

**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**

HOUSE BILL NO. 1276  
(Representative Berg)  
(Senator Solberg)

AN ACT to create and enact a new section to chapter 36-01, a new section to chapter 36-05, and a new section to chapter 36-14 of the North Dakota Century Code, relating to livestock unfit for sale and animals imported into the state; to amend and reenact sections 36-01-05, 36-01-07, 36-01-08, 36-01-08.1, 36-01-08.3, 36-01-08.4, 36-01-13, 36-01-14, 36-01-28, 36-05-01, subsection 4 of section 36-05-13.2, sections 36-07-07, 36-14-10, 36-14-20, 36-14-21, 36-15-01, 36-15-02, 36-15-08.1, 36-15-09, 36-15-14, 36-15-19, 36-15-21, 36-15-22, and subsection 1 of section 36-21.1-06 of the North Dakota Century Code, relating to the board of animal health, livestock auction markets, rendering plants, contagious and infectious livestock diseases, tuberculosis and brucellosis eradication in animals, and humane treatment of animals; to repeal sections 36-14-04, 36-14-05, 36-14-06, 36-14-07, 36-15-08, and 36-15-12 of the North Dakota Century Code, relating to horses, cattle, sheep, and swine imported into the state, compensation for owners of animals infected with tuberculosis or paratuberculosis, and bovine tuberculosis and brucellosis funds; to provide a penalty; and to provide for a legislative council study.

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

**SECTION 1. AMENDMENT.** Section 36-01-05 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-05. State veterinarian - Appointment.** The commissioner shall, with the consent of the board, appoint the state veterinarian and deputy state veterinarian. ~~However, the commissioner's first appointments to the positions of state veterinarian and deputy state veterinarian must be the persons serving in those capacities for the board of animal health on the day before August 1, 1995.~~ The state veterinarian and deputy state veterinarian must be competent and skilled veterinarians and graduates of a veterinary medicine and surgery course at a recognized college or university. The commissioner may remove the state veterinarian or deputy state veterinarian for cause. At the request of the board, the commissioner shall deputize persons licensed to practice veterinary medicine in this state as assistant state veterinarians. Deputized persons shall serve during periods of emergency and only for the time period determined by the board.

**SECTION 2. AMENDMENT.** Section 36-01-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-07. ~~Bacteriologist and consulting~~ Consulting veterinarian of board - Duties - Compensation.** ~~The professor of veterinary science of the North Dakota state university of agriculture and applied science shall~~ board shall choose a veterinarian on staff at North Dakota state university to act as ~~bacteriologist and consulting~~ veterinarian to the board. ~~The bacteriologist term of appointment is open and at the will of the board. At the discretion of the board, the consulting veterinarian, or any United States department of agriculture approved laboratory shall make bacteriological or pathological diagnostic examinations of all diseased animals or portions thereof or of such material as may be forwarded to the bacteriologist by the board or the commissioner's duly authorized agents. The bacteriologist shall furnish material for the diagnosis of contagious diseases and instruction as to its use.~~ For services, the ~~bacteriologist consulting veterinarian or United States department of agriculture approved laboratory~~ consulting veterinarian or United States department of agriculture approved laboratory is entitled to receive such compensation as the commissioner may deem proper, which must be paid out of the fund appropriated for the use of the commissioner.

**SECTION 3. AMENDMENT.** Section 36-01-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-08. Duties - Rules - Fees.** The board shall protect the health of the domestic animals and nontraditional livestock of this state, shall determine and employ the most efficient and practical means for the prevention, suppression, control, and eradication of dangerous, contagious, and infectious diseases among the domestic animals and nontraditional livestock of this state, and shall prevent the escape and release of an animal injurious to or competitive with agriculture, horticulture, forestry, wild animals, and other natural resource interests. For the purpose of preventing the escape and release of an animal injurious to or competitive with agriculture, horticulture, forestry, wild animals, and other natural resource interests, the board may, by rule, quarantine any such animal, cause any such animal to be killed, regulate or prohibit the arrival in or departure from this state of any such animal, and at the cost of the owner thereof, the board may detain any animal found to be in violation of any rule or prohibition. Any matter relating to the health and welfare of domestic animals and nontraditional livestock and not specifically assigned by statute to another entity is deemed to be within the authority of the board. The board may make rules to carry into effect the purposes of this chapter and other duties prescribed in this title. The commissioner shall collect six cents for each brucellosis tag and each identification tag and eight dollars for each health book the commissioner distributes. The fees collected by the commissioner must be deposited in the state general fund.

