

# BRANDS AND EARMARKS.

## CHAPTER 37.

[S. F. 166.]

### RELATING TO BRANDS ON DOMESTIC ANIMALS.

AN ACT Entitled "An Act Relating to the Use of Brands and Earmarks on Domestic Animals and Live Stock, and Repealing Chapter 61 of the Session Laws of 1881."

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. EXCLUSIVE RIGHTS.] Any person or persons, partnership, association or corporation, having cattle, hogs, sheep, horses, mules or asses, shall have the right to adopt a brand or earmark, for the use of which he or they shall have the sole and exclusive right, in the State of North Dakota, when a certificate, signed by the parties desiring to adopt such brand or earmark, or by the officer managing such association or corporation, shall have been filed for record in the office of the Secretary of State, of the said State of North Dakota, and such certificate shall set forth a *fac simile* and description of the brand or earmark, which the parties desire to use, and shall also state the different counties in which the parties desire to have the said brand or earmark recorded.

§ 2. RECORD—FEES.] It is hereby made the duty of the Secretary of State of the State of North Dakota, to procure two suitable books, one to be known as the "brand record," and the other as the "earmark record," in which he shall record all brands and earmarks that may be filed for record in his office; and he shall receive a fee of three (3) dollars for his services, for every brand or earmark, so filed and recorded as aforesaid, together with one (1) dollar for each register of deeds in each county in which such brands or earmark is to be recorded.

§ 3. BRAND TO BE RECORDED BY REGISTER OF DEEDS.] Upon the filing of the certificate of brand or earmark, and the payment of the fees specified in the foregoing section it shall be the duty of the Secretary of State to cause the said certificate to be recorded in the proper record book, and to immediately transmit a certified copy of such certificate to the register of deeds of each county in which the same is to be recorded, together with one (1) dollar, the register of deed's fee for recording the same, and when the county in which such domestic animals or live stock may be situated is an unorganized county, then to the register of deeds of the

county to which the said unorganized county may be attached for judicial purposes.

§ 4. SIMILAR BRANDS PROHIBITED.] No person or persons, partnership, association or corporation shall have or adopt a brand or earmark, previously recorded to another person or persons, partnership, association or corporation of this State, neither shall the Secretary of State record the same brand or earmark, or one similar thereto, to more than one person or party.

§ 5. WHAT CONSTITUTES TRUE BRAND.] It shall be the duty of the Secretary of State to decide as to the conflict of brands or earmarks, to reject any one that, being the same as one previously recorded, has in addition any of the following, whether placed across, above, below, at either side or encircling the main brand or earmark, viz: A straight bar; a quarter half or entire circle; a quarter, half, or entire diamond, either upright or inverted, the same not constituting a true brand and rendering the owner of the same brand liable to damages for its use, saving only where one or more of them shall be filed by the owner of the first record of the main brand, in which case it may be accepted. The Secretary of State shall reject any brand or earmark formed by repetition of any device, letter, number or figure which shall have been previously recorded in his office, whether to be placed on the same, or on a different part of the animal; the exclusive right of the first record to the device, letter, number, or figure, and to repetition of it being reaffirmed. He shall also reject all brands known as solid brands, and all earmarks which shall remove to exceed one-half of the ear. A variation in the size of a device, letter, number, or figure shall not constitute a new brand or earmark, and shall be rejected. A combination of letters, numbers, or figures, may be permitted, though the same letters, numbers or figures, may have been recorded, single or together, if in the judgment of the Secretary of State said combination is so different from any previous record, as to constitute a new brand, with no danger of infringement.

§ 6. BRANDS TO BE PROCURED BEFORE LAWFUL TO TURN STOCK LOOSE.] It shall be the duty of any person or persons, partnership, association or corporation, who after the passage of this act, brings into this State, and before turning loose for grazing purposes, any herd or individual animal already branded, to lay before the Secretary of State a statement of the brands or earmarks of said animals; and if in the judgment of the Secretary of State said brands or earmarks conflict with any previously recorded in his office, it shall be the duty of the owner or manager of said animals to brand or mark them with a brand or earmark, that the Secretary of State shall consider a full and distinguishing brand or earmark, from all brands or earmarks heretofore recorded in his office and the owner or manager of said animals shall be enjoined from any further use of the conflicting brand or earmark, and shall be required to file his certificate of the new brand or

earmark and have the same recorded as other brands and earmarks are recorded in the office of the Secretary of State. A failure to comply with the above shall render the party so failing, liable for all damages resulting from such failure, which damages may be recovered in a civil suit. It is further provided that this section shall apply to all animals now in this State whose brands or earmarks are considered by the Secretary of State to conflict or infringe on those previously recorded in his office.

