

LIVESTOCK

CHAPTER 313

SENATE BILL NO. 2214

(Senators Erbele, Nichols)

(Representatives Brandenburg, D. Johnson)

BOARD OF ANIMAL HEALTH MEMBERSHIP

AN ACT to amend and reenact section 36-01-01 of the North Dakota Century Code, relating to membership on the state board of animal health.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-01-01 of the 1999 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~~ eight members appointed by the governor for terms of seven years each with their terms of office so arranged that ~~one term;~~ two terms expire on the first day of August in one year and only one; term expires on the first day of August in each year of the next six years. No ~~person~~ individual may be appointed to more than two 7-year terms on the board.
2. 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 officers.
3. ~~One member of said~~ The members of the board must ~~be a person~~ include:
 - a. One individual who is actively engaged and financially interested in the commercial beef cattle industry and shall represent ~~said~~ the industry on ~~said~~ the board; ~~one member of said board must be a person~~
 - b. One individual who is actively engaged and financially interested in the registered purebred beef cattle industry and shall represent ~~said~~ the industry on ~~said~~ the board; ~~one member of said board must be a person~~
 - c. One individual who is actively engaged and financially interested in the dairy cattle industry and shall represent ~~said~~ the industry on ~~said~~ the board; ~~one member of said board must be a person~~

- d. One individual who is actively engaged and financially interested in the swine industry and shall represent ~~said~~ the industry on ~~said~~ the board; ~~one member of said board must be a person~~
 - e. One individual who is actively engaged and financially interested in the sheep industry and shall represent ~~said~~ the industry on ~~said~~ the board;
 - f. One individual who is actively engaged and financially interested in the bison industry and shall represent the industry on the board; and ~~two members of said board must be competent~~
 - g. Two individuals who are licensed veterinarians ~~who are graduates of a veterinary course in a recognized college or university.~~
4. Vacancies occurring prior to the expiration of terms of office must be filled by appointment by the governor and must be for the balance of the unexpired term.
 5. Recommendations for the appointment of ~~members~~ individuals to ~~said~~ the board as ~~constituted under this section~~ 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~~ individuals representing commercial beef cattle, by the various registered purebred beef cattle associations for the ~~member~~ individual representing the registered purebred beef cattle industry, by the various dairy breed associations for the ~~member~~ individual representing the dairy cattle industry, by the North Dakota swine breeders' association for the ~~member~~ individual representing the swine industry, by the North Dakota wool growers' association for the ~~member~~ individual representing the sheep industry, by the state veterinary medical association for the two ~~veterinarian members~~ veterinarians, by the North Dakota buffalo association for the individual representing the bison industry, and by ~~such other~~ any associations within this state representing livestock industries as the governor may permit. Two recommendations must be submitted for each ~~office~~ position to be filled.

Approved March 14, 2001
Filed March 15, 2001

CHAPTER 314

SENATE BILL NO. 2152

(Agriculture Committee)

(At the request of the Agriculture Commissioner)

INTERNET LIVESTOCK AUCTION MARKET LICENSING

AN ACT to amend and reenact sections 36-05.1-01, 36-05.1-02, 36-05.1-03, 36-05.1-04, 36-05.1-06, and 36-05.1-07 of the North Dakota Century Code, relating to adopting laws on satellite video livestock auctions to include the licensing of internet livestock auction markets.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-05.1-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-01. Definitions. In this chapter, unless the context otherwise requires:

1. "Commissioner" means the agriculture commissioner.
2. "Internet livestock auction" means a place or establishment conducted or operated for compensation or profit as a public market where livestock located in this state is sold or offered for sale at a facility or web site within or outside the state through the use of the internet.
3. "Livestock" means horses, mules, cattle, swine, sheep, farmed elk, and goats.
- ~~3.~~ 4. "Representative" means a dealer licensed under chapter 36-04 who is a resident of this state or a livestock auction market licensed under chapter 36-05.
- ~~4.~~ 5. "Satellite video livestock auction market" means a place or establishment conducted or operated for compensation or profit as a public market where livestock located in this state is sold or offered for sale at a facility within or outside the state through the use of a satellite video at a public auction.

SECTION 2. AMENDMENT. Section 36-05.1-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-02. Satellite video livestock auction market and internet auction - Authority to transact business. No satellite video livestock auction market or internet livestock auction market may transact business in this state unless the market transacts business through a representative licensed under this chapter.

SECTION 3. AMENDMENT. Section 36-05.1-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-03. Application for license - Contents.

