

LIVESTOCK

CHAPTER 355

HOUSE BILL NO. 1297
(Representatives A. Olson, Allmaras)
(Senator Marks)

NONTRADITIONAL LIVESTOCK

AN ACT to amend and reenact sections 36-01-00.1, 36-01-08, 36-01-12, 36-01-13, 36-01-14, 36-01-17, and 36-01-19 of the North Dakota Century Code, relating to nontraditional livestock.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-01-00.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-00.1. Definitions. In this chapter unless the context or subject matter otherwise requires:

1. ~~"Captive wildlife"~~ "Board" means the state board of animal health.
2. "Domestic animal" means dog, cat, horse, bovine animal, sheep, goat, bison, llama, alpaca, or swine.
3. "Nontraditional livestock" means any wildlife held in a cage, fence, enclosure, or other manmade means of confinement that limits its movement within definite boundaries or an animal that is physically altered to limit movement and facilitate capture.
2. ~~"Domestic animal" means dog, cat, horse, bovine animal, sheep, goat, bison, or swine.~~

SECTION 2. AMENDMENT. Section 36-01-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

¹ ~~36-01-08. Duties of board - Rules. The state board of animal health shall protect the health of the domestic animals and captive wildlife nontraditional livestock of this state and, shall determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous, contagious, and infectious diseases among the domestic animals and captive wildlife nontraditional livestock of this state, and shall prevent the escape and release of an animal injurious to or competitive with agriculture, horticulture, forestry, wild animals, and other natural resource interests. The board may make rules for the conduct of its business and to carry into effect the purposes of this chapter and other duties prescribed in this title. The rules of the state board of animal health must be adopted in accordance with chapter 28-32-~~

¹ NOTE: Section 36-01-08 was also amended by section 2 of House Bill No. 1008, chapter 8.

SECTION 3. AMENDMENT. Section 36-01-12 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-12. Powers of board over contagious and infectious diseases. The state board of ~~animal health~~ may take such steps as it may deem necessary to control, suppress, and eradicate any and all contagious and infectious diseases among any of the domestic animals and ~~captive-wildlife~~ nontraditional livestock of this state. For this purpose, the board may quarantine any domestic animal or ~~captive-wildlife~~ nontraditional livestock which is infected, or may be infected, with any such disease or which has been exposed, or may be exposed, to infection, cause any animal so infected to be killed, regulate or prohibit the arrival in or departure from this state of any such exposed or infected animal, and at the cost of the owner thereof, it may detain any domestic animal or ~~captive-wildlife~~ nontraditional livestock found to be in violation of any such regulation or prohibition. The board may also quarantine any city, civil township, or county or areas within a county in this state and any enclosure, building, or any domestic animal or ~~captive-wildlife~~ nontraditional livestock therein which is or may be infected or exposed or may be exposed to any contagious or infectious disease.

SECTION 4. AMENDMENT. Section 36-01-13 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-13. Diseased animal to be reported to board. Any person who discovers, suspects, or has reason to believe that any domestic animal or ~~captive-wildlife~~ nontraditional livestock belonging to that person or belonging to any other person, is affected by any contagious disease, shall report such knowledge, suspicion, or belief to:

1. The state board of ~~animal health~~ or any member of the board;
2. The state veterinarian or any other agent or representative of the state board of ~~animal health~~; or
3. Any law enforcement officer of the county or city in which the animal is present. If a report is made to a law enforcement officer under this subsection, the officer shall report the facts immediately to the state board of ~~animal health~~, the state veterinarian, or another agent or representative of the state board of ~~animal health~~ and failure to do so constitutes a violation of ~~the provisions of this chapter.~~

SECTION 5. AMENDMENT. Section 36-01-14 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-14. Protest against killing of diseased animal - Examination of animal by experts - Appointment of experts. Whenever a domestic animal or ~~captive-wildlife~~ nontraditional livestock has been determined to be affected with a contagious or infectious disease and has been ordered killed by the state board of ~~animal health~~, the state veterinarian, or an agent or representative of the state board of ~~animal health~~, the owner or keeper of the animal must be notified of the order. Notice may be accomplished by sending, by registered or ~~certified~~ mail, a copy of the order to the owner or keeper of the animal, or by having an agent or representative of the board, or a law enforcement officer, serve a copy of the order upon the owner or keeper of the animal. Within twenty-four hours after receiving notice of the order, the owner or keeper may file a protest against the killing of the animal with the board or with the person who has ordered the animal killed. The

protest must state under oath, that to the best of the knowledge and belief of the person making the protest, the animal is not infected with any contagious or infectious disease. An examination of the animal involved then must be made by three experts, one of whom must be appointed by the board, one by the person making the protest, and the third by the two thus appointed. All the experts must be persons learned in veterinary medicine and surgery and graduates of the veterinary course of a recognized college or university.