§ 7. BRAND PRIMA FACIE EVIDENCE OF OWNERSHIP.] In all suits in law or in equity, or in any criminal proceedings, where the title to any domestic animals or live stock is involved, the brand or earmark on any animal shall be *prima facie* evidence of the ownership of the person whose brand or earmark it may be; *Provided*, That such brand or earmark has been duly recorded as provided herein. Proof of the right of any person to use such brand or earmark, shall be made by a copy of the record certified to by the Secretary of State or the register of deeds of any county where the said brand or earmark may be recorded, under the hand and seal of such officer.

§ 8. ESTRAYS TO BE NOTICED TO SECRETARY OF STATE.] It shall be the duty of any person taking up an estray animal that is branded or earmarked to notify the Secretary of State, by registered letter, of the time and place of the taking up of such animal, together with a description of the brand or earmark on the same, and it shall be the duty of the Secretary of State, if such brand or earmark has been duly recorded in his office, to notify the owner thereof of the taking up of such estray; and if such brand or earmark has not been recorded in the office of the Secretary of State, the said Secretary of State shall notify the party taking up such estray, that there is no such brand or earmark recorded in his office, the party may then proceed against said animal under the law on estrays.

§ 9. RUNNING BRAND PROHIBITED.] It shall be unlawful for any person or persons, partnership or association or corporation, in branding any domestic animals or live stock, to use what is known among stock growers as a running brand.

§ 10. PENALTY FOR FALSE REGISTER.] Any register of deeds of any county in this State, who shall record any brand or earmark, other than those duly transmitted to him by the Secretary of State, shall be deemed guilty of a misdemeanor, and upon conviction in any court of competent jurisdiction, shall be punished by a fine of not exceeding one hundred (100) dollars, which shall go to the school fund in the county in which such record shall have been made.

§ 11. PENALTY FOR VIOLATION OF ACT.] Any person or persons, partnership, association or corporation, who shall violate or fail to obey the provisions of this act, or shall continue the use of any brand or earmark, after the same has been rejected by the Secretary of State, or shall continue to use any brand or earmark,

after the said Secretary of State shall have decided that the same conflicts with a previously recorded brand or earmark, shall be deemed guilty of a misdemeanor and upon conviction in any court of competent jurisdiction, shall be punished by a fine of not exceeding \$1,000, or by imprisonment in the county jail for a term not exceeding one year, or by both such fine and imprisonment, in the discretion of the court.

§ 12. REPEAL.] That all laws or parts of laws, in conflict herewith are hereby repealed, and this act must be construed as repealing Chapter 61 of the Session Laws of 1881.

§ 13. WHAT BRANDS HAVE PRIOR RIGHT.] All brands or earmarks heretofore recorded in any county within this State shall have prior right in the order in which they are recorded in their respective counties; *Provided*, That such brands or earmarks shall be filed for record with the Secretary of State within four months after the taking effect of this act.

§ 14. EMERGENCY.] The absence, in the present laws of the State of North Dakota, of speedy and adequate remedies for the enforcement of the provisions of this act, creates an emergency, which calls for the immediate taking effect of the same; therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 8, 1890.

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## BRIDGES.

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### CHAPTER 39.

[S. F. 118.]

COUNTY TO BUILD WHERE COST EXCEEDS ONE HUNDRED DOLLARS.

AN ACT Entitled "An Act Authorizing Counties to Build all Bridges Within the County Limits, Wherein the Cost of the Construction of Same Exceeds the Sum of One Hundred Dollars."

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. PETITION—BIDS.] Whenever a majority of the freeholders of a civil township or a majority of freeholders living within a radius of three miles of the proposed location shall petition the board of county commissioners for a bridge at a specified location within said township, when the cost of said bridge will