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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
May 2016

Introduced by

1 A BILL for an Act

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

3 **SECTION 1. AMENDMENT.** Section 36-05.1-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 ~~36-05.1-01~~ **4.1-28-01. Definitions.**

6 In this chapter, unless the context otherwise requires:

- 7 1. "Commissioner" means the agriculture commissioner or the commissioner's designee.
- 8 2. "Internet livestock auction" means a place or establishment conducted or operated for
9 compensation or profit as a public market where livestock located in this state is sold
10 or offered for sale at a facility or website within or outside the state through the use of
11 the internet.
- 12 3. "Livestock" means horses, mules, cattle, swine, sheep, farmed elk, and goats.
- 13 4. "Representative" means a dealer licensed under chapter 36-04 or a livestock auction
14 market licensed under chapter ~~36-05~~ 4.1-27.
- 15 5. "Satellite video livestock auction market" means a place or establishment conducted
16 or operated for compensation or profit as a public market where livestock located in
17 this state is sold or offered for sale at a facility within or outside the state through the
18 use of a satellite video at a public auction.

NOTE: Is "satellite video" still the correct technology reference? Perhaps language should be adjusted to accommodate technology changes. Internet market was plugged in several places in this chapter but not defined here.

19 **SECTION 2. AMENDMENT.** Section 36-05.1-02 of the North Dakota Century Code is
20 amended and reenacted as follows:

1 ~~36-05.1-024.1-28-02.~~ **Satellite video livestock auction market and internet auction -**
2 **Authority to transact business.**

3 ~~No~~ A satellite video livestock auction market or internet livestock auction market may not
4 transact business in this state unless the market transacts business through a representative
5 licensed under this chapter.

6 **SECTION 3. AMENDMENT.** Section 36-05.1-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 ~~36-05.1-034.1-28-03.~~ **Application for license - Contents.**

9 1. Before entering into business with a satellite video livestock auction market or internet
10 livestock auction market ~~and annually, on or before July first,~~ each representative shall
11 ~~file an application form~~ must obtain a license to transact business with a satellite video
12 livestock auction market or internet livestock auction market by filing an application
13 with the commissioner on a form prescribed by the commissioner. A license issued
14 under this section expires June thirtieth after issuance and must be renewed by filing
15 of a renewal application at the time and on a form prescribed by the commissioner.

16 The application must show:

- 17 a. The nature of the business ~~for which applying for a license is desired;~~
18 b. The name of the representative applying for the license on behalf of the
19 business;
20 c. The name and address of the satellite video livestock auction market or internet
21 livestock auction market ~~with which that~~ the applicant proposes to
22 ~~transact~~ transacting business through; and
23 d. ~~Other~~ Any other information the commissioner may require.

24 2. The application for a license or for a renewal of a license ~~must be accompanied~~
25 by include:

- 26 a. A license fee of one hundred dollars;
27 b. Evidence the commissioner may require showing ~~that~~ the satellite video livestock
28 auction market or internet livestock auction market the representative proposes
29 to do business ~~with~~ through is financially responsible and bonded to transact such
30 business;

- 1 c. A schedule of the fees and commissions that will be charged to owners, sellers,
2 or their agents; and
- 3 d. A copy of the contract between the representative and the satellite video livestock
4 auction market or internet livestock auction market ~~with which~~that the
5 representative proposes to ~~transact~~transacting business through. The contract
6 must ~~contain~~:
- 7 (1) Contain a provision authorizing the commissioner ~~or the commissioner's~~
8 ~~designee~~ to have access to the books; papers; accounts; financial records
9 held by financial institutions, accountants, or other sources; ~~and~~
- 10 (2) Contain other documents, ~~as determined by the commissioner,~~ relating to
11 the activities of the satellite video livestock auction market or internet
12 livestock auction market ~~and requiring the satellite video livestock auction-~~
13 ~~market or internet livestock auction market to make such documents-~~
14 ~~reasonably available upon the request of the commissioner or the~~
15 ~~commissioner's designee. The contract must also provide; and~~
- 16 (3) Provide that the satellite video livestock auction market or internet livestock
17 auction market and its representative are jointly and severally liable, with the
18 right of contribution, for all business transacted within this state by the
19 representative on behalf of the satellite video livestock auction market or
20 internet livestock auction market.
- 21 3. If the contract between the representative and the satellite video livestock auction
22 market or internet livestock auction market is terminated, rescinded, breached, or
23 otherwise materially altered, the representative and the satellite video livestock auction
24 market or internet livestock auction market shall immediately notify the commissioner.
25 Failure to notify the commissioner of termination, rescission, breach, or material
26 alteration of the contract between the representative and the satellite video livestock
27 auction market or internet livestock auction market is deemed to be a failure to keep
28 and maintain suitable records with the department and is deemed to be a false entry
29 or statement of fact in an application filed with the department.

30 **SECTION 4. AMENDMENT.** Section 36-05.1-04 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 ~~36-05.1-044.1-28-04.~~ **Use of fees - Grounds for refusal or revocation of license -**
2 **Review by court.**

3 All fees collected by the commissioner under this chapter must be deposited in the general
4 fund of the state treasury. A license may be refused or revoked for any reason specified in
5 subdivision c or d of subsection 2 of section 36-04-04 or section 36-04-10, or if the contract
6 required by this chapter between the representative and the satellite video livestock auction
7 market or internet livestock auction market is extinguished, rescinded, or canceled, or is
8 breached by either party. The action of the commissioner in denying an application for a license
9 or revoking or suspending a license may be appealed as provided in section ~~36-05-13.1.~~

NOTE: The cross-reference will be updated when the revision of chapter 36-05 is
completed.

10 **SECTION 5. AMENDMENT.** Section 36-05.1-05 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 ~~36-05.1-054.1-28-05.~~ **Inspection of livestock.**

13 Before any livestock sold pursuant to this chapter is delivered, whether interstate or
14 intrastate, the livestock must be inspected for health by a veterinarian licensed in this state and
15 approved by the state board of animal health and, in the case of cattle, for brands by a trained
16 brand inspector, acting under rules adopted by the North Dakota stockmen's association and
17 the state board of animal health. The inspection must take place at the time of the initial delivery
18 of the livestock. If livestock is destined to be shipped interstate, the authorized veterinarian shall
19 furnish to each purchaser a certificate showing that the inspection has been made and
20 treatment administered in accordance with the requirements of the state of destination. The
21 services and duties of the veterinary inspector are under the supervision of the state board of
22 animal health. Fees for the veterinary inspection must be an amount agreed upon by the
23 representative and the veterinarian. All fees for veterinary inspection, treatment, and services
24 must be collected by the representative and paid to the inspector.

25 **SECTION 6. AMENDMENT.** Section 36-05.1-06 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 ~~36-05.1-064.1-28-06.~~ **Method of payment.**

28 Payment to the seller for livestock sold through a satellite video livestock auction market or
29 internet livestock auction market must be made in United States currency, with an instrument
30 payable on demand drawn on a financial institution chartered and regulated by a state or the

1 federal government, or by wire transfer or other electronic form of payment from a financial
2 institution chartered and regulated by a state or the federal government.

3 **SECTION 7. AMENDMENT.** Section 36-05.1-07 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **~~36-05.1-074.1-28-07.~~ Sale of livestock by weight - Scales to be inspected.**

6 Notwithstanding section 36-21-15, all livestock sold by weight through a satellite video
7 livestock auction market or internet livestock auction market must be sold based on the weight
8 of the livestock on the day of delivery. All livestock sold by weight must be weighed on scales
9 that have been tested and inspected by the department of weights and measures in the manner
10 provided by law.