

Sixty-third  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2211

Introduced by

Senators Flakoll, J. Lee, O'Connell

Representatives Anderson, Delmore, D. Johnson

1 A BILL for an Act to create and enact atwo new sectionsections to chapter 36-01 and ~~a new~~  
2 ~~section to~~ chapter 36-21.2 of the North Dakota Century Code, relating to the duties of the state  
3 board of animal health and the treatment of animals; to repeal sections 36-21.1-01, 36-21.1-02,  
4 36-21.1-03, 36-21.1-03.1, 36-21.1-04, 36-21.1-06, 36-21.1-12, and 36-21.1-13 of the North  
5 Dakota Century Code, relating to the treatment of animals; ~~and to~~ provide a penalty; and to  
6 provide for reports to the legislative management.

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

8 **SECTION 1.** A new section to chapter 36-01 of the North Dakota Century Code is created  
9 and enacted as follows:

10 **Restriction on importation of certain animals - Exception.**

11 1. The state board of animal health may restrict the importation and the sale or other  
12 distribution within the state of any domestic animal and any animal that is wild by  
13 nature, if the board has reason to believe that the animal may pose a threat to the  
14 health and well-being of this state's human or animal population.

15 2. The board may exempt, from any restriction imposed under subsection 1, the  
16 importation or sale of animals for bona fide scientific ~~or~~ purposes, educational  
17 purposes, or temporary exhibitions.

18 **SECTION 2.** A new section to chapter 36-01 of the North Dakota Century Code is created  
19 and enacted as follows:

20 **Assistance in criminal investigations.**

21 The board shall maintain and make available to any law enforcement agency a list of  
22 veterinarians who are licensed in this state and trained to provide assistance in any criminal  
23 investigation pertaining to this state's animal laws.

1       **SECTION 3.** Chapter 36-21.2 of the North Dakota Century Code is created and enacted as  
2 follows:

3       **36-21.2-01. Neglect - Definition - Exemptions - Penalty.**

4       1. Any person that willfully engages in animal neglect is guilty of a class A misdemeanor  
5 for a first or a second offense and a class C felony for a third or subsequent offense  
6 occurring within ten years.

7       2. For purposes of this chapter, "neglect" with respect to dogs and cats, means the  
8 failure to provide an animal with:

9       a. Food and water, as appropriate for the species, the breed, and the animal's age  
10 and physical condition;

11       b. Shelter from the elements, as appropriate for the species, the breed, and the  
12 animal's age and physical condition;

13       c. Necessary medical attention; and

14       d. An environment that is:

15           (1) Ventilated in a manner appropriate for the species, the breed, and the  
16 animal's age and physical condition;

17           (2) Cleaned in a manner appropriate for the species, the breed, and the  
18 animal's age and physical condition; and

19           (3) Free of conditions likely to cause injury or death to an animal of that  
20 species, breed, age, and physical condition.

21 ~~3. The following do not constitute violations of this section:~~

22 ~~a. Any usual and customary practice in production agriculture, including all aspects~~  
23 ~~of the livestock industry;~~

24 ~~b. Any usual and customary practice in the breeding, raising, training, showing, and~~  
25 ~~competition of animals;~~

26 ~~c. Any usual and customary practice in the sport of rodeo and in animal racing;~~

27 ~~d. Any usual and customary practice in livestock exhibitions and competitions;~~

28 ~~e. Lawful fishing, hunting, and trapping;~~

29 ~~f. Lawful wildlife management practices;~~

30 ~~g. Lawful research and educational activities involving the use of animals;~~

31 ~~h. Lawful control of pests, rodents, and predators;~~

1 ~~i. Lawful animal damage control activities;~~

2 ~~j. Services provided by or under the direction of a licensed veterinarian; and~~

3 ~~k. The humane destruction of an animal for cause.~~

4 3. For purposes of this chapter, "neglect" with respect to all animals other than those  
5 included in subsection 2, means the failure to provide:

6 a. Food and water that is:

7 (1) Appropriate for the species and the breed; and

8 (2) Sufficient to sustain the animal's health;

9 b. Minimal protection from adverse weather conditions, as appropriate for the  
10 species and the breed; and

11 c. Medical attention in the event of an injury or illness, as appropriate for the  
12 species and the breed.

