

THE LAWS

AGRICULTURE

CHAPTER 1

S. B. No. 67—(Porter, Thatcher and Kehoe)

FRUIT TREES AND SHRUBS, PROTECTION OF

An Act to prohibit cutting, removing or destroying any native growing fruit bearing shrubs, or trees, providing a penalty and declaring an emergency.

WHEREAS, the native timbered lands of North Dakota are producing native growing fruit bearing shrubs, and trees, which are furnishing ornamentation to the state and supplying food for human consumption and sustenance for wild life, and

WHEREAS, such shrubs, and trees, are being annually and rapidly cut and depleted for selfish and commercial purposes

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. NATIVE GROWING FRUIT BEARING SHRUBS, OR TREES, CUTTING, REMOVAL OR DESTRUCTION, PROHIBITED.] No person, firm or corporation shall cut or remove or destroy any native growing fruit bearing shrub or tree on any native growing timbered lands in the State of North Dakota, except where such land is being cleared for agricultural purposes.

§ 2. PENALTY.] Any person, firm or corporation violating any of the provisions of Section 1 shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$100.00 nor more than \$500.00, or be imprisoned in the county jail for not less than thirty days nor more than six months, or both such fine and imprisonment.

§ 3. EMERGENCY.] This act shall be in full force and effect from and after its approval.

Approved March 12, 1943.

CHAPTER 2

H. B. No. 65—(Livestock Committee)

LIVESTOCK BRANDS

An Act to amend and re-enact Section 2596 of the Compiled Laws of North Dakota for 1913, and Sections 2602, 2603, 2604 and 2605, as amended by Chapter 8 of the Session Laws of 1933, relating to cancellation and re-recording livestock brands, abolishing the use of single figures or single letters as livestock brands, providing for publication and distribution of brand books to registered owners of brands making an appropriation of \$12,600.00 to carry out the provisions of this Act; and repealing all acts or parts of acts in conflict therewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ I. AMENDMENT.] That Section 2596 of the Compiled Laws of North Dakota for 1913 be amended and re-enacted to read as follows:

§ 2596. Commissioner of Agriculture and Labor; Brands. The Commissioner of Agriculture and Labor shall keep a record of all marks and brands, showing the names and residences of the persons owning the same, together with a description and facsimile of such mark or brand, and in case of livestock and range occupied by such stock, as near as may be determined, which record shall be open to the inspection of any person interested, and he shall deliver to the owner of such mark or brand a certificate thereof, which certificate shall be deemed evidence of ownership, for which he shall charge and collect a fee of Two Dollars (\$2.00).

That Sections 2602, 2603, 2604 and 2605 of the Compiled Laws of North Dakota for 1913 as amended by Chapter 8 of the Session Laws of 1933 be amended and re-enacted to read as follows:

§ 2602. On the first day of January, 1944, each and every livestock brand or mark shall be cancelled and no person, co-partnership, company, firm or corporation shall use or have any right, title or interest in or to any livestock brand or mark previously recorded in this State. Provided, however, that if a person, co-partnership, company, firm or corporation should desire to continue ownership, thereof, the brand or mark must be re-recorded on or before January first, 1944. Provided, however, that after the effective date of this Act no single figure or single letter shall be used as a livestock brand, except that owners of single letter or figure brands shall have the privilege to use such single letter or figure brand combined with some other character, letter or figure. Provided further, however, that re-recording shall not be required from an owner who has registered for a new brand within six months prior to January first,

1944, or within six months of the date providing for re-recording of brands thereafter.

All livestock brands recorded or re-recorded after the effective date of this Act shall be void after the expiration of six years from January first, 1944, and shall be required to be re-recorded every sixth year after said first day of January, 1944. Failure to re-record any previously recorded livestock brand or mark on or before the time specified, and under the provisions hereof, shall be deemed an absolute abandonment to the State of North Dakota of such previously recorded livestock brand or mark. On or after January first, 1944, the Commissioner of Agriculture and Labor shall accept regular application for the issuance to anyone of such abandoned livestock brand or mark; and the said commissioner of Agriculture and Labor is hereby authorized, empowered and directed to issue his certificate for the use of such abandoned brand or mark within this State, except that such brand or mark shall not be issued if it consists of a single figure or single letter.

