

LIVESTOCK

CHAPTER 231

S. B. No. 39
(Legislative Research Committee)

DEALERS AND SALES RINGS

AN ACT

To amend and reenact sections 36-0403, 36-0404, 36-0409, 36-0410, 36-0411, 36-0412, 36-0413, 36-0414, 36-0415, 36-0416, 36-0417, 36-0418, 36-0419, 36-0420, 36-0501, 36-0506, 36-0512, and 36-0513 of the North Dakota Revised Code of 1943, and sections 36-0405, 36-0406, 36-0407, 36-0503, 36-0504, 36-0505, and 36-0509 of the 1953 Supplement to the North Dakota Revised Code of 1943 and section 36-0401 of the North Dakota Revised Code of 1943 as amended by chapter 223 of the North Dakota Session Laws of 1955, relating to livestock dealers and livestock sales rings.

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

§ 1. Amendment.) Section 36-0401 of the North Dakota Revised Code of 1943, as amended by chapter 223 of the North Dakota Session Laws of 1955, is hereby amended and reenacted to read as follows:

36-0401. "Dealer" Defined.) In this chapter unless the context or subject matter otherwise requires:

1. "Dealer" shall mean any person, copartnership, association, or corporation engaged in the business of buying, selling and dealing in horses, mules, cattle, hogs, sheep, poultry, or wool from the producer or livestock sales ring or livestock sales ring for resale or shipment within or without the state, and also resale in the local market.
2. "Dairy commissioner" shall mean the dairy department of the department of agriculture and labor.

§ 2. Amendment.) Section 36-0403 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0403. Dealer's License Required: Agent Licensed: Liability Of Owner For Agent's Acts.) All dealers shall be licensed as provided in this chapter. No agent shall act for any such dealer unless the dealer is licensed and has designated such agent to act in his behalf and has notified the

dairy department of such appointment in his application for a license or in a separate written instrument and requested the dairy department to issue to such agent an agent's license. A dealer shall be accountable and responsible for all the acts of his agent.

§ 3. Amendment.) Section 36-0404 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0404. Application For License; Contents Of.) Before entering into a business of a kind described in this chapter and annually, on or before January first, each dealer shall file an application for a license to transact such business with the dairy department on a form prescribed by it. The application shall show:

1. The nature of the business for which a license is desired and whether it is for the business of buying livestock, poultry, or wool, or for any two or more of such businesses;
2. The name or names of the persons applying for the license;
3. The full name of each member thereof if the applicant is a firm, association, or partnership, or the names of the officers thereof if the applicant is a corporation;
4. The name of the agent or agents of the applicant;
5. The post office address and the principal place of business of the applicant;
6. If the applicant is a foreign corporation, its principal place of business without this state, the name of the state in which it is incorporated, and that it has complied with the laws of this state relating to foreign corporations; and
7. Such other facts as the dairy department may prescribe.

§ 4. Amendment.) Section 36-0405 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0405. Dealer To File Bond With Dairy Department; Additional Bond May Be Required.) Each applicant for a license under the provisions of this chapter shall file with his application a bond issued by an approved surety company. The dairy department shall be named as the obligee in each such bond but the bond shall be held for the purpose of protecting and for the benefit of any person selling livestock,

wool, or poultry, as the case may be, to the licensed dealer or to his agent. Such bond shall be conditioned for:

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

Each such bond shall cover the entire license period of the dealer and shall be approved as to amount, form, and sufficiency by the dairy department. The dairy department may demand an additional bond for either the principal or agent whenever in its judgment the volume of business of the principal or of any agent named by the principal warrants such demand.

§ 5. Amendment.) Section 36-0406 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0406. Amount Of Bonds.) The minimum amount of the bond required under the provisions of section 36-0405 shall be dependent upon the kind of license issued by the dairy department and shall be in the following amounts:

1. For a dealer in livestock five thousand dollars and for agents of livestock dealers fifteen hundred dollars each;
2. For a dealer in poultry only, two thousand dollars, and for agents of poultry dealers one thousand dollars each;
3. For a dealer in wool only, five thousand dollars and for agents of wool dealers, fifteen hundred dollars each;
4. For a dealer in more than one of any such classifications, in the highest amount required for any such classification.