13 4. The following do not constitute violations of this section:

14 a. Any usual and customary practice in:

15 (1) The production of food, feed, fiber, or ornament, including all aspects of the  
16 livestock industry;

17 (2) The boarding, breeding, competition, exhibition, feeding, raising, showing,  
18 and training of animals;

19 (3) The sport of rodeo;

20 (4) Animal racing;

21 (5) The use of animals by exhibitors licensed under the Animal Welfare Act,  
22 7 U.S.C. 2131, et seq.;

23 (6) Fishing, hunting, and trapping;

24 (7) Wildlife management;

25 (8) The culinary arts;

26 (9) Lawful research and educational activities; and

27 (10) Pest, vermin, predator, and animal damage control, including the disposition  
28 of wild animals that have entered structures or personal property;

29 b. The humane or swift destruction of an animal for cause; and

30 c. Services provided by or under the direction of a licensed veterinarian.

1 **36-21.2-02. Animal abuse - Definition - Exemptions - Penalty.**

2 1. Any person that willfully engages in animal abuse is guilty of a class A misdemeanor  
3 for a first or a second offense and a class C felony for a third or subsequent offense  
4 occurring within ten years.

5 2. For purposes of this chapter, "animal abuse" means ~~the physical abuse of any act or~~  
6 omission that results in physical injury to an animal or that causes the death of an  
7 animal, but does not include any act ~~or omission~~ that falls within the definition of  
8 animal cruelty, as set forth in section 36-21.2-03.

9 ~~3. The following do not constitute violations of this section:~~

10 ~~a. Any usual and customary practice in production agriculture, including all aspects~~  
11 ~~of the livestock industry;~~

12 ~~b. Any usual and customary practice in the breeding, raising, training, showing, and~~  
13 ~~competition of animals;~~

14 ~~c. Any usual and customary practice in the sport of rodeo and in animal racing;~~

15 ~~d. Any usual and customary practice in livestock exhibitions and competitions;~~

16 ~~e. Lawful fishing, hunting, and trapping;~~

17 ~~f. Lawful wildlife management practices;~~

18 ~~g. Lawful research and educational activities involving the use of animals;~~

19 ~~h. Lawful control of pests, rodents, and predators;~~

20 ~~i. Lawful animal damage control activities;~~

21 ~~j. Any action taken by an individual against an animal that is attacking or is about to~~  
22 ~~attack a human, a companion animal, or livestock;~~

23 ~~k. Services provided by or under the direction of a licensed veterinarian; and~~

24 ~~l. The humane destruction of an animal for cause.~~

25 3. The following do not constitute violations of this section:

26 a. Any usual and customary practice in:

27 (1) The production of food, feed, fiber, or ornament, including all aspects of the  
28 livestock industry;

29 (2) The boarding, breeding, competition, exhibition, feeding, raising, showing,  
30 and training of animals;

31 (3) The sport of rodeo;

- 1 (4) Animal racing;
- 2 (5) The use of animals by exhibitors licensed under the Animal Welfare Act,
- 3 7 U.S.C. 2131, et seq.;
- 4 (6) Fishing, hunting, and trapping;
- 5 (7) Wildlife management;
- 6 (8) The culinary arts;
- 7 (9) Lawful research and educational activities; and
- 8 (10) Pest, vermin, predator, and animal damage control, including the disposition
- 9 of wild animals that have entered structures or personal property;
- 10 b. Any action taken by an individual against an animal that is attacking or is about to
- 11 attack a human, a companion animal, or livestock;
- 12 c. The humane or swift destruction of an animal for cause; and
- 13 d. Services provided by or under the direction of a licensed veterinarian.

14 **36-21.2-03. Animal cruelty - Definition - Exemptions - Penalty.**

15 1. Any person that willfully intentionally engages in animal cruelty is guilty of a class C

16 felony.

