest is made within such time by the owner or keeper of the condemned animal, it shall be appraised in the manner provided in this chapter.

§ 3. **Amendment.)** Section 36-15-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-04. Protest of Board's Appraisal—Board of Appraisers Appointed—Appraisal To Be Final.) If the owner of any animal which is condemned to be killed under the provisions of this chapter, or his agent, is not satisfied with the appraisal by the board or its agents, he may protest against the same, and a board of three appraisers shall then be formed. One member of the board of appraisers shall be the agent of the board, one member shall be selected by the owner of the animal involved, and the third member shall be selected by the first two members. An appraisal of the animal shall be made by the board of appraisers according to section 36-15-09, and if two or more of the appraisers agree upon a certain valuation, such appraisal shall be final.

§ 4. **Amendment.)** Section 36-15-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-09. Return of Appraisement—Payment of Claims for Diseased Animals.) The return of an appraisement made under the provisions of this chapter shall be in writing and signed by the board or by the agent thereof which made the appraisement, or by the members of the board of appraisers if a re-

appraisement is made after a protest, and by the owner of the condemned animal. The return shall be certified by the executive officer of the board to the state auditor, who shall draw a warrant upon the state treasurer in favor of the owner of the animal. The amount of indemnity paid by this state, however, shall be:

1. In the case of an animal condemned because it is infected with tuberculosis or paratuberculosis, one-third of the difference between the appraised value of the animal and the net value of the salvage received by the owner, however, the indemnity payments shall not exceed twenty-five dollars for each grade animal or fifty dollars for each registered purebred animal, except, that if the federal government fails to provide an amount of indemnity equal to that provided by the state, the owner shall be paid one-half of the difference between the appraised value of the animal and the net value of the salvage thereof. Before any indemnity payment is made for such registered purebred animals, a certificate of registration in a recognized herd book shall be submitted to the state veterinarian prior to the date set for slaughter of said animal;
2. This state shall not be liable for indemnity under the provisions of this chapter in excess of the amount appropriated for the payment of such indemnity by the legislative assembly, and the state shall not be liable for indemnity for any animal killed during a biennium after the appropriation for such biennium has been exhausted.

§ 5. Amendment.) Subsection 7 of section 36-15-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. When the owner shall have been guilty of violating any laws or rules or regulations of the board.

§ 6. Repeal.) Section 36-15-05 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1961.
