

LIVESTOCK

CHAPTER 425

HOUSE BILL NO. 1121
 (Committee on Agriculture)
 (At the request of the Livestock Sanitary Board)

LIVESTOCK SANITARY BOARD AUTHORITY

AN ACT to amend and reenact sections 36-01-06, 36-01-08, 36-01-13, 36-01-14, 36-01-16, 36-01-17, 36-01-18, 36-01-22, 36-01-28, 36-01-29, 36-01-30, 36-07-01, 36-07-02, 36-07-03, 36-07-08, 36-07-09, 36-07-10, 36-07-11, 36-07-13, 36-14-04, 36-14-05, 36-14-06, 36-14-07, 36-14-10, 36-14-11, 36-14-12, 36-14-13, 36-14-20, 36-15-06, 36-15-14, and 36-15-22 of the North Dakota Century Code, relating to livestock sanitary board duties and authority, rendering plants, contagious and infectious diseases, and bovine tuberculosis and brucellosis; to repeal sections 36-01-09, 36-01-21, 36-01-23, 36-01-24, 36-01-25, 36-01-26, 36-01-27, 36-15-13, 36-15-15, 36-15-16, 36-15-17, and 36-15-18 of the North Dakota Century Code, relating to livestock sanitary board duties and authority and to bovine tuberculosis and brucellosis; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

* SECTION 1. AMENDMENT. Section 36-01-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-06. Executive officer to act as state veterinarian - Duties. The executive officer of the state livestock sanitary board shall act as the state veterinarian and ~~he~~ shall:

1. Ascertain, by personal examination or through reports from other ~~accredited authorized~~ representatives or ~~agents~~ of the board, all information which ~~he can obtain~~ be obtained regarding the existence of contagious, infectious, and epizootic diseases of animals.
2. Execute all orders, ~~and~~ rules, ~~and~~ regulations made by the board.
3. Execute all duties prescribed for the state veterinarian in title 36 and all duties and responsibilities otherwise authorized by the board that are necessary and proper in order to accomplish the business of the livestock sanitary board and to carry into effect the purposes of title 36.
4. Present at the ~~quarterly~~ meetings ~~thereof~~ of the board a detailed report of all matters connected with the work ~~done by him or his subordinates~~ of the state veterinarian and authorized representatives of the board during the ~~quarter~~ quarter preceding said time since the last meeting.

* SECTION 2. AMENDMENT. Section 36-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-08. Duties of board - ~~May make rules and regulations~~ Rules. The state livestock sanitary board shall protect the health of the domestic animals of this state and shall determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous, contagious, and infectious diseases among the domestic animals of this state. The board may make rules ~~and regulations~~ for the conduct of its business and to carry into effect the purposes of this chapter and other duties prescribed in this title. The rules of the state livestock sanitary board must be adopted in accordance with chapter 28-32.

* SECTION 3. AMENDMENT. Section 36-01-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-13. Diseased animal to be reported to board. Any person who discovers, suspects, or has reason to believe that any domestic animal belonging to ~~him or in his charge~~, that person or belonging to any other person, is affected by any contagious disease, shall report such knowledge, suspicion, or belief to:

1. The state livestock sanitary board or to a any member or representative thereof of the board; or
2. The clerk of the township in which such animal is present; or to a supervisor of such township if the clerk cannot be found; The state veterinarian or any other agent or representative of the state livestock sanitary board; or
3. Any law enforcement officer of the county or city in which the animal is present. If a report is made to an a law enforcement officer under this subsection, such the officer shall report the facts immediately to the state livestock sanitary board, the state veterinarian, or another agent or representative of the state livestock sanitary board and his failure to do so constitutes a violation of the provisions of this chapter.

* SECTION 4. AMENDMENT. Section 36-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-14. Protest against killing of diseased animal - Examination of animal by experts - Appointment of experts. Whenever a domestic animal has been ~~adjudged~~ determined to be affected with a contagious or infectious disease and has been ordered killed by the state livestock sanitary board ~~or by an accredited agent thereof~~, the state veterinarian, or an agent or representative of the state livestock sanitary board, the owner or keeper of ~~said~~ the animal must be notified of the order. Notice may be accomplished by sending, by registered or certified mail, a copy of the order to the owner or keeper of the animal, or by having an agent or representative of the board, or a law enforcement officer, serve a copy of the order upon the owner or keeper of the animal. Within twenty-four hours after receiving such notice of the order, such the owner or keeper may file a protest against the killing of such the animal with said the board or with its accredited agent the person who has ordered the animal killed. Such The protest must state under oath, that to the best of the knowledge and belief of the person making the same such protest, the animal is not infected with any contagious or infectious disease. An examination of the animal involved then must be made by three experts, one of whom must be appointed by the board, one by the person making the protest, and the third by the two thus appointed. All such

the experts must be persons learned in veterinary medicine and surgery and graduates of the veterinary course of a recognized college or university.