SECTION 6. AMENDMENT. Section 36-01-17 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-17. Oaths and examinations. The ~~state board of animal health~~, any member of the board, the state veterinarian, or any authorized agent or representative of the board may examine or cause to be examined under oath all persons believed to possess knowledge of material facts concerning the existence or dissemination, or the danger of dissemination, of disease among domestic animals or ~~captive wildlife~~ nontraditional livestock. For this purpose, the board, members of the board, the state veterinarian, and any authorized agent or representative of the board ~~shall have the power to~~ may take depositions, ~~to~~ compel witnesses to attend and testify, and ~~to~~ administer oaths. Such witnesses ~~shall~~ are entitled to receive the same fees for attendance and travel as witnesses before the district courts, ~~and. The board shall pay the fees must be paid by the board~~ from moneys appropriated to it.

SECTION 7. AMENDMENT. Section 36-01-19 of the 1992 Special Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-19. Emergency fund in case of epizootic. In case of any serious outbreak of any contagious, infectious, or epizootic diseases among domestic animals or ~~captive wildlife~~ nontraditional livestock, which cannot be controlled with the funds at the disposal of the ~~state board of animal health~~, the board shall notify the governor at once, and the governor thereupon shall call a meeting of the emergency commission, and such commission may authorize money to be drawn from the state treasury to meet the emergency.

Approved April 1, 1993
Filed April 2, 1993

CHAPTER 356

SENATE BILL NO. 2088
(Agriculture Committee)
(At the request of the Board of Animal Health)

CAPTIVE WILDLIFE LICENSES

AN ACT to create and enact a new section to chapter 36-01 of the North Dakota Century Code, relating to captive wildlife license fees; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

Captive wildlife license - Fee. The board of animal health may require a license for captive wildlife maintained within this state. The annual fee for a license for a bird species required to be licensed is five dollars. The maximum annual fees for bird species licenses to be paid by a person holding more than one bird species license is twenty-five dollars. The annual fee for a license for any other species required to be licensed is ten dollars. The maximum annual fees for nonbird species licenses to be paid by a person holding more than one nonbird species license is seventy-five dollars.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved April 19, 1993
Filed April 20, 1993

CHAPTER 357

SENATE BILL NO. 2245
(Senators Solberg, Langley, Bowman)
(Representatives Bateman, Rennerfeldt, Hokana)

BRAND INSPECTION AND RECORDING

AN ACT to amend and reenact sections 36-09-01, 36-09-02, 36-09-02.1, 36-09-04, 36-09-06, 36-09-08, 36-09-10, 36-09-11, 36-09-12, 36-09-13, 36-09-14, 36-09-15, and 36-09-18 of the North Dakota Century Code, relating to livestock brands and marks; and to provide a continuing appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-09-01 of the North Dakota Century Code is amended and reenacted as follows:

36-09-01. Office for recording brands. A The North Dakota stockmen's association shall appoint a chief brand inspector. The chief brand inspector shall maintain a general office for recording marks and brands must be maintained in the office of the commissioner of agriculture. As used in this chapter, "chief brand inspector" means the chief brand inspector of the North Dakota stockmen's association.

SECTION 2. AMENDMENT. Section 36-09-02 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-09-02. Application for exclusive use of brand or mark. Any person desiring the exclusive use of any mark or brand shall file with the ~~commissioner of agriculture~~ chief brand inspector an application:

1. Setting forth a description of the mark or brand of which he desires the exclusive use and a facsimile thereof;
2. Stating the kind or kinds of livestock upon which the mark or brand is to be used; and
3. Indicating clearly the place or position upon each kind of livestock where such brand is to be placed, except that the hips of any cattle may not be used for registered numerical brands. Nonregistered numerical brands may be located upon the hips of cattle for individual identification. Registered brands other than numerical brands may also be located on the hips of cattle. Numerical brand means a brand consisting entirely of upright number or numbers, and does not include brands consisting of lazy numbers, or combinations of letters, or characters and numbers. The provisions of this chapter do not apply to any numerical brand recorded prior to July 1, 1957.