§ 6. Amendment.) Section 36-0407 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0407. Issuance Of Licenses: Fees: License Not Issued To Felon: Term Of License.) The dairy department shall issue to each applicant who has complied with the provisions of this chapter a license of the kind applied for upon the payment by him of fees as follows:

1. For a livestock dealer's license, ten dollars;
2. For a poultry dealer's license, four dollars;
3. For a wool dealer's license, ten dollars.

For each agent appointed by the dealer and licensed by the dairy department, the amount of such license fee shall be increased in the amount of ten dollars if the principal's license is a livestock dealer's license or a wool dealer's license, and in the amount of four dollars if the principal's license is a poultry dealer's license. No license shall be issued to a dealer or to an agent who has been convicted of a felony in this state or elsewhere. Each license issued under the provisions of this chapter shall license the conduct of the business described therein at the place or places named in the application therefor, and shall expire on the thirty-first day of December next following the date of its issue provided that any person, copartnership, association or corporation licensed for the year 1957 under the provisions of chapter 36-04 of the North Dakota Revised Code for the year 1943 at the time of the taking effect of this Act, shall not be required to qualify hereunder until the year 1958.

§ 7. Amendment.) Section 36-0409 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0409. Disposition Of Fees: Inspections.) All fees collected by the dairy department under the provisions of this chapter shall be credited to the general fund of the state treasury. The provisions of this chapter shall be enforced by the dairy commissioner and the regular inspectors of the dairy department. Any person who shall hinder, impede, resist, or otherwise interfere in any way with any such inspector while engaged in the lawful performance of his official duties in the enforcement of the provisions of this chapter shall be subject to the penalty provided for herein.

§ 8. Amendment.) Section 36-0410 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0410. Dairy Department May Refuse To Grant And May Revoke License.) The dairy department may decline to grant a license, or may revoke a license which it has granted, when it is satisfied that:

1. The applicant or licensee has violated any of the laws of this state governing the handling, shipment, or transportation of livestock, poultry, or wool;

2. The applicant or licensee has been guilty of deceit, fraud, dishonesty, forgery, or theft as a dealer in livestock, poultry, or wool, or in dealing therein; or
3. The applicant has failed or refused to furnish the information required under the terms of this chapter and as prescribed by the dairy department.

§ 9. Amendment.) Section 36-0411 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0411. Hearing Had Before License Revoked; Regulations Governing; Appeal From Order.) Before any license issued shall be revoked, the licensee shall be furnished with a copy of the complaint made against him, and a hearing shall be had thereon before the dairy department to determine whether or not such license shall be revoked. The licensee shall be given notice of such hearing at least fifteen days prior thereto. Such notice may be served either by registered mail addressed to the given address of the licensee or in the manner provided by this Code for the service of a summons. At the time and place fixed for the hearing, the dairy department, or any member or duly authorized agent thereof, shall take and receive evidence, administer oaths, examine witnesses, and take the testimony offered, and shall submit and file the same with the dairy department. The dairy department upon the evidence received, shall make and file an order either dismissing the proceedings or revoking the license. The aggrieved party may take an appeal to the district court of Burleigh County.

§ 10. Amendment.) Section 36-0412 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0412. Dairy Department To Become Trustee Upon Default In Dealer's Bond.) If any dealer defaults in the provisions of any bond provided for in this chapter, he shall be deemed to be insolvent within the meaning of this chapter. The cause of action for damages upon any such bond, and the amount recovered in any cause of action for the conversion of livestock, poultry, or wool, as the case may be, purchased by such dealer while such license is in force and effect, shall constitute a trust fund in the hands of the dairy department for all persons having a cause of action against such dealer on said bond.

