

CHAPTER 35

ANIMAL HEALTH

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35.01 DEFINITIONS.

Subdivision 1. **Scope.** Unless the language or context clearly indicates that a different meaning is intended, the words defined in this section as used in this chapter have the meanings given them.

Subd. 2. **Board; state board.** "Board" or "state board" means the board of animal health.

Subd. 3. MS 1978 [Repealed, 1980 c 467 s 44]

Subd. 3. **Livestock, domestic animals.** "Livestock" and "domestic animals" include poultry.

Subd. 4. MS 1978 [Repealed, 1980 c 467 s 44]

Subd. 4. MS 1994 [Repealed, 1996 c 310 s 1; 1997 c 7 art 1 s 171]

Subd. 5. [Repealed, 1980 c 467 s 44]

Subd. 6. [Repealed, 1980 c 467 s 44]

Subd. 7. [Repealed, 1980 c 467 s 44]

Subd. 8. [Renumbered subd 3]

History: (5395, 5433) *RL s 2155; 1913 c 160 s 1; 1923 c 112 s 2; 1953 c 98 s 1; 1957 c 113 s 1; 1980 c 467 s 1,2; 1985 c 265 art 1 s 1; 1997 c 7 art 1 s 15*

35.02 BOARD OF ANIMAL HEALTH.

Subdivision 1. **Members; officers.** The board has five members appointed by the governor with the advice and consent of the senate, three of whom are producers of

livestock in the state, and two of whom are practicing veterinarians licensed in Minnesota. The dean of the college of veterinary medicine of the University of Minnesota may serve as consultant to the board without vote. Appointments to fill unexpired terms must be made from the classes to which the retiring members belong. The board shall elect a president and a vice-president from among its members and a veterinarian licensed in Minnesota who is not a member to be its executive director for a term of one year and until a successor qualifies. The board shall set the duties of the director.

Subd. 2. **Terms; compensation; removal; vacancies.** The membership terms, compensation, removal of members, and filling of vacancies on the board are governed by section 15.0575.

History: (53-43, 5395) *RL s 2155; 1913 c 160 s 1; 1925 c 426 art 16 s 1; 1951 c 713 s 5; 1959 c 23 s 1; 1976 c 134 s 13; 1980 c 467 s 3; 1985 c 265 art 1 s 1; 1999 c 231 s 69*

35.03 POWERS, DUTIES, AND REPORTS.

The board shall protect the health of Minnesota domestic animals and carry out the provisions of this chapter. The board shall make rules necessary to protect the health of domestic animals. The board shall meet at least quarterly. Officers must be elected each April. On or before November 1 of each year the board shall publish an annual report.

History: (5396) *RL s 2156; 1955 c 847 s 3; 1980 c 467 s 4; 1985 c 100 s 1; 1985 c 265 art 1 s 1; art 12 s 1*

35.04 [Repealed, 1Sp2001 c 2 s 162]

35.05 AUTHORITY OF STATE BOARD.

(a) The state board may quarantine or kill any domestic animal infected with, or which has been exposed to, a contagious or infectious dangerous disease if it is necessary to protect the health of the domestic animals of the state.

(b) The board may regulate or prohibit the arrival in and departure from the state of infected or exposed animals and, in case of violation of any rule or prohibition, may detain any animal at its owner's expense. The board may regulate or prohibit the importation of domestic animals which, in its opinion, may injure the health of Minnesota livestock.

(c) The board may implement the United States Voluntary Johne's Disease Herd Status Program for Cattle.

(d) Rules adopted by the board under authority of this chapter must be published in the State Register.

History: (5398) *RL s 2158; 1980 c 467 s 5; 1985 c 100 s 2; 1985 c 265 art 1 s 1; 1999 c 231 s 71*

35.06 REPORTING DISEASE; COMPELLING TESTIMONY.

A person who knows or reasonably suspects that a contagious or infectious disease exists in a domestic animal shall immediately notify the board. The board, or any member or authorized agent of the board, may examine under oath all persons believed to have knowledge of the existence or threat of disease among domestic animals and, for this purpose, may take depositions and compel witnesses to attend and testify.

History: (5399) *RL s 2159; 1980 c 467 s 6; 1985 c 265 art 1 s 1*

35.063 QUARANTINE MAINTAINED.

The board may establish and maintain, at the owner's expense, a quarantine of domestic animals imported into the state when, in its judgment, a quarantine is

necessary to protect the health of Minnesota domestic animals. The quarantine must specify its terms, conditions, scope, and application.

History: (5460-17) 1933 c 33 s 1; 1980 c 467 s 7; 1985 c 265 art 1 s 1

35.065 MAY NOT BREAK QUARANTINE.

It is unlawful for the owner or the person having the custody or control of domestic animals subject to a quarantine to remove any of them from their first location within the state after the interstate shipment or transportation is completed until they are released by authority of the board.

History: (5460-18) 1933 c 33 s 2; 1980 c 467 s 8; 1985 c 265 art 1 s 1

35.0661 TEMPORARY EMERGENCY RESTRICTIONS ON MOVEMENT OF PEOPLE, LIVESTOCK, MACHINERY, AND OTHER PERSONAL PROPERTY.

Subdivision 1. Disastrous animal disease outbreaks; declaration of emergency. (a) If the board determines that a confirmed case of a disease in this state presents a substantial and imminent threat to the state's domestic animal population, it shall certify the case to the governor. After receiving certification from the board, the governor may declare an emergency under this section for purposes of allowing the board to establish quarantine zones of control to protect the health of domestic animals from animal diseases of potentially disastrous proportions. The governor may declare an emergency under this section without declaring a peacetime emergency under section 12.31. A declaration under this section may specify that it applies to all or certain units of state or local government, must specify the time period for which it applies, and must be filed with the secretary of state. This section is in addition to and does not limit authority granted to the governor or local government officials by chapter 12 or other law.

(b) The board may meet by electronic means without violating state open meeting laws for the purpose of declaring that a confirmed case of a disease in this state presents a substantial and imminent threat to the state's domestic animal population. If the board meets by electronic means for this purpose, it shall comply with the emergency meeting notice provisions of section 13D.04, subdivision 3, and, to the fullest extent possible, provide public and media access to the meeting.

Subd. 2. Quarantine zones. Upon an emergency declaration by the governor under subdivision 1, the board or any licensed veterinarian designated by the board may establish quarantine zones of control in any area where a specific animal is deemed by a licensed veterinarian as likely to be infected with the disease based on an actual veterinary examination or laboratory testing. Quarantine zones of control must be the smallest size practicable to prevent the spread of disease and must exist for the shortest duration consistent with effective disease control. A quarantine zone of control must not extend beyond a radius of three miles from an animal deemed as likely to be infected with the disease, unless the board has adopted a rule regarding a specific disease requiring a larger quarantine zone of control.

Subd. 3. Restrictions on movement out of quarantine zones. (a) The board may issue orders restricting the movement of persons, livestock, machinery, and personal property out of zones designated by the board as quarantined under subdivision 2. The executive director of the board or any licensed veterinarian designated by the board may issue the orders. An order may be issued upon a determination that reasonable cause exists to believe that the movement of persons or personal property out of a quarantine zone will reasonably threaten to transport a dangerous, infectious, or communicable disease outside of the quarantine zone.

(b) The order must be served upon any person subject to the order. The restrictions sought by the board on movement out of a quarantine zone must be limited to the greatest extent possible consistent with the paramount disease control objectives as determined by the board. An order under this section may be served on any day at any time. The order must include a notice of the person's rights under this section,

including the ability to enter into an agreement to abide by disease control measures under paragraph (c) and the right to request a court hearing under paragraph (d).

(c) No person may be restricted by an order under this subdivision for longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, so long as the person agrees to abide by the disease control measures established by the board. The person shall sign an acknowledgment form prepared by the board evidencing the person's agreement to abide by the disease control measures established by the board.

(d) A person whose movements are restricted by an order under this subdivision may seek a district court hearing on the order at any time after it is served on the person. The hearing may be held by electronic means as soon as possible. The subject of the order may:

(1) contest imposition of the order on grounds that it is an abuse of the board's discretion under this section; or

(2) seek a variance from it to allow movement of a person inconsistent with the order, upon a showing that the person would otherwise suffer irreparable harm.

