

# FOODS, DRUGS, OILS, AND COMPOUNDS

## CHAPTER 205

### HOUSE BILL NO. 1359

(Representative Mickelson)

### DRUG OFFENSES

AN ACT to amend and reenact subsection 4 of section 19-03.1-23 of the North Dakota Century Code, relating to drug offenses.

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

<sup>1</sup> **SECTION 1. AMENDMENT.** Subsection 4 of section 19-03.1-23 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4. A person at least ~~twenty-one~~ eighteen years of age who solicits, induces, intimidates, employs, hires, or uses a person under eighteen years of age to ~~unlawfully transport, carry, sell, give away, prepare for sale, or peddle~~ aid or assist in the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance for the purpose of receiving consideration or payment for the manufacture or delivery of any controlled substance ~~except marijuana~~ is guilty of a class B felony and must be sentenced:
  - a. For the first offense, to imprisonment for at least four years.
  - b. For a second or subsequent offense, to imprisonment for at least five years.
  - c. It is not a defense to a violation of this subsection that the defendant did not know the age of a person protected under this subsection.

Approved April 10, 1997  
Filed April 11, 1997

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<sup>1</sup> Section 19-03.1-23 was also amended by section 3 of House Bill No. 1180, chapter 131.

**CHAPTER 206****HOUSE BILL NO. 1085**

(Representatives Carlisle, DeKrey, Mahoney)  
(Senator Nalewaja)

**CONTROLLED SUBSTANCE SUBPOENAS**

AN ACT to amend and reenact subsection 5 of section 19-03.1-37 of the North Dakota Century Code, relating to subpoenas by the defendant in a controlled substance proceeding.

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

**SECTION 1. AMENDMENT.** Subsection 5 of section 19-03.1-37 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

5. Notwithstanding any statute or rule to the contrary, the a defendant who has been found to be indigent by the court in the criminal proceeding at issue may subpoena the state toxicologist or the director of the forensic sciences division of the state department of health or any employee of either to testify at the preliminary hearing and trial of the issue at no cost to the defendant. If the state toxicologist, the director of the forensic sciences division of the state department of health, or any employee of either, is subpoenaed to testify by a defendant who is not indigent and the defendant does not call the witness to establish relevant evidence, the court shall order the defendant to pay costs to the witness as provided in section 31-01-16.

Approved April 9, 1997  
Filed April 10, 1997

**CHAPTER 207****SENATE BILL NO. 2277**  
(Senator Mutch)**PETROLEUM PRODUCTS INSPECTION FEES**

AN ACT to amend and reenact section 19-10-19 of the North Dakota Century Code, relating to inspection fees for petroleum products.

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

**SECTION 1. AMENDMENT.** Section 19-10-19 of the North Dakota Century Code is amended and reenacted as follows:

**19-10-19. Inspection fees.** Every person licensed by the tax commissioner as a motor vehicle fuel, ~~or special fuels, or liquefied petroleum wholesale~~ dealer shall pay to the tax commissioner an inspection fee of one-fortieth of a cent per gallon [3.79 liters] for every gallon [3.79 liters] of gasoline, kerosene, tractor fuel, heating oil, or diesel fuel sold or used during a calendar month except those gallons sold out of state or those gallons sold as original package sales as defined in chapters 57-43.1 and 57-43.2. The fee must accompany the monthly report required in the following section and is due no later than the twenty-fifth day of each calendar month for the preceding month. The tax commissioner shall forward all money collected under this section to the state treasurer monthly, and the state treasurer shall place the money in the general fund of the state. The tax commissioner shall make available annually a report by licensed dealer listing the number of gallons [liters] of motor vehicle fuel and special fuels upon which the inspection fee has been paid. The provisions of chapters 57-43.1 and 57-43.2 pertaining to the administration of motor vehicle fuel and special fuels taxes not in conflict with the provisions of this chapter govern the administration of the inspection fee levied by this chapter.

