

Introduced by

Agriculture Committee

(At the request of the Department of Health)

1 A BILL for an Act to amend and reenact sections 23-36-01, 23-36-03, 23-36-05, 23-36-06, and
2 23-36-08 of the North Dakota Century Code, relating to rabies control.

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

4 **SECTION 1. AMENDMENT.** Section 23-36-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **23-36-01. Definitions.**

7 As used in this chapter:

8 1. "Bite" means any penetration of the skin by an animal's teeth.

9 2. "Clinical ~~symptoms~~signs of rabies" means physical signs ~~or symptoms~~ or animal
10 behavior that would lead a reasonably prudent veterinarian to conclude ~~that a~~
11 diagnosis of possible rabies is indicated.

12 3. "Confinement" means separation of an animal from humans, other than the owner,
13 caretaker, a member of the owner's family, or the caretaker's employees, and from
14 other animals, by means of a building, cage, fence, pen, or other secure enclosure
15 that restricts the animal's movement within definite boundaries and prevents the
16 animal from exiting the enclosure.

17 4. "Department" means the state department of health.

18 5. "Domestic animal" means any dog [canis familiaris], cat [felis domestica], horse, mule,
19 bovine animal, sheep, goat, bison, llama, alpaca, swine, or captive-bred, ~~currently-~~
20 vaccinated ferret.

21 6. "Emergency" means a situation in which an immediate search and seizure of an
22 animal is necessary and authorized by section 8 of article I of the Constitution of North
23 Dakota and the fourth amendment to the Constitution of the United States because of
24 a risk of death or serious bodily injury to a human or another animal.

- 1 7. "Exposure to rabies" means any bite or scratch, and includes any nonbite contact of
2 an individual with an animal, animal tissue, or fluids ~~that are~~which is defined as an
3 exposure to rabies by the federal advisory committee on immunization practices
4 referred to in Public Law No. 103-66 [107 Stat. 636, 642; 42 U.S.C. 1396s(e)].
- 5 8. "Impound" means quarantining an animal at a public pound or an animal facility of a
6 licensed veterinarian.
- 7 9. "Law enforcement officer" has the meaning of that term as set forth in section
8 12.1-01-04.
- 9 10. "Quarantine" means confinement in a fixed area that keeps a possibly rabid animal
10 secure and isolated from all other animals so there is no reasonable possibility of
11 rabies being mechanically transmitted from the confined area.
- 12 11. ~~"Vaccinated animal" means an animal that has been vaccinated in compliance with the
13 compendium of animal rabies control issued by the national association of state public
14 health veterinarians.~~
- 15 12. "Wild mammal" means any animal of the ~~order~~class mammalia which is not a
16 domestic animal and includes any hybrid of a domestic animal and a mammal
17 regardless of whether the animal is:
- 18 a. Wildlife as defined in section 20.1-01-02; or
19 b. Held in private ownership.

20 **SECTION 2. AMENDMENT.** Section 23-36-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **23-36-03. Enforcement authority.**

- 23 1. The department, or an agency acting on the department's behalf, may promptly seize
24 and humanely kill, impound at the owner's expense, or quarantine any animal if the
25 state health officer, or the state health officer's designee, has probable cause to
26 believe the animal presents clinical ~~symptoms~~signs of rabies.
- 27 2. The department, or an agency acting on the department's behalf, may promptly seize
28 and humanely kill, impound at the owner's expense, or quarantine any ~~wild mammal~~
29 ~~that is not currently vaccinated for rabies by a vaccine approved for use on that~~
30 ~~species by the national association of state public health veterinarians, inc., or any~~
31 ~~stray or unwanted domestic animal~~; if the state health officer, or the state health

1 officer's designee, determines the animal is a threat to human life or safety due to the
2 possible exposure of another animal or an individual to rabies.

3 ~~3. The department, or an agency acting on the department's behalf, may promptly seize
4 and quarantine, or impound at the owner's expense, any dog, cat, or currently
5 vaccinated ferret for a period of ten days, or any other domestic animal for a period not
6 exceeding six months, if the state health officer, or the state health officer's designee,
7 determines the animal is a threat to human life or safety due to the possible exposure
8 of an individual to rabies.~~

9 ~~4. If an animal is humanely killed under this section and there is a possible exposure of
10 another animal or an individual to rabies, then at the request of the state health officer,
11 or the state health officer's designee, the animal's brain must be tested for rabies by
12 the state microbiology laboratory of the department or by the North Dakota veterinary
13 diagnostic laboratory. The department may conduct seek a diagnosis of rabies for farm
14 animals, domestic animals, and wildlife that are suspected of having rabies and report
15 findings as appropriate.~~

16 ~~5.4.~~ If an animal that has bitten or otherwise exposed an individual or another animal is not
17 seized for testing, a law enforcement officer with jurisdiction over the place where the
18 animal is located may determine whether to impound or quarantine the animal under
19 subsection ~~3~~2 and which method of confinement to use.

20 ~~6.5.~~ A licensed veterinarian shall examine, at the owner's expense, a confined animal ~~on
21 the first and last day of the animal's confinement and, at the request of the department
22 or, a local public health unit, at any other time during confinement or a law enforcement
23 officer with jurisdiction over the place where the animal is located.~~

24 **SECTION 3. AMENDMENT.** Section 23-36-05 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **23-36-05. Assistance of state and local agencies.**

27 If a warrant is issued under section 23-36-04 and upon written request of the department,
28 the game and fish department, the state veterinarian, or the wildlife services program of the
29 United States department of agriculture animal and plant health inspection service shall provide
30 assistance to the department in any action to seize, impound, quarantine, or test an animal
31 suspected of having rabies or that has possibly exposed another animal or an individual to

1 rabies, and shall carry out any other preventive measures the department requests. For
2 purposes of this section, a request from the department means only a request for assistance as
3 to a particular and singular suspicion of exposure to rabies and does not constitute a continuous
4 request for assistance.

5 The duty of the game and fish department to cooperate and provide assistance under this
6 section is limited to cases involving a wild mammal and is applicable only if no other agency is
7 available for law enforcement or animal control services.

8 **SECTION 4. AMENDMENT.** Section 23-36-06 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **23-36-06. Payment for postexposure treatment.**

11 The department may provide, at no cost, rabies postexposure ~~vaccine~~biologics to an
12 individual possibly exposed to rabies if the department determines the individual is financially
13 unable to pay for the postexposure ~~vaccine~~biologics treatment.

14 **SECTION 5. AMENDMENT.** Section 23-36-08 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **23-36-08. Limitation on liability.**

17 Subject to any other requirements of section 32-12.2-02, the owner of an animal may bring
18 a claim for money damages, and may recover an amount up to the replacement value of the
19 animal, if the owner establishes that before the animal was seized and tested for rabies under
20 this chapter, the state health officer, or the state health officer's designee, knew or recklessly
21 failed to determine that the animal, at the time of the exposure, was lawfully owned and
22 licensed and that:

- 23 1. The animal was a wild mammal, and, at the time of the exposure, was currently
24 vaccinated with a vaccine approved for use on an animal of that species by the
25 national association of state public health veterinarians, inc.;
- 26 2. The animal had not bitten, scratched, or otherwise possibly exposed ~~a person~~another
27 animal or an individual to rabies; or
- 28 3. The animal was a domestic animal and there was not probable cause to believe the
29 animal was rabid.