**SECTION 4. AMENDMENT.** Section 36-01-08.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-08.1. ~~Captive-wildlife~~ Nontraditional livestock license - Fee.** The board of animal health may require a license for ~~captive-wildlife~~ nontraditional livestock maintained within this state. The annual fee for a license for a bird species required to be licensed is ~~five~~ seven dollars. The maximum annual fees for bird species licenses to be paid by a person holding more than one bird species license is ~~twenty-five~~ forty dollars. The annual fee for a license for any other species required to be licensed is ~~ten~~ fifteen dollars. The maximum annual fees for nonbird species licenses to be paid by a person holding more than one nonbird species license is ~~seventy-five~~ one hundred dollars.

**SECTION 5. AMENDMENT.** Section 36-01-08.3 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-08.3. Duties - Evaluations - Report.** ~~The board and the commissioner shall conduct performance evaluations of the state veterinarian and any assistant state veterinarians; review the short term and the long term role and mission of the board and its employees; review alternatives for the enhancement of, and the efficient delivery of, services provided by the board and its employees; and evaluate the consolidation and cooperation with the department of agriculture. The board shall report to the governor and the legislative council before September 1, 1996, and each year thereafter.~~

**SECTION 6. AMENDMENT.** Section 36-01-08.4 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-08.4. Ownership of skunks and raccoons prohibited - Exception - Rules -~~Penalty on primates, wolves, and wolf hybrids.~~** ~~No~~ A person may not keep a skunk or raccoon in captivity. This section does not apply to a zoo licensed by the ~~regulatory enforcement and~~ animal care program of the animal and plant health inspection service of the United States department of agriculture. The state veterinarian shall confiscate and dispose of any animal kept in violation of this section. The board shall adopt rules governing the keeping of a primate, wolf, or wolf hybrid in captivity and to implement this section. As used in this section, "primate" does not include a human being; "wolf" means any animal of the species canis lupus; and "wolf hybrid" means any animal that is any part wolf. ~~A person who willfully violates this section is guilty of a class B misdemeanor.~~

**SECTION 7.** A new section to chapter 36-01 of the North Dakota Century Code is created and enacted as follows:

**Confiscation of nontraditional livestock held in violation of this chapter.**

1. The state veterinarian, or the state veterinarian's designee, a police officer, sheriff, or other law enforcement officer may seize any nontraditional livestock located on private property from the animal's owner or custodian if probable cause exists to believe that the animal is being held in violation of this chapter or rules adopted under this chapter. Unless it is

shown that there exists an exigency or occasion as to require the immediate confiscation, an animal may not be seized until a hearing is held allowing the owner or custodian to show cause why the animal should not be confiscated. If exigent circumstances exist, an ex parte order may be issued authorizing seizure of the animal if probable cause appears to the court that:

- a. The animal is in immediate danger of being released into the wild, destroyed, concealed, removed from the state, or sold or given to an innocent party.
- b. The animal is infected with any contagious or infectious disease capable of being spread to animals or humans.

All animals seized must be held subject to the order of a court of competent jurisdiction. Whenever probable cause exists for a preconfiscation hearing, the owner or custodian of the animal must be notified in writing that, on the day fixed for a hearing, which may not be less than three days from the date of receipt of notice, the owner or custodian may appear or show cause why the animal should not be confiscated. Notice must be delivered to the owner or custodian by personal service or registered mail to that person's last-known mailing address. An affidavit of service or the post-office registration receipt signed by the owner or custodian is prima facie evidence of service of notice.

