

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

SENATE BILL NO. 2092
(Agriculture Committee)
(At the request of the Department of Health)

AN ACT to amend and reenact sections 23-36-01, 23-36-03, 23-36-05, 23-36-06, and 23-36-08 of the North Dakota Century Code, relating to rabies control.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

23-36-01. Definitions.

As used in this chapter:

1. "Bite" means any penetration of the skin by an animal's teeth.
2. "Clinical ~~symptom~~signs of rabies" means physical signs ~~or symptoms~~ or animal behavior that would lead a reasonably prudent veterinarian to ~~conclude that a diagnosis of possible~~suspect an infection of rabies and the pursuit of a rabies diagnosis is indicated.
3. "Confinement" means separation of an animal from humans, other than the owner, caretaker, a member of the owner's family, or the caretaker's employees, and from other animals, by means of a building, cage, fence, pen, or other secure enclosure that restricts the animal's movement within definite boundaries and prevents the animal from exiting the enclosure.
4. "Department" means the state department of health.
5. "Domestic animal" means any dog [canis familiaris], cat [felis domestica], horse, mule, bovine animal, sheep, goat, bison, llama, alpaca, swine, or captive-bred, ~~currently vaccinated~~ ferret.
6. "Emergency" means a situation in which an immediate search and seizure of an animal is necessary and authorized by section 8 of article I of the Constitution of North Dakota and the fourth amendment to the Constitution of the United States because of a risk of death or serious bodily injury to a human or another animal.
7. "Euthanasia" means the use of humane techniques to induce the most rapid, painless, and distress-free death possible in an animal.
8. "Exposure to rabies" means any bite or scratch, and includes any nonbite contact of ~~an individual~~ with an animal, animal tissue, or fluids ~~that are~~which is defined as an exposure to rabies by the federal advisory committee on immunization practices referred to in Public Law No. 103-66 [107 Stat. 636, 642; 42 U.S.C. 1396s(e)].
- ~~8-9.~~ "Impound" means quarantining an animal at a public pound or an animal facility of a licensed veterinarian.
- ~~9-10.~~ "Law enforcement officer" has the meaning of that term as set forth in section 12.1-01-04.
- ~~10-11.~~ "Quarantine" means confinement in a fixed area that keeps a ~~possibly rabid~~exposed animal secure and ~~isolated~~segregated from all other animals ~~and individuals~~ so there is no reasonable possibility of rabies being mechanically transmitted from the confined area.

- 11-12. "Vaccinated animal" means an animal that has been vaccinated in compliance with the 2016 compendium of animal rabies control issued by the national association of state public health veterinarians.
- 12-13. "Suspect rabies exposure" means an animal bitten or otherwise exposed to a wild carnivore, skunk, bat, or an animal, as determined by a veterinarian, which may have been exhibiting signs of rabies, and a rabies exposure could not be ruled out through laboratory testing.
14. "Wild mammalanimal" means any animal of the orderclass mammalia which is not a domestic animal and includes any hybrid of a domestic animal and a mammalwild animal regardless of whether the animal is:
- a. Wildlife as defined in section 20.1-01-02; or
 - b. Held in private ownership.

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

23-36-03. Enforcement authority.

1. The department, or an agency acting on the department's behalf, may promptly seize and ~~humanely kill~~ethanize, impound at the owner's expense, or quarantine any animal if the state health officer, or the state health officer's designee, has probable cause to believe the animal presents clinical ~~symptom~~signs of rabies.
2. The department, or an agency acting on the department's behalf, may promptly seize and ~~humanely kill~~ethanize, impound at the owner's expense, or quarantine any ~~wild mammal that is not currently vaccinated for rabies by a vaccine approved for use on that species by the national association of state public health veterinarians, inc., or any stray or unwanted domestic~~wild animal; if the state health officer, or the state health officer's designee, determines the animal is a threat to human life or safety due to the possible exposure of another animal or an individual to rabies.
3. ~~The department, or an agency acting on the department's behalf, may promptly seize and quarantine, or impound at the owner's expense, any dog, cat, or currently vaccinated ferret for a period of ten days, or any other domestic animal for a period not exceeding six months, if the state health officer, or the state health officer's designee, determines the animal is a threat to human life or safety due to the possible exposure of an individual to rabies. For domestic animals, the department may seize and quarantine or confine and observe an animal if the animal has bitten or otherwise exposed an individual or has been bitten or otherwise exposed to rabies or suspect rabies and the owner is unwilling or unable to comply with the department's recommendations. The department may seize and euthanize an animal if the animal has bitten or otherwise exposed an individual and is exhibiting signs of rabies, as diagnosed by a veterinarian. The department may seize, euthanize, or quarantine an animal if the animal was exposed to rabies or suspect rabies and never has been vaccinated against rabies and the owner is unwilling or unable to comply with the department's recommendations.~~
4. If an animal had died or is humanely killed under this section and there is a possible exposure of another animal or an individual to rabies, then at the request of the state health officer, or the state health officer's designee, the animal's brain must be tested for rabies by the ~~state microbiology laboratory of the department or by the North Dakota veterinary diagnostic laboratory.~~ The department may ~~conduct~~seek a diagnosis of rabies for farm animals, domestic animals, and wildlife that are suspected of having rabies and report findings as appropriate.
5. If an animal that has bitten or otherwise exposed an individual or another animal is not seized for testing, a law enforcement officer with jurisdiction over the place where the animal is

located may determine whether to impound or quarantine the animal under subsection 32 and which method of confinement to use.

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

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

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

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

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

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

23-36-06. Payment for postexposure treatment.

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

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

23-36-08. Limitation on liability.

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

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

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2092.

Senate Vote: Yeas 47 Nays 0 Absent 0

House Vote: Yeas 86 Nays 0 Absent 8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State