

CHAPTER 36-09 BRANDS AND MARKS

36-09-01. Office for recording brands. The North Dakota stockmen's association shall appoint a chief brand inspector. The chief brand inspector shall maintain a general office for recording marks and brands. As used in this chapter, "chief brand inspector" means the chief brand inspector of the North Dakota stockmen's association.

36-09-02. Application for exclusive use of brand or mark. Any person desiring the exclusive use of any mark or brand shall file with the chief brand inspector an application:

1. Setting forth a description of the mark or brand of which the person desires the exclusive use and a facsimile thereof;
2. Stating the kind or kinds of livestock upon which the mark or brand is to be used; and
3. Indicating clearly the place or position upon each kind of livestock where such brand is to be placed, except that the hips of any cattle may not be used for registered numerical brands. Nonregistered numerical brands may be located upon the hips of cattle for individual identification. Registered brands other than numerical brands may also be located on the hips of cattle. Numerical brand means a brand consisting entirely of upright number or numbers, and does not include brands consisting of lazy numbers, or combinations of letters, or characters and numbers. The provisions of this chapter do not apply to any numerical brand recorded prior to July 1, 1957.

36-09-02.1. Standards for recording brands or marks.

1. The chief brand inspector shall record the brand or mark described in the application except that the chief brand inspector shall refuse to record any brand or mark that:
 - a. Has been recorded in favor of another person.
 - b. Has been recorded in another state.
 - c. Is deceptively similar to any previously recorded livestock brand or mark.
 - d. Contains less than two characters.
 - e. Contains:
 - (1) The letter "g";
 - (2) The letter "q";
 - (3) Any letter not in the gothic style;
 - (4) A dot;
 - (5) The Arabic numeral "0" or "1";
 - (6) Any non-Arabic numeral;
 - (7) Any symbol other than a diamond, a half-diamond, an arrow, a mill iron, a cross, a heart, a box, a triangle, a quarter circle, a bar, or a star; and
 - (8) Any letter, number, or symbol within another letter, number, or symbol.

- f. Is not legible when placed on the livestock.
 - g. Would be placed upon the livestock in a location other than a permissible location.
2. For purposes of this section, permissible locations for cattle are the left and right shoulder, the left and right rib, and the left and right hip. Permissible locations for horses and mules are the left and right jaw, the left and right shoulder, and the left and right hip. Permissible locations for buffalo are the left and right rib and the left and right hip. The chief brand inspector may determine permissible locations for other types of livestock as necessary. The determination of permissible locations under this section is not subject to rulemaking under chapter 28-32.
 3. Notwithstanding any other provision of this section, the chief brand inspector shall accept for rerecording under section 36-09-09 or under section 36-09-09.1:
 - a. Any previously recorded livestock brand or mark.
 - b. A single character brand provided the animals on which the brand is to be placed are goats or sheep.

36-09-03. Exclusive use of brand or mark on poultry - How obtained. Repealed by S.L. 2003, ch. 287, § 24.

36-09-04. Record of brands kept - Inspection of record - Certificate of brand ownership. The chief brand inspector shall keep a record of all marks and brands showing the names and residences of the persons owning the marks and brands, a description and facsimile of each mark or brand, and in the case of livestock, the range occupied by the livestock, as nearly as may be determined. The record is open to inspection by any person. The chief brand inspector shall deliver to the owner of each mark or brand a certificate of the mark or brand. The certificate is evidence of ownership of the mark or brand described in the certificate.

36-09-05. Similar brands may not be recorded - Exception. Repealed by S.L. 1989, ch. 429, § 5.

36-09-06. Cancellation of brand.

1. The chief brand inspector shall cancel a legally recorded brand when:
 - a. The chief brand inspector receives for filing a bill of sale of the brand properly executed by the record owner as shown by the records in the chief brand inspector's office; or
 - b. When it is found that a brand has been issued inadvertently in duplication of a previously recorded brand.
2. The chief brand inspector may cancel a legally recorded brand if the chief brand inspector determines that the brand has been recorded in another state.

