

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1337  
(Representatives Nicholas, Meyer, Belter)  
(Senators Freborg, Tomac, Wanzek)

AN ACT to create and enact a new chapter to title 36 of the North Dakota Century Code, relating to farmed elk; to amend and reenact section 19-02.1-21, subsection 3 of section 36-01-00.1, section 36-04-02, subsection 2 of section 36-05-01, subsection 2 of section 36-05.1-01, subsection 1 of section 38-11.1-03, and subsection 1 of section 38-18-05 of the North Dakota Century Code, relating to the inclusion of farmed elk in other provisions regarding livestock; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Section 19-02.1-21 of the North Dakota Century Code is amended and reenacted as follows:

**19-02.1-21. Inspections - Examinations.** The department has free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, drugs, devices, or cosmetics in commerce, for the purpose of inspecting such factory, warehouse, establishment, or vehicle to determine if this chapter is being violated and to secure samples or specimens of any food, drug, device, or cosmetic after paying or offering to pay for such sample.

The department shall make or cause to be made examinations of samples secured under this section to determine whether or not this chapter is being violated.

Inspections of slaughterhouses, meatpacking, and meat processing plants where cattle, swine, sheep, goats, farmed elk, horses, or other equines are slaughtered for human food or where the carcass or the parts thereof, meat, or meat food products are salted, canned, packed, smoked, cured, rendered, or otherwise processed or prepared for human food, may not be performed under this chapter if the slaughterhouses, meatpacking, or meat processing plants are inspected under the North Dakota Meat Inspection Act, or the Federal Meat Inspection Act, as amended [34 Stat. 1260-65; 21 U.S.C. 71-91].

**SECTION 2.** If House Bill No. 1276 does not become effective, a new chapter to title 36 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** In this chapter, unless the context otherwise requires:

1. "Board" means the state board of animal health.
2. "Commissioner" means the commissioner of agriculture.
3. "Farmed elk" means mammals of the elk family (cervus elaphus), except red deer, confined in a manmade enclosure designed to prevent escape and:
  - a. Raised for fiber, meat, or animal byproducts; or
  - b. Raised for breeding, exhibition or harvest.
4. "Owner" means a person who owns or is responsible for the raising of farmed elk.

**Farmed elk - Rules - Data base.** The board may adopt rules relating to the raising of farmed elk, including matters concerning the health, safety, confinement, and identification of farmed elk. Any

rules relating to nontraditional livestock and adopted by the board before August 1, 1999, are, if applicable to farmed elk, deemed to apply to farmed elk until otherwise modified by the board. The board shall maintain a data base regarding farmed elk.

**Farmed elk advisory committee.** The commissioner may appoint a farmed elk advisory committee to provide advice to the commissioner regarding farmed elk.

**Farmed elk development program.** The commissioner may establish a farmed elk development program to support applied research and provide demonstrations, financing, marketing, promotion, breed development and registration, and other services related to the raising of farmed elk. The commissioner shall include information regarding farmed elk in reports on agriculture in this state.

**Farmed elk - Confinement - Rules.** Farmed elk must be confined in a manner designed to prevent escape. Unless otherwise required by rule, fencing for farmed elk must be at least eighty-four inches [213.36 centimeters] in height. If any farmed elk escape, their owner shall report the escape to the board within one business day of the discovery and shall notify the board upon recapture. The owner is liable for the expenses incurred by another person in capturing, caring for, and returning farmed elk that have escaped, provided the other person notifies the owner as soon as practicable after discovering the escape.

**Farmed elk - Agricultural pursuit.** Farmed elk are livestock, and the products of farmed elk are farm products for purposes of financial transactions and collateral. The raising of farmed elk is agricultural production and an agricultural pursuit.

**Farmed elk - Sales of meat products.** Unless otherwise provided, a person selling or buying farmed elk as livestock, for human consumption or for slaughter, must comply with this title and all applicable rules.

**Farmed elk - Identification.** The owner of farmed elk shall identify each animal by a means of identification approved by the board.

**Farmed elk - Inspection.** The commissioner and the board may inspect farmed elk and all records related to the farmed elk.

**Enforcement orders - Administrative hearing - Penalty.** The board may order any elk brought into this state in violation of rules adopted by the board to be returned to the state of origin or to be slaughtered. If the board finds that a person has brought elk into this state, kept elk, or received elk in violation of rules adopted by the board, the board may assess that person a civil penalty in an amount up to two thousand five hundred dollars. Any person who knowingly violates this chapter or any rule of the board is guilty of a class A misdemeanor.

**Tuberculosis - Brucellosis - Compensation of owner.** If the board determines an elk to be infected with tuberculosis or brucellosis, its owner is entitled to payment as specified in this section. If an elk herd is adjudged by the board to be so seriously infected with tuberculosis or brucellosis as to warrant disposal of the entire herd, its owner is entitled to indemnity payments for the herd whether reactors, suspects, or exposed, in accordance with the limits set forth in this section. The board may adopt rules governing the payment of compensation under this section of not to exceed twenty-five dollars for each grade elk nor fifty dollars for each registered purebred elk.

