

## **CHAPTER 36-14**

### **CONTAGIOUS AND INFECTIOUS DISEASES GENERALLY**

**36-14-00.1. Definitions.** In this chapter, unless the context otherwise requires:

1. "Animals" means alpaca, bison, bovine animals, farmed elk, goats, horses, llamas, sheep, swine, and nontraditional livestock.
2. "Board" means the state board of animal health.

**36-14-01. Sale or gift of animal infected with contagious or infectious disease prohibited - Exception - Notice.** No person may sell, give away, or in any manner part with any animal infected with or suspected of being infected with any contagious or infectious disease, except as may be provided otherwise by the rules of the state board of animal health. If any animal is known to have been infected with or exposed to any such disease within one year prior to such disposal, due notice of such fact must be given in writing to the person receiving the animal.

**36-14-02. Killing of infected animal for human consumption prohibited - Exception - Stamping of infected meat.** Repealed by S.L. 1993, ch. 358, § 2.

**36-14-03. Animals infected with contagious or infectious disease to be confined and isolated from other animals.** The owner, agent, or person having in charge any animal infected or suspected of being infected with any contagious disease shall confine the animal immediately in a safe place isolated from all other animals with all necessary restrictions to prevent the dissemination of the disease until the arrival of the state veterinarian.

**36-14-04. Horses, mules, and asses imported into state to have certificate of veterinary inspection.** Repealed by S.L. 1999, ch. 317, § 28.

**36-14-04.1. Animals imported into state to have certificate of veterinary inspection - Exception.**

1. Except as otherwise provided by this chapter or by rule, all domestic animals and nontraditional livestock brought into this state must be accompanied by a certificate of veterinary inspection certifying that the animals are free from symptoms of all contagious and infectious diseases, and that the animals meet disease testing and vaccination requirements prescribed by rule. Animals originating in other countries must be tested for diseases, as determined by the board, until a risk assessment is completed for the disease. If the board determines that an unacceptable risk exists, the board may deny entry, require additional testing, or require a vaccination.
2. The requirement for a certificate of veterinary inspection is waived for cattle, sheep, bison, and swine originating directly from a producer's premises and not diverted en route, if the waiver is approved by the state veterinarian and the cattle, sheep, bison, or swine are delivered for sale directly to a licensed auction market or other premises approved by the state veterinarian.
3. The board may require certification indicating that animals entering this state from a foreign country and intended for human consumption have not been treated with drugs that are disallowed under federal law for use in animals intended for human consumption.
4. The board may adopt rules to implement this section.

**36-14-05. Cattle brought into state - Certificate of veterinary inspection required.** Repealed by S.L. 1999, ch. 317, § 28.

**36-14-06. Certificate of veterinary inspection required of sheep imported into state - Contents.** Repealed by S.L. 1999, ch. 317, § 28.

**36-14-07. Swine brought into state to have certificate of veterinary inspection - Contents.** Repealed by S.L. 1999, ch. 317, § 28.

**36-14-08. Immunization of swine to be exhibited at fairs.** Repealed by S.L. 1961, ch. 245, § 1.

**36-14-09. Living hog cholera virus and vaccines - Purchase, possession, or use of living hog cholera virus and vaccines prohibited - Penalty.** The purchase, possession, or use of living hog cholera virus and vaccines by any person, including all licensed veterinarians, is unlawful except by written permit issued by the state veterinarian. Any person violating this section is guilty of a class B misdemeanor.

**36-14-10. Shipments of animals for immediate slaughter.** Shipments into this state of animals for immediate slaughter may be permitted without a certificate of veterinary inspection only if the animals are not diverted en route and are delivered directly to a slaughtering establishment approved by the agriculture commissioner.

**36-14-11. Certificates of veterinary inspection issued by whom - Tests made by whom - Rules governing.** All certificates of veterinary inspection required under the provisions of this chapter must be issued, and all tests must be made, by a federal or state veterinarian or a deputy state veterinarian, or by a graduate veterinarian whose inspections and tests are endorsed by the officer in charge of the state board of animal health work in the state where the inspection or test is made, and subject to the rules of the state board of animal health. All such tests must conform to the standard tests of the United States department of agriculture. All serums used must be manufactured or approved by the United States department of agriculture.

**36-14-12. Requirements governing the issuance of certificates.** The certificate certifying to a test made under this chapter must be made on official federal or state blanks and must accompany the shipment to its destination. When an original certificate is made, two copies of the certificate must be mailed immediately to the state veterinarian. The failure of a veterinarian to mail two copies of each certificate relating to livestock to be shipped into this state to the state veterinarian is sufficient cause to refuse acceptance of any more certificates from that person. The owner or owners of the livestock must have a copy of the certificate to show on the demand of any federal or state official.

