

FOODS AND DRUGS

CHAPTER 230

S. B. No. 271

(Morgan, Doherty, G. Larson, Thoreson)

CONTROL OF DRUGS AND PENALTIES FOR VIOLATIONS

To create and enact subsections 23, 24, and 25 of section 19-02.1-01, subsections 15, 16, 17, 18, 19, 20, 21, 22, and 23 of section 19-02.1-02, subsections 5, 6, 7, 8, 9, and 10 of section 19-02.1-05, and section 19-02.1-23, all of the North Dakota Century Code; and to amend and reenact section 19-02.1-04, section 19-02.1-06, and subsection 1 of section 19-02.1-15, all of the North Dakota Century Code, relating to the control of drugs and penalties.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1.) Subsections 23, 24, and 25 of section 19-02.1-01 of the 1967 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

23. "Depressant, stimulant, or hallucinogenic drug" means:

- a. Any drug which contains any quantity of
 - (1) Barbituric acid or any of the salts of barbituric acid; or
 - (2) Any derivative of barbituric acid which has been designated under section 502 (d) of the Federal Act as habit-forming;
- b. Any drug which contains any quantity of:
 - (1) Amphetamine or any of its optical isomers; or
 - (2) Any salt of amphetamine or any salt of any optical isomer of amphetamine; or
 - (3) Any substance designated by regulations promulgated under the Federal Act as habit-

forming because of its stimulant effect on the central nervous system;

- c. Any drug which contains any quantity of a substance designated by regulations promulgated under the Federal Act as having a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.
- 24. "Manufacture, compound, or process" shall include re-packaging or otherwise changing the container, wrapper, or labeling of any drug package in the furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer, and the term "manufacturers, compounders, and processors" shall be deemed to refer to persons engaged in such defined activities.
 - 25. "Practitioner" means a physician, dentist, veterinarian, or other person licensed in this state to prescribe or administer drugs which are subject to this Act.

Section 2.) Subsections 15, 16, 17, 18, 19, 20, 21, 22, and 23 of section 19-02.1-02 of the 1967 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

- 15. The manufacture, compounding, or processing of a drug in violation of subsection 1 of section 19-02.1-23.
- 16. The sale, delivery, or other disposition of a drug in violation of subsection 2 of section 19-02.1-23.
- 17. The possession of a drug in violation of subsection 3 of section 19-02.1-23.
- 18. Obtaining a drug in violation of subsection 4 of section 19-02.1-23.
- 19. The failure to prepare or obtain, or the failure to keep, a complete and accurate record with respect to any drug as required by subsection 5 of section 19-02.1-23.
- 20. The refusal to permit access to or copying of any record as required by subsection 5 of section 19-02.1-23.
- 21. The refusal to permit entry or inspection as authorized by subsection 5 of section 19-02.1-23.

22. The manufacture of drugs, or the supplying of drugs at wholesale or retail, unless a license to do so has first been obtained from the state board of pharmacy after application to the state board of pharmacy and the payment of a licensing fee of not to exceed three dollars.
23. The filling or refilling of any prescription in violation of subsection 1 of section 19-02.1-15.

Section 3. Amendment.) Section 19-02.1-04 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-04. Penalties and Guarantee.)

1. Any person who violates any of the provisions of subsections 1 through 14 of section 19-02.1-02 shall be guilty of a misdemeanor and shall on conviction thereof be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than thirty days, or by both such fine and imprisonment; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than thirty days nor more than ninety days, or by both such fine and imprisonment.
2. No person shall be subject to the penalties of subsection 1 of this section, for having violated subsections 1 or 3 of section 19-02.1-02 if he established a guaranty or undertaking signed by, and containing the name and address of, the person residing in the state of North Dakota from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this chapter, designating this chapter.
3. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dis-

semination by him of such false advertisement, unless he has refused, on the request of the department to furnish the department the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state of North Dakota who caused him to disseminate such advertisement.

