

LIVESTOCK

CHAPTER 347

SENATE BILL NO. 2505

(Senators Naaden, Solberg)

BOARD OF ANIMAL HEALTH DUTIES TRANSFERRED

AN ACT to create and enact a new section to chapter 36-01 of the North Dakota Century Code, relating to duties and reports of the state board of animal health; to amend and reenact subsection 1 of section 4-13.2-03, section 4-13.2-04, subsection 43 of section 20.1-01-02, sections 36-01-00.1, 36-01-01, 36-01-03, 36-01-04, 36-01-05, 36-01-06, 36-01-07, 36-01-08, 36-01-10, 36-01-12.1, 36-01-13, 36-01-15, 36-01-17, 36-01-18, 36-01-19, 36-01-29, 36-01-30, 36-05-03, 36-05-09, 36-05-10, 36-05-13, 36-07-01, 36-07-02, 36-07-03, 36-07-09, 36-07-10, 36-14-03, 36-14-05, 36-14-06, 36-14-07, 36-14-09, 36-14-10, 36-14-12, 36-14-15, subsection 1 of section 36-14-19, sections 36-14.1-01, 36-14.1-02, 36-14.1-03, 36-14.1-04, 36-14.1-05, 36-14.1-07, 36-15-09, 36-15-14, 36-15-19, 36-21.1-01, subsection 2 of section 36-21.1-06, sections 36-21.1-11, and 36-21.1-12 of the North Dakota Century Code, relating to transferring certain responsibility from the board of animal health to the commissioner of agriculture and to the membership of the board of animal health; to repeal section 36-01-11 of the North Dakota Century Code, relating to reports by the board of animal health to the office of management and budget and the governor; to provide an effective date; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 1 of section 4-13.2-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Improve Work toward improving poultry breeding and to cooperate with the board of animal health in controlling and eradicating communicable diseases of poultry.

SECTION 2. AMENDMENT. Section 4-13.2-04 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-13.2-04. Poultry advisory board - How constituted. The advisory board consists of the ~~executive officer of the board of animal health~~ state veterinarian; the chairman of the animal science department of North Dakota state university of agriculture and applied science; and three members recommended by the poultry industry who must be one representative from the egg industry, one from the turkey industry, and one from the hatchery industry. The appointed members shall serve: one for a term to expire July 1, 1976; one for a term to expire July 1, 1977; and one for a term to expire July 1, 1979. On or before July first in each year when a term is to expire, a member must be appointed to serve for a term of five years. Members of the advisory board must be reimbursed for mileage and travel as

specified in section 54-06-09 and expenses as specified in section 44-08-04 for attendance at regular and special meetings.

¹⁷⁶ SECTION 3. AMENDMENT. Subsection 43 of section 20.1-01-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

43. "Wildlife" means any member of the animal kingdom including any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof. Wildlife does not include domestic animals as defined by ~~the board of animal health~~ section 36-01-00.1, or birds or animals held in private ownership.

SECTION 4. AMENDMENT. Section 36-01-00.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-00.1. Definitions. In this chapter unless the context or subject matter otherwise requires:

1. "Board" means the state board of animal health.
2. "Commissioner" means the commissioner of agriculture.
3. "Domestic animal" means dog, cat, horse, bovine animal, sheep, goat, bison, llama, alpaca, or swine.
- ~~3~~ 4. "Nontraditional livestock" means any wildlife held in a cage, fence, enclosure, or other manmade means of confinement that limits its movement within definite boundaries or an animal that is physically altered to limit movement and facilitate capture.

SECTION 5. AMENDMENT. Section 36-01-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-01. State board of animal health - Appointment - Terms - Qualifications.