**36-14-12.1. Notice of condemnation of diseased animal - Animal to be destroyed within fifteen days - Extension of time.** Whenever any animal has been adjudged by the board to be diseased, the board or its authorized agent shall serve a written notice of its decision upon the owner or keeper of the animal before the condemned animal is killed. The animal must be destroyed within fifteen days after notice of condemnation, in either a federally inspected or state-inspected slaughtering plant, or under the supervision of an agent of the board. The fifteen-day period may be extended by the state veterinarian if the state veterinarian determines it advisable due to the circumstances involved in each case. The extension must be in writing. The notice must advise the animal's owner or keeper of that person's right to protest against the diagnosis and determination of the board within twenty-four hours after the service of the notice upon the owner or keeper. If no protest is made within that time by the owner or keeper of the condemned animal, the animal must be appraised in the manner provided in this chapter.

**36-14-13. Issuance of certificate of veterinary inspection by unauthorized person - Penalty.** Any person who issues a certificate of veterinary inspection for livestock within this state without being authorized so to do by the state board of animal health or by the United States department of agriculture is guilty of a class B misdemeanor.

**36-14-14. Certificate of health required on sale of purebred cattle and nonregistered bulls for breeding purposes.** Repealed by S.L. 1965, ch. 254, § 1.

**36-14-15. Duty of state's attorney to bring actions for violation of chapter - Notice.**

If livestock is brought into this state in violation of this chapter or contrary to any rule of the state board of animal health, the state veterinarian or other accredited agent of the commissioner shall notify the state's attorney of the county into which the livestock has been brought. Immediately upon receiving the notice, the state's attorney shall bring an action against any person charged with bringing, transporting, or importing livestock contrary to this chapter or any rule of the state board of animal health.

**36-14-16. Failure to restrain infected sheep - Penalty.** Every person who owns or has in charge any sheep infected with scab or other infectious or contagious disease and who:

1. Does not keep such sheep securely within some enclosure; or
2. Drives or permits any such sheep to be driven upon any public highway, or within the distance of one mile [1.61 kilometers] from any such highway, or within the distance of six miles [9.66 kilometers] from any farm, corral, shed, or other established headquarters where sheep are kept or herded,

is guilty of a class B misdemeanor.

**36-14-17. Refusing to allow examination of sheep is misdemeanor.** Repealed by S.L. 1975, ch. 106, § 673.

**36-14-18. Willfully spreading infection of sheep is a felony - Penalty.** Repealed by S.L. 1975, ch. 106, § 673.

**36-14-19. Disposition of carcass of animal dying from contagious or infectious disease.** Any animal which is found dead must be presumed to have died from a contagious or infectious disease until the contrary is shown unless another cause of death is apparent. The owner or person in charge of any domestic animal or nontraditional livestock which dies within this state from or on account of any contagious or infectious disease shall dispose of the carcass of such animal as follows:

1. If the animal died of anthrax, as determined by a licensed veterinarian, the carcass must be completely burned at the place where it died if possible. If the carcass must be moved, it may not be dragged over the ground but must be moved only on a suitable conveyor and all body openings in the carcass must be plugged with cotton saturated with a strong antiseptic solution.
2. If the carcass is of a hog which died from hog cholera or swine erysipelas, the same, with hide intact, must be burned within thirty-six hours or given to a licensed rendering plant within such time.
3. If the carcass is of an animal which has died of a disease other than is specified in subsections 1 and 2, or from any other cause, it must be burned, buried, composted, or given to a licensed rendering plant within thirty-six hours, or must be disposed of by a method approved by the state veterinarian. If the carcass is buried, it must be buried not less than four feet [1.22 meters] below the surface of the ground and covered with dirt to that depth. No carcass may be disposed of along any public highway or along any stream, lake, or river nor be buried near or adjoining any such place.

**36-14-20. Duty of overseer of highways when carcass of dead animal is found - Fees - Recovery of expense.** If the owner or person in charge of a dead animal fails to comply with the provisions of section 36-14-19, the overseer of highways shall comply with the provisions of section 36-14-19 for the owner or person. If burial of the animal is permitted, the burial may be made upon the premises of the owner or person in charge of the animal at any place more than one thousand feet [304.8 meters] from any dwelling house or barn. The board of county commissioners shall allow in payment a sum for disposal services as it deems to be reasonable,

and the sum must be paid as other moneys are paid for services rendered to the county. The owner of the animal is liable to the county for any amount paid out for disposal services. If the owner does not pay that amount within thirty days after written demand for payment is made upon the owner by the county auditor, the sum may be recovered in a civil action, and the judgment must include the costs of the suit and a reasonable attorney's fee to be fixed by the court. No property except absolute exemptions is exempt from sale for the payment of any such judgment. Any attorney's fee allowed by the court must be paid to the county if the action is brought by the state's attorney.