2. Upon request by the person confiscating the animal, the board, the state department of health, the game and fish department, any county sheriff's office, city police department, or other peace officer may provide assistance in any action to seize, impound, confiscate, or quarantine any animal suspected of being held or possessed in violation of this title.
3. A court having jurisdiction of an alleged offense under this title or rules adopted under this chapter may order the disposition of all animals that have been confiscated. This order may be entered only after a hearing duly had upon proper notice to the owner or custodian and after a finding by the court that the animal was being held or possessed in violation of this title at the time it was seized.
4. When any nontraditional livestock is found to be held or possessed contrary to this chapter, the court may:
  - a. Order the animal to be forfeited by its owner or custodian and that the animal be destroyed or disposed of otherwise. The court may order disposition to a zoo licensed by the animal care program of the animal and plant health inspection service of the United States department of agriculture if the zoo requests possession upon confiscation of the animal; or
  - b. Order the return of custody to the owner or custodian upon compliance with all applicable state and local regulations governing ownership and possession of nontraditional livestock, including payment of any license fees.

The court may award reasonable costs of seizure, care, and keeping pending disposition, and attorneys' fees to the agency bringing an action to confiscate any nontraditional livestock under this title.

5. Subject to section 32-12.2-02, the owner of an animal may bring a claim for money damages, and may recover the amount of actual damages incurred during the time of seizure, if the owner establishes that before the animal was seized under this chapter, the agency knew or recklessly failed to determine that the animal, at the time of seizure, was lawfully owned and licensed in this state or that the animal was a domestic animal not subject to seizure under this chapter.

**SECTION 8. AMENDMENT.** Section 36-01-13 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-13. Diseased animal to be reported - Records exempt.**

1. Any person who discovers, suspects, or has reason to believe that any domestic animal or nontraditional livestock belonging to that person or belonging to any other person, is affected by any reportable contagious disease as defined by the board, shall report that knowledge, suspicion, or belief to:
  1. ~~The~~ the state veterinarian or any other agent or representative of the commissioner;~~or~~
  2. ~~Any law enforcement officer of the county or city in which the animal is present. If a report is made to a law enforcement officer under this subsection, the officer shall report the facts immediately to the commissioner or the state veterinarian and failure to do so constitutes a violation of this chapter.~~
2. The records are exempt from open records laws, except those records concerning diseases that are specifically regulated by mandatory control and eradication programs or to protect public health.

**SECTION 9. AMENDMENT.** Section 36-01-14 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-14. Protest against killing of diseased animal - Examination of animal by experts - Appointment of experts.** Whenever a domestic animal or nontraditional livestock has been determined to be affected with a contagious or infectious disease and has been ordered killed by the board, the state veterinarian, or an agent or representative of the board, the owner or keeper of the animal must be notified of the order. Notice may be accomplished by sending, by registered mail, a copy of the order to the owner or keeper of the animal, or by having an agent or representative of the board, ~~or a law enforcement officer,~~ serve a copy of the order upon the owner or keeper of the animal. Within twenty-four hours after receiving notice of the order, the owner or keeper may file a protest against the killing of the animal with the board or with the person who has ordered the animal killed. The protest must state under oath, that to the best of the knowledge and belief of the person making the protest, the animal is not infected with any contagious or infectious disease. An examination of the animal or laboratory reports involved then must be made by three experts, one of whom must be appointed by the board, one by the person making the protest, and the third by the two thus appointed. All the experts must be persons learned in veterinary medicine and surgery and graduates of the veterinary course of a recognized college or university.

**SECTION 10. AMENDMENT.** Section 36-01-28 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-01-28. Enforcement orders - Administrative hearing - Penalty.**

1. Except when otherwise ordered by a court of competent jurisdiction, the board may order any domestic animal or nontraditional livestock brought into this state which is not in compliance with the provisions of this chapter to be returned to the state of origin, or in the alternative, the board may order the animal slaughtered or destroyed. The board may grant an exception for any nontraditional livestock if a zoo licensed by the animal care program of the animal and plant health inspection service of the United States department of agriculture takes possession upon confiscation of the animal.
2. If, after a hearing, the board finds that a person has brought, kept, or received any domestic animal or nontraditional livestock in this state and the animal or livestock is not in compliance with the provisions of this chapter or rules adopted under this chapter, a civil penalty not to exceed five thousand dollars per violation may be assessed against that person.
3. Any person who violates any of the provisions of this chapter for which a specific penalty is not provided, or who knowingly violates any rule adopted by the board ~~of animal health,~~ is guilty of ~~a class B misdemeanor~~ an infraction.