§ 2603. It shall be the duty of the Commissioner of Agriculture and Labor to notify on or before August first, 1943, and on or before August first of each sixth year thereafter, each and every record owner of livestock brand or mark of the final date set for cancellation and also of his or her or their prior right to re-record such previously recorded livestock brand or mark. Such notice shall be given in writing, legibly written, sent by ordinary first-class mail and addressed to the record owner at the address as shown upon the present records.

§ 2604. It shall be the duty of the Commissioner of Agriculture and Labor to publish in each official newspaper in every county where brands or marks are in use, a notice of the expiration of the time fixed by law for the re-recording of livestock brands or marks, and the prior right of record owners to re-record his, her or their previously recorded brands or marks. Such publication shall begin on or about the first of September, 1943, and on or about the first of September, every sixth year thereafter, and such publication shall continue at least three successive times in each of such newspapers. The Commissioner shall also request each newspaper publishing notices to call attention to this law in a news item in the regular columns, for which no charge shall be allowed.

§ 2605. Re-recording of abandoned livestock brands or marks, and the recording of new brands and marks shall conform in all respects to existing provisions of law, and not otherwise. All applications for re-recording shall be accompanied by a fee of Two Dollars (\$2.00).

§ 2.] The Commissioner of Agriculture and Labor is hereby directed and authorized to compile and issue a brand book from the records of livestock brands in his office as of January first, 1944, and

a copy of such brand book shall be delivered free of charge to every registered owner of brands at the time of the issuance of certificates of registration or re-registration; and annually thereafter the Commissioner of Agriculture and Labor shall prepare a supplement of brands registered during the year and distribute the same free of charge to all brand owners as shown by the records of his office.

§ 3. APPROPRIATION.] There is hereby appropriated the sum of \$12,600.00 or so much thereof as may be necessary to carry out the provisions of this Act, beginning July 1, 1943 and ending June 30, 1945, to wit:

Clerk Hire -----	\$ 4,800.00
Postage -----	640.00
Publication of Notices -----	260.00
Stationery -----	150.00
Application Blanks -----	250.00
Files -----	100.00
Miscellaneous -----	800.00
Publication of Brand Books, Printing, Paper and other Materials Necessary in Preparation and Publication of same-----	5,600.00
Total -----	\$12,600.00

§ 4.] All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved March 20, 1943.

CHAPTER 3

H. B. No. 167—(Committee on Livestock)

LIVESTOCK DEALERS ACT, AMENDMENT

An Act to amend and re-enact Section 5, Chapter 5 of the Session Laws of the State of North Dakota for the year 1937, relating to dealers in livestock; authorizing the Public Service Commission to appoint inspectors with powers of peace officers for the enforcement of the provisions of said act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 5 of Chapter 5 of the Session Laws of the State of North Dakota for the year 1937 is hereby amended and re-enacted to read as follows:

§ 5. (a) For the purpose of carrying out the provisions of

this act, there is hereby created in the State Treasury, a State Fund to be known as the "Livestock Dealers Fund." All fees collected by the Commission under the provisions of this act necessary in administering and enforcing this act, or so much thereof as may be necessary, are hereby appropriated to the use of said Commissioners and shall be paid into the State Treasury monthly, and shall be credited to the said Livestock Dealers Fund to the use of the Commission and shall be paid out upon proper voucher and audit by the State Auditing Board for the expenses of said Commission in administering and enforcing the provisions of this act.

(b) That the Public Service Commission may appoint inspectors to enforce the provisions of this act, said inspectors shall have all the powers of peace officers to make arrests for the violation of any of the provisions of this act and shall assist in enforcement thereof in any part of this State; and that any person who shall hinder, impede, resist or otherwise interfere in any way with such inspector while engaged in the lawful performance of his official duties in the enforcement of the provisions of this act shall be subject to the penalty provided for herein.

