

Fifty-sixth  
Legislative Assembly  
of North Dakota

**ENGROSSED SENATE BILL NO. 2365**

Introduced by

Senators Wanzek, Mutch, Naaden

Representative Brusegaard

1 A BILL for an Act to create