

Sixty-first
Legislative Assembly
of North Dakota

Introduced by

1 A BILL for an Act

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 5. Any unpaid assessments due pursuant to this chapter ~~may~~ shall be increased by
4 two percent on the sixteenth day of each month ~~beginning with the day following~~
5 ~~the date the assessments were due. Any remaining amount due which includes~~
6 ~~any unpaid charges previously due pursuant to this section may be increased at~~
7 ~~the same rate on the corresponding day of each month thereafter until paid.~~

NOTE: The changes to this subsection reflect the manner in which penalties are imposed by the commission.

8 6. ~~The timeliness of the remittance of an assessment as required by this chapter~~
9 ~~must be based on the applicable postmark date or the date the assessment is~~
10 ~~actually received by the commission. The commission may sue for and collect~~
11 ~~assessments and any penalties on unpaid assessments. For purposes of this~~
12 section, an assessment is deemed to have been remitted:

- 13 a. On the date of its postmarked, if mailed;
14 b. On the date of its verified shipment, if sent by courier; or
15 c. On the date of its receipt by the commission if delivered personally or
16 electronically.

NOTE: This section authorizes the commission to sue for and collect assessments and penalties on unpaid assessments. NDCC Section 4-34-05 directs the commission to enforce the chapter and NDCC Section 4-34-06 authorizes the commission to sue and be sued.

17 **SECTION 12. AMENDMENT.** Section 4-34-11 of the North Dakota Century Code is
18 amended and reenacted as follows:

1 **4-34-11. Refund of assessments.** Any person who has made payment of
2 assessments under this chapter or who has had payment of assessments made on that
3 person's behalf may request and receive a refund, unless prohibited by federal law, and
4 provided that a written request and application for the refund is made within sixty days from the
5 date the assessments were due. Applications for refunds must be made by the seller
6 personally in such form as is reasonably required by the commission, and shall provide the
7 commission with sufficient information to identify assessments.

NOTE: It is recommended that the committee determine whether this section should be retained or reworded in light of the existing federal law.

8 **SECTION 13. AMENDMENT.** Section 4-34-12 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **4-34-12. Title.** This chapter must be known as the North Dakota Beef Promotion Act.

NOTE: Because it is not necessary to provide statutory titles for North Dakota Century Code chapters, it is recommended that this section be repealed.

11 **SECTION 14. AMENDMENT.** Section 4-34-13 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **4-34-13. Cattle purchasers - List of sellers to commission - Certain records**
14 **exempt from disclosure - Penalty.**

- 15 1. a. The commission may ~~adopt rules requiring~~ require the purchaser of cattle
16 subject to assessment under this chapter to furnish the commission with ~~the~~
17 ~~names~~ a list of persons from whom ~~the~~ cattle were purchased.
18 b. Any person who knowingly refuses to furnish the commission with required
19 information is guilty of a class B misdemeanor.

NOTE: It was not clear why the statute would authorize the commission to adopt rules requiring a purchaser to provide a list of buyers as opposed to merely authorizing the commission to obtain such information.

- 20 2. Except as otherwise provided by law, the following records are not subject to
21 section 44-04-18 and section 6 of article XI of the Constitution of North Dakota:
22 a. Records furnished to the commission pursuant to subsection 1;
23 b. Records furnished pursuant to section 4-34-14; and
24 c. The identity of a person requesting refund of an assessment under section
25 4-34-11, and the amount of the person's requested refund.

NOTE: Because Chapter 44-04 is the principal chapter dealing with open records, it would be preferable to move any exceptions into that chapter. This subsection might need to be amended, depending on the committee's decision regarding refund provisions in NDCC Section 34-11.

3. This section does not ~~limit the issuance of~~ preclude the commission from:
- a. Issuing general statements based upon the reports of persons subject to this chapter, ~~or the publication by the commission of; or~~
 - b. Publishing the name of any person found guilty of violating this chapter and a statement of the manner of violation by that person and describing the offense committed.

SECTION 15. AMENDMENT. Section 4-34-14 of the North Dakota Century Code is amended and reenacted as follows:

4-34-14. Records of cattle transactions - Inspection by commission.

1. ~~Each selling agency, livestock auction market, livestock dealer, and any other~~ Any person ~~subject to~~ required to pay or collect an assessment under this chapter shall keep a record of:
- a. The number of cattle ~~purchased, initially transferred, or otherwise:~~
 - (1) Purchased;
 - (2) Initially transferred; and
 - (3) Otherwise subject to assessment, ~~and the~~ under this chapter, and
 - b. The date of ~~such~~ any transaction involving cattle referenced in subdivision a;
 - ~~b.~~ The identification of the seller of cattle;
 - c. The name of the person who sold the cattle;
 - d. The number of cattle imported or the equivalent of beef or beef products;
 - ~~e.~~ e. The amount of any assessment remitted;
 - ~~e.~~ The basis, if necessary, to show why
 - f. The reason for any discrepancy between the ~~remittance is less than~~ amount remitted and the dollar amount obtained when multiplying the number of head of cattle multiplied referenced in subdivision a by the per head assessment;
 - and
 - ~~f.~~ g. The date on which any assessment was paid.

- 1 2. ~~Each person subject to~~ All records required by this section shall maintain and
2 make and any records required to verify other information provided to the
3 commission in accordance with this chapter must be:
4 a. Maintained for a period of at least three years; and
5 b. Made available for inspection by the commission ~~or its agents the records~~
6 ~~required by this section, including records necessary to verify any required~~
7 ~~reports. The records must be maintained for the period of time that the~~
8 ~~commission may prescribe by rule, but the records must be maintained for at~~
9 ~~least three years upon request.~~

NOTE: Current law provides that the records must be maintained for the period of time that the commission may prescribe by rule but that period must be at least three years. The rewrite proposes that a specific period of time be included in the statute.

10 **SECTION 16. CONTINUING APPROPRIATION.** All money in the beef commission
11 fund is appropriated to the commission on a continuing basis for carrying out the purposes of
12 this chapter.

13 **SECTION 17. REPEAL.** Section 4-34-04 of the North Dakota Century Code is
14 repealed.

NOTE: NDCC Section 4-34-04 pertains to the nomination of beef commission members. Its content has been included in the rewrite of NDCC Section 4-34-03.