§ 11. Amendment.) Section 36-0413 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0413. Application By Dairy Department For Appointment Of Trustee; Hearing; Appointment.) Upon the insolvency of a dealer as defined in section 36-0412, the dairy department shall apply to the district court of Burleigh County for the appointment of itself as trustee. Upon such notice to the dealer as the court shall prescribe, but not exceeding ten days, or upon waiver of such notice in writing by the dealer, the court shall proceed to hear and determine such application in a summary manner. If it shall appear to the court that the dealer is insolvent within the meaning of this chapter and that it would be for the best interest of persons holding claims against the dealer for the purchase price of livestock, poultry, or wool sold to such dealer or to his agent that the dairy department shall execute such trust, the court shall issue an order appointing the dairy department as a trustee, without bond, and the dairy department shall proceed to perform its duties as such trustee in the manner set out in this chapter without further direction from the court.

§ 12. Amendment.) Section 36-0414 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0414. Dairy Department To Take Possession Of Records And Property As Trustee; Notice To File Claims; When Claims Barred.) Upon its appointment as trustee, the dairy department shall be entitled to possession of all the books and records of the dealer which were kept by him in connection with such business, and shall take possession thereof, and of all livestock, poultry, or wool purchased by such dealer under the license granted to him and still remaining in his possession. The dairy department, as such trustee, by publication of a notice published once each week for three successive weeks in the official newspaper of the county in which the dealer operated, shall notify all persons having claims against the dealer to file the same with the dairy department. Any such person who shall fail to file his claim with the dairy department and to surrender to it any receipts which he obtained from such dealer within forty-five days after the last publication of such notice shall be barred from participation upon such claim in any fund marshaled by the dairy department as prescribed in this chapter.

§ 13. Amendment.) Section 36-0415 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0415. Maintenance Of Actions To Marshal Assets Of Insolvent Dealer.) The dairy department, in its capacity as trustee, may maintain suits or special proceedings in the name of the state of North Dakota upon its own relation but for the

benefit of all claimants against the dealer's bond, upon such bond and against any person who shall have converted any of the livestock, poultry, or wool, for the purpose of marshaling all of the trust assets of the insolvent dealer and distributing the same among the claimants. Recourse shall be had against the bond, however, before recourse is had against a person who unknowingly and in good faith converted any of such livestock, poultry, or wool unless the dairy department shall deem it necessary that all such remedies be pursued at the same time.

§ 14. **Amendment.**) Section 36-0416 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0416. Remedy Of Claimants; Separate Action By Claimant Permissible.) No claimant shall have a separate cause of action against the dealer's bond unless the dairy department shall fail or refuse to apply for its own appointment as trustee as provided in this chapter. The provisions of this chapter shall not prohibit any claimant, either independently or in conjunction with other claimants, from pursuing concurrently with the dairy department any other remedy which he or they may have against the dealer, or against the property of the dealer, for the whole of his or their claims or for any deficiency which occurs after payments have been made from the trust fund.

§ 15. **Amendment.**) Section 36-0417 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0417. Appeal Or Compromising Of Action By Dairy Department.) The dairy department may prosecute an action for any claims arising under the provisions of this chapter in any court, may appeal from any adverse judgment to the courts of last resort, and may settle and compromise any such action whenever in its judgment it will be for the best interests of the claimants. Upon payment to it of the amount of any such compromise, or of the full amount of any bond or conversion claim, the dairy department may exonerate the person compromising or paying the same from further liability growing out of such action.

§ 16. **Amendment.**) Section 36-0418 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0418. Moneys Collected On Claims To Be Deposited In Bank Of North Dakota.) All moneys collected and received by the dairy department as trustee shall be deposited in the Bank of North Dakota pending the marshaling of said fund.

§ 17. **Amendment.**) Section 36-0419 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0419. Dairy Department To File Report Upon Recovery Of Trust Fund; Notice To Claimants; Approving Or Modifying Report.) Upon recovery of the trust fund, or so much thereof as it is possible to recover or as is necessary to pay all outstanding claims, the dairy department shall file its report in court showing the amount payable upon each claim, after recognizing any proper liens or pledges thereon or assignments thereof or deductions therefrom, with legal interest thereon. If the fund shall prove insufficient to redeem all claims in full, the fund shall be prorated among the claimants in such manner as the dairy department shall deem fair and equitable. Thereupon the court shall cite such claimants upon such notice by mail as it shall prescribe to appear upon a day fixed in the notice and show cause why such report should not be approved and distribution of said fund made as outlined in the report. Upon such hearing, the court shall approve such report or modify the same as justice may require and shall issue an order directing the distribution of the fund and discharging the dairy department from its trust.

