

SENATE BILL NO. 2415

Introduced by

Senator Kelsh

1 A BILL for an Act to create and enact seven new sections to chapter 36-09 of the North Dakota
2 Century Code, relating to the state brand board; to amend and reenact sections 36-01-30,
3 36-05-10, 36-05-12, 36-05.1-05, 36-09-01, 36-09-14, 36-09-15, 36-09-18, 36-09-23, 36-09-24,
4 36-22-02, 36-22-03, 36-22-04, 36-22-05, 36-22-06, 36-22-07, and 36-22-08 of the North Dakota
5 Century Code, relating to brand inspections; and to repeal section 36-22-09 of the North Dakota
6 Century Code, relating to the requirement for a biennial audit of the North Dakota stockmen's
7 association.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 36-01-30 of the 1997 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **36-01-30. Feedlot registration - Rules - Penalty.** No person may operate a
12 registered livestock feedlot without obtaining from the commissioner a registration number. The
13 board may adopt rules for the operation of feedlots registered for the enforcement of brand
14 inspection rules. Applications for registration must be made upon forms as may be prescribed
15 by the board and must be accompanied by a fee equal to the fee charged for brand recording.
16 All fees and any inspection fees established by the board must be remitted regularly to the
17 ~~North Dakota stockmen's association~~ state treasurer for deposit in the state brand fund. The
18 board may adopt rules required for the purpose of assuring that brand laws are complied with,
19 brand inspection certificates are available, and proper records are maintained. A registration
20 issued under this section may be revoked or suspended for violation of any law or any rule
21 adopted by the board under this section. In addition, any person violating this section or any
22 rule adopted by the board under this section is guilty of a class B misdemeanor. This section
23 does not prohibit the operation of nonregistered feedlots.

1 **SECTION 2. AMENDMENT.** Section 36-05-10 of the 1997 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **36-05-10. Inspection of livestock - Fees and rules governing.** When an animal
4 enters a livestock auction market and before it is offered for sale, it must be inspected for health
5 by a veterinarian licensed in this state and approved by the board of animal health and in the
6 case of cattle for brands by a trained brand inspector, acting under rules adopted by the ~~North~~
7 ~~Dakota stockmen's association~~ state brand board and the board of animal health. Veterinary
8 inspection must include all livestock, whether it is to be moved interstate or intrastate. The
9 veterinary inspector must be recommended by the livestock auction agency and approved by
10 the board of animal health. ~~Such~~ The veterinarian must be a local veterinarian or a veterinarian
11 of the vicinity, unless there is no such veterinarian available. If the livestock agency fails to
12 recommend such a veterinarian within a reasonable time, the board may in ten days' notice to
13 such agency appoint a veterinarian. The services and duties of the veterinary inspector are
14 under the supervision of the board of animal health and the inspector must be relieved of office
15 when the inspector fails to perform those services and duties. This section does not apply to
16 veterinarians who were approved by an authorized state agency before July 1, 1969. Fees for
17 the inspection must be paid to the veterinarian by the auction market company and must be in
18 an amount agreed upon by the auction market company and the veterinarian.

19 **SECTION 3. AMENDMENT.** Section 36-05-12 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **36-05-12. Operator to warrant title to purchaser - Dispute in title of animal sold.**
22 The operator of each livestock auction market shall warrant to the purchaser the title of all
23 livestock bought by him through such auction market and is liable to the rightful owner of any
24 livestock sold through the auction market for the net proceeds in cash received therefor. If the
25 operator of an auction market is notified by an authorized brand inspector that there is a
26 question as to whether ~~or not~~ any designated livestock sold through such auction market is
27 lawfully owned by the consignor thereof, ~~such~~ the operator shall hold the proceeds received
28 from the sale of the livestock for a reasonable time, not to exceed sixty days, to permit the
29 consignor to establish ownership. At the expiration of such time, if the consignor fails to
30 establish ~~his~~ lawful ownership of the livestock to the satisfaction of the brand inspector, the
31 proceeds must be paid into the estray fund in accordance with the provisions of chapter 36-22.

1 **SECTION 4. AMENDMENT.** Section 36-05.1-05 of the 1997 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **36-05.1-05. Inspection of livestock.** Before any livestock sold pursuant to this
4 chapter is delivered, whether interstate or intrastate, the livestock must be inspected for health
5 by a veterinarian licensed in this state and approved by the state board of animal health and, in
6 the case of cattle, for brands by a trained brand inspector, acting under rules adopted by the
7 ~~North Dakota stockmen's association~~ state brand board and the state board of animal health.
8 The inspection must take place at the time of the initial delivery of the livestock. If livestock is
9 destined to be shipped interstate, the authorized veterinarian shall furnish to each purchaser a
10 certificate showing that the inspection has been made and treatment administered in
11 accordance with the requirements of the state of destination. The services and duties of the
12 veterinary inspector are under the supervision of the state board of animal health. Fees for the
13 veterinary inspection must be an amount agreed upon by the representative and the
14 veterinarian. All fees for veterinary inspection, treatment, and services must be collected by the
15 representative and paid to the inspector.