36-09-07. Venting of brand upon sale of stock - How made - Prima facie evidence. Repealed by S.L. 1949, ch. 229, § 4.

36-09-08. Official brandbooks to be presumptive evidence. Any official brandbook published by the chief brand inspector must be received in all courts of this state as presumptive evidence of the recording and ownership of livestock brands therein described.

36-09-09. Cancellation of brands - Rerecording - Limitation on brands. Repealed by S.L. 2005, ch. 307, § 4.

36-09-09.1. Cancellation of brands - Updated rerecording - Limitation on brands.

On the first day of January 2006, each livestock brand or mark must be canceled and no person may use or have any right, title, or interest in or to any livestock brand or mark previously recorded in this state. If a person should desire to continue ownership of a brand or mark, the brand or mark must be rerecorded on or before January first, and every five years thereafter. Rerecording is not required from an owner who has registered for a new brand within six months before the date provided for the rerecording of brands.

36-09-10. Failure to rerecord brand - Abandonment. Failure to rerecord any previously recorded livestock brand or mark on or before the time specified in section 36-09-09 or 36-09-09.1 is deemed an abandonment of the previously recorded brand or mark. For one year from the date of cancellation, the chief brand inspector may not reassign a canceled brand or mark to any person other than the registered owner at the time of cancellation. By written notice to the chief brand inspector, the registered owner at the time of cancellation may authorize reassignment of the brand or mark within the one-year period. Thereafter the chief brand inspector shall accept any regular application for the issuance to anyone of the abandoned livestock brand or mark, provided the abandoned livestock brand or mark complies with the standards of section 36-09-02.1. The chief brand inspector shall issue a certificate for the use of the abandoned brand or mark within this state, provided the abandoned livestock brand or mark complies with the standards of section 36-09-02.1.

36-09-11. Notice of expiration of brand to be given. The chief brand inspector, on or before the beginning of the fourth month prior to the cancellation of all brands, shall notify each and every record owner of a livestock brand or mark of the final date set for cancellation thereof and also of the owner's prior right to rerecord such previously recorded livestock brand or mark. The notice must be given in writing, legibly written, sent by ordinary first-class mail, addressed to the record owner at the address as shown upon the present records.

36-09-12. Publication of notice. The chief brand inspector shall publish in each official newspaper in each county where brands or marks are in use, a notice of the expiration of the time fixed by law for the rerecording of livestock brands or marks, and the prior right of any record owner to rerecord the owner's previously recorded brands or marks. The publication must begin on or about the first of September, prior to the cancellation of all brands, and the publication must continue at least three successive times in each of such newspapers. The chief brand inspector also shall request each newspaper publishing the notice to call attention to the provisions of this chapter in a news item in the regular columns of the newspaper, for which no charge is allowed.

36-09-13. Recording and rerecording of brands - Fee. The rerecording of abandoned livestock brands or marks, and the recording of new brands and marks, must conform to this chapter. Each application for recording and rerecording must be accompanied by a fee for each place or position upon each type of livestock where the brand or mark is to be placed. The state board of animal health shall establish the fee, with the advice and consent of the North Dakota stockmen's association. The fee may not exceed twenty-five dollars.

36-09-13.1. Use of unrecorded brand - Penalty. A person is guilty of a class B misdemeanor if the person places upon an animal a brand that has not been recorded in accordance with this chapter.

36-09-14. Chief brand inspector to issue brandbook. The chief brand inspector shall compile and issue a brandbook from the records of livestock brands in the chief brand inspector's office as of the final date for rerecording, and a copy of the brandbook must be delivered free of charge to every brand inspector and upon written request from other law enforcement officers of the state. Annually thereafter the chief brand inspector shall prepare a supplement of brands registered during the year and shall distribute the supplement free of charge to every brand inspector and upon written request from other law enforcement officers of the state of North Dakota. Brandbooks and supplements must also be sold to all interested persons at the general office for recording marks and brands maintained in the office of the chief brand inspector at a

price set by the North Dakota stockmen's association and approved by the state board of animal health.

