

LIVESTOCK

CHAPTER 371

SENATE BILL NO. 2221

(Committee on Agriculture)

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

ANIMAL HEALTH DUTIES

AN ACT to create and enact a new section to chapter 36-01 of the North Dakota Century Code, relating to definitions; and to amend and reenact sections 36-01-08, 36-01-12, 36-01-13, 36-01-14, 36-01-17, and 36-01-19 of the North Dakota Century Code, relating to duties of the state board of animal health, powers of the state board of animal health over contagious and infectious diseases, diseased animals to be reported to the board, protest of killing of diseased animals, oaths and examinations, and the emergency fund in case of epizootic.

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:

Definitions. In this chapter unless the context or subject matter otherwise requires:

1. "Captive wildlife" means any wildlife held in a cage, fence, enclosure, or other manmade means of confinement that limits its movement within definite boundaries or an animal that is physically altered to limit movement and facilitate capture.
2. "Domestic animal" means dog, cat, horse, bovine animal, sheep, goat, bison, or swine.

SECTION 2. AMENDMENT. Section 36-01-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-08. Duties of board - Rules. The state board of animal health shall protect the health of the domestic animals and captive wildlife of this state and shall determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous, contagious, and infectious diseases among the domestic animals and captive wildlife of this state. The board may make rules for the conduct of its business and to carry into effect the purposes of this chapter and other duties prescribed in this title. The rules of the state board of animal health must be adopted in accordance with chapter 28-32.

SECTION 3. AMENDMENT. Section 36-01-12 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-12. Powers of board over contagious and infectious diseases. The state board of animal health may take such steps as it may deem necessary to control, suppress, and eradicate any and all contagious and infectious

diseases among any of the domestic animals and captive wildlife of this state. For this purpose, the board may quarantine any domestic animal or captive wildlife which is infected, or may be infected, with any such disease or which has been exposed, or may be exposed, to infection, cause any animal so infected to be killed, regulate or prohibit the arrival in or departure from this state of any such exposed or infected animal, and at the cost of the owner thereof, it may detain any domestic animal or captive wildlife found to be in violation of any such regulation or prohibition. The board may also quarantine any city, civil township, or county or areas within a county in this state and any enclosure, building, or any domestic animal or captive wildlife therein which is or may be infected or exposed or may be exposed to any contagious or infectious disease.

SECTION 4. AMENDMENT. Section 36-01-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-13. Diseased animal to be reported to board. Any person who discovers, suspects, or has reason to believe that any domestic animal or captive wildlife belonging to that person or belonging to any other person, is affected by any contagious disease, shall report such knowledge, suspicion, or belief to:

1. The state board of animal health or any member of the board;
2. The state veterinarian or any other agent or representative of the state board of animal health; or
3. Any law enforcement officer of the county or city in which the animal is present. If a report is made to a law enforcement officer under this subsection, the officer shall report the facts immediately to the state board of animal health, the state veterinarian, or another agent or representative of the state board of animal health and failure to do so constitutes a violation of the provisions of this chapter.

SECTION 5. AMENDMENT. Section 36-01-14 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-14. Protest against killing of diseased animal - Examination of animal by experts - Appointment of experts. Whenever a domestic animal or captive wildlife has been determined to be affected with a contagious or infectious disease and has been ordered killed by the state board of animal health, the state veterinarian, or an agent or representative of the state board of animal health, the owner or keeper of the animal must be notified of the order. Notice may be accomplished by sending, by registered or certified mail, a copy of the order to the owner or keeper of the animal, or by having an agent or representative of the board, or a law enforcement officer, serve a copy of the order upon the owner or keeper of the animal. Within twenty-four hours after receiving notice of the order, the owner or keeper may file a protest against the killing of the animal with the board or with the person who has ordered the animal killed. The protest must state under oath, that to the best of the knowledge and belief of the person making the protest, the animal is not infected with any contagious or infectious disease. An examination of the animal involved then must be made by three experts, one of whom must be appointed by the board, one by the person making the protest, and the third by the two thus appointed. All the experts must

be persons learned in veterinary medicine and surgery and graduates of the veterinary course of a recognized college or university.