1. The state board of animal health consists of ~~seven~~ nine members ~~appointed by the~~.
2. The governor shall appoint seven members for terms of seven years each with their terms of office ~~so~~ arranged so that one term; ~~and only one~~; expires on the first day of August in each year. ~~No person may be appointed~~ The governor may not appoint any person to more than two 7-year terms on the board. Each member of ~~such~~ the board must be a qualified elector of this state. Each member of the board, immediately after ~~his~~ appointment shall take the oath of office required of civil

¹⁷⁶ Section 20.1-01-02 was also amended by section 1 of House Bill No. 1375, chapter 237.

officers. One member of ~~said the~~ board must be a person actively engaged and financially interested in the commercial beef cattle industry and shall represent ~~said that~~ industry on ~~said the~~ board; one member of ~~said the~~ board must be a person actively engaged and financially interested in the registered purebred beef cattle industry and shall represent ~~said that~~ industry on ~~said the~~ board; one member of ~~said the~~ board must be a person actively engaged and financially interested in the dairy cattle industry and shall represent ~~said that~~ industry on ~~said the~~ board; one member of ~~said the~~ board must be a person actively engaged and financially interested in the swine industry and shall represent ~~said that~~ industry on ~~said the~~ board; one member of ~~said the~~ board must be a person actively engaged and financially interested in the sheep industry and shall represent ~~said that~~ industry on ~~said the~~ board; and two members of ~~said the~~ board must be competent veterinarians who are graduates of a veterinary course in a recognized college or university. Vacancies occurring ~~prior to~~ before the expiration of ~~the~~ terms of ~~office~~ these seven members must be filled by appointment by the governor and must be for the balance of the unexpired term. Recommendations for appointment of members ~~to said board as constituted~~ under this ~~section~~ subsection may be made to the governor by the following associations for the following stated industries; ~~to wit:~~ by the North Dakota stockmen's association for the members representing commercial beef cattle, by the various registered purebred beef cattle associations for the member representing the registered purebred beef cattle, by the various dairy breed associations for the member representing dairy cattle, by the North Dakota swine breeders' association for the member representing swine, by the North Dakota wool growers' association for the member representing sheep, by the state veterinary medical association for the two veterinarian members, and by such other associations within this state representing livestock industries as the governor may permit. Two recommendations must be submitted for each office to be filled.

3. The chairman of the legislative council shall appoint two members for terms of two years, beginning August 1, 1995. One appointee must be a member of the house of representatives and one appointee must be a member of the senate. The appointees may not represent the same political party.

SECTION 6. AMENDMENT. Section 36-01-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-03. Officers of board - Election - ~~Qualifications of executive officer.~~ The ~~state board of animal health~~ shall elect a president and a secretary from among its members ~~and an executive officer who may not be a member of the board.~~ The ~~executive officer must be a competent and skilled veterinarian and must be a graduate of the course in veterinary medicine and surgery offered by a recognized college or university~~ commissioner shall provide clerical services to the board.

SECTION 7. AMENDMENT. Section 36-01-04 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-04. Compensation and expenses of members of board. Each member of the ~~state board of animal health~~ shall receive as compensation for ~~his~~ services the sum of fifty dollars per day for each day employed, and ~~his~~ actual expenses incurred in attending the meetings of the board. ~~Such~~ The sum must be paid out of the state

treasury upon vouchers of the board duly certified by the executive officer thereof commissioner.

SECTION 8. AMENDMENT. Section 36-01-05 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-05. Executive officer - Salary - Bond State veterinarian - Appointment. The executive officer of the state board of animal health shall receive for his services such annual salary as must be fixed by the board within the limits of the appropriations made to the board by the legislative assembly. Before entering upon the discharge of his duties, the executive officer shall give a bond in the sum of five thousand dollars, to the state of North Dakota, conditioned for the proper discharge of his duties, and shall take the oath of office required of civil officers commissioner shall, with the consent of the board, appoint the state veterinarian and deputy state veterinarian. However, the commissioner's first appointments to the positions of state veterinarian and deputy state veterinarian must be the persons serving in those capacities for the board of animal health on the day before the effective date of this Act. The state veterinarian and deputy state veterinarian must be competent and skilled veterinarians and graduates of a veterinary medicine and surgery course at a recognized college or university. The commissioner may remove the state veterinarian or deputy state veterinarian for cause. At the request of the board, the commissioner shall deputize persons licensed to practice veterinary medicine in this state as assistant state veterinarians. Deputized persons shall serve during periods of emergency and only for the time period determined by the board.

SECTION 9. AMENDMENT. Section 36-01-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-06. Executive officer to act as state State veterinarian - Duties. The executive officer of the state board of animal health shall act as the state veterinarian and shall:

1. Ascertain, by personal examination or through reports from other authorized representatives or agents of the board commissioner, all information which can be obtained regarding the existence of contagious, infectious, and epizootic diseases of animals.
2. Execute all orders and rules 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 board of animal health and ~~to~~ carry into effect the purposes of this title 36.
4. Present at the meetings of the board a detailed report of all matters connected with the work of the state veterinarian and authorized representatives of the board during the time since the last meeting.

