

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2092

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 suspect an infection of rabies and the pursuit of a rabies
12 diagnosis is indicated.
- 13 3. "Confinement" means separation of an animal from humans, other than the owner,
14 caretaker, a member of the owner's family, or the caretaker's employees, and from
15 other animals, by means of a building, cage, fence, pen, or other secure enclosure
16 that restricts the animal's movement within definite boundaries and prevents the
17 animal from exiting the enclosure.
- 18 4. "Department" means the state department of health.
- 19 5. "Domestic animal" means any dog [canis familiaris], cat [felis domestica], horse, mule,
20 bovine animal, sheep, goat, bison, llama, alpaca, swine, or captive-bred, ~~currently~~
21 vaccinated ferret.
- 22 6. "Emergency" means a situation in which an immediate search and seizure of an
23 animal is necessary and authorized by section 8 of article I of the Constitution of North

1 Dakota and the fourth amendment to the Constitution of the United States because of
2 a risk of death or serious bodily injury to a human or another animal.

3 7. "Euthanasia" means the use of humane techniques to induce the most rapid, painless,
4 and distress-free death possible in an animal.

5 8. "Exposure to rabies" means any bite or scratch, and includes any nonbite contact of
6 an individual with an animal, animal tissue, or fluids that arewhich is defined as an
7 exposure to rabies by the federal advisory committee on immunization practices
8 referred to in Public Law No. 103-66 [107 Stat. 636, 642; 42 U.S.C. 1396s(e)].

9 8-9. "Impound" means quarantining an animal at a public pound or an animal facility of a
10 licensed veterinarian.

11 9-10. "Law enforcement officer" has the meaning of that term as set forth in section
12 12.1-01-04.

13 10-11. "Quarantine" means confinement in a fixed area that keeps a possibly rabid an
14 exposed animal secure and isolated segregated from all other animals and individuals
15 so there is no reasonable possibility of rabies being mechanically transmitted from the
16 confined area.

17 11-12. "Vaccinated animal" means an animal that has been vaccinated in compliance with the
18 2016 compendium of animal rabies control issued by the national association of state
19 public health veterinarians.

20 12-13. "Suspect rabies exposure" means an animal bitten or otherwise exposed to a wild
21 carnivore, skunk, bat, or an animal, as determined by a veterinarian, which may have
22 been exhibiting signs of rabies, and a rabies exposure could not be ruled out through
23 laboratory testing.

24 14. "Wild mammal animal" means any animal of the order class mammalia which is not a
25 domestic animal and includes any hybrid of a domestic animal and a mammal wild
26 animal regardless of whether the animal is:

- 27 a. Wildlife as defined in section 20.1-01-02; or
28 b. Held in private ownership.

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

1 **23-36-03. Enforcement authority.**

- 2 1. The department, or an agency acting on the department's behalf, may promptly seize
3 and ~~humanely kill~~euthanize, impound at the owner's expense, or quarantine any
4 animal if the state health officer, or the state health officer's designee, has probable
5 cause to believe the animal presents clinical ~~symptoms~~signs of rabies.
- 6 2. The department, or an agency acting on the department's behalf, may promptly seize
7 and ~~humanely kill~~euthanize, impound at the owner's expense, or quarantine any ~~wild-~~
8 mammal that is not currently vaccinated for rabies by a vaccine approved for use on
9 that species by the national association of state public health veterinarians, inc., or any
10 ~~stray or unwanted domestic~~wild animal; if the state health officer, or the state health
11 officer's designee, determines the animal is a threat to human life or safety due to the
12 possible exposure of another animal or an individual to rabies.
- 13 3. ~~The department, or an agency acting on the department's behalf, may promptly seize~~
14 ~~and quarantine, or impound at the owner's expense, any dog, cat, or currently~~
15 ~~vaccinated ferret for a period of ten days, or any other domestic animal for a period not~~
16 ~~exceeding six months, if the state health officer, or the state health officer's designee,~~
17 ~~determines the animal is a threat to human life or safety due to the possible exposure~~
18 ~~of an individual to rabies.~~For domestic animals, the department may seize and
19 quarantine or confine and observe an animal if the animal has bitten or otherwise
20 exposed an individual or has been bitten or otherwise exposed to rabies or suspect
21 rabies and the owner is unwilling or unable to comply with the department's
22 recommendations. The department may seize and euthanize an animal if the animal
23 has bitten or otherwise exposed an individual and is exhibiting signs of rabies, as
24 diagnosed by a veterinarian. The department may seize, euthanize, or quarantine an
25 animal if the animal was exposed to rabies or suspect rabies and never has been
26 vaccinated against rabies and the owner is unwilling or unable to comply with the
27 department's recommendations.
- 28 4. If an animal had died or is humanely killed under this sectionand there is a possible
29 exposure of another animal or an individual to rabies, then at the request of the state
30 health officer, or the state health officer's designee, the animal's brain must be tested
31 for rabies by the ~~state microbiology laboratory of the department or by the North~~

1 Dakota veterinary diagnostic laboratory. The department may ~~conduct~~seek a diagnosis
2 of rabies for farm animals, domestic animals, and wildlife that are suspected of having
3 rabies and report findings as appropriate.

4 5. If an animal that has bitten or otherwise exposed an individual or another animal is not
5 seized for testing, a law enforcement officer with jurisdiction over the place where the
6 animal is located may determine whether to impound or quarantine the animal under
7 subsection ~~32~~ and which method of confinement to use.

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

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

14 **23-36-05. Assistance of state and local agencies.**

15 If a warrant is issued under section 23-36-04 and upon written request of the department,
16 the game and fish department, the state veterinarian, or the wildlife services program of the
17 United States department of agriculture animal and plant health inspection service shall provide
18 assistance to the department in any action to seize, impound, quarantine, or test an animal
19 suspected of having rabies or that has possibly exposed an individual to rabies or possibly has
20 been exposed to rabies, and shall carry out any other preventive measures the department
21 requests. For purposes of this section, a request from the department means only a request for
22 assistance as to a particular and singular suspicion of exposure to rabies and does not
23 constitute a continuous request for assistance.

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

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

1 **23-36-06. Payment for postexposure treatment.**

2 The department may provide, at no cost, rabies postexposure vaccinebiologics to an
3 individual possibly exposed to rabies if the department determines the individual is financially
4 unable to pay for the postexposure vaccinebiologics treatment.

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

7 **23-36-08. Limitation on liability.**

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

- 14 1. ~~The animal was a wild mammal, and, at the time of the exposure, was currently~~
15 ~~vaccinated with a vaccine approved for use on an animal of that species by the~~
16 ~~national association of state public health veterinarians, inc.;~~
17 2. The animal had not bitten, scratched, or otherwise possibly exposed ~~a person~~another
18 animal or an individual to rabies; or
19 ~~3.2.~~ The animal was a domestic animal and there was not probable cause to believe the
20 animal was rabid.