

LIVESTOCK

CHAPTER 308

HOUSE BILL NO. 1182

(Representatives DeKrey, Delmore, Fairfield, Hanson)

SKUNK AND RACCOON OWNERSHIP PROHIBITED

AN ACT to create and enact a new section to chapter 36-01 of the North Dakota Century Code, relating to the private ownership of primates, wolves, wolf hybrids, skunks, and raccoons; and to provide a penalty.

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:

Ownership of skunks and raccoons prohibited - Exception - Rules - Penalty.

No person may keep a skunk or raccoon in captivity. This section does not apply to a zoo licensed by the regulatory enforcement and animal care program of the animal and plant health inspection service of the United States department of agriculture. The state veterinarian shall confiscate and dispose of any animal kept in violation of this section. The board shall adopt rules governing the keeping of a primate, wolf, or wolf hybrid in captivity and to implement this section. As used in this section, "primate" does not include a human being; "wolf" means any animal of the species *canis lupus*; and "wolf hybrid" means any animal that is any part wolf. A person who willfully violates this section is guilty of a class B misdemeanor.

Approved April 4, 1997
Filed April 4, 1997

CHAPTER 309

SENATE BILL NO. 2393

(Senators O'Connell, Solberg, Tomac)
(Representative Nicholas)

LIVESTOCK DEALER AND AUCTION LICENSING

AN ACT to create and enact sections 36-04-10.1 and 36-05-13.2 of the North Dakota Century Code, relating to violations of laws governing livestock dealers and livestock auction markets; to amend and reenact sections 36-04-02, 36-04-05.1, 36-04-10, 36-04-13, 36-05-02, 36-05-04.1, and 36-05-14 of the North Dakota Century Code, relating to the licensing of livestock dealers and livestock auction markets; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-04-02 of the North Dakota Century Code is amended and reenacted as follows:

36-04-02. Restrictions on application of provisions of chapter. The provisions of this chapter do not apply to:

1. Farmers who or farm associations which buy and sell livestock, poultry, or wool among themselves as producers.
2. Farmers who or farm associations which purchase livestock or wool to complete a load of their own livestock or wool for shipment to market if the amount so purchased does not exceed twenty-five percent of a ~~railroad carload~~ truckload.
3. Cooperative livestock or wool marketing associations of producers of livestock or wool in their dealings with their members.
4. Livestock purchased by local butchers for slaughter or processing in their business for local home consumption.

SECTION 2. AMENDMENT. Section 36-04-05.1 of the North Dakota Century Code is amended and reenacted as follows:

36-04-05.1. Records release required with application for licensure. A dealer shall file, together with the license application, a release authorizing the access of the commissioner to financial records of the dealer held by financial institutions, accountants, and other sources. The release must be in a form approved by the commissioner. The commissioner may use the release in the course of licensing or relicensing a dealer or in the course of an investigation of a dealer ~~when instituted due to a complaint against the dealer or when based upon evidence sufficient to establish probable cause of a violation of this chapter or the Packers and Stockyards Act, 1924 [Pub. L. 67-54; 42 Stat. 159; 7 U.S.C. 181 et seq.].~~ Any information gained through the use of a release is confidential. The commissioner may furnish information obtained through the use of the records release to the attorney general, other state agencies, and any prosecuting officials requiring the information for use in pursuit of official duties.

SECTION 3. AMENDMENT. Section 36-04-10 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-04-10. Refusal or revocation of license. The department shall refuse to grant a license, or shall revoke a license which it has granted, when it is satisfied that:

1. The applicant or licensee has violated any of the laws of this state governing the handling, shipment, or transportation of livestock or wool;
2. The applicant or licensee has been guilty of deceit, fraud, dishonesty, forgery, or theft as a dealer in livestock or wool, or in dealing therein;
3. The applicant made or caused to be made any false entry or statement of fact in any application, financial statement, or report filed with the department under this chapter;
4. The applicant has failed to keep and maintain suitable records, which disclose all purchases and sales of livestock, or has refused, during reasonable hours, to allow any authorized agent of the department to have access to inspect and to copy any and all of such records relating to the dealer's business;
5. The applicant has failed or refused to furnish the information required under this chapter and as prescribed by the department; ~~or~~
6. The applicant has failed to notify the commissioner of the receipt of a nonsufficient funds check as required by section 36-04-07.1-;
7. The applicant or licensee has failed to pay brand inspection fees or veterinarian fees as required by law;
8. The applicant or licensee has failed to collect beef promotion assessments pursuant to chapter 4-34; or
9. The applicant or licensee has failed to pay for livestock purchased. Such failure includes the issuance of a check as payment for livestock purchased, when such check is returned unpaid with a notation that the payment has been refused because of nonsufficient funds.