4. Any person who violates any of the provisions of subsections 15 through 23 of section 19-02.1-02 shall, on conviction thereof, be subject to imprisonment in the state penitentiary for not more than three years or in a county jail not exceeding one year, or a fine of not more than one thousand dollars, or both such fine and imprisonment; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than five years or a fine of not more than fifteen thousand dollars, or both such fine and imprisonment; provided, however, that any person who, having attained his eighteenth birthday, violates subsection 16 of section 19-02.1-02 by selling, delivering, or otherwise disposing of any depressant, stimulant, or hallucinogenic drug to a person who has not attained his twenty-first birthday shall, if there be no previous conviction of such person under this section which has become final, be subject to imprisonment for not more than ten years, or a fine of not more than ten thousand dollars, or both such fine and imprisonment, and for the second or any subsequent conviction for such a violation shall be subject to imprisonment for not less than ten years, or a fine of not more than twenty thousand dollars, or both such fine and imprisonment.

Section 4.) Subsections 5, 6, 7, 8, 9, and 10 of section 19-02.1-05 of the 1967 Supplement to the North Dakota Century Code are hereby created and enacted to read as follows:

5. Objects may be seized without a warrant by a duly authorized agent of the department whenever he has reasonable grounds to believe they are:

- a. A depressant, stimulant, or hallucinogenic drug with respect to which a prohibited act within the meaning of section 19-02.1-02 has occurred;

- b. A container of such depressant, stimulant, or hallucinogenic drug;
- c. Equipment used in manufacturing, compounding, or processing a depressant, stimulant, or hallucinogenic drug with respect to which drug a prohibited act within the meaning of section 19-02.1-02 has occurred; or
- d. Any conveyance being used to transport, carry, or hold a depressant, stimulant, or hallucinogenic drug with respect to which a prohibited act within the meaning of section 19-02.1-02 has occurred. As used in this subdivision, the term "conveyance" includes every description of vehicle, vessel, aircraft, or other contrivance used, or capable of being used as a means of transportation on land, in water, or through the air.

6. When an article, equipment, conveyance, or other thing is seized under subsection 5, the department shall, within five days thereafter, cause to be filed in the district court in whose jurisdiction the merchandise is seized or detained a complaint for condemnation of such merchandise as herein provided. The proceedings shall be brought in the name of the state by the state's attorney of the county in which the article was seized, and the complaint shall be verified by a duly authorized agent of the state in a manner required by the law of this state. The complaint shall describe the merchandise, state its location, state the name of the person, firm, or corporation in actual possession, state the name of the owner, if known to the duly authorized agent of the state, allege the essential elements of the violation which is claimed to exist, and shall conclude with a prayer of due process to enforce the forfeiture. Upon the filing of such a complaint, the court shall promptly cause process to issue to the sheriff or other state law enforcement officer, commanding him to seize the goods described in the complaint and to hold the same for further order of the court. The sheriff or other state law enforcement officer shall at the time of seizure, serve a copy of said process upon the owner of said merchandise. Such service may be made personally, by mail, or by publication according to the rules governing the service of civil process in this state. At the expiration of twenty days after such seizure, if no claimant has appeared to defend said complaint, the court shall order the sheriff to dispose of said seized merchandise.

7. Any person, firm, or corporation having an interest in the alleged article, equipment, or other thing proceeded against, or any person, firm, or corporation against whom a civil or criminal liability would exist if said merchandise is in violation of section 19-02.1-02 may, within twenty days following the seizure, appear and file answer to the complaint. The answer shall allege the interest or liability of the party filing it. In all other respects, the issue shall be made up as in other civil actions.

8. Any article, equipment, conveyance, or other thing condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid to the treasurer of the state; but such article, equipment, or other thing shall not be sold under such decree contrary to provisions of this Act.

9. Whenever in any proceedings under this section the condemnation of any equipment or conveyance or other thing, other than a drug, is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court that:

- a. He has not committed or caused to be committed any prohibited act referred to in subsection 5 of this section and has no interest in any drug referred to therein;
- b. He has an interest in such equipment, or other thing as owner or lienor or otherwise, acquired by him in good faith; and
- c. He at no time had any knowledge or reason to believe that such equipment, conveyance, or other thing was being or would be used in, or to facilitate, the violation of the laws of this state relating to depressant, stimulant, or hallucinogenic drugs or counterfeit drugs.