SECTION 6. AMENDMENT. Section 36-01-17 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-17. Oaths and examinations. The state board of animal health, any member of the board, the state veterinarian, or any authorized agent or representative of the board, may examine or cause to be examined under oath all persons believed to possess knowledge of material facts concerning the existence or dissemination, or the danger of dissemination, of disease among domestic animals or captive wildlife. For this purpose, the board, members of the board, the state veterinarian, and any authorized agent or representative of the board, shall have the power to take depositions, to compel witnesses to attend and testify, and to administer oaths. Such witnesses shall receive the same fees for attendance and travel as witnesses before the district courts, and the fees must be paid by the board from moneys appropriated to it.

SECTION 7. AMENDMENT. Section 36-01-19 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-19. Emergency fund in case of epizootic. In case of any serious outbreak of any contagious, infectious, or epizootic diseases among domestic animals or captive wildlife, which cannot be controlled with the funds at the disposal of the state board of animal health, the board shall notify the governor at once, and the governor thereupon shall call a meeting of the emergency commission, and such commission may authorize money to be drawn from the state treasury to meet the emergency.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 372

SENATE BILL NO. 2145
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

LIVESTOCK DEALER LICENSE AND BOND

AN ACT to amend and reenact sections 36-04-03 and 36-04-05 of the North Dakota Century Code, relating to licensing and bonds of livestock dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-04-03 of the North Dakota Century Code is amended and reenacted as follows:

36-04-03. Dealer's license required - Agent designation and licensure - Suitability for licensure - Liability of owner for agent's acts.

1. All dealers and agents must be licensed as provided in this chapter.
2. No agent may act for any dealer unless the dealer is licensed and has designated such agent to act in the dealer's behalf and has notified the department of the appointment in the dealer's application for a license or in a separate written instrument and requested the department to issue to such agent an agent's license in such form as may be prescribed by the commissioner and has signed a statement in substantially the following form:

I, the undersigned applicant for a North Dakota livestock dealer's license, understand that I am strictly responsible for and will be held strictly liable for all acts, omissions, or failures arising out of livestock dealings of the agent(s) listed above, whether or not the dealings have been personally authorized by me.

3. No dealer may designate as an agent any person who has been denied a dealer's or agent's license or has had a dealer's or agent's license revoked for any reason or has otherwise acted in a manner which would be in violation of this chapter, except upon a determination by the commissioner that the person is sufficiently rehabilitated to serve the public as a dealer's agent and that the person does not owe any debt to any livestock seller or auction market. Conviction of an offense as defined by section 12.1-01-04, does not disqualify a person from licensure unless the commissioner determines that the offense has a direct bearing upon a person's ability to serve the public as a dealer's agent or that the person is not at present sufficiently rehabilitated under section 12.1-33-02.1.

4. Agents may not deal in their own names or issue a check or any other commercial paper except in the name of their principals when acting as an agent. A dealer is accountable and responsible for all the acts arising out of livestock dealings of a designated agent, whether authorized or unauthorized by the dealer.

SECTION 2. AMENDMENT. Section 36-04-05 of the North Dakota Century Code is amended and reenacted as follows:

36-04-05. Dealer to file bond with department - Additional bond may be required. Each applicant for a license under this chapter shall file with the application a bond issued by an approved surety company. The department must be named as the obligee in each bond but the bond will be held for the purpose of protecting and for the benefit of any person selling livestock or wool, as the case may be, to the licensed dealer or the dealer's agent. The bond must be conditioned for:

1. The faithful performance by the dealer and the dealer's designated agent of the duties as such;
2. The compliance by the dealer and the dealer's designated agent with all of the provisions of this code relating to the purchase of livestock or wool, as the case may be;
3. The full and complete payment to the seller for all livestock or wool purchased by the dealer or the dealer's designated agent; and
4. The full protection of any person who deals with the dealer or the dealer's designated agent.

Each bond must cover the license period of the dealer or such greater time as the commissioner may prescribe and must be approved as to amount, form, and sufficiency by the department. The minimum amount of bond is ten thousand dollars, and must be for any greater amount as may be determined by computing the amount of bond on the same basis as prescribed for dealers subject to the provisions of the Packers and Stockyards Act, 1921 [Pub. L. 67-51; 42 Stat. 159; 7 U.S.C. 181 et seq.]. The department may demand an additional or increased bond whenever in its judgment the volume of business of the principal warrants such demand.

