

LIVESTOCK

CHAPTER 309

HOUSE BILL NO. 1234
(Committee on Industry, Business and Labor)
(At the request of the Department of Agriculture)

LIVESTOCK DEALER LICENSING

AN ACT to create and enact section 36-04-11.1 of the North Dakota Century Code, relating to rules and regulations; and to amend and reenact subsection 4 of section 36-04-02, subsection 1 of section 36-04-04, and sections 36-04-07 and 36-04-21 of the North Dakota Century Code, relating to licensing of livestock dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 4 of section 36-04-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Livestock purchased by local butchers for slaughter or processing in their business for local home consumption.

SECTION 2. AMENDMENT.) Subsection 1 of section 36-04-04 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Before entering into a business of a kind described in this chapter and annually, on or before July first, each dealer shall file an application for a license to transact such business with the department on a form prescribed by it. The application shall show:
 - a. The nature of the business for which a license is desired and whether it is for the business of buying livestock or wool, or for both such businesses;
 - b. The name or names of the persons applying for the license;
 - c. 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;

- d. The name of the agent or agents of the applicant;
- e. The post-office address and the principal place of business of the applicant;
- f. 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
- g. Such other facts as the department may prescribe.

SECTION 3. AMENDMENT.) Section 36-04-07 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-07. ISSUANCE OF LICENSES - FEES - TERM OF LICENSE - LICENSES NOT TRANSFERABLE.) The 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, twenty-five dollars.
2. For a wool dealer's license, ten dollars.
3. Penalty fee for any late applicant's application or late fee shall be five dollars per month after July first of any year.

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 thirtieth day of June next following the date of its issue, except that all licenses issued by the department pursuant to this chapter prior to July 1, 1977, shall be valid until June 30, 1978, and shall expire upon June 30, 1978. Licenses issued hereunder are not transferable between persons or places.

SECTION 4. Section 36-04-11.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

36-04-11.1. RULES AND REGULATIONS.) The department may prepare, adopt, promulgate, modify, repeal, and enforce rules and regulations necessary to carry out the purposes and provisions of this chapter.

SECTION 5. AMENDMENT.) Section 36-04-21 of the 1975 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-21. PENALTIES - CRIMINAL - CIVIL - INJUNCTIONS.)

1. Any person who violates any of the provisions of this chapter shall be guilty of a class A misdemeanor.
2. Any person who violates any of the provisions of this chapter shall be subject to a civil penalty not to exceed five thousand dollars for each violation.
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 12, 1977

CHAPTER 310

HOUSE BILL NO. 1307
(Murphy)

LIVESTOCK GRAZING AREAS

AN ACT to amend and reenact sections 36-11-07 and 36-11-10 of the North Dakota Century Code, to prevent the owner or possessor of livestock in a grazing area from being liable for property damage or trespass caused by such livestock, to provide establishment of a grazing area by petition to the board of county commissioners, to provide for release of wrongfully distrained livestock in grazing areas and for damages; and to repeal section 36-11-08 of the North Dakota Century Code.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 36-11-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-11-07. LIABILITY OF OWNERS OF HORSES, MULES, CATTLE, SHEEP, GOATS, AND SWINE INJURING PERSONS OR PROPERTY OF OTHERS.)

1. The owner or possessor of any horse, mule, head of cattle, sheep, goat, or swine, which shall inflict any damage or injury to:
 - a. Motor vehicles or their occupants upon a public highway within a grazing area wherein proper signs, approved by the state highway commissioner, indicating limited liability are posted at a point adjacent to such highway not less than two hundred feet nor more than four hundred feet from the entrance of such highway into such grazing area and so posted as to be plainly visible to persons approaching such entrance; or
 - b. The crops or other property of another or shall trespass upon the lands or premises of another, where such damaged or injured crops, property, lands, or premises shall be located within a grazing area, except as provided in section 36-11-09, shall not be liable to any person sustaining such damages or injury.

2. For the purpose of this section, a "grazing area" means any area designated as such by a majority of the board of county commissioners, either upon the motion of one of the said commissioners or upon presentation to the board of a petition signed by a majority of the real property owners and tenants in the area in which it is proposed that a grazing area be established. A grazing area shall be used primarily for the purpose of grazing livestock and enclosed by a fence or other suitable means.
3. Except as provided above, the owner or possessor of any horse, mule, head of cattle, sheep, goat, or swine which shall inflict any damage to the crops or other property of another or which shall trespass upon the lands of another, whether such lands are fenced or unfenced, shall be liable to the persons sustaining the injuries or to the owner of the lands for all damages suffered by him, together with the statutory costs of the action to recover such damages, and a reasonable attorney's fee therein to be allowed by the court.

SECTION 2. AMENDMENT.) Section 36-11-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-11-10. TRESPASSING ANIMALS MAY BE DISTRAINED - NOTICE TO OWNER - SECURITY FOR RELEASE.) The person suffering damages by reason of the trespass of any livestock may take up the offending animal or animals. He shall notify the owner, or the person in possession of the livestock at the time of the trespass, of the seizure of such animal or animals without unnecessary delay, if the owner or person in possession is known to him and is a resident of, and present within, the county in which the trespass occurred. He may retain such animal or animals in his custody until:

1. The damages sustained by reason of such trespass and the costs in the action to recover such damages have been paid; or
2. Good and sufficient security for the payment of such damages and costs is given, such security to be approved by a county justice of the county in which the livestock is taken up.

If the owner of the offending animal or animals elects to give security, he shall give to the person holding the livestock notice that security will be given and the date and hour when such security will be submitted to the county justice for approval. Such notice shall be given at least one day prior to the date set for the submission of the security to the justice.

The cost of serving notices required under this section may be taxed as costs in the action. Where applicable, the provisions of section 36-11-07 may be raised as an affirmative defense in any proceedings under this section, and the owner or person entitled to possession of such livestock may apply to a court of competent jurisdiction for the return of the livestock. If the court shall find that such livestock have been wrongfully distrained, the person who causes such livestock to be wrongfully distrained shall be liable for all damages suffered by the owner or person entitled to possession of such livestock, together with the costs of the action and reasonable attorney's fees.

SECTION 3. REPEAL.) Section 36-11-08 of the North Dakota Century Code is hereby repealed.

Approved March 23, 1977