Subd. 4. **Expiration.** This section expires July 31, 2003.

History: 2001 c 192 s 1

35.0662 TEMPORARY EMERGENCY RESTRICTIONS HEARING.

Subdivision 1. **Grounds.** If the board determines that a person is not reasonably likely to abide by the disease control measures established by the board, the board may request a court hearing to determine if the emergency temporary restrictions should continue. The court shall schedule the hearing as expeditiously as possible. When the board requests a court hearing under this section, restrictions under section 35.0661, subdivision 3, continue to apply to the person until the court has held the temporary emergency restrictions hearing and issues an order.

Subd. 2. **Time of notice.** If the board requests a court hearing pursuant to this section, notice of the hearing must be served upon the person or persons to be restricted at least 24 hours before the hearing.

Subd. 3. **Contents of notice.** The notice must contain the following information:

- (1) the time, date, and place of the hearing;
- (2) the grounds and underlying facts upon which continued restrictions are sought;
- (3) the person's right to appear by electronic means at the hearing and the right to have a representative appear in person at the hearing;
- (4) the person's right to present and cross-examine witnesses; and
- (5) the person's right to counsel, including the right, if the person is indigent, to representation by counsel designated by the court or county of venue.

Subd. 4. **Order for continued temporary restrictions.** The court may order the continued restriction on the movement of the person if it finds, by a preponderance of the evidence, that travel outside of the quarantine zone by the person would pose an imminent threat of transporting a dangerous, infectious, or communicable disease outside of the boundaries of the quarantine zone. If the person agrees to sign and comply with the acknowledgment form referred to in section 35.0661, subdivision 3, the temporary restrictions must not continue longer than 30 days. If the person refuses to sign and comply with the acknowledgment form, the temporary restrictions may continue for a longer time specified by the court. Refusal by the person to sign and comply with the acknowledgment form constitutes a knowing violation of section 35.0661 and subjects the person to the penalties specified in section 35.96.

History: 2001 c 192 s 2

35.067 [Repealed, 1Sp1986 c 3 art 1 s 5]

35.069 [Repealed, 1988 c 485 s 15]

35.07 [Repealed, 1980 c 467 s 44]

35.08 KILLING OF DISEASED ANIMALS.

If the board decides upon the killing of an animal affected with tuberculosis, paratuberculosis, or brucellosis, it shall notify the animal's owner or keeper of the decision. If the board, through its executive director, orders that an animal may be transported for immediate slaughter to any abattoir where the meat inspection division of the United States Department of Agriculture maintains inspection, or where the animal and plant health inspection service of the United States Department of Agriculture or the board establishes field postmortem inspection, the owner must receive the value of the net salvage of the carcass.

Before the animal is removed from the premises of the owner, the representative or authorized agent of the board must agree with the owner in writing as to the value of the animal. In the absence of an agreement, three competent, disinterested persons, one appointed by the board, one by the owner, and a third by the first two, shall appraise the animal at its full replacement cost taking into consideration the purpose and use of the animal.

The appraisal made under this section must be in writing, signed by the appraisers, and certified by the board to the commissioner of finance, who shall draw a warrant on the state treasurer for the amount due the owner.

History: (5402) *RL s 2160; 1905 c 115; 1909 c 401; 1913 c 148 s 1; 1915 c 114 s 1; 1921 c 485 s 1; 1925 c 230 s 1; 1929 c 35 s 1; 1935 c 32; 1939 c 171 s 1; 1945 c 328 s 1; 1965 c 472 s 1; 1973 c 492 s 14; 1974 c 161 s 2; 1980 c 467 s 9; 1985 c 265 art 1 s 1; 1999 c 231 s 72*

35.09 INSPECTION BEFORE KILLING; OWNER'S INDEMNITY.

Subdivision 1. **General rule.** Notwithstanding any provision of this chapter to the contrary, cattle affected with tuberculosis, paratuberculosis, or brucellosis may not be killed for that reason until they have been inspected by a veterinarian appointed by the board and are determined by the veterinarian to have one of those diseases.

For each animal slaughtered because of tuberculosis, paratuberculosis, or brucellosis, the value of the net salvage of the carcass must be deducted from the appraised value of the living animal. Two-thirds of the remainder must be paid to the owner by the state. If the animal and plant health inspection service of the United States Department of Agriculture compensates the owner for the animal, in whole or in part, the amount of the compensation received from the federal government must be deducted from the amount of indemnity payable by the state. No payment may be more than \$37.50 for grade animals or more than \$75 for a registered purebred animal, and no payment may be made unless the owner has complied with all rules of the board.

Subd. 2. **Exceptions.** The owner of an animal is entitled to the indemnity provided in subdivision 1, except in the following cases:

- (1) steers;
- (2) animals which have not been kept in good faith for one year or since their birth in the state;
- (3) animals brought into the state, contrary to law or rules of the board;
- (4) animals diseased on arrival in the state;
- (5) animals belonging to the United States;
- (6) animals belonging to institutions maintained by the state, a county, or a municipality;
- (7) animals which the owner or claimant knew or should have known were diseased at the time they were acquired;
- (8) animals exposed to brucellosis through the owner's negligence;
- (9) animals which have been injected with brucellosis vaccine, bacterin, or other preparations made from or through the agency of *Brucella* Microorganisms unless it was done in compliance with the rules of the board;

(10) animals belonging to a person who has received indemnity as a result of a former inspection or tests and has then introduced into the same herd any animals which have not passed the tuberculin or brucellosis test;

(11) animals if the owner, agent, or person in possession of them has not complied with the rules of the board with respect to condemned animals;

(12) condemned animals which are not destroyed within 15 days after the date of appraisal, or for which the owner refuses to sign the appraisal or report of the members of the appraisal board, except that in extraordinary circumstances and in meritorious cases and at the discretion of the executive director of the board the time limit of 15 days may be extended an additional 15 days if the owner receives permission from the executive director within 15 days of the date of appraisal;

(13) livestock affected with tuberculosis, paratuberculosis, or brucellosis unless the entire herd of which the affected livestock is a part, or from which the affected livestock has originated, is examined and tested under the supervision of the board, in order to determine if they are free from the disease;

(14) livestock affected with tuberculosis, paratuberculosis, or brucellosis unless the owner has carried out the instructions of the board relating to cleaning, disinfection, and rendering the stables and premises in a sanitary condition within 15 days of the time of removal of the animals from the premises, except when, because of inclement weather or other extenuating circumstances, the time is extended by the executive director of the board;

(15) livestock affected with tuberculosis, paratuberculosis, or brucellosis, if the owner has fed milk or milk products derived from creameries which was not pasteurized as required by state laws; and

(16) animals owned by a nonresident if neither the owner nor the owner's agent breed livestock in Minnesota.

If, at any time, the annual appropriation for payment of indemnities becomes exhausted as a result of condemnation and slaughter of animals, the board shall discontinue making further official tests or authorizing tests unless an owner signs a waiver on blanks furnished by the board of payment of indemnity for any animals that may be condemned as the result of a test and inspection which releases the state from any obligation to pay indemnity from any future appropriation.

Subd. 2a. Nonreactors; cattle ineligible for test. The board may condemn and appraise nonreactors to the brucellosis test and exposed cattle not eligible to be tested from herds affected with brucellosis and may pay the owner the difference between the appraisal value and the salvage value up to \$300 for grade animals or \$600 for purebred registered animals if the board through its executive director has determined according to criteria adopted by the board that herd depopulation is essential to the goal of bovine brucellosis eradication. Indemnity payable by the state must be reduced by the amount paid by the United States Department of Agriculture. No indemnity may be paid for steers.

Subd. 3. Emergencies. (a) When it is determined by the board that it is necessary to eradicate any dangerous, infectious, communicable disease among domestic animals in the state, the presence of which constitutes an emergency declared by resolution of the board, order of the governor, or by the United States Department of Agriculture, the board may take reasonable and necessary steps to suppress and eradicate the disease. The board may cooperate with the animal and plant health inspection service of the United States Department of Agriculture, federally recognized Indian tribes, state or local government agencies, or any other private or public entity in the suppression and eradication of the disease.

