

## **CHAPTER 4-12.2 BEEKEEPING**

**4-12.2-01. Definitions.** In this chapter, unless the context or subject matter otherwise requires:

1. "Apiary" means any place where one or more colonies of bees are kept.
2. "Beekeeper" means any person who owns and maintains or leases and maintains one or more colonies of bees and maintains the bees in this state.
3. "Bees" means honey-producing insects of the genus *Apis*, including all life stages of such insects. The term is not limited to the common honeybee but includes Africanized bees.
4. "Certificate of health" means a certificate issued upon the request of a beekeeper to verify normal standards of health set by the destination state.
5. "Certified breeder queen" means a queen bee whose progeny can be certified as being European by use of the fast Africanized bee identification system, the universal system for the detection of Africanized honeybees, or any other identification procedure approved by the animal and plant health inspection service.
6. "Certified production queen" means a queen bee with larvae obtained from a certified breeder queen. The term includes the queen emerging from a certified queen cell.
7. "Certified queen cell" means a cell containing the immature stage from a certified breeder queen.
8. "Colony" means the hive and its equipment including bees, comb and honey, and brood.
9. "Commissioner" means the agriculture commissioner, or the commissioner's authorized representative.
10. "Department" means the department of agriculture.
11. "Equipment" means hives, supers, frames, veils, gloves, or any apparatus, tools, machines, or other devices used in the handling and manipulation of bees, honey, wax, and hives.
12. "Normal standards of health" include the percentages of American foulbrood and varroasis incidents.
13. "Property owner" means the person, including a lessee, who has actual use and exclusive possession of the land.

**4-12.2-02. Rulemaking authority.** Pursuant to chapter 28-32, the commissioner may adopt rules and orders necessary to implement this chapter.

**4-12.2-03. Emergency orders and rules.** Repealed by S.L. 1993, ch. 55, § 12.

**4-12.2-04. Beekeeper's license required.**

1. No person may maintain bees in this state without first obtaining a valid beekeeper's license. On or before the first day of March in each year, each beekeeper shall

apply to the commissioner, on a form to be furnished by the commissioner, for a beekeeper's license.

2. Each application for license must include the applicant's name, address, and telephone number, the total number of colonies to be maintained in this state, and the name and address of all persons, other than the applicant, who are responsible for maintaining the bees within the state. The application must be signed by the applicant and all persons responsible for maintaining the bees within this state. If the applicant does not own the bees, the application must disclose the nature of the relationship between the owner and the applicant.
3. The license required by this section is not transferable.
4. Each application must include the name, address, and telephone number of a resident agent who is authorized to accept service of process, notice, or demand arising from the beekeeper's activities under this chapter and for which the law requires or permits service upon the beekeeper.

**4-12.2-04.1. Application of minors for beekeeper's license - Liability for minor.** A person who is less than eighteen years of age may be licensed as a beekeeper, if that person's application for license is signed by either the mother, father, or legal guardian of the applicant. Any civil or administrative liability for violation of the beekeeping laws of this chapter by a beekeeper who is less than eighteen years of age must be imputed to the person who has signed the application of that beekeeper for a license, which person is jointly and severally liable with the beekeeper.

**4-12.2-05. License fees.** A license fee of five dollars must accompany each license application made pursuant to section 4-12.2-04.

**4-12.2-06. Assessment of fees.** In addition to the license fee required by section 4-12.2-05, an applicant for a license must submit fifteen cents per colony for each colony maintained in this state.

**4-12.2-07. Registration of an apiary.**

1. Each beekeeper shall register all apiaries that are or will be maintained by the beekeeper within the state at the same time an application for license is made. The application forms for registration must be furnished by the department. The applicant shall provide the following information on the form provided:
  - a. The location of each apiary to the nearest section, quarter section, township, and range, and, if within the corporate limits of a city, the number or name of the lot, block, and addition in the city.
  - b. The name of the property owner on whose property the apiary is located; where the registrant is not the property owner, a copy of the written lease or other document from the property owner granting the applicant permission to maintain an apiary at that location. The written lease or other document is adequate for subsequent registrations if the parties to the agreement remain the same.
2. New apiaries may be registered with the department at any time.