* SECTION 5. AMENDMENT. Section 36-01-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-16. Disposal of carcass of diseased animal. The owner or keeper of any animal killed by order of the state livestock sanitary board, the state veterinarian, or by an agent or representative of the state livestock sanitary board, shall dispose of the carcass of the animal in the manner prescribed by the board or the state veterinarian. If the owner or keeper of an animal killed ~~as aforesaid~~ pursuant to an order is unknown, the carcass must be disposed of at the expense of the county in which the carcass is located.

* SECTION 6. AMENDMENT. Section 36-01-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-17. ~~Board, members, and agents to have same powers as county judge in Oaths and examinations.~~ The state livestock sanitary board, and any member of the board, the state veterinarian, or any ~~member or duly authorized agent thereof~~ authorized agent or representative of the board, may examine or cause to be examined under oath all persons believed to possess knowledge of material facts concerning the existence or dissemination, or the danger of dissemination, of disease among domestic animals. For this purpose, the board, members of the board, the state veterinarian, and any ~~member or authorized agent thereof~~ authorized agent or representative of the board, must shall have all the powers vested by this code in county judges the power to take depositions, to compel witnesses to attend and testify, and to administer oaths. Such witnesses shall receive the same fees for attendance and travel as witnesses before the district courts, and ~~said~~ the fees must be paid by the board from moneys appropriated to it.

* SECTION 7. AMENDMENT. Section 36-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-18. Inspection of livestock in transit —~~Execution of orders of board by peace officers - Powers of officers - Penalty.~~ Authorized The state veterinarian and authorized agents and representatives of the state livestock sanitary board, for purposes of inspecting livestock in transit for health or ownership identification, may stop vehicles transporting livestock on public highways of this state. When signaled by such representative the state veterinarian or an authorized agent or representative of the board to stop, the operator of any vehicle shall stop the vehicle, show any health or identification forms which are required to be carried in transportation of livestock, and permit the inspector to make an inspection of the livestock being transported if deemed by the inspector to be necessary. Failure to stop when so directed constitutes is a class A misdemeanor. Any vehicle used by an inspector for purposes of inspecting livestock in transit must be clearly identified in letters not smaller than three inches {7-62 centimeters}. The inspector is authorized to use a stop signal.

The state livestock sanitary board, the state veterinarian, or any authorized agent or representative of the board, may call any sheriff or deputy sheriff, police officer, or highway patrol officer, to execute its orders, and those officers must obey the orders of the board. Any peace law enforcement officer may arrest and take before any county judge of the county

any person found violating any of the provisions of this chapter. The peace law enforcement officer shall immediately notify the state's attorney immediately of the county of the arrest, and the state's attorney shall prosecute the person so offending found violating any provision of this chapter.

* SECTION 8. AMENDMENT. Section 36-01-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-22. Permit for feeding garbage to swine. No person may feed garbage to swine without first securing a permit from the livestock sanitary board. Such permits must be renewed on the first of July of each year. As used in this section "garbage" means animal and vegetable waste matter resulting from the handling, preparation, cooking, and consumption of foods, including animal carcasses or parts of animal carcasses, except that dairy products from a licensed creamery or dairy is not considered garbage for the purposes of this section. This section does not apply to any person who feeds garbage from his own household.

* SECTION 9. AMENDMENT. Section 36-01-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-28. Penalty. Any person who violates any of the provisions of this chapter for which a specific penalty is not provided, or who knowingly violates any rule or regulation duly established adopted by the livestock sanitary board, is guilty of a class B misdemeanor.

