

Sixty-first  
Legislative Assembly  
of North Dakota

ENGROSSED HOUSE BILL NO. 1491

Introduced by

Representatives D. Johnson, S. Meyer

Senators Erbele, Klein

1 A BILL for an Act to amend and reenact sections 36-09-17, 36-09-20, 36-09-20.1, 36-09-22,  
2 and 36-09-23 of the North Dakota Century Code, relating to penalties imposed for violation of  
3 brand laws.

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

5 **SECTION 1. AMENDMENT.** Section 36-09-17 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **36-09-17. Defacing brands and unlawfully branding - Penalty.** ~~Any~~ A person who  
8 ~~shall:~~

9 ~~4. Alter or deface, or attempt~~ is guilty of a class A misdemeanor for a first offense and  
10 a class C felony for a second or subsequent offense if the person:

11 1. Alters, defaces, or attempts to alter or deface; the mark or brand ~~upon~~ on any  
12 animal, ~~the property of owned by another for the purpose of deceiving others as to~~  
13 the animal's ownership; or

14 2. Willfully and unlawfully mark or brand, or cause marks, brands, or causes to be  
15 marked or branded; any animal, ~~the property of owned by another, is guilty of a~~  
16 class A misdemeanor for the purpose of deceiving others as to the animal's  
17 ownership.

18 **SECTION 2. AMENDMENT.** Section 36-09-20 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **36-09-20. Bill of sale to be given and kept - Copy with shipment - Effect - Penalty.**

21 1. A person may not sell cattle, horses, mules, or any other livestock carrying a  
22 registered brand unless:

23 a. The seller is the owner of the registered brand and delivers a bill of sale for  
24 the cattle, horses, mules, or other livestock to the purchaser; or

- 1           b. The seller delivers to the purchaser a bill of sale executed by the owner of the
- 2                     registered brand and endorsed by the seller evidencing the later transaction.
- 3           2. The bill of sale must include:
- 4           a. The date;
- 5           b. The name, address, and signature of the seller;
- 6           c. The name, address, and signature of an individual who is at least eighteen
- 7                     years of age and who can verify the name and signature of the seller;
- 8           d. The name and address of the buyer;
- 9           e. The total number of animals sold;
- 10           f. A description of each animal sold as to sex and kind; and
- 11           g. A description of the registered brands.
- 12           3. The bill of sale must be kept by the buyer for two years and as long thereafter as
- 13                     the buyer owns any of the animals described in the bill of sale.
- 14           4. A copy of the bill of sale must be given to each hauler of the livestock, other than
- 15                     railroads, and must go with the shipment of the livestock while in transit.
- 16           5. The bill of sale or a copy of the bill of sale must be shown by the possessor on
- 17                     demand to any peace officer or brand inspector.
- 18           6. The bill of sale is prima facie evidence of the sale of the livestock described in the
- 19                     bill of sale.
- 20           7. A bill of sale is not required relative to sales of livestock covered by a legal
- 21                     livestock brand inspection.
- 22           8. Any person ~~who~~ that willfully violates this section is guilty of ~~an infraction~~ a class B
- 23                     misdemeanor for a first offense and a class A misdemeanor for a second or
- 24                     subsequent offense.

25           **SECTION 3. AMENDMENT.** Section 36-09-20.1 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **36-09-20.1. False proof of ownership - Sale of livestock - Penalty.** A person that  
28 ~~knowingly~~ willfully provides false proof of ownership in conjunction with the sale of livestock is  
29 guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or  
30 subsequent offense.

1           **SECTION 4. AMENDMENT.** Section 36-09-22 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **36-09-22. Sale of animal under false registration ~~certificates~~ certificate -**

4 **Changing marking - ~~Auctioneer~~ Penalty. ~~No~~**

5           1. ~~A~~ A person may ~~not~~ willfully:

6           ~~4-~~ a. Sell ~~any~~ an animal with a certificate of registration or breeding that the person  
7           knows does not belong to ~~said~~ the animal.

8           ~~2-~~ b. ~~Change in any way the~~ Alter any animal's certificate of registration or  
9           breeding ~~of any animal~~.

10          ~~3-~~ c. ~~Falsely represent~~ Misrepresent any production record specified in ~~any~~ a  
11          registration certificate.

12          ~~4-~~ d. Change the markings of any ~~animals~~ animal with intent to deceive the  
13          purchaser ~~or misrepresent~~.

14          e. Misrepresent the sire to which such animal has been bred.

15          ~~The provisions of this section do not apply to any auctioneer or agent acting in good~~  
16 ~~faith under the direction of the owner.~~

17          ~~Any~~

18          2. ~~A person who~~ that violates ~~any of the provisions of~~ this section is guilty of a  
19          class ~~B~~ A misdemeanor for a first offense and a class C felony for a second or  
20          subsequent offense.

21          **SECTION 5. AMENDMENT.** Section 36-09-23 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23          **36-09-23. ~~Removal~~ Transportation of livestock from state - Brand inspection -**

24 **Penalty.**

25          1. ~~No~~ A person may ~~remove~~ not transport or attempt to transport cattle, horses, or  
26          mules from this state ~~or to within a mile [1.61 kilometers] of any boundary of the~~  
27          ~~state for the purpose of removal~~ unless the livestock has been inspected for marks  
28          and brands by an official brand inspector of the North Dakota stockmen's  
29          association ~~and a~~. A certificate of inspection must accompany the livestock to its  
30          destination. This subsection does not apply to a person that:

- 1           a. Transports cattle, horses, or mules from this state to obtain for the animals  
2           emergency medical treatment by a licensed veterinarian; or  
3           b. Transports cattle, horses, or mules from this state to an auction market that is  
4           located in a bordering state and which has been designated by rule as an  
5           official brand inspection market.
- 6           2. ~~It is unlawful for the~~ The owner or possessor ~~to remove any~~ of livestock may not  
7           remove the livestock from any place of regular official brand inspection ~~unless and~~  
8           until an official brand inspection has been made and the brand inspection  
9           certificate has been issued.
- 10          3. A person ~~who~~ that willfully violates this section is guilty of a class ~~B~~ A  
11          misdemeanor. A person ~~who~~ that violates this section a second time within ~~fifteen~~  
12          five years or violates this section three or more times is guilty of a class C felony.