

LIVESTOCK

CHAPTER 387

SENATE BILL NO. 2339
(D. Meyer)

LIVESTOCK SANITARY BOARD OFFICE TERM

AN ACT to amend and reenact section 36-01-01 of the North Dakota Century Code, relating to the term of office of members of the state livestock sanitary board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

36-01-01. State livestock sanitary board - Appointment - Terms - Qualifications. The state livestock sanitary board shall consist of seven members appointed by the governor for terms of seven years each with their terms of office so arranged that one term, and only one, shall expire on the first day of August in each year. No person may be appointed to more than two seven-year terms on the board. Each member of such board shall 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. One member of said board shall be a person actively engaged and financially interested in the commercial beef cattle industry and shall represent said industry on said board; one member of said board shall be a person actively engaged and financially interested in the registered purebred beef cattle industry and shall represent said industry on said board; one member of said board shall be a person actively engaged and financially interested in the dairy cattle industry and shall represent said industry on said board; one member of said board shall be a person actively engaged and financially interested in the swine industry and shall represent said industry on said board; one member of said board shall be a person actively engaged and financially interested in the sheep industry and shall represent said industry on said board; and two members of said board shall be competent veterinarians who are graduates of a veterinary course in a recognized college or university. Vacancies occurring prior to the expiration of terms of office shall be filled by appointment by the governor and shall be for the balance of the unexpired term. Recommendations for appointment of members to said 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 representing commercial beef cattle; by the various registered purebred beef cattle associations for the member representing the registered purebred beef cattle; by the various dairy breed associations for the member representing dairy cattle; by the North Dakota swine breeders' association for the member representing swine; and by the North Dakota wool growers' association for the member representing sheep, and by the state veterinary medical association for the two veterinarian members and by such other associations within this state representing livestock industries as the governor may permit. Two recommendations shall be submitted for each office to be filled.

Approved March 22, 1985

CHAPTER 388

HOUSE BILL NO. 1264
(Representatives R. Anderson, Knudson, Murphy)
(Senators Maixner, Moore, D. Meyer)

LIVESTOCK DEALERS AND AGENTS

AN ACT to amend and reenact section 36-04-03 of the North Dakota Century Code, relating to livestock dealers and dealer's agents.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-04-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-03. Dealer's license required - Agent licensed designation and licensure - Suitability for licensure - Liability of owner for agent's acts.

1. All dealers ~~shall~~ and agents must be licensed as provided in this chapter.
2. No agent shall act for any ~~such~~ dealer unless the dealer is licensed and has designated such agent ~~or agents~~ to act in ~~his~~ the dealer's behalf and has notified the department of ~~such~~ the appointment in ~~his~~ the dealer's application for a license or in a separate written instrument and requested the department to issue to such agent ~~or agents~~ an agent's ~~identification card~~ license in such form as may be prescribed by the commissioner.
3. No dealer may designate as an agent any person who has been denied a dealer's or agent's license or has had a dealer's or agent's license revoked for any reason or has otherwise acted in a manner which would be in violation of this chapter, except upon a determination by the commissioner that the person is sufficiently rehabilitated to serve the public as a dealer's agent and that the person does not owe any debt to any livestock seller or auction market. Conviction of an offense as defined by section 12.1-01-04, does not disqualify a person from licensure unless the commissioner determines that the offense has a direct bearing upon a person's ability to

serve the public as a dealer's agent or that the person is not at present sufficiently rehabilitated under section 12.1-33-02.1.