SECTION 10. AMENDMENT. Section 36-01-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-07. Bacteriologist and consulting veterinarian of board - Duties - Compensation. The professor of veterinary science of the North Dakota state university of agriculture and applied science shall act as bacteriologist and consulting veterinarian to the state board of animal health. He The bacteriologist shall make bacteriological or pathological examinations of all diseased animals or portions

thereof, or of such material as may be forwarded to ~~him~~ the bacteriologist by the board or ~~its~~ the commissioner's duly authorized agents. ~~He~~ The bacteriologist shall furnish material for the diagnosis of contagious diseases and instruction as to its use. For ~~his~~ his services, the bacteriologist ~~shall~~ is entitled to receive such compensation as the ~~board~~ commissioner may deem proper, which must be paid out of the fund appropriated for the use of the ~~board~~ commissioner.

SECTION 11. AMENDMENT. Section 36-01-08 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-08. Duties of board - Rules - Fees. The board shall protect the health of the domestic animals and nontraditional livestock of this state, 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 and nontraditional livestock of this state, and shall prevent the escape and release of an animal injurious to or competitive with agriculture, horticulture, forestry, wild animals, and other natural resource interests. Any matter relating to the health and welfare of domestic animals and nontraditional livestock and not specifically assigned by statute to another entity is deemed to be within the authority of the board. The board may make rules ~~for the conduct of its business~~ and to carry into effect the purposes of this chapter and other duties prescribed in this title. The ~~board~~ commissioner shall collect six cents for each brucellosis tag and each identification tag, and eight dollars for each health book ~~it~~ the commissioner distributes. The fees collected by the ~~board~~ commissioner must be deposited in the state general fund.

SECTION 12. A new section to chapter 36-01 of the North Dakota Century Code is created and enacted as follows:

Duties - Evaluations - Report. The board shall conduct performance evaluations of the state veterinarian and any assistant state veterinarians; review the short-term and the long-term role and mission of the board and its employees; review alternatives for the enhancement of, and the efficient delivery of, services provided by the board and its employees; and evaluate the consolidation and cooperation with the department of agriculture. The board shall report to the governor and the legislative council before September 1, 1996, and each year thereafter.

SECTION 13. AMENDMENT. Section 36-01-10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-10. Agents and assistants may be employed by ~~board~~ commissioner - Granting of authority to United States government inspectors. The ~~state board of animal health~~ commissioner may employ ~~such~~ such officers, agents, or assistants ~~as it may deem necessary~~ to carry out the purposes of this chapter, at a compensation to be fixed ~~by the board~~ within the limits of legislative appropriations made to the board by the legislative assembly. The ~~board~~ commissioner may grant to the inspectors of the United States department of agriculture the same authority as is possessed by agents of the ~~board~~ board; ~~and when such inspectors are engaged in work by the direction or at the request of the board they may not receive compensation from the state or be required to give bond thereto~~ commissioner.

SECTION 14. AMENDMENT. Section 36-01-12.1 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-12.1. Fund transfer for control of diseases. The ~~board of animal health commissioner~~ may use any ~~of the moneys~~ appropriated to it ~~the commissioner~~ for the control of animal diseases, for the rapid arrest and eradication of foot-and-mouth disease, rinderpest, contagious pleuropneumonia, or any other highly contagious or infectious animal plagues for which purpose adequate funds are not otherwise available.

SECTION 15. AMENDMENT. Section 36-01-13 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted 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 or nontraditional livestock belonging to that person or belonging to any other person, is affected by any contagious disease, shall report ~~such~~ that knowledge, suspicion, or belief to:

1. ~~The board or any member of the board;~~
2. The state veterinarian or any other agent or representative of the ~~board commissioner;~~ or
- 3- 2. Any law enforcement officer of the county or city in which the animal is present. If a report is made to a law enforcement officer under this subsection, the officer shall report the facts immediately to the ~~board, commissioner or the state veterinarian, or another agent or representative of the board~~ and failure to do so constitutes a violation of this chapter.