(b) When an emergency has been declared, the board may appraise and destroy animals affected with, or which have been exposed to the disease, or which are highly susceptible to exposure to the disease because of proximity to diseased animals, appraise and destroy personal property in order to remove the infection and complete the cleaning and disinfection of the premises, temporarily commandeer real property

under paragraph (c) for the purpose of disposing of animals, and do any act and incur any other expense reasonably necessary to suppress the disease.

(c) The governor, at the request of the board, may temporarily commandeer agricultural or other suitable nonresidential land under the provisions of chapter 12 to be used for disposal of the destroyed animals when an emergency has been declared by the governor under section 35.0661 and the board determines that:

- (1) the owner of destroyed animals lacks sufficient land to properly dispose of the animals;
- (2) the animals cannot be transported to other sites;
- (3) no landowner within the appropriate area will consent to voluntarily provide land for animal disposal;
- (4) time pressures prevent formal condemnation procedures; and
- (5) other means of animal disposal are either impractical or contrary to good disease control practices.

After the land has been used for animal disposal, possession shall return to the owner or occupant. Damages resulting from the temporary taking shall be paid in the same amount and manner as if the land had been temporarily condemned for other public purposes.

(d) The board may accept, on behalf of the state, the rules adopted by the animal and plant health inspection service of the United States Department of Agriculture pertaining to the disease, authorized under an act of Congress, or the portion of the regulations deemed necessary, suitable, or applicable, and cooperate with the animal and plant health inspection service of the United States Department of Agriculture, in the enforcement of those rules. Alternatively, the board may follow the procedure only as to quarantine, inspection, condemnation, appraisal, compensation, destruction, burial of animals, disinfection, or other acts the board considers reasonably necessary for the suppression of the disease, as agreed upon and adopted by the board and representatives or authorized agents of the animal and plant health inspection service of the United States Department of Agriculture.

(e) For the purpose of compensation under paragraph (f), appraisals of animals or personal property destroyed in order to remove the infection and complete the cleaning and disinfection of premises where the animals are found, must be made by an appraisal board consisting of a representative of the board, a representative of the animal and plant health inspection service of the United States Department of Agriculture, and the owner of the animals or the owner's representative. Notwithstanding any law to the contrary, when, in the judgment of the board, physical appraisal of the animals to be killed or personal property to be destroyed poses a disease threat, appraisals may be conducted after the animals are killed based on documents, testimony, or other relevant evidence. Appraisals must be in writing and signed by the appraisers, and must be made at the true market value of all animals and personal property appraised, unless otherwise provided by applicable federal law or regulation when compensation is paid by federal funds.

(f) Upon destruction of animals or personal property, or temporary commandeering of real property, and burial or other disposition of the carcasses of the animals in accordance with the law and rules of the board and the animal and plant health inspection service of the United States Department of Agriculture, and the completion of the cleaning and disinfection of the premises, the board shall certify the appraisal or the condemnation award to the commissioner of finance, who shall draw a warrant on the state treasurer for the proper amount payable to the owner, excluding any compensation received by the owner from other sources, from appropriations made available for this purpose.

(g) No entity of any kind may begin or proceed with any proceeding to collect a debt from the owner of animals or personal property destroyed under this subdivision, until the owner has received compensation under paragraph (d). For purposes of this paragraph, "proceeding to collect a debt" includes foreclosure, repossession, garnish-

ment, levy, contract for deed cancellation, an action to obtain a court judgment, a proceeding to collect real estate taxes or special assessments, eviction, and any other in-court and out-of-court proceedings to collect a debt. The term does not include sending bills or other routine communications to the owner. If an entity refuses to comply with this paragraph after being informed that the owner qualifies for relief under this paragraph, the owner may apply to the district court in the county in which the owner resides for a court order directing the entity to comply with this paragraph and to reimburse the owner for reasonable attorney fees incurred in obtaining the court order. This paragraph does not affect the validity of a mortgage foreclosure, contract for deed cancellation or other proceeding involving the title to real property, unless the owner records in the office of the county recorder, or files in the office of the registrar of titles, prior to completion of the proceeding to collect a debt, a certified copy of a court order, which includes a legal description of the property, determining that the owner qualifies for relief under this paragraph. For purposes of proceedings involving title to real property, the court order must provide that it expires 90 days after the court order was applied for, unless the court extends the court order prior to that date for good cause shown. A certified copy of any extension of the court order must be recorded or filed in order to affect the validity of a proceeding affecting the title to real property. For purposes of this paragraph, "completion of a proceeding to collect a debt" means, in the case of a mortgage foreclosure under chapter 580 or 581 or of a foreclosure of any other lien on real property, the filing or recording of the sheriff's certificate of sale; and, in the case of a contract for deed cancellation under section 559.21, the end of the cancellation period provided in that section.

History: (5403) *RL s 2161; 1921 c 485 s 2; 1923 c 319 s 1; 1925 c 230 s 2; 1939 c 171 s 2; 1941 c 67 s 1; 1945 c 328 s 2; 1953 c 223 s 1; 1965 c 472 s 2,3; 1973 c 492 s 14; 1976 c 227 s 1,2; 1980 c 467 s 10; 1985 c 248 s 10; 1985 c 265 art 1 s 1; art 12 s 1; 1999 c 231 s 73,74; 2001 c 192 s 3*

NOTE: The amendment to subdivision 3 by Laws 2001, chapter 192, section 3, expires July 31, 2003, and the subdivision as it read prior to that amendment is revived and includes any subsequent enactments. Laws 2001, chapter 192, section 4.

35.10 INDEMNITY SUBJECT TO LIEN OR MORTGAGE ON ANIMALS.

If an animal is condemned and killed by the state pursuant to law, indemnity is provided, the animal is subject to a mortgage or other lien, and written notice of the lien is given by the lienholder to the board or officer whose duty it is to order payment of the indemnity before the indemnity is ordered paid, then the lien attaches to the indemnity to the same extent it attached to the animal and the indemnity is payable to the owner and the lienholder.

If the owner and lienholder execute and deliver to the board or officer, on blanks furnished by the board or officer, a written agreement providing for the distribution and payment of an indemnity, payment must be made as specified and directed in the agreement, a copy of which must be transmitted by the board or officer to the officer by whom payment is to be made; otherwise the indemnity must be placed in the custody of the district court of the county in which the animal was condemned, in the manner provided by the rules of civil procedure for the deposit of money claimed adversely by two or more persons, and the state is relieved from further liability for the indemnity.

History: (5403-3) *1927 c 274; 1969 c 6 s 2; 1980 c 467 s 11; 1985 c 265 art 1 s 1*

35.11 EXPENSES OF AUTOPSIES AND APPRAISALS.

The expense of autopsies and appraisals must be defrayed by the state, except that in cases of protest where the animal is found infected, the charges of the expert appointed by the owner shall be paid by the owner. The compensation of experts and appraisers must be fixed by the board, which must approve before payment all claims made under this chapter. No employee of the board may receive any fee for acting as an expert or appraiser.

History: (5404) *RL s 2162; 1980 c 467 s 12; 1985 c 265 art 1 s 1*

35.12 EXPENSES OF KILLING, BURIAL, AND QUARANTINE; LIEN.

The expense of killing and burial or destruction of a diseased animal, if the killing was ordered by the board, must be borne by the board. The expense of quarantine, if the animal is taken from the possession of its owner, must be defrayed by the state. If a quarantined animal is left upon the premises of its owner or keeper, that person shall bear the expense. If an animal is quarantined while being shipped into the state, the expense must be borne by the owner or keeper. If the owner or keeper of any animal becomes liable for an expense incurred by the board under this chapter, the board has a lien on the animal and may also maintain an action for the amount.

History: (5405) *RL s 2163; 1980 c 467 s 13; 1985 c 265 art 1 s 1*

35.13 ENTRY TO PREMISES FORBIDDEN.

During the prevalence among domestic animals of any of the diseases referred to in this chapter, any owner or keeper of these animals may post upon the premises a notice forbidding all persons to enter any building or enclosure in which animals are kept. No person may then enter, except a member or agent of the board.

