

# States' Animal Cruelty Statutes: North Dakota

*Current through the Current through the 2019 Regular Session of the 66th Legislative Assembly.*

## **36-12-02. Enticing or driving animals away prohibited--Duties of drover or herder**

No drover or herder, or assistant of either, may drive or entice away, without the consent of the owner thereof, any animal from the premises of such owner or from the range or other place usually frequented by such animal, nor may such a person suffer any such animal to be driven or enticed away, or to follow, join, or remain with that person's herd or flock. In order to prevent any animal belonging to another person from being driven or enticed away or from following, joining, or remaining with such herd, the drover or herder shall deliver such animal without delay to the owner thereof, if known, or if the owner is unknown, to a resident of the neighborhood or to a peace officer of the county, who shall return it to the owner or dispose of it as an stray as provided in this title.

## **36-21.1-05 Animal with infectious disease.**

No person owning or having charge of any animal, knowing the animal to have any infectious or contagious disease, or to have recently been exposed thereto, may knowingly permit such animal to run at large or come into contact with another animal, or with another person without the person's knowledge and permission.

## **36-21.1-07 Cockfights, dogfights, and other exhibitions prohibited - Penalties.**

1. No person may engage in or be employed at cockfighting, dogfighting, bearbaiting, pitting one animal against another, or any other similar cruelty, such as bear fighting, kangaroo boxing, or similar activity, to animals; nor may a person receive money for the admission of any person to any place used, or about to be used, for any such purpose, nor may a person willfully permit anyone to enter or use, for any such purpose, premises of which that person is the owner, agent, or occupant; nor may a person use, train, or possess a dog or other animal for the purpose of maltreating any domestic animal. Any person who violates this subsection is guilty of a class C felony.

2. No person may knowingly purchase a ticket of admission to, be present at, or witness the activities prohibited by subsection 1. Any person who violates this subsection is guilty of a class A misdemeanor.

## **36-21.1-08 Artificially colored animals - Sale.**

No person may sell or offer for sale, raffle, offer, or give as a prize, premium, or advertising device, or display in any store, shop, carnival, or other public place, a chick, duckling, gosling, or rabbit which has been dyed or otherwise artificially colored.

## **36-21.1-09 Use of certain birds as advertising devices - Use of live beef or dairy cattle as raffle prizes - Gifts of animals.**

1. No person may sell, offer for sale, raffle, offer, or give as a prize, premium, or use as an advertising device, chicks, ducklings, or goslings younger than four weeks of age in

quantities of less than twelve birds to an individual person. Persons engaging in the business of selling chicks, ducklings, or goslings for agricultural or wildlife purposes are exempt from the provisions of this section, but only when selling for such purposes.

2. An eligible organization authorized to conduct games of chance under chapter 53-06.1 may raffle live beef or dairy cattle, bison, sheep, horses, and pigs, provided each raffle ticket contains a statement that the person who wins the animal may convert that prize to a cash prize. The animal to be raffled may be donated to or purchased by the organization. The donor or seller of the animal shall determine the market value of the animal. If the person who wins the animal desires a cash prize instead of the animal, the organization shall pay the player a cash prize that must equal the lesser of the market value of the animal or the maximum single cash prize amount allowed under section 53-06.1-10.1.

3. A person may not give away any live animal, other than those authorized under subsections 1 and 2, as:

- a. A prize for, or as an inducement to enter any contest, game, or other competition;
- b. An inducement to enter a place of amusement; or
- c. An incentive to enter into any business agreement where the offer was for the purpose of attracting trade.

4. The provisions of subsection 3 do not apply to a person or organization that gives away an animal:

- a. As a project for the promotion of the equine and livestock industry of North Dakota;
- b. As a project for the promotion of conservation of animals and wildlife in North Dakota; or
- c. Which is intended for slaughter.

