

SENATE BILL NO. 2177

Introduced by

Senators Luick, Erbele, Myrdal, Patten

Representatives D. Johnson, Trottier

1 A BILL for an Act to amend and reenact sections 36-21.2-05 and 36-21.2-06 of the North
2 Dakota Century Code, relating to due process and accounting for animals to be seized.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 36-21.2-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **36-21.2-05. Seizure of animal - Court order.**

- 7 1. A law enforcement officer, upon a recommendation from a licensed veterinarian
8 approved by the board of animal health, may petition the court for an order directing
9 the seizure of any animal believed to have been neglected, abused, treated cruelly, or
10 subjected to any act or omission in violation of this chapter. If the animal to be seized
11 is a bovine animal, horse, or mule, the law enforcement officer shall provide a copy of
12 the petition to the chief brand inspector. The chief brand inspector shall conduct an
13 ownership disposition inspection of the animal as provided under section 36-21.2-06.
14 2. The court, upon a recommendation from a licensed veterinarian approved by the
15 board of animal health, may act without notice to the animal's owner or to the person
16 having custody or control of the animal and may rely solely on testimony or an affidavit
17 in considering the petition.
18 3. In the order for seizure, the court may direct that a veterinarian humanely destroy an
19 animal if the veterinarian, upon examining the animal, determines that the animal is
20 experiencing excruciating pain or suffering and that the animal's pain or suffering is not
21 likely to be alleviated using reasonable medical interventions.

22 **SECTION 2. AMENDMENT.** Section 36-21.2-06 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **36-21.2-06. Law enforcement - Duty upon seizure - Notification.**

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

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

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

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

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

21 (1) If the owner does not claim the animal within five days following publication,
22 as required by this subdivision, the law enforcement officer shall sell the
23 animal, place the animal for adoption, or provide for its humane destruction.

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

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

- 1 ruling to the chief brand inspector. The chief brand inspector shall conduct an
2 ownership inspection of the animal subject to the ruling.
- 3 3. The owner of an animal, at any time before a final ruling on the animal's disposition,
4 may request a hearing before the court. If a hearing is requested, the court may not
5 issue a final ruling on the disposition of the animal until the conclusion of the hearing.