History: (5406) *RL s 2164; 1980 c 467 s 14; 1985 c 265 art 1 s 1*

35.131 [Repealed, 1980 c 467 s 44]

35.132 [Repealed, 1980 c 467 s 44]

35.133 [Repealed, 1980 c 467 s 44]

35.134 [Repealed, 1980 c 467 s 44]

35.135 [Repealed, 1980 c 467 s 44]

35.136 [Repealed, 1980 c 467 s 44]

35.137 [Repealed, 1980 c 467 s 44]

35.14 [Repealed, 1Sp2001 c 2 s 162]

35.15 TRANSPORTATION OF LIVESTOCK; COMPLIANCE WITH RULES.

Subdivision 1. **Importation of animals and poultry.** Animals or poultry may not be brought into the state for work, feeding, breeding, dairy purposes, or sale except in compliance with the rules of the board.

Subd. 2. [Repealed, 1988 c 485 s 15]

History: (5409) *1907 c 355 s 1; 1935 c 31 s 1; 1965 c 40 s 1; 1965 c 91 s 1; 1980 c 467 s 15; 1981 c 37 s 2; 1985 c 265 art 1 s 1*

35.155 CERVIDAE IMPORT RESTRICTIONS.

(a) A person must not import cervidae into the state from a herd that is infected or exposed to chronic wasting disease or from a known chronic wasting disease endemic area, as determined by the board. A person may import cervidae into the state only from a herd that is not in a known chronic wasting disease endemic area, as determined by the board, and the herd has been subject to a state or provincial approved chronic wasting disease monitoring program for at least three years. Cervidae imported in violation of this section may be seized and destroyed by the commissioner of natural resources.

(b) This section expires on June 1, 2003.

History: *2002 c 373 s 22*

35.16 TRANSPORTATION COMPANIES TO HOLD LIVESTOCK AND POULTRY.

If rules of the board have not been complied with, transportation companies shall notify the board and shall hold the animals or poultry at the first station within

Minnesota where there are suitable facilities for holding animals or poultry for inspection by the board. The inspection must be at the owner's expense.

History: (5410) 1907 c 355 s 2; 1935 c 31 s 2; 1980 c 467 s 16; 1985 c 265 art 1 s 1

35.165 LIABILITY FOR ILLEGALLY TRANSPORTING LIVESTOCK.

A transportation company or corporation or its agent, the owner or driver of a vehicle for hire or a private vehicle used to haul livestock, or a person violating section 35.15 or 35.16 is liable in a civil action to a person injured for the full amount of damages that may result from a violation of section 35.15 or 35.16. Action may be brought in a county where the livestock is sold, offered for sale, delivered to a purchaser, or detained in transit.

History: 1988 c 485 s 1

35.17 [Repealed, 1980 c 467 s 44]

35.18 [Repealed, 1980 c 467 s 44]

35.19 [Repealed, 1980 c 467 s 44]

35.20 [Repealed, 1980 c 467 s 44]

35.21 [Repealed, 1980 c 467 s 44]

35.22 [Repealed, 1980 c 467 s 44]

35.23 [Repealed, 1980 c 467 s 44]

35.24 [Repealed, 1980 c 467 s 44]

35.243 RULES FOR CONTROL OF BRUCELLOSIS IN CATTLE.

The board of animal health shall adopt rules to provide for the control of brucellosis in cattle. The rules may include provisions for quarantine, tests, and vaccinations, and such other measures as the board deems appropriate.

History: 1992 c 433 s 1

35.245 [Repealed, 1999 c 231 s 207]

35.25 [Repealed, 1980 c 467 s 44]

35.251 ANAPLASMOSIS TESTING.

Breeding cattle entering Minnesota from a country or a state not exempted by the board must have a certificate of veterinary inspection evidencing a negative test for anaplasmosis conducted at a state or federal laboratory within 30 days of entry. Cattle without a certificate must be immediately quarantined and tested for anaplasmosis at the expense of the cattle owner. Cattle having a positive reaction to the anaplasmosis test must remain quarantined until they test free of anaplasmosis or be slaughtered. An anaplasmosis test is not required of steers, cattle shipped directly to a slaughtering establishment, cattle sent to a quarantine feed lot, and other cattle excepted by board rule. The board may adopt rules to implement this section.

History: 1980 c 467 s 35; 1983 c 216 art 1 s 11; 1985 c 265 art 1 s 1; 1992 c 433 s 4

35.255 PSEUDORABIES PROGRAM RULES.

The board of animal health shall adopt rules to implement a program to control pseudorabies in swine, including pseudorabies testing of breeding swine and restricted movement of feeder pigs.

History: 1983 c 367 s 1; 1985 c 265 art 1 s 1

35.26 [Repealed, 1980 c 467 s 44]

- 35.27 [Repealed, 1980 c 467 s 44]
- 35.28 [Repealed, 1980 c 467 s 44]
- 35.29 [Repealed, 1980 c 467 s 44]
- 35.30 [Repealed, 1980 c 467 s 44]
- 35.31 [Repealed, 1980 c 467 s 44]
- 35.32 [Repealed, 1980 c 467 s 44]
- 35.33 [Repealed, 1980 c 467 s 44]
- 35.34 [Repealed, 1980 c 467 s 44]
- 35.35 [Repealed, 1980 c 467 s 44]
- 35.36 [Repealed, 1959 c 406 s 5]
- 35.37 [Repealed, 1959 c 406 s 5]
- 35.38 [Repealed, 1959 c 406 s 5]
- 35.39 [Repealed, 1959 c 406 s 5]
- 35.40 [Repealed, 1980 c 467 s 44]
- 35.41 [Repealed, 1980 c 467 s 44]
- 35.42 [Repealed, 1980 c 467 s 44]
- 35.43 [Repealed, 1980 c 467 s 44]
- 35.44 [Repealed, 1980 c 467 s 44]
- 35.45 [Repealed, 1980 c 467 s 44]
- 35.46 [Repealed, 1980 c 467 s 44]
- 35.47 [Repealed, 1980 c 467 s 44]
- 35.48 [Repealed, 1980 c 467 s 44]
- 35.49 [Repealed, 1980 c 467 s 44]
- 35.50 [Repealed, 1980 c 467 s 44]
- 35.51 [Repealed, 1980 c 467 s 44]
- 35.52 [Repealed, 1967 c 166 s 3]
- 35.53 [Repealed, 1967 c 166 s 3]
- 35.54 [Repealed, 1959 c 406 s 5]
- 35.55 [Repealed, 1980 c 467 s 44]
- 35.56 [Repealed, 1980 c 467 s 44]
- 35.57 [Repealed, 1980 c 467 s 44]
- 35.58 [Repealed, 1980 c 467 s 44]
- 35.59 [Repealed, 1959 c 406 s 5]

35.60 [Repealed, 1980 c 467 s 44]

35.605 [Repealed, 1980 c 467 s 44]

35.61 [Repealed, 1959 c 406 s 5]

35.62 [Repealed, 1959 c 406 s 5]

35.63 [Repealed, 1959 c 406 s 5]

35.64 [Repealed, 1959 c 406 s 5]

35.65 [Repealed, 1959 c 406 s 5]

35.66 [Repealed, 1967 c 147 s 1]

35.67 RABIES INVESTIGATION.

If the executive director of the board of animal health, or a board of health as defined in section 145A.02, subdivision 2, receives a written complaint that rabies exists in a town or city in the board's jurisdiction, the board of health shall investigate, either personally or through subordinate officers, the truth of the complaint. A board of health may also make an investigation and determination independently, without having received a complaint. The fact that a board of health has investigated and determined that rabies does not exist in a jurisdiction does not deprive the executive director of the board of animal health of jurisdiction or authority to make an investigation and determination with reference to the territory. For the purposes of sections 35.67 to 35.69, the jurisdiction of the executive director of the board of animal health is the entire state.

History: (5389) 1913 c 541 s 1; 1973 c 123 art 5 s 7; 1980 c 467 s 18; 1985 c 265 art 1 s 1; 1987 c 309 s 14; 1999 c 231 s 75

35.68 RABIES PROCLAMATION.

If a board of health as defined in section 145A.02, subdivision 2, investigates and finds that rabies does exist in a town or city the board of health shall make and file a proclamation of the investigation and determination which prohibits the owner or custodian of any dog from allowing the dog to be at large within the town or city unless the dog is effectively muzzled so that it cannot bite any other animal or person.

