

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1185

Introduced by

Representatives Rennerfeldt, Monson, Aarsvold

Senators Kinnoin, Urlacher, Thane

1 A BILL for an Act to amend and reenact sections 4-10.4-03, 4-10.4-08, and 4-10.4-12 of the
2 North Dakota Century Code, relating to the state barley council and the tax assessment on
3 barley production.

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

5 **SECTION 1. AMENDMENT.** Section 4-10.4-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **4-10.4-03. Council - Membership - Election - Term.** The council is composed of one
8 participating grower elected from each of the districts established in section 4-10.4-04. The
9 chairman of the council must be an elected member of the council elected by a majority vote of
10 the council. The commissioner is an ex officio member of the council and does not have a vote.
11 Every elected council member must be a citizen of the state and a bona fide resident of and
12 participating grower in the district the member represents. The term of each ~~elected~~ member
13 elected before August 1, 1997, is three years and begins on April first of the year of election;
14 ~~except that initially two members must be elected for a three-year term; two members must be~~
15 ~~elected for a two-year term; and one member must be elected for a one-year term as~~
16 ~~designated by the commissioner. The term of each member elected after July 31, 1997, is four~~
17 years and begins on April first of the year of election. If at any time during a member's term a
18 member ceases to possess any of the qualifications provided for in this chapter, the member's
19 office is vacant and the remaining members of the council shall appoint another qualified
20 participating grower for the remainder of the term of the office vacated. The commissioner, or a
21 county agent designated by the commissioner, in cooperation with the cooperative extension
22 service, shall conduct all elections under this section in each district in the manner the
23 commissioner deems fair and reasonable. All such elections must be completed ~~at least sixty~~
24 ~~days~~ prior to expiration of the members' terms. No ~~elected~~ member ~~of~~ elected to the council

1 before August 1, 1997, is eligible to serve more than two consecutive three-year terms. No
2 member elected to the council after July 31, 1997, is eligible to serve more than three
3 consecutive four-year terms.

4 **SECTION 2. AMENDMENT.** Section 4-10.4-08 of the 1995 Supplement to the North
5 Dakota Century Code is amended and reenacted as follows:

6 **4-10.4-08. Tax levied.**

- 7 1. A tax at the rate of ~~five~~ ten mills per bushel [35.24 liters] must be levied and
8 imposed upon all barley grown in the state, delivered into the state, or sold to a first
9 purchaser in the state. This tax is due upon any identifiable lot or quantity of
10 barley.
- 11 2. Every first purchaser of barley shall collect the tax imposed by this section by
12 charging and collecting from the seller the tax at the rate of ~~five~~ ten mills per bushel
13 [35.24 liters] by deducting the tax from the purchase price of all barley subject to
14 the tax and purchased by the first purchaser.
- 15 3. Every first purchaser shall keep as a part of its permanent records a record of all
16 purchases, sales, and shipments of barley, which may be examined by the council
17 at all reasonable times. Every first purchaser shall report to the council by the
18 ~~twentieth~~ thirtieth day of each calendar quarter stating the quantity of barley
19 received, sold, or shipped by it, ~~except that if less than twenty five thousand~~
20 ~~bushels [880.98 cubic meters] have been purchased, in any calendar quarter, the~~
21 ~~tax may be reported and remitted with the following quarter's return, provided that~~
22 ~~all taxes collected must be remitted at least annually.~~ The remittance of the tax as
23 provided in this section must accompany the report. All moneys levied and
24 collected under this chapter must be paid to the council for deposit in the state
25 treasury to the credit of an account or accounts designated "barley fund" to be
26 used exclusively to carry out the intent and purposes of this chapter. Regular
27 audits of the council's accounts must be conducted in accordance with chapter
28 54-10 and submitted to the commissioner.
- 29 4. The tax provided for by this section must be deducted as provided by this chapter
30 whether the barley is stored or sold in this or any other state, but if agreements
31 have not been made with dealers and first purchasers outside of the state for

1 collecting the tax, the grower shall remit the tax to the council on all barley sold by
2 the grower outside the state.

3 **SECTION 3. AMENDMENT.** Section 4-10.4-12 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **4-10.4-12. Penalty for nonpayment of tax.** Any first purchaser who fails to pay any
6 tax levied by this chapter on the date the tax becomes due is delinquent ~~and the~~. The council
7 ~~shall~~ may levy a penalty on the delinquent payments of ten percent of the tax due, plus interest
8 at the rate of six percent per annum from the due date. The council shall collect ~~the~~ any
9 penalty and interest in the manner prescribed by section 4-10.4-11.