16 **SECTION 5.** A new section to chapter 36-09 of the North Dakota Century Code is
17 created and enacted as follows:

18 **State brand board - Membership.** The governor shall appoint the five members of the
19 state brand board. Any statewide nonprofit agricultural association may submit the names of
20 potential appointees for the governor's consideration. Each individual appointed to the brand
21 board must derive a major portion of the individual's income from the livestock industry and
22 must be the owner of a brand recorded with the board. The governor may not appoint an
23 elected or appointed state or federal official to the brand board.

24 **SECTION 6.** A new section to chapter 36-09 of the North Dakota Century Code is
25 created and enacted as follows:

26 **State brand board - Terms of office.** The term of office for each member of the state
27 brand board is four years, beginning August first, except that members appointed to the initial
28 board shall stagger their terms by lot so that the term of one member expires on July 31, 2000,
29 the term of one member expires on July 31, 2001, the term of one member expires on July 31,
30 2002, and the terms of two members expire on July 31, 2003.

1 **SECTION 7.** A new section to chapter 36-09 of the North Dakota Century Code is
2 created and enacted as follows:

3 **State brand board - Compensation.** While attending meetings or performing duties
4 directed by the board, each member of the state brand board is entitled to reimbursement for
5 expenses as provided by law for state officers.

6 **SECTION 8.** A new section to chapter 36-09 of the North Dakota Century Code is
7 created and enacted as follows:

8 **State brand board - Initial meeting - Chairman.** The governor shall call the initial
9 meeting of the state brand board. At that meeting, the board shall elect from among its
10 members a chairman, a vice chairman, and a secretary to serve for a period of two years. After
11 the initial meeting, the board shall meet at the call of the chairman.

12 **SECTION 9.** A new section to chapter 36-09 of the North Dakota Century Code is
13 created and enacted as follows:

14 **State brand board - Employees - Expenditure of funds.** The state brand board may
15 employ and fix the compensation for any person the board determines necessary to carry out
16 its duties and may expend funds appropriated to it for administrative purposes.

17 **SECTION 10.** A new section to chapter 36-09 of the North Dakota Century Code is
18 created and enacted as follows:

19 **State brand board - Use of legal remedies.** The state brand board may collect and
20 analyze data related to economic variations in the state's beef industry. If the board finds
21 evidence of impermissible activities, the board may pursue, or contract with other persons to
22 pursue, any available legal remedies including imposition of countervailing duties.

23 **SECTION 11.** A new section to chapter 36-09 of the North Dakota Century Code is
24 created and enacted as follows:

25 **State brand board - Livestock ownership inspection.** The state brand board may
26 contract with any person to provide livestock ownership inspection. A contract under this
27 section must provide for the separate accounting of all income received and expenses paid by
28 the board.

29 **SECTION 12. AMENDMENT.** Section 36-09-01 of the 1997 Supplement to the North
30 Dakota Century Code is amended and reenacted as follows:

1 **36-09-01. Office for recording brands.** ~~The North Dakota stockmen's association~~
2 state brand board shall appoint a chief brand inspector. The chief brand inspector shall
3 maintain a general office for recording marks and brands. ~~As used in this chapter, "chief brand~~
4 ~~inspector" means the chief brand inspector of the North Dakota stockmen's association.~~

5 **SECTION 13. AMENDMENT.** Section 36-09-14 of the 1997 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **36-09-14. Chief brand inspector to issue brandbook.** The chief brand inspector
8 shall compile and issue a brandbook from the records of livestock brands in the chief brand
9 inspector's office as of the final date for rerecording, and a copy of the brandbook must be
10 delivered free of charge to every brand inspector and upon written request from other law
11 enforcement officers of the state. Annually thereafter the chief brand inspector shall prepare a
12 supplement of brands registered during the year and shall distribute the supplement free of
13 charge to every brand inspector and upon written request from other law enforcement officers
14 of the state of North Dakota. Brandbooks and supplements must also be sold to all interested
15 persons at the general office for recording marks and brands maintained in the office of the
16 chief brand inspector at a price set by the ~~North Dakota stockmen's association and approved~~
17 ~~by the~~ board of animal health.