17 2. For purposes of this chapter, "animal cruelty" means:

18 ~~a. Any act or omission that causes an animal unjustifiable pain, suffering, or death,~~

19 ~~including the infliction of any injury that results in a substantial risk of death,~~

20 ~~leaves an animal significantly disfigured, results in broken bones, or causes~~

21 ~~prolonged impairment of an animal's health; and~~

22 ~~b. Any act or omission that results in a serious illness and leaves an animal~~

23 ~~significantly disfigured or causes prolonged impairment of the animal's health.~~

24 ~~3. The following do not constitute violations of this section:~~

25 ~~a. Any usual and customary practice in production agriculture, including all aspects~~

26 ~~of the livestock industry;~~

27 ~~b. Any usual and customary practice in the breeding, raising, training, showing, and~~

28 ~~competition of animals;~~

29 ~~c. Any usual and customary practice in the sport of rodeo and in animal racing;~~

30 ~~d. Any usual and customary practice in livestock exhibitions and competitions;~~

31 ~~e. Lawful fishing, hunting, and trapping;~~

- 1 ~~f. Lawful wildlife management practices;~~  
2 ~~g. Lawful research and educational activities involving the use of animals;~~  
3 ~~h. Lawful control of pests, rodents, and predators;~~  
4 ~~i. Lawful animal damage control activities;~~  
5 ~~j. Any action taken by an individual against an animal that is attacking or is about to~~  
6 ~~attack a human, a companion animal, or livestock;~~  
7 ~~k. Services provided by or under the direction of a licensed veterinarian; and~~  
8 ~~l. The humane destruction of an animal for cause.~~  
9 a. Breaking an animal's bones;  
10 b. Causing the prolonged impairment of an animal's health;  
11 c. Mutilating an animal; or  
12 d. Physically torturing an animal.  
13 3. The following do not constitute violations of this section:  
14 a. Any usual and customary practice in:  
15 (1) The production of food, feed, fiber, or ornament, including all aspects of the  
16 livestock industry;  
17 (2) The boarding, breeding, competition, exhibition, feeding, raising, showing,  
18 and training of animals;  
19 (3) The sport of rodeo;  
20 (4) Animal racing;  
21 (5) The use of animals by exhibitors licensed under the Animal Welfare Act,  
22 7 U.S.C. 2131, et seq.;  
23 (6) Fishing, hunting, and trapping;  
24 (7) Wildlife management;  
25 (8) The culinary arts;  
26 (9) Lawful research and educational activities; and  
27 (10) Pest, vermin, predator, and animal damage control, including the disposition  
28 of wild animals that have entered structures or personal property;  
29 b. Any action taken by an individual against an animal that is attacking or is about to  
30 attack a human, a companion animal, or livestock;  
31 c. The humane or swift destruction of an animal for cause; and

1 d. Services provided by or under the direction of a licensed veterinarian.

2 **36-21.2-04. Animal abandonment - Definition - Exemptions - Penalty.**

3 1. Any person that willfully engages in the abandonment of an animal is guilty of a  
4 class A misdemeanor ~~for a first or a second offense and a class C felony for a third or~~  
5 ~~subsequent offense occurring within ten years.~~

6 2. For purposes of this chapter, "abandonment" means the relinquishment of a person's  
7 custody or control, with no intention of reclaiming that custody or control, and without  
8 placing the animal into the custody or control of another person that is able to provide  
9 care for the animal and who knowingly and willingly accepts that responsibility. The  
10 term includes:

11 a. The desertion of an animal; and

12 b. The failure to retrieve an animal within forty-eight hours after the agreed-upon  
13 conclusion of a boarding contract or other service contract, other than that  
14 specified in section 43-29-16.1.

15 ~~3. The following do not constitute violations of this section:~~

16 ~~a. Any usual and customary practice in production agriculture, including all aspects~~  
17 ~~of the livestock industry;~~

18 ~~b. Any usual and customary practice in the breeding, raising, training, showing, and~~  
19 ~~competition of animals;~~

20 ~~c. Any usual and customary practice in the sport of rodeo and in animal racing;~~

21 ~~d. Any usual and customary practice in livestock exhibitions and competitions;~~

22 ~~e. Lawful fishing, hunting, and trapping;~~

23 ~~f. Lawful wildlife management practices;~~

24 ~~g. Lawful research and educational activities involving the use of animals;~~

25 ~~h. Lawful control of pests, rodents, and predators;~~

26 ~~i. Lawful animal damage control activities;~~

27 ~~j. Services provided by or under the direction of a licensed veterinarian; and~~