SECTION 3. AMENDMENT. Section 36-09-02.1 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-09-02.1. Standards for recording brands or marks. The ~~commissioner~~ chief brand inspector shall record the brand or mark described in the application except that the ~~commissioner~~ chief brand inspector shall refuse to record any brand or mark:

1. That has been previously recorded in favor of another person or one that is deceptively similar to any previously recorded livestock brand or mark. The same or similar livestock brand or mark which is to be placed on a different part of the animal from that described in the previous record may be recorded.
2. That contains less than two characters, except that a single character brand may be recorded for sheep and goats, or one that contains any of the following characters:
 - a. The letters "g" or "q" or letters that are not in the gothic style.
 - b. The Arabic numerals "o" or "l" or any non-Arabic numerals.
 - c. Any symbols other than permissible symbols. Permissible symbols are limited to the following: diamond, half-diamond, arrow, mill iron, cross, heart, box, triangle, quarter circle, bar, or star.
3. That involves any letters, numerals, or symbols within another letter, numeral, or symbol.
4. That is illegible when placed on the livestock.
5. That indicates placement upon each kind of livestock in other than a permissible location. Permissible locations for cattle are the left and right shoulder, the left and right rib, and the left and right hip. Permissible locations for horses and mules are the left and right jaw, the left and right shoulder, and the left and right hip. Permissible locations for buffalo are the left and right rib, and the left and right hip. The permissible locations for other types of livestock must be established by the ~~commissioner~~ chief brand inspector as necessary. The determination of permissible locations under this section may not be considered as a rule under chapter 28-32.

Notwithstanding any provisions of this section to the contrary, the ~~commissioner~~ chief brand inspector shall accept for rerecording under section 36-09-09 any previously recorded livestock brand or mark.

SECTION 4. AMENDMENT. Section 36-09-04 of the North Dakota Century Code is amended and reenacted as follows:

36-09-04. Record of brands kept - Inspection of record - Certificate of ownership of brand. The ~~commissioner of agriculture~~ chief brand inspector shall keep a record of all marks and brands showing the names and residences of the persons owning the marks and brands, a description and facsimile of each mark or brand, and in the case of livestock, the range occupied by the livestock, as nearly as may be determined. The record is open to the inspection of any person interested therein. The ~~commissioner~~ chief brand inspector shall deliver to the owner of each mark or brand a certificate thereof, and the certificate is evidence of ownership of the mark or brand described therein.

SECTION 5. AMENDMENT. Section 36-09-06 of the North Dakota Century Code is amended and reenacted as follows:

36-09-06. Cancellation of brand by ~~commissioner of agriculture~~. The ~~commissioner of agriculture~~ chief brand inspector shall cancel a legally recorded brand only when he ~~the~~ chief brand inspector receives for filing a bill of sale of such brand properly executed by the record owner as shown by the records in ~~his~~ the chief brand inspector's office or in instances where it is found that a brand has been issued inadvertently in duplication of a previously recorded brand.

SECTION 6. AMENDMENT. Section 36-09-08 of the North Dakota Century Code is amended and reenacted as follows:

36-09-08. Official brand books ~~prepared by department of agriculture~~ to be presumptive evidence. Any official brand book published by the ~~commissioner of agriculture~~ chief brand inspector must be received in all courts of this state as presumptive evidence of the recording and ownership of livestock brands therein described.

SECTION 7. AMENDMENT. Section 36-09-10 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-09-10. Brands to be rerecorded every ten years. Failure to rerecord any previously recorded livestock brand or mark on or before the time specified, in accordance with ~~the provisions of~~ this chapter, is deemed an absolute abandonment to the state of North Dakota of ~~such the~~ previously recorded livestock brand or mark. Thereafter the ~~commissioner of agriculture~~ chief brand inspector shall accept any regular application for the issuance to anyone of ~~such the~~ abandoned livestock brand or mark, provided the abandoned livestock brand or mark complies with the standards of section 36-09-02.1. The ~~commissioner~~ chief brand inspector shall issue a certificate for the use of ~~such the~~ abandoned brand or mark within this state, except that ~~such the~~ brand or mark may not be issued if it consists of a single figure or single letter.

