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Sixty-fifth
Legislative Assembly
of North Dakota

FIRST DRAFT:
Prepared by the Legislative Council staff for the
Agriculture and Natural Resources Committee
November 2015

Introduced by

1 A BILL for an Act

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

3 **SECTION 1. AMENDMENT.** Section 36-24-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **~~36-24-014.1-31-01.~~ Definitions.**

6 In this chapter, ~~unless the context otherwise requires:~~

- 7 1. "Adulterated" means a ~~whole carcass, part of a carcass,~~ or meat food product:
- 8 a. That ~~bears or contains~~includes a poisonous or harmful substance that may
9 render it injurious to health;
- 10 b. That ~~bears or contains~~includes a chemical pesticide that is unsafe under the
11 federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.];
- 12 c. That ~~bears or contains~~includes a food or color additive that is unsafe under the
13 federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.];
- 14 d. That ~~contains~~includes a filthy, putrid, or decomposed substance or is for any
15 other reason unfit for human food;
- 16 e. That has been prepared, packed, or held under unsanitary conditions;
- 17 f. That ~~is wholly or partly~~ includes the product of an animal that has died in a
18 manner other than slaughter;
- 19 g. The container of which ~~is wholly or partly composed of~~includes a poisonous or
20 harmful substance that may make the contents harmful to health;
- 21 h. That has been intentionally subjected to radiation, unless the use of the radiation
22 conformed with a regulation or exemption in effect under the federal Food, Drug,
23 and Cosmetic Act [21 U.S.C. 301 et seq.];
- 24 i. That is damaged or inferior and that damage or inferiority has been concealed; or

1 j. That has had a substance added to it or mixed or packed with it so as to increase
2 its bulk or weight, or make it appear better than or of greater value than it is.

3 2. "Animal" includes cattle, swine, sheep, goats, farmed cervidae, llama, horses,
4 equines, bison, other large domesticated animals, and poultry.

NOTE: The definition of "animal" currently does not include bison or wild big game animals, which are commonly commercially or custom processed. Does the department inspect custom processors?

5 3. ~~"Commissioner" means the agriculture commissioner~~"Carcass" includes all or any part
6 of an animal carcass.

7 4. ~~"Container" includes a can, pot, tin, canvas, or other~~means a receptacle containingof a
8 meat food product.

9 5. "Custom processing" means slaughtering, eviscerating, dressing, or processing an
10 animal carcass or ~~processing~~ meat food products for the owner of the animal carcass
11 or of the meat food products, if all meat food products derived from the custom
12 operationprocessing are returned to ~~the~~that owner of the animal or of the meat
13 products.

14 6. "Inspector" means an inspector appointed by the commissioner to perform duties
15 under this chapter.

16 7. "Intrastate commerce" means commerce within this state.

17 78. "Meat food product" means a product usable as human food ~~and made wholly or in~~
18 ~~part from meat or a portion of~~ which contains any part of an animal carcass. The term
19 does not include any product that contains meat or other portions of the carcasses of
20 animalsany part of an animal carcass in a relatively small proportion or which
21 historically ~~have~~has not been considered by consumers as a product of the meat food
22 industry, and which is not represented as a meat food product.

23 89. "Poultry" includes domesticated chickens, ducks, geese, pheasants, quail, ratites, and
24 turkeys.

25 910. "Prepared" means slaughtered, canned, salted, rendered, boned, cut up, or otherwise
26 manufactured or processed.

NOTE: "Commissioner" will be defined in chapter 4.1-01 for purposes of all of title 4.1 to be the Agriculture Commissioner or the commissioner's designee or authorized representative, to eliminate the frequent repetition of that phrasing.

"Carcass" is defined to eliminate the repetition in this chapter of whole carcass or part of a carcass.