Approved March 9, 1943.

CHAPTER 4

S. B. No. 161—(Brant and Lynch)

POULTRY IMPROVEMENT BOARD MEMBERSHIP

An Act to Amend and Re-enact Section 2 of Chapter 7 of the Session Laws of 1939; relating to the membership of the State Poultry Improvement Board providing for licenses and fees for poultry processors, packers and buyers; hatcheries, baby chick and turkey poult jobbers and salesmen, record of performance, breeders and poultry feed manufacturers, wholesalers and retailers, and defining retailers.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2 of Chapter 7, Session Laws of 1939 is hereby amended and re-enacted to read as follows:

§ 2. MEMBERSHIP OF BOARD. TERM OF OFFICE.] The North Dakota Poultry Improvement Board shall consist of the Chairman of the Poultry Department of the North Dakota Agricultural College, the Commissioner of Agriculture and Labor, and the executive officer of the Livestock Sanitary Board, ex-officio, and six members to be appointed by the Governor in the manner hereinafter set forth. The ex-officio members shall have no voting power, but shall attend

and participate in the meetings of the board in an advisory capacity. As soon as possible after the taking effect of this Act, and in any event not later than July 10, 1943, the boards of directors of the North Dakota State Poultry Association and the North Dakota Turkey Improvement Association, acting concurrently, shall submit to the Governor a list of nominees for appointment to said board containing the names of three bona fide hatchery operators or owners, three poultry processors, and marketing men, three record of performance breeders under the national poultry improvement plan, three poultry producers, three turkey breeders, and three persons engaged in the poultry feed business, and shall designate in such list the classification for which the nominees are selected. All of such nominees shall be qualified electors of the State of North Dakota. Not to exceed five days after the receipt of such list of nominees, the Governor shall appoint from such list, six members of said board, consisting of one member from each of such classifications. One of such members shall be appointed for a term to expire July 1, 1944, one for a term to expire July 1, 1945 and one for a term to expire July 1, 1946 one for a term to expire July 1, 1947, one for a term to expire July 1, 1948, and one for a term to expire July 1, 1949 and said members shall serve until such dates, respectively, and until their successors are appointed and qualified. On or before July 1st in each year hereafter when a term is to expire, the Governor shall appoint one member, for a six year term, who shall be appointed from a list of three nominees selected and submitted to him in the same manner as above set forth, which nominees shall be named from the classification represented by the member whose term expires. Vacancies arising by reason of the death, resignation, removal or disqualification of a member of said board shall be filled in the same manner as to nomination and appointment, and members appointed to fill vacancies shall serve for the unexpired term in which the vacancy has arisen.

§ 2. AMENDMENT.] That Section 5 of Chapter 7, Session Laws of 1939 is hereby amended and re-enacted to read as follows:

§ 5. LICENSES AND FEES.] No person shall hereafter engage in the business of poultry and/or turkey buyer, processor, packer, hatchery operator, baby chick jobber, or salesman, record of performance breeder, or poultry and/or turkey feed manufacturer, wholesaler or retailer, without first securing from said North Dakota Poultry Improvement Board a license to engage therein, which said licenses shall expire on the first day of July of each year, and shall be issued or renewed by said board only upon payment to said board of such fees as may be fixed by said board for each of said occupations, not exceeding, however, the amounts hereinafter set forth, to wit:

- (a) Poultry and/or turkey buyers, processors, and packers;

annual license fee \$1.00 plus 25c per thousand pounds (or fraction thereof) of poultry and/or turkeys processed, packed or sold.

(b) Hatcheries; annual license fee \$1.00 plus 50c per thousand eggs or fraction thereof based upon manufacturer's rated incubating capacity.

(c) Baby chick and/or turkey poult jobbers and salesmen; annual license fee, \$1.00, plus 50c per thousand chicks and/or poult or fraction thereof sold.

(d) Record of performance breeders; annual license fee, \$10.00 plus 5c per pullet candidate over 100 birds entered in R. O. P. Work.