§ 18. **Amendment.**) Section 36-0420 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0420. Attorney General To Represent Dairy Department And May Employ Assistants; Dairy Department Need Not Pay Court Costs.) The attorney general shall represent the dairy department in any action or proceeding brought under the provisions of this chapter, and he may employ outside legal assistance when he deems it necessary to do so, and may deduct the expense in connection therewith from the trust fund. The dairy department shall not be required to pay any filing fee or other court cost or disbursement in connection with an application for appointment as trustee or with any action brought by it under the provisions of this chapter when such fee, cost, or disbursement accrues to the state or to a county of this state.

§ 19. **Amendment.**) Section 36-0501 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0501. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Livestock" shall mean horses, mules, cattle, swine, sheep, and goats;

2. "Livestock sales ring" shall mean a place or establishment conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures and their appurtenances, in which livestock is received, held, or kept for sale and where such livestock is sold or offered for sale, at either public auction or private sale; and
3. "Dairy commissioner" shall mean the dairy department of the department of agriculture and labor.

§ 20. **Amendment.)** Section 36-0503 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***36-0503. License Required; Application; Fee.)** No person, partnership, firm, or corporation shall establish or operate a livestock sales ring within this state without first procuring a license to do so from the dairy department. An applicant for such license shall:

1. Make a written application therefor in the form prescribed by the dairy department;
2. File with the dairy department a statement showing that he or it is financially responsible to operate such a sales ring and that he or it owns or controls adequate facilities for the care, sorting, feeding, loading and unloading, and shipment of livestock, and have the written approval of the livestock sanitary board;
3. Pay to the dairy department a license fee of one hundred dollars.

***Note:** Section 36-0503 was also amended by chapter 233, reading the same but with an additional subsection 4.

§ 21. **Amendment.)** Section 36-0504 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0504. Bond To Accompany Application For License; Amount; Approval; Conditions; Term.) Each applicant for a license to operate a livestock sales ring shall file his application for such license, or for a renewal thereof, a surety bond in the minimum amount of ten thousand dollars. Such bond shall be approved as to amount, form, and surety by the dairy department. The dairy department shall be the obligee in the bond, and it shall be for the benefit of, and for the purpose of protecting, any person selling to or through or buying livestock through or from the licensee or his or its agent. The dairy department may demand an additional bond of the licensee whenever in its judgment the volume of the business

of the licensee warrants such demand. The bond shall be conditioned for:

1. The payment of all money received by the licensee and operator of such livestock sales ring as such operator, less reasonable expenses and agreed commissions;
2. The faithful performance by the licensee of his duties as such licensee; and
3. The faithful performance by the licensee of all the provisions of this Code relating to the purchase, sale or holding of livestock.

Such bond shall cover the entire license period.

§ 22. **Amendment.**) Section 36-0505 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0505. Expiration And Renewal Of License: Fee Returned Upon Failure To Issue Or Renew License.) Each license issued under the provisions of this chapter shall expire on the thirty-first day of January next following the date of issuance thereof and shall not be renewed without the approval of the livestock sanitary board. On or before January 20 of each year the livestock sanitary board shall certify, in writing, to the dairy department the name and address of each sales ring approved by it and within five days after it approves any additional sales ring. Each license shall be renewed annually on or before January thirty-first. The fee for a renewal license shall be the same as that prescribed for an original license. If the dairy department does not issue a requested original license or renewal license, the fee paid shall be refunded to the applicant.

§ 23. **Amendment.**) Section 36-0506 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0506. Investigation Of Sales Ring; Hearing Conducted To Determine Whether License Should Be Issued Or Revoked.) The dairy department upon its own motion or upon a complaint by any person, may enter into an investigation of the sales and transactions of any livestock sales ring and of the conditions under which its business is conducted. The dairy department when it deems it necessary, may conduct a hearing to determine whether the license of any sales ring should be revoked or whether the application of the owner or operator of a livestock sales ring for an original or renewal license should be denied.