* SECTION 10. AMENDMENT. Section 36-01-29 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-29. Quarantined Monitored livestock feedlots - Regulations Rules - Licensure License. The livestock sanitary board is authorized to promulgate regulations may adopt rules for the establishment and maintenance by any person of a quarantined monitored livestock feedlot. Any person may, on compliance with such regulations the rules, obtain a license for said the feedlot upon filing an application with the state livestock sanitary board and upon the payment of an annual fee of fifty dollars to the state livestock sanitary board. Such The fee must be deposited with the state treasurer in the general fund out of which, upon legislative appropriation, the veterinarian inspector's fees and cost of administration, must be paid. When so licensed and upon in compliance with the regulations rules for the maintenance of the quarantined monitored livestock feedlot, such the licensee is authorized to confine and feed, in the feedlot, without vaccination or tests for brucellosis and such other diseases as the livestock sanitary board may specify, cattle to be sold only for slaughter or at public market or to another quarantined monitored feedlot.

* SECTION 11. AMENDMENT. Section 36-01-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-01-30. Feedlot registration - Rules and regulations - Penalty. No person may operate a registered livestock feedlot without obtaining from the livestock sanitary board a registration number. The livestock sanitary board is hereby authorized to set adopt rules within the limitations of this section for the operation of feedlots registered for the enforcement of brand inspection regulations rules. Applications for registration must be made upon such forms as may be prescribed by the board and must be accompanied by

a fee equal to the fee charged for brand recording. All fees and any inspection fees established by the board must be remitted regularly to the North Dakota stockmen's association. The board may promulgate, in accordance with chapter 28-32 such, adopt rules and regulations consistent with law as may be required for the purpose of assuring that brand laws are complied with and, brand inspection certificates are available, and proper records are maintained. Violation of any provision of law or of any rule or regulation of the board promulgated pursuant to this section subjects the operator to revocation or suspension of registration issued hereunder, and in addition any person violating any provision of this section or rule or regulation of the board promulgated hereunder is guilty of a class B misdemeanor. A registration issued under this section may be revoked or suspended for violation of any provision of law or of any rule adopted by the board under this section. In addition, any person violating any provision of this section or any rule adopted by the board under this section is guilty of a class B misdemeanor. The provisions of this section may not be construed as prohibiting the operation of nonregistered feedlots.

* SECTION 12. AMENDMENT. Section 36-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-01. License required to operate rendering plant. No person, firm, or corporation may operate a rendering plant or other establishment using the carcasses of domestic or wild animals, which are not intended for human consumption, for processing without first obtaining a license to do so from the state livestock sanitary board. Such The license may be issued only upon a written application filed with the board in accordance with the provisions of this chapter and such rules and regulations as may be established adopted by the board.

* SECTION 13. AMENDMENT. Section 36-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-02. Inspection of establishment of applicant by state livestock sanitary board. Upon the receipt of an application for a license to operate a rendering plant or other establishment using the carcasses of domestic or wild animals, which are not intended for human consumption, for processing, the state livestock sanitary board shall cause an inspection to be made of the establishment for which a license is requested, including its equipment and vehicles and the manner in which its business is conducted, with reference and due regard to the danger of animal disease transmission and dissemination.

* SECTION 14. AMENDMENT. Section 36-07-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-03. Granting of license - Fee - Term. If the inspection fails to reveal any danger of animal disease transmission, the state livestock sanitary board shall issue the license applied for upon payment of a fee of fifty dollars. Such The license remains is valid for a period of one year from the date of issuance unless it is revoked for cause by said the board before such time expiration.

SECTION 15. AMENDMENT. Section 36-07-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-08. Carcasses to be removed from vehicle only at rendering plant
Removal of carcasses from vehicle - Prohibition. No carcass collected at any farm in this state may be removed from the vehicle except at ~~the~~ a rendering plant or other establishment using the carcasses of domestic or wild animals, which are not intended for human consumption, for processing, for final disposal.

* SECTION 16. AMENDMENT. Section 36-07-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-09. Operator of vehicle for rendering plant to have certificate. Any person operating a vehicle for ~~a licensed rendering~~ an establishment licensed under this chapter shall have an authorized certificate from the ~~rendering~~ establishment which has been approved by the state livestock sanitary board.

* SECTION 17. AMENDMENT. Section 36-07-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-10. Inspection of rendering plant authorized. The operator of any ~~rendering~~ establishment licensed under this chapter shall permit an official authorized by the state livestock sanitary board or any health officer to inspect ~~his~~ the licensed establishment at any time.