**36-14-21. Enforcement orders - Administrative hearing - Penalty.**

1. The board may order any domestic animal or nontraditional livestock brought into this state which is not in compliance with the provisions of this chapter to be returned to the state of origin, or in the alternative, the board may order the animal slaughtered or destroyed.
2. If, after a hearing, the board finds that a person has brought, kept, or received any domestic animal or nontraditional livestock in this state and the animals or livestock are not in compliance with the provisions of this chapter or rules adopted under this chapter, a civil penalty not to exceed five thousand dollars per violation may be assessed against that person.
3. Any person who knowingly violates any rule of the board, or who violates any provision of this chapter for which another penalty is not provided, is guilty of an infraction.

**36-14-22. Civil action for damages.** Every person violating any of the provisions of this chapter is liable in a civil action to any person injured by such violation for all damages directly or indirectly suffered thereby.

**36-14-23. Animal condemned as diseased to be appraised by board - Notice to owner.**

1. Whenever any animal has been adjudged to be diseased and ordered killed by the board, the board or its authorized agent, within seven days after the entry of the order and before the animal has been killed pursuant to the order, shall determine the actual value of the animal. Notice of the appraisal must be given to the owner or keeper of the animal.
2. If an emergency is declared by the governor, the board shall conduct any appraisal required by this section and may destroy the animal as soon thereafter as is practicable. The owner may protest the appraisal, however, a protest may not delay the destruction of the animal.

**36-14-24. Protest of board's appraisal - Board of appraisers appointed - Appraisal to be final.** Except as provided in section 36-14-23, if any individual who owns or who represents the owner of any animal ordered killed under this chapter is not satisfied with the appraisal by the board or its agents, the individual may protest the order within seven days, and a board of three appraisers must then be formed. One member of the board of appraisers must be the agent of the board, one member must be selected by the owner of the animal involved, and the third member must be selected by the first two members. An appraisal of the animal must be made by the board of appraisers according to section 36-14-27, and if two or more of the appraisers agree upon a certain valuation, the appraisal is final.

**36-14-25. Fees of appraisers - How paid.** Each member of the board of appraisers who is not an agent of the board is entitled to receive one hundred thirty-five dollars per day as compensation for services rendered, plus reimbursement for expenses as provided by law for state officers. Fifty percent of the amount due under this section is payable by the state board of animal health and the other fifty percent is payable by the owner of the animal.

**36-14-26. Approval of indemnity payments - Rules.** If the board determines that an animal is so seriously diseased as to warrant disposal of the animal and of all other exposed animals, the board may approve indemnity payments, as funds are appropriated, on the animals in accordance with the limits set in section 36-14-27. The board may adopt rules governing indemnity payments under this chapter.

**36-14-27. Return of appraisal - Payment of claims for diseased animals.** The return of an appraisal under this chapter must be in writing and signed by the board or by the board's agent who made the appraisal, or by the members of the board of appraisers if a reappraisal is made after a protest, and by the owner of the condemned animal. The return must be certified by the agriculture commissioner to the office of management and budget. The office of management and budget shall issue a check jointly to the owner and any lienholders of the animal. The amount of indemnity paid by this state to the owner of a diseased animal may not exceed five thousand dollars per animal less any amount obtained by the owner through insurance, federal indemnity payments, or salvage payments. This state is not liable for indemnity under this chapter in excess of the amount approved by the emergency commission for the payment of the indemnity.

**36-14-28. Owner of diseased animals - No indemnification - Circumstances.** The right of the owner of a diseased animal to be indemnified does not exist and the board may not authorize payment if:

1. The animal belongs to the United States, to this state, or to any political subdivision of this state.
2. The owner at the time of coming into possession of the animal knew or suspected it to be diseased.
3. The animal was found to have been clinically diseased at the time of its arrival in this state.
4. The owner is a nonresident and not engaged in the breeding of livestock in this state.
5. The animal at the time of its killing had been in this state for less than six months.
6. The owner of an animal willfully exposed the animal to the disease.
7. The owner violated any law or any rule of the board.