1 **SECTION 2. AMENDMENT.** Section 36-24-02 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 ~~36-24-024.1-31-02.~~ **Inspectors - Appointments - Duties.**

- 4 1. The commissioner shall appoint inspectors to examine and inspect meat food products
5 prepared solely for intrastate commerce in a slaughtering, meat canning, salting,
6 packing, or similar establishment. The inspections must take place at any time during
7 which the slaughtering of animals or the preparation of meat food products is being
8 conducted. Upon completing an inspection, the inspector shall mark, stamp, tag, or
9 label the product "North Dakota inspected and passed" if it is unadulterated or as
10 "North Dakota inspected and condemned" if the product is found to be adulterated.
- 11 2. The commissioner shall appoint inspectors to examine and inspect each slaughtering,
12 meat canning, salting, packing, or similar establishment in which meat food products
13 are prepared solely for intrastate commerce. The commissioner shall adopt rules of
14 sanitation applicable to these establishments. ~~If any facility does not meet the sanitary~~
15 ~~conditions required by the commissioner, the~~The commissioner may not allow any
16 meat food product from ~~that~~any facility not meeting the sanitary conditions required by
17 those rules to be labeled, marked, stamped, or tagged as "North Dakota inspected
18 and passed".
- 19 3. Meat food products inspected and passed under this chapter may be sold at retail in
20 this state.
- 21 4. Neither the commissioner, nor any inspector appointed by the commissioner, may
22 undertake any activity that is duplicative of an activity performed by meat inspectors of
23 the United States department of agriculture.

24 **SECTION 3. AMENDMENT.** Section 36-24-03 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 ~~36-24-034.1-31-03.~~ **Access by inspectors - Penalty.**

- 27 1. ~~The~~For purposes of enforcement of this chapter, the commissioner and any authorized
28 ~~representative of the commissioner have access to~~may enter and inspect:
- 29 a. Any place where food or any other product, the manufacture, sale, use, or
30 transportation of which is restricted, regulated, or prohibited by a law of this state,

- 1 is or may be manufactured, prepared, stored, sold, used, transported, offered for
2 sale or transportation, or possessed with intent to use, sell, or transport;
- 3 b. Any place where an animal is pastured or stabled;
- 4 c. Any ~~car or other carriage~~vehicle used to transport a meat food product or an
5 animal;
- 6 d. Any place where food is or may be cooked, prepared, sold, or kept for sale to or
7 for the public or distributed as a part of the compensation of an employee or
8 agent; and
- 9 e. Any place where a meat food product may be manufactured, sold, used, offered
10 for sale or transportation, or possessed with intent to use, sell, or transport.
- 11 2. The commissioner ~~and any authorized representative of the commissioner~~ may
12 inspect any container believed to hold food, a food ingredient, or some other product,
13 the manufacture, use, sale, or transportation of which is restricted, regulated, or
14 forbidden by state law, and may take samples from it for analysis.
- 15 3. It is a class A misdemeanor for any person to obstruct entry or inspection under this
16 chapter or to fail, upon request, to assist in an inspection authorized by this chapter.

17 **SECTION 4. AMENDMENT.** Section 36-24-04 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **~~36-24-044.1-31-04. Marks and labels.~~**

- 20 1. If a meat food product ~~which~~that is inspected and marked "North Dakota inspected
21 and passed" is being placed or packed in a container, the person preparing the
22 product shall attach to the container, under supervision of an inspector, a label
23 indicating that the product has been "North Dakota inspected and passed". An
24 inspection under this chapter is not complete until the product has been sealed or
25 enclosed in the container, under the supervision of an inspector.
- 26 2. A meat food product inspected under this chapter and found not to be adulterated
27 must bear, directly or on its container, a legible label or official mark as required by the
28 commissioner.
- 29 3. The commissioner shall prescribe by rule the style and size of type to be used in
30 labeling meat under this chapter and standards of identity, composition, and fill of

1 container for meat food products inspected under this chapter, but the standards must
2 be consistent with those established under federal law.

3 **SECTION 5. AMENDMENT.** Section 36-24-05 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **36-24-054.1-31-05. False or misleading marks, labels, and containers.**

6 A person may not sell in intrastate commerce any meat food product subject to inspection
7 under this chapter under a name, mark, or label ~~which~~that is false or misleading, or in a
8 container of a misleading form or size. If the commissioner has reason to believe that a mark,
9 label, or container is false or misleading, the commissioner may direct that its use be withheld
10 unless the mark, label, or container is modified in a manner approved by the commissioner. If
11 the person using or proposing to use the mark, label, or container does not accept the
12 determination of the commissioner, the person may request a hearing. The commissioner may
13 direct that the mark, label, or container not be used pending a hearing and final determination
14 by the commissioner. A determination by the commissioner is conclusive unless the person
15 adversely affected appeals to the district court within thirty days after receiving the notice of final
16 determination.

