

**1999 HOUSE AGRICULTURE**

**HB 1430**


1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1430

House Agriculture Committee

Conference Committee

Hearing Date 2-04-99

| Tape Number  | Side A | Side B | Meter # |
|--|--------|--------|---------|
| ONE HB 1430  | x      |        | 0 to 38 |
|  |        |        |         |
|  |        |        |         |
| Committee Clerk Signature  |        |        |         |

Minutes:

Summary of bill: Relates to the practice of veterinary medicine.

Rep Renner: Dist 31 rep. HB 1430 would make legal the practice that is already going on throughout the cattle industry. That's helping out your neighbor and in return they will help you.

Arlin Scherbenske: Steel, ND.. NDVMA President-elect. Opposed to HB 1430 (Testimony attached). 3000 head of cows preg checked in Steel last yr and no one had to wait longer then 2 weeks to get theirs done. Law now allows an owner to check his own herd. This bill would be counter productive. We spend money and effort to recruit students to go to Vet school then pass laws like this and take away their opportunity to make a living at it. Cost effectiveness: Example of this would be competition, this we are doing now.

Rep Froelich: Are you aware of schools that specialize in teaching laymen how to preg check and other animal disease treatment?

Page 2  
House Agriculture Committee  
Bill/Resolution Number Hb 1430  
Hearing Date 2-4-99

Arlin Scherbenske: Theirs one in Colorado that they know of.

John Boyce: Ex Director of ND Vet Med Examiners; (Testimony attached)

Tom Bittenhausen: Vet with Missouri Valley Vet clinic. Opposed to bill. Difficult to preg check a cow. Took tom 8 years to be confident when he performed the procedure.

Rep Berg: In terms of your practice what % of cattle are preg checked in Oct and Nov?

Dr \_\_\_\_\_: 30 to 40% of business is then.

Committe action 2-11-99:

Rep Renner: Worked out a compromise with sponsors of HB 1430 and HB 1294. Put 1294 on calendar and if it passes then kill HB 1430. Both do the same thing.

Rep Herbel: Supports efforts by Rep Renner to get an a agreement within the industry on what to do.

Rep Mueller: Also supports Rep Renner in his efforts.

Rep Berg: Thinks Vet to supplies Drug's for procedure should be held responsible for any repercussions. Moves the amendments as presented. Second by Rep Renner. Carried.

Motion by Rep Froelich for a DO NOT PASS as amended. Second by Rep Renner,

Vote total on HB 1430: Yes 13 NO 1 ABSENT 1, motion carried,

Carrier: Rep Renner

VR  
2/11/99

HOUSE AMENDMENTS TO HOUSE BILL NO. 1430 HOUSE AG 2-12-99

Page 1, line 1, after "to" insert "create and enact a new section to chapter 36-05 of the North Dakota Century Code, relating to pregnancy determinations on cows sold through livestock auction markets; and to"

Page 1, after line 3, insert:

**"SECTION 1.** A new section to chapter 36-05 of the North Dakota Century Code is created and enacted as follows:

**Inspection of livestock - Pregnancy checks.** Notwithstanding section 43-29-01.1, for purposes of sale through a livestock auction market, only a licensed veterinarian may make a determination regarding the pregnancy of a cow."

Renumber accordingly

Date: 2-11-99  
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1430

House AGRICULTURE Committee \_\_\_\_\_

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass as Amended

Motion Made By Froelich Second By Renner

| Representatives             | Yes | No | Representatives | Yes | No |
|-----------------------------|-----|----|-----------------|-----|----|
| Eugene Nicholas, Chaiman    | ✓   |    | Bob Stefonowicz | ✓   |    |
| Dennis E. Johnson, Vice Chm | ✓   |    |                 |     |    |
| Thomas T. Brusegaard        | ✓   |    |                 |     |    |
| Earl Rennerfeldt            | ✓   |    |                 |     |    |
| Chet Pollert                | ✓   |    |                 |     |    |
| Dennis J. Renner            | ✓   |    |                 |     |    |
| Michael D. Brandenburg      | ✓   |    |                 |     |    |
| Gil Herbel                  | ✓   |    |                 |     |    |
| Rick Berg                   |     |    |                 |     |    |
| Myron Koppang               | ✓   |    |                 |     |    |
| John M. Warner              | ✓   |    |                 |     |    |
| Rod Froelich                |     | ✓  |                 |     |    |
| Robert E. Nowatzki          | ✓   |    |                 |     |    |
| Phillip Mueller             | ✓   |    |                 |     |    |