28 ~~k. The humane destruction of an animal for cause.~~

29 3. The following do not constitute violations of this section:

30 a. Any usual and customary practice in:

- 1 (1) The production of food, feed, fiber, or ornament, including all aspects of the  
2 livestock industry;
- 3 (2) The boarding, breeding, competition, exhibition, feeding, raising, showing,  
4 and training of animals;
- 5 (3) The sport of rodeo;
- 6 (4) Animal racing;
- 7 (5) The use of animals by exhibitors licensed under the Animal Welfare Act,  
8 7 U.S.C. 2131, et seq.;
- 9 (6) Fishing, hunting, and trapping;
- 10 (7) Wildlife management;
- 11 (8) The culinary arts;
- 12 (9) Lawful research and educational activities; and
- 13 (10) Pest, vermin, predator, and animal damage control, including the disposition  
14 of wild animals that have entered structures or personal property;
- 15 b. The humane or swift destruction of an animal for cause; and
- 16 c. Services provided by or under the direction of a licensed veterinarian.

17 4. For purposes of this section, "care" means food, water, and shelter from the elements,  
18 as appropriate for the species, the breed, and the animal's age and physical condition,  
19 and necessary medical attention.

20 **36-21.2-05. Seizure of animal - Court order.**

- 21 1. A law enforcement officer may petition the court for an order directing the seizure of  
22 any animal believed to have been neglected, abused, treated cruelly, or subjected to  
23 any act or omission in violation of this chapter.
- 24 2. The court may act without notice to the animal's owner or to the person having  
25 custody or control of the animal and may rely solely on testimony or an affidavit in  
26 considering the petition.
- 27 3. In the order for seizure, the court may direct that a veterinarian humanely destroy an  
28 animal if the veterinarian, upon examining the animal, determines that the animal is  
29 experiencing excruciating pain or suffering and that the animal's pain or suffering is not  
30 likely to be alleviated using reasonable medical interventions.

1        **36-21.2-06. Law enforcement - Duty upon seizure - Notification.**

2        1. Upon seizing an animal as provided for in section 36-21.2-05, the law enforcement  
3        officer shall provide care for the animal, either directly or through a contractual  
4        arrangement with another person. For purposes of this subsection, "care" means food,  
5        water, and shelter from the elements, as appropriate for the species, the breed, and  
6        the animal's age and physical condition, and necessary medical attention.

7        a. If the owner and the person having custody or control at the time of the seizure  
8        are known to the officer, the officer shall:

9            (1) Provide notice of the seizure to the owner and the person having custody or  
10          control of the animal; and

11          (2) Petition the court for an order directing the animal's disposition.

12        b. If the animal's owner is not known to the law enforcement officer, the officer shall  
13        publish notice of the animal's seizure in the official newspaper of the county and  
14        indicate that if the owner does not claim the animal within five days, the animal  
15        will be sold, placed for adoption, or humanely destroyed, at the direction of the  
16        law enforcement officer.

17            (1) If the owner does not claim the animal within five days, as required by this  
18            subdivision, the law enforcement officer shall sell the animal, place the  
19            animal for adoption, or provide for its humane destruction.

20            (2) If the owner is identified within the five-day period, the law enforcement  
21            officer shall petition the court for an order directing the animal's disposition.

22        2. In ruling on a petition for an animal's disposition under this section, a court may direct  
23        that the animal be sold, placed for adoption, humanely destroyed, or returned to its  
24        owner, with or without conditions.

25        **36-21.2-07. Costs of seizure and care - Responsibility of owner - Lien.**

26        1. ~~The~~ if convicted of violating this chapter, the owner of an animal seized under section  
27        36-21.2-05 is responsible for all costs related to the animal's seizure, including  
28        required notifications, attorney's fees, court costs, and any costs incurred in providing  
29        the animal with care or in providing for its destruction in accordance with section  
30        36-21.2-06.