**SECTION 11. AMENDMENT.** Section 36-05-01 of the North Dakota Century Code is amended and reenacted as follows:

**36-05-01. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" means the commissioner of agriculture.
2. "Livestock" means horses, mules, asses, bison, cattle, swine, sheep, and goats.
3. "Livestock auction market" means a place or establishment conducted or operated for compensation or profit as a public market or a private buying station, consisting of pens or other enclosures and their appurtenances, in which livestock is received, held, or kept for sale and where such livestock is sold or offered for sale, at either public auction or private sale.

**SECTION 12.** A new section to chapter 36-05 of the North Dakota Century Code is created and enacted as follows:

**Livestock unfit for sale.** Livestock may not be offered for sale or sold at any licensed public livestock auction market if the livestock has a condition including the following:

1. Is infected with a disease that permanently renders the livestock unfit for human consumption;
2. Has severe neoplasia;
3. Has severe actinomycosis;
4. Is unable to rise to its feet by itself; or
5. Has an obviously fractured long bone or other fractures or dislocation of a joint that renders the livestock unable to bear weight on the affected limb without the limb collapsing.

If, in the judgment of a veterinarian licensed in this state and approved by the board of animal health, the livestock consigned and delivered on the premises of a livestock auction market is in any of the conditions described above, the veterinarian shall humanely euthanize the livestock or direct the consignor to immediately remove the livestock from the premises of the livestock auction market. All expenses incurred for euthanasia and disposal of the livestock under the provisions of this section are the responsibility of the consignor. Collection of expenses is not the responsibility of the consignee.

**SECTION 13. AMENDMENT.** Subsection 4 of section 36-05-13.2 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. Fail to notify the commissioner of the receipt of a nonsufficient funds check as required by section ~~36-04-07.1~~ 36-05-09.1;

**SECTION 14. AMENDMENT.** Section 36-07-07 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-07-07. Unloading chutes and vehicles used by rendering plant - Regulations governing.** All unloading places or chutes used by a rendering plant or establishment must be on cement floors ~~which that~~ can be cleaned and disinfected. Every vehicle used for transporting carcasses of dead animals to a rendering plant or establishment must:

1. Be provided with a bed or tank not less than fifty inches [127 centimeters] in width which is all metal, metal lined, or watertight for at least six inches [15.24 centimeters] above the floor of the box or bed.
2. Have a metal lined endgate ~~which that~~ is hinged at the bottom of the bed or box and is fastened firmly to the top of the bed or box when closed.
3. Be so constructed that the sides, top, and endgate thereof will prevent flies and other insects from entering the vehicle.

4. Carry a tank filled with a ~~four percent solution of cresol approved by the state veterinarian for use as a disinfectant, or other disinfectant as prescribed by the rules adopted by the state board of animal health.~~
5. Be disinfected with the solution described in subsection 4 after it has been used for collecting a dead animal at a farm and before it enters upon any public highway of this state, and special attention must be given to all those parts of the vehicle which came in contact with the ground while upon the premises.
6. Be thoroughly washed and disinfected with the solution described in subsection 4 or with live steam, or both, after it has been unloaded at the rendering plant.

The operator of any such vehicle shall ~~disinfect himself~~ wash with disinfectant, paying special attention to ~~his~~ disinfecting the operator's hands and footwear, with the solution described in subsection 4 immediately after leaving any farm at which ~~he~~ the operator has collected the carcass of a dead animal.