#### **36-21.1-10 Care of animals used as advertising devices.**

Every person who sells, offers for sale, raffles, offers, or gives as a prize, premium, or advertising device, chicks, ducklings, or goslings to the public, shall provide and operate brooders or other heating devices necessary to maintain the chicks, ducklings, or goslings in good health, and shall keep adequate food and water available to the birds at all times.

#### **36-21.1-11 Penalty.**

Any person knowingly and willfully violating any rule adopted by the board or violating any provision of this chapter for which a specific penalty is not provided is guilty of a class A misdemeanor.

#### **36-21.1-14 Assumption of custody - Immunity from liability.**

Any sheriff, police officer, licensed veterinarian, investigator, or person who has custody of an animal under this chapter and who is acting in an official or professional capacity and making a good-faith effort to comply with this chapter is immune from any civil or criminal liability for acts taken or omitted while attempting to comply with this chapter.

#### **§ 36-21.1-15. Applicability of chapter**

This chapter does not apply to estrays covered under chapter 4.1-75.

#### **§ 36-21.2-01. Neglect--Definition--Exemptions--Penalty**

1. Any person that willfully engages in animal neglect is guilty of a class A misdemeanor.

2. For purposes of this chapter, "neglect" with respect to dogs and cats, means the failure to provide an animal with:

a. Food and water, as appropriate for the species, the breed, and the animal's age and physical condition;

b. Shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition;

c. Necessary medical attention; and

d. An environment that is:

(1) Ventilated in a manner appropriate for the species, the breed, and the animal's age and physical condition;

(2) Cleaned in a manner appropriate for the species, the breed, and the animal's age and physical condition; and

(3) Free of conditions likely to cause injury or death to an animal of that species, breed, age, and physical condition.

3. For purposes of this chapter, "neglect" with respect to all animals other than those included in subsection 2, means the failure to provide:

a. Food and water that is:

(1) Appropriate for the species and the breed; and

(2) Sufficient to sustain the animal's health;

b. Minimal protection from adverse weather conditions, as appropriate for the species and the breed; and

c. Medical attention in the event of an injury or illness, as appropriate for the species and the breed.

4. The following do not constitute violations of this section:

a. Any usual and customary practice in:

(1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;

- (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
  - (3) The sport of rodeo;
  - (4) Animal racing;
  - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
  - (6) Fishing, hunting, and trapping;
  - (7) Wildlife management;
  - (8) The culinary arts;
  - (9) Lawful research and educational activities; and
  - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
- b. The humane or swift destruction of an animal for cause; and
  - c. Services provided by or under the direction of a licensed veterinarian.

**36-21.2-02. Animal abuse--Definition--Exemptions--Penalty**

1. Any person that willfully engages in animal abuse is guilty of a class A misdemeanor for a first or a second offense and a class C felony for a third or subsequent offense occurring within ten years.
2. For purposes of this chapter, "animal abuse" means any act or omission that results in physical injury to an animal or that causes the death of an animal, but does not include any act that falls within the definition of animal cruelty, as set forth in section 36-21.2-03.
3. The following do not constitute violations of this section:
  - a. Any usual and customary practice in:
    - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
    - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
    - (3) The sport of rodeo;
    - (4) Animal racing;
    - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
    - (6) Fishing, hunting, and trapping;
    - (7) Wildlife management;

(8) The culinary arts;

(9) Lawful research and educational activities; and

(10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;

b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;

c. The humane or swift destruction of an animal for cause; and

d. Services provided by or under the direction of a licensed veterinarian.

**§ 36-21.2-03. Animal cruelty--Definition--Exemptions--Penalty**

1. Any person that intentionally engages in animal cruelty is guilty of a class C felony.

2. For purposes of this chapter, "animal cruelty" means:

a. Breaking an animal's bones;

b. Causing the prolonged impairment of an animal's health;

c. Mutilating an animal; or

d. Physically torturing an animal.