* SECTION 18. AMENDMENT. Section 36-07-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-11. Rendering done by packing plants operating under federal inspection - Exception. All rendering done by a packing plant operating under federal inspection in a building adjacent to or on the same premises as ~~said~~ the packing plant is exempt from the provisions of this chapter, except that the transportation by ~~such~~ the packing plant or ~~a rendering plant~~ any establishment licensed under this chapter of carcasses and other animal substances on any public highway or street is subject to the sanitary requirements of this chapter and the rules ~~and regulations of~~ adopted by the state livestock sanitary board ~~made pursuant thereto~~.

SECTION 19. AMENDMENT. Section 36-07-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-07-13. Restrictions on rebuilding and locating rendering plants. No ~~rendering plant or~~ establishment licensed under this chapter may be constructed within three miles [4.83 kilometers] of the limits of any municipality nor within one mile [1.61 kilometers] of any farmstead unless the owner of ~~such~~ the farmstead gives his written consent. No such ~~plant~~ establishment which was in existence and in operation on or after March 17, 1941, may be rebuilt if it is located within three miles [4.83 kilometers] of the limits of any municipality.

SECTION 20. AMENDMENT. Section 36-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-04. Horses, mules, and asses imported into state to have certificate of ~~health~~ veterinary inspection. Each horse, mule, and ass brought into this state must be accompanied by a ~~health~~ certificate of veterinary inspection certifying that such animal has been examined within

thirty days previous to the shipment and found to be free from all contagious and infectious diseases.

* SECTION 21. AMENDMENT. Section 36-14-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-05. Cattle brought into state - Certificate of health veterinary inspection required. All cattle brought into this state ~~for dairy, breeding, and feeding purposes~~ must be accompanied by a certificate of health veterinary inspection certifying that such the animals are free from symptoms of contagious, infectious, or communicable disease, except that no health certificate of veterinary inspection is required for those cattle originating directly from a producer's premises and not diverted en route, if such the cattle are delivered directly to a licensed auction market or other premises approved by the livestock sanitary board.

* SECTION 22. AMENDMENT. Section 36-14-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-06. Certificate of health veterinary inspection required of sheep imported into state - Contents. All sheep brought into this state must be accompanied by a certificate of health veterinary inspection certifying that such the animals are free from symptoms of contagious, infectious, or communicable diseases, except that no health certificate of veterinary inspection is required for those sheep originating directly from a producer's premises and not diverted en route, if such the sheep are delivered directly to a licensed auction market or other premises approved by the livestock sanitary board.

* SECTION 23. AMENDMENT. Section 36-14-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-07. Swine brought into state to have certificate of health veterinary inspection - Contents. All swine brought into this state must be accompanied by a certificate of health veterinary inspection certifying that such the animals are free from symptoms of contagious, infectious, or communicable diseases, except that no health certificate of veterinary inspection is required for those swine originating directly from a producer's premises and not diverted en route, if such the swine are delivered directly to a licensed auction market or other premises approved by the livestock sanitary board.

* SECTION 24. AMENDMENT. Section 36-14-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-10. Shipments of cattle, swine, and sheep for immediate slaughter. Shipments into this state of cattle, swine, and sheep for immediate slaughter shall be permitted without a health certificate of veterinary inspection only if such the livestock are not diverted en route, and are delivered directly to a slaughtering establishment approved by the livestock sanitary board.

* SECTION 25. AMENDMENT. Section 36-14-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-11. Certificates of health veterinary inspection issued by whom - Tests made by whom - Regulations governing. All certificates of

health veterinary inspection required under the provisions of this chapter must be issued, and all tests must be made, by a federal or state veterinarian or a deputy state veterinarian, or by a graduate veterinarian whose inspections and tests are endorsed by the officer in charge of the livestock sanitary work in the state where the inspection or test is made, and subject to the regulations of the state livestock sanitary board. All such tests must conform to the standard tests of the United States department of agriculture. All serums used must be manufactured or approved by the United States department of agriculture.

* SECTION 26. AMENDMENT. Section 36-14-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-12. Requirements governing the issuance of certificates. The certificate certifying to a test made under the provisions of this chapter must be made on official federal or state blanks and must accompany the shipment to its destination. When an original certificate is made, ~~three two~~ two copies ~~thereof~~ of the certificate must be mailed immediately to the state livestock sanitary board. The failure of a veterinarian to mail ~~such two~~ two copies of each certificate relating to livestock to be shipped into this state to the board is sufficient cause to refuse acceptance of any more certificates from ~~such that~~ that person. The owner or owners of the livestock shall have a copy of the certificate to show on the demand of any federal or state official.

