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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 1955

March 12, 2007

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The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs

March 23, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to agriculture; providing indemnity for certain destroyed cattle;
1.3 authorizing rules for control of bovine tuberculosis; repealing certain animal
1.4 health statutes and rules; proposing coding for new law in Minnesota Statutes,
1.5 chapter 35; repealing Minnesota Statutes 2006, sections 35.08; 35.09; 35.10;
1.6 35.11; 35.12; Minnesota Rules, parts 1705.0840; 1705.0850; 1705.0860;
1.7 1705.0870; 1705.0880; 1705.0890; 1705.0900; 1705.0910; 1705.0920;
1.8 1705.0930; 1705.0940; 1705.0950; 1705.0960; 1705.0970; 1705.0980;
1.9 1705.0990; 1705.1000; 1705.1010; 1705.1020; 1705.1030; 1705.1040;
1.10 1705.1050; 1705.1060; 1705.1070; 1705.1080; 1705.1086; 1705.1087;
1.11 1705.1088.

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

1.13 Section 1. [35.085] INDEMNITY FOR DESTROYED CATTLE.

1.14 (a) The board may pay indemnity to cattle owners who choose to euthanize cattle
1.15 that test suspect for bovine tuberculosis, if funds are available from appropriations for the
1.16 purpose and if the United States Department of Agriculture refuses to pay indemnity for
1.17 the animal. The board shall pay fair market value less salvage value as appraised by a
1.18 disinterested appraiser appointed by the board. The board has the final decision as to the
1.19 amount of indemnity. If the owner refuses the board's offer, the owner need not dispose of
1.20 the animal unless and until it later shows positive to any professionally recognized test
1.21 for bovine tuberculosis.

1.22 (b) Indemnity payments made by the board are subject to the requirements of
1.23 chapter 336A.

1.24 Sec. 2. [35.244] RULES FOR CONTROL OF BOVINE TUBERCULOSIS.

1.25 The board may adopt rules to provide for the control of tuberculosis in cattle. The
1.26 rules may include provisions for quarantine, tests, and such other measures as the board

2.1 deems appropriate. Federal regulations, as provided by Code of Federal Regulations, title
2.2 9, part 77, and the Bovine Tuberculosis Eradication Uniform Methods and Rules, are
2.3 incorporated as part of the rules in this state.

2.4 Sec. 3. **REPEALER.**

2.5 (a) Minnesota Statutes 2006, sections 35.08; 35.09; 35.10; 35.11; and 35.12, are
2.6 repealed.

2.7 Minnesota Rules, parts 1705.0840; 1705.0850; 1705.0860; 1705.0870; 1705.0880;
2.8 1705.0890; 1705.0900; 1705.0910; 1705.0920; 1705.0930; 1705.0940; 1705.0950;
2.9 1705.0960; 1705.0970; 1705.0980; 1705.0990; 1705.1000; 1705.1010; 1705.1020;
2.10 1705.1030; 1705.1040; 1705.1050; 1705.1060; 1705.1070; 1705.1080; 1705.1086;
2.11 1705.1087; and 1705.1088, are repealed.

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 for the amount due the owner.

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;

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(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.** 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 or by the United States Department of Agriculture, the board may take reasonable and necessary steps to suppress and eradicate the disease. If the emergency is declared by the United States Department of Agriculture, the board may cooperate with the Animal and Plant Health Inspection Service of the United States Department of Agriculture in the suppression and eradication of the disease.

When an emergency has been declared, the board may appraise and destroy animals affected with, or which have been exposed to the disease, and appraise and destroy property in order to remove the infection and complete the cleaning and disinfection of the premises, and do any act and incur any other expense reasonably necessary to suppress the disease. 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, 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. If the procedures have been followed under an emergency declared by the United States Department of Agriculture, the total expense must be shared equally between the state and federal governments.

Appraisals of animals affected with, or exposed to, or contact animals, or 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. Appraisals must be in writing and signed by the appraisers, and must be made at the true market value of all animals and property appraised.

Upon destruction of animals or property, or both, 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 to the commissioner of finance, who shall draw a warrant for the proper amount payable to the owner. If the appraisal is made in respect to animals or other property destroyed under an emergency declared by the United States Department of Agriculture, the commissioner of finance shall draw a warrant for one-half of the amount of the appraisal payable to the owner, and the remaining one-half of the appraisal must be paid by the federal government under the cooperative arrangement. If the disease is of a nature that any part of the carcasses of the diseased or exposed

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animals may be salvaged for human food or other purposes, the net amount of the salvage paid to the owner must be deducted from the appraisal, and the remainder must be paid to the owner by the state or by the state and federal government pursuant to this section.

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.

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.

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.