**SECTION 15.** A new section to chapter 36-14 of the North Dakota Century Code is created and enacted as follows:

**Animals imported into state to have certificate of veterinary inspection - Exception.**

1. Except as otherwise provided by this chapter or by rule, all domestic animals and nontraditional livestock brought into this state must be accompanied by a certificate of veterinary inspection certifying that the animals are free from symptoms of all contagious and infectious diseases, and that the animals meet disease testing and vaccination requirements prescribed by rule. Animals originating in other countries must be tested for diseases, as determined by the board, until a risk assessment is completed for the disease. If the board determines that an unacceptable risk exists, the board may deny entry, require additional testing, or require a vaccination.
2. The requirement for a certificate of veterinary inspection is waived for cattle, sheep, or swine originating directly from a producer's premises and not diverted en route, if the waiver is approved by the state veterinarian and the cattle, sheep, or swine are delivered for sale directly to a licensed auction market or other premises approved by the state veterinarian.
3. The board may require certification indicating that animals entering this state from a foreign country and intended for human consumption have not been treated with drugs that are disallowed under federal law for use in animals intended for human consumption.
4. The board may adopt rules to implement this section.

**SECTION 16. AMENDMENT.** Section 36-14-10 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-14-10. Shipments of ~~cattle, swine, and sheep~~ animals for immediate slaughter.** Shipments into this state of ~~cattle, swine, and sheep~~ animals for immediate slaughter may be permitted without a certificate of veterinary inspection only if the ~~livestock~~ animals are not diverted en route and are delivered directly to a slaughtering establishment approved by the commissioner of agriculture.

**SECTION 17. AMENDMENT.** Section 36-14-20 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-14-20. Duty of overseer of highways ~~or coroner~~ when carcass of dead animal is found - Fees - Recovery of expense.** If the owner or person in charge of a dead animal fails to comply with the provisions of section 36-14-19, the overseer of highways, ~~or the county coroner in a district which has no overseer,~~ shall comply with the provisions of section 36-14-19 for the owner or person. If burial of the animal is permitted, the burial may be made upon the premises of the owner or person in charge of the animal at any place more than one thousand feet [304.8 meters] from any dwelling house or barn. The board of county commissioners shall allow in payment a sum for disposal services as it deems to be reasonable, and the sum must be paid as other moneys are paid for services rendered to

the county. The owner of the animal is liable to the county for any amount paid out for disposal services. If the owner does not pay that amount within thirty days after written demand for payment is made upon ~~him~~ the owner by the county auditor, the sum may be recovered in a civil action, and the judgment must include the costs of the suit and a reasonable attorney's fee to be fixed by the court. No property except absolute exemptions is exempt from sale for the payment of any such judgment. Any attorney's fee allowed by the court must be paid to the county if the action is brought by the state's attorney.

**SECTION 18. AMENDMENT.** Section 36-14-21 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-14-21. Enforcement orders - Administrative hearing - Penalty.**

1. The board may order any domestic animal or nontraditional livestock brought into this state which is not in compliance with the provisions of this chapter to be returned to the state of origin, or in the alternative, the board may order the animal slaughtered or destroyed.
2. If, after a hearing, the board finds that a person has brought, kept, or received any domestic animal or nontraditional livestock in this state and the animals or livestock are not in compliance with the provisions of this chapter or rules adopted under this chapter, a civil penalty not to exceed five thousand dollars per violation may be assessed against that person.
3. Any person who knowingly violates any rule of the ~~state board of animal health~~, or who violates any provision of this chapter for which another penalty is not provided, is guilty of a ~~class A misdemeanor~~ an infraction.

**SECTION 19. AMENDMENT.** Section 36-15-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-15-01. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Animals" means ~~neat-cattle~~ bovine animals or bison.
2. "Board" means the state board of animal health.
3. "Diseased", when used to describe any animals, means animals infected with either bovine tuberculosis or ~~paratuberculosis (Johne's disease)~~ brucellosis.
4. The singular of any term imports the plural and the plural of any term includes the singular.

