

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2347
(Senators Solberg, Erbele)
(Representatives Boehm, Gulleason)

AN ACT to create and enact eight new sections to chapter 36-14 of the North Dakota Century Code, relating to indemnity for diseased animals; to amend and reenact section 36-15-08.1 of the North Dakota Century Code, relating to indemnity payments for animals diagnosed with brucellosis or bovine tuberculosis; and to repeal sections 36-15-03, 36-15-04, 36-15-06, 36-15-07, 36-15-09, and 36-15-11 of the North Dakota Century Code, relating to appraisals and condemnation of animals having brucellosis or bovine tuberculosis.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

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

1. "Animals" means alpaca, bison, bovine animals, farmed elk, goats, horses, llamas, sheep, swine, and nontraditional livestock.
2. "Board" means the state board of animal health.

SECTION 2. A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

Notice of condemnation of diseased animal - Animal to be destroyed within fifteen days - Extension of time. Whenever any animal has been adjudged by the board to be diseased, the board or its authorized agent shall serve a written notice of its decision upon the owner or keeper of the animal before the condemned animal is killed. The animal must be destroyed within fifteen days after notice of condemnation, in either a federally inspected or state-inspected slaughtering plant, or under the supervision of an agent of the board. The fifteen-day period may be extended by the state veterinarian if the state veterinarian determines it advisable due to the circumstances involved in each case. The extension must be in writing. The notice must advise the animal's owner or keeper of that person's right to protest against the diagnosis and determination of the board within twenty-four hours after the service of the notice upon the owner or keeper. If no protest is made within that time by the owner or keeper of the condemned animal, the animal must be appraised in the manner provided in this chapter.

SECTION 3. A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

Animal condemned as diseased to be appraised by board - Notice to owner.

1. Whenever any animal has been adjudged to be diseased and ordered killed by the board, the board or its authorized agent, within seven days after the entry of the order and before the animal has been killed pursuant to the order, shall determine the actual value of the animal. Notice of the appraisal must be given to the owner or keeper of the animal.
2. If an emergency is declared by the governor, the board shall conduct any appraisal required by this section and may destroy the animal as soon thereafter as is practicable. The owner may protest the appraisal, however, a protest may not delay the destruction of the animal.

SECTION 4. A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

Protest of board's appraisal - Board of appraisers appointed - Appraisal to be final. Except as provided in section 3, if any individual who owns or who represents the owner of any animal ordered killed under this chapter is not satisfied with the appraisal by the board or its agents, the individual may protest the order within seven days, and a board of three appraisers must then be formed. One member of the board of appraisers must be the agent of the board, one member must be selected by the owner of the animal involved, and the third member must be selected by the first two members. An appraisal of the animal must be made by the board of appraisers according to section 7 of this Act, and if two or more of the appraisers agree upon a certain valuation, the appraisal is final.

SECTION 5. A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

Fees of appraisers - How paid. Each member of the board of appraisers who is not an agent of the board is entitled to receive fifty dollars per day as compensation for services rendered, plus reimbursement for expenses as provided by law for state officers. Fifty percent of the amount due under this section is payable by the state board of animal health and the other fifty percent is payable by the owner of the animal.

SECTION 6. A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

Approval of indemnity payments - Rules. If the board determines that an animal is so seriously diseased as to warrant disposal of the animal and of all other exposed animals, the board may approve indemnity payments, as funds are appropriated, on the animals in accordance with the limits set in section 7 of this Act. The board may adopt rules governing indemnity payments under this chapter.

SECTION 7. A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

Return of appraisal - Payment of claims for diseased animals. The return of an appraisal under this chapter must be in writing and signed by the board or by the board's agent who made the appraisal, or by the members of the board of appraisers if a reappraisal is made after a protest, and by the owner of the condemned animal. The return must be certified by the agriculture commissioner to the office of management and budget. The office of management and budget shall issue a check jointly to the owner and any lienholders of the animal. The amount of indemnity paid by this state to the owner of a diseased animal may not exceed five thousand dollars per animal less any amount obtained by the owner through insurance, federal indemnity payments, or salvage payments. This state is not liable for indemnity under this chapter in excess of the amount approved by the emergency commission for the payment of the indemnity.

SECTION 8. A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

Owner of diseased animals - No indemnification - Circumstances. The right of the owner of a diseased animal to be indemnified does not exist and the board may not authorize payment if:

1. The animal belongs to the United States, to this state, or to any political subdivision of this state.
2. The owner at the time of coming into possession of the animal knew or suspected it to be diseased.
3. The animal was found to have been clinically diseased at the time of its arrival in this state.
4. The owner is a nonresident and not engaged in the breeding of livestock in this state.

5. The animal at the time of its killing had been in this state for less than six months.
6. The owner of an animal willfully exposed the animal to the disease.
7. The owner violated any law or any rule of the board.

SECTION 9. AMENDMENT. Section 36-15-08.1 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-15-08.1. ~~Owner entitled to compensation for animals infected~~ Animals with brucellosis or bovine tuberculosis - ~~Board may make rules~~ Compensation - Rules governing payments. ~~When, in the discretion and judgment of~~ If the board, determines that an animal is so seriously infected with brucellosis or bovine tuberculosis as to warrant disposal of the animal and of all other exposed animals, the board ~~is hereby authorized to~~ may approve indemnity payments, as funds are appropriated, ~~on~~ for the animals in accordance with the limits set forth in section ~~36-15-09~~ 7 of this Act. The board may ~~make reasonable~~ adopt rules governing ~~the payment of such compensation within the limits prescribed in~~ indemnity payments under this chapter.

SECTION 10. REPEAL. Sections 36-15-03, 36-15-04, 36-15-06, 36-15-07, 36-15-09, and 36-15-11 of the North Dakota Century Code are repealed.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2347.

Senate Vote: Yeas 48 Nays 0 Absent 1

House Vote: Yeas 96 Nays 0 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State