SECTION 16. AMENDMENT. Section 36-01-15 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-15. Expense of experts - How paid. If at least two of the experts declare that the animal involved is free from any contagious or infectious disease, the expense of the consultation must be paid by the ~~state board of animal health commissioner.~~ If at least two of such experts declare that such animal is affected with a contagious or infectious disease, the expenses incurred in the consultation must be paid by the person making the protest.

SECTION 17. AMENDMENT. Section 36-01-17 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-17. Oaths and examinations. The board, any member of the board, the state veterinarian, or ~~any authorized agent or representative of the board commissioner~~ 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 or nontraditional livestock. For this purpose, the board, members of the board, the state veterinarian, ~~and any authorized agent or representative of or the board commissioner,~~ may take depositions, compel witnesses to attend and testify, and administer oaths. Such witnesses are entitled to receive the same fees for attendance and travel as witnesses before the district courts. The ~~board commissioner~~ shall pay the fees from ~~moneys appropriated to it~~ legislative appropriations.

SECTION 18. AMENDMENT. Section 36-01-18 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-18. Inspection of livestock in transit - Penalty. The state veterinarian and authorized agents and representatives of the state board of animal health commissioner, 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 the state veterinarian or an authorized agent or representative of the board commissioner 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 is a class A misdemeanor. The inspector is authorized to use a stop signal.

The ~~state board of animal health~~, the state veterinarian, or any authorized agent or representative of the board commissioner, may call any sheriff or deputy sheriff, police officer, or highway patrol officer, to execute its orders, and those officers must obey. Any law enforcement officer may arrest and take before any district judge serving the county any person found violating ~~any of the provisions of~~ this chapter. The law enforcement officer shall immediately notify the state's attorney of the county of the arrest, and the state's attorney shall prosecute the person found violating ~~any provision of~~ this chapter.

SECTION 19. AMENDMENT. Section 36-01-19 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-19. Emergency fund in case of epizootic. In case of any serious outbreak of any contagious, infectious, or epizootic diseases among domestic animals or nontraditional livestock, which cannot be controlled with the funds at the disposal of the board commissioner, the board commissioner shall notify the governor at once, and the governor ~~thereupon~~ shall call a meeting of the emergency commission; ~~and such.~~ The emergency commission may authorize money to be drawn from the state treasury to meet the emergency.

SECTION 20. AMENDMENT. Section 36-01-29 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-29. Monitored livestock feedlots - Rules - License. The board of ~~animal health~~ may adopt rules for the establishment and maintenance by any person of a monitored livestock feedlot. Any person may, on compliance with the rules, obtain a license for the feedlot upon filing an application with the state board of animal health commissioner and upon the payment of an annual fee of fifty dollars to the state board of animal health commissioner. 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 licensed and in compliance with the rules for the maintenance of the monitored livestock feedlot, the licensee is authorized to confine and feed, in the feedlot, without vaccination for brucellosis and such other diseases as the board of animal health may specify, cattle to be sold only for slaughter or to another monitored feedlot.

SECTION 21. AMENDMENT. Section 36-01-30 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-30. Feedlot registration - Rules - Penalty. No person may operate a registered livestock feedlot without obtaining from the board of animal health commissioner a registration number. The board of animal health is authorized to may adopt rules for the operation of feedlots registered for the enforcement of brand inspection rules. Applications for registration must be made upon 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 adopt rules ~~under chapter 28-32 as may be~~ required for the purpose of assuring that brand laws are complied with, brand inspection certificates are available, and proper records are maintained. 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~~ This section ~~may does not be construed as prohibiting prohibit~~ the operation of nonregistered feedlots.

SECTION 22. AMENDMENT. Section 36-05-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05-03. License requirements - Application - Fee - Commission schedule - Facilities. No person; ~~partnership, firm, corporation, or limited liability company~~ 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 board of animal health~~ state veterinarian. 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 board of animal health 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 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.
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 23. AMENDMENT. Section 36-05-09 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05-09. Records to be kept by operator of auction market - Contents - Examination - Report. The operator of each livestock auction market shall keep on file an accurate record of all of the following:

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.
4. The marks and brands on each such animal.

This record, together with the gross selling price, commission, and other proper care, handling, and sales charges on each consignment of livestock must be available for inspection by the ~~board of animal health~~, the commissioner, or authorized inspectors, and a copy thereof must be supplied to the owner of such livestock. All records of sales during the preceding twelve months must be kept readily accessible for immediate examination.