**4-12.2-08. Revocation of location by property owner.** The property owner on which an apiary is located may revoke the permission granted a beekeeper to place an apiary at that location by providing written notice to the department and the beekeeper. This section does not relieve the property owner from any liability to the beekeeper for the violation of rights granted by a lease or other legal agreement between the beekeeper and the property owner.

**4-12.2-08.1. Revocation of registration of an apiary.** The agriculture commissioner may cancel the registration of an apiary when the bees located on the apiary site are causing a nuisance as defined in chapter 42-01.

**4-12.2-09. Establishment of commercial locations - Two-mile radius restriction - Sale of location.** Repealed by S.L. 1991, ch. 64, § 15.

**4-12.2-10. Establishment of pollination locations.** Repealed by S.L. 1991, ch. 64, § 15.

**4-12.2-11. Establishment of property owner locations.** Repealed by S.L. 1991, ch. 64, § 15.

**4-12.2-12. Establishment of noncommercial locations.** Repealed by S.L. 1991, ch. 64, § 15.

**4-12.2-13. Occupation of locations - Vacancy allowance.** Repealed by S.L. 1991, ch. 64, § 15.

**4-12.2-14. Identification of colonies.** Each beekeeper shall post a board or weatherproof placard bearing the beekeeper's name, address, and telephone number at or near the main entrance of each apiary or on a beehive. The board or placard must measure at least eight inches [20.32 centimeters] high by eleven inches [27.94 centimeters] long. The letters and numbers must be at least one-half inch [1.27 centimeters] high and must be legible. The commissioner may approve, in writing, alternative sign or lettering dimensions. Failure to post each apiary causes the apiary, all equipment, and bees to be deemed abandoned and subject to seizure by the state bee inspector.

**4-12.2-15. State bee inspector - Appointment - Qualifications.** The commissioner shall appoint a person qualified by scientific training or practical experience as state bee inspector. The bee inspector must be furnished with all supplies, equipment, and support necessary to carry out this chapter. The commissioner shall, on the recommendation of the inspector, appoint and dismiss deputy inspectors to assist the inspector in performing the inspector's duties.

**4-12.2-16. Bee inspector - Duties - Powers.** Upon request, the bee inspector shall provide inspection services to beekeepers, provide assistance in the location of bee colonies for pollination purposes, facilitate the interstate movement of bees, promote improvements in apicultural practices, and work with institutions of higher education to promote the apiary industry. If the bee inspector or a deputy inspector receives a complaint from a beekeeper, aerial sprayer, or farmer, the inspector may enter private property during reasonable hours to make an external inspection for the purpose of identifying a colony.

**4-12.2-17. Bees maintained in hives with movable frames.** Repealed by S.L. 1993, ch. 55, § 12.

**4-12.2-18. Certificate of health - Issuance.** If a certificate of health is required for the interstate movement of bees and equipment, the state bee inspector shall make an official inspection for that purpose and issue a certificate of health. If for any reason an additional inspection is required prior to the issuance of a certificate of health, the beekeeper shall submit to the commissioner a fee set by the commissioner to cover the costs of the additional inspection.

**4-12.2-18.1. Africanized honeybees - Regulated areas.** If a swarm of bees is captured, positively identified as being Africanized honeybees, and determined to be present as a result of natural migration, rather than human intervention, the commissioner may designate a limited geographic area as an Africanized honeybee area. The commissioner shall allow beekeepers to transport managed colonies out of the Africanized honeybee area for a period of three months from the date of designation. Thereafter, the commissioner shall allow managed colonies to be transported out of the designated area only if the queens were marked or clipped

prior to the date of designation, or if the colonies have been requeened with certified breeder queens, certified production queens, or certified queen cells. A beekeeper may not use a swarm of honeybees positively identified as being Africanized in a beekeeping operation.