In lieu of the bond required of dealers under this section, the applicant may file with the department the dealer's bond filed by that applicant with the United States department of agriculture and in effect pursuant to the Packers and Stockyards Act, 1921, naming the commissioner as the trustee of such bond. Bonds from out-of-state applicants may be in favor of a trustee who is a financially responsible, disinterested person satisfactory to the commissioner. The minimum amount of such bond is ten thousand dollars, unless the department determines that the amount of such bond is insufficient in any instance, in which event the department shall require the reasonable amount of the bond required to protect the public interest.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 373

SENATE BILL NO. 2132
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

LIVESTOCK DEALER PENALTIES

AN ACT to amend and reenact section 36-04-21 of the North Dakota Century Code, relating to adjudication of civil penalties for violations of livestock dealers laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-04-21 of the North Dakota Century Code is amended and reenacted as follows:

36-04-21. Penalties - Criminal - Civil - Injunctions.

1. Any person who violates any of the provisions of this chapter is guilty of a class A misdemeanor.
2. Any 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.
3. The department may, in accordance with the laws of this state governing injunctions and other process, maintain an action in the name of the state against any person violating any provision of this chapter.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 374

SENATE BILL NO. 2149

(Committee on Agriculture)

(At the request of the Commissioner of Agriculture)

LIVESTOCK BRANDS AND AUCTION MARKETS

AN ACT to amend and reenact sections 36-05-05, 36-09-02.1, and 36-09-23 of the North Dakota Century Code, relating to the expiration and renewal of livestock auction market licenses, standards for recording livestock brands or marks, and brand inspections; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-05-05 of the North Dakota Century Code is amended and reenacted as follows:

36-05-05. Expiration and renewal of license - Fee returned upon failure to issue or renew license. Each license issued under this chapter expires on the thirty-first day of ~~January~~ March next following the date of issuance ~~thereof~~. Each license must be renewed annually on or before ~~January~~ March thirty-first. The fee for a renewal license is the same as that prescribed for an original license. If the commissioner does not issue a requested original license or renewal license, the fee paid must be refunded to the applicant. Licenses issued in 1991 extend until March 1992.

SECTION 2. AMENDMENT. Section 36-09-02.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-09-02.1. Standards for recording brands or marks. The commissioner shall record the brand or mark described in the application except that the commissioner shall refuse to record any brand or mark:

1. That has been previously recorded in favor of another person or one that is deceptively similar to any previously recorded livestock brand or mark. The same or similar livestock brand or mark which is to be placed on a different part of the animal from that described in the previous record may be recorded.
2. That contains less than two characters, except that a single character brand may be recorded for sheep and goats, or one that contains any of the following characters:
 - a. The letters "g" or "q" or letters that are not in the gothic style.
 - b. The Arabic numerals "o" or "l" or any non-Arabic numerals.
 - c. Any symbols other than permissible symbols. Permissible symbols are limited to the following: diamond, half-diamond,

arrow, mill iron, cross, heart, box, triangle, quarter circle, bar, or star.

3. That involves any letters, numerals, or symbols within another letter, numeral, or symbol.
4. That is illegible when placed on the livestock.
5. That indicates placement upon each kind of livestock in other than a permissible location. Permissible locations for cattle are the left and right shoulder, the left and right rib, and the left and right hip. Permissible locations for horses and mules are the left and right jaw, the left and right shoulder, and the left and right hip. Permissible locations for buffalo are the left and right rib, and the left and right hip. The permissible locations for other types of livestock must be established by the commissioner as necessary. The determination of permissible locations under this section may not be considered as a rule under chapter 28-32.

Notwithstanding any provisions of this section to the contrary, the commissioner shall accept for rerecording under section 36-09-09 any previously recorded livestock brand or mark.

SECTION 3. AMENDMENT. Section 36-09-23 of the North Dakota Century Code is amended and reenacted as follows:

36-09-23. Removal of livestock from state - Brand inspection - Penalty. No person may remove cattle, horses, or mules from this state or to within a mile [1.61 kilometers] of any boundary of the state for the purpose of removal unless ~~such~~ the livestock has been inspected for marks and brands by an official brand inspector of the North Dakota stockmen's association and a certificate of inspection must accompany ~~such~~ the livestock to destination. In lieu of ~~such~~ the inspection, the owner or possessor may make and sign an invoice or waybill covering ~~such~~ the stock showing marks and brands, number, sex and kind of the stock and the consignee and market destination where official brand inspection is provided by or for the ~~said~~ stockmen's association and mail a copy of ~~such~~ the invoice or waybill to the association before the stock leaves the state.