SECTION 24. AMENDMENT. Section 36-05-10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05-10. Inspection of livestock - Fees and rules governing. When an animal enters a livestock auction market and before it is offered for sale, it must be inspected for health by a veterinarian licensed in this state and approved by the board of animal health 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 board of animal health. Veterinary inspection must include all livestock, whether it is to be moved interstate or intrastate. The veterinary inspector must be recommended by the livestock auction agency and approved by the ~~state~~ board of animal health. Such veterinarian must be a local veterinarian or a veterinarian of the vicinity, unless there is no such veterinarian available. If the livestock agency fails to recommend such a veterinarian within a reasonable time, the board may in ten days' notice to such agency appoint a veterinarian. The services and duties of the veterinary inspector are under the supervision of the ~~state~~ board of animal health and ~~said the~~ inspector must be relieved of ~~his services by the board office~~ when ~~he the inspector~~ fails to perform ~~such those~~ services and duties ~~as required of him by the board of animal health~~. This section does not apply to veterinarians who were approved by the ~~board of animal health prior to an authorized state agency before July 1, 1969~~. Fees for ~~such the~~ inspection must be paid to the veterinarian by the auction market company and must be in an amount agreed upon by the auction market company and the veterinarian.

SECTION 25. AMENDMENT. Section 36-05-13 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05-13. Use of fees - Grounds for refusal or revocation of license - Procedure on default of licensee. All fees collected by the commissioner ~~and the board of animal health~~ under this chapter must be credited to the general fund of the state treasury. A license to operate a livestock auction market may be refused or revoked for any of the reasons specified in section 36-04-10 or subsection 2 of section 36-04-04. When the holder of a license issued under this chapter defaults in any of the conditions of any bond filed with the commissioner by the licensee, the commissioner will become trustee of the bond and sections 36-04-12 through 36-04-19 govern the procedure to be followed.

SECTION 26. AMENDMENT. Section 36-07-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-07-01. License required to operate rendering plant. No person; ~~firm, corporation, or limited liability company~~ 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 board of animal health commissioner of agriculture. The license may be issued only upon a written application filed with the board commissioner in accordance with the ~~provisions~~ of this chapter and rules adopted by the board.

SECTION 27. AMENDMENT. Section 36-07-02 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-07-02. Inspection of establishment of applicant by state board of animal health veterinarian. 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 board of animal health veterinarian 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 28. AMENDMENT. Section 36-07-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 29. AMENDMENT. Section 36-07-09 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 30. AMENDMENT. Section 36-07-10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 31. AMENDMENT. Section 36-14-03 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-14-03. Animals infected with contagious or infectious disease to be confined and isolated from other animals. The owner, agent, or person having in charge any animal infected or suspected of being infected with any contagious disease shall confine the animal immediately in a safe place isolated from all other animals with all necessary restrictions to prevent the dissemination of the disease until the arrival of an accredited agent of the state board of animal health veterinarian.

SECTION 32. AMENDMENT. Section 36-14-05 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 33. AMENDMENT. Section 36-14-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 34. AMENDMENT. Section 36-14-07 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 35. AMENDMENT. Section 36-14-09 of the North Dakota Century Code is amended and reenacted as follows:

36-14-09. Living hog cholera virus and vaccines - Purchase, possession, or use of living hog cholera virus and vaccines prohibited - Penalty. The purchase, possession, or use of living hog cholera virus and vaccines by any person including all licensed veterinarians, is ~~hereby prohibited and made~~ unlawful except by written permit issued by the ~~executive officer and~~ state veterinarian. Any person violating ~~any of the provisions of~~ this section is guilty of a class B misdemeanor.

SECTION 36. AMENDMENT. Section 36-14-10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted 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 may be permitted without a certificate of veterinary inspection only if the livestock are not diverted en route, and are delivered directly to a slaughtering establishment approved by the board of animal health commissioner of agriculture.

SECTION 37. AMENDMENT. Section 36-14-12 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted 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, two copies of the certificate must be mailed immediately to the state ~~board of animal health veterinarian~~. The failure of a veterinarian to mail two copies of each certificate relating to livestock to be shipped into this state to the ~~board state veterinarian~~ is sufficient cause to refuse acceptance of any more certificates from that person. The owner or owners of the livestock ~~shall~~ must have a copy of the certificate to show on the demand of any federal or state official.