SECTION 8. AMENDMENT. Section 36-09-11 of the North Dakota Century Code is amended and reenacted as follows:

36-09-11. Notice of expiration of brand to be given. The ~~commissioner of agriculture~~ chief brand inspector, on or before the beginning of the fourth month prior to the cancellation of all brands, shall notify each and every record owner of a livestock brand or mark of the final date set for cancellation thereof and also of ~~his~~ the owner's prior right to rerecord such previously recorded livestock brand or mark. ~~Such~~ The notice must be given in writing, legibly written, sent by ordinary first-class mail, addressed to the record owner at the address as shown upon the present records.

SECTION 9. AMENDMENT. Section 36-09-12 of the North Dakota Century Code is amended and reenacted as follows:

36-09-12. Publication of notice. The ~~commissioner of agriculture~~ chief brand inspector shall publish in each official newspaper in each county where brands or marks are in use, a notice of the expiration of the time fixed by law for the rerecording of livestock brands or marks, and the prior right of any record owner to rerecord ~~his~~ the owner's previously recorded brands or marks. ~~Such~~ The publication must begin on or about the first of September, prior to the cancellation of all

brands, and ~~such~~ the publication must continue at least three successive times in each of such newspapers. The ~~commissioner~~ chief brand inspector also shall request each newspaper publishing ~~such~~ the notice to call attention to the provisions of this chapter in a news item in the regular columns of ~~said~~ the newspaper, for which no charge is allowed.

SECTION 10. AMENDMENT. Section 36-09-13 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-09-13. Recording and rerecording of brands - Fee. The rerecording of abandoned livestock brands or marks, and the recording of new brands and marks, must conform in all respects to this chapter. Each application for recording and rerecording must be accompanied by a fee of ~~fifteen dollars~~ for each place or position upon each type of livestock where the brand or mark is to be placed. The fee must be set by the board of animal health, upon the recommendation of the North Dakota stockmen's association, and may not exceed fifteen dollars.

SECTION 11. AMENDMENT. Section 36-09-14 of the North Dakota Century Code is amended and reenacted as follows:

36-09-14. ~~Commissioner of agriculture~~ Chief brand inspector to issue brandbook. The ~~commissioner of agriculture~~ chief brand inspector shall compile and issue a brandbook from the records of livestock brands in ~~his~~ the chief brand inspector's office as of the final date for rerecording, and a copy of the brandbook must be delivered free of charge to every brand inspector and upon written request from other law enforcement officers of the state of ~~North Dakota~~. Annually thereafter the ~~commissioner~~ chief brand inspector shall prepare a supplement of brands registered during the year and shall distribute the supplement free of charge to every brand inspector and upon written request from other law enforcement officers of the state of North Dakota. Brandbooks and supplements must also be sold to all interested persons at the general office for recording marks and brands maintained in the office of the ~~commissioner of agriculture~~ chief brand inspector at a price of ~~fifteen dollars per brandbook including supplement~~ set by the North Dakota stockmen's association and approved by the board of animal health.

SECTION 12. AMENDMENT. Section 36-09-15 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-09-15. Butcher to keep record of branded cattle slaughtered - Penalty. Any person engaged in the business of killing domestic animals and selling the meat of those animals at retail or wholesale, or who slaughters animals on a custom basis, is deemed a butcher for the purposes of this section. Any butcher who kills any head of neat cattle shall keep a record showing all of the following:

1. The name and place of residence of the person from whom such animal was purchased or for whom any custom slaughtering is performed.
2. When and where such animal was purchased or from where the animal came.
3. The sex of such animal and its age to the best of his knowledge.
4. A description of any and all marks and brands on the animal.

The record is open to inspection during business hours by a representative of the ~~board of animal health~~ North Dakota stockmen's association. Any person who violates ~~any of the provisions of~~ this section is guilty of an infraction.