10. When a decree of condemnation is entered against the article, equipment, conveyance, or other thing, court costs and fees and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

Section 5. Amendment.) Section 19-02.1-06 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-06. Prosecutions—State's Attorney.) It shall be the duty of each state's attorney to whom the department reports any violation of this chapter occurring in his county, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

Section 6. Amendment.) Subsection 1 of section 19-02.1-15 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. A depressant, stimulant, or hallucinogenic drug; or a drug intended for use by man which is a habit-forming drug to which subsection 4 of section 19-02.1-14 applies; or a drug that, because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner; or a drug limited by an approved application under section 505 of the Federal Act or section 19-02.1-16 of this Code to use under the professional supervision of a practitioner, shall be dispensed by prescription of a practitioner, and such prescription shall not be refilled more than five times, nor shall it be filled or refilled after six months from the date on which such prescription was issued; except that nothing herein shall be construed as preventing a practitioner from issuing a new prescription for the same drug either in writing or orally. Any oral prescription for such drug shall be promptly reduced to writing by the pharmacist on a new prescription blank, and shall be signed within seventy-two hours by the practitioner who issued the same.

Section 7.) Section 19-02.1-23 of the North Dakota Century Code is hereby created and enacted to read as follows:

19-02.1-23. Prohibition Against Manufacture of Drugs—Exceptions.)

1. No person shall manufacture, compound, or process in this state any depressant, stimulant, or hallucinogenic drug except that this prohibition shall not apply to the following persons whose activities in connection with any drug are as specified in this subsection:

- a. Manufacturers, compounders, and processors, operating in conformance with the laws of this state relating to the manufacture, compounding or processing of drugs, who are regularly engaged in preparing pharmaceutical chemicals or prescription drugs for distribution through branch outlets, through wholesale druggists, or by direct shipment:
 - (1) To pharmacies, hospitals, clinics, public health agencies, or physicians for dispensing by registered pharmacists upon prescriptions, or for use by or under the supervision of practitioners licensed in this state to administer such drugs in the course of their professional practice; or
 - (2) To laboratories or research or educational institutions for their use in research, teaching, or chemical analysis.
- b. Suppliers operating in conformance with the laws of this state relating to the manufacture, compounding, or processing of drugs of manufacturers, compounders, and processors referred to in subdivision a.
- c. Wholesale druggists who maintain their establishments in conformance with state and local laws relating to the manufacture, compounding, or processing of drugs and are regularly engaged in supplying prescription drugs:
 - (1) To pharmacies, hospitals, clinics, public health agencies, or physicians for dispensing by registered pharmacists upon prescriptions or for use by or under the supervision of practitioners licensed in this state to administer such drugs in the course of their professional practice; or
 - (2) To laboratories or research or educational institutions for their use in research, teaching, or clinical analysis.
- d. Pharmacies, hospitals, clinics, and public health

agencies which maintain their establishments in conformance with state and local laws regulating the practice of pharmacy and medicine which are regularly engaged in dispensing drugs upon prescriptions of practitioners licensed in this state to administer such drugs for patients under the care of such practitioners in the course of their professional practice.

- e. Practitioners licensed in this state to prescribe or administer depressant, stimulant, or hallucinogenic drugs, while acting in the course of their professional practice.
- f. Persons who use depressant, stimulant, or hallucinogenic drugs in research, teaching, or chemical analysis and not for sale.
- g. Officers and employees of this state, or of a political subdivision of this state or of the United States while acting in the course of their official duties.
- h. An employee or agent of any person described in subdivisions a through f of this subsection, and a nurse or other medical technician under the supervision of a practitioner licensed by the law in this state to administer depressant, stimulant, or hallucinogenic drugs, while such employee, nurse, or medical technician is acting in the course of his employment or occupation and not on his own account.