Approved March 13, 1997

Filed March 13, 1997

## CHAPTER 208

### SENATE BILL NO. 2131

(Agriculture Committee)

(At the request of the Commissioner of Agriculture)

## LIVESTOCK MEDICINE, PESTICIDE, AND FERTILIZER REGISTRATION FEES

AN ACT to amend and reenact sections 19-14-02, 19-14-04, 19-18-04, and 19-20.1-03.1 of the North Dakota Century Code, relating to livestock medicine registrations and registration fees, pesticide registrations, and fertilizer distributors' licenses; and to provide a penalty.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 19-14-02 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**19-14-02. Registration of livestock medicine.** The commissioner of agriculture, upon the application of the manufacturer or distributor of livestock medicine and the payment of the registration fee prescribed in section 19-14-04, shall register any livestock medicine that does not violate this chapter. ~~The registration expires on June thirtieth of each year~~ Registration covers a two-year period beginning July first and ending June thirtieth of the second ensuing year unless it is canceled sooner because a change is made in the ingredients or formula of manufacture or in the name, brand, or trademark under which the medicine is sold. In the event of any change, the medicine must be registered anew in the same manner as upon an original application.

**SECTION 2. AMENDMENT.** Section 19-14-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**19-14-04. Registration fee.** Prior to each ~~annual~~ two-year registration, a registration fee of ~~ten~~ twenty dollars must be paid to the commissioner of agriculture for each livestock medicine that is registered.

**SECTION 3. AMENDMENT.** Section 19-18-04 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**19-18-04. Registration - Fees.** Any person before selling or offering for sale any pesticide for use within this state shall file biennially with the commissioner an application for registration of the pesticide. The application must:

1. Give the name and address of each manufacturer or distributor.
2. Give the name and brand of each product registered.
3. Be accompanied by a current label of each product so registered.
4. Be accompanied by a registration fee of three hundred dollars for each product registered. At the close of each calendar month, the commissioner shall transmit to the state treasurer all moneys received for

the registrations. The state treasurer shall credit fifty dollars for each registered product to the general fund in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.

5. Be accompanied by a material safety data sheet.

The commissioner may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment. If the commissioner finds that the application conforms to law, the commissioner shall issue to the applicant a certificate of registration of the product. If after public hearing before the commissioner the application is denied, the product may not be offered for sale.

Each registration covers a two-year period beginning January first and expiring December thirty-first of the following year. A certificate of registration may not be issued for a term longer than two years, and is not transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January thirty-first following the expiration date, or within the same month the pesticides are first manufactured or sold within this state. Each product must go through a two-year discontinuance period in order to clear all outstanding products in the channel of trade.

This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

**SECTION 4. AMENDMENT.** Section 19-20.1-03.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**19-20.1-03.1. License required - Penalty.** A person may not distribute any fertilizer, soil amendment, or plant amendment in this state without first obtaining a distributor's license from the commissioner. However, a distributor's license is not required for those distributors selling only specialty fertilizers. A license must be obtained for each location or mobile mechanical unit used by a distributor in the state. The application for the license must be submitted on a form furnished by the commissioner, and must be accompanied by a fee of fifty one hundred dollars. ~~All licenses expire on June thirtieth of each year.~~ A license covers a two-year period beginning July first and ending June thirtieth of the second ensuing year. License renewal applications received after July thirty-first may be assessed a penalty fee of twenty dollars. Licenses are not transferable, and each license must be conspicuously posted at each location and must accompany each mobile mechanical unit operating in the state.

Approved March 21, 1997  
Filed March 21, 1997

## CHAPTER 209

### HOUSE BILL NO. 1215

(Representatives Kempenich, DeKrey, Skarphol, Thorpe)  
(Senators Solberg, Wanzek)

### ANHYDROUS AMMONIA CONTAINERS

AN ACT to create and enact four new sections to chapter 19-20.2 of the North Dakota Century Code, relating to the use and testing of anhydrous ammonia storage containers and the bulk delivery of anhydrous ammonia; and to amend and reenact sections 19-20.2-01 and 19-20.2-08.2 of the North Dakota Century Code, relating to safety requirements for the handling and storage of anhydrous ammonia.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 19-20.2-01 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**19-20.2-01. Anhydrous ammonia safety rules.** The commissioner of agriculture shall adopt rules necessary to implement this chapter and adopt the 1989 American national standard safety requirements for the storage and handling of anhydrous ammonia, except sections 2.5, 5.2.1, 5.2.2.1, and 5.2.2.2. Sections 2.5, 5.2.1, 5.2.2.1, and 5.2.2.2 of the 1989 American national standard safety requirements are adopted as follows:

1. (2.5) Refers to paragraphs U-68, U-69, U-200, or U-201 of section VIII of the boiler and pressure vessel code of the American society of mechanical engineers, 1949 edition, or to section VIII division I of the boiler and pressure vessel code of the American society of mechanical engineers, 1950 edition, through the current edition including addenda and applicable code case interpretations.