Total (Yes) 13 No 1

Absent 1

Floor Assignment Renner

**REPORT OF STANDING COMMITTEE**

**HB 1430: Agriculture Committee (Rep. Nicholas, Chairman) recommends AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (13 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1430 was placed on the Sixth order on the calendar.

Page 1, line 1, after "to" insert "create and enact a new section to chapter 36-05 of the North Dakota Century Code, relating to pregnancy determinations on cows sold through livestock auction markets; and to"

Page 1, after line 3, insert:

**"SECTION 1.** A new section to chapter 36-05 of the North Dakota Century Code is created and enacted as follows:

**Inspection of livestock - Pregnancy checks.** Notwithstanding section 43-29-01.1, for purposes of sale through a livestock auction market, only a licensed veterinarian may make a determination regarding the pregnancy of a cow."

Renumber accordingly

1999 TESTIMONY

HB 1430



*Talk to Senale  
ag clerk*

# North Dakota Board of Veterinary Medical Examiners

Post Office Box 5001, Bismarck, ND 58502, phone: 701-328-9540, fax: 701-224-0435

London J. Jacobs, DVM  
Powers Lake, ND  
President

James Clement, DVM  
Mandan, ND  
Secretary

Daniel P. Treat, DVM  
Fargo, ND

John R. Boyce, DVM, PhD  
Executive Secretary

House Agriculture Committee, House Bill No. 1294, January 22, 1999  
John R. Boyce, Executive Secretary, North Dakota Board of Veterinary Medical Examiners

Licensure is a mechanism designed to assure the public that individuals who provide professional services meet certain minimum qualifications and are accountable for their actions. The North Dakota Board of Veterinary Medical Examiners is responsible for regulating the practice of veterinary medicine and veterinary technology in North Dakota. In order to be licensed to practice veterinary medicine in North Dakota, candidates must be graduates of accredited or approved colleges of veterinary medicine. This typically requires between six and eight years of college education (including four years of veterinary school). In addition, candidates must pass two national board examinations and a state board examination. Licensed veterinarians are also required to complete 24 hours of approved continuing education every two years. Veterinary technicians must have at least two years of college-level training, must pass a national licensing examination, and must complete eight hours of continuing education every two years.

The North Dakota Board of Veterinary Medical Examiners would like to share the following concerns about House Bill 1294, regarding embryo transfer procedures in cattle. The same comments would also apply to House Bill 1430, which deals with pregnancy determination in cattle.

First, it is preferable from an administrative standpoint to retain a broad definition of the practice of veterinary medicine in the practice act, and then include in a separate section specific exemptions as necessary. This is the way the North Dakota veterinary medical practice act (Chapter 43-29) is constructed. The practice act contains a section dealing with activities that are not considered the practice of veterinary medicine (Section 43-29-13). This section includes an exemption for livestock owners and their employees, as well as exemptions for several other classes of individuals. House Bill 1294 makes a specific exception for embryo transfer procedures part of the definition of the practice of veterinary medicine in Section 43-29-01.1. This could be construed to prohibit veterinarians from performing embryo transfer procedures.

