

Introduced by

Agriculture Committee

(At the request of the Department of Health)

1 A BILL for an Act to amend and reenact sections 23-36-01, 23-36-03, 23-36-05, 23-36-06, and  
2 23-36-08 of the North Dakota Century Code, relating to rabies control.

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

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

6 **23-36-01. Definitions.**

7 As used in this chapter:

8 1. "Bite" means any penetration of the skin by an animal's teeth.

9 2. "Clinical ~~symptoms~~signs of rabies" means physical signs ~~or symptoms~~ or animal  
10 behavior that would lead a reasonably prudent veterinarian to ~~conclude that a~~  
11 ~~diagnosis of possible~~suspect an infection of rabies and the pursuit of a rabies  
12 diagnosis is indicated.

13 3. "Confinement" means separation of an animal from humans, other than the owner,  
14 caretaker, a member of the owner's family, or the caretaker's employees, and from  
15 other animals, by means of a building, cage, fence, pen, or other secure enclosure  
16 that restricts the animal's movement within definite boundaries and prevents the  
17 animal from exiting the enclosure.

18 4. "Department" means the state department of health.

19 5. "Domestic animal" means any dog [canis familiaris], cat [felis domestica], horse, mule,  
20 bovine animal, sheep, goat, bison, llama, alpaca, swine, or captive-bred, ~~currently~~  
21 ~~vaccinated~~ ferret.

22 6. "Emergency" means a situation in which an immediate search and seizure of an  
23 animal is necessary and authorized by section 8 of article I of the Constitution of North

1           Dakota and the fourth amendment to the Constitution of the United States because of  
2           a risk of death or serious bodily injury to a human or another animal.

3           7. "Euthanasia" means the use of humane techniques to induce the most rapid, painless,  
4           and distress-free death possible in an animal.

5           ~~8.~~ "Exposure to rabies" means any bite or scratch, and includes any nonbite contact ~~of~~  
6           ~~an individual~~ with an animal, animal tissue, or fluids ~~that are~~ which is defined as an  
7           exposure to rabies by the federal advisory committee on immunization practices  
8           referred to in Public Law No. 103-66 [107 Stat. 636, 642; 42 U.S.C. 1396s(e)].

9           ~~8-9.~~ "Impound" means quarantining an animal at a public pound or an animal facility of a  
10           licensed veterinarian.

11          ~~9-10.~~ "Law enforcement officer" has the meaning of that term as set forth in section  
12          12.1-01-04.

13          ~~10-11.~~ "Quarantine" means confinement in a fixed area that keeps ~~a possibly rabid~~ an  
14          exposed animal secure and ~~isolated~~ segregated from all other animals and individuals  
15          so there is no reasonable possibility of rabies being mechanically transmitted from the  
16          confined area.

17          ~~11-12.~~ "Vaccinated animal" means an animal that has been vaccinated in compliance with the  
18          2016 compendium of animal rabies control issued by the national association of state  
19          public health veterinarians.

20          ~~12-13.~~ "Suspect rabies exposure" means an animal bitten or otherwise exposed to a wild  
21          carnivore, skunk, bat, or an animal, as determined by a veterinarian, which may have  
22          been exhibiting signs of rabies, and a rabies exposure could not be ruled out through  
23          laboratory testing.

24          ~~14.~~ "Wild ~~mammal~~ animal" means any animal of the ~~order~~ class mammalia which is not a  
25          domestic animal and includes any hybrid of a domestic animal and a ~~mammal~~ wild  
26          animal regardless of whether the animal is:

- 27           a. Wildlife as defined in section 20.1-01-02; or  
28           b. Held in private ownership.

