

LIVESTOCK

CHAPTER 284

SENATE BILL NO. 2239

(Senators Erbele, Myrdal, Osland)
(Representatives Fisher, C. Johnson, Trottier)

AN ACT to create and enact section 36-01-36 of the North Dakota Century Code, relating to animal identification program records; to amend and reenact section 36-01-32 of the North Dakota Century Code, relating to the development and maintenance of animal tracking databases; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-01-32 of the North Dakota Century Code is amended and reenacted as follows:

36-01-32. Duties - Animal tracking.

The board shall develop and maintain an animal tracking ~~database~~databases to assist with tracking animal movements for animal health purposes only. The information obtained and maintained in the ~~database~~databases is subject to open records laws as provided for in section ~~36-09-28~~36-01-36.

SECTION 2. Section 36-01-36 of the North Dakota Century Code is created and enacted as follows:

36-01-36. Premises identification, animal identification, and animal tracking - Open records - Exception.

1. The board shall maintain the confidentiality of information created, collected, or maintained by the state veterinarian for purposes of premises identification, animal identification, or animal tracking, including the name and address of the owner or lessee of the property where an animal found, is located.
2. The information described in subsection 1 is not subject to section 44-04-18 and may not be disclosed unless:
 - a. Every individual who is the subject of the information provides written consent to the release of information;
 - b. The disclosure is authorized pursuant to federal law;
 - c. The disclosure is necessary to provide a state or federal agency with information to assist in animal disease control or tracing an animal disease;
 - d. The disclosure is to the attorney general or to law enforcement to assist in a criminal investigation;

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- e. A court of competent jurisdiction orders the disclosure; or
 - f. The disclosure is to provide the North Dakota stockmen's association with information pursuant to section 4.1-72-05.
3. A person violating this section is subject to the remedies set forth in section 44-04-21.2. For purposes of applying section 44-04-21.2, "public entity" includes any person that has contracted with the state for the provision of services related to a premises identification, animal identification, or animal tracking database program.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 8, 2019

Filed April 9, 2019

CHAPTER 285

SENATE BILL NO. 2177

(Senators Luick, Erbele, Myrdal, Patten)
(Representatives D. Johnson, Trottier)

AN ACT to amend and reenact sections 36-21.2-05 and 36-21.2-06 of the North Dakota Century Code, relating to due process and accounting for animals to be seized.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-21.2-05 of the North Dakota Century Code is amended and reenacted as follows:

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

1. A law enforcement officer, upon a recommendation from a licensed veterinarian approved by the board of animal health, may petition the court for an order directing the seizure of any animal believed to have been neglected, abused, treated cruelly, or subjected to any act or omission in violation of this chapter. If the animal to be seized is a bovine animal, horse, or mule, the law enforcement officer shall provide a copy of the petition to the chief brand inspector. The chief brand inspector shall conduct an ownership inspection of the animal as provided under section 36-21.2-06.
2. The court, upon a recommendation from a licensed veterinarian approved by the board of animal health, may act without notice to the animal's owner or to the person having custody or control of the animal and may rely solely on testimony or an affidavit in considering the petition.
3. In the order for seizure, the court may direct that a veterinarian humanely destroy an animal if the veterinarian, upon examining the animal, determines that the animal is experiencing excruciating pain or suffering and that the animal's pain or suffering is not likely to be alleviated using reasonable medical interventions.

SECTION 2. AMENDMENT. Section 36-21.2-06 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Upon seizing an animal as provided for in section 36-21.2-05, the law enforcement officer shall provide care for the animal, either directly or through a contractual arrangement with another person. For purposes of this subsection, "care" means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.
 - a. If the owner and the person having custody or control at the time of the seizure are known to the officer or can be determined following a reasonable inquiry, the officer shall:

- (1) Provide notice of the seizure to the owner and, the person having custody or control of the animal, and, if the animal is a bovine animal, horse, or mule, to the chief brand inspector; and
 - (2) Petition the court for an order directing the animal's disposition.
- b. If the animal's owner is not known to the law enforcement officer and cannot be determined following a reasonable inquiry, the officer shall publish notice of the animal's seizure in the official newspaper of the county and indicate that if the owner does not claim the animal within five days, the animal will be sold, placed for adoption, or humanely destroyed, at the direction of the law enforcement officer. If the animal to be seized is a bovine animal, horse, or mule, the officer also shall provide notice to the chief brand inspector.
- (1) If the owner does not claim the animal within five days following publication, as required by this subdivision, the law enforcement officer shall sell the animal, place the animal for adoption, or provide for its humane destruction.
 - (2) If the owner is identified within the five-day period following publication, the law enforcement officer shall petition the court for an order directing the animal's disposition.
2. In ruling on a petition for an animal's disposition under this section, a court may direct that the animal be sold, placed for adoption, humanely destroyed, or returned to its owner, with or without conditions. If the animal subject to the disposition ruling is a bovine animal, horse, or mule, the law enforcement officer shall provide notice of the ruling to the chief brand inspector. The chief brand inspector shall conduct an ownership inspection of the animal subject to the ruling.
3. The owner of an animal, at any time before a final ruling on the animal's disposition, may request a hearing before the court. If a hearing is requested, the court may not issue a final ruling on the disposition of the animal until the conclusion of the hearing.

Approved March 6, 2019

Filed March 7, 2019