3. The following do not constitute violations of this section:

a. Any usual and customary practice in:

(1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;

(2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;

(3) The sport of rodeo;

(4) Animal racing;

(5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;

(6) Fishing, hunting, and trapping;

(7) Wildlife management;

(8) The culinary arts;

(9) Lawful research and educational activities; and

(10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;

- b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
- c. The humane or swift destruction of an animal for cause; and
- d. Services provided by or under the direction of a licensed veterinarian.

**§ 36-21.2-04. Animal abandonment--Definition--Exemptions--Penalty**

1. Any person that willfully engages in the abandonment of an animal is guilty of a class A misdemeanor.
2. For purposes of this chapter, "abandonment" means the relinquishment of a person's custody or control, with no intention of reclaiming that custody or control, and without placing the animal into the custody or control of another person that is able to provide care for the animal and who knowingly and willingly accepts that responsibility. The term includes:
  - a. The desertion of an animal; and
  - b. The failure to retrieve an animal within forty-eight hours after the agreed-upon conclusion of a boarding contract or other service contract, other than that specified in section 43-29-16.1.
3. The following do not constitute violations of this section:
  - a. Any usual and customary practice in:
    - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
    - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
    - (3) The sport of rodeo;
    - (4) Animal racing;
    - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
    - (6) Fishing, hunting, and trapping;
    - (7) Wildlife management;
    - (8) The culinary arts;
    - (9) Lawful research and educational activities; and
    - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;
  - b. The humane or swift destruction of an animal for cause; and
  - c. Services provided by or under the direction of a licensed veterinarian.

4. For purposes of this section, “care” means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.

#### **§ 36-21.2-05. Seizure of animal--Court order**

1. A law enforcement officer, upon a recommendation from a licensed veterinarian approved by the board of animal health, may petition the court for an order directing the seizure of any animal believed to have been neglected, abused, treated cruelly, or subjected to any act or omission in violation of this chapter. If the animal to be seized is a bovine animal, horse, or mule, the law enforcement officer shall provide a copy of the petition to the chief brand inspector. The chief brand inspector shall conduct an ownership inspection of the animal as provided under section 36-21.2-06.

2. The court, upon a recommendation from a licensed veterinarian approved by the board of animal health, may act without notice to the animal's owner or to the person having custody or control of the animal and may rely solely on testimony or an affidavit in considering the petition.

3. In the order for seizure, the court may direct that a veterinarian humanely destroy an animal if the veterinarian, upon examining the animal, determines that the animal is experiencing excruciating pain or suffering and that the animal's pain or suffering is not likely to be alleviated using reasonable medical interventions.

#### **§ 36-21.2-06. Law enforcement--Duty upon seizure--Notification**

1. Upon seizing an animal as provided for in section 36-21.2-05, the law enforcement officer shall provide care for the animal, either directly or through a contractual arrangement with another person. For purposes of this subsection, “care” means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.

a. If the owner and the person having custody or control at the time of the seizure are known to the officer or can be determined following a reasonable inquiry, the officer shall:

(1) Provide notice of the seizure to the owner, the person having custody or control of the animal, and, if the animal is a bovine animal, horse, or mule, to the chief brand inspector; and

(2) Petition the court for an order directing the animal's disposition.

b. If the animal's owner is not known to the law enforcement officer and cannot be determined following a reasonable inquiry, the officer shall publish notice of the animal's seizure in the official newspaper of the county and indicate that if the owner does not claim the animal within five days, the animal will be sold, placed for adoption, or humanely destroyed, at the direction of the law enforcement officer. If the animal to be seized is a bovine animal, horse, or mule, the officer also shall provide notice to the chief brand inspector.

(1) If the owner does not claim the animal within five days following publication, as required by this subdivision, the law enforcement officer

shall sell the animal, place the animal for adoption, or provide for its humane destruction.

(2) If the owner is identified within the five-day period following publication, the law enforcement officer shall petition the court for an order directing the animal's disposition.

