

Fifty-fifth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2145

Introduced by

Senators Tomac, Lips

Representatives Carlisle, Grumbo

1 A BILL for an Act to create and enact three new sections to chapter 2-05 of the North Dakota
2 Century Code, relating to cease and desist authority for the aeronautics commission,
3 assessment of civil money penalties by the aeronautics commission, and bond requirements for
4 persons engaged in aerial spraying; to provide a penalty; and to provide an effective date.

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

6 **SECTION 1.** A new section to chapter 2-05 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Cease and desist orders.** The aeronautics commission may issue and serve upon any
9 person, engaged in aerial spraying, an order to cease and desist when the commission has
10 reason to believe the person is violating, has violated, or is about to violate any of the
11 provisions of this chapter or any of the rules adopted by the commission. An interested party
12 may appeal the issuance of a cease and desist order under the provisions of chapter 28-32 by
13 filing written notice of appeal within seven days after service of the order. A hearing must be
14 held within ten days after a notice of appeal has been timely filed. A person who has been
15 issued an order to cease and desist that has been determined to be final either through default
16 or an adjudicative proceeding may not engage in aerial spraying for any other commercial
17 applicator in this state.

18 **SECTION 2.** A new section to chapter 2-05 of the North Dakota Century Code is
19 created and enacted as follows:

20 **Assessment of civil money penalties.** The aeronautics commission may impose civil
21 money penalties against any person willfully violating an order to cease and desist or any
22 provision of this chapter or any of the rules adopted by the commission in an amount not to
23 exceed five hundred dollars for each violation. As used in this section, the term "willfully"
24 means that the person acted intentionally in the sense that the person was aware of what the

1 person was doing. Proof of evil motive or intent to violate the law or knowledge that the law
2 was being violated is not required. An interested party may appeal the assessment of civil
3 money penalties under the provisions of chapter 28-32 by filing written notice of appeal within
4 twenty days after service of the assessment of civil money penalties. A civil money penalty
5 collected under this section must be paid to the state treasurer and deposited in the aeronautics
6 commission's special fund.

7 **SECTION 3.** A new section to chapter 2-05 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Bond required for aerial spraying.** Before receiving or renewing an aerial applicator's
10 license as provided under section 2-05-18, the applicant shall execute and deposit with the
11 aeronautics commission a surety bond in the sum of five thousand dollars conditioned on full
12 compliance with all of the provisions of this chapter and all of the rules adopted by the
13 commission. An employee of a licensed applicator is not required to maintain a surety bond if
14 the applicator is bonded.

15 **SECTION 4. EFFECTIVE DATE.** Section 3 of this Act becomes effective on January 1,
16 1998.