SECTION 4. Section 36-04-10.1 of the North Dakota Century Code is created and enacted as follows:

36-04-10.1. Unlawful acts. It is a violation of this chapter for any applicant or licensee to:

1. Violate any of the laws of this state governing the handling, shipment, or transportation of livestock or wool;
2. Make or cause to be made any false entry or statement of fact in any application, financial statement, or report filed with the department under this chapter;
3. Fail to keep and maintain suitable records that disclose all purchases and sales of livestock or refuse, during reasonable hours, to allow any

authorized agent of the department to have access to inspect and to copy any or all of such records relating to the dealer's business;

4. Fail or refuse to furnish the information required under this chapter as prescribed by the department;
5. Fail to notify the commissioner of the receipt of a nonsufficient funds check as required by section 36-04-07.1;
6. Fail to pay brand inspection fees or veterinarian fees as required by law;
7. Fail to collect beef promotion assessments pursuant to chapter 4-34; or
8. Fail to pay for livestock purchased. Such failure includes the issuance of a check or payment for livestock purchased, when such check is returned unpaid with a notation that the payment has been refused because of nonsufficient funds.

SECTION 5. AMENDMENT. Section 36-04-13 of the North Dakota Century Code is amended and reenacted as follows:

36-04-13. Application by department for appointment of trustee - Hearing - Appointment. Upon the insolvency of a dealer as defined in section 36-04-01, the department ~~shall~~ may apply to the district court of the county in which the dealer maintains its principal place of business for the appointment of itself as trustee. Upon such notice to the dealer as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by the dealer, the court shall proceed to hear and determine such application in a summary manner. If it appears to the court that the dealer is insolvent within the meaning of this chapter and that it would be for the best interest of persons holding claims against the dealer for the purchase price of livestock or wool sold to such dealer or to his agent that the department shall execute such trust, the court shall issue an order appointing the department as a trustee, without bond, and the department shall proceed to perform its duties as such trustee in the manner set out in this chapter without further direction from the court.

SECTION 6. AMENDMENT. Section 36-05-02 of the North Dakota Century Code is amended and reenacted as follows:

36-05-02. Premises excluded from application of chapter. The provisions of this chapter do not apply to:

1. Any place used solely for the dispersal sale of the livestock of a farmer, dairyman, livestock breeder, or feeder who is discontinuing ~~his~~ the person's business.
2. The premises of any butcher, packer, or processor who receives animals exclusively for immediate slaughter.
3. Any place where any individual or any duly constituted association of breeders of livestock of any class assembles and offers for sale and sells under ~~his or its~~ the individual's or association's management registered livestock or breeding sires owned by the individual or members of the association if such individual or association assumes all responsibility of the sale, guarantees title of such livestock, and makes proper provision for the inspection of all animals sold.

4. Any place where a duly constituted association of breeders of livestock of any class assembles and offers for sale and sells under its management, at an annual production sale, which sale may not exceed twenty-one calendar days, livestock raised or held for at least one year by producers affiliated with such association, provided such association assumes all responsibility of the sale, guarantees title of such livestock, and makes proper provision for the inspection of all animals sold.

SECTION 7. AMENDMENT. Section 36-05-04.1 of the North Dakota Century Code is amended and reenacted as follows:

36-05-04.1. Records release required with application for licensure. A livestock auction market shall file, together with the license application, a release authorizing the access of the commissioner to financial records of the livestock auction market held by financial institutions, accountants, and other sources. The release must be in a form approved by the commissioner. The commissioner may use the release in the course of licensing or relicensing a livestock auction market or in the course of an investigation of a livestock auction market ~~when instituted due to a complaint against the market or when based upon evidence sufficient to establish probable cause of a violation of this chapter or the Packers and Stockyards Act, 1921 [Pub. L. 67-54; 42 Stat. 159; 7 U.S.C. 181 et seq.].~~ Any information gained through the use of a release is confidential. The commissioner may furnish information obtained through the use of the records release to the attorney general, other state agencies, and any prosecuting officials requiring the information for use in pursuit of official duties.