If the executive director of the board of animal health, after investigation, has determined that rabies exists in any territory in the state, similar proclamations must be issued in all towns and cities within the territory or area in which it is necessary to control the outbreak and prevent the spread of the disease. The proclamation must prohibit the owner or custodian of any dog within the designated territory from permitting or allowing the dog to be at large within the territory unless the dog is effectively muzzled so that it cannot bite any other animal or person.

All local peace officers and boards of health shall enforce sections 35.67 to 35.69.

A proclamation issued by the board of health must be filed with the clerk of the political subdivision responsible for the board of health. One issued by the executive director of the board of animal health must be filed with the clerk of each town and city within the territory it covers.

Each officer with whom the proclamation is filed shall publish a copy of it in one issue of a legal newspaper published in the clerk's town or city if one is published there. If no newspaper is published there, the clerk must post a copy of the proclamation in three public places. Publication is at the expense of the municipality.

Proof of publication must be by affidavit of the publisher and proof of posting must be by the person doing the posting. The affidavit must be filed with the proclamation. The proclamation is effective five days after the publication or posting

and remains effective for the period of time not exceeding six months specified in it by the board of health making the proclamation.

History: (5390) 1913 c 541 s 2; 1929 c 34; 1973 c 123 art 5 s 7; 1980 c 467 s 19; 1985 c 265 art 1 s 1; 1987 c 309 s 15; 1988 c 485 s 3; 1999 c 231 s 76

35.69 UNMUZZLED DOGS NOT PERMITTED AT LARGE.

The owner or custodian of a dog may not permit it to be at large, either on the premises of the owner or elsewhere, within any city or town covered by a proclamation made under section 35.68, during the time the proclamation is in force, unless the dog is effectively muzzled so that it cannot bite any other animal or person.

Any person may kill a dog running at large on the public streets or roads in violation of sections 35.67 to 35.69. The owner of the dog has no claim against the person who kills the dog.

Peace officers and agents of a board of health as authorized under section 145A.04 shall file a complaint concerning any known violation of sections 35.67 to 35.69.

History: (5391) 1913 c 541 s 3; 1973 c 123 art 5 s 7; 1985 c 265 art 1 s 1; 1987 c 309 s 24

35.695 [Repealed, 1982 c 514 s 21]

35.70 [Repealed, 1988 c 485 s 15]

35.701 INFLUENCING A SALE OF DISEASED ANIMAL.

A veterinarian who is an agent or representative of the board or another public official may not suggest, recommend, or try to influence or persuade the owner of an animal affected with a disease listed in section 35.08, directly or indirectly, to sell, barter, exchange, ship, or otherwise dispose of the animal to a particular person, firm, association, or corporation.

History: 1988 c 485 s 4

35.71 UNCLAIMED AND UNREDEEMED ANIMALS IMPOUNDED; SCIENTIFIC USE OR OTHER DISPOSITION.

Subdivision 1. **Definitions.** As used in this section, "establishment" means any public or private agency, person, society, or corporation having custody of animals which are seized under the authority of the state or any political subdivision of the state and "institution" means a school or college of agriculture, veterinary medicine, medicine, pharmacy, or dentistry, or an educational or scientific establishment properly concerned with investigation or instruction concerning the structure or functions of living organisms or the cause, prevention, control, or cure of diseases or abnormal conditions of human beings or animals.

Subd. 2. **Application for license.** An institution may apply to the board for a license to obtain animals from establishments. If, after investigation, the board finds that the institution requesting a license is a fit and proper agency to receive a license, and that the public interest will be served by granting it a license, the board may issue a license to the institution authorizing it to obtain animals under this section.

Subd. 3. **Stray animals; seizure, disposition.** All animals seized by public authority must be held for redemption by the owner for at least five regular business days of the impounding agency or for a longer time specified by municipal ordinance. For the purpose of this subdivision, "regular business day" means a day during which the establishment having custody of an animal is open to the public not less than four consecutive hours between the hours of 8:00 a.m. and 7:00 p.m. Establishments must maintain the following records of the animals in custody, and preserve the records for at least six months:

(a) the description of the animal by species, breed, sex, approximate age, and other distinguishing traits;

(b) the location at which the animal was seized;

(c) the date of seizure;

(d) the name and address of the person from whom any animal three months of age or over was received; and

(e) the name and address of the person to whom any animal three months of age or over was transferred.

The records must be maintained in a form permitting easy perusal by the public. A person may view the records and animals in custody at any time during which the establishment is open to the public. At the end of the five-day period, all animals which remain unredeemed must be made available to any licensed institution which has requested that number of animals. However, if a tag affixed to the animal or a statement by the animal's owner after the animal's seizure specifies that the animal may not be used for research, the animal must not be made available to any institution and may, in the discretion of the establishment, be destroyed after the expiration of the five-day period. If a request is made by a licensed institution to an establishment for more animals than are available at the time of the request, the establishment must withhold from destruction all unclaimed and unredeemed animals until the request has been filled. The actual expense of holding animals beyond the time of notice to the institution of their availability must be borne by the institution receiving them. An establishment which fails or refuses to comply with this section is ineligible for any further public funds from any county or municipality. Upon receipt of a sworn statement by an authorized officer or employee of a licensed institution of noncompliance by any establishment with this section, the treasurer of any municipality or other political subdivision of the state may not pay any public funds to the establishment until the complainant withdraws its statement of noncompliance or until the board either determines that the complaint of noncompliance was without foundation or that the establishment has given adequate assurance of future compliance and the treasurer of the municipality or other political subdivision has been notified of the determination in writing. If it appears upon a person's complaint that an officer, agent, or employee of an establishment is violating or failing to carry out the provisions of this section, the attorney general or county attorney of the county in which the establishment is located, in addition to any other remedies, may bring an action in the name of the state against the establishment, officer, agent, or employee to enjoin compliance with this section.

Subd. 4. Transportation of animals. A licensed institution must provide, at its own expense, for the transportation of animals from the establishment to the institution and must use them only in the conduct of its scientific and educational activities.

Subd. 5. Annual license fee. Each licensed institution must pay to the board a license fee of \$50 for each calendar year or part of a calendar year. License fees must be deposited in the general fund of the state treasury.

Subd. 6. Revocation of license. After 15 days' written notice and an opportunity to be heard, the board may revoke the license granted any institution if the institution has (1) violated this section, or (2) failed to comply with the conditions of the board in respect to the issuance of its license.

Subd. 7. Rules. The board may adopt rules consistent with this section necessary to carry out the provisions of this section, and may, if the board considers it advisable or in the public interest, inspect or investigate any institution which has applied for a license or has been granted a license under this section.

Subd. 8. [Repealed, 1988 c 485 s 15]

History: 1949 c 195 s 1-8; 1955 c 112 s 1,2; 1969 c 246 s 1; 1969 c 399 s 1; 1976 c 1 s 1; 1978 c 457 s 1; 1980 c 467 s 24,25; 1985 c 265 art 1 s 1

35.72 MILK OR CREAM; TESTING BY BOARD.

Subdivision 1. Establishment defined. As used in this section "establishment" means a creamery, milk or cream collecting station, or place of business where milk or cream is purchased or assembled for processing or sale.

Subd. 2. **Right of entry on premises.** The board or its authorized agents may enter the premises or buildings of any establishment to collect samples of milk or cream delivered to the establishment.

Subd. 3. **Samples, procurement.** Upon demand of the board or its authorized agents, the operator of an establishment shall submit containers of milk or cream delivered to the establishment to the board or agents before any milk or cream is removed or any substance or thing is added, and shall allow the board or agent to take a sample of one ounce in weight or less of milk or cream from each container for the purpose of applying any recognized test to determine the existence of disease in the cattle which produced the milk or cream.

Subd. 4. **Names, addresses.** The operator of the establishment shall furnish the board or agents the name and address of the person delivering each container of milk or cream to the establishment, and the name and address of the owner or caretaker of the cattle which produced the milk or cream.