Second, the existing veterinary medical practice act already contains a provision allowing non-veterinarians to provide animal health services to the public, as long as they are doing so as employees of a licensed veterinarian and are under the direction and supervision of a veterinarian (Section 43-29-13, paragraph 8). The Board believes that this provision allows a variety of individuals with specialized qualifications and skills to provide needed services to animal owners, while maintaining appropriate accountability through the licensed veterinarian and the Board of Veterinary Medical Examiners. This accountability is, in the opinion of the Board, essential for public protection. If the proposed legislation were to be enacted as written, it would essentially allow persons doing embryo transfer procedures on cattle to operate free of any oversight to assure their competence or accountability. The Board does not believe that this action would be in the best interest of the citizens of North Dakota.

Thank you for this opportunity to address this legislation. I would welcome any questions you may have.





## North Dakota Veterinary Medical Association

921 South Ninth Street  
Bismarck ND 58504  
Phone: 701/221-7740  
Fax: 701/258-9005

House Bill 1430

To: Representative Nicholas and members of the House Ag Committee

Presented by: Arlyn Scherbenske

NDVMA President-Elect

Steele ND

ND Century Code 43-29 (Veterinary Practice Act) is enacted as an exercise of the police powers of the state of North Dakota to promote the public health, safety, and welfare by safeguarding the people of this state against incompetent, dishonest, or unprincipled practitioners of veterinary medicine.

So, as I read HB 1430, I have several concerns as a consumer, tax paying citizen of North Dakota, and as a veterinarian.

Therefore, I stand before you in all three capacities defining each concern.

- ◆ Definition of the manual pregnancy determination:
  - A. Medical procedure, invasive procedure: rectal palpation
  - B. Diagnostic procedure: pregnancy, pathology, infertility, duration of pregnancy, etc.
  - C. Extra (bonus if veterinarians perform the procedure)
    - 1. General herd health check: identifying disease, nutrition, fertility, herd management.
    - 2. Allows veterinarian to comply with AMDUCA (Animal Medicinal Drug Use Clarification Act)
- ◆ Purpose:
  - A. Economic advantage to identify non-pregnant females to save on feed cost (\$1.00/day to \$1.25/day to winter a cow during the winter), and to allow marketing opportunities of these cull cows.
- ◆ Risk:
  - A. Injury: to fetus and/or mother
  - B. Potential to spread disease: e.g. Leukosis, Johne's

As a consumer:

- A. Two types of consumer affected
  - 1) Cattle owner
    - (a) State protection against good marketing but no experience e.g. comparison: crop sprayer
  - 2) Cattle purchaser
    - (a) A need for order, credibility, and accountability e.g. comparison: Brand inspection
- B. Qualification of the person performing the procedure
  - 1) What formal education is required or needed?
    - (a) Anatomy, physiology, embryology, infectious disease, etc
  - 2) What practical experience (hands-on) have they had?
    - (a) Comparison: truck driver
  - 3) What license or certification is available for the public?
    - (a) Comparison: Barbers
- C. Best Interest
  - 1) Cheaper vs. quality
  - 2) Availability – non-emergency procedure (requiring scheduling)
  - 3) Long term affect
    - (a) Less veterinarians vs. increase in cost for other procedures
  - 4) Liability: A business decision
    - (a) What if there is a complaint – who can the consumer report to?

The veterinary profession has malpractice insurance as well as an exam board to review and investigate complaints and can take action for irresponsible practice.

As a tax paying citizen:

- A. The state has invested many dollars to recruit veterinary students back into the state
  - 1) This bill seems to be counter-productive
- B. Out of state pregnancy testers will take money out of the state
  - 1) There is no restriction of residency
- C. Who will examine the applicants
  - 1) Who is qualified to write the exam
  - 2) Who will fund the writing of the exam and the policing of violations (At what cost)
- D. What is the penalty for poor performance i.e. Fraud and/or deception

With humility and a great deal of respect for the rancher (whom many are close friends), I cautiously define the concerns of a veterinarian.