4. Agents, ~~as such,~~ shall not deal in their own names or issue a check or any other commercial paper except in the name of their principals when acting as an agent. A dealer shall be accountable and responsible for all the acts of ~~his~~ a designated agent ~~or agents.~~

Approved March 14, 1985

CHAPTER 389

SENATE BILL NO. 2044
(Legislative Council)
(Interim Agriculture Committee)

AUTHORITY OVER LIVESTOCK DEALERS AND AUCTION MARKETS

AN ACT to create and enact two new sections to chapter 36-04 and three new sections to chapter 36-05 of the North Dakota Century Code, relating to livestock dealers and auction markets, cease and desist authority, injunctions, and investigations and hearings; and to amend and reenact sections 36-04-10, 36-05-06, and 36-05-13 of the North Dakota Century Code, relating to livestock dealers and auction markets, licenses, and hearings.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-04-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-10. Department may refuse to grant and may revoke
Refusal or revocation of license. The department ~~may decline shall~~
refuse to grant a license, or may shall revoke a license which it
has granted, when it is satisfied that:

1. The applicant or licensee has violated any of the laws of this state governing the handling, shipment, or transportation of livestock or wool;
2. The applicant or licensee has been guilty of deceit, fraud, dishonesty, forgery, or theft as a dealer in livestock or wool, or in dealing therein;
3. The applicant made or caused to be made any false entry or statement of fact in any application, financial statement, or report filed with the department under this chapter;
4. The applicant has failed to keep and maintain suitable records, which disclose all purchases and sales of livestock, or has refused, during reasonable hours, to allow any authorized agent of the department to have access to inspect and to copy any and all of such records relating to ~~his~~ the dealer's business; or

5. The applicant has failed or refused to furnish the information required under the terms of this chapter and as prescribed by the department.

Terminal markets, auction markets, and weigh stations are subject to the provisions of this section.

SECTION 2. A new section to chapter 36-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Cease and desist authority. The commissioner may issue an order to cease and desist when, in the opinion of the commissioner, any person within the state is taking or planning any action which is or may be in violation of this chapter. If an order is granted, the commissioner shall conduct a hearing within thirty days of the issuance of the order to determine whether the actions of the person named in the order violated or would have violated this chapter. The commissioner shall, after the hearing but not later than forty-five days after the issuance of the order, revoke the order or make it permanent, as the facts require.

SECTION 3. A new section to chapter 36-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Investigation of dealers - Hearing conducted to determine whether license should be issued or revoked.

1. The department upon its own motion or upon a complaint by any person may enter into an investigation of the sales and transactions of any dealer and of the conditions under which its business is conducted. The department may conduct a hearing to determine whether the license of any dealer should be revoked or whether the application of the dealer for an original or renewal license should be denied.
2. The department shall conduct an investigation of an alleged violation of this chapter when:
 - a. A complaint, allegation, or order to show cause, alleging an act which would constitute a violation of this chapter, is issued by or sought by the packers and stockyards administration of the United States;
 - b. The department has information sufficient to form a reasonable belief that a violation of this chapter has occurred; or
 - c. The department has received a sworn statement, affidavit, or other evidence, from any person alleging a violation of this chapter.

3. The department shall conduct a hearing when, pursuant to an investigation, probable cause exists that a violation of this chapter has occurred.
4. The department shall conduct an audit, or cause an audit to be conducted, when probable cause exists that any dealer has violated subdivision a, b, c, or d of subsection 2 of section 36-04-04 or any of the financial provisions of this chapter.

SECTION 4. AMENDMENT. If Senate Bill No. 2043 is not approved by the forty-ninth legislative assembly or does not become effective, then section 36-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-06. Investigation of auction market - Hearing conducted to determine whether license should be issued or revoked.

1. The livestock sanitary board upon its own motion or upon a complaint by any person, may enter into an investigation of the sales and transactions of any livestock auction market and of the conditions under which its business is conducted. The livestock sanitary board when it deems it necessary, may conduct a hearing to determine whether the license of any auction market should be revoked or whether the application of the owner or operator of a livestock auction market for an original or renewal license should be denied.
2. The board shall conduct an investigation of an alleged violation of this chapter when:
 - a. A complaint, allegation, or order to show cause, alleging an act which would constitute a violation of this chapter, is issued by or sought by the packers and stockyards administration of the United States;
 - b. The board has information sufficient to form a reasonable belief that a violation of this chapter has occurred; or
 - c. The board has received a sworn statement, affidavit, or other evidence from any person alleging a violation of this chapter.
3. The board shall conduct a hearing to determine whether a violation has occurred when, pursuant to an investigation, probable cause exists that a violation of this chapter has occurred.
4. The board shall conduct an audit, or cause an audit to be conducted, when probable cause exists that any livestock auction market has violated any of the financial provisions of this chapter, when it reasonably appears

that the liabilities of the livestock auction market exceed its assets, or when the auction market has refused to pay a proper claim without reasonable cause.

