

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1491

Introduced by

Representatives D. Johnson, S. Meyer

Senators Erbele, Klein

1 A BILL for an Act to amend and reenact sections 36-09-17, 36-09-20, 36-09-20.1, 36-09-22,
2 and 36-09-23 of the North Dakota Century Code, relating to penalties imposed for violation of
3 brand laws.

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

5 **SECTION 1. AMENDMENT.** Section 36-09-17 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **36-09-17. Defacing brands and unlawfully branding - Penalty.** ~~Any~~ A person who
8 ~~shall:~~

9 ~~1. Alter or deface, or attempt~~ is guilty of a class A misdemeanor for a first offense and
10 a class C felony for a second or subsequent offense if the person:

11 1. Alters, defaces, or attempts to alter or deface, the mark or brand ~~upon~~ on any
12 animal, ~~the property of~~ owned by another for the purpose of deceiving others as to
13 the animal's ownership; or

14 2. Willfully and unlawfully mark or brand, or cause marks, brands, or causes to be
15 marked or branded, any animal, ~~the property of~~ owned by another, is guilty of a
16 class A misdemeanor for the purpose of deceiving others as to the animal's
17 ownership.

18 **SECTION 2. AMENDMENT.** Section 36-09-20 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **36-09-20. Bill of sale to be given and kept - Copy with shipment - Effect - Penalty.**

21 1. A person may not sell cattle, horses, mules, or any other livestock carrying a
22 registered brand unless:

23 a. The seller is the owner of the registered brand and delivers a bill of sale for
24 the cattle, horses, mules, or other livestock to the purchaser; or

- 1 b. The seller delivers to the purchaser a bill of sale executed by the owner of the
- 2 registered brand and endorsed by the seller evidencing the later transaction.
- 3 2. The bill of sale must include:
- 4 a. The date;
- 5 b. The name, address, and signature of the seller;
- 6 c. The name, address, and signature of an individual who is at least eighteen
- 7 years of age and who can verify the name and signature of the seller;
- 8 d. The name and address of the buyer;
- 9 e. The total number of animals sold;
- 10 f. A description of each animal sold as to sex and kind; and
- 11 g. A description of the registered brands.
- 12 3. The bill of sale must be kept by the buyer for two years and as long thereafter as
- 13 the buyer owns any of the animals described in the bill of sale.
- 14 4. A copy of the bill of sale must be given to each hauler of the livestock, other than
- 15 railroads, and must go with the shipment of the livestock while in transit.
- 16 5. The bill of sale or a copy of the bill of sale must be shown by the possessor on
- 17 demand to any peace officer or brand inspector.
- 18 6. The bill of sale is prima facie evidence of the sale of the livestock described in the
- 19 bill of sale.
- 20 7. A bill of sale is not required relative to sales of livestock covered by a legal
- 21 livestock brand inspection.
- 22 8. Any person ~~who~~ that willfully violates this section is guilty of ~~an infraction~~ a class B
- 23 misdemeanor for a first offense and a class A misdemeanor for a second or
- 24 subsequent offense.

25 **SECTION 3. AMENDMENT.** Section 36-09-20.1 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **36-09-20.1. False proof of ownership - Sale of livestock - Penalty.** A person that
28 ~~knowingly~~ willfully provides false proof of ownership in conjunction with the sale of livestock is
29 guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or
30 subsequent offense.

SECTION 4. AMENDMENT. Section 36-09-22 of the North Dakota Century Code is amended and reenacted as follows:

36-09-22. Sale of animal under false registration ~~certificates~~ certificate -

Changing marking - ~~Auctioneer~~ - Penalty. ~~No~~

1. A person may not willfully:

~~1. a.~~ a. Sell ~~any~~ an animal with a certificate of registration or breeding that the person knows does not belong to ~~said~~ the animal.

~~2. b.~~ b. ~~Change in any way the~~ Alter any animal's certificate of registration or breeding ~~of any animal.~~

~~3. c.~~ c. ~~Falsely represent~~ Misrepresent any production record specified in ~~any~~ a registration certificate.

~~4. d.~~ d. Change the markings of any ~~animals~~ animal with intent to deceive the purchaser ~~or misrepresent.~~

e. Misrepresent the sire to which such animal has been bred.

~~The provisions of this section do not apply to any auctioneer or agent acting in good faith under the direction of the owner.~~

~~Any~~

2. A person ~~who~~ that violates ~~any of the provisions of~~ this section is guilty of a class ~~B~~ A misdemeanor for a first offense and a class C felony for a second or subsequent offense.

SECTION 5. AMENDMENT. Section 36-09-23 of the North Dakota Century Code is amended and reenacted as follows:

36-09-23. ~~Removal~~ Transportation of livestock from state - Brand inspection - Penalty.

1. ~~No~~ A person may ~~remove~~ not transport or attempt to transport cattle, horses, or mules from this state ~~or to within a mile [1.61 kilometers] of any boundary of the state for the purpose of removal~~ unless the livestock has been inspected for marks and brands by an official brand inspector of the North Dakota stockmen's association ~~and a.~~ A certificate of inspection must accompany the livestock to its destination. This subsection does not apply to a person that:

- 1 a. Transports cattle, horses, or mules from this state to obtain for the animals
2 emergency medical treatment by a licensed veterinarian; or
- 3 b. Transports cattle, horses, or mules from this state to an auction market that is
4 located in a bordering state and which has been designated by rule as an
5 official brand inspection market.
- 6 2. ~~It is unlawful for the~~ The owner or possessor ~~to remove any~~ of livestock may not
7 remove the livestock from any place of regular official brand inspection ~~unless and~~
8 until an official brand inspection has been made and the brand inspection
9 certificate has been issued.
- 10 3. A person ~~who~~ that willfully violates this section is guilty of a class ~~B~~ A
11 misdemeanor. A person ~~who~~ that violates this section a second time within ~~fifteen~~
12 five years or violates this section three or more times is guilty of a class C felony.