2. In ruling on a petition for an animal's disposition under this section, a court may direct that the animal be sold, placed for adoption, humanely destroyed, or returned to its owner, with or without conditions. If the animal subject to the disposition ruling is a bovine animal, horse, or mule, the law enforcement officer shall provide notice of the ruling to the chief brand inspector. The chief brand inspector shall conduct an ownership inspection of the animal subject to the ruling.

3. The owner of an animal, at any time before a final ruling on the animal's disposition, may request a hearing before the court. If a hearing is requested, the court may not issue a final ruling on the disposition of the animal until the conclusion of the hearing.

#### **§ 36-21.2-07. Costs of seizure and care--Responsibility of owner--Lien**

1. If convicted of violating this chapter, the owner of an animal seized under section 36-21.2-05 is responsible for all costs related to the animal's seizure, including required notifications, attorney's fees, court costs, and any costs incurred in providing the animal with care or in providing for its destruction in accordance with section 36-21.2-06.

2. a. The law enforcement agency that seized the animal has a lien upon the animal for all costs incurred as a result of the seizure and conviction. The lien is superior to any other claim or lien.

b. If the lien is not satisfied by the animal's owner, the law enforcement agency may apply to the court for an order enforcing the lien.

3. If a seized animal is sold, the proceeds must be used first to satisfy the lienholder to the extent of the lien and second to satisfy any other claims involving the animal. Any remaining proceeds must be returned to the owner, as directed by the court. If the owner is unknown, any proceeds otherwise payable to the owner must be deposited in the general fund of the county.

#### **§ 36-21.2-08. Abandoned animal--Law enforcement officer--Duties**

1. A law enforcement officer may take custody of an animal if the officer has reasonable cause to believe that the animal has been abandoned in violation of this chapter.

2. a. Upon taking custody of an animal in accordance with this section, the law enforcement officer shall:

(1) Provide care for the animal, either directly or through a contractual arrangement with another person; and

(2)(a) Notify the owner, if known to the officer; or

(b) If the owner is not known to the officer, provide notice of the animal's custody, indicate that if the owner does not lay claim to the animal within



five days, the animal will be sold, placed for adoption, or humanely destroyed, at the direction of the law enforcement officer, and include the officer's contact information.

b. For purposes of this subdivision, notice may be provided by:

(1) Publication in the official newspaper of the county if the newspaper is published daily or in a daily newspaper serving the county;

(2) Any electronic means; or

(3) Posting a description and a photograph at the local law enforcement center.

3. If the owner is identified within the five-day period, the law enforcement officer shall return the animal to the owner only if:

a. The owner demonstrates that the animal was not abandoned in violation of this chapter; and

b. The owner pays for all costs associated with the animal's care while in custody, including any costs of notifications under this section.

4. If the law enforcement officer refuses to return the animal to its owner, the owner may petition the court for an order directing its return. In ruling on a petition under this subsection, a court may direct that the animal be sold, placed for adoption, humanely destroyed, or returned to its owner with or without conditions.

5. If the owner does not lay claim to the animal within five days, the law enforcement officer shall sell the animal, place it for adoption, or humanely destroy it.

6. Any proceeds from the sale or adoption of an animal under this section must be deposited in the county general fund.

7. Notwithstanding the requirements of this section, if upon examining an animal taken into custody by a law enforcement officer in accordance with this section a licensed veterinarian determines that the animal's condition justifies its destruction, the veterinarian shall humanely destroy the animal. The law enforcement agency shall reimburse the veterinarian for the cost of the animal's destruction.

8. For purposes of this section, "care" means food, water, and shelter from the elements, as appropriate for the species, the breed, and the animal's age and physical condition, and necessary medical attention.

#### **§ 36-21.2-09. Title of animal--Sale or adoption**

The title to any animal sold or adopted in accordance with this chapter passes to the individual taking custody or control of the animal.