- 1       2.   a.   The law enforcement agency that seized the animal has a lien upon the animal  
2           for all costs incurred as a result of the seizure and conviction. The lien is superior  
3           to any other claim or lien.
- 4       b.   If the lien is not satisfied by the animal's owner, the law enforcement agency may  
5           apply to the court for an order enforcing the lien.
- 6       3.   If a seized animal is sold, the proceeds must be used first to satisfy the lienholder to  
7           the extent of the lien and second to satisfy any other claims involving the animal. Any  
8           remaining proceeds must be returned to the owner, as directed by the court. If the  
9           owner is unknown, any proceeds otherwise payable to the owner must be deposited in  
10          the general fund of the county.

11       **36-21.2-08. Abandoned animal - Law enforcement officer - Duties.**

- 12       1.   A law enforcement officer may take custody of an animal if the officer has reasonable  
13          cause to believe that the animal has been abandoned in violation of this chapter.
- 14       2.   a.   Upon taking custody of an animal in accordance with this section, the law  
15          enforcement officer shall:
- 16           (1) Provide care for the animal, either directly or through a contractual  
17               arrangement with another person; and
- 18           (2) (a) Notify the owner, if known to the officer; or  
19               (b) If the owner is not known to the officer, provide notice of the animal's  
20               custody, indicate that if the owner does not lay claim to the animal  
21               within five days, the animal will be sold, placed for adoption, or  
22               humanely destroyed, at the direction of the law enforcement officer,  
23               and include the officer's contact information.
- 24       b.   For purposes of this subdivision, notice may be provided by:
- 25           (1) Publication in the official newspaper of the county if the newspaper is  
26               published daily or in a daily newspaper serving the county;
- 27           (2) Any electronic means; or
- 28           (3) Posting a description and a photograph at the local law enforcement center.
- 29       3.   If the owner is identified within the five-day period, the law enforcement officer shall  
30          return the animal to the owner only if:

- 1           a. The owner demonstrates that the animal was not abandoned in violation of this  
2           chapter; and
- 3           b. The owner pays for all costs associated with the animal's care while in custody,  
4           including any costs of notifications under this section.
- 5           4. If the law enforcement officer refuses to return the animal to its owner, the owner may  
6           petition the court for an order directing its return. In ruling on a petition under this  
7           subsection, a court may direct that the animal be sold, placed for adoption, humanely  
8           destroyed, or returned to its owner with or without conditions.
- 9           5. If the owner does not lay claim to the animal within five days, the law enforcement  
10           officer shall sell the animal, place it for adoption, or humanely destroy it.
- 11           6. Any proceeds from the sale or adoption of an animal under this section must be  
12           deposited in the county general fund.
- 13           7. Notwithstanding the requirements of this section, if upon examining an animal taken  
14           into custody by a law enforcement officer in accordance with this section a licensed  
15           veterinarian determines that the animal's condition justifies its destruction, the  
16           veterinarian shall humanely destroy the animal. The law enforcement agency shall  
17           reimburse the veterinarian for the cost of the animal's destruction.
- 18           8. For purposes of this section, "care" means food, water, and shelter from the elements,  
19           as appropriate for the species, the breed, and the animal's age and physical condition,  
20           and necessary medical attention.

21           **36-21.2-09. Title of animal - Sale or adoption.**

22           The title to any animal sold or adopted in accordance with this chapter passes to the  
23           individual taking custody or control of the animal.

24           **36-21.2-10. Veterinarian.**

25           If upon examining an animal a licensed veterinarian determines that there is reasonable  
26           cause to believe an animal has been neglected, abused, treated cruelly, or subjected to any act  
27           or omission in violation of this chapter, the veterinarian may retain custody of the animal and  
28           shall immediately notify law enforcement officials regarding the determination.

29           **36-21.2-11. Caged animals - Public display - Exemptions - Penalty.**

- 30           1. In addition to any other requirements set forth in this chapter, a person placing a  
31           caged animal on public display shall ensure that:

1           a. The size of the cage allows the animal to stand up, lie down, and turn or move  
2                     about; and

3           b. The cage provides the animal with protection from the elements, as appropriate  
4                     for the species, the breed, and the animal's age and physical condition.

5           2. Any person that willfully fails to meet the requirements of this section is guilty of a  
6                     class A misdemeanor.

