

LIVESTOCK

CHAPTER 362

SENATE BILL NO. 2142
(Committee on Agriculture)
(At the request of the Agriculture Department)

NONSUFFICIENT FUND CHECKS AND LIVESTOCK DEALERS

AN ACT to amend and reenact subsections 2 and 3 of section 6-08-16.2, subsection 2 of section 36-04-01, and subsection 2 of section 36-04-04 of the North Dakota Century Code, relating to the penalty for issuing an insufficient fund check to a livestock dealer and the licensing and regulation of livestock dealers.

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

* SECTION 1. AMENDMENT. Subsections 2 and 3 of section 6-08-16.2 of the 1979 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Any person who, for himself or as agent or representative of another, issues any check, draft, or order for the payment of money is guilty of a class C felony if that person either has issued an instrument in excess of five thousand dollars as payment for a livestock purchase, or has been previously convicted of issuing an instrument without an account or without sufficient funds in a bank or depository pursuant to section 6-08-16, and:

- a. At the time of issuing the instrument with intent to defraud, the drawer does not have an account with the bank or depository on which the instrument is drawn; or
- b. At the time of issuing the instrument with intent to defraud, or at the time of presentation for payment if made within one week after the original delivery of the instrument, the drawer does not have sufficient funds in the bank or depository, or credit with the bank, banker, or depository, to pay the instrument in full upon its presentation, ~~and~~

~~e. If the drawer has been previously convicted of issuing an instrument without an account or without sufficient~~

* NOTE: Section 6-08-16.2 was also amended by section 2 of Senate Bill No. 2344, chapter 120.

~~funds--in--a--bank--or--depository--pursuant--to--section
6-00-16.~~

The person is also liable for collection fees or costs, not in excess of ten dollars, which are recoverable by civil action by the holder of the instrument.

3. The fact that payment has been refused by a drawee because of insufficient funds or because the drawer has no account with the drawee from which payment could legally be made ~~shall--constitute--prima--facie--evidence~~ constitutes an inference of intent to defraud. ~~However,--if--the--drawer--pays--the--holder--of--the--instrument--within--thirty--days--after--receiving--written--notice--of--nonpayment--by--certified--mail--or--by--personal--service--in--accordance--with--rule--4(d)--of--the--North--Dakota--Rules--of--Civil--Procedure,--that--fact--shall--constitute--an--affirmative--defense--to--a--criminal--prosecution--under--this--section.~~

SECTION 2. AMENDMENT. Subsection 2 of section 36-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. "Dealer" means any person, copartnership, association, or corporation engaged in the business of buying or dealing in horses, mules, cattle, hogs, goats, sheep, or wool from the producer, terminal market, or livestock auction market for resale, slaughter, or shipment within or without the state, and also resale in the local market.

SECTION 3. AMENDMENT. Subsection 2 of section 36-04-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The commissioner shall refuse to issue or renew a license if the applicant:
- a. Has not filed a surety bond in the form and amount required under the provisions of this chapter;
 - b. Has not satisfactorily demonstrated that his current assets exceed his current liabilities; ~~ex~~
 - c. Has been found by the commissioner to have failed to pay, without reasonable cause, obligations incurred in connection with livestock transactions; or
 - d. Has made or caused to be made any false entry or statement of fact in any application, financial statement, or report filed with the department under this chapter.

Whenever the commissioner finds that any livestock dealer has violated the provisions of this subsection, he may suspend or refuse to issue or renew the license of such offender in the manner provided by law.

Approved March 31, 1981

CHAPTER 363

SENATE BILL NO. 2124
(Committee on Agriculture)
(At the request of the Agriculture Department)

BRAND CANCELLATION

AN ACT to amend and reenact section 36-09-06 of the North Dakota Century Code, relating to the cancellation of brands.

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

SECTION 1. AMENDMENT. Section 36-09-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

36-09-06. CANCELLATION OF BRAND BY COMMISSIONER OF AGRICULTURE. The commissioner of agriculture shall cancel a legally recorded brand only when he receives for filing a bill of sale of such brand properly executed by the record owner as shown by the records in his office or, in instances where it is found that a brand has been issued inadvertently in duplication of a previously recorded brand.

Approved January 30, 1981