§ 24. **Amendment.)** Section 36-0509 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0509. Records To Be Kept By Operator Of Sales Ring; Contents; Examination; Report.) The operator of each livestock sales ring shall keep on file an accurate record of:

1. The date on which each consignment of animals was received and sold;
2. The name and address of the buyer and seller of such animals;
3. The number and species of the animals received and sold; and
4. The marks and brands on each such animal.

Such record, together with the gross selling price, commission, and other proper care, handling, and sales charges on each consignment of livestock shall be available for inspection by the dairy department or its authorized inspector, and a copy thereof shall be supplied to the owner of such livestock. All records of sales during the preceding twelve months shall be kept readily accessible for immediate examination.

§ 25. **Amendment.)** Section 36-0512 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0512. Operator To Warrant Title To Purchaser; Dispute In Title Of Animal Sold.) The operator of each livestock sales ring shall warrant to the purchaser the title of all livestock bought by him through such sales ring and shall be liable to the rightful owner of any livestock sold through the sales ring for the net proceeds in cash received therefor. If the operator of a sales ring is notified by an authorized brand inspector that there is a question as to whether or not any designated livestock sold through such ring is lawfully owned by the consignor thereof, such operator shall hold the proceeds received from the sale of the livestock for a reasonable time, not to exceed sixty days, to permit the consignor to establish ownership. At the expiration of such time, if the consignor fails to establish his lawful ownership of the livestock to the satisfaction of the brand inspector, the proceeds shall be transmitted by such operator to the dairy department, and the dairy department shall dispose of the same to the rightful owner in accordance with the provisions of this Code.

§ 26. **Amendment.)** Section 36-0513 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0513. Use Of Fees Collected By Dairy Department: Grounds For Refusal Or Revocation Of License; Procedure On Revocation And On Default Of Licensee.) All fees collected by the dairy department under the provisions of this chapter shall be deposited and disbursed in accordance with the provisions of section 36-0409. A license to operate a livestock sales ring may be refused or revoked for any of the reasons specified in section 36-0410, and the provisions of section 36-0411 shall apply to the revocation of licenses issued under the provisions of this chapter. The provisions of sections 36-0412 to 36-0419, both inclusive, shall apply when the holder of a license issued under the provisions of this chapter shall default in any of the conditions of any bond filed with the dairy department by such licensee.

Approved March 20, 1957.

CHAPTER 232

H. B. No. 689
(Link)

FALSE REGISTRATION

AN ACT

To require that all livestock with a certificate of registration or breeding shall not in any way be misrepresented, providing for auctioneers acting in good faith, and providing for a penalty.

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

§ 1. Sale Of Animal Under False Registration Certificates; Changing Markings; Auctioneer.) It shall be unlawful for any person, copartnership, corporation, or association to sell to another person, copartnership, corporation, or association, any animal with a certificate of registration or breeding that does not belong to said animal; nor change in any way the certificate of registration or breeding of any animal; nor shall any person, copartnership, corporation, or association falsely represent any production record specified in any registration certificate; nor shall any person, copartnership, corporation, or association change the markings of any animal with the intent to deceive the purchaser, or misrepresent any female animal as to the sire to which such female animal has been bred. The provisions of this Act shall not apply to any auctioneer or agent acting in good faith under the direction of the owner.

§ 2. **Penalty.**) Any person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not more than thirty days or by both such fine and imprisonment.

Approved March 6, 1957.

CHAPTER 233

S. B. No. 145
(Fiedler, Dewing and Kusler)

SALES RING LICENSE

AN ACT

To amend and reenact section 36-0503 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to applications for license to operate a livestock sales ring.

