

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

SENATE BILL NO. 2142
(Senator Lyson)
(Representative Wieland)

AN ACT to amend and reenact sections 11-15-07, 11-15-08, 11-15-09, and 23-15-04 of the North Dakota Century Code, relating to fees and commissions collected by sheriffs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 11-15-07 of the North Dakota Century Code is amended and reenacted as follows:

11-15-07. County fees. The sheriff shall charge and collect the following fees on behalf of the county:

1. For serving a summons, writ of attachment, writ of execution, subpoena, notice of motion, or other notice or order of the court, order of replevin, injunctive order, citation, or any other mesne process and making a return thereon, in addition to the actual incurred costs of postage and long-distance telephone calls a total of ~~ten~~ twenty dollars for each person served.
2. For making a return of not-found, ~~ten~~ twenty dollars.
3. For taking and filing a bond in claim and delivery or any other undertaking to be furnished and approved by the sheriff, ~~ten~~ twenty dollars.
4. For making a copy of any process, bond, or paper, other than as is herein provided, two dollars per page.
5. For levying or executing any writ, ~~twenty-five~~ forty dollars.
6. For calling an inquest to appraise any goods and chattels that the sheriff may be required to have appraised, ~~ten~~ twenty-five dollars, and each appraiser ~~shall~~ is entitled to receive ~~fifty~~ one hundred dollars to be taxed as costs.
7. For advertising a sale by means of a sheriff's notice of sale, in addition to any publishing fees, ~~ten~~ twenty dollars.
8. For making a deed to land sold on execution or ~~pursuant to~~ under an order of sale, ~~ten~~ twenty dollars.
9. For issuing a certificate of redemption when property has been redeemed from a sale under execution or upon the foreclosure of a mortgage, ~~ten~~ twenty dollars.
10. For selling real or personal property under foreclosure of any lien or mortgage, ~~fifty~~ seventy-five dollars.
11. For boarding prisoners, a sum to be determined by the board of county commissioners, by resolution in advance, which sum must be per meal for meals actually served, and ~~must be~~ may not be less than two dollars for breakfast, two dollars and fifty cents for dinner, and three dollars and fifty cents for supper.

SECTION 2. AMENDMENT. Section 11-15-08 of the North Dakota Century Code is amended and reenacted as follows:

11-15-08. Commissions collected by sheriff.

1. Except as provided in section 11-15-09, the sheriff is entitled to collect commissions on behalf of the county on all moneys received and disbursed by the sheriff on an execution, order of sale, order of attachment, requisition in claim and delivery, or decree for the sale of real or personal property as follows:
 - a. On the first one thousand dollars, ~~fifty~~ seventy-five dollars.
 - b. On all moneys in excess of one thousand dollars, one percent.
2. Except as provided in subsection 3, if no sale is held under subsection 1, the sheriff may not collect a commission.
3. If personal property is taken by the sheriff on an execution, under a requisition in claim and delivery, or under a writ of attachment and applied in satisfaction of the debt without sale, the sheriff is entitled to collect the commission specified in subsection 1 based upon the appraised value of the property. The sheriff shall deliver the commissions to the county treasurer under section 11-15-14.

SECTION 3. AMENDMENT. Section 11-15-09 of the North Dakota Century Code is amended and reenacted as follows:

11-15-09. Allowances when plaintiff bids in property at sale. When the person in whose favor an execution or order of sale has been issued by the court bids in the property sold under the execution or pursuant to the judgment, the sheriff or other person making the sale shall collect on behalf of the county either of the following fees, and no more:

1. When the amount for which the property is bid on does not exceed one thousand dollars, ~~twenty~~ forty dollars.
2. When the amount for which the property is bid on exceeds one thousand dollars, ~~thirty~~ seventy-five dollars.

SECTION 4. AMENDMENT. Section 23-15-04 of the North Dakota Century Code is amended and reenacted as follows:

23-15-04. Exceptions. ~~Nothing in this~~

1. This chapter prohibits the following does not prohibit:
 1. a. ~~Any~~ A licensed wholesaler, dealer, or jobber from selling at wholesale fireworks ~~which that are not herein~~ prohibited.
 2. b. The sale of any kind of fireworks for shipment directly out of the state.
 3. c. The use of fireworks by ~~airplanes, railroads, or other~~ transportation agencies for signal purposes or illumination.
 4. d. The sale or use of blank cartridges for a show or theater, for signal or ceremonial purposes in athletics or sports, or for use by military organizations.
2. ~~Application~~ An application for a license as distributor must be made to the state fire marshal on forms prescribed by the state fire marshal. ~~Application~~ An application for a license as a retailer must be made to the county sheriff on forms prescribed by the state fire marshal. Each application must be accompanied by the required fee, which must be two hundred fifty dollars for a distributor's license and ~~five~~ twenty dollars for a retailer's license. Fees for distributors' licenses must be deposited in the general fund in the state treasury and fees for retailers' licenses must be deposited in the county general fund. The

license is valid only for the calendar year in which issued and must at all times be displayed at the place of business of the licensee. The licenses are in addition to any other license required by law or municipal ordinance. The licensing provisions of this section do not, ~~however,~~ apply to a retailer who is required to become licensed by any municipality. Any license fee levied by a municipality must be deposited in the municipality's general fund.

~~It is unlawful for any~~ A person not licensed as a wholesaler or retailer ~~to~~ may not bring any fireworks into this state, and ~~it is unlawful for any a~~ retailer in this state to may not sell any fireworks ~~which that~~ have not been purchased from a wholesaler licensed under this chapter. ~~Any persons~~ A person licensed under this chapter shall keep available for inspection by the state fire marshal or any sheriff, police officer, or local fire marshal a copy of each invoice for fireworks purchased as long as any fireworks included on the invoice are held in the licensee's possession, which invoice must show the license number of the wholesaler from whom the purchase was made.

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-ninth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2142.

Senate Vote: Yeas 44 Nays 3 Absent 0

House Vote: Yeas 81 Nays 8 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State