36-09-15. Butcher to keep record of branded cattle slaughtered - Penalty. Any person engaged in the business of killing domestic animals and selling the meat of those animals at retail or wholesale, or who slaughters animals on a custom basis, is deemed a butcher for the purposes of this section. Any butcher who kills any head of neat cattle shall keep a record showing all of the following:

1. The name and place of residence of the person from whom such animal was purchased or for whom any custom slaughtering is performed.
2. When and where such animal was purchased or from where the animal came.
3. The sex of such animal and its age to the best of the butcher's knowledge.
4. A description of any and all marks and brands on the animal.

The record is open to inspection during business hours by a representative of the North Dakota stockmen's association. Any person who violates this section is guilty of an infraction.

36-09-16. Branding of stock running at large unlawful - Exception - Penalty. Repealed by S.L. 1975, ch. 106, § 673.

36-09-17. Defacing brands and unlawfully branding - Penalty. A person is guilty of a class A misdemeanor for a first offense and a class C felony for a second or subsequent offense if the person:

1. Alters, defaces, or attempts to alter or deface the mark or brand on any animal owned by another for the purpose of deceiving others as to the animal's ownership; or
2. Willfully marks, brands, or causes to be marked or branded any animal owned by another for the purpose of deceiving others as to the animal's ownership.

36-09-18. Collection of fees - Discrimination prohibited. Any fees collected under this chapter must be remitted to the state treasurer for deposit in the North Dakota stockmen's association fund. The North Dakota stockmen's association may not discriminate between or among members of the association and persons who are not members of the association with respect to fees, recordings, complaints, requests for assistance, and any other services to be provided under this chapter.

36-09-19. Effect of registered brand or mark - Bill of sale to be given and kept. A legally registered brand on livestock is prima facie evidence that the animal bearing the same is the property of the owner of such brand, unless covered by a bill of sale as provided by section 36-09-20.

36-09-20. Bill of sale to be given and kept - Copy with shipment - Effect - Penalty.

1. A person may not sell cattle, horses, mules, or any other livestock carrying a registered brand unless:
 - a. The seller is the owner of the registered brand and delivers a bill of sale for the cattle, horses, mules, or other livestock to the purchaser; or
 - b. The seller delivers to the purchaser a bill of sale executed by the owner of the registered brand and endorsed by the seller evidencing the later transaction.
2. The bill of sale must include:

- a. The date;
 - b. The name, address, and signature of the seller;
 - c. The name, address, and signature of an individual who is at least eighteen years of age and who can verify the name and signature of the seller;
 - d. The name and address of the buyer;
 - e. The total number of animals sold;
 - f. A description of each animal sold as to sex and kind; and
 - g. A description of the registered brands.
3. The bill of sale must be kept by the buyer for two years and as long thereafter as the buyer owns any of the animals described in the bill of sale.
 4. A copy of the bill of sale must be given to each hauler of the livestock, other than railroads, and must go with the shipment of the livestock while in transit.
 5. The bill of sale or a copy of the bill of sale must be shown by the possessor on demand to any peace officer or brand inspector.
 6. The bill of sale is prima facie evidence of the sale of the livestock described in the bill of sale.
 7. A bill of sale is not required relative to sales of livestock covered by a legal livestock brand inspection.
 8. Any person that willfully violates this section is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

36-09-20.1. False proof of ownership - Sale of livestock - Penalty. A person that willfully provides false proof of ownership in conjunction with the sale of livestock is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or subsequent offense.

36-09-20.2. Proof of ownership - Alteration or falsification - Penalty. A person that, with intent to deceive or harm another, knowingly and falsely makes, completes, or alters any writing evidencing proof of livestock ownership is guilty of a class B felony.

36-09-21. Penalty. Repealed by omission from this code.

36-09-22. Sale of animal under false registration certificate - Changing marking - Penalty.