III. As a Veterinarian:

A. Education which meets Chapter 43 requirements

- 1) Understanding: anatomy, physiology, embryology, etc.
- 2) 8 years of formal education costing \$60,000 - \$80,000

B. Competition already exists

- 1) Professional competition (survey)
- 2) Cost-effective competition

|                             |                               |
|-----------------------------|-------------------------------|
| e.g. \$1.50/head investment | 200 head = \$300.00           |
| Average 8% open of          | 200 head = 16 head            |
| At \$1.00/day cost x        | 4 months = \$120/head         |
|                             | 16 x \$120 = \$1,920. Savings |

C. We have met the demand at a competitive price

e.g. About 1,000,000 breeding stock  
at best 56% are PG checked = 650,000 head  
100+ primary large animal veterinarians in the state who do 10,000+ cows in a given season = 1,000,000 head

So the question is: Does the legislature pass a law which in essence allows any individual to practice with no guidelines for training, no liability, and no penalty for poor performance – or does the legislature pass a bill which delegates the responsibility for overseeing the training expertise, and liability to the Board of Veterinary Medicine.

Will the legislature respond to the lobbying of a few entrepreneurs interested in a short lived financial gain, or will the legislature act for the good of the entire livestock constituency for years to come.



# North Dakota Board of Veterinary Medical Examiners

Post Office Box 5001, Bismarck, ND 58502, phone: 701-328-9540, fax: 701-224-0435

London J. Jacobs, DVM  
Powers Lake, ND  
President

James Clement, DVM  
Mandan, ND  
Secretary

Daniel P. Treat, DVM  
Fargo, ND

John R. Boyce, DVM, PhD  
Executive Secretary

---

House Agriculture Committee, House Bill No. 1430, February 4, 1999  
John R. Boyce, Executive Secretary, North Dakota Board of Veterinary Medical Examiners

Licensure is a mechanism designed to assure the public that individuals who provide professional services meet certain minimum qualifications and are accountable for their actions. The North Dakota Board of Veterinary Medical Examiners is responsible for regulating the practice of veterinary medicine and veterinary technology in North Dakota. In order to be licensed to practice veterinary medicine in North Dakota, candidates must be graduates of accredited or approved colleges of veterinary medicine. This typically requires between six and eight years of college education (including four years of veterinary school). In addition, candidates must pass two national board examinations and a state board examination. Licensed veterinarians are also required to complete 24 hours of approved continuing education every two years. Veterinary technicians must have at least two years of college-level training, must pass a national licensing examination, and must complete eight hours of continuing education every two years.

The North Dakota Board of Veterinary Medical Examiners would like to share the following concerns about House Bill 1430, regarding manual pregnancy determination procedures in cattle.

First, it is preferable from an administrative standpoint to retain a broad definition of the practice of veterinary medicine in the practice act, and then include in a separate section specific exemptions as necessary. This is the way the North Dakota veterinary medical practice act (Chapter 43-29) is constructed. The practice act contains a section dealing with activities that are not considered the practice of veterinary medicine (Section 43-29-13). This section includes an exemption for livestock owners and their employees, as well as exemptions for several other classes of individuals. House Bill 1430 makes a specific exception for manual pregnancy determination procedures part of the definition of the practice of veterinary medicine in Section 43-29-01.1. This could be construed to prohibit veterinarians from performing manual pregnancy determination procedures.

Second, the existing veterinary medical practice act already contains a provision allowing non-veterinarians to provide animal health services to the public, as long as they are doing so as employees of a licensed veterinarian and are under the direction and supervision of a veterinarian (Section 43-29-13, paragraph 8). The Board believes that this provision allows a variety of individuals with specialized qualifications and skills to provide needed services to animal owners, while maintaining appropriate accountability through the licensed veterinarian and the Board of Veterinary Medical Examiners. This accountability is, in the opinion of the Board, essential for public protection. If the proposed legislation were to be enacted as written, it would essentially allow persons doing manual pregnancy determination procedures on cattle to operate free of any oversight to assure their competence or accountability. The Board does not believe that this action would be in the best interest of the citizens of North Dakota.

Thank you for this opportunity to address this legislation. I would welcome any questions you may have.