SECTION 13. AMENDMENT. Section 36-09-18 of the North Dakota Century Code is amended and reenacted as follows:

36-09-18. Performance bond - Disposition of fees collected by commissioner of agriculture - Continuing appropriation - Discrimination prohibited. ~~All The North Dakota stockmen's association shall file with the secretary of state a performance bond in the amount of forty thousand dollars, payable to the state of North Dakota and conditioned upon the faithful performance of the requirements of this chapter. Any fees collected by the commissioner of agriculture under the provisions of this chapter must be turned over monthly to the state treasurer deposited in the general fund of the North Dakota stockmen's association. The fees deposited under this chapter and section 36-22-03 are appropriated as a continuing appropriation to the North Dakota stockmen's association. The North Dakota stockmen's association may not discriminate between or among members of the association and persons who are not members of the association with respect to fees, recordings, complaints, requests for assistance, and any other services to be provided under this chapter.~~

Approved April 7, 1993
Filed April 8, 1993

CHAPTER 358

HOUSE BILL NO. 1091
(Agriculture Committee)

(At the request of the State Board of Animal Health)

BRUCELLOSIS VACCINATION

AN ACT to amend and reenact section 36-15-21 of the North Dakota Century Code, relating to calfhood vaccination against brucellosis; to repeal section 36-14-02 of the North Dakota Century Code, relating to the killing of an infected animal for human consumption; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-15-21 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-15-21. Calfhood vaccination against brucellosis required - Penalty. No person may bring into this state any female cattle over the maximum vaccination age as prescribed in the brucellosis eradication uniform methods and rules approved and published by the United States department of agriculture, animal and plant health inspection service, for dairy or breeding purposes within this state, that have not been officially calfhood vaccinated against brucellosis. Female cattle originating from free states that do not require North Dakota-origin female cattle to be calfhood brucellosis vaccinated are exempt from the requirements of this section. A person who brings cattle into this state from other free states that reciprocate shall prove that the cattle were located in that state for a period of at least sixty days. "Officially calfhood vaccinated" means a bovine female animal vaccinated against brucellosis under the supervision of a federal or state veterinary official within age limits prescribed by the board of animal health in compliance with United States department of agriculture uniform methods and rules, with a vaccine approved by the North Dakota state veterinarian, and permanently identified as such a vaccinate and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of brucellosis. However, the board ~~in its discretion may grant a hearing to any person under the rules adopted by the board, as to whether or not an exception should be made to the provisions of this section.~~ An appeal may be taken from the decision of the board under the provisions of chapter 28-32. Any person who brings into this state or acquires within this state any cattle contrary to the provisions of this section, is guilty of a class A misdemeanor.

SECTION 2. REPEAL. Section 36-14-02 of the 1991 Supplement to the North Dakota Century Code is repealed.

SECTION 3. EFFECTIVE DATE. Section 1 of this Act becomes effective on August 1, 1994.

Approved April 9, 1993
Filed April 9, 1993

CHAPTER 359

SENATE BILL NO. 2510
(Senator Heinrich)

HUMANE TREATMENT OF WILD ANIMALS

AN ACT to amend and reenact section 36-21.1-07 of the North Dakota Century Code, relating to the inhumane treatment of wild animals; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-21.1-07 of the North Dakota Century Code is amended and reenacted as follows:

36-21.1-07. Cockfights, dogfights, and other exhibitions prohibited - Penalties.

1. No person may engage in or be employed at cockfighting, dogfighting, bearbaiting, pitting one animal against another, or any other similar cruelty, ~~such as bear fighting, kangaroo boxing, or similar activity,~~ to animals; nor may he receive money for the admission of any person to any place used, or about to be used, for any such purpose, nor may he willfully permit anyone to enter or use, for any such purpose, premises of which he is the owner, agent, or occupant; nor may he use, train, or possess a dog or other animal for the purpose of maltreating any domestic animal. Any person who violates ~~any of the provisions of~~ this subsection is guilty of a class C felony.
2. No person may knowingly purchase a ticket of admission to, be present at, or witness the activities prohibited by subsection 1. Any person who violates ~~any of the provisions of~~ this subsection is guilty of a class A misdemeanor.

Approved March 10, 1993
Filed March 11, 1993