CHAPTER 23-36
RABIES CONTROL

23-36-01. Definitions.

As used in this chapter:

1. "Bite" means any penetration of the skin by an animal's teeth.
2. "Clinical symptoms of rabies" means physical signs or symptoms or animal behavior that would lead a reasonably prudent veterinarian to conclude that a diagnosis of possible rabies is indicated.
3. "Confinement" means separation of an animal from humans, other than the owner, caretaker, a member of the owner's family, or the caretaker's employees, and from other animals, by means of a building, cage, fence, pen, or other secure enclosure that restricts the animal's movement within definite boundaries and prevents the animal from exiting the enclosure.
4. "Department" means the state department of health.
5. "Domestic animal" means any dog [canis familiaris], cat [felis domestica], horse, mule, bovine animal, sheep, goat, bison, llama, alpaca, swine, or captive-bred, currently vaccinated ferret.
6. "Emergency" means a situation in which an immediate search and seizure of an animal is necessary and authorized by section 8 of article I of the Constitution of North Dakota and the fourth amendment to the Constitution of the United States because of a risk of death or serious bodily injury to a human or another animal.
7. "Exposure to rabies" means any bite or scratch, and includes any nonbite contact of an individual with an animal, animal tissue, or fluids that are defined as an exposure to rabies by the federal advisory committee on immunization practices referred to in Public Law No. 103-66 [107 Stat. 636, 642; 42 U.S.C. 1396s(e)].
8. "Impound" means quarantining an animal at a public pound or an animal facility of a licensed veterinarian.
9. "Law enforcement officer" has the meaning of that term as set forth in section 12.1-01-04.
10. "Quarantine" means confinement in a fixed area that keeps a possibly rabid animal secure and isolated from all other animals so there is no reasonable possibility of rabies being mechanically transmitted from the confined area.
11. "Vaccinated animal" means an animal that has been vaccinated in compliance with the compendium of animal rabies control issued by the national association of state public health veterinarians.
12. "Wild mammal" means any animal of the order mammalia which is not a domestic animal and includes any hybrid of a domestic animal and a mammal regardless of whether the animal is:
    a. Wildlife as defined in section 20.1-01-02; or
    b. Held in private ownership.

23-36-02. Policy - Local authority.

1. The department shall establish a rabies control program that must place primary emphasis on human exposure to rabies.
2. The department shall consider national peer-reviewed recommendations for the control of rabies during the development of the department's rabies control program.
3. This chapter may not be construed to limit the authority of any local agency to control or prevent rabies, and, upon request, the department may assist any local agency in rabies control and prevention activities, but the fact that possible rabies exposure is subject to a local ordinance does not limit the department's authority under this chapter.
4. This chapter may not be construed to limit a law enforcement officer's ability to immediately seize, humanely kill, and request the testing of an animal for rabies if emergency circumstances exist that endanger human health or safety.

23-36-03. Enforcement authority.

1. The department, or an agency acting on the department's behalf, may promptly seize and humanely kill, impound at the owner's expense, or quarantine any animal if the state health officer, or the state health officer's designee, has probable cause to believe the animal presents clinical symptoms of rabies.
2. The department, or an agency acting on the department's behalf, may promptly seize and humanely kill, impound at the owner's expense, or quarantine any wild mammal that is not currently vaccinated for rabies by a vaccine approved for use on that species by the national association of state public health veterinarians, inc., or any stray or unwanted domestic animal, if the state health officer, or the state health officer's designee, determines the animal is a threat to human life or safety due to the possible exposure of an individual to rabies.
3. The department, or an agency acting on the department's behalf, may promptly seize and quarantine, or impound at the owner's expense, any dog, cat, or currently vaccinated ferret for a period of ten days, or any other domestic animal for a period not exceeding six months, if the state health officer, or the state health officer's designee, determines the animal is a threat to human life or safety due to the possible exposure of an individual to rabies.
4. If an animal is humanely killed under this section, then at the request of the state health officer, or the state health officer's designee, the animal's brain must be tested for rabies by the state microbiology laboratory of the department or by the North Dakota veterinary diagnostic laboratory. The department may conduct a diagnosis of farm animals, domestic animals, and wildlife that are suspected of having rabies and report findings as appropriate.
5. If an animal that has bitten or otherwise exposed an individual or another animal is not seized for testing, a law enforcement officer with jurisdiction over the place where the animal is located may determine whether to impound or quarantine the animal under subsection 3 and which method of confinement to use.
6. A licensed veterinarian shall examine, at the owner's expense, a confined animal on the first and last day of the animal's confinement and, at the request of the department or a local public health unit, at any other time during confinement.

23-36-04. Administrative search warrant.

Except in the case of an emergency, the department, or another state or local agency acting on the department's behalf, may seize an animal located on private property only as authorized by an administrative search warrant issued under chapter 29-29.1. A warrant to seize an animal under this section must include a request to quarantine, impound, or humanely kill and test the animal.

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

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

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

23-36-06. Payment for postexposure treatment.

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

23-36-07. Penalty for violation of order or interference.

A person is guilty of an infraction if the person:

1. Conceals, releases, or removes an animal from the place where the animal is located with intent to impair that animal's availability for seizure under that warrant or order while the person is under the belief that a search warrant or judicial order is pending or is about to be issued for the seizure of an animal;
2. Fails to impound or quarantine an animal for the period and at the place specified after having been ordered to impound or quarantine the animal; or
3. Recklessly hinders any state or local official in any pending or prospective action to seize, impound, quarantine, or test an animal under this chapter.

23-36-08. Limitation on liability.

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

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

23-36-09. Owner's responsibility.

1. The owner of an animal is liable for the cost of quarantine and veterinary services, and for the cost of any postexposure treatment received by an individual who is possibly exposed to rabies by the owner's animal, if the animal is not:
   a. Licensed or registered as required by any state or local law or rule applicable to that species; or
   b. Confined or vaccinated as required by any state or local law or rule applicable to that species.
2. This section may not be construed to limit any other liability of an animal owner for injury or damage caused by the owner's animal.