Subd. 5. **Contamination, prevention.** The board or agent shall use due diligence to prevent contamination of the milk or cream while procuring samples and to delay as little as possible the normal operation of the establishment.

Subd. 6. [Repealed, 1988 c 485 s 15]

History: 1951 c 221 s 1-6; 1985 c 265 art 1 s 1

35.73 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 35.73 to 35.80 the terms defined in this section have the meanings given.

Subd. 2. [Repealed, 1980 c 467 s 44]

Subd. 3. [Repealed, 1996 c 310 s 1; 1997 c 7 art 1 s 171]

Subd. 4. **Garbage.** "Garbage" means animal or vegetable refuse, including all waste material, by-products of a kitchen, restaurant, or slaughter house, and refuse accumulation of animal, fruit, or vegetable matter, liquid or solid, but does not mean vegetable waste or by-products resulting from the manufacture or processing of canned or frozen vegetables or materials exempted under section 35.751.

History: 1953 c 355 s 1; 1985 c 265 art 1 s 1; 1992 c 381 s 1; 1996 c 310 s 1; 1997 c 7 art 1 s 15,171

35.74 EXCEPTIONS.

Sections 35.73 to 35.80 do not apply to a person who has animals or poultry who are fed garbage obtained only from the person's private household.

History: 1953 c 355 s 2; 1985 c 265 art 1 s 1; 1986 c 444

35.75 LICENSES.

Subdivision 1. **Requirement, renewal.** No person shall feed garbage to livestock or poultry without first securing a license from the board, and no person shall transport garbage over the public highways of this state for the purpose of feeding it to livestock or poultry unless the person has a license. A license must be renewed on or before the first day of July each year.

Subd. 2. **Application.** A person desiring a license or the renewal of a license to feed garbage to livestock and poultry shall make written application to the board in accordance with its rules.

Subd. 3. **Revocation; refusal to issue.** Upon determination that a person who has or has applied for a license issued under sections 35.73 to 35.80 has violated or failed to comply with sections 35.73 to 35.80 or any rules made under those sections, the board may revoke the license or refuse to issue a license to the applicant.

History: 1953 c 355 s 3-5; 1985 c 265 art 1 s 1

35.751 EXEMPT MATERIALS PERMIT.

Subdivision 1. **Permit required.** If it is considered by the board to be in the best interest of the livestock industry of the state and not detrimental to the public health, safety, or general welfare, the board may adopt rules authorizing an exempt materials permit for specified materials of a nonmeat nature. No person may feed material exempted under section 35.73, subdivision 4, to livestock or poultry without first securing a permit from the board, and no person may transport exempted material over the public highways of the state for the purpose of feeding it to livestock or poultry unless the person has a permit. A permit must be renewed on or before July 1 each year.

Subd. 2. **Application.** A person desiring a permit or the renewal of a permit under this section shall make written application to the board in accordance with its rules.

Subd. 3. **Revocation; denial.** Upon determination that a person who has a permit or who has applied for a permit issued under this section has violated sections 35.73 to 35.79 or any rules made under those sections, the board may revoke the permit or refuse to issue a permit to the applicant.

History: 1992 c 381 s 2

35.76 GARBAGE, TREATMENT.

No person may feed garbage to livestock or poultry until it has been thoroughly heated to at least 212 degrees Fahrenheit for a continuous period of at least 30 minutes unless it is treated in some other manner which is approved in writing by the board as being equally effective for the protection of public health and the control of livestock diseases, and no person may knowingly permit livestock or poultry owned or controlled by that person to have access to any garbage which has not been heated or otherwise treated pursuant to this section.

History: 1953 c 355 s 6; 1985 c 265 art 1 s 1; 1986 c 444

35.77 QUARANTINE, PERMIT FOR REMOVAL OF LIVESTOCK OR POULTRY.

All premises on which garbage is fed to livestock or poultry are under quarantine and must be maintained in a reasonably sanitary condition. Livestock or poultry to which garbage has been fed may not be removed from the premises except under a permit from the board.

History: 1953 c 355 s 7; 1985 c 265 art 1 s 1

35.78 INSPECTION AND INVESTIGATION OF PREMISES, RECORDS.

An authorized representative of the board may enter any property at reasonable times for the purpose of inspecting and investigating conditions relating to the feeding and treating of garbage to be fed to livestock and poultry. An authorized representative of the board may examine records or memoranda pertaining to the feeding of garbage to livestock and poultry, or pertaining to the acquisition and sale of garbage-fed livestock and poultry. The board may require the maintenance of records relating to the operation of equipment for a procedure of treating garbage to be fed to swine. Copies of the records must be submitted to the board on request.

History: 1953 c 355 s 8; 1985 c 265 art 1 s 1

35.79 ENFORCEMENT.

The board shall administer and enforce sections 35.73 to 35.80 and may make and enforce reasonable rules it considers necessary to carry out their provisions.

History: 1953 c 355 s 9; 1985 c 265 art 1 s 1

35.80 VIOLATIONS.

A person violates sections 35.73 to 35.80, who fails to perform any duties imposed by those sections or violates any rule made under those sections.

History: 1953 c 355 s 10; 1985 c 265 art 1 s 1; 1988 c 485 s 5

35.81 TRANSPORTATION OF ANIMALS AND POULTRY, RULES.

The board may make reasonable rules for the cleaning and disinfection of railroad cars, automobiles, trucks, and other vehicles used as public carriers for the transportation of live animals and poultry over the public highways and railroads within the state.

History: (4882) 1921 c 179 s 2; 1927 c 182; 1980 c 467 s 26; 1985 c 265 art 1 s 1.

35.82 RENDERING PLANT PERMITS; DISPOSITION OF CARCASSES.

Subdivision 1. **Permit required.** No person may engage in the business of rendering all or parts of animals, poultry, or fish, including scraps and grease, without first obtaining a permit from the board in accordance with the rules adopted by the board relative to transportation, rendering, and other provisions the board considers necessary to prevent the spread of disease.

Subd. 1a. [Repealed, 1974 c 159 s 5]

Subd. 1b. **Carcasses for pet or mink food.** (a) The board, through its executive director, may issue a permit to the owner or operator of a pet food processing establishment, a mink rancher, or a supplier of an establishment, located within the boundaries of Minnesota, to transport the carcasses of domestic animals that have died or have been killed, other than by being slaughtered for human or animal consumption, over the public highways to the establishment for pet food or mink food purposes only. The owners and operators of pet food processing establishments or their suppliers and mink ranch operators located in any adjacent state with which a reciprocal agreement is in effect under subdivision 3 are not required to possess a permit issued under this subdivision. The permit is valid for one year following the date of issue unless it is revoked.

(b) The owner or operator of a pet food processing plant or mink ranch shall employ an official veterinarian. A veterinarian named in the permit application who is accepted by the board to act as the official veterinarian is authorized to act as its representative.

(c) Carcasses collected by owners or operators under permit may be used for pet food or mink food purposes if the official veterinarian examines them and finds them suitable for pet food or mink food purposes.

(d) Carcasses not passed by the official veterinarian for pet food or mink food purposes must be disposed of by a rendering plant operating under permit from the board.

(e) The board must require pet food processing establishments, owners and operators of mink ranches, and suppliers of these establishments to conform to rules of the board applicable to rendering plants within the state.

Subd. 2. **Disposition of carcasses.** (a) Except as provided in subdivision 1b and paragraph (d), every person owning or controlling any domestic animal that has died or been killed otherwise than by being slaughtered for human or animal consumption, shall as soon as reasonably possible bury the carcass at a depth adequate to prevent scavenging by other animals in the ground or thoroughly burn it or dispose of it by another method approved by the board as being effective for the protection of public health and the control of livestock diseases. The board, through its executive director, may issue permits to owners of rendering plants located in Minnesota which are operated and conducted as required by law, to transport carcasses of domestic animals and fowl that have died, or have been killed otherwise than by being slaughtered for human or animal consumption, over the public highways to their plants for rendering purposes in accordance with the rules adopted by the board relative to transportation, rendering, and other provisions the board considers necessary to prevent the spread of disease. The board may issue permits to owners of rendering plants located in an adjacent state with which a reciprocal agreement is in effect under subdivision 3.