17 **SECTION 6. AMENDMENT.** Section 36-24-06 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **36-24-064.1-31-06. Prohibitions.**

20 A person may not:

- 21 1. Slaughter an animal or prepare an article usable as human food at any establishment
22 preparing articles solely for intrastate commerce, unless the person complies with this
23 chapter;
- 24 2. Sell, transport, offer for sale or transportation, or receive for transportation, in
25 intrastate commerce any article that is usable as human food and which is adulterated
26 or misbranded or any article that has not been inspected and passed under this
27 chapter; or
- 28 3. Alter an article that is usable as human food while the article is being transported in
29 intrastate commerce or held for sale after transportation, if the alteration is intended to
30 cause or has the effect of causing the article to be adulterated or misbranded.

1 **SECTION 7. AMENDMENT.** Section 36-24-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 ~~36-24-074.1-31-07.~~ **Official marks and certificates - Required authorization.**

4 A person may not:

- 5 1. Cast, print, or otherwise make a device containing an official mark, simulation of an
6 official mark, label bearing a mark or simulation, or form of official certificate or
7 simulation, without authorization from the commissioner;
- 8 2. Forge an official device, mark, or certificate;
- 9 3. Use a real or simulated official device, mark, or certificate, or alter, detach, deface, or
10 destroy an official device, mark, or certificate, without authorization from the
11 commissioner;
- 12 4. Fail to use an official device, mark, or certificate if appropriate;
- 13 5. Knowingly possess, without promptly notifying the commissioner, a counterfeit,
14 simulated, forged, or improperly altered official certificate, device, or label, or a ~~whole-~~
15 carcass ~~or part of a carcass~~ bearing a counterfeit, simulated, forged, or improperly
16 altered official mark;
- 17 6. Knowingly make a false statement in a certificate; or
- 18 7. Knowingly represent falsely that an article has been inspected and passed, or
19 exempted, under this chapter.

20 **SECTION 8. AMENDMENT.** Section 36-24-08 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 ~~36-24-084.1-31-08.~~ **Horse meat - Requirements.**

23 A person may not sell, transport, offer for sale or transportation, or receive for transportation
24 in intrastate commerce ~~whole carcasses or parts of carcasses~~ of horses, mules, or other
25 equines or meat food products derived from them, unless they are plainly and conspicuously
26 marked, labeled, or otherwise identified to show the kinds of animals from which they were
27 derived. The commissioner by rule may require that the preparation of ~~whole equine carcasses,~~
28 ~~parts of equine carcasses,~~ and equine meat food products take place in establishments
29 separate from those in which cattle, sheep, swine, or goats are slaughtered or in which their
30 carcasses, ~~parts of their carcasses,~~ or meat food products are prepared.

1 **SECTION 9. AMENDMENT.** Section 36-24-09 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 ~~36-24-094.1-31-09.~~ **Bribery.**

4 A person may not give or receive anything of value to influence the performance of an
5 inspector under this chapter.

6 **SECTION 10. AMENDMENT.** Section 36-24-10 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 ~~36-24-104.1-31-10.~~ **Individual and custom processing - Exemption from inspection**
9 **requirements.**

- 10 1. This chapter does not apply to an individual processing the individual's own animals
11 and the individual's preparation and transportation in intrastate commerce of the ~~whole-~~
12 carcasses, ~~parts of carcasses,~~ and meat food products provided the animals are for
13 the exclusive use of the individual, members of the individual's household, the
14 individual's nonpaying guests, and employees.
- 15 2. The provisions of this chapter requiring inspection of the slaughter of animals, the
16 preparation of the carcasses and ~~parts thereof,~~ and meat and meat food products at
17 establishments conducting such operations do not apply to the custom processing by
18 a person of animals delivered by the owner for processing, and the preparation or
19 transportation in intrastate commerce of the ~~whole carcasses, parts of carcasses,~~ and
20 meat food products of the animals, provided that the products are to be used
21 exclusively in the household of the animal's owner by the owner and members of the
22 owner's household, nonpaying guests, and employees.
- 23 3. A custom processor may not engage in the business of buying or selling ~~whole-~~
24 carcasses, ~~parts of carcasses,~~ or meat food products of animals, other than poultry,
25 usable as human food unless the ~~whole carcasses, parts of carcasses,~~ or meat food
26 products have been inspected and passed and are identified as inspected and passed
27 by the commissioner or the United States department of agriculture.
- 28 4. The provisions of this chapter requiring inspection of the preparation of poultry
29 carcasses and ~~parts thereof,~~ and poultry food products at establishments conducting
30 those operations do not apply to any retailer with respect to poultry products sold in
31 commerce directly to consumers in an individual retail store, provided that the retailer