**SECTION 3.** If House Bill No. 1276 becomes effective, a new chapter to title 36 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** In this chapter, unless the context otherwise requires:

1. "Board" means the state board of animal health.
2. "Commissioner" means the commissioner of agriculture.
3. "Farmed elk" means mammals of the elk family (cervus elaphus), except red deer, confined in a manmade enclosure designed to prevent escape and:

- a. Raised for fiber, meat, or animal byproducts; or
  - b. Raised for breeding, exhibition, or harvest.
4. "Owner" means a person who owns or is responsible for the raising of farmed elk.

**Farmed elk - Rules - Data base.** The board may adopt rules relating to the raising of farmed elk, including matters concerning the health, safety, confinement, and identification of farmed elk. Any rules relating to nontraditional livestock and adopted by the board before August 1, 1999, are, if applicable to farmed elk, deemed to apply to farmed elk until otherwise modified by the board. The board shall maintain a data base regarding farmed elk.

**Farmed elk advisory committee.** The commissioner may appoint a farmed elk advisory committee to provide advice to the commissioner regarding farmed elk.

**Farmed elk development program.** The commissioner may establish a farmed elk development program to support applied research and provide demonstrations, financing, marketing, promotion, breed development and registration, and other services related to the raising of farmed elk. The commissioner shall include information regarding farmed elk in reports on agriculture in this state.

**Farmed elk - Confinement - Rules.** Farmed elk must be confined in a manner designed to prevent escape. Unless otherwise required by rule, fencing for farmed elk must be at least eighty-four inches [213.36 centimeters] in height. If any farmed elk escape, their owner shall report the escape to the board within one business day of the discovery and shall notify the board upon recapture. The owner is liable for the expenses incurred by another person in capturing, caring for, and returning farmed elk that have escaped, provided the other person notifies the owner as soon as practicable after discovering the escape.

**Farmed elk - Agricultural pursuit.** Farmed elk are livestock, and the products of farmed elk are farm products for purposes of financial transactions and collateral. The raising of farmed elk is agricultural production and an agricultural pursuit.

**Farmed elk - Sales of meat products.** Unless otherwise provided, a person selling or buying farmed elk as livestock, for human consumption or for slaughter, must comply with this title and all applicable rules.

**Farmed elk - Identification.** The owner of farmed elk shall identify each animal by a means of identification approved by the board.

**Farmed elk - Inspection.** The commissioner and the board may inspect farmed elk and all records related to the farmed elk.

**Enforcement orders - Administrative hearing - Penalty.** The board may order any elk brought into this state in violation of rules adopted by the board to be returned to the state of origin or to be slaughtered. If the board finds that a person has brought elk into this state, kept elk, or received elk in violation of rules adopted by the board, the board may assess that person a civil penalty in an amount up to five thousand dollars. Any person who knowingly violates this chapter or any rule of the board is guilty of a class A misdemeanor.

**SECTION 4. AMENDMENT.** Subsection 3 of section 36-01-00.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Domestic animal" means dog, cat, horse, bovine animal, sheep, goat, bison, farmed elk, llama, alpaca, or swine.

**SECTION 5. AMENDMENT.** Section 36-04-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-04-02. Restrictions on application of provisions of chapter.** The provisions of this chapter do not apply to:

1. Farmers who or farm associations which buy and sell farmed elk, livestock, poultry, or wool among themselves as producers.
2. Farmers who or farm associations which purchase farmed elk, livestock, or wool to complete a load of their own farmed elk, livestock, or wool for shipment to market if the amount so purchased does not exceed twenty-five percent of a truckload.
3. Cooperative farmed elk, livestock, or wool marketing associations of producers of farmed elk, livestock, or wool in their dealings with their members.
4. Livestock including farmed elk, purchased by local butchers for slaughter or processing in their business for local home consumption.

**SECTION 6. AMENDMENT.** Subsection 2 of section 36-05-01 of the North Dakota Century Code is amended and reenacted as follows:

2. "Livestock" means horses, mules, cattle, swine, sheep, farmed elk, and goats.

**SECTION 7. AMENDMENT.** Subsection 2 of section 36-05.1-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. "Livestock" means horses, mules, cattle, swine, sheep, farmed elk, and goats.

**SECTION 8. AMENDMENT.** Subsection 1 of section 38-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

1. "Agricultural production" means the production of any growing grass or crop attached to the surface of the land, whether or not the grass or crop is to be sold commercially, and the production of any farm animals, including farmed elk, whether or not the animals are to be sold commercially.

**SECTION 9. AMENDMENT.** Subsection 1 of section 38-18-05 of the North Dakota Century Code is amended and reenacted as follows:

1. "Agricultural production" means the production of any growing grass or crop attached to the surface of the land, whether or not the grass or crop is to be sold commercially, and the production of any farm animals, including farmed elk, whether or not ~~such~~ the animals are to be sold commercially.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1337.

House Vote:      Yeas    90      Nays    0      Absent    8

Senate Vote:    Yeas    45      Nays    2      Absent    2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1999.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1999,  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State