* SECTION 5. AMENDMENT. Section 36-05-06 of the North Dakota Century Code as contained in section 5 of Senate Bill No. 2043, as approved by the forty-ninth legislative assembly, is hereby amended and reenacted to read as follows:

36-05-06. Investigation of auction market - Hearing conducted to determine whether license should be issued or revoked.

1. The commissioner upon the commissioner's own motion or upon a complaint by any person may enter into an investigation of the sales and transactions of any livestock auction market and of the conditions under which its business is conducted. The commissioner when the commissioner deems it necessary, may conduct a hearing to determine whether the license of any auction market should be revoked or whether the application of the owner or operator of a livestock auction market for an original or renewal license should be denied.
2. The commissioner shall conduct an investigation of an alleged violation of this chapter when:
 - a. A complaint, allegation, or order to show cause, alleging an act which would constitute a violation of this chapter, is issued by or sought by the packers and stockyards administration of the United States;
 - b. The commissioner has information sufficient to form a reasonable belief that a violation of this chapter has occurred; or
 - c. The commissioner has received a sworn statement, affidavit, or other evidence from any person alleging a violation of this chapter.
3. The commissioner shall conduct a hearing to determine whether a violation has occurred when, pursuant to an investigation, probable cause exists that a violation of this chapter has occurred.
4. The commissioner shall conduct an audit, or cause an audit to be conducted, when probable cause exists that any livestock auction market has violated any of the financial provisions of this chapter, when it reasonably appears that the liabilities of the livestock auction market exceed its assets, or when the auction market has refused to pay a proper claim without reasonable cause.

SECTION 6. AMENDMENT. If Senate Bill No. 2043 is not approved by the forty-ninth legislative assembly or does not become

* NOTE: Section 36-05-06 was also amended by section 5 of Senate Bill No. 2043, chapter 392.

effective, then section 36-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-13. Use of fees collected by livestock sanitary board - Grounds for refusal or revocation of license - Procedure on revocation and on default of licensee. All fees collected by the livestock sanitary board under the provisions of this chapter shall must be credited to the general fund of the state treasury. A license to operate a livestock auction market may must be refused or revoked for any of the reasons specified in section 36-04-10, and the provisions of section 36-04-11 shall govern the procedure under which a hearing shall be had before the livestock sanitary board to determine whether such license shall be revoked or subsection 2 of section 36-04-04. When the holder of a license issued under the provisions of this chapter shall default defaults in any of the conditions of any bond filed with the livestock sanitary board by such the licensee this, the board shall will become trustee of such bond and the provisions of sections 36-04-12 through 36-04-19 shall govern the procedure to be followed.

* SECTION 7. AMENDMENT. Section 36-05-13 of the North Dakota Century Code as contained in section 7 of Senate Bill No. 2043, as approved by the forty-ninth legislative assembly, is hereby amended and reenacted to read as follows:

36-05-13. Use of fees - Grounds for refusal or revocation of license - Procedure on default of licensee. All fees collected by the commissioner and the livestock sanitary board under this chapter must be credited to the general fund of the state treasury. A license to operate a livestock auction market must be refused or revoked for any of the reasons specified in section 36-04-10 or subsection 2 of section 36-04-04. When the holder of a license issued under this chapter defaults in any of the conditions of any bond filed with the commissioner by the licensee, the commissioner will become trustee of the bond and sections 36-04-12 through 36-04-19 govern the procedure to be followed.