1 does not engage in the business of custom slaughter, and provided that the poultry
2 products sold in commerce are derived from poultry inspected and passed by the
3 commissioner or the United States department of agriculture.

4 **SECTION 11. AMENDMENT.** Section 36-24-11 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **~~36-24-114.1-31-11.~~ 36-24-114.1-31-11. Storing and handling conditions.**

7 The commissioner shall adopt rules regarding the manner in which all whole carcasses,
8 ~~parts of carcasses,~~ and meat food products of animals usable as human food and subject to
9 this chapter must be stored, handled, and transported.

10 **SECTION 12. AMENDMENT.** Section 36-24-12 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **~~36-24-124.1-31-12.~~ 36-24-124.1-31-12. Articles not intended as human food.**

13 The commissioner may not provide inspection under this chapter at an establishment for
14 the slaughter of animals or the preparation of carcasses or parts or products of animals which
15 are not intended for use as human food. Before these articles are offered for sale or
16 transportation in intrastate commerce, they must be denatured or otherwise identified, as
17 prescribed by rules of the commissioner, to deter their use for human food, unless they are
18 naturally inedible by humans. A person may not buy, sell, transport, offer for sale or
19 transportation, or receive for transportation, in intrastate commerce, any carcasses, ~~parts of~~
20 ~~carcasses,~~ or meat food products of animals which are not intended for use as human food,
21 unless the articles are denatured or otherwise identified.

22 **SECTION 13. AMENDMENT.** Section 36-24-13 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **~~36-24-134.1-31-13.~~ 36-24-134.1-31-13. Records.**

25 The following persons shall keep records that fully and accurately disclose the transactions
26 described:

- 27 1. A person in the business of slaughtering animals or preparing, freezing, packaging, or
28 labeling animal carcasses, ~~parts,~~ or products of carcasses for use as human or animal
29 food.
- 30 2. A person buying, selling, transporting, or storing animal carcasses or ~~parts or products~~
31 of animal carcasses.

1 3. A person rendering or buying, selling, or transporting dead, dying, disabled, or
2 diseased animals or ~~parts of~~ the carcasses of animals that died other than by
3 slaughter.

4 **SECTION 14. AMENDMENT.** Section 36-24-14 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 ~~36-24-144.1-31-14.~~ **Records - Examination.**

7 Upon notice by the commissioner, any person subject to the recordkeeping requirements of
8 this chapter shall give the commissioner and the United States department of agriculture access
9 to the person's place of business at all reasonable times and an opportunity to examine the
10 facilities, inventory, and records of the business, to copy business records, and to take
11 reasonable samples of the person's inventory upon payment of the fair market value of the
12 samples.

13 **SECTION 15. AMENDMENT.** Section 36-24-15 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 ~~36-24-154.1-31-15.~~ **Records - Retention.**

16 Any person subject to the recordkeeping requirements of this chapter shall maintain the
17 records for the period prescribed by the commissioner.

18 **SECTION 16. AMENDMENT.** Section 36-24-16 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 ~~36-24-164.1-31-16.~~ **Registration of business.**

21 A person may not engage in intrastate business as a meat broker, renderer, or animal food
22 manufacturer; a wholesaler of animal carcasses, ~~carcass parts or products of carcasses,~~
23 intended for human food or other purposes; a public warehouse operator storing carcasses ~~or~~
24 ~~parts of carcasses~~ of animals in or for intrastate commerce; or a buyer, seller, or transporter of
25 dead, dying, disabled, or diseased animals, or parts of the carcasses of animals that died other
26 than by slaughter, unless the person first provides the commissioner with the person's name,
27 the address of each place of business under which the person conducts business, and all trade
28 names under which the person conducts business.