* SECTION 27. AMENDMENT. Section 36-14-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-13. Issuance of health certificate of veterinary inspection by unauthorized person - Penalty. Any person who issues a health certificate of veterinary inspection for livestock within this state without being authorized so to do by the state livestock sanitary board or by the United States department of agriculture is guilty of a class B misdemeanor.

SECTION 28. AMENDMENT. Section 36-14-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-14-20. Duty of overseer of highways or coroner when carcass of dead animal is found - Fees - Recovery of expense. If the owner or person in charge of a dead animal fails to comply with the provisions of section 36-14-19, the overseer of highways, or the county coroner in a district which has no overseer, shall cause such section to be complied with comply with the provisions of section 36-14-19 for the owner or person. If burial of the animal is permitted, such the burial may be made upon the premises of the owner or person in charge thereof of the animal at any place more than one thousand feet [304.8 meters] from any dwelling house or barn. The board of county commissioners shall allow such sums in payment a sum for such disposal services as it deems to be reasonable, and the same sum must be paid as other moneys are paid for services rendered to the county. The owner of the animal is liable to the county for any amount paid out for such disposal services, and if. If the owner does not pay such that amount within thirty days after written demand therefor for payment is made upon him by the county auditor, the same sum may be recovered in a civil action, and the judgment must include the costs of the suit and a reasonable attorney's fee, not exceeding twenty five dollars, to be fixed by the court. No property except absolute exemptions is exempt from sale for the payment of any such judgment. Any

attorney's fee allowed by the court must be paid to the county if the action is brought by the state's attorney.

SECTION 29. AMENDMENT. Section 36-15-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-06. Fees of appraisers - How paid. Each member of the board of appraisers who is not ~~connected with an agent of the board~~ is entitled to ~~one dollar per day~~ reasonable compensation for ~~his~~ services rendered. ~~Such compensation~~ Compensation for all board of appraiser members must be the same and must be paid out of the fund created for the purpose of carrying out the provisions of this chapter, upon presentation of vouchers to the state auditor duly approved by the board.

SECTION 30. AMENDMENT. Section 36-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-14. Cattle not to be permitted to enter area circumscribed by board for testing purposes. The board may enforce the tuberculin testing or the brucellosis testing of all cattle in a circumscribed area as established by the board in accordance with the provisions of this chapter providing for the eradication of bovine tuberculosis or brucellosis, as the case may be, and the rules of the board relating to eradication. Whenever a circumscribed area is established by the board as an area in which all cattle are to be tuberculin tested or brucellosis tested, as the case may be, and ~~such the~~ test is undertaken under the direction of the board, no other cattle may be permitted to enter ~~such the~~ area except under a special permit and restrictions provided by the board unless:

1. If the area is to be tuberculin tested, ~~such the~~ cattle have been tuberculin tested under the direction of an agent of the board or are accompanied by a proper tuberculin ~~tested health test~~ certificate of veterinary inspection.
2. If the area is to be brucellosis tested, ~~such the~~ cattle have been brucellosis tested under the direction of an agent of the board or are accompanied by a proper brucellosis test ~~health~~ certificate of veterinary inspection.

SECTION 31. AMENDMENT. Section 36-15-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-15-22. Enforcement orders - Administrative hearing - Penalty.

1. The board may order cattle brought into the state which are not in compliance with the provisions of this chapter to be returned to their state of origin, or in the alternative, the board may order the cattle to be slaughtered.
2. If, after a hearing, the board finds that a person has brought or kept, or received cattle in this state and the cattle are not in compliance with the provisions of this chapter, a civil penalty not to exceed two thousand five hundred dollars may be assessed against that person.

* ** SECTION 32. REPEAL. Sections 36-01-09, 36-01-21, 36-01-23, 36-01-24, 36-01-25, 36-01-26, 36-01-27, 36-15-13, 36-15-15, 36-15-16, 36-15-17, and 36-15-18 of the North Dakota Century Code are hereby repealed.

Approved March 9, 1989
Filed March 9, 1989

* NOTE: Twenty-nine North Dakota Century Code sections amended or repealed by House Bill No. 1121 were also amended by Senate Bill No. 2257, chapter 80.