(e) Poultry and/or turkey feed manufacturers, wholesalers and retailers; annual license fee \$1.00, plus 50c per ton for all mixed poultry feeds produced or sold in the State of North Dakota. Provided, that the Poultry Improvement Board shall collect license from only one source, and if the fee is paid by the manufacturer or wholesaler, it shall not be collected from the retailer. A person shall be deemed a retailer who sells poultry and/or turkey feed to the ultimate consumer.

It is the intention of this act that the foregoing schedule of license charges and fees shall constitute the maximum to be charged and collected, but the North Dakota Poultry Improvement Board shall have authority, if it determines that any or all such fees or charges are excessive or unduly burdensome, or that a lesser schedule of fees will produce all income necessary for carrying on the work of the Board, to reduce the license charges and fees of any or all of such occupations.

The annual license fees for the ensuing year, plus all other fees previously accrued, must be paid before any license is issued, and all accrued fees other than license fees must be remitted at the time of making the reports hereinafter required. Failure to pay any fee or license charge within ten (10) days after the same shall become due shall constitute a violation of this Act.

Approved March 17, 1943.

CHAPTER 5

S. B. No. 175—(Lofthus, Solberg, Kehoe, Lavik and Thatcher)

STATE SEED DEPARTMENT, AMENDMENT

An Act amending and re-enacting Section 17 of Chapter 258 of the Session Laws of 1931 as amended by Section 4 of Chapter 14 of the Session Laws of 1941 relating to the State Seed Department.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 17 of Chapter 258 of the Session Laws of 1931 as amended by Section 4 of Chapter 14 of the Session Laws of 1931 (*1941) be amended and re-enacted to read as follows:

§ 17. MISLABELING.] It shall be unlawful for any person knowingly either for himself or while acting as agent or servant for any other person to sell, consign for sale, offer or expose for sale, have in possession or storage with intent for sale or to delivery or distribute within the state, any seed which shall be mislabeled within the meaning of this act or the regulations made thereunder, or which is falsely labeled, represented or advertised in any respect, or which is designated, offered, represented or advertised under any name or identification other than that by which such seed was originally known, provided, however, that any person may, under rules and regulations to be made therefor by the Commissioner, submit to the State Seed Commissioner a sample of any seed which he claims to be a new variety distinct from any commonly known variety of such seed, together with a proposed distinctive name therefor. The State Seed Commissioner shall within one year make such tests as he shall consider necessary and if he finds as a result of such tests that such seed or plant is of a new variety distinct from any variety of such seed known theretofore, and that the name proposed therefor will properly distinguish said seed from any and all other varieties thereof, he shall issue to the person applying therefor a permit to designate such seed by said name.

In the event of the shipment into this state from any point outside thereof, of any seed, it shall be the duty of the purchaser or vendor or any person receiving such seed to have same labeled in accordance with and conforming to the requirements of this act; provided, however, that certain standardized grades and labeling of seed in use elsewhere may be permitted by the Commissioner, in connection with shipments of seed into this state from points outside thereof, in lieu of the labeling provided for in this act; provided, further, that the provisions of this act shall not apply to any common carrier in respect to any seed transported or delivered for transporta-

tion in the ordinary course of its business as a common carrier; and provided further, that no person, excepting common carriers as herein provided, shall knowingly distribute, sell, offer, expose or have in possession with intent for sale for sowing or planting purposes, any seed included in Section 3, sub-section (a) of this act, or any garden vegetable seed or any other kind or nature of seed that is falsely represented by labeling or in any form of advertising or in any other way as to quality, condition, grade, viability, purity, character, nature, variety or any other description.

Approved March 15, 1943.

*Corrected by Governor.

