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Sixty-fifth
Legislative Assembly
of North Dakota

Introduced by

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

A BILL for an Act

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-21-01 of the North Dakota Century Code is amended and reenacted as follows:

36-21-01. ~~Regulations governing fraudulent~~Fraudulent registration or representation of purebred livestock - Penalty.

NOTE: The provisions on livestock were originally listed for removal to the new Title 4.1. The committee should consider whether to retain Title 36, on livestock, which has existed as a separate Title since 1907 or longer.

~~Any~~It is a class B misdemeanor for a person ~~who shall~~to:

1. Fraudulently represent any animal ~~to be~~as purebred;
2. Post or publish, or cause to be posted or published, any false pedigree or certificate;
3. Procure by fraud, false pretense, or misrepresentation, the registration of any animal ~~which is~~ to be used for service, sale, or exchange in this state, for the purpose of deception as to the animal's pedigree ~~thereof~~;
4. Sell, or otherwise dispose of, any animal as a purebred when the person knows or has reason to believe that the animal is not the offspring of a regularly registered purebred sire and dam; or
5. Sell, or otherwise dispose of, any animal as a registered purebred ~~by the use of~~using a false pedigree or certificate of registration~~,~~

~~is guilty of a class B misdemeanor~~.

SECTION 2. AMENDMENT. Section 36-21-05 of the North Dakota Century Code is amended and reenacted as follows:

36-21-05. Skinning dead livestock ~~- Restrictions governing~~.

~~No~~A person ~~other than~~who is not the owner or the owner's agent or employee may not skin, or remove the skin, hide, or pelt from the carcass of any neat cattle, swine, or sheep found dead, except when such animal is killed by a ~~railroad~~ train, in which case the employees of the railroad may remove the hide ~~from such animal~~.

NOTE: It appears there is no penalty for violation of this section. Use of the word "neat" is unclear. The dictionary definitions indicate it means bovine animal, which would make it redundant. How often does this situation arise?

SECTION 3. AMENDMENT. Section 36-21-10 of the North Dakota Century Code is amended and reenacted as follows:

36-21-10. Dogs, wolves, and coyotes worrying livestock or poultry may be killed.

Any person ~~may kill~~ who kills any dog, wolf, or coyote kept as a domestic animal is not liable in any civil action to the owner of the animal:

1. When the person sees such animal in the act of killing, chasing, worrying, or damaging any livestock or poultry; or
2. When the person discovers ~~such animal under circumstances which satisfactorily show~~evidence that the animal recently ~~it has been engaged in killing~~killed or ~~chasing~~chased sheep.

~~A person who kills any dog, wolf, or coyote under conditions specified in this section is not liable in any civil action to the owner of such animal.~~

NOTE: It is not clear why different language is used for damage to livestock or poultry and damage to sheep. In addition, "livestock" is defined to include sheep at least twice in Title 36.

SECTION 4. AMENDMENT. Section 36-21-11 of the North Dakota Century Code is amended and reenacted as follows:

36-21-11. ~~Owners of dogs liable~~Liability for damages ~~done~~ to livestock ~~- Procedure when damages done by pack of~~by dogs.

The owner of any dog ~~which~~that kills, wounds, or chases any sheep or other domestic animal or poultry belonging to another person is liable to ~~such other~~that person for all resulting damages ~~caused thereby~~. If ~~one or~~ more than one ~~of several dogs~~dog, ~~which are~~ owned by different persons, participates in the killing, wounding, or chasing of sheep or other domestic animals or poultry ~~while running together~~, the owners of the ~~respective~~ dogs ~~so running together~~ may be sued jointly, and a joint verdict and judgment may be rendered against ~~the owners of~~

~~such dogs~~them. If one or more of the defendants pays ~~such~~ a joint judgment, the payor or payors may ~~have~~receive contribution from the defendants who have not paid ~~in an appropriate action in which~~where the ~~respective~~ damages committed by the ~~several~~ dogs ~~running together~~ may be prorated. ~~No exemption is allowed to any person against whom a judgment is entered under the provisions of this section.~~

NOTE: Again there is variable usage of the words sheep, domestic animal, and poultry. The caption uses "livestock" but the section does not contain that word. Section 36-21-11 adds wolf or coyote kept as a domestic animal as permissible to kill but this section does not allow the owner of such a wolf or coyote to be subject to damages.