**4-12.2-18.2. Africanized honeybees.** The department in cooperation with the North Dakota beekeeper's association shall develop a voluntary certification plan consistent with the model state Africanized honeybee management plan developed at the United States department of agriculture and national association of state departments of agriculture meeting in St. Louis, Missouri, in October 1991.

**4-12.2-19. Infected bees and equipment - Sale or exposure.** Repealed by S.L. 1993, ch. 55, § 12.

**4-12.2-20. Shipment into state - Permit - Fees.** Before any person transports any bees or used equipment into this state, that person must obtain an entrance permit from the bee inspector. Entrance permits for applicants whose applications are received after March first are effective sixty days after the date of the application for a license. Immediately upon the arrival in this state of any bees or equipment, the beekeeper shall comply with this chapter. Upon showing of good cause, the commissioner may on a case-by-case basis waive the sixty-day waiting period.

**4-12.2-21. Abandoned apiary and abandoned equipment - Seizure, destruction, or sale.** Any apiary, equipment, or bees not regularly maintained and attended in accordance with this chapter or any rules adopted pursuant to this chapter or which comprises a hazard or threat to the beekeeping industry may be considered abandoned and will be subject to seizure by the state bee inspector. Any bees not properly hived or hives or equipment not properly stored may be considered abandoned bees or equipment. Any bees and equipment which have been seized may, when necessary, be immediately burned or otherwise destroyed and any bees or equipment not destroyed may be sold at public auction. The proceeds, after the cost of sale and all costs resulting from the action are deducted, must be returned to the former owner or the former owner's estate; provided, however, that before causing the bees or equipment to be sold, the bee inspector shall give the beekeeper or agent a written notice at least five days prior to the date on which the property will be sold. This notice is to be given by registered mail or by personal service upon the owner, or person in charge, of such property.

**4-12.2-22. Penalties - Criminal - Civil - License revocation or nonrenewal.**

1. A person who violates this chapter or any rules adopted under this chapter is guilty of a class A misdemeanor.
2. In addition to criminal sanctions which may be imposed pursuant to subsection 1, a person found guilty of violating this chapter or rules adopted under this chapter is subject to a civil penalty not to exceed five thousand dollars for each violation. The civil penalty may be adjudicated by the courts or by the commissioner through an administrative hearing pursuant to chapter 28-32.
3. The department may, in accordance with the laws of this state, maintain an appropriate civil action in the name of the state against any person violating this chapter or rules adopted under this chapter.
4. The commissioner may refuse to grant a license to any person found guilty of repeated violations of this chapter or rules adopted under this chapter, or to any person who has failed to pay an adjudicated civil penalty for violation of this chapter within thirty days after a final determination that the civil penalty is owed.
5. Any person who knowingly makes a false statement, representation, or certification in any application, record, report, or other document may be subject to the penalties provided in this chapter.

**4-12.2-23. Confiscation and disposal.** Any bees or equipment found to be transported or maintained in violation of the beekeeping laws of this chapter may be confiscated by the state bee inspector or the sheriff of any county where the offense may have occurred and must be disposed of pursuant to court order or an administrative order issued by the commissioner after a hearing held under chapter 28-32, unless the bees or equipment are disposed of under section 4-12.2-21.

**4-12.2-24. Service of process on beekeeper.** Whenever the beekeeper or the beekeeper's agent cannot be found with reasonable diligence, the commissioner is an agent of the beekeeper and service of any process, notice, or demand may be made upon the commissioner. If any process, notice, or demand is served on the commissioner, service must be deemed complete. This section does not limit or affect the right to serve any process, notice, or demand required or permitted by law to be served upon a beekeeper in any other manner permitted by law.

**4-12.2-25. Beekeeping considered agricultural enterprise.** Beekeeping is an agricultural enterprise for all purposes under the laws of this state.