18 **SECTION 14. AMENDMENT.** Section 36-09-15 of the 1997 Supplement to the North
19 Dakota Century Code is amended and reenacted as follows:

20 **36-09-15. Butcher to keep record of branded cattle slaughtered - Penalty.**

- 21 1. Any person engaged in the business of killing domestic animals and selling the
22 meat of those animals at retail or wholesale, or who slaughters animals on a
23 custom basis, is deemed a butcher for the purposes of this section. Any butcher
24 who kills any head of neat cattle shall keep a record showing all of the following:
- 25 ~~1-~~ a. The name and place of residence of the person from whom such animal was
26 purchased or for whom any custom slaughtering is performed.
- 27 ~~2-~~ b. When and where such animal was purchased or from where the animal came.
- 28 ~~3-~~ c. The sex of such animal and its age to the best of his knowledge.
- 29 ~~4-~~ d. A description of any and all marks and brands on the animal.
- 30 2. The record is open to inspection during business hours by a representative of the
31 ~~North Dakota stockmen's association~~ state brand board.

1 3. Any person who violates this section is guilty of an infraction.

2 **SECTION 15. AMENDMENT.** Section 36-09-18 of the 1997 Supplement to the North
3 Dakota Century Code is amended and reenacted as follows:

4 **36-09-18. Performance bond - Disposition of fees** ~~–Continuing appropriation–~~

5 ~~**Discrimination prohibited.** The North Dakota stockmen's association~~ Any person who is
6 employed by or under contract with the state brand board and who collects or is the custodian
7 of any funds on behalf of the state brand board shall file with the secretary of state a
8 performance bond in the an amount of forty thousand dollars set by the brand board, payable to
9 the state of North Dakota and conditioned upon the faithful performance of the requirements of
10 this chapter. Any fees collected under this chapter must be deposited in the general state
11 brand fund of the North Dakota stockmen's association. The fees deposited under this chapter
12 and section 36-22-03 are appropriated as a continuing appropriation to the North Dakota
13 stockmen's association. The North Dakota stockmen's association may not discriminate
14 between or among members of the association and persons who are not members of the
15 association with respect to fees, recordings, complaints, requests for assistance, and any other
16 services to be provided under this chapter.

17 **SECTION 16. AMENDMENT.** Section 36-09-23 of the 1997 Supplement to the North
18 Dakota Century Code is amended and reenacted as follows:

19 **36-09-23. Removal of livestock from state - Brand inspection - Penalty.** No person
20 may remove cattle, horses, or mules from this state or to within a mile [1.61 kilometers] of any
21 boundary of the state for the purpose of removal unless the livestock has been inspected for
22 marks and brands by an official brand inspector ~~of the North Dakota stockmen's association~~
23 and a certificate of inspection must accompany the livestock to destination. In lieu of the
24 inspection, the owner or possessor may make and sign an invoice or waybill covering the stock
25 showing marks and brands, number, sex and kind of the stock, and the consignee and market
26 destination where official brand inspection is provided by or for the ~~stockmen's association~~ state
27 brand board and mail a copy of the invoice or waybill to the association before the stock leaves
28 the state.

29 It is unlawful for the owner or possessor to remove any livestock from any place of
30 regular official brand inspection unless and until official brand inspection has been made and
31 the brand inspection certificate issued.

1 A person who violates this section is guilty of a class B misdemeanor. A person who
2 violates this section a second time within fifteen years or violates this section three or more
3 times is guilty of a class C felony.

4 **SECTION 17. AMENDMENT.** Section 36-09-24 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **36-09-24. Police powers of chief brand inspector and two fieldmen.** The chief
7 brand inspector and two fieldmen employed by the ~~North Dakota stockmen's association~~ state
8 brand board have the power:

- 9 1. Of a police officer for the purpose of enforcing brand laws and any other state laws
10 or rules relating to livestock.
- 11 2. To make arrests upon view and without warrant for any violation of this chapter or
12 any other state laws or rules relating to livestock committed in the inspector's
13 presence.
- 14 3. To respond to requests from other law enforcement agencies or officers for aid and
15 assistance. For the purposes of this subsection, a request from a law enforcement
16 agency or officer means only a request for assistance to a particular and single
17 violation or suspicion of violation of law, and does not constitute a continuous
18 request for assistance.

19 **SECTION 18. AMENDMENT.** Section 36-22-02 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **36-22-02. North Dakota stockmen's association authority.** The ~~North Dakota~~
22 ~~stockmen's association, a livestock association duly organized under the laws of the state of~~
23 ~~North Dakota, and duly registered as a market agency under the Act of Congress commonly~~
24 ~~known as the Packers and Stockyards Act, 1921 [Pub. L. 67-51; 42 Stat. 159; 7 U.S.C. 181 et~~
25 ~~seq.], for the better protection of the livestock industry of the state of North Dakota and for the~~
26 ~~purpose of securing uniformity of inspection and cooperation with the department of agriculture~~
27 ~~of the United States,~~ state brand board shall make an inspection to determine ownership, of all
28 cattle shipped or consigned from this state to any public livestock markets, including auction
29 markets, buying stations, or packing plants within or without the state of North Dakota.