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

1       **23-36-03. Enforcement authority.**

- 2       1. The department, or an agency acting on the department's behalf, may ~~promptly~~ seize  
3       and ~~humanely kill~~ euthanize, impound at the owner's expense, or quarantine any  
4       animal if the state health officer, or the state health officer's designee, has probable  
5       cause to believe the animal presents clinical ~~symptoms~~ signs of rabies.
- 6       2. The department, or an agency acting on the department's behalf, may promptly seize  
7       and ~~humanely kill~~ euthanize, impound at the owner's expense, or quarantine any wild-  
8       mammal that is not currently vaccinated for rabies by a vaccine approved for use on  
9       that species by the national association of state public health veterinarians, inc., or any  
10      stray or unwanted domestic wild animal; if the state health officer, or the state health  
11      officer's designee, determines the animal is a threat to human life or safety due to the  
12      possible exposure of another animal or an individual to rabies.
- 13      3. ~~The department, or an agency acting on the department's behalf, may promptly seize~~  
14      ~~and quarantine, or impound at the owner's expense, any dog, cat, or currently~~  
15      ~~vaccinated ferret for a period of ten days, or any other domestic animal for a period not~~  
16      ~~exceeding six months, if the state health officer, or the state health officer's designee,~~  
17      ~~determines the animal is a threat to human life or safety due to the possible exposure~~  
18      ~~of an individual to rabies.~~For domestic animals, the department may seize and  
19      quarantine or confine and observe an animal if the animal has bitten or otherwise  
20      exposed an individual or has been bitten or otherwise exposed to rabies or suspect  
21      rabies and the owner is unwilling or unable to comply with the department's  
22      recommendations. The department may seize and euthanize an animal if the animal  
23      has bitten or otherwise exposed an individual and is exhibiting signs of rabies, as  
24      diagnosed by a veterinarian. The department may seize, euthanize, or quarantine an  
25      animal if the animal was exposed to rabies or suspect rabies and never has been  
26      vaccinated against rabies and the owner is unwilling or unable to comply with the  
27      department's recommendations.
- 28      4. If an animal had died or is humanely killed ~~under this section~~ and there is a possible  
29      exposure of another animal or an individual to rabies, then at the request of the state  
30      health officer, or the state health officer's designee, the animal's brain must be tested  
31      for rabies by the ~~state microbiology laboratory of the department~~ or by the North

1           Dakota veterinary diagnostic laboratory. The department may ~~conduct~~seek a diagnosis  
2           of rabies for farm animals, domestic animals, and wildlife that are suspected of having  
3           rabies and report findings as appropriate.

4           ~~5.4.~~ If an animal that has bitten or otherwise exposed an individual or another animal is not  
5           seized for testing, a law enforcement officer with jurisdiction over the place where the  
6           animal is located may determine whether to impound or quarantine the animal under  
7           subsection ~~32~~ and which method of confinement to use.

8           ~~6.5.~~ A licensed veterinarian shall examine, at the owner's expense, a confined animal ~~on~~  
9           ~~the first and last day of the animal's confinement and~~, at the request of the department  
10          ~~or~~, a local public health unit, ~~at any other time during confinement~~ or a law enforcement  
11          officer with jurisdiction over the place where the animal is located.

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

14          **23-36-05. Assistance of state and local agencies.**

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

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

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

1       **23-36-06. Payment for postexposure treatment.**

2       The department may provide, at no cost, rabies postexposure vaccinebiologics to an  
3 individual possibly exposed to rabies if the department determines the individual is financially  
4 unable to pay for the postexposure vaccinebiologics treatment.

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

7       **23-36-08. Limitation on liability.**

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

- 14       1. ~~The animal was a wild mammal, and, at the time of the exposure, was currently~~  
15       ~~vaccinated with a vaccine approved for use on an animal of that species by the~~  
16       ~~national association of state public health veterinarians, inc.;~~  
17       2. The animal had not bitten, scratched, or otherwise possibly exposed ~~a person~~another  
18       animal or an individual to rabies; or  
19       ~~3.2.~~ 3.2. The animal was a domestic animal and there was not probable cause to believe the  
20       animal was rabid.