1. A person may not willfully:
 - a. Sell an animal with a certificate of registration or breeding that the person knows does not belong to the animal.
 - b. Alter any animal's certificate of registration or breeding.
 - c. Misrepresent any production record specified in a registration certificate.
 - d. Change the markings of any animal with intent to deceive the purchaser.
 - e. Misrepresent the sire to which such animal has been bred.

2. A person that violates this section is guilty of a class A misdemeanor for a first offense and a class C felony for a second or subsequent offense.

36-09-23. Transportation of livestock from state - Brand inspection - Penalty.

1. A person may not transport or attempt to transport cattle, horses, or mules from this state unless the livestock has been inspected for marks and brands by an official brand inspector of the North Dakota stockmen's association. A certificate of inspection must accompany the livestock to its destination. This subsection does not apply to a person that:
 - a. Transports cattle, horses, or mules from this state to obtain for the animals emergency medical treatment by a licensed veterinarian; or
 - b. Transports cattle, horses, or mules from this state to an auction market that is located in a bordering state and which has been designated by rule as an official brand inspection market.
2. The owner or possessor of livestock may not remove the livestock from any place of regular official brand inspection until an official brand inspection has been made and the brand inspection certificate has been issued.
3. A person that willfully violates this section is guilty of a class A misdemeanor. A person that violates this section a second time within five years or violates this section three or more times is guilty of a class C felony.

36-09-24. Police powers of chief brand inspector and fieldmen. The chief brand inspector and all fieldmen employed by the North Dakota stockmen's association have the power:

1. Of a police officer for the purpose of enforcing brand laws and any other state laws or rules relating to livestock.
2. To make arrests upon view and without warrant for any violation of this chapter or any other state laws or rules relating to livestock committed in the inspector's presence.
3. To respond to requests from other law enforcement agencies or officers for aid and assistance. For the purposes of this subsection, a request from a law enforcement agency or officer means only a request for assistance to a particular and single violation or suspicion of violation of law, and does not constitute a continuous request for assistance.

36-09-25. Animal identification program - Administration. The North Dakota stockmen's association shall serve as the state's administrator and allocator for that portion of any federally sponsored animal identification program which pertains to cattle, horses, and mules.

36-09-26. Brand inspection services - Out-of-state facilities. An out-of-state livestock facility that seeks to obtain brand inspection services from this state may file a written request with the North Dakota stockmen's association. Upon receiving a request for brand inspection services, the North Dakota stockmen's association shall petition the state board of animal health for permission to provide the services. The state board of animal health shall adopt rules setting forth the criteria that must be met before out-of-state brand inspections are approved.

36-09-27. Reinspection request - Responsibility for costs. A person that contends a brand inspection error occurred and that, as a result of the error, cattle were shipped erroneously, may request a reinspection. If during the reinspection it is determined that a brand inspection error was made, the North Dakota stockmen's association shall bear the costs of the

reinspection. If it is determined that a brand inspection error was not made, the person that requested the reinspection shall reimburse the stockmen's association for the costs of the reinspection.

36-09-28. Premises and animal identification program - Open records - Exception.

1. Except as provided in subsection 2, the following information is confidential and not subject to the open records requirements of section 44-04-18:
 - a. Any information created, collected, or maintained by the state veterinarian or the North Dakota stockmen's association regarding premises or animal identification;
 - b. The name and address of the owner of the premises or of any animals identified under this section; and
 - c. The name and address of the lessee of any premises or of any animals identified under this section.
2. The state veterinarian may not release any information designated as confidential under subsection 1 except:
 - a. Upon the written consent of every person identified or identifiable by the information;
 - b. In accordance with federal law for the purpose of a national animal identification program;
 - c. To any state or federal agency for the purposes of animal disease control and animal disease traceback;
 - d. To the attorney general and any other law enforcement agency pursuing a criminal investigation; or
 - e. Pursuant to an order issued by a court upon a showing of good cause.
3. This section does not preclude the exchange of information between the state veterinarian and the North Dakota stockmen's association.
4. A violation of this section is subject to section 44-04-21.2. For purposes of applying section 44-04-21.2, "public entity" includes any person that has contracted with the state for the provision of services related to the premises or animal identification program.