30 **SECTION 19. AMENDMENT.** Section 36-22-03 of the 1997 Supplement to the North
31 Dakota Century Code is amended and reenacted as follows:

1 **36-22-03. Rules - Fees for inspection.** The board of animal health shall, ~~with the~~
2 ~~advice of the officers of the North Dakota stockmen's association,~~ make adopt rules regulating
3 the inspection of cattle for brands at auction markets, packing plants, and buying stations and
4 shall set the fees to be charged by the brand inspector. Brand inspectors under this chapter
5 shall charge and collect fees for inspections on all shipments or consignments of cattle at
6 livestock markets, at the rate authorized by the United States department of agriculture, and
7 shall charge and collect fees for inspection at auction markets, buying stations, and packing
8 plants as must be set by the board of animal health, which funds, so collected, must be paid
9 into the general state brand fund ~~of the North Dakota stockmen's association.~~

10 **SECTION 20. AMENDMENT.** Section 36-22-04 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **36-22-04. Collection of estray funds receipts.** It is lawful for ~~said a brand inspectors~~
13 ~~of said association~~ inspector to receive and receipt for all funds from the sale of estray cattle
14 and turn the ~~same~~ funds over to the state treasurer ~~of said association for disbursement as~~
15 ~~hereinafter provided~~ for deposit in the state brand fund.

16 **SECTION 21. AMENDMENT.** Section 36-22-05 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **36-22-05. Estray fund receipts - Deposit in brand fund.** All moneys received from
19 the sale of estray cattle as ~~above~~ provided in this chapter must be ~~kept in a separate fund of~~
20 ~~the association to be known as the "estray fund" until such time as the same may be claimed by~~
21 ~~the owners of said estray livestock, the claims therefor to be made within the time hereinafter~~
22 provided deposited in the state brand fund.

23 **SECTION 22. AMENDMENT.** Section 36-22-06 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **36-22-06. Payment to owners owner of estrays estray.** The ~~secretary of said North~~
26 ~~Dakota stockmen's association~~ state brand board, upon satisfactory proof of ownership of any
27 estray for which the ~~association~~ board has received the money, shall, ~~with the approval of the~~
28 ~~board of directors of said association,~~ pay ~~such~~ the owner the amount received from the sale of
29 ~~such~~ the estray; provided, however, that ~~such~~ ownership must be proven within one year after
30 the publication of the notice provided for in section 36-22-07.

1 **SECTION 23. AMENDMENT.** Section 36-22-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **36-22-07. Publication of list of estrays.** The ~~secretary of the North Dakota~~
4 ~~stockmen's association~~ state brand board shall annually during the month of December send
5 two lists of all unclaimed estrays, for which the ~~association~~ board has received payment, to the
6 county auditor of each county from which the estrays were originally shipped. ~~Said~~ The county
7 auditor shall post one copy ~~thereof~~ of the list in a conspicuous place in the courthouse and
8 place one copy on file in ~~his~~ the board's office. ~~It is also the duty of the association to cause a~~
9 The board shall publish notice ~~that such,~~ at least twice during the month of December, in the
10 official newspaper of the county from which the estrays were originally shipped, that the estray
11 lists have been posted, ~~to be advertised during the month of December of each year in the~~
12 ~~county from which the estrays were originally shipped, said notice to appear at least twice in the~~
13 ~~official newspaper of said county.~~

14 **SECTION 24. AMENDMENT.** Section 36-22-08 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **36-22-08. Disposition of unclaimed receipts from sale of estrays.** Any funds ~~in the~~
17 ~~hands of said association, or hereinafter~~ received by it the board from the sale of estrays which
18 are not claimed by the owners within one year from the posting of the notice provided for in
19 section 36-22-07 must be ~~turned~~ deposited in ~~to~~ the general state brand fund ~~of the~~
20 ~~association.~~ All records relative to estrays must be preserved by the ~~association~~ board for a
21 period of six years subsequent to the time the money reverts to the general state brand fund ~~of~~
22 ~~the association. Provided, however, that nothing herein bars.~~ This section does not bar the
23 lawful owner of any estray from maintaining an action ~~against said association~~ for the recovery
24 of any sum to which ~~he~~ the owner may be entitled within the period of limitation given by
25 general law governing other claims for relief of like character.

26 **SECTION 25. REPEAL.** Section 36-22-09 of the 1997 Supplement to the North Dakota
27 Century Code is repealed.