(b) Carcasses collected by rendering plants under permit may be used for pet food or mink food if the owner or operator meets the requirements of subdivision 1b.

(c) An authorized employee or agent of the board may enter private or public property and inspect the carcass of any domestic animal that has died or has been killed other than by being slaughtered for human or animal consumption. Failure to dispose of the carcass of any domestic animal within the period specified by this subdivision is a public nuisance. The board may petition the district court of the county in which a carcass is located for a writ requiring the abatement of the public nuisance. A civil action commenced under this paragraph does not preclude a criminal prosecution under this section. No person may sell, offer to sell, give away, or convey along a public road or on land the person does not own, the carcass of a domestic animal when the animal died or was killed other than by being slaughtered for human or animal consumption unless it is done with a special permit pursuant to this section. The carcass or parts of a domestic animal that has died or has been killed other than by being slaughtered for human or animal consumption may be transported along a public road for a medical or scientific purpose if the carcass is enclosed in a leakproof container to prevent spillage or the dripping of liquid waste. The board may adopt rules relative to the transportation of the carcass of any domestic animal for a medical or scientific purpose. A carcass on a public thoroughfare may be transported for burial or other disposition in accordance with this section.

No person who owns or controls diseased animals shall negligently or willfully permit them to escape from that control or to run at large.

(d) A sheep producer may compost sheep carcasses owned by the producer on the producer's land without a permit and is exempt from compost facility specifications contained in rules of the board.

(e) The board shall develop best management practices for dead animal disposal and the pollution control agency feedlot program shall distribute them to livestock producers in the state.

Subd. 3. Reciprocity. The executive director of the board may enter into a reciprocal agreement on behalf of this state with an adjacent state which provides for permits to be issued to rendering plants, pet food processing establishments or suppliers of establishments, and mink ranch operators located in either state to transport carcasses to their plants, establishments, or ranches over the public highways of this state and the reciprocating state.

This subdivision applies if the adjacent state has in effect standards and requirements which are the equivalent of the standards and requirements of this state as established by the board.

Subd. 4. Domestic animals. The term "domestic animal" as used in this section does not include any species of domestic animal which in common practice is maintained in the home of the owner whether or not the particular domestic animal was so housed at any time prior to its death. Nothing in this section limits the authority of local governmental units to regulate the disposition of carcasses of domestic animals excluded from the provisions of this section by this subdivision.

History: (10273) *RL s 5011; 1921 c 486 s 1; 1927 c 218; 1939 c 104; 1949 c 484 s 1; 1961 c 625 s 1; 1967 c 275 s 1,2; 1967 c 305 s 1; 1969 c 32 s 1,2; 1974 c 159 s 1-4; 1980 c 467 s 27; 1985 c 265 art 1 s 1; 1986 c 444; 1988 c 485 s 6; 1991 c 37 s 1,2; 1995 c 233 art 1 s 4; 1998 c 401 s 18; 1999 c 231 s 77-79*

35.821 DEFINITIONS.

Subdivision 1. Scope. Unless the context clearly indicates otherwise, for the purposes of sections 35.821 to 35.831 the terms defined in this section have the meanings given them.

Subd. 2. [Repealed, 1980 c 467 s 44]

Subd. 3. Brand. "Brand" means a permanent identification mark, of which the letters, numbers, and figures used are each four inches or more in length or diameter and applied using the technique of freeze branding or burned into the hide of a live animal with a hot iron, which is to be considered in relation to its location on the animal. The term relates to both the mark burned into the hide and its location. In the

case of sheep, the term includes, but is not limited to, a painted mark which is renewed after each shearing.

Subd. 3a. **Freeze branding.** "Freeze branding" means the application of an intensely cold iron to the hide of a live animal.

Subd. 4. **Mark.** "Mark" means a permanent identification cut from the ear or ears of a live animal and for farmed cervidae, as defined in section 17.451, subdivision 2, means a tag, collar, electronic implant, tattoo, or other means of identification approved by the board.

Subd. 5. **Animal.** The term "animal" means any cattle, horse, sheep, or mule.

History: 1965 c 291 s 1; 1985 c 265 art 1 s 1; 1993 c 375 art 9 s 12; 1996 c 407 s 30,31

35.822 REGISTRATION OF MARKS OR BRANDS WITH BOARD.

The board shall approve marks or brands for registration, issue certificates of approval, and administer sections 35.821 to 35.831. The board shall publish a state brand book containing a facsimile of each mark or brand that is registered with it, showing the owner's name and address and the pertinent laws and rules pertaining to brand registrations and reregistrations.

History: 1965 c 291 s 2; 1980 c 467 s 28; 1985 c 265 art 1 s 1

35.823 [Repealed, 1975 c 228 s 7]

35.824 APPLICATION FOR REGISTRATION; PENALTIES, DUPLICATE BRANDS.

The board shall prepare standard forms and supply the forms for distribution to those who desire to apply for a brand. The application must show a left and right side view of the animals upon which a mark or brand will be eligible for registry. The mark or brand location must be designated to the following body regions: head, bregma, right and left jaw, neck, shoulder, rib, hip, and breech. The applicant must select at least three distinct marks or brands listed in preferred order, and three locations on the animal listed in preferred order. The application must be properly signed and notarized and accompanied by a fee of \$10. The mark or brand, if approved and accepted by the board, is valid during the ten-year period in which it is recorded. A person who knowingly places on an animal a mark or brand which has not been registered with the board and which is in duplication of a mark or brand that is registered with the board is guilty of a felony. "Duplication" means the use of a similar mark or brand, used in any position on the animal designated for the use of a registered mark or brand, such as the head, bregma, jaw, neck, shoulder, rib, hip, or breech. A person who alters or defaces a brand or mark on any animal to prevent its identification by its owner is guilty of a felony.

History: 1965 c 291 s 4; 1975 c 228 s 1; 1985 c 265 art 1 s 1

35.825 CHECKING OF APPLICATIONS; CONFLICTS.

Marks or brands received by the board must be held and listed by the board, which shall immediately check the mark or brand applications for conflicts. If a conflict is found, the fee and the conflicting application must be returned to the person making the application.

History: 1965 c 291 s 5; 1985 c 265 art 1 s 1

35.826 STATE BRAND BOOKS; REREGISTRATION OF MARKS, BRANDS.

All approved mark or brand applications must be sorted in a systematic manner and published in the state brand book. Supplements and revised brand books must be published at the discretion of the board. At least six months before expiration, all registered mark or brand owners and assignees must be notified in writing that their marks or brands will terminate in six months and that they must be renewed. A reregistration fee of \$10 must be charged for the ensuing ten-year period or part of ten years. Failure to renew a mark or brand on or before the time specified, in accordance

with sections 35.821 to 35.831, is an absolute abandonment to the state of the mark or brand. The board may not reissue a mark or brand abandoned under this section except to the original owner or, after a period of two years, to another applicant upon proper application.

History: 1965 c 291 s 6; 1975 c 228 s 2; 1985 c 265 art 1 s 1

35.827 SALE OF BRAND BOOKS.

The state brand book and all supplements for the ten-year period must be sold to the public at a price which includes the costs of printing, handling, and mailing. The board shall distribute all brand books and supplements to the sheriff of each county without cost.

History: 1965 c 291 s 7; 1975 c 228 s 3; 1985 c 265 art 1 s 1

35.828 EVIDENCE.

Marks or brands which appear in the state brand book or its supplements or which are registered with the board, are prima facie evidence of ownership and take precedence over similar marks or brands if the question of ownership arises. The owner whose mark or brand does not appear in the state brand book or its supplement and which is not registered with the board must produce evidence to establish title to the property in the event of controversy.

History: 1965 c 291 s 8; 1975 c 228 s 4; 1985 c 265 art 1 s 1

35.829 TRANSFER OF BRANDS.

Only brands registered with the board or appearing in the state brand book or its supplement are subject to sale, assignment, transfer, devise, or bequest, the same as other personal property. The board shall prescribe forms for the sale or assignment of a brand. A transferred brand must be recorded with the board. The fee for recording it is \$10.