2. No person other than:

- a. A person described in subsection 1, while such person is acting in the ordinary and authorized course of his business, profession, occupation, or employment; or
- b. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any depressant, stimulant, or hallucinogenic drug or counterfeit drug is in the usual course of his business or employment as such, shall sell, deliver, or otherwise dispose of any depressant, stimulant, or

hallucinogenic drug or counterfeit drug to any other person.

3. No person, other than a person described in subdivisions a or b of subsection 2 of this section shall possess any depressant, stimulant, or hallucinogenic drug unless:
 - a. Such drug was obtained upon a valid prescription, and is held in the original container in which such drug was delivered; or
 - b. Such drug was delivered by a practitioner in the course of his professional practice and the drug is held in the immediate container in which such drug was delivered.
4. No person other than a person described in subdivision g of subsection 1 of this section shall obtain or attempt to obtain a depressant, stimulant, or hallucinogenic drug by:
 - a. Fraud, deceit, misrepresentation or subterfuge;
 - b. Falsely assuming the title of or representing himself to be a manufacturer, wholesaler, practitioner, pharmacist, owner of a pharmacy, or other persons authorized to possess stimulant, depressant, or hallucinogenic drugs;
 - c. The use of a forged or altered prescription; or
 - d. The use of a false name or a false address on a prescription;

Provided this subsection shall not apply to drug manufacturers, their agents or employees, when such manufacturers, their agents or employees are authorized to engage in and are actually engaged in investigative activities directed toward the safeguarding of said drug manufacturer's trademark.

5. Every person engaged in manufacturing, compounding, processing, selling, delivering, or otherwise disposing of any depressant, stimulant, or hallucinogenic drug shall, upon the effective date of this Act, prepare a com-

plete and accurate record of all stocks of each drug on hand and shall keep such record for three years, except that if this record has already been prepared in accordance with section 511 (d) of the Federal Act, no additional record shall be required provided that all records prepared under section 511 (d) of the Federal Act have been retained and are made available to the department upon request. When additional depressant, stimulant, or hallucinogenic drugs are designated after the effective date of this Act, a similar record must be prepared upon the effective date of their designation. On and after the effective date of this Act, every person manufacturing, compounding, or processing any depressant, stimulant, or hallucinogenic drug shall prepare and keep, for not less than three years, a complete and accurate record of the kind and quantity of each drug manufactured, compounded, or processed and the date of such manufacture, compounding, or processing, and every person selling, delivering, or otherwise disposing of any depressant, stimulant, or hallucinogenic drug shall prepare or obtain, and keep for not less than three years, a complete and accurate record of the kind and quantity of each drug received, sold, delivered, or otherwise disposed of, the name and address from whom it was received and to whom it was sold, delivered, or otherwise disposed of, and the date of such transaction.

6. Every person required by subsection 5 of this section to prepare or obtain, and keep records, and any carrier maintaining records with respect to any shipment containing any depressant, stimulant, or hallucinogenic drug, and every person in charge, or having custody of such records, shall, upon request of an officer or employee designated by the chief agent, permit such officer or employee at reasonable times to have access to and copy such records. For the purposes of verification of such records and the enforcement of this Act, officers or employees designated by the department are authorized to enter, at reasonable times, any factory, warehouse, establishment, or vehicle, in which any depressant, stimulant, or hallucinogenic drug is held, manufactured, compounded, processed, sold, delivered, or otherwise disposed of, and to inspect, within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment,

finished and unfinished material, containers and labeling therein, and all things therein, including records, files, papers, processes, controls, and facilities, and to inventory any stock of any such drug, provided that no inspection authorized by this subsection shall extend to:

- a. Financial data;
 - b. Pricing data;
 - c. Personnel data; or
 - d. Research data.
7. The provisions of subsections 5 and 6 of this section shall not apply to a licensed practitioner described in subdivision e of subsection 1 of this section with respect to any depressant, stimulant, or hallucinogenic drug received, prepared, processed, administered, or dispensed by him in the course of his professional practice, unless such practitioner regularly engages in dispensing any such drug or drugs to his patients for which they are charged, either separately or together with charges for other professional services.
8. Depressant, stimulant, or hallucinogenic drugs exempted under section 511 (f) of the Federal Act are exempted from the application of this section.