SECTION 8. If Senate Bill No. 2043 is not approved by the forty-ninth legislative assembly or does not become effective, then a new section to chapter 36-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Cease and desist authority. The livestock sanitary board may issue an order to cease and desist when, in the opinion of the board or its executive officer, any auction market within the state is taking or planning any action which is or may be in violation of this chapter. If an order is granted, the board shall conduct a hearing within thirty days of the issuance of the order to determine whether the actions of the person named in the order violated or would have violated this chapter. The board shall, after the hearing but not later than forty-five days after the issuance of the order, revoke the order or make it permanent, as the facts require.

* NOTE: Section 36-05-13 was also amended by section 7 of Senate Bill No. 2043, chapter 392.

SECTION 9. If Senate Bill No. 2043 is approved by the forty-ninth legislative assembly and becomes effective, then a new section to chapter 36-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Cease and desist authority. The commissioner may issue an order to cease and desist when, in the opinion of the commissioner, or any auction market within the state is taking or planning any action which is or may be in violation of this chapter. If an order is granted, the commissioner shall conduct a hearing within thirty days of the issuance of the order to determine whether the actions of the person named in the order violated or would have violated this chapter. The commissioner shall, after the hearing but not later than forty-five days after the issuance of the order, revoke the order or make it permanent, as the facts require.

SECTION 10. If Senate Bill No. 2043 is not approved by the forty-ninth legislative assembly or does not become effective, then a new section to chapter 36-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Injunctive authority. The livestock sanitary board may, when it believes any auction market or person is violating this chapter or is pursuing a course of action which may lead to a violation of this chapter, seek an order from the district court of Burleigh County to enjoin the prohibited act.

SECTION 11. If Senate Bill No. 2043 is approved by the forty-ninth legislative assembly and becomes effective, then a new section to chapter 36-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Injunctive authority. The commissioner may, when in the commissioner's belief any auction market or person is violating this chapter or is pursuing a course of action which may lead to a violation of this chapter, seek an order from the district court of Burleigh County to enjoin the prohibited act.

Approved March 22, 1985

CHAPTER 390

SENATE BILL NO. 2045
(Legislative Council)
(Interim Agriculture Committee)

LIVESTOCK DEALER AND AUCTION MARKET RECORDS

AN ACT to create and enact a new section to chapter 36-04 and a new section to chapter 36-05 of the North Dakota Century Code, relating to requiring livestock dealers and livestock auction markets to file releases of financial records.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. A new section to chapter 36-04 of the North Dakota Century Code is hereby created and enacted to read as follows:

Records release required with application for licensure. A dealer shall file, together with the license application, a release authorizing the access of the commissioner to financial records of the dealer held by financial institutions, accountants, and other sources. The release must be in a form approved by the commissioner. The commissioner may use the release in the course of licensing or relicensing a dealer or in the course of an investigation of a dealer when instituted due to a complaint against the dealer or when based upon evidence sufficient to establish probable cause of a violation of this chapter or the Packers and Stockyards Act, 1921 [Pub. L. 67-51; 42 Stat. 159; 7 U.S.C. 181 et seq.]. Any information gained through the use of a release is confidential. The commissioner may furnish information obtained through the use of the records release to the attorney general, other state agencies, and any prosecuting officials requiring the information for use in pursuit of official duties.

SECTION 2. If Senate Bill No. 2043 does not become effective, a new section to chapter 36-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Records release required with application for licensure. A livestock auction market shall file, together with the license application, a release authorizing the access of the livestock sanitary board or its agent to financial records of the livestock auction market held by financial institutions, accountants, and other sources. The release must be in a form approved by the board. The board or its

agent may use the release in the course of licensing or relicensing a livestock auction market or in the course of an investigation of a livestock auction market when instituted due to a complaint against the market or when upon evidence sufficient to establish probable cause of a violation of this chapter or the Packers and Stockyards Act, 1921 [Pub. L. 67-51; 42 Stat. 159; 7 U.S.C. 181 et seq.]. Any information gained through the use of a release is confidential. The board may furnish information obtained through the use of the records release to the attorney general, other state agencies, and any prosecuting officials requiring the information for use in pursuit of official duties.