** NOTE: Section 36-01-21 was also amended by section 38 of Senate Bill No. 2056, chapter 69.

CHAPTER 426

HOUSE BILL NO. 1180
(Tokach)

NSF CHECKS FOR LIVESTOCK NOTICE

AN ACT to create and enact a new section to chapter 36-04, a new subsection to section 36-04-10, and a new section to chapter 36-05 of the North Dakota Century Code, relating to notification by livestock dealers and livestock auction markets of nonsufficient funds checks to the commissioner of agriculture.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 36-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Notice - Nonsufficient funds checks. A dealer that receives a check for the sale of horses, mules, cattle, hogs, goats, sheep, or wool which is returned unpaid with a notation that the payment has been refused because of nonsufficient funds shall notify the commissioner within forty-eight hours after receipt of the check.

SECTION 2. A new subsection to section 36-04-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

The applicant has failed to notify the commissioner of the receipt of a nonsufficient funds check as required by section 1 of this Act.

SECTION 3. A new section to chapter 36-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Notice - Nonsufficient funds checks. A livestock auction market that receives a check for the sale of livestock which is returned unpaid with a notation that the payment has been refused because of nonsufficient funds shall notify the commissioner within forty-eight hours after receipt of the check.

Approved March 9, 1989
Filed March 9, 1989

CHAPTER 427

SENATE BILL NO. 2239
 (Committee on Agriculture)
 (At the request of the Office of Management and Budget)

LIVESTOCK DEALERS, AUCTIONS, AND BRAND FEES

AN ACT to amend and reenact subsection 1 of section 36-04-07, sections 36-05-03 and 36-09-13 of the North Dakota Century Code, relating to livestock dealers', auctions', and brand recording fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 36-04-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. For a livestock dealer's license, ~~twenty five~~ thirty dollars.

* SECTION 2. AMENDMENT. Section 36-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-03. License requirements - Application - Fee - Commission schedule - Facilities. No person, partnership, firm, or corporation may establish or operate a livestock auction market within this state without first procuring a license to do so from the commissioner. The commissioner may not approve any application without written permission from the executive officer of the livestock sanitary board. An applicant for such license shall do all of the following:

1. Make a written application therefor in the form prescribed by the commissioner.
2. File such evidence as the livestock sanitary board or the commissioner may require showing that the person is financially responsible to operate such an auction market and that the person will own or control adequate facilities for the care, sorting, feeding, loading and unloading, and shipment of livestock.
3. Pay to the commissioner a license fee of ~~one~~ two hundred dollars.
4. File with the commissioner a schedule of the fees and commissions which will be charged to owners, sellers, or their agents. The schedule must be posted conspicuously at the auction market. This schedule may not be altered except upon notification to the commissioner and reposting of the changed schedule.
5. State the place where applicant proposes to operate a livestock auction market.

* NOTE: Section 36-05-03 was also amended by section 32 of Senate Bill No. 2257, chapter 80.

6. Make a complete and detailed description of the property and facilities proposed to be used in connection with such livestock auction market.
7. Make a showing of public convenience and necessity to the satisfaction of the commissioner.

SECTION 3. AMENDMENT. Section 36-09-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-09-13. Recording and rerecording of brands - Fee. The rerecording of abandoned livestock brands or marks, and the recording of new brands and marks, must conform in all respects to this chapter. Each application for recording and rerecording must be accompanied by a fee of ~~ten~~ fifteen dollars for each place or position upon each type of livestock where the brand or mark is to be placed.

Approved March 14, 1989
Filed March 15, 1989

CHAPTER 428

SENATE BILL NO. 2085
(J. Meyer)

SATELLITE VIDEO LIVESTOCK AUCTIONS

AN ACT relating to satellite video livestock auction markets.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Definitions. In this Act, unless the context otherwise requires:

1. "Commissioner" means the commissioner of agriculture.
2. "Livestock" means horses, mules, cattle, swine, sheep, and goats.
3. "Representative" means a dealer licensed under chapter 36-04 who is a resident of this state or a livestock auction market licensed under chapter 36-05.
4. "Satellite video livestock auction market" means a place or establishment conducted or operated for compensation or profit as a public market where livestock located in this state is sold or offered for sale at a facility within or outside the state through the use of a satellite video at a public auction.

SECTION 2. Satellite video livestock auction market - Authority to transact business. No satellite video livestock auction market may transact business in this state unless the market transacts business through a representative licensed under this Act.

SECTION 3. Application for license - Contents.