29 **SECTION 17. AMENDMENT.** Section 36-24-17 of the North Dakota Century Code is
30 amended and reenacted as follows:

1 **~~36-24-174.1-31-17~~. Dead, dying, disabled, or diseased animals - Rules.**

2 The commissioner shall adopt rules to ensure that dead, dying, disabled, or diseased
3 animals are not used as human food.

4 **SECTION 18. AMENDMENT.** Section 36-24-18 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **~~36-24-184.1-31-18~~. Cooperation with federal government.**

7 The commissioner shall cooperate with the United States department of agriculture to
8 develop and administer the state meat inspection program provided for under this chapter and
9 to ensure that its requirements are at least equal to those imposed by federal law. The
10 commissioner may accept, from the United States department of agriculture, advice and
11 assistance in planning and otherwise developing the state meat inspection program; technical
12 and laboratory assistance and training, including necessary curricular and instructional
13 materials and equipment; and financial and other assistance for the administration of the
14 program.

15 **SECTION 19. AMENDMENT.** Section 36-24-19 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **~~36-24-194.1-31-19~~. Refusal or withdrawal of inspection.**

18 1. For the length of time the commissioner considers necessary to carry out the purposes
19 of this chapter, the commissioner may refuse to provide, or may withdraw, inspection
20 services from an establishment if after a hearing the commissioner determines that the
21 recipient or potential recipient is unfit to engage in any business requiring inspection
22 under this chapter because the recipient, potential recipient, or anyone responsibly
23 connected with the recipient or potential recipient has been convicted of:

- 24 a. An offense determined by the commissioner to have a direct bearing on the
25 person's ability to serve the public in a business requiring inspection under this
26 chapter, or the commissioner determines the person is not sufficiently
27 rehabilitated under section 12.1-33-02.1;
- 28 b. More than one violation of a law based on the acquisition, handling, or
29 distributing of unwholesome, mislabeled, or deceptively packaged food; or
30 c. Fraud in connection with transactions involving food.

1 2. For the purpose of this section anyone responsibly connected with a business means
2 an individual who is a partner, officer, director, holder, or owner of ten percent or more
3 of its voting stock or an employee in a managerial or executive capacity.

4 **SECTION 20. AMENDMENT.** Section 36-24-20 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 ~~36-24-204.1-31-20.~~ **36-24-204.1-31-20. Detention of animals or products.**

7 If an inspector finds a ~~whole carcass, part of a carcass, or~~ meat food product, a product
8 exempted from the definition of a meat food product, or a dead, dying, disabled, or diseased
9 animal on premises where it is held for purposes of, during, or after distribution in intrastate
10 commerce, and the inspector reasonably believes that the article is adulterated or misbranded
11 and is ~~usable~~not suitable for use as human food, or that it has not been inspected, in violation of
12 this chapter or federal law, or that the article or animal has been or is intended to be distributed
13 in violation of this chapter or federal law, the inspector may detain the article for up to twenty
14 days pending a hearing or notification of federal authorities having jurisdiction over the article or
15 animal. The article may not be moved by any person from the place at which it was located
16 when detained, until released by the commissioner. The commissioner may require all official
17 marks to be removed from the article or animal before it is released unless the commissioner is
18 satisfied that the article or animal is eligible to retain the official marks.

NOTE: It appears the word "usable" in this section is not appropriate for use following
 "adulterated or misbranded".

19 **SECTION 21. AMENDMENT.** Section 36-24-21 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 ~~36-24-214.1-31-21.~~ **36-24-214.1-31-21. Seizure and condemnation.**

22 The commissioner may initiate action to seize and condemn a ~~whole carcass, part of a~~
23 ~~carcass,~~ or meat food product, or a dead, dying, disabled, or diseased animal that is being
24 transported in intrastate commerce, or is held for sale in this state after transportation in
25 intrastate commerce if:

- 26 1. The article is or has been prepared, sold, transported, or otherwise distributed or
27 offered or received for distribution in violation of this chapter;
- 28 2. The article is ~~usable~~not suitable for use as human food and is adulterated or
29 misbranded; or
- 30 3. The article is in any other way violative of this chapter.

