

an action for the recovery of money only, when no issue of fact or law is joined, \$5; when issue is joined, \$10. (2) In all other actions, including an action by a public employee for wrongfully denied or withheld employment benefits or rights, except as otherwise specially provided, \$10.

To defendant: (1) Upon discontinuance or dismissal, \$5. (2) When judgment is rendered in the defendant's favor on the merits, \$10.

To the prevailing party: (1) \$5.50 for the cost of filing a satisfaction of the judgment.

Approved April 12, 1988

### CHAPTER 485—H.F.No. 2018

*An act relating to agriculture; clarifying and imposing penalties for violations related to diseased animals under the jurisdiction of the board of animal health; authorizing inspection upon notice; authorizing enforcement of violations; authorizing civil judicial enforcement actions; authorizing administrative remedies for violations; imposing civil and criminal penalties; amending Minnesota Statutes 1986, sections 35.245, subdivision 5; 35.80; 35.82, subdivision 2; and 35.830; Minnesota Statutes 1987 Supplement, section 35.68; proposing coding for new law in Minnesota Statutes, chapter 35; repealing Minnesota Statutes 1986, sections 35.069; 35.15, subdivision 2; 35.70; 35.71, subdivision 8; and 35.72, subdivision 6.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

#### Section 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.

Sec. 2. Minnesota Statutes 1986, section 35.245, subdivision 5, is amended to read:

Subd. 5. ~~PENALTY. A violation of this section or rules or quarantines of the board adopted under this section is a gross misdemeanor, and any An~~ auctioneer convicted of knowingly conducting a sale of ~~eattle~~ livestock in violation of this section shall forfeit the auctioneer's license until its renewal is approved by the authority which issued the license.

Sec. 3. Minnesota Statutes 1987 Supplement, section 35.68, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

**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 secretary 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 violation of sections 35.67 to 35.69 is a misdemeanor.~~

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 secretary 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.

**Sec. 4. [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.

Sec. 5. Minnesota Statutes 1986, section 35.80, is amended to read:

**35.80 VIOLATIONS.**

New language is indicated by underline, deletions by ~~strikeout~~.

A person ~~who~~ 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 is guilty of a misdemeanor. Each day upon which violation occurs is a separate violation.

Sec. 6. Minnesota Statutes 1986, section 35.82, subdivision 2, is amended to read:

Subd. 2. **DISPOSITION OF CARCASSES.** (a) Except as provided in subdivision 1b, 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 least three feet deep in the ground or thoroughly burn it. The board, through its executive secretary, 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 employs an official veterinarian. If the veterinarian named in the application is accepted by the board to act as the official veterinarian, the veterinarian is the board's authorized representative.

(c) Carcasses may be used for pet food or mink food if the official veterinarian examines each carcass and determines that the carcass is suitable for pet food or mink food purposes. Carcasses not passed by the official veterinarian for pet food or mink food purposes must be disposed of by rendering.

(d) 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

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public road for a medical or scientific purpose if the carcass is enclosed in a leak proof 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. ~~A violation of this section is a misdemeanor.~~

Sec. 7. Minnesota Statutes 1986, section 35.830, is amended to read:

**35.830 SALE OF BRANDED LIVESTOCK; WRITTEN BILL OF SALE; PENALTY.**

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. ~~A violation of this section is a misdemeanor.~~

**Sec. 8. [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.

**Sec. 9. [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.

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## ENFORCEMENT

## Sec. 10. [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 secretary 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.

## Sec. 11. [35.93] ADMINISTRATIVE ACTION.

Subdivision 1. ADMINISTRATIVE REMEDIES. The board of animal health may seek to remedy violations by authorizing the executive secretary 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, trans-

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ported, 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.

**Sec. 12. [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 11, including the issuance of a stop-sale or removal order, a court may allow recovery for damages caused by the administrative action.

**PENALTIES**

**Sec. 13. [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 court.

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

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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 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.