SECTION 8. Section 36-05-13.2 of the North Dakota Century Code is created and enacted as follows:

36-05-13.2. Unlawful acts. It is a violation of this chapter for any auction market or person to:

1. Make or cause to be made any false entry or statement of fact in any application, financial statement, or report filed with the department under this chapter;
2. Fail to keep and maintain suitable records that disclose all purchases and sales of livestock or refuse, during reasonable hours, to allow any authorized agent of the department to have access to inspect and to copy any or all of such records relating to the dealer's business;
3. Fail or refuse to furnish the information required under this chapter as prescribed by the department;
4. Fail to notify the commissioner of the receipt of a nonsufficient funds check as required by section 36-04-07.1;
5. Fail to pay brand inspection fees or veterinarian fees as required by law;
6. Fail to collect beef promotion assessments pursuant to chapter 4-34; or
7. Fail to pay for livestock purchased. Such failure includes the issuance of a check or payment for livestock purchased, when such check is returned unpaid with a notation that the payment has been refused because of nonsufficient funds.

SECTION 9. AMENDMENT. Section 36-05-14 of the North Dakota Century Code is amended and reenacted as follows:

36-05-14. ~~Penalty for violation of provisions of chapter~~ Penalties - Criminal - Civil. ~~Any person who violates any of the provisions of this chapter is guilty of a class B misdemeanor.~~

1. Any auction market or person who violates any of the provisions of this chapter is guilty of a class A misdemeanor.
2. Any auction market or person who violates any of the provisions of this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation. The civil penalty may be adjudicated by the courts or by the commissioner through an administrative hearing under chapter 28-32.

Approved March 20, 1997
Filed March 20, 1997

CHAPTER 310

HOUSE BILL NO. 1121

(Agriculture Committee)

(At the request of the State Board of Animal Health)

DISEASED ANIMAL DESTRUCTION

AN ACT to amend and reenact section 36-15-02 of the North Dakota Century Code, relating to the destruction of diseased animals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-15-02 of the North Dakota Century Code is amended and reenacted as follows:

36-15-02. Notice of condemnation of diseased animal - Animal to be destroyed within fifteen days - Extension of time. Whenever any animal has been adjudged by the board to be infected with bovine tuberculosis ~~or paratuberculosis~~, ~~such~~, the 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~~ The animal must 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~~ that person deems it advisable due to the circumstances involved in each case, and ~~such~~ the extension must be in writing. ~~Such~~ The notice must advise the owner or keeper of ~~his~~ that person's right to protest against the diagnosis and determination of the board within twenty-four hours after the service of the notice upon ~~him~~ that person. If no protest is made within such time by the owner or keeper of the condemned animal, it must be appraised in the manner provided in this chapter.

Approved March 6, 1997

Filed March 6, 1997

CHAPTER 311

HOUSE BILL NO. 1282

(Representatives Boehm, Renner)
(Senator Tomac)

RAFFLE OF LIVE CATTLE

AN ACT to amend and reenact section 36-21.1-09 of the North Dakota Century Code, relating to the use of live beef and dairy cattle as a raffle prize; to provide an effective date; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-21.1-09 of the North Dakota Century Code is amended and reenacted as follows:

36-21.1-09. Use of certain birds as advertising devices - Use of live beef or dairy cattle as raffle prizes - Gifts of animals.

1. No person may sell, offer for sale, raffle, offer, or give as a prize, premium, or use as an advertising device, chicks, ducklings, or goslings younger than four weeks of age in quantities of less than twelve birds to an individual person. Persons engaging in the business of selling chicks, ducklings, or goslings for agricultural or wildlife purposes are exempt from the provisions of this section, but only when selling for such purposes.
2. An eligible organization authorized to conduct games of chance under chapter 53-06.1 may raffle live beef or dairy cattle if each raffle ticket contains a statement that the winner of the beef or dairy cattle prize may convert that prize to a cash prize. The donor of the beef or dairy cattle prize shall determine the amount of the cash prize, which must be equivalent to the value of the beef or dairy cattle prize and cannot exceed the limitations of section 53-06.1-10.1.
3. A person may not give away any live animal, other than those authorized under ~~subsection~~ subsections 1 and 2, as:
 - a. A prize for, or as an inducement to enter any contest, game, or other competition;
 - b. An inducement to enter a place of amusement; or
 - c. An incentive to enter into any business agreement where the offer was for the purpose of attracting trade.
- ~~3.~~ 4. The provisions of subsection ~~2~~ 3 do not apply to a person or organization that gives away an animal:
 - a. As a project for the promotion of the equine and livestock industry of North Dakota;

- b. As a project for the promotion of conservation of animals and wildlife in North Dakota; or
- c. Which is intended for slaughter.

SECTION 2. EFFECTIVE DATE. This Act becomes effective on April 1, 1997.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 13, 1997
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