SECTION 38. AMENDMENT. Section 36-14-15 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-14-15. Duty of state's attorney to bring actions for violation of provisions of chapter - Notice. If livestock is brought into this state in violation of ~~any provision of~~ this chapter or contrary to any rule of the state board of animal health, the state veterinarian or other accredited agent of the ~~board commissioner~~ shall notify the state's attorney of the county into which ~~such the~~ livestock has been brought. Immediately upon receiving ~~such a the~~ notice, the state's attorney shall bring an action against any person; ~~firm, corporation, or limited liability company~~ charged with bringing, transporting, or importing livestock contrary to any provision of this chapter or of any rule of the state board of animal health.

¹⁷⁷ **SECTION 39. AMENDMENT.** Subsection 1 of section 36-14-19 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. If the animal died of anthrax, as determined by ~~an agent of the state board of animal health~~ a licensed veterinarian, the carcass must be completely burned at the place where it died if possible. If the carcass must be moved, it may not be dragged over the ground but must be moved only on a suitable conveyor, and all body openings in the carcass must be plugged with cotton saturated with a strong antiseptic solution.

SECTION 40. AMENDMENT. Section 36-14.1-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-14.1-01. Definitions. As used in this chapter:

1. "Board" means the state board of animal health.
2. "Commissioner" means the commissioner of agriculture.
3. "Destroy" means to condemn because of hog cholera under state authority and slaughter or otherwise kill as a result of ~~a~~ or pursuant to such condemnation.

¹⁷⁷ Section 36-14-19 was also amended by section 1 of Senate Bill No. 2196, chapter 349.

- 3- 4. "Hog cholera" means the contagious, infectious, and communicable disease of swine commonly known as hog cholera.

SECTION 41. AMENDMENT. Section 36-14.1-02 of the North Dakota Century Code is amended and reenacted as follows:

36-14.1-02. General authority. The board; ~~or its executive officer or any authorized agents thereof;~~ or the state veterinarian may destroy or require the destruction of any swine ~~which said that the board; executive officer, or agent;~~ the state veterinarian knows to be, or suspects is, infected with, affected with, or exposed to hog cholera, whenever ~~said board; executive officer, or agents;~~ finds such destruction to be is necessary to prevent or reduce the danger of the spread of hog cholera.

SECTION 42. AMENDMENT. Section 36-14.1-03 of the North Dakota Century Code is amended and reenacted as follows:

36-14.1-03. Appraisal and indemnification. The board; ~~or its executive officer, or agents;~~ or the state veterinarian shall appraise any swine destroyed or ordered destroyed pursuant to this chapter and shall indemnify the owner of such swine in an amount to be set by the board for either registered animals or grade animals.

SECTION 43. AMENDMENT. Section 36-14.1-04 of the North Dakota Century Code is amended and reenacted as follows:

36-14.1-04. Institution of indemnification. It is hereby recognized and declared that indemnification for the destruction of swine infected with, exposed to, or suspected of being affected or exposed to hog cholera, is an expression of the public policy of this state to be employed only in the final phase of the official state-federal eradication program in the state, or as a means of preventing or minimizing its recurrence, as such may be determined by the board. ~~The~~ Neither the board; or its executive officer, or agents; nor the state veterinarian may ~~not~~ institute an initial program of indemnification until the state has been approved as meeting the requirements specified by the appropriate cooperating federal agency.

SECTION 44. AMENDMENT. Section 36-14.1-05 of the North Dakota Century Code is amended and reenacted as follows:

36-14.1-05. Cooperation with the United States. The board; ~~or its executive officer, or agents;~~ may cooperate with the United States, or any department, agency, or officer thereof, in the control and eradication of hog cholera, including the sharing in the payment of indemnities for swine destroyed, but the state ~~shall~~ may only share in such payment of indemnities in the amounts or rates set by the board.

SECTION 45. AMENDMENT. Section 36-14.1-07 of the North Dakota Century Code is amended and reenacted as follows:

36-14.1-07. Review. Any act or omission of the board or commissioner pursuant to or within the purview of this chapter is reviewable by the courts of this state as provided in chapter 28-32.