CHAPTER 6

H. B. No. 196—(Twichell, Sandness, Schnell, Haugland,
Olson of Barnes, Forseth)

REGULATION AND LICENSE FOR MANUFACTURE DAIRY PRODUCTS

An Act to amend and re-enact Section 2844 of the Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 119 of the 1929 Session Laws relating to licenses for creameries, cheese factories, process butter factories, ice cream factories, cream stations and dairies, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 2844 of the Supplement to the 1913 Compiled Laws of North Dakota, as amended by Chapter 119 of the 1929 Session Laws, be and the same is hereby amended and re-enacted to read as follows:

§ 2844. Licenses Required: Fees and Revocation. Every person, firm or corporation owning or operating a creamery, cheese factory, renovating or process butter factory, ice cream factory, cream station or dairy in this State, shall be required before beginning business to obtain from the Dairy Commissioner a license for each and every creamery, cheese factory, renovating or process butter factory, ice cream factory, cream station or dairy owned or operated by said person, firm or corporation, which shall be good for one year. The fee for such license for a creamery, cheese factory or cream station as defined in this act shall be Ten Dollars. The fee for such license for a dairy as defined in this act shall be Two Dollars. No license issued under the provisions of this act shall be transferable. Each license shall record the name of the person, firm or corporation owning or operating the creamery, cheese factory,

renovating or process butter factory, ice cream factory, cream station or dairy licensed, its place of business, the location thereof, the name of the manager thereof and the number of the same. Each license so issued shall constitute a license to the manager or agent of the place of business named therein. It shall be the duty of every person, partnership, firm or corporation, or association holding a license to operate any plant in which dairy products are handled commercially, to post in a conspicuous place such license under which they are operating, together with a summary of the dairy laws, which shall be prepared and sent out from the office of the Dairy Commissioner. The Dairy Commissioner may withhold a license from any applicant who has previously violated or refused to comply with any of the existing dairy laws or lawful requests issued by said Dairy Commissioner, or his authorized assistants. The Dairy Commissioner may, at any time, revoke a license on evidence that licensee has violated any of the existing dairy statutes, or has refused to comply with all lawful requests of the Dairy Commissioner or his authorized agents.

For the purposes of this act, a creamery is hereby defined, as a place where milk or cream furnished by three or more persons, selling the same independently of each other, is used for manufacture into butter for commercial purposes.

A cheese factory is hereby defined, as a place where milk furnished by three or more persons, each selling the same independently of each other, is made into cheese for commercial purposes.

An ice cream factory is hereby defined as a place where ice cream is made for sale, where the minimum output is (200) two hundred gallons per annum, or where it is made for (30) thirty days or more during any year.

A cream station is hereby defined, as any place where an individual, firm or corporation receives milk or cream from more than one herd, and the same is weighed, tested or purchased to be manufactured into butter, cheese or ice cream, by some other individual, firm or corporation, or in some separate building or locality than that in which such milk or cream is so weighed, tested or purchased; provided, however, that it is not intended hereby to include the weighing on public scales by producers, before shipment by themselves.

A dairy is hereby defined, as any place where any individual, firm or corporation receives milk or cream from more than one herd and which is weighed, measured or tested or purchased; when such milk or cream is bottled or sold to the general public by measure or weight. A renovating or process butter factory is hereby defined, as any place where an individual, firm or corporation receives butter of an inferior quality in flavor, salt, body or color and melts the same, draws off the fat therefrom and mixes it with skimmed

milk, whole milk, cream or other milk products and rechurns such mixture into butter, or who manufactures by any other process the product that is known as renovated or processed butter; and where the minimum output is (200) two hundred pounds per annum, or where it is made for (30) thirty days in any year.

§ 2. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 9, 1943.

APPROPRIATIONS

CHAPTER 7

S. B. No. 14—(Committee on Appropriations)

AGRICULTURE AND LABOR—BEE KEEPERS ACT

An Act making an appropriation to defray the expenses for the Bee Keepers Act.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. APPROPRIATION.] There is hereby appropriated out of the Bee License Fund in the State Treasury, the sum of \$2,500.00, or so much thereof as may be necessary to defray the expenses of the Commissioner of Agriculture and Labor or his agents as provided for in Chap. 2, S. L. 1939, for the biennium beginning July 1st, 1943, and ending June 30th, 1945, to-wit:

Licensing Bee Keepers	\$ 2,500.00
Total	\$ 2,500.00

Approved March 5, 1943.