1. Before entering into business with a satellite video livestock auction market or internet livestock auction market and annually, on or before July first, each representative shall file an application for a license to transact business with a satellite video livestock auction market or internet livestock auction market with the commissioner on a form prescribed by the commissioner. The application must show:
 - a. The nature of the business for which a license is desired;
 - b. The name of the representative applying for the license;
 - c. The name and address of the satellite video livestock auction market or internet livestock auction market with which the applicant proposes to transact business; and
 - d. Other information the commissioner may require.
2. The application for a license or for a renewal of a license must be accompanied by:
 - a. A license fee of one hundred dollars;
 - b. Evidence the commissioner may require showing that the satellite video livestock auction market or internet livestock auction market the representative proposes to do business with is financially responsible and bonded to transact such business;
 - c. A schedule of the fees and commissions that will be charged to owners, sellers, or their agents; and
 - d. A copy of the contract between the representative and the satellite video livestock auction market or internet livestock auction market with which the representative proposes to transact business. The contract must contain a provision authorizing the commissioner or the commissioner's designee to have access to the books; papers; accounts; financial records held by financial institutions, accountants, or other sources; and other documents relating to the activities of the satellite video livestock auction market or internet livestock auction market and requiring the satellite video livestock auction market or internet livestock auction market to make such documents reasonably available upon the request of the commissioner or the commissioner's designee. The contract must also provide that the satellite video livestock auction market or internet livestock auction market and its representative are jointly and severally liable, with the right of contribution, for all business transacted within this state by the representative on behalf of the satellite video livestock auction market or internet livestock auction market. If the contract between the representative and the satellite video livestock auction market or internet livestock auction market is terminated, rescinded, breached, or otherwise materially altered, the representative and the satellite video livestock auction market or internet livestock auction market shall immediately notify the commissioner. Failure to notify the commissioner of termination, rescission, breach, or material alteration of the contract between

the representative and the satellite video livestock auction market or internet livestock auction market is deemed to be a failure to keep and maintain suitable records with the department and is deemed to be a false entry or statement of fact in an application filed with the department.

SECTION 4. AMENDMENT. Section 36-05.1-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-04. Use of fees - Grounds for refusal or revocation of license - Review by court. All fees collected by the commissioner under this chapter must be deposited in the general fund of the state treasury. A license may be refused or revoked for any reason specified in subdivision c or d of subsection 2 of section 36-04-04 or section 36-04-10, or if the contract required by this chapter between the representative and the satellite video livestock auction market or internet livestock auction market is extinguished, rescinded, or canceled, or is breached by either party. The action of the commissioner in denying an application for a license or revoking or suspending a license may be appealed as provided in section 36-05-13.1.

SECTION 5. AMENDMENT. Section 36-05.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-06. Method of payment. Payment to the seller for livestock sold through a satellite video livestock auction market or internet livestock auction market must be made in United States currency, with an instrument payable on demand drawn on a financial institution chartered and regulated by a state or the federal government, or by wire transfer or other electronic form of payment from a financial institution chartered and regulated by a state or the federal government.

SECTION 6. AMENDMENT. Section 36-05.1-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-05.1-07. Sale of livestock by weight - Scales to be inspected. Notwithstanding section 36-21-15, all livestock sold by weight through a satellite video livestock auction market or internet livestock auction market must be sold based on the weight of the livestock on the day of delivery. All livestock sold by weight must be weighed on scales that have been tested and inspected by the department of weights and measures in the manner provided by law.

Approved March 16, 2001

Filed March 16, 2001

CHAPTER 315

HOUSE BILL NO. 1322 (Representatives Disrud, Nicholas)

LIVESTOCK IDENTIFICATION

AN ACT to create and enact a new section to chapter 36-09 of the North Dakota Century Code, relating to livestock identification.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Animal identification program - Administration. The North Dakota stockmen's association shall serve as the state's administrator and allocator for that portion of any federally sponsored animal identification program which pertains to cattle, horses, and mules.

Approved April 5, 2001
Filed April 5, 2001

CHAPTER 316

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

DISEASED ANIMAL INDEMNIFICATION

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, ~~or for~~ for the animals in accordance with the limits set ~~forth~~ forth in section ~~36-15-09~~ 7 of this Act. The board ~~may make reasonable adopt~~ may ~~rules governing the payment of such compensation within the limits prescribed in~~ adopt rules governing the payment of such compensation within the limits prescribed in indemnity payments under this chapter.

¹⁵⁹ **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.

Approved April 27, 2001
Filed April 27, 2001

¹⁵⁹ Section 36-15-06 was amended by section 4 of House Bill No. 1104, chapter 122.

CHAPTER 317

SENATE BILL NO. 2300

(Senators Lyson, Nichols)
(Representatives Onstad, Solberg)

ABANDONED ANIMAL CUSTODY

AN ACT to create and enact three new sections to chapter 36-21.1 of the North Dakota Century Code, relating to the custody of abandoned animals; and to amend and reenact sections 36-21.1-01 and 36-21.1-06 of the North Dakota Century Code, relating to the abandonment and exposure of animals.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-21.1-01 of the 1999 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. "Abandoned animal" means an animal that is or reasonably appears to have been deserted by its owner or keeper. The term may include an animal that is running loose on property other than that of its owner or the owner's agent if the animal bears no identification indicating the owner or the owner's agent and the owner or owner's agent is not known to the sheriff, police officer, licensed veterinarian, or investigator taking custody of the animal under this chapter.
- ~~2.~~ "Animal" includes every living animal except the human race.
- ~~2.~~ 3. "Commissioner" means the agriculture commissioner ~~of agriculture~~.
- ~~3.~~ 4. "Cruelty" or "torture" includes every act, omission, or neglect whereby unnecessary or unjustifiable pain, suffering, or death is caused or permitted.
- ~~4.~~ 5. "Investigator" means any person approved by the board to determine whether there has been a violation of this chapter.