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

§ 1. **Amendment.**) Section 36-0503 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***36-0503. License Required; Application; Fee.)** No person, partnership, firm, or corporation shall establish or operate a livestock sales ring within this state without first procuring a license to do so from the dairy department. An applicant for such license shall:

1. Make a written application therefor in the form prescribed by the dairy department;
2. File with the dairy department a statement showing that he or it is financially responsible to operate such a sales ring and that he or it owns or controls adequate facilities for the care, sorting, feeding, loading and unloading, and shipment of livestock, and have the written approval of the livestock sanitary board;
3. Pay to the dairy department a license fee of one hundred dollars; and
4. File with the dairy department a schedule of the fees and commissions which will be charged to owners, sellers, or their agents; such schedule shall likewise be

posted conspicuously at the sales ring. This schedule shall not be altered except upon notification to the dairy department and reposting of the changed schedule.

Approved March 6, 1957.

***Note:** Section 36-0503 was also amended by chapter 231, section 20, to read the same as here but without subsection 4.

CHAPTER 234

H. B. No. 627

(Short, Gress, Muggli and Schmalenberger)

LIVESTOCK INSPECTION FEES

AN ACT

To amend and reenact section 36-0510 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to inspection of livestock and making an appropriation.

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

§ 1. **Amendment.**) Section 36-0510 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0510. Inspection Of Livestock; Fees And Regulations Governing.) When an animal enters a livestock sales ring and before it is offered for sale, it shall be inspected for health by a state-employed veterinarian and in the case of cattle for brands by a trained brand inspector, acting under rules promulgated by the North Dakota stockmen's association and the livestock sanitary board. Veterinary inspection shall include all livestock, whether it is to be moved interstate or intrastate. The fees for such inbound inspection shall be sent to the livestock sanitary board by the sales ring company and shall be deposited with the state treasurer in the livestock sales ring fund out of which, upon legislative appropriation, the veterinary inspector's fees and costs of administration shall be paid. The fees for such inspection and the manner of paying the veterinarian shall be established by rules and regulations adopted by the livestock sanitary board and such fees shall be set in accordance with the costs of providing inspection service for the purpose of conforming with the federal laws and regulations governing interstate movement of cattle.

§ 2. **Appropriation.**) There is hereby appropriated to the livestock sanitary board out of any moneys in the state treasury in the livestock sales ring fund, the sum of fifty thousand dollars, or so much thereof as may be necessary for paying veterinary inspectors and expenses in connection with livestock sales rings as provided by law and by regulations promulgated by the livestock sanitary board, for the biennium beginning July 1, 1957 and ending June 30, 1959.

Approved March 18, 1957.

CHAPTER 235

H. B. No. 705

(Short, Link, Snow and Tescher)

BRAND RECORDING

AN ACT

To amend and reenact subsection 3 of section 36-0902, section 36-0904, section 36-0909, section 36-0910, section 36-0911, section 36-0912 and section 36-0914 of the North Dakota Revised Code of 1943, relating to the application for use of livestock brand or mark, the fee therefor, the recording of brands, notices and brand books.

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

§ 1. **Amendment.**) Subsection 3 of section 36-0902 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

3. Indicating clearly the place or position upon each kind of livestock where such brand is to be placed, except that the hips of any cattle shall not be used for registered numerical brands, but shall be used exclusively for numbers used for the individual identification of each animal. The provisions of this Act shall not apply to any cattle that have been branded prior to the effective date of this Act.

§ 2. **Amendment.**) Section 36-0904 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0904. Record Of Brands Kept; Inspection Of Record; Certificate Of Ownership Of Brand; Fee.) The commissioner of agriculture and labor shall keep a record of all marks and brands showing the names and residences of the persons own-

ing the same, a description and facsimile of each mark or brand, and in the case of livestock, the range occupied by such stock, as nearly as the same may be determined. Such record shall be open to the inspection of any person interested therein. The commissioner shall deliver to the owner of each mark or brand a certificate thereof, and such certificate shall be evidence of ownership of the mark or brand described therein. The fee for such certificate shall be five dollars.

§ 3. Amendment.) Section 36-0909 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0909. Cancellation Of Brands; Rerecording; Limitation On Brands.) On the first day of January 1966, each and every livestock brand or mark shall be canceled and no person, copartnership, 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. If a person, copartnership, company, firm, or corporation should desire to continue ownership thereof, the brand or mark must be rerecorded on or before January 1, and each ten years thereafter. 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 of using such single letter or figure brand combined with some other character, letter, or figure. Rerecording shall not be required from an owner who has registered for a new brand within six months prior to the date provided for the rerecording of brands thereafter.