History: 1965 c 291 s 9; 1975 c 228 s 5; 1985 c 265 art 1 s 1

35.830 SALE OF BRANDED LIVESTOCK; WRITTEN BILL OF SALE.

Persons selling animals marked or branded with their mark or brand recorded in a current state brand book or its supplement or registered with the board shall execute to the purchaser a written bill of sale bearing the signature and residence of the seller, the name and address of the purchaser, the total number of animals sold, a description of each animal sold as to sex and kind, and all registered brands. The bill of sale must be kept by the purchaser for two years and for as long afterwards as the purchaser owns any of the animals described in the bill of sale. A copy of the bill of sale must be given to each hauler of the animals, other than railroads, and must accompany the shipment of animals while in transit. The bill of sale or a copy must be shown by the possessor on demand to any peace officer or compliance representative of the board. The bill of sale is prima facie evidence of the sale of the animals described by the bill of sale.

History: 1965 c 291 s 10; 1975 c 228 s 6; 1980 c 467 s 29; 1985 c 265 art 1 s 1; 1988 c 485 s 7

35.831 RULES.

The board may make rules it considers necessary to carry out the purposes of sections 35.821 to 35.831.

History: 1965 c 291 s 11; 1980 c 467 s 30; 1985 c 265 art 1 s 1

35.832 [Repealed, 1973 c 501 s 2]

35.84 [Repealed, 1Sp2001 c 2 s 162]

35.90 GENERAL INSPECTION AUTHORITY.

Subdivision 1. **Access and entry.** Except as otherwise specifically provided, the board of animal health and the board's agents, upon issuance of a notice of inspection, must be granted access at reasonable times to sites where the board has reason to believe a violation of this chapter is occurring or has occurred.

Subd. 2. **Notice of inspection samples and analyses.** Before leaving the premises inspected, the board of animal health or the board's agents must provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge.

History: 1988 c 485 s 8

35.91 VIOLATION OF RULES AND ORDERS.

Violation of a rule adopted under this chapter or an order made under the authority of this chapter is a violation of this chapter.

History: 1988 c 485 s 9

ENFORCEMENT**35.92 ENFORCEMENT.**

Subdivision 1. **Enforcement required.** (a) The board of animal health shall enforce this chapter and rules adopted under this chapter. The board may delegate to the executive director authority to act on behalf of the board.

(b) Upon the request of the board of animal health or an agent authorized by the board, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws shall take action to the extent of their authority necessary or proper for the enforcement of this chapter, or special orders, standards, stipulations, and agreements of the board.

Subd. 2. **Criminal actions.** For a criminal action, the county attorney where a violation occurred is responsible for prosecuting a violation of this chapter. If the county attorney or, if appropriate, the city attorney refuses to prosecute, the attorney general may prosecute at the request of the board.

Subd. 3. **Civil actions.** Civil judicial enforcement actions may be brought by the attorney general in the name of the state on behalf of the board of animal health. A county attorney may bring a civil judicial enforcement action upon the request of the board and the attorney general.

Subd. 4. **Injunction.** The board of animal health may apply to a court with jurisdiction for a temporary or permanent injunction to prevent, restrain, or enjoin violations of this chapter.

Subd. 5. **Subpoenas.** The board of animal health through its executive director may issue subpoenas to compel the attendance of witnesses or submission of books, documents, and records affecting the authority or privilege granted by a license, registration, certification, or permit issued under this chapter or by the board or issued by the commissioner of agriculture if agreed to by the commissioner.

History: 1988 c 485 s 10; 1999 c 231 s 80

35.93 ADMINISTRATIVE ACTION.

Subdivision 1. **Administrative remedies.** The board of animal health may seek to remedy violations by authorizing the executive director to issue a written warning, administrative meeting, cease and desist, stop-sale, or other special order, seizure, stipulation, or agreement, if the board determines that the remedy is in the public interest.

Subd. 2. **Revocation and suspension.** The board may, after written notice and hearing, revoke, suspend, or refuse to renew a permit, license, or certification if a person violates this chapter.

Subd. 3. **Remedial action orders.** (a) If the board of animal health has probable cause to believe that a diseased animal is kept, sold, transported, or disposed of in violation of this chapter, the board may investigate and issue a written cease and desist, stop-sale, stop-use, or removal order or other remedial action to the owner, custodian, or other responsible party. If the owner, custodian, or other responsible party is not available for service of the order, the board may attach the order to the animal and notify the owner, custodian, or other responsible party. The animal may not be sold, slaughtered, or transported until the violation has been corrected or brought into compliance and the order has been released in writing under conditions specified by the board, or until the violation has been otherwise disposed of by a court.

(b) If a violation of this chapter results in conditions that may have an unreasonable adverse effect on humans, domestic animals, wildlife, or the environment, the board of animal health may, by order, require remedial action, including removal and proper disposal.

History: 1988 c 485 s 11; 1999 c 231 s 81

35.94 DAMAGES AGAINST STATE FOR ADMINISTRATIVE ACTION WITHOUT CAUSE.

If the board of animal health did not have probable cause for an administrative action under section 35.93, including the issuance of a stop-sale or removal order, a court may allow recovery for damages caused by the administrative action.

History: 1988 c 485 s 12

PENALTIES

35.95 CIVIL PENALTIES.

Subdivision 1. **General penalty.** Except as provided in subdivisions 2 and 5, a person who violates this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the board is subject to a civil penalty of up to \$10,000 as determined by the board.

Subd. 2. **Wildlife and other damages.** (a) A person who violates this chapter is liable for and must pay to the state a sum to constitute just compensation for the loss or destruction of wild animals, fish, or other aquatic life and for actual damages to the state.

(b) The amounts paid as compensation for loss or destruction of wildlife, fish, or other aquatic life must be deposited into the state treasury and credited to the game and fish fund.

Subd. 3. **Defense to civil remedies and damages.** As a defense to a civil penalty or claim for damages under subdivisions 1 and 2, the defendant may prove that the violation was caused solely by an act of God, an act of war, an act or failure to act that constitutes sabotage or vandalism, or a combination of these defenses.

Subd. 4. **Actions to compel performance.** In an action to compel performance of an order of the board of animal health to enforce this chapter, the court may require a defendant adjudged responsible to perform the acts within the person's power that are reasonably necessary to accomplish the purposes of the order.

Subd. 5. **Recovery of penalties by civil action.** The civil penalties and payments provided for in this section may be recovered by a civil action brought by the county attorney, the board, or the attorney general in the name of the state.

Subd. 6. **Recovery of litigation costs and expenses.** In an action brought by the attorney general or a county attorney in the name of the state under this chapter for civil penalties or injunctive relief or in an action to compel compliance, if the state finally prevails, the state, in addition to other penalties provided in this chapter, must

be allowed an amount determined by the court to be the reasonable value of all or a part of the litigation expenses including attorney fees incurred by the state or county attorney. In determining the amount of these litigation expenses to be allowed, the court shall give consideration to the economic circumstances of the defendant.

History: 1988 c 485 s 13; 1993 c 129 s 1,2

35.96 CRIMINAL PENALTIES.

Subdivision 1. **General violation.** Except as provided in subdivisions 2 to 6, a person is guilty of a misdemeanor if the person violates this chapter, a rule adopted under this chapter, or a special order, standard, stipulation, agreement, or schedule of compliance of the board of animal health.

Subd. 2. **Violation endangering humans.** A person is guilty of a gross misdemeanor if the person violates this chapter or a special order, standard, stipulation, agreement, or schedule of compliance of the board of animal health and the violation endangers humans.

Subd. 3. **Violation with knowledge.** A person is guilty of a gross misdemeanor if the person knowingly violates this chapter or a standard, a special order, stipulation, agreement, or schedule of compliance of the board of animal health.

Subd. 4. [Repealed, 1999 c 231 s 207]

Subd. 5. **Killing diseased animals.** A person who violates a provision of section 35.08 or 35.09 relating to inspection and killing of diseased animals is guilty of a gross misdemeanor.

Subd. 6. **Transportation of livestock.** A person violating a provision of section 35.15 or 35.16 relating to transportation of livestock is guilty of a gross misdemeanor, except that a person who fails or refuses to stop for inspection when directed to stop by a compliance representative is guilty of a misdemeanor.

History: 1988 c 485 s 14