1. Before entering into business with a satellite video livestock auction market and annually, on or before July first, each representative shall file an application for a license to transact business with a satellite video livestock auction market with the commissioner on a form prescribed by the commissioner. The application must show:
 - a. The nature of the business for which a license is desired;
 - b. The name of the representative applying for the license;
 - c. The name and address of the satellite video livestock auction market with which the applicant proposes to transact business; and
 - d. Other information the commissioner may require.

2. The application for a license or for a renewal of a license must be accompanied by:
 - a. A license fee of one hundred dollars;
 - b. Evidence the commissioner may require showing that the satellite video livestock auction market the representative proposes to do business with is financially responsible and bonded to transact such business;
 - c. A schedule of the fees and commissions that will be charged to owners, sellers, or their agents;
 - d. A copy of the contract between the representative and the satellite video livestock auction market with which the representative proposes to transact business. The contract must contain a provision authorizing the commissioner or the commissioner's designee to have access to the books; papers; accounts; financial records held by financial institutions, accountants, or other sources; and other documents relating to the activities of the satellite video livestock auction market and requiring the satellite video livestock auction market to make such documents reasonably available upon the request of the commissioner or the commissioner's designee. The contract must also provide that the satellite video livestock auction market and its representative are jointly and severally liable, with the right of contribution, for all business transacted within this state by the representative on behalf of the satellite video livestock auction market. If the contract between the representative and the satellite video livestock auction market is terminated, rescinded, breached, or otherwise materially altered, the representative and the satellite video livestock auction market shall immediately notify the commissioner. Failure to notify the commissioner of termination, rescission, breach, or material alteration of the contract between the representative and the satellite video livestock auction market is deemed to be a failure to keep and maintain suitable records with the department and is deemed to be a false entry or statement of fact in an application filed with the department.

SECTION 4. Use of fees - Grounds for refusal or revocation of license - Review by court. All fees collected by the commissioner under this Act must be deposited in the general fund of the state treasury. A license may be refused or revoked for any reason specified in subdivision c or d of subsection 2 of section 36-04-04 or section 36-04-10, or if the contract required by this Act between the representative and the satellite video livestock auction market is extinguished, rescinded, or canceled, or is breached by either party. The action of the commissioner in denying an application for a license or revoking or suspending a license may be appealed as provided in section 36-05-13.1.

SECTION 5. Inspection of livestock. Before any livestock sold pursuant to this Act is delivered, whether interstate or intrastate, the livestock must be inspected for health by a veterinarian licensed in this state and approved by the livestock sanitary board and, in the case of cattle, for brands by a trained brand inspector, acting under rules adopted

by the North Dakota stockmen's association and the livestock sanitary board. The inspection must take place at the time of the initial delivery of the livestock. If livestock is destined to be shipped interstate, the authorized veterinarian shall furnish to each purchaser a certificate showing that the inspection has been made and treatment administered in accordance with the requirements of the state of destination. The services and duties of the veterinary inspector are under the supervision of the state livestock sanitary board. Fees for the veterinary inspection must be an amount agreed upon by the representative and the veterinarian. All fees for veterinary inspection, treatment, and services must be collected by the representative and paid to the inspector.

SECTION 6. Method of payment. Payment to the seller for livestock sold through a satellite video livestock auction market must be made in United States currency, with an instrument payable on demand drawn on a financial institution chartered and regulated by a state or the federal government, or by wire transfer or other electronic form of payment from a financial institution chartered and regulated by a state or the federal government.

SECTION 7. Sale of livestock by weight - Scales to be inspected. Notwithstanding section 36-21-15, all livestock sold by weight through a satellite video livestock auction market must be sold based on the weight of the livestock on the day of delivery. All livestock sold by weight must be weighed on scales that have been tested and inspected by the department of weights and measures in the manner provided by law.

Approved April 11, 1989
Filed April 12, 1989

CHAPTER 429

HOUSE BILL NO. 1182
(Committee on Agriculture)
(At the request of the Commissioner of Agriculture)

LIVESTOCK BRAND RECORDING

AN ACT to create and enact section 36-09-02.1 of the North Dakota Century Code, relating to standards for recording livestock brands or marks; to amend and reenact sections 36-09-02, 36-09-09, and 36-09-10 of the North Dakota Century Code, relating to applications for the exclusive use of brands or marks and the rerecording of previously recorded brands or marks; and to repeal section 36-09-05 of the North Dakota Century Code, relating to recording of similar brands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-09-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-09-02. Application for exclusive use of brand or mark —~~Recording of brands and marks.~~ Any person desiring the exclusive use of any mark or brand shall file with the commissioner of agriculture an application:

1. Setting forth a description of the mark or brand of which he desires the exclusive use and a facsimile thereof;
2. Stating the kind or kinds of livestock upon which the mark or brand is to be used; and
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 may not be used for registered numerical brands. Nonregistered numerical brands may be located upon the hips of cattle for individual identification. Registered brands other than numerical brands may also be located on the hips of cattle. Numerical brand means a brand consisting entirely of upright number or numbers, and does not include brands consisting of lazy numbers, or combinations of letters, or characters and numbers. The provisions of this chapter do not apply to any numerical brand recorded prior to July 1, 1957.