SECTION 3. If Senate Bill No. 2043 becomes effective, a new section to chapter 36-05 of the North Dakota Century Code is hereby created and enacted to read as follows:

Records release required with application for licensure. A livestock auction market shall file, together with the license application, a release authorizing the access of the commissioner to financial records of the livestock auction market held by financial institutions, accountants, and other sources. The release must be in a form approved by the commissioner. The commissioner may use the release in the course of licensing or relicensing a livestock auction market or in the course of an investigation of a livestock auction market when instituted due to a complaint against the market or when based upon evidence sufficient to establish probable cause of a violation of this chapter or the Packers and Stockyards Act, 1921 [Pub. L. 67-51; 42 Stat. 159; 7 U.S.C. 181 et seq.]. Any information gained through the use of a release is confidential. The commissioner may furnish information obtained through the use of the records release to the attorney general, other state agencies, and any prosecuting officials requiring the information for use in pursuit of official duties.

Approved March 22, 1985

CHAPTER 391

SENATE BILL NO. 2046
(Legislative Council)
(Interim Agriculture Committee)

LIVESTOCK DEALER BOND

AN ACT to amend and reenact section 36-04-05 of the North Dakota Century Code, relating to bond requirements for livestock dealers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-04-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-04-05. Dealer to file bond with department - Additional bond may be required. Each applicant for a license under the provisions of this chapter shall file with ~~his~~ the application a bond issued by an approved surety company. The department ~~shall~~ must be named as the obligee in each ~~such~~ bond but the bond ~~shall~~ will be held for the purpose of protecting and for the benefit of any person selling livestock or wool, as the case may be, to the licensed dealer or ~~his~~ the dealer's agent. ~~Such~~ The bond ~~shall~~ must be conditioned for:

1. The faithful performance by the dealer of ~~his~~ the duties as such;
2. The compliance by the dealer with all of the provisions of this code relating to the purchase of livestock or wool, as the case may be;
3. The full and complete payment to the seller for all livestock or wool purchased by the dealer; and
4. The full protection of any person who deals with ~~such~~ the dealer.

Each ~~such~~ bond ~~shall~~ must cover the license period of the dealer or such greater time as the commissioner may prescribe and ~~shall~~ must be approved as to amount, form, and sufficiency by the department. The minimum amount of bond ~~shall~~ be ~~five is ten~~ thousand dollars, and ~~shall~~ must be for ~~such~~ any greater amount as may be determined by computing the amount of bond on the same basis

as prescribed for dealers subject to the provisions of the Packers and Stockyards Act, 1921 [Pub. L. 67-51; 42 Stat. 159; 7 U.S.C. 181 et seq.]. The department may demand an additional or increased bond whenever in its judgment the volume of business of the principal warrants such demand.

In lieu of the bond required of dealers under ~~the provisions~~ of this section, the applicant may file with the department the dealer's bond filed by ~~him~~ that applicant with the United States department of agriculture and in effect pursuant to ~~the provisions~~ of the Packers and Stockyards Act, 1921, naming the commissioner as the trustee of such bond. Bonds from out-of-state applicants may be in favor of a trustee who ~~shall be~~ is a financially responsible, disinterested person satisfactory to the commissioner. The minimum amount of such bond ~~shall be five~~ is ten thousand dollars, unless the department ~~shall determine~~ determines that the amount of such bond is insufficient in any instance, in which event the department shall require the reasonable amount of the bond required to protect the public interest.

Approved March 22, 1985

CHAPTER 392

SENATE BILL NO. 2043
(Legislative Council)
(Interim Agriculture Committee)

LICENSING AND BONDING OF LIVESTOCK AUCTION MARKETS

AN ACT to amend and reenact sections 36-05-01, 36-05-03, 36-05-04, 36-05-05, 36-05-06, 36-05-09, 36-05-13, and 36-05-13.1 of the North Dakota Century Code, relating to transferring authority over the licensing and bonding of livestock auction markets from the livestock sanitary board to the commissioner of agriculture.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-05-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" means the commissioner of agriculture.
2. "Livestock" means horses, mules, cattle, swine, sheep, and goats.
- 2- 3. "Livestock auction markets" market" means a place or establishment conducted or operated for compensation or profit as a public market, consisting of pens or other enclosures and their appurtenances, in which livestock is received, held, or kept for sale and where such livestock is sold or offered for sale, at either public auction or private sale.