7           3. This section does not apply to:

8           a. The North Dakota state fair association;

9           b. Agricultural fair associations; or

10          ~~c. Livestock exhibitions and competitions;~~

11          ~~d.c. Political subdivisions;~~

12          ~~e. Educational exhibitions; or~~

13          ~~f. Exhibitors licensed by the United States department of agriculture.~~

14          ~~4. The following do not constitute violations of this section:~~

15          ~~a. Any usual and customary practice in production agriculture, including all aspects~~  
16                     ~~of the livestock industry;~~

17          ~~b. Any usual and customary practice in the breeding, raising, training, showing, and~~  
18                     ~~competition of animals;~~

19          ~~c. Any usual and customary practice in the sport of rodeo and in animal racing;~~

20          ~~d. Any usual and customary practice in livestock exhibitions and competitions;~~

21          ~~e. Lawful fishing, hunting, and trapping;~~

22          ~~f. Lawful wildlife management practices;~~

23          ~~g. Lawful research and educational activities involving the use of animals;~~

24          ~~h. Lawful control of pests, rodents, and predators;~~

25          ~~i. Lawful animal damage control activities; and~~

26          ~~j. Services provided by or under the direction of a licensed veterinarian.~~

27          4. The following do not constitute violations of this section:

28          a. Any usual and customary practice in:

29                     (1) The production of food, feed, fiber, or ornament, including all aspects of the  
30                     livestock industry;

- 1 (2) The boarding, breeding, competition, exhibition, feeding, raising, showing,
- 2 and training of animals;
- 3 (3) The sport of rodeo;
- 4 (4) Animal racing;
- 5 (5) The use of animals by exhibitors licensed under the Animal Welfare Act,
- 6 7 U.S.C. 2131, et seq.;
- 7 (6) Fishing, hunting, and trapping;
- 8 (7) Wildlife management;
- 9 (8) The culinary arts;
- 10 (9) Lawful research and educational activities; and
- 11 (10) Pest, vermin, predator, and animal damage control, including the disposition
- 12 of wild animals that have entered structures or personal property;
- 13 b. Any action taken by an individual against an animal that is attacking or is about to
- 14 attack a human, a companion animal, or livestock;
- 15 c. The humane or swift destruction of an animal for cause; and
- 16 d. Services provided by or under the direction of a licensed veterinarian.

17 **36-21.2-12. Unattended animal in motor vehicle - Penalty.**

- 18 1. ~~A person~~An individual may not leave an animal unattended in a motor vehicle without
- 19 ensuring that the animal's health and safety is not endangered.
- 20 2. ~~Any person that~~An individual who violates this section is guilty of an infraction.
- 21 3. A law enforcement officer may use reasonable means to enter a motor vehicle and
- 22 remove an animal left in violation of this section.

23 **36-21.2-13. Immunity from liability.**

24 A veterinarian is immune from civil or criminal liability if the veterinarian, on the

25 veterinarian's own initiative or at the request of a law enforcement officer or other governmental

26 entity, renders emergency treatment to a sick or injured animal under this chapter. Immunity

27 under this section does not apply in the case of negligence.

28 **36-21.2-14. Estrays.**

29 This chapter does not apply to estrays.

1        **36-21.2-15. Collectives Multiple animals - Status Enhancement of offense.**  
2        ~~If any violation of this chapter involves a band, flock, herd, litter, pack, or other collective of~~  
3 ~~same species animals, the violation is deemed to be a singular incident for purposes of~~  
4 ~~determining the status of the offense.~~ If a violation of this chapter involves multiple animals,  
5 whether of the same species or not, the violation is deemed to be a singular offense for  
6 purposes of enhancement.

7        **SECTION 4. REPEAL.** Sections 36-21.1-01, 36-21.1-02, 36-21.1-03, 36-21.1-03.1,  
8 36-21.1-04, 36-21.1-06, 36-21.1-12, and 36-21.1-13 of the North Dakota Century Code are  
9 repealed.

10        **SECTION 5. REPRESENTATIVES OF AGRICULTURAL PRODUCTION GROUPS -**  
11 **REPORT TO THE LEGISLATIVE MANAGEMENT.** Before July 1, 2014, representatives of  
12 agricultural production groups, including representatives of this state's livestock industry, shall  
13 compile information regarding the effects of this Act on the various sectors of the agricultural  
14 industry. The compiled information must be presented to the legislative management for review,  
15 together with any suggestions for potential statutory changes.