

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2152
(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact sections 36-05.1-01, 36-05.1-02, 36-05.1-03, 36-05.1-04, 36-05.1-06, and 36-05.1-07 of the North Dakota Century Code, relating to adopting laws on satellite video livestock auctions to include the licensing of internet livestock auction markets.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-05.1-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Commissioner" means the agriculture commissioner.
2. "Internet livestock auction" means a place or establishment conducted or operated for compensation or profit as a public market where livestock located in this state is sold or offered for sale at a facility or web site within or outside the state through the use of the internet.
3. "Livestock" means horses, mules, cattle, swine, sheep, farmed elk, and goats.
- ~~3.~~ 4. "Representative" means a dealer licensed under chapter 36-04 who is a resident of this state or a livestock auction market licensed under chapter 36-05.
- ~~4.~~ 5. "Satellite video livestock auction market" means a place or establishment conducted or operated for compensation or profit as a public market where livestock located in this state is sold or offered for sale at a facility within or outside the state through the use of a satellite video at a public auction.

SECTION 2. AMENDMENT. Section 36-05.1-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-02. Satellite video livestock auction market and internet auction - Authority to transact business. No satellite video livestock auction market or internet livestock auction market may transact business in this state unless the market transacts business through a representative licensed under this chapter.

SECTION 3. AMENDMENT. Section 36-05.1-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-03. Application for license - Contents.

1. Before entering into business with a satellite video livestock auction market or internet livestock auction market and annually, on or before July first, each representative shall file an application for a license to transact business with a satellite video livestock auction market or internet livestock auction market with the commissioner on a form prescribed by the commissioner. The application must show:
 - a. The nature of the business for which a license is desired;
 - b. The name of the representative applying for the license;

- c. The name and address of the satellite video livestock auction market or internet livestock auction market with which the applicant proposes to transact business; and
 - d. Other information the commissioner may require.
2. The application for a license or for a renewal of a license must be accompanied by:
 - a. A license fee of one hundred dollars;
 - b. Evidence the commissioner may require showing that the satellite video livestock auction market or internet livestock auction market the representative proposes to do business with is financially responsible and bonded to transact such business;
 - c. A schedule of the fees and commissions that will be charged to owners, sellers, or their agents; and
 - d. A copy of the contract between the representative and the satellite video livestock auction market or internet livestock auction market with which the representative proposes to transact business. The contract must contain a provision authorizing the commissioner or the commissioner's designee to have access to the books; papers; accounts; financial records held by financial institutions, accountants, or other sources; and other documents relating to the activities of the satellite video livestock auction market or internet livestock auction market and requiring the satellite video livestock auction market or internet livestock auction market to make such documents reasonably available upon the request of the commissioner or the commissioner's designee. The contract must also provide that the satellite video livestock auction market or internet livestock auction market and its representative are jointly and severally liable, with the right of contribution, for all business transacted within this state by the representative on behalf of the satellite video livestock auction market or internet livestock auction market. If the contract between the representative and the satellite video livestock auction market or internet livestock auction market is terminated, rescinded, breached, or otherwise materially altered, the representative and the satellite video livestock auction market or internet livestock auction market shall immediately notify the commissioner. Failure to notify the commissioner of termination, rescission, breach, or material alteration of the contract between the representative and the satellite video livestock auction market or internet livestock auction market is deemed to be a failure to keep and maintain suitable records with the department and is deemed to be a false entry or statement of fact in an application filed with the department.

SECTION 4. AMENDMENT. Section 36-05.1-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-04. Use of fees - Grounds for refusal or revocation of license - Review by court.

All fees collected by the commissioner under this chapter must be deposited in the general fund of the state treasury. A license may be refused or revoked for any reason specified in subdivision c or d of subsection 2 of section 36-04-04 or section 36-04-10, or if the contract required by this chapter between the representative and the satellite video livestock auction market or internet livestock auction market is extinguished, rescinded, or canceled, or is breached by either party. The action of the commissioner in denying an application for a license or revoking or suspending a license may be appealed as provided in section 36-05-13.1.

SECTION 5. AMENDMENT. Section 36-05.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-06. Method of payment. Payment to the seller for livestock sold through a satellite video livestock auction market or internet livestock auction market must be made in United States currency, with an instrument payable on demand drawn on a financial institution chartered and regulated by a state or the federal government, or by wire transfer or other electronic form of payment from a financial institution chartered and regulated by a state or the federal government.

SECTION 6. AMENDMENT. Section 36-05.1-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-07. Sale of livestock by weight - Scales to be inspected. Notwithstanding section 36-21-15, all livestock sold by weight through a satellite video livestock auction market or internet livestock auction market must be sold based on the weight of the livestock on the day of delivery. All livestock sold by weight must be weighed on scales that have been tested and inspected by the department of weights and measures in the manner provided by law.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2152.

Senate Vote: Yeas 49 Nays 0 Absent 0

House Vote: Yeas 86 Nays 11 Absent 1

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State