SECTION 5. AMENDMENT. Section 36-21-12 of the North Dakota Century Code is amended and reenacted as follows:

36-21-12. Killing of livestock by railroad is prima facie evidence of negligence.

The killing or damaging of any livestock by a railroad car or locomotive is prima facie evidence of ~~carelessness and~~ negligence ~~on the part of~~by the railway company or corporation.

NOTE: "Carelessness" is generally not grounds for civil damages. It is usually defined in law dictionaries to mean "negligence."

SECTION 6. AMENDMENT. Section 36-21-13 of the North Dakota Century Code is amended and reenacted as follows:

36-21-13. Exemplary damages for ~~wrongful~~ injuries to domestic animals.

Exemplary damages may be ~~given to the owner of any animal~~applied for any wrongful injury ~~thereto when such injury is~~to an animal committed willfully or by gross negligence.

NOTE: Use of the word "animal" in this chapter, which refers to livestock, poultry, sheep, etc. creates an interpretation problem. The caption uses "domestic animal" but the caption is not a part of the law. Clarification is needed. This section may be unnecessary... section 32-03-53 allows exemplary damages for damage or destruction to crops, livestock, or commodities.

SECTION 7. AMENDMENT. Section 36-21-15 of the North Dakota Century Code is amended and reenacted as follows:

36-21-15. Sale of livestock by weight.

All livestock sold by weight at any public market must be sold subject to the weight at the place of sale on the day sold by the auctioneer.

SECTION 8. AMENDMENT. Section 36-21-18 of the North Dakota Century Code is amended and reenacted as follows:

36-21-18. Title to property to remain in market until settlement made.

Before any person~~, association, copartnership, firm, corporation, or limited liability company~~ may become a purchaser at any sale conducted by an auction market established under the laws of this state, ~~such~~the prospective purchaser must file, ~~satisfactory evidence~~ with the operator of ~~such~~the auction market, proof that any check, draft, or bill of exchange issued and delivered to ~~such~~the auction market in payment ~~of~~for any livestock purchased ~~shall~~will be honored by the drawee bank at the time of presentation for payment~~, and until~~. Until such check, draft, or other bill of exchange has been duly honored and paid, the title to the purchased livestock ~~so purchased~~ is ~~in the~~held by the auction market making ~~such~~the sale.

NOTE: Examination should be made of whether this section is current with livestock auction financial transactions.

SECTION 9. AMENDMENT. Section 36-21-19 of the North Dakota Century Code is amended and reenacted as follows:

36-21-19. Equine processing assessment - Continuing appropriation - Provision of grants.

1. For each equine processed at an equine processing facility in this state, the owner of the facility shall ~~submit~~remit to the agriculture commissioner, at the time and in the manner directed by the commissioner, an assessment in the amount of five dollars. The commissioner shall forward the assessment to the state treasurer for deposit of the first fifty thousand dollars in the state general fund and any additional amount in the equine processing fund.
2. All moneys in the equine processing fund are appropriated on a continuing basis to the agriculture commissioner to be used ~~as follows~~to:
   a. ~~The agriculture commissioner shall return to the state general fund the fifty thousand dollars appropriated to the department of commerce for the equine processing facility feasibility study.~~
   ~~b.~~ ~~Upon completion of the requirement set forth in subdivision a, the commissioner shall:~~
      ~~(1)~~ Provide an annual grant equaling forty percent of any assessments collected to Dickinson state university in support of the equine management program;

1 ~~(2)~~b. Provide an annual grant equaling forty percent of any assessments
2 collected to North Dakota state university in support of the equine studies
3 program; and
4 ~~(3)~~c. Provide an annual grant equaling twenty percent of any assessments
5 collected to public or private entities conducting equine research or offering
6 hippotherapy to individuals with disabilities.

NOTE: The appropriation to the Department of Commerce was made in 2009. It appears unlikely the amount will be collected.