#### **§ 36-21.2-10. Veterinarian**

If upon examining an animal a licensed veterinarian determines that there is reasonable cause to believe an animal has been neglected, abused, treated cruelly, or subjected to any act or omission in violation of this chapter, the veterinarian may retain custody of the

animal and shall immediately notify law enforcement officials regarding the determination.

**§ 36-21.2-11. Caged animals--Public display--Exemptions--Penalty**

1. In addition to any other requirements set forth in this chapter, a person placing a caged animal on public display shall ensure that:
  - a. The size of the cage allows the animal to stand up, lie down, and turn or move about; and
  - b. The cage provides the animal with protection from the elements, as appropriate for the species, the breed, and the animal's age and physical condition.
2. Any person that willfully fails to meet the requirements of this section is guilty of a class A misdemeanor.
3. This section does not apply to:
  - a. The North Dakota state fair association;
  - b. Agricultural fair associations; or
  - c. Political subdivisions.
4. The following do not constitute violations of this section:
  - a. Any usual and customary practice in:
    - (1) The production of food, feed, fiber, or ornament, including all aspects of the livestock industry;
    - (2) The boarding, breeding, competition, exhibition, feeding, raising, showing, and training of animals;
    - (3) The sport of rodeo;
    - (4) Animal racing;
    - (5) The use of animals by exhibitors licensed under the Animal Welfare Act, 7 U.S.C. 2131, et seq.;
    - (6) Fishing, hunting, and trapping;
    - (7) Wildlife management;
    - (8) The culinary arts;
    - (9) Lawful research and educational activities; and
    - (10) Pest, vermin, predator, and animal damage control, including the disposition of wild animals that have entered structures or personal property;

- b. Any action taken by an individual against an animal that is attacking or is about to attack a human, a companion animal, or livestock;
- c. The humane or swift destruction of an animal for cause; and
- d. Services provided by or under the direction of a licensed veterinarian.

**§ 36-21.2-12. Unattended animal in motor vehicle--Penalty**

- 1. An individual may not leave an animal unattended in a motor vehicle without ensuring that the animal's health and safety is not endangered.
- 2. An individual who violates this section is guilty of an infraction.
- 3. A law enforcement officer may use reasonable means to enter a motor vehicle and remove an animal left in violation of this section.

**§ 36-21.2-13. Immunity from liability**

A veterinarian is immune from civil or criminal liability if the veterinarian, on the veterinarian's own initiative or at the request of a law enforcement officer or other governmental entity, renders emergency treatment to a sick or injured animal under this chapter. Immunity under this section does not apply in the case of negligence.

**§ 36-21.2-14. Estrays**

This chapter does not apply to estrays.

**§ 36-21.2-15. Multiple animals--Enhancement of offense**

If a violation of this chapter involves multiple animals, whether of the same species or not, the violation is deemed to be a singular offense for purposes of enhancement.

**§ 36-25-05. Confinement--Rules**

Farmed elk must be confined in a manner designed to prevent escape. Unless otherwise required by rule, fencing for farmed elk must be at least eighty-four inches [213.36 centimeters] in height. If any farmed elk escape, their owner shall report the escape to the board within one business day of the discovery and shall notify the board upon recapture. The owner is liable for the expenses incurred by another person in capturing, caring for, and returning farmed elk that have escaped, provided the other person notifies the owner as soon as practicable after discovering the escape.

**§ 36-26-03. Prohibited actions**

- 1. A person may not import, transport, or possess live feral swine.
- 2. A person may not intentionally, knowingly, or negligently allow swine to live in a feral state.
- 3. a. A person may not:
  - (1) Hunt or trap feral swine;
  - (2) Sponsor or promote the hunting or trapping of feral swine;

- (3) Assist in the hunting or trapping of feral swine;
- (4) Profit from the release of feral swine; or
- (5) Profit from the hunting or trapping of feral swine.

b. Paragraphs 1 through 3 of subdivision a do not apply to a state or federal agency or any person authorized by a state or federal agency to engage in the control or eradication of feral swine.