Where referenced in this standard only section VIII division I of the American society of mechanical engineers code applies except that paragraphs UG-125 through UG-135 and paragraph UW-2 do not apply.

2. (5.2.1) Containers used with systems covered in sections 6, 9, 11, and 12 must be made of steel or other material compatible with ammonia and tested in accordance with the current American society of mechanical engineers code. An exception to the American society of mechanical engineers code requirements is that construction under table UW-12 at a basic joint efficiency of under eighty percent is not authorized.
3. (5.2.2.1) For new ~~tanks~~ containers installed or purchased after January 1, 1996, the entire container must be post-weld heat treated after completion of all welds in or to the shells and heads. The method employed must be as prescribed in the American society of mechanical engineers code. It is recommended that post-weld heat treatment be performed in a furnace of a size sufficient to accommodate the entire container. Welded attachments to pads may be made after post-weld heat treatment. An implement of husbandry does not require post-weld

heat treatment if the implement is fabricated with hot formed heads or with cold formed heads that have been stress relieved.

4. (5.2.2.2) Steels used in fabricating pressure containing parts of a container may not exceed a specified tensile strength of ~~seventy-five~~ seventy thousand pounds per square inch [~~517110~~ 482636 kilopascals], as noted in the American society of mechanical engineers code, section II, part D, except that this does not apply to sections 8, 9, and 10. ~~Allowances for tensile strength of up to twenty thousand pounds per square inch [137900 kilopascals] above those given in the American society of mechanical engineers code, section II, part D, are permitted. An implement of husbandry may be fabricated from steel having a specified tensile strength of seventy-five thousand pounds per square inch [517110 kilopascals].~~

**SECTION 2.** A new section to chapter 19-20.2 of the North Dakota Century Code is created and enacted as follows:

**Reinstalled and secondhand anhydrous ammonia storage containers - Requirement.**

1. Before anhydrous ammonia may be stored in a reinstalled or secondhand container, including a nurse tank, the person intending to store the anhydrous ammonia shall furnish the chief boiler inspector with:
  - a. Evidence that the container is registered with the national board of boiler and pressure vessel inspectors; or
  - b. The manufacturer's data report for the container.
2. Subsection 1 is not applicable to the owner of an anhydrous ammonia storage container installed in this state before November 1, 1987, unless the storage container is reinstalled at another location.

**SECTION 3. AMENDMENT.** Section 19-20.2-08.2 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**19-20.2-08.2. Prohibitions.** The following action is prohibited:

1. Filling a nurse tank directly from a rail car.
2. Filling or using a nurse tank that has an outdated hose.
3. Filling or using a nurse tank that has outdated relief valves.
4. Towing more than two nurse tanks on a public road.
5. Filling department of transportation transport containers not ~~currently certified by~~ meeting the requirements of the department of transportation.
6. Filling anhydrous ammonia storage ~~tanks~~ containers not meeting the requirements of this chapter.

**SECTION 4.** A new section to chapter 19-20.2 of the North Dakota Century Code is created and enacted as follows:

**Anhydrous ammonia - Bulk delivery.** Upon obtaining a commercial driver's license with an endorsement for hazardous materials, a person may transport anhydrous ammonia in a bulk delivery vehicle and may fill, from the bulk delivery vehicle, nurse tanks with anhydrous ammonia.

**SECTION 5.** A new section to chapter 19-20.2 of the North Dakota Century Code is created and enacted as follows:

**Hydrostatic test procedures.** Any hydrostatic test conducted under section 19-20.2-05 must comply with the requirements of the national board inspection code (ANSI-NB 23) and be conducted in a manner approved by the chief boiler inspector.

**SECTION 6.** A new section to chapter 19-20.2 of the North Dakota Century Code is created and enacted as follows:

**Wet fluorescent magnetic particle test procedures.** Any wet fluorescent magnetic particle test of a pressure vessel weld conducted under section 19-20.2-05 must comply with the requirements of the society for nondestructive testing SNT-TC-1A standard and must be conducted by a person certified as a level II technician by the society.

Approved April 8, 1997

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