SECTION 2. AMENDMENT. Section 36-05-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-03. License requirements - Application - Fee - Commission schedule - Facilities. No person, partnership, firm, or corporation ~~shall~~ may establish or operate a livestock auction market within this state without first procuring a license to do so from the ~~livestock sanitary board~~ commissioner. The commissioner may not approve any application without written permission from the executive officer of

the livestock sanitary board. An applicant for such license shall do all of the following:

1. Make a written application therefor in the form prescribed by the livestock sanitary board commissioner.
2. File such evidence as the livestock sanitary board or the commissioner may require showing that he or it the person is financially responsible to operate such an auction market and that he or it the person will own or control adequate facilities for the care, sorting, feeding, loading and unloading, and shipment of livestock.
3. Pay to the livestock sanitary board commissioner a license fee of one hundred dollars.
4. File with the livestock sanitary board commissioner a schedule of the fees and commissions which will be charged to owners, sellers, or their agents, such. The schedule shall likewise must be posted conspicuously at the auction market. This schedule shall may not be altered except upon notification to the livestock sanitary board commissioner and reposting of the changed schedule.
5. State the place where applicant proposes to operate a livestock auction market.
6. Make a complete and detailed description of the property and facilities proposed to be used in connection with such livestock auction market.
7. Make a showing of public convenience and necessity to the satisfaction of the board, provided, however, that the provisions of this subsection shall not apply to livestock auction markets legally licensed and engaged in business prior to July 1, 1965 commissioner.

SECTION 3. AMENDMENT. Section 36-05-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-04. Bond to accompany application for license - Amount - Approval - Conditions - Exemptions. Each applicant for a license to operate a livestock auction market shall file with his the application for such license, or for a renewal thereof, a surety bond in the minimum amount of ten thousand dollars. Such The bond shall must be approved as to the amount, form, and surety by the livestock sanitary board commissioner. The livestock sanitary board shall commissioner must be named the obligee in the bond, and it shall the bond must be for the benefit of, and for the purpose of protecting, any person selling to or through or buying livestock through or from the licensee or his or its the licensee's agent. The livestock sanitary board commissioner may demand an additional bond of the licensee whenever in its the commissioner's judgment the volume of

the business of the licensee warrants such demand. The bond ~~shall~~ must be conditioned for:

1. The payment of all money received by the licensee and operator of such livestock auction market as such operator, less reasonable expenses and agreed commissions;
2. The faithful performance by the licensee of ~~his~~ the duties as such ~~licensee~~; and
3. The faithful performance by the licensee of all of the provisions of this code relating to the purchase, sale, or holding of livestock.

~~Such The~~ bond ~~shall~~ must cover the entire license period. Provided, however, where the ~~livestock sanitary board executive officer~~ commissioner is the trustee or obligee of a surety bond wherein ~~said~~ the auction market operator is the principal and is operating and is bonded under ~~the provisions of~~ the Packers and Stockyards Act, 1921 ~~of the United States~~ [Pub. L. 67-51; 42 Stat. 159; 7 U.S.C. 181 et seq.], the ~~executive officer~~ commissioner may accept such bond in lieu of the one herein otherwise required, except that the minimum bond requirements of ten thousand dollars ~~shall~~ will be continued.

SECTION 4. AMENDMENT. Section 36-05-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-05. Expiration and renewal of license - Fee returned upon failure to issue or renew license. Each license issued under the provisions of this chapter ~~shall~~ expire ~~expires~~ on the thirty-first day of January next following the date of issuance thereof. Each license ~~shall~~ must be renewed annually on or before January thirty-first. The fee for a renewal license ~~shall~~ be ~~is~~ the same as that prescribed for an original license. If the ~~livestock sanitary board~~ commissioner does not issue a requested original license or renewal license, the fee paid ~~shall~~ must be refunded to the applicant.