§ 4. Amendment.) Section 36-0910 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0910. Brands To Be Rerecorded Every Ten Years.) Failure to rerecord any previously recorded livestock brand or mark on or before the time specified, in accordance with the provisions of this chapter, shall be deemed an absolute abandonment to the state of North Dakota of such previously recorded livestock brand or mark. Thereafter the commissioner of agriculture and labor shall accept any regular application for the issuance to anyone of such abandoned livestock brand or mark. The commissioner shall 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.

§ 5. Amendment.) Section 36-0911 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0911. Notice Of Expiration Of Brand To Be Given.)

The commissioner of agriculture and labor, on or before the beginning of the fourth month prior to the cancellation of all brands, shall notify each and every record owner of a livestock brand or mark of the final date set for cancellation thereof and also of his prior right to rerecord such previously recorded livestock brand or mark. Such notice shall be given in writing, legibly written, sent by ordinary first class mail, addressed to the record owner at the address as shown upon the present records.

§ 6. **Amendment.)** Section 36-0912 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-0912. Publication Of Notice.) The commissioner of agriculture and labor shall publish in each official newspaper in each county where brands or marks are in use, a notice of the expiration of the time fixed by law for the rerecording of livestock brands or marks, and the prior right of any record owner to rerecord his previously recorded brands or marks. Such publication shall begin on or about the first of September, prior to the cancellation of all brands, and such publication shall continue at least three successive times in each of such newspapers. The commissioner also shall request each newspaper publishing such notice to call attention to the provisions of this chapter in a news item in the regular columns of said newspaper, for which no charge shall be allowed.

§ 7. **Amendment.)** Section 36-0914 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

***36-0914. Commissioner Of Agriculture And Labor To Issue Brand Book.)** The commissioner of agriculture and labor shall compile and issue a brand book from the records of livestock brands in his office as of the final date for rerecording, 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 reregistration. Annually thereafter the commissioner shall prepare a supplement of brands registered during the year and shall distribute the same free of charge to all brand owners as shown by the records of his office.

Approved March 6, 1957.

*Note: This section purports to amend 36-0914 as it existed in 1943. The section was later amended by S. L. 1949, chapter 230, as shown in the 1953 Supplement.

CHAPTER 236

S. B. No. 235

(Garaas, Baeverstad and Livingston)

LIVESTOCK RUNNING AT LARGE

AN ACT

To provide for the enforcement of statute prohibiting stock running at large and to provide for recovery of costs from the owner.

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

§ 1. Sheriff To Return Or Impound Livestock Running At Large.) In the event of any complaint by anyone suffering injury or damages or likely to suffer injury or damages as a result of livestock running at large contrary to the provisions of section 36-1101 of the North Dakota Revised Code of 1943, as it may be amended, the sheriff of the county wherein such livestock may be found shall return the livestock to the owner or impound the livestock and dispose of them as stray animals under the procedure set forth in chapter 36-13 of the North Dakota Revised Code of 1943 as amended.

§ 2. Expenses Of The Sheriff To Be Paid By Owner.) The expenses incurred by the sheriff or his agents in performing the duties required of him in this Act shall be paid by the owner of the livestock. If the owner cannot be found the sheriff's expense shall be recovered from proceeds remaining after the disposal of such animals as strays.

Approved March 16, 1957.

CHAPTER 237

S. B. No. 34
(Legislative Research Committee)

ESTRAYS

AN ACT

Relating to estrays and to amend and reenact chapter 36-13 of the North Dakota Revised Code of 1943.

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

§ 1. Amendment.) Chapter 36-13 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

36-1301. Estrays; Possession.) Any person may take possession of an animal as an estray when it is on property which he owns or controls, and when he does not know who is the owner of the animal. As soon as practicable he shall make careful examination of the said animal to determine the presence and identity of any brand upon it, the location thereof and any other marks or scars which may identify the same and he shall notify the sheriff of the county wherein the estray was found of such action, who shall record the date and time of notification and all information obtained by him as to brands or other marks and location helpful in determining ownership thereof.