It is unlawful for the owner or possessor to remove any ~~such~~ livestock from any place of ~~such~~ regular official brand inspection unless and until official brand inspection has been made and the brand inspection certificate issued.

Any violation of A person who violates this section constitutes is guilty of a class B misdemeanor. A person who violates this section a second time within fifteen years or violates this section three or more times is guilty of a class C felony.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 375

HOUSE BILL NO. 1171

(Committee on Transportation)

(At the request of the Public Service Commission)

WEIGHMASTERS

AN ACT to repeal sections 36-06-04, 36-06-05, 36-06-05.1, 36-06-06, 36-06-07, 36-21-14, 36-21-16, 36-21-17, 60-09-01, 60-09-02, 60-09-04, 60-09-05, and 60-09-06 of the North Dakota Century Code, relating to issuance, fees, renewal, and revocation of weighmaster's licenses, weighing of livestock at a plant, remuneration of a weighmaster, issuance and revocation of grain elevator weighmaster's licenses, weighmaster's records, duties of a deputy weighmaster, and penalty for false weighing.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Sections 36-06-04, 36-06-05, 36-06-05.1, 36-06-06, 36-06-07, 36-21-14, 36-21-16, 36-21-17, 60-09-01, 60-09-02, 60-09-04, 60-09-05, and 60-09-06 of the North Dakota Century Code are repealed.

Approved March 8, 1991
Filed March 8, 1991

CHAPTER 376

SENATE BILL NO. 2378
(Lips)

UNATTENDED ANIMALS IN VEHICLES

AN ACT to create and enact a new section to chapter 36-21.1 of the North Dakota Century Code, relating to unattended animals in motor vehicles; to amend and reenact subsection 1 of section 36-21.1-06 of the North Dakota Century Code, relating to removing an unattended animal from a motor vehicle; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 36-21.1 of the North Dakota Century Code is created and enacted as follows:

Unattended dog or cat in motor vehicle. No person may leave a dog or cat unattended in a stationary or parked motor vehicle in a manner that endangers the animal's health or safety. Any person who violates this section is guilty of an infraction.

SECTION 2. AMENDMENT. Subsection 1 of section 36-21.1-06 of the North Dakota Century Code is amended and reenacted as follows:

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of, and care for any animal found abandoned, unjustifiably exposed to cold or inclement weather, or not properly fed and watered. Any sheriff or police officer may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 1 of this Act. It is a responsibility of such sheriff, police officer, licensed veterinarian, or investigator to care for the same until it is redeemed by the owner, and when necessary may deliver the animal to another person to be sheltered, cared for, and furnished suitable food and drink. In all cases the owner, if known, must be immediately notified, or if the owner is unknown, notice must be given by publication in the manner prescribed by law. Such notice must inform the owner that such animal may be sold pursuant to court order if the animal is not redeemed within five days after receiving the notice or after publication.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 377

HOUSE BILL NO. 1478
(Representatives Boucher, Freier, Skjerven)
(Senator Naaden)

MEAT INSPECTION PILOT PROJECT

AN ACT relating to state meat inspection; to repeal chapter 36-23.1 of the North Dakota Century Code, relating to meat inspection; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Joint state and federal meat inspection service - Pilot project - Contracts. The commissioner of agriculture, in consultation with the board of animal health and the state department of health and consolidated laboratories, shall design and, if appropriate, implement a pilot project to institute a joint state and federal meat inspection service. The service must provide for the inspection of custom-exempt, retail-exempt, and distributor-exempt facilities not under full-time federal inspection. The commissioner may enter into contractual arrangements with the United States department of agriculture governing inspection personnel, salaries, benefits, travel reimbursements, equipment, and any other matters necessary for this section, but any contractual arrangement must expire on or before June 30, 1993.

SECTION 2. Project evaluation - Proposed legislation. By December 1, 1992, the commissioner shall determine whether the pilot project designed under section 1 of this Act should be continued or modified. If the determination is for continuance or modification, by December 10, 1992, the commissioner shall prepare and prefile for introduction appropriate legislation for consideration by the fifty-third legislative assembly.

SECTION 3. REPEAL. Chapter 36-23.1 of the North Dakota Century Code is repealed.

SECTION 4. EXPIRATION DATE. Sections 1 and 2 of this Act are effective through June 30, 1993, and after that date are ineffective.

Approved March 25, 1991
Filed March 26, 1991