Approved March 5, 1969.

CHAPTER 231

H. B. No. 350

(Bunker)

SALE AND POSSESSION OF MARIJUANA

AN ACT

To create and enact section 19-03-28.1 of the North Dakota Century Code, relating to the sale or possession of marijuana, and providing a penalty, and to amend and reenact section 19-03-01 of the North Dakota Century Code, relating to definition of narcotic drugs, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Amendment.) Subsection 13 of section 19-03-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

13. "Narcotic drugs" means coca leaves, opium, isoniphe-caine, amidone, isoamidone, keto - bernidone, and every other substance neither chemically nor physically distinguishable from them, and other drugs to which the federal laws relating to narcotic drugs may now apply; and any drug found by the state laboratories department, after reasonable notice and opportunity for hearing, to have addiction-forming or addiction-sustaining liability similar to morphine or cocaine, from the date of publication of such finding by said state laboratories department;

Section 2.) Section 19-03-28.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

19-03-28.1. Sale or Possession of Marijuana Prohibited—Penalty.) No person shall grow, sell, trade, furnish, give away, or have in his possession any marijuana except in accordance with the provisions of this chapter. Any person convicted of a violation under this section shall be punished by a fine of not more than two thousand dollars, and by imprisonment in the county jail for not less than six months, or by imprisonment in the state penitentiary for not more than two years, or by both such fine and imprisonment. Any person convicted of a violation under this section, who has previously been convicted of a violation under this same section, shall be punished by a fine of

not more than two thousand dollars, or by imprisonment in the state penitentiary for not more than five years, or by both such fine and imprisonment. Any person over the age of eighteen who is convicted of a violation under this section wherein he sold, traded, furnished, or gave away marijuana to another person eighteen years of age or less, or who utilized the services of another person eighteen years of age or less for the purpose of selling, trading, furnishing, or giving away marijuana to another, shall be punished by imprisonment in the state penitentiary for a period of not less than five years, nor more than ten years.

Section 3. Emergency.) This measure is hereby declared to be an emergency measure and shall be in full force and effect from and after the date of its passage and approval.

Approved March 25, 1969.

CHAPTER 232

H.B. No. 135
(Dornacker)

DEFINITION OF DOING BUSINESS FOR PURPOSE OF LICENSING MARGARINE DISTRIBUTORS

AN ACT

To amend and reenact subsection 2 of section 19-05-05 and subsection 1 of section 19-05-08 of the North Dakota Century Code, relating to the definition of doing business in this state for the purposes of licensing oleomargarine wholesalers and relating to the size of bulk containers in which oleomargarine may be sold.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Amendment.) Subsection 2 of section 19-05-05 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. For the purposes of this chapter, "doing business in this state" shall mean any manufacturer, wholesaler, distributor, jobber or any person acting as such having or maintaining within this state, directly or by a subsidiary, an office, distri-

bution house, warehouse, or other place of business, or by making delivery into this state by his own vehicle or by contract carrier, or by any agent operating within this state under the authority of the manufacturer, wholesaler, distributor, jobber, or any person acting as such or its subsidiary, whether such place of business or agent is located in this state permanently or temporarily or whether or not such a firm is authorized to do business within this state.

Section 2. Amendment.) Subsection 1 of section 19-05-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*1. The state tax commissioner shall collect a tax of ten cents per pound upon all oleomargarine held for sale or consumption in this state. An additional tax of ten cents per pound shall be collected upon all oleomargarine which is yellow in color held for sale or consumption in this state. Oleomargarine shall not be sold in this state in packages containing less than one pound; however, oleomargarine may be sold in packages containing any number of exact pounds provided that the packages containing the oleomargarine clearly state the net weight of the oleomargarine contained in the package and that the appropriate number of revenue stamps representing the per pound net weight of the oleomargarine contained in the package are affixed to the package before the package is offered for sale in this state. Before a box, carton, or container of oleomargarine is held for distribution by a manufacturer, wholesaler, distributor, jobber, or any person acting as such, or by a retailer, or held for consumption by any person, he shall attach to each package a stamp denoting the payment of the tax upon the oleomargarine therein contained.