**SECTION 20. AMENDMENT.** Section 36-15-02 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-15-02. Notice of condemnation of diseased animal - Animal to be destroyed within fifteen days - Extension of time.** Whenever any animal has been adjudged by the board to be infected with bovine tuberculosis or brucellosis, the board or its authorized agent shall serve a written notice of its decision upon the owner or keeper of the animal before the condemned animal is killed. The animal must be destroyed within fifteen days after notice of condemnation, in either a federal or state inspected slaughtering plant, or under the supervision of an agent of the board. The fifteen-day period may be extended by the state veterinarian if that person deems it advisable due to the circumstances involved in each case, and the extension must be in writing. The notice must advise the owner or keeper of that person's right to protest against the diagnosis and determination of the board within twenty-four hours after the service of the notice upon that person. If no protest is made within such time by the owner or keeper of the condemned animal, it must be appraised in the manner provided in this chapter.

**SECTION 21. AMENDMENT.** Section 36-15-08.1 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-15-08.1. Owner entitled to compensation for cattle animals infected with or exposed to brucellosis or bovine tuberculosis - Board of animal health may make rules governing payments.** When, in the discretion and judgment of the board of animal health, a herd of cattle ~~an animal~~ is so seriously infected with ~~bovine~~ brucellosis, or bovine tuberculosis as to warrant disposal of the ~~entire herd animal and all other exposed animals~~, the board is hereby authorized to approve indemnity payments, as funds are appropriated, on ~~all cattle in such herds~~ the animals in accordance with the limits set forth in section 36-15-09. The board may make reasonable rules governing the payment of such compensation within the limits prescribed in this chapter.

**SECTION 22. AMENDMENT.** Section 36-15-09 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-15-09. Return of appraisal - Payment of claims for diseased animals.** The return of an appraisal made under this chapter must be in writing and signed by the board or by the agent thereof which made the appraisal, or by the members of the board of appraisers if a reappraisal is made after a protest, and by the owner of the condemned animal. The return must be certified by the commissioner of agriculture to the state auditor, who shall draw a warrant upon the state treasurer in favor of the owner of the animal. The amount of indemnity paid by this state, however, must be, in the case of an animal condemned because it is infected with bovine tuberculosis or paratuberculosis brucellosis, one-third of the difference between the appraised value of the animal and the net value of the salvage received by the owner, however, the indemnity payments may not exceed twenty-five dollars for each grade animal or fifty dollars for each registered purebred animal, except, that if the federal government fails to provide an amount of indemnity equal to that provided by the state, the owner must be paid one-half of the difference between the appraised value of the animal and the net value of the salvage thereof. Before any indemnity payment is made for such registered purebred animals, a certificate of registration in a recognized herdbook must be submitted to the state veterinarian prior to the date set for slaughter of said animal. This state is not liable for indemnity under this chapter in excess of the amount appropriated for the payment of such indemnity by the legislative assembly and the state is not liable for indemnity for any animal killed during a biennium after the appropriation for such biennium has been exhausted.

**SECTION 23. AMENDMENT.** Section 36-15-14 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-15-14. Cattle Animals not to be permitted to enter state or area circumscribed by board for testing purposes.** The ~~commissioner~~ state veterinarian shall enforce the tuberculin testing or the brucellosis testing of all cattle animals entering the state as prescribed by rule or in a circumscribed area as established by the board in accordance with the provisions of this chapter providing for the eradication of bovine tuberculosis or brucellosis, as the case may be, and the rules of the board relating to eradication. Whenever a circumscribed area is established by the board as an area in which all cattle animals are to be tuberculin tested or brucellosis tested, as the case may be, and the test is undertaken under the direction of the board, no other cattle animals may be permitted to enter the area except under a special permit and restrictions provided by the board unless:

1. If the animals in the area ~~is~~ are to be tuberculin tested, the cattle animals entering the area have been tuberculin tested under the direction of an agent of the board or are accompanied by a proper tuberculin test certificate ~~of veterinary inspection.~~
2. If the animals in the area ~~is~~ are to be brucellosis tested, the cattle animals entering the area have been brucellosis tested under the direction of an agent of the board or are accompanied by a proper brucellosis test certificate ~~of veterinary inspection.~~

**SECTION 24. AMENDMENT.** Section 36-15-19 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-15-19. Penalty for violation of provisions relating to testing of livestock animals.** Any person who ~~refuses to assist in or~~ attempts to prevent the board or the commissioner from carrying out this chapter, or who violates any of the provisions of this chapter relating to the testing of cattle animals, is guilty of a ~~class B misdemeanor~~ an infraction.