SECTION 2. AMENDMENT. Section 36-21.1-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-21.1-06. Exposure of animals - Authority of officers.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of, and care for any animal ~~found abandoned~~, unjustifiably exposed to cold or inclement weather, or not properly fed and watered. Any sheriff or police officer may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 36-21.1-03.1.
2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until it is redeemed by the owner or authorized agent of

the owner and when necessary may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.

3. ~~In all cases~~ If the owner, if or the owner's agent is known, the individual must be immediately notified, or if. If the owner or the owner's agent is unknown, notice must be given by publication in the manner prescribed by law. ~~Such~~ The notice must inform the owner or the owner's agent that such the animal may be sold, or otherwise disposed of, pursuant to court order if the animal is not redeemed within five days after receiving from the date of the notice or after publication.
- ~~2.~~ 4. The sheriff, police officer, licensed veterinarian, investigator, or whoever has custody of the animal has a lien ~~thereon,~~ on the animal and that lien is superior to any other claim or lien, for ~~its~~ the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. If ~~such~~ the lien is not discharged and satisfied by the owner or the owner's agent within five days after receipt of the notice, the person holding ~~such~~ the claim may apply to the district court for an order to sell ~~such~~ the animal ~~to~~ and discharge ~~such~~ the lien.
5. Upon order of the court, the animal ~~must~~ may be sold at a public market to pay the charges for its keeping ~~the same,~~ and the title to the animal passes by the sale.
6. 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 commissioner, may be offered arrange for the adoption of the animal, or disposed of consistent with this chapter or with any other provision of law arrange for the destruction and disposal of the animal if no market exists for the animal or if the animal is a companion animal.
7. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be paid over to the owner or the owner's agent, if known. If the owner or the owner's agent 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 commissioner, may be offered for adoption or disposed of consistent with the law.
8. Before the animal is returned to its owner, the court shall determine whether the owner or the owner's agent can provide adequate care for the animal. The court has ten days within which to make this determination. The owner shall pay the cost of taking the animal into custody before the animal is released to the owner or the owner's agent.

SECTION 3. A new section to chapter 36-21.1 of the North Dakota Century Code is created and enacted as follows:

Abandoned animals - Assumption of custody.

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of and care for any animal found abandoned. The individual taking custody shall take reasonable steps to determine the ownership of the abandoned animal.
2. A sheriff, police officer, licensed veterinarian, or investigator may care for the animal until the animal is redeemed by the owner or the owner's agent or may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink.
3. Notice must be given by publication in the official newspaper of the jurisdiction. The notice must provide that the animal may be sold, placed for adoption, or otherwise disposed of if the animal is not redeemed within five days from the date of the notice.
4. The person having custody of the animal has a lien on the animal for the animal's care and keeping, the reasonable value of the food and drink furnished, and the expenses of notifying the owner or the owner's agent. The lien is superior to any other claim or lien. If the lien is not discharged and satisfied by the owner or the owner's agent within five days after publication of the notice, the person holding the claim may sell the animal and discharge the lien.
5. The court may award reasonable attorney's fees to the person bringing the action to enforce the lien and may award costs, which include the costs of arranging for the adoption of the animal or the costs of the destruction and disposal of the animal.
6. If the animal is sold, the lienholder is entitled to the proceeds of the sale to the extent of the lien and the remainder, if any, must be deposited in the county general fund.

SECTION 4. A new section to chapter 36-21.1 of the North Dakota Century Code is created and enacted as follows:

Assumption of custody - Immunity from liability. Any sheriff, police officer, licensed veterinarian, investigator, or person who has custody of an animal under this chapter and who is acting in an official or professional capacity and making a good-faith effort to comply with this chapter is immune from any civil or criminal liability for acts taken or omitted while attempting to comply with this chapter.

SECTION 5. A new section to chapter 36-21.1 of the North Dakota Century Code is created and enacted as follows:

Applicability of chapter. This chapter does not apply to estrays covered under chapter 36-22.

Approved April 17, 2001
Filed April 17, 2001

CHAPTER 318

SENATE BILL NO. 2404

(Senators Erbele, Kroeplin)
(Representatives Kretschmar, Maragos)

ANIMAL USE AS RAFFLE PRIZE

AN ACT to amend and reenact subsection 2 of section 36-21.1-09 of the North Dakota Century Code, relating to the use of animals as raffle prizes.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 2 of section 36-21.1-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

2. An eligible organization authorized to conduct games of chance under chapter 53-06.1 may raffle live beef or dairy cattle ~~if~~, bison, sheep, and pigs, provided each raffle ticket contains a statement that the winner of the ~~beef or dairy cattle prize animal~~ animal may convert that prize to a cash prize. The donor of the ~~beef or dairy cattle prize animal~~ shall determine the amount of the cash prize, which must be equivalent to the value of the ~~beef or dairy cattle prize animal~~ animal and cannot exceed the limitations of section 53-06.1-10.1.

Approved March 21, 2001

Filed March 21, 2001