Approved February 20, 1969.

*Note: Subsection 1 of section 19-05-08 was also amended by section 1 of chapter 233, 1969 S. L.

CHAPTER 233

H.B. No. 405
(Gackle)

REDUCTION OF OLEOMARGARINE TAX

AN ACT

To amend and reenact subsection 1 of section 19-05-08 of the North Dakota Century Code, relating to the reduction of the tax imposed upon oleomargarine sold in this state.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Amendment.) Subsection 1 of section 19-05-08 of the 1967 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

*1. The state tax commissioner shall collect a tax of ten cents per pound upon all yellow oleomargarine held for sale or consumption in this state. Oleomargarine shall not be sold in this state in packages containing less than one pound, however, oleomargarine may be sold in packages containing any number of exact pounds provided that the packages containing the oleomargarine clearly state the weight of the oleomargarine contained in the package and that the appropriate number of revenue stamps representing the per pound net weight of the oleomargarine contained in the package are affixed to the package before the package is offered for sale in this state. Before a box, carton, or container of oleomargarine is held for distribution by a manufacturer, wholesaler, distributor, jobber, or any person acting as such, or by a retailer, or held for consumption by any person, he shall attach to each package a stamp denoting the payment of the tax upon the oleomargarine therein contained.

Approved March 25, 1969.

*Note: Subsection 1 of section 19-05-08 was also amended by section 2 of chapter 232, 1969 S. L.

CHAPTER 234

H. B. No. 335
(Moquist, Kingsbury, Berg)

**PROHIBITING SALE OF POTATOES NOT LABELED AS
TO GRADE**

AN ACT

Prohibiting the sale of potatoes not labeled as to grade; and providing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Sale of Potatoes Not Labeled As To Grade in Closed Packages Prohibited.) No person shall sell at retail any potatoes in closed packages which are not identified as to grade.

Section 2. Definitions.) Whenever used in this Act:

1. "Closed package" shall mean any box, barrel, basket, crate, sack, bag, tube or any other type container in which all contents cannot be seen or inspected to determine the grade, quality or condition without the removal of all or part of the contents from such package.
2. "Person" means a natural person, partnership, corporation or other form of business association.
3. "Retail sale" means a transfer for value to a consumer.

Section 3. Grade Labeling.) Every closed package containing potatoes to be sold or offered for sale at retail by any person shall bear conspicuously on the top and/or side thereof in plain words the grade. An attached tag may substitute for the grade print on closed packages. Inspections under this Act shall be performed by the state laboratories department.

Section 4. Approved Grades and Standards.) Grades shall be those established by the United States department of agriculture, the North Dakota state seed department, or any grade approved by the North Dakota commissioner of agriculture. Culls or pickouts shall be labeled as "culls".

Section 5. Penalty.) Any person who violates this Act is guilty of a misdemeanor.

Approved March 25, 1969.

CHAPTER 235

H. B. No. 334
(Moquist, Kingsbury, Berg)

PROHIBITING SALE OF ARTIFICIALLY
COLORED POTATOES

AN ACT

Relating to potatoes; prohibiting the sale of artificially colored potatoes; and imposing a penalty.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

Section 1. Sale of Artificially Colored Potatoes Prohibited.)

No person shall sell at retail any potatoes which are artificially colored. For purposes of this Act the terms defined in this section shall have the meanings therein ascribed to them.

1. "Person" means a natural person, partnership, corporation, or other form of business association.
2. "Retail sale" means a transfer for value to a consumer.

Section 2. Artificial Coloring.) The state laboratory department shall prescribe by regulation the meaning of "artificial coloring".

Section 3. Penalty.) Any person who violates this Act is guilty of a misdemeanor.

Approved March 13, 1969.