NOTE: It appears the word "usable" in this section is not appropriate for use with "adulterated or misbranded".

1 **SECTION 22. AMENDMENT.** Section 36-24-22 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 ~~36-24-224.1-31-22.~~ **36-24-224.1-31-22. SaleDestruction or sale of condemned items.**

4 If an article or animal is condemned, it must be disposed of by destruction or sale, as
5 directed by a court. If it is sold, the proceeds must be paid to the state, less the court costs,
6 fees, storage, and reasonable expenses, but the article or animal must not be sold contrary to
7 this chapter or federal law. If a bond is delivered conditioned that the article or animal not be
8 sold or otherwise disposed of contrary to this chapter or federal law, the court may direct that
9 the article or animal be delivered to its owner subject to supervision by the commissioner.

10 **SECTION 23. AMENDMENT.** Section 36-24-23 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 ~~36-24-234.1-31-23.~~ **36-24-234.1-31-23. Types of proceedings - Award of costs.**

13 If a decree of condemnation is entered against an article or animal and it is released under
14 bond or destroyed, a court may award costs, fees, storage, and other reasonable expenses
15 against any person intervening as a claimant of the article or animal. Either party to a
16 proceeding may demand trial by jury of any issue of fact joined in the case, and all proceedings
17 must be in the name of the state. Nothing in this section changes the authority for
18 condemnation or seizure otherwise conferred by law.

19 **SECTION 24. AMENDMENT.** Section 36-24-24 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 ~~36-24-244.1-31-24.~~ **36-24-244.1-31-24. Powers of commissioner.**

22 For the purposes of this chapter, the commissioner may:

- 23 1. Gather and compile information concerning and investigate the organization, business,
24 conduct, practices, and management of a person in intrastate commerce and the
25 person's relation to other persons.
- 26 2. Require that a person engaged in intrastate commerce file with the commissioner, in
27 the form and manner prescribed by the commissioner, annual and special reports or
28 written answers to specific questions, giving the commissioner the information the
29 commissioner requires about the organization, business, conduct, practices,

- 1 management, and relation to other persons, of the person filing the reports or
2 answers.
- 3 3. Examine and copy documentary evidence of a person being investigated or being
4 proceeded against. A person may not refuse to submit to the commissioner, for
5 inspection and copying, any documentary evidence of a person subject to this chapter
6 in the person's possession or control.
- 7 4. ~~A~~Fix the time of filing for a person required by this chapter to file an annual or special
8 report ~~may not fail to do so within the time fixed by the commissioner, and. A person~~
9 ~~required by this chapter to file an annual or special report may not~~ continue the failure
10 for thirty days after notice of failure to file.
- 11 5. Adopt rules to implement this chapter, including establishing inspection fees for
12 providing inspection services under this chapter.

NOTE: Subsections 1, 2, 3, and 5 begin with a verb, to connect with the lead-in language "the commissioner may". Subsection 4 does not connect with the lead-in language.

13 **SECTION 25. AMENDMENT.** Section 36-24-25 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 ~~36-24-254.1-31-25.~~ **Interstate shipment.**

16 Meat and meat products inspected under this chapter may be shipped in interstate
17 commerce when federal law permits state-inspected meat and meat products to be marketed
18 interstate.

19 **SECTION 26. AMENDMENT.** Section 36-24-26 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 ~~36-24-264.1-31-26.~~ **Penalties.**

- 22 1. A person who willfully violates a provision of this chapter is guilty of a class A
23 misdemeanor.

NOTE: A penalty clause outside Title 12.1 must contain culpability language or it may be considered a strict liability offense. In statute, "willfully" means intentionally, knowingly, or recklessly but does not include negligently (Section 12.1-02-02). It would be preferable to identify the specific provisions of this chapter that would be subject to penalty.

- 24 2. A person willfully violating this chapter or a rule adopted under this chapter is subject
25 to a civil penalty not to exceed two hundred fifty dollars for each violation. The civil
26 penalty may be imposed by a court or by the agriculture commissioner in an
27 administrative proceeding.

- 1 3. Imposing a penalty allowed in subsection 1 or 2 does not preclude the commissioner
- 2 from seeking to impose other sanctions or from seeking other remedies for violation of
- 3 this chapter or rules adopted under this chapter.