#### Sec. 14. [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. BRUCELLOSIS IN CATTLE. A person who violates a provision of section 35.245 relating to cattle testing, vaccination, and brucellosis control or a quarantine imposed by the board under section 35.245 is guilty of a gross misdemeanor.

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.

New language is indicated by underline, deletions by ~~strikeout~~.

**Sec. 15. REPEALER.**

Minnesota Statutes 1986, sections 35.069; 35.15, subdivision 2; 35.70; 35.71, subdivision 8; and 35.72, subdivision 6, are repealed.

**Sec. 16. EFFECTIVE DATE.**

This act is effective August 1, 1988.

Approved April 12, 1988

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**CHAPTER 486—H.F.No. 2029**

*An act relating to education; modifying provisions related to general education revenue and foundation revenue; correcting erroneous and obsolete references and text; providing instructions to the revisor; making miscellaneous corrections to statutes and other laws; amending Minnesota Statutes 1986, sections 3.866; 120.17, subdivisions 6 and 7; 120.181; 120.80, subdivision 1; 121.151; 121.904, subdivision 5; 121.931, subdivision 5; 122.45, subdivision 3a; 122.531, subdivisions 1 and 6; 123.32, subdivision 29; 123.3514, subdivision 6; 123.933, subdivision 3; 124.15, subdivisions 5 and 6; 124.18, subdivision 2, and by adding a subdivision; 124.19, subdivisions 1, 3, and 6; 124.274, subdivision 1; 124.32, subdivisions 4 and 6; 124A.02, subdivision 21; 124A.03, subdivision 2; 124A.034, subdivisions 1 and 1b; 124A.035, subdivisions 2 and 4; 124A.036, subdivisions 1 and 2; 126.70, subdivision 2; 129B.40, subdivision 1; 273.138, subdivision 6; 275.125, subdivision 1; 275.128; 298.39; and 475.61, subdivision 4; Minnesota Statutes 1987 Supplement, sections 120.17, subdivisions 5a and 7a; 121.912, subdivision 1; 123.3515, subdivision 9; 124.01, subdivision 1; 124.14, subdivision 7; 124.155, subdivision 2; 124.17, subdivisions 1 and 1b; 124.195, subdivisions 8 and 9; 124.217, subdivision 1; 124.223; 124.225, subdivisions 1 and 4b; 124.245, subdivision 3b; 124.271, subdivision 7; 124.2711, subdivision 1; 124.32, subdivisions 1c, 1d, and 5; 124A.02, subdivisions 8 and 16; 124A.032; 124A.035, subdivision 5; 124A.22, subdivision 1, and by adding subdivisions; 124A.23, subdivisions 2, 3, 4, and by adding a subdivision; 124A.24; 124A.26, subdivision 2; 124A.27, subdivisions 7 and 10; 124A.30; 126.23; 126.661, subdivision 1; 126.666, subdivision 1; 126.70, subdivision 2a; 129B.11, subdivision 1; 129B.39; 129B.55, subdivision 2; 136D.27; 136D.74, subdivision 2; 136D.87; 275.125, subdivisions 5e, 6e, 8c, 9, 9b, and 15; and 298.28, subdivision 4; Laws 1987, chapter 398, article 1, section 25, subdivision 3; article 1, section 26, subdivision 2; article 7, section 40, subdivision 4; article 8, section 39, subdivision 2; and article 8, section 44, subdivision 5; repealing Minnesota Statutes 1986, sections 121.904, subdivision 7; 122.531, subdivision 8; 124.245, subdivision 4; and 124A.031, subdivision 3; Minnesota Statutes 1987 Supplement, sections 121.904, subdivision 11b; 124A.02, subdivision 5a; 124A.03, subdivision 3a; and 124A.25.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1986, section 3.866, is amended to read:

**3.866 SCHOOL DISTRICT REVENUE STUDY.**

New language is indicated by underline, deletions by ~~strikeout~~.