SECTION 46. AMENDMENT. Section 36-15-09 of the North Dakota Century Code is amended and reenacted as follows:

36-15-09. Return of appraisalment - Payment of claims for diseased animals. The return of an appraisalment made under ~~the provisions~~ of this chapter must be in writing and signed by the board or by the agent thereof which made the appraisalment, or by the members of the board of appraisers if a reappraisalment is made after a protest, and by the owner of the condemned animal. The return must be certified by the ~~executive officer of the board~~ commissioner of agriculture to the state auditor, who shall draw a warrant upon the state treasurer in favor of the owner of the animal. The amount of indemnity paid by this state, however, must be, in the case of an animal condemned because it is infected with tuberculosis or paratuberculosis, one-third of the difference between the appraised value of the animal and the net value of the salvage received by the owner, however, the indemnity payments may not exceed twenty-five dollars for each grade animal or fifty dollars for each registered purebred animal, except, that if the federal government fails to provide an amount of indemnity equal to that provided by the state, the owner must be paid one-half of the difference between the appraised value of the animal and the net value of the salvage thereof. Before any indemnity payment is made for such registered purebred animals, a certificate of registration in a recognized herdbook must be submitted to the state veterinarian prior to the date set for slaughter of said animal. This state is not liable for indemnity under ~~the provisions~~ of this chapter in excess of the amount appropriated for the payment of such indemnity by the legislative assembly, and the state is not liable for indemnity for any animal killed during a biennium after the appropriation for such biennium has been exhausted.

SECTION 47. AMENDMENT. Section 36-15-14 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-15-14. Cattle not to be permitted to enter area circumscribed by board for testing purposes. ~~The board may~~ commissioner shall 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 the test is undertaken under the direction of the board, no other cattle may be permitted to enter the area except under a special permit and restrictions provided by the board unless:

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

SECTION 48. AMENDMENT. Section 36-15-19 of the North Dakota Century Code is amended and reenacted as follows:

36-15-19. Penalty for violation of provisions relating to testing of livestock. Any person who refuses to assist ~~in or attempts to prevent~~ the board or ~~its agents in; or who endeavors to prevent the board or its agents~~ the commissioner from; carrying out ~~the provisions~~ of this chapter, or who violates any of the provisions of this chapter relating to the testing of cattle, is guilty of a class B misdemeanor.

SECTION 49. AMENDMENT. Section 36-21.1-01 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-21.1-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Animal" includes every living animal except the human race.
2. ~~"Board"~~ "Commissioner" means the ~~state board of animal health commissioner of agriculture.~~
3. "Cruelty" or "torture" includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted.
4. "Investigator" means any person ~~employed or~~ approved by the board to determine whether there has been a violation of this chapter.

SECTION 50. AMENDMENT. Subsection 2 of section 36-21.1-06 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. The sheriff, police officer, licensed veterinarian, investigator, or whoever has custody of the animal has a lien thereon, superior to any other claim or lien, for its care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner. If such lien is not discharged and satisfied by the owner within five days after notice, the person holding such claim may apply to the district court for an order to sell such animal to discharge such lien. Upon order of the court, the animal must be sold at a public market to pay the charges for keeping the same, and the title to the animal passes by the sale. The court may award costs and reasonable attorney's fees to the person bringing the action to enforce the lien, and the remainder, if any, must be paid over to the owner, if known, or if the owner is not known, the remainder must be deposited in the county general fund. If no purchaser is found, the animal, at the discretion of the ~~board commissioner,~~ may be offered for adoption or disposed of consistent with this chapter or with any other provision of law.

SECTION 51. AMENDMENT. Section 36-21.1-11 of the North Dakota Century Code is amended and reenacted as follows:

36-21.1-11. Penalty. Any person knowingly and willfully violating any ~~regulation promulgated rule adopted~~ by the board ~~pursuant to the provisions of chapter 28-32~~ or violating any provision of this chapter for which a specific penalty is not provided is guilty of a class A misdemeanor.

