

CHAPTER 4.1-75 ESTRAYS

4.1-75-01. Definition.

In this chapter, unless the context otherwise requires, "estrays" means cattle, horses, or mules, whether branded or unbranded, whose ownership has not been determined.

4.1-75-02. Estrays - Possession.

1. If an individual discovers an estray on property that the individual owns or controls, the individual shall make a good-faith effort to:
 - a. Take possession of the estray;
 - b. Determine its ownership; and
 - c. Facilitate its return.
2. If the individual is unable to determine its ownership, the individual shall:
 - a. Notify the sheriff of the county in which the estray was found or the chief brand inspector, and:
 - (1) Provide to the sheriff or the chief brand inspector any information that may assist in determining ownership of the estray;
 - (2) Make the estray available for examination if requested by the chief brand inspector; and
 - (3) Follow the directives of the chief brand inspector regarding the estray's care and disposal; or
 - b. Deliver the estray to a livestock auction market in this state or to an out-of-state livestock auction market that receives brand inspection services under section 4.1-73-24 and notify the brand inspector that it appears to be an estray.
3. Any person failing to comply with this section is liable to the owner of the estray for treble damages and may not claim reimbursement for any expenses otherwise allowed under this chapter.

4.1-75-03. Notification - Record of date and time.

A county sheriff or the chief brand inspector shall make a record of the date and time that notification is received under section 4.1-75-02. The individual taking possession of the estray is not entitled to reimbursement for expenses incurred before the recorded date and time.

4.1-75-04. Estrays - Notification of chief brand inspector.

If an individual notifies a county sheriff that the individual has taken possession of an estray, the sheriff shall contact the chief brand inspector and relay any information regarding the estray.

4.1-75-05. Claiming estrays.

1. If before an estray is sold the chief brand inspector determines its owner, the individual who took possession of the estray shall return it to its owner, provided the owner reimburses the individual for all incurred expenses in accordance with the reimbursement schedule developed by the North Dakota stockmen's association or in any lesser agreed-to amount.
2. If the individual who took possession of the estray and its owner are unable to reach an agreement regarding the return of the estray, as provided for in subsection 1, the individual who took possession of the estray shall:
 - a. Deliver the estray to a livestock auction market in this state or to an out-of-state livestock auction market that receives brand inspection services under section 4.1-73-24; and
 - b. Notify the brand inspector that the estray is to be sold and that reimbursement for the individual's expenses must be paid from the proceeds of the estray's sale, in accordance with the reimbursement schedule developed by the North Dakota stockmen's association.

4.1-75-06. Reimbursement for costs - Schedule.

1. Except as otherwise provided in section 4.1-75-05, the individual taking possession of an estray in accordance with this chapter is entitled to receive reimbursement for incurred expenses in accordance with a reimbursement schedule developed by the North Dakota stockmen's association.
2. The amount reimbursable under this section must be deducted from the proceeds of the estray's sale. Any amount remaining thereafter must be forwarded to the North Dakota stockmen's association and submitted to the state treasurer for deposit in the North Dakota stockmen's association fund.

4.1-75-07. List of estrays - Publication - Proof of ownership.

1. Each December, the North Dakota stockmen's association shall publish at least twice in the official newspaper of each county, a list of all estrays found in the county and for which the association received sale proceeds during the preceding twelve months.
2. The association shall maintain and make available on its website an updated list of all estrays for which the association received sale proceeds during the preceding seventy-two months.
3. If a person demonstrates ownership of an estray to the satisfaction of the chief brand inspector within seventy-two months of the date on which the proceeds of its sale were distributed to the North Dakota stockmen's association, the association shall return to the owner the amount it received but shall retain any income earned on the amount.

4.1-75-08. Possession of estray - Immunity from liability.

1. If an individual, without being negligent, takes possession of an estray and complies with this chapter, that individual is not liable:
 - a. For any injury or damage caused by the estray while in the individual's possession or in the event the estray escapes; or
 - b. For any economic loss incurred by:
 - (1) The owner of the estray, if later identified; or
 - (2) Any other person having a claim to the estray.
2. If an individual, without being negligent, attempts to take possession of an estray in order to comply with this chapter, that individual is not liable:
 - a. For any injury or damage caused by the estray during the attempt to take possession; or
 - b. For any economic loss incurred by:
 - (1) The owner of the estray, if later identified; or
 - (2) Any other person having a claim to the estray.

4.1-75-09. Failure to comply with chapter - Penalty.

Any individual who takes possession of an estray and willfully fails to comply with this chapter is guilty of a class B misdemeanor.