* SECTION 5. AMENDMENT. Section 36-05-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-06. Investigation of auction market - Hearing conducted to determine whether license should be issued or revoked. The ~~livestock sanitary board~~ commissioner upon ~~its~~ the commissioner's own motion or upon a complaint by any person, may enter into an investigation of the sales and transactions of any livestock auction market and of the conditions under which its business is conducted. The ~~livestock sanitary board~~ commissioner when ~~it~~ the commissioner deems it necessary, may conduct a hearing to determine whether the license of any auction market should be revoked or whether the application of the owner or operator of a livestock auction market for an original or renewal license should be denied.

SECTION 6. AMENDMENT. Section 36-05-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 36-05-06 was also amended by section 5 of Senate Bill No. 2044, chapter 389.

36-05-09. Records to be kept by operator of auction market - Contents - Examination - Report. The operator of each livestock auction market shall keep on file an accurate record of all of the following:

1. The date on which each consignment of animals was received and sold.
2. The name and address of the buyer and seller of such animals.
3. The number and species of the animals received and sold.
4. The marks and brands on each such animal.

Such ~~This~~ record, together with the gross selling price, commission, and other proper care, handling, and sales charges on each consignment of livestock ~~shall~~ must be available for inspection by the livestock sanitary board, the commissioner, or ~~its~~ authorized ~~inspector~~ inspectors, and a copy thereof ~~shall~~ must be supplied to the owner of such livestock. All records of sales during the preceding twelve months ~~shall~~ must be kept readily accessible for immediate examination.

* SECTION 7. AMENDMENT. Section 36-05-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-13. Use of fees ~~collected by livestock sanitary board~~ - Grounds for refusal or revocation of license - Procedure on ~~renewation~~ and on default of licensee. All fees collected by the commissioner and the livestock sanitary board under ~~the provisions of this chapter~~ shall ~~must~~ be credited to the general fund of the state treasury. A license to operate a livestock auction market may be refused or revoked for any of the reasons specified in section 36-04-10, ~~and the provisions of section 36-04-11 shall govern the procedure under which a hearing shall be had before the livestock sanitary board to determine whether such license shall be revoked.~~ When the holder of a license issued under ~~the provisions of this chapter~~ shall ~~default~~ defaults in any of the conditions of any bond filed with the livestock sanitary board commissioner by such ~~the~~ licensee ~~this board shall, the commissioner will become trustee of such the bond and the provisions of sections 36-04-12 through 36-04-19 shall govern the procedure to be followed.~~

SECTION 8. AMENDMENT. Section 36-05-13.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-05-13.1. Review by the court. The action of the livestock sanitary board commissioner in denying an application for a license or in revoking or suspending a license may be appealed to the district court of Burleigh County by procedure applicable to appeals taken in the manner provided in chapter 28-32, except that the livestock sanitary board's commissioner's order revoking or suspending the license may be stayed by the court appealed to upon filing with the clerk of said court a bond approved by and in the amount set by the judge of said district court for the faithful observance of the laws of the state relative to the operation of the business licensed during the pendency of the appeal.

Approved March 22, 1985

* NOTE: Section 36-05-13 was also amended by section 7 of Senate Bill No. 2044, chapter 389.

CHAPTER 393

SENATE BILL NO. 2340
(D. Meyer)

LIVESTOCK BRAND INSPECTORS

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

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

Police powers of chief brand inspector and two field men. The chief brand inspector and two field men employed by the North Dakota stockmen's association have the power:

1. Of a police officer for the purpose of enforcing brand laws and any other state laws or rules relating to livestock.
2. To make arrests upon view and without warrant for any violation of this chapter or any other state laws or rules relating to livestock committed in the inspector's presence.
3. To respond to requests from other law enforcement agencies or officers for aid and assistance. For the purposes of this subsection, a request from a law enforcement agency or officer means only a request for assistance to a particular and single violation or suspicion of violation of law, and does not constitute a continuous request for assistance.

Approved March 22, 1985