

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1491
(Representatives D. Johnson, S. Meyer)
(Senators Erbele, Klein)

AN ACT to amend and reenact sections 36-09-17, 36-09-20, 36-09-20.1, 36-09-22, and 36-09-23 of the North Dakota Century Code, relating to penalties imposed for violation of brand laws.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-09-17 of the North Dakota Century Code is amended and reenacted as follows:

36-09-17. Defacing brands and unlawfully branding - Penalty. ~~Any~~ A person who shall:

4. ~~Alter or deface, or attempt~~ is guilty of a class A misdemeanor for a first offense and a class C felony for a second or subsequent offense if the person:
 1. ~~Alters, defaces, or attempts~~ to alter or deface; the mark or brand upon on any animal, the property of owned by another for the purpose of deceiving others as to the animal's ownership; or
 2. ~~Willfully and unlawfully mark or brand, or cause marks, brands, or causes to be marked or branded; any animal, the property of owned by another, is guilty of a class A misdemeanor for the purpose of deceiving others as to the animal's ownership.~~

SECTION 2. AMENDMENT. Section 36-09-20 of the North Dakota Century Code is amended and reenacted as follows:

36-09-20. Bill of sale to be given and kept - Copy with shipment - Effect - Penalty.

1. A person may not sell cattle, horses, mules, or any other livestock carrying a registered brand unless:
 - a. The seller is the owner of the registered brand and delivers a bill of sale for the cattle, horses, mules, or other livestock to the purchaser; or
 - b. The seller delivers to the purchaser a bill of sale executed by the owner of the registered brand and endorsed by the seller evidencing the later transaction.
2. The bill of sale must include:
 - a. The date;
 - b. The name, address, and signature of the seller;
 - c. The name, address, and signature of an individual who is at least eighteen years of age and who can verify the name and signature of the seller;
 - d. The name and address of the buyer;
 - e. The total number of animals sold;
 - f. A description of each animal sold as to sex and kind; and
 - g. A description of the registered brands.

3. The bill of sale must be kept by the buyer for two years and as long thereafter as the buyer owns any of the animals described in the bill of sale.
4. A copy of the bill of sale must be given to each hauler of the livestock, other than railroads, and must go with the shipment of the livestock while in transit.
5. The bill of sale or a copy of the bill of sale must be shown by the possessor on demand to any peace officer or brand inspector.
6. The bill of sale is prima facie evidence of the sale of the livestock described in the bill of sale.
7. A bill of sale is not required relative to sales of livestock covered by a legal livestock brand inspection.
8. Any person ~~who~~ that willfully violates this section is guilty of ~~an infraction~~ a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

SECTION 3. AMENDMENT. Section 36-09-20.1 of the North Dakota Century Code is amended and reenacted as follows:

36-09-20.1. False proof of ownership - Sale of livestock - Penalty. A person that ~~knowingly~~ willfully provides false proof of ownership in conjunction with the sale of livestock is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

SECTION 4. AMENDMENT. Section 36-09-22 of the North Dakota Century Code is amended and reenacted as follows:

36-09-22. Sale of animal under false registration ~~certificates~~ certificate - Changing marking - ~~Auctioneer~~ - Penalty. ~~No~~

1. A person may not willfully:
 1. a. Sell ~~any~~ an animal with a certificate of registration or breeding that the person knows does not belong to ~~said~~ the animal.
 2. b. ~~Change in any way the~~ Alter any animal's certificate of registration or breeding ~~of any animal.~~
 3. c. ~~Falsely represent~~ Misrepresent any production record specified in ~~any~~ a registration certificate.
 4. d. Change the markings of any ~~animals~~ animal with intent to deceive the purchaser ~~or misrepresent.~~
 - e. Misrepresent the sire to which such animal has been bred.

~~The provisions of this section do not apply to any auctioneer or agent acting in good faith under the direction of the owner.~~

~~Any~~

2. A person ~~who~~ that violates ~~any of the provisions of~~ this section is guilty of a class B ~~A~~ misdemeanor for a first offense and a class C felony for a second or subsequent offense.

SECTION 5. AMENDMENT. Section 36-09-23 of the North Dakota Century Code is amended and reenacted as follows:

36-09-23. Removal Transportation of livestock from state - Brand inspection - Penalty.

1. ~~No~~ A person may ~~remove~~ not transport or attempt to transport cattle, horses, or mules from this state ~~or to within a mile [1.61 kilometers] of any boundary of the state for the purpose of removal~~ unless the livestock has been inspected for marks and brands by an official brand inspector of the North Dakota stockmen's association ~~and a~~. A certificate of inspection must accompany the livestock to its destination. This subsection does not apply to a person that:
 - a. Transports cattle, horses, or mules from this state to obtain for the animals emergency medical treatment by a licensed veterinarian; or
 - b. Transports cattle, horses, or mules from this state to an auction market that is located in a bordering state and which has been designated by rule as an official brand inspection market.
2. ~~It is unlawful for the~~ The owner or possessor to remove any of livestock may not remove the livestock from any place of regular official brand inspection ~~unless and until an official brand inspection has been made and the brand inspection certificate has been issued.~~
3. A person ~~who~~ that willfully violates this section is guilty of a class ~~B~~ A misdemeanor. A person ~~who~~ that violates this section a second time within ~~fifteen~~ five years or violates this section three or more times is guilty of a class C felony.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1491.

House Vote: Yeas 91 Nays 3 Absent 0

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State