**SECTION 25. AMENDMENT.** Section 36-15-21 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-15-21. Calfhood vaccination against brucellosis required - Penalty.** No person may bring into this state any female cattle over the maximum vaccination age as prescribed in the brucellosis eradication uniform methods and rules approved and published by the United States department of agriculture, animal and plant health inspection service, ~~for dairy or breeding purposes within this state,~~ that have not been officially calfhood vaccinated against brucellosis. Female cattle originating from free states that do not require North Dakota-origin female cattle to be calfhood brucellosis vaccinated are exempt from the requirements of this section. A person who brings cattle into this state from other free states that reciprocate shall prove that the cattle were located in that state for a period of at least sixty days. "Officially calfhood vaccinated" means a bovine female animal vaccinated against brucellosis under the supervision of a federal or state veterinary official or an accredited veterinarian within age limits prescribed by the board in compliance with United States department of agriculture uniform methods and rules, with a vaccine approved by the North Dakota state veterinarian, and permanently identified as such a vaccinate and reported at the time of vaccination to the appropriate state or federal agency cooperating in the eradication of brucellosis. However, the board may grant an exception to the provisions of this section. An appeal may be taken from the decision of the board under the provisions of chapter 28-32. Any person who brings into this state or acquires within this state any cattle contrary to the provisions of this section, is guilty of a class A misdemeanor.

**SECTION 26. AMENDMENT.** Section 36-15-22 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**36-15-22. Enforcement orders - Administrative hearing - Penalty.**

1. The board may order ~~cattle~~ animals brought into the state which are not in compliance with the provisions of this chapter to be returned to their state of origin, or in the alternative, the board may order the ~~cattle~~ animals to be slaughtered or destroyed.
2. If, after a hearing, the board finds that a person has brought, kept, or received ~~cattle~~ animals in this state and the ~~cattle~~ animals are not in compliance with the provisions of this chapter or rules adopted under this chapter, a civil penalty not to exceed ~~two~~ five thousand ~~five hundred~~ dollars per violation may be assessed against that person.

**SECTION 27. AMENDMENT.** Subsection 1 of section 36-21.1-06 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. Any sheriff, police officer, licensed veterinarian, or investigator may take custody of, and care for any animal found abandoned, unjustifiably exposed to cold or inclement weather, or not properly fed and watered. Any sheriff or police officer may use reasonable means to enter a motor vehicle and remove an animal that has been left in the vehicle in violation of section 36-21.1-03.1. ~~It is a responsibility of such~~ A sheriff, police officer, licensed veterinarian, or investigator ~~to~~ may care for the ~~same~~ animal until it is redeemed by the owner and when necessary may deliver the animal to another person or facility to be sheltered, cared for, and furnished suitable food and drink. In all cases the owner, if known, must be immediately notified, or if the owner is unknown, notice must be given by publication in the manner prescribed by law. Such notice must inform the owner that such animal may be sold, or otherwise disposed of, pursuant to court order if the animal is not redeemed within five days after receiving the notice or after publication.

**SECTION 28. REPEAL.** Section 36-15-12 of the North Dakota Century Code and sections 36-14-04, 36-14-05, 36-14-06, 36-14-07, and 36-15-08 of the 1997 Supplement to the North Dakota Century Code are repealed.

**SECTION 29. LEGISLATIVE COUNCIL STUDY.** The legislative council shall consider studying the state board of animal health, including its membership, its representation, and the nature and scope of its regulatory authority over nontraditional livestock. The legislative council shall report

any findings, and recommendations, together with any legislation required to implement the recommendations, to the fifty-seventh legislative assembly.

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1276.

House Vote:      Yeas    92      Nays    0      Absent    6

Senate Vote:    Yeas    46      Nays    0      Absent    3

\_\_\_\_\_  
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