

## CHAPTER 35

## ANIMAL HEALTH

35.04	Repealed.	35.09	Inspection before killing; owner's indemnity.
35.0661	Temporary emergency restrictions on movement of people, livestock, machinery, and other personal property.	35.14	Repealed.
35.0662	Temporary emergency restrictions hearing.	35.84	Repealed.

**35.04** [Repealed, 1Sp2001 c 2 s 162]

**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

### 35.09 INSPECTION BEFORE KILLING; OWNER'S INDEMNITY.

*[For text of subs 1 to 2a, see M.S.2000]*

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, garnishment, 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:** 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.

**35.14** [Repealed, 1Sp2001 c 2 s 162]

**35.84** [Repealed, 1Sp2001 c 2 s 162]