~~The commissioner shall record the mark or brand described in the application if the same has not been recorded previously in favor of another person; and shall show in his record the place or position such mark or brand will occupy on each kind of livestock. The mark or brand for which an applicant applies must be given to him whenever it is possible to do so without conflicting or interfering with any previously recorded mark or brand; and if the mark or brand applied for has been recorded previously, the commissioner shall notify the applicant of this fact and permit such applicant to apply for another and different mark or brand.~~

SECTION 2. Section 36-09-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

36-09-02.1. Standards for recording brands or marks. The commissioner shall record the brand or mark described in the application except that the commissioner shall refuse to record any brand or mark:

1. That has been previously recorded in favor of another person or one that is deceptively similar to any previously recorded livestock brand or mark. The same or similar livestock brand or mark which is to be placed on a different part of the animal from that described in the previous record may be recorded.
2. That contains less than two characters or one that contains any of the following characters:
 - a. The letters "g" or "q" or letters that are not in the gothic style.
 - b. The Arabic numerals "o" or "l" or any non-Arabic numerals.
 - c. Any symbols other than permissible symbols. Permissible symbols are limited to the following: diamond, half-diamond, arrow, mill iron, cross, heart, box, triangle, quarter circle, bar, or star.
3. That involves any letters, numerals, or symbols within another letter, numeral, or symbol.
4. That is illegible when placed on the livestock.
5. That indicates placement upon each kind of livestock in other than a permissible location. Permissible locations for cattle are the left and right shoulder, the left and right rib, and the left and right hip. Permissible locations for horses are: mules are left and right jaw, left and right shoulder, and left and right hip. Permissible locations for buffalo are left and right rib, and left and right hip. The permissible locations for other types of livestock must be established by the commissioner as necessary. The determination of permissible locations under this section may not be considered as a rule under chapter 28-32.

Notwithstanding any provisions of this section to the contrary, the commissioner shall accept for rerecording under section 36-09-09 any previously recorded livestock brand or mark.

SECTION 3. AMENDMENT. Section 36-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-09-09. Cancellation of brands - Rerecording - Limitation on brands. On the first day of January 1966, each and every livestock brand or mark must be canceled and no person, copartnership, company, firm, or corporation may 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 first, and each ten years thereafter. No single figure or single letter may 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 is not 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.~~

SECTION 4. AMENDMENT. Section 36-09-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-09-10. 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, is deemed an absolute abandonment to the state of North Dakota of such previously recorded livestock brand or mark. Thereafter the commissioner of agriculture shall accept any regular application for the issuance to anyone of such abandoned livestock brand or mark, provided the abandoned livestock brand or mark complies with the standards of section 36-09-02.1. The commissioner shall issue ~~his~~ a certificate for the use of such abandoned brand or mark within this state, except that such brand or mark may not be issued if it consists of a single figure or single letter.

SECTION 5. REPEAL. Section 36-09-05 of the North Dakota Century Code is hereby repealed.

Approved March 29, 1989
Filed March 30, 1989

CHAPTER 430

HOUSE BILL NO. 1114
(Committee on Agriculture)
(At the request of the State Auditor)

STOCKMEN'S ASSOCIATION AUDITS

AN ACT to amend and reenact section 36-22-09 of the North Dakota Century Code, relating to examination of records and accounts of the stockmen's association.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-22-09. State auditor to examine records and accounts of the association - Report. It is the duty of the state auditor to examine the records and accounts of said North Dakota stockmen's association and to report thereon to the governor Audit of stockmen's association. It is the duty of the board of directors of the North Dakota stockmen's association to provide for an audit at least once every two years by a certified public accountant or licensed public accountant. Two copies of each audit report must be submitted to the state auditor's office.

Approved March 9, 1989
Filed March 9, 1989