SECTION 52. AMENDMENT. Section 36-21.1-12 of the North Dakota Century Code is amended and reenacted as follows:

36-21.1-12. Duties of board and commissioner. The board shall ~~administer this chapter and shall promulgate such adopt rules and regulations, pursuant to the provisions of chapter 28-32, as are necessary~~ to effectuate the purposes of this chapter. The board ~~may~~ by regulation rule may restrict the importation into the state, and restrict the sale or other distribution within the state, of all domestic animals or animals wild by nature which the board may have reason to believe may

be a threat to the health and well-being of the human or animal population of the state, or both, unless the importation or sale is for bona fide scientific or educational purposes. The ~~executive officer of the~~ board shall establish reasonable qualifications for approved investigators and the commissioner shall maintain a current listing of all approved investigators. Employees of the ~~board~~ commissioner may be assigned as investigators. The ~~board~~ commissioner may by injunctive procedure without bond or other undertaking proceed against any person or persons for a continuous violation of any provision of this chapter. No liability may accrue to the board, the commissioner, or ~~its~~ any authorized representative in proceeding against any person or persons pursuant to this section.

¹⁷⁸ **SECTION 53. REPEAL.** Section 36-01-11 of the 1993 Supplement to the North Dakota Century Code is repealed.

SECTION 54. EFFECTIVE DATE. This Act becomes effective on July 1, 1995.

SECTION 55. EXPIRATION DATE. Section 5 of this Act is effective through December 31, 1996, and after that date is ineffective.

Approved April 12, 1995
Filed April 13, 1995

¹⁷⁸ Section 36-01-11 was also amended by section 23 of House Bill No. 1026, chapter 350.

CHAPTER 348**SENATE BILL NO. 2250**

(Senators Solberg, Christmann, O'Connell)
(Representatives Rennerfeldt, Schimke, Sitz)

CANCELED BRANDS RECORDING

AN ACT to amend and reenact section 36-09-10 of the North Dakota Century Code, relating to recording of canceled brands.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-09-10 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted 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 this chapter, is deemed an absolute abandonment of the previously recorded livestock brand or mark. For one year from the date of cancellation, the chief brand inspector may not reassign a canceled brand or mark to any person other than the registered owner at the time of cancellation. By written notice to the chief brand inspector, the registered owner at the time of cancellation may authorize reassignment of the brand or mark within the one-year period. Thereafter the chief brand inspector shall accept any regular application for the issuance to anyone of the abandoned livestock brand or mark, provided the abandoned livestock brand or mark complies with the standards of section 36-09-02.1. The chief brand inspector shall issue a certificate for the use of the abandoned brand or mark within this state, except that the brand or mark may not be issued if it consists of a single figure or single letter.

Approved March 10, 1995

Filed March 13, 1995

CHAPTER 349**SENATE BILL NO. 2196**

(Agriculture Committee)

(At the request of the State Board of Animal Health)

DISPOSAL OF CONTAGIOUS ANIMALS

AN ACT to amend and reenact section 36-14-19 of the North Dakota Century Code, relating to the disposal of animals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁹ **SECTION 1. AMENDMENT.** Section 36-14-19 of the 1993 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-14-19. Disposition of carcass of animal dying from contagious or infectious disease. Any animal which is found dead must be presumed to have died from a contagious or infectious disease until the contrary is shown unless another cause of death is apparent. The owner or person in charge of any domestic animal or nontraditional livestock which dies within this state from or on account of any contagious or infectious disease shall dispose of the carcass of such animal as follows:

1. If the animal died of anthrax, as determined by an agent of the state board of animal health, the carcass must be completely burned at the place where it died if possible. If the carcass must be moved, it may not be dragged over the ground but must be moved only on a suitable conveyor, and all body openings in the carcass must be plugged with cotton saturated with a strong antiseptic solution.
2. If the carcass is of a hog which died from hog cholera or swine erysipelas, the same, with hide intact, must be burned within thirty-six hours or given to a licensed rendering plant within such time.
3. If the carcass is of an animal which has died of a disease other than is specified in subsections 1 and 2, or from any other cause, it must be burned, buried, composted, or given to a licensed rendering plant within thirty-six hours, or must be disposed of by a method approved by the state veterinarian. If the carcass is buried, it must be buried not less than four feet [1.22 meters] below the surface of the ground and covered with dirt to that depth. No carcass may be disposed of along any public highway or along any stream, lake, or river nor be buried near or adjoining any such place.

Approved March 7, 1995

Filed March 7, 1995

¹⁷⁹ Section 36-14-19 was also amended by section 39 of Senate Bill No. 2505, chapter 347.