

UNIFORM COMMERCIAL CODE

CHAPTER 457

SENATE BILL NO. 2405
(Roen, Albers, Sands)

IMPLIED WARRANTIES IN SALE OF LIVESTOCK

AN ACT to amend and reenact subsection 3 of section 41-02-33 of the North Dakota Century Code, relating to the applicability of implied warranties in the sale of cattle, hogs, sheep, and horses.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 3 of section 41-02-33 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. Notwithstanding subsection 2:

- a. ~~unless~~ Unless the circumstances indicate otherwise, all implied warranties are excluded by expressions like "as is", "with all faults" or other language which in common understanding calls the buyer's attention to the exclusion of warranties and makes plain that there is no implied warranty~~+-and_~~.
- b. ~~when~~ When the buyer before entering into the contract has examined the goods or the sample or model as fully as he desired or has refused to examine the goods there is no implied warranty with regard to defects which an examination ought in the circumstances to have revealed to him~~+-and_~~.
- c. ~~an~~ An implied warranty can also be excluded or modified by course of dealing or course of performance or usage of trade~~+-and_~~.
- d. ~~the~~ The implied warranties of merchantability and fitness shall not be applicable to a contract for the sale of human blood, blood plasma, or other human tissue or organs from a blood bank or reservoir of such other tissues or organs. Such blood, blood plasma, or tissue or organs shall not for the purposes

of this chapter be considered commodities subject to sale or barter, but shall be considered as medical services.

- e. With respect to the sale of cattle, hogs, sheep, and horses, there shall be no implied warranty that cattle, hogs, sheep, and horses are free from sickness or disease at the time the sale is consummated, conditioned upon reasonable showing by the seller that all state and federal regulations pertaining to animal health were complied with.

Approved April 7, 1979