

Fifty-sixth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Tuesday, the fifth day of January, one thousand nine hundred and ninety-nine

SENATE BILL NO. 2187
(Senators Solberg, Bowman, Tomac)
(Representatives Berg, DeKrey, Meyer)

AN ACT to provide for a special fund; to amend and reenact sections 36-01-30, 36-05-12, 36-09-18, 36-22-03, 36-22-04, and 36-22-08 of the North Dakota Century Code, relating to feedlot registration fees, brand recording and inspection fees, and estray inspections; to repeal section 36-22-05 of the North Dakota Century Code, relating to the estray fund; to provide for a continuing appropriation; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 36-01-30 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-01-30. Feedlot registration - Rules - Penalty. No person may operate a registered livestock feedlot without obtaining ~~from the commissioner~~ a registration number ~~from the chief brand inspector~~. The board may adopt rules for the operation of feedlots registered for the enforcement of brand inspection rules. Applications for registration must be made upon forms as may be prescribed by the board and must be accompanied by a fee equal to the fee charged for brand recording. All fees and any inspection fees established by the board must be remitted regularly to the state treasurer for deposit in the North Dakota stockmen's association fund. The board may adopt rules required for the purpose of assuring ~~that compliance with brand laws are complied with,~~ availability of brand inspection certificates are available, and maintenance of proper records are maintained. A registration issued under this section may be revoked or suspended for violation of any law or any rule adopted by the board under this section. In addition, any person violating this section or any rule adopted by the board under this section is guilty of a class B misdemeanor. This section does not prohibit the operation of nonregistered feedlots.

SECTION 2. AMENDMENT. Section 36-05-12 of the North Dakota Century Code is amended and reenacted as follows:

36-05-12. Operator to warrant title to purchaser - Dispute in title of animal sold. The operator of each livestock auction market shall warrant to the purchaser the title of all livestock bought by ~~him~~ the purchaser through ~~such~~ the auction market and is liable to the rightful owner of any livestock sold through the auction market for the net proceeds in cash received ~~therefor for the livestock~~. If the operator of an auction market is notified by an authorized brand inspector that there is a question as to whether or not any designated livestock sold through ~~such~~ the auction market is lawfully owned by the consignor ~~thereof of the livestock,~~ such the operator shall hold the proceeds received from the sale of the livestock for a reasonable time, not to exceed sixty days, to permit the consignor to establish ownership. At the expiration of such time, if the consignor fails to establish ~~his~~ lawful ownership of the livestock to the satisfaction of the brand inspector, the proceeds must be ~~paid into~~ remitted to the state treasurer for deposit in the estray North Dakota stockmen's association fund in accordance with ~~the provisions of~~ chapter 36-22.

SECTION 3. AMENDMENT. Section 36-09-18 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-09-18. Performance bond—Disposition Collection of fees - Continuing appropriation—Discrimination prohibited. ~~The North Dakota stockmen's association shall file with the secretary of state a performance bond in the amount of forty thousand dollars, payable to the state of North Dakota and conditioned upon the faithful performance of the requirements of this chapter. Any fees collected under this chapter must be deposited in the general fund of~~ remitted to the state treasurer for deposit in

the North Dakota stockmen's association fund. ~~The fees deposited under this chapter and section 36-22-03 are appropriated as a continuing appropriation to the North Dakota stockmen's association.~~ The North Dakota stockmen's association may not discriminate between or among members of the association and persons who are not members of the association with respect to fees, recordings, complaints, requests for assistance, and any other services to be provided under this chapter.

SECTION 4. AMENDMENT. Section 36-22-03 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

36-22-03. Rules - Fees for inspection. The board of animal health shall, with the advice of the officers of the North Dakota stockmen's association, ~~make~~ shall adopt rules regulating the inspection of cattle for brands at auction markets, packing plants, and buying stations and shall set the fees to be charged by the brand inspector. Brand inspectors under this chapter shall charge and collect fees for inspections on all shipments or consignments of cattle at livestock markets, at the rate authorized by the United States department of agriculture, and shall charge and collect fees for inspection at auction markets, buying stations, and packing plants as must be set by the board of animal health, ~~which funds, so.~~ The fees collected, must be paid into the general fund of remitted to the state treasurer for deposit in the North Dakota stockmen's association fund.

SECTION 5. AMENDMENT. Section 36-22-04 of the North Dakota Century Code is amended and reenacted as follows:

36-22-04. Collection of estray funds. ~~It is lawful for said A brand inspectors of said association to inspect~~ may receive and receipt for all funds from the sale of estray cattle and turn shall remit the same over funds to the state treasurer of said association for disbursement as hereinafter provided for deposit in the North Dakota stockmen's association fund.

SECTION 6. AMENDMENT. Section 36-22-08 of the North Dakota Century Code is amended and reenacted as follows:

36-22-08. Disposition of unclaimed receipts from sale of estrays. ~~Any funds in the hands of said association, or hereinafter received by it from the sale of estrays which are not claimed by the owners within one year from the posting of the notice provided for in section 36-22-07 must be turned in to the general fund of the association. All The North Dakota stockmen's association shall preserve all records relative to estrays must be preserved by the association for a period of six years subsequent to the time the money reverts to is deposited by the state treasurer in the general North Dakota stockmen's association fund of the association. Provided, however, that nothing herein bars. This section does not bar the lawful owner of any estray from maintaining an action against said the association for the recovery of any sum to which he the owner may be entitled within the period of limitation given by general law governing other claims for relief of like character if the action is commenced within six years after the sum is deposited.~~

SECTION 7. North Dakota stockmen's association fund - Continuing appropriation. The North Dakota stockmen's association fund is a special fund in the state treasury. The state treasurer shall deposit in the North Dakota stockmen's association fund all brand fees and estray funds received by the North Dakota stockmen's association in return for its performance of statutory duties and services and remitted to the state treasurer. All moneys in the North Dakota stockmen's association fund, together with all interest income earned by moneys in the fund, are appropriated on a continuing basis to the North Dakota stockmen's association to be used for the purpose of carrying out duties statutorily assigned to the association.

SECTION 8. REPEAL. Section 36-22-05 of the North Dakota Century Code is repealed.

SECTION 9. EMERGENCY. This Act is declared to be an emergency measure.

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 Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2187 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 48 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 91 Nays 2 Absent 5

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at ___ o'clock _____ M.

Secretary of State