36-1302. Estray Notice By Sheriff.) Upon notification of an estray possession, the notified sheriff shall forthwith publish a notice in the official county newspaper once weekly for two weeks unless the animal is earlier claimed or sold, whichever is earlier. Two or more animals which are taken up by the same person at the same time may be described in one notice.

The published notice shall be on a form prescribed by the chief brand inspector, and at the time of first publication of any notice shall be forwarded to him for his files and the chief brand inspector shall send an official brand inspector to examine the animal for marks and brands and report his findings to the chief brand inspector and the sheriff. The notice shall briefly describe the estray by color, sex, probable age and weight, and any distinctive brand or marks, and shall show the date and place of taking up as well as the name and address of the possessor.

36-1303. Sale Of Unclaimed Estray; Records.) If an estray has not been claimed or the owner discovered within sixty

days after notice of its description and possession has been published by the sheriff, he shall proceed to sell it at public sale through any licensed livestock ring, or public market. After an estray notice has been published for one week, and if the sheriff determines that the fair market value of an estray is twenty-five dollars or less, and he files his appraisal to that effect, the estray may be sold before expiration of the sixty-day period.

Out of the proceeds of the public sale, the sheriff shall pay, in the following order of priority:

1. The reasonable charges incurred in preparation for and conducting the sale; and
2. The lawful charges of the person who took up the estray.

Any balance remaining from a sale shall be paid to the county treasurer who shall retain the amount subject to claim for one year, separate from other funds, after which time the money shall go to the county general fund.

Until the money goes to the county general fund, the sheriff shall keep a record and file of each estray brought to his official attention, showing the dates of any action thereon, the published notice, the details of any sale or other disposition, and disbursement of any proceeds.

36-1304. Claiming Estrays.) When the owner of an estray, prior to the sale thereof, presents to the person in possession of the animal his affidavit stating his name, place of residence and that he is the actual owner of the estray, describing it, then the person in possession of the animal shall release it to the claimant on payment of the lawful charges. The person formerly in possession shall then promptly send the affidavit to the sheriff, who shall file and keep the same as record of the disposition of the estray. After there has been a sale of an estray under the provisions of this chapter, the former owner of an estray shall have no rights in the animal.

If the former owner of an estray files his verified claim with the board of county commissioners within one year after the date of the estray sale, and proves his former ownership to the satisfaction of the board, it shall order paid to the former owner and any lienors, as their interests may appear, the balance from the sale which is in the county treasury.

36-1305. Lawful Charges.) Any person lawfully taking possession of an estray may charge for actual damage done to his crops or premises by the animal, his actual costs of feeding and caring for it, and any expenses incurred in complying with this chapter, provided that no costs, charges, or expenses shall

be allowed which were incurred prior to notifying the sheriff that the animal was taken up except damage to crops or premises. If the interested parties cannot agree as to the amount of charges each shall choose one person and the two so chosen shall choose a third person and then the three persons so chosen shall arbitrate and determine the amount of the charges. The determination of these arbitrators shall be final if no sale of the animal has been had. In the event of a sheriff's sale the sheriff shall determine the amount of the charges to be received by the person taking possession of the estray.

36-1306. Liability For Failure To Give Proper Notice.)

Any person who shall take up an estray and shall

1. Fail to make reasonable examination of the animal to determine the presence of brands or marks or scars to identify the same as herein required; and
2. Fail to notify the sheriff as provided in this chapter shall be liable to the owner thereof for triple all damages caused thereby, and may not make any claim or charge, or seek damages in connection with the animal.

36-1307. Liability For Death, Theft, Or Escape Of Estray.)

If the person who takes up an estray shall notify the sheriff as provided in this chapter, he shall not be responsible if, without his fault, such estray thereafter dies, is stolen, or escapes and wanders away.

36-1308. Wrongful Taking Up Or Sale; Penalty.) Any person taking up an estray who:

1. Willfully fails to comply with the provisions of this chapter,

shall be punished by a fine of not more than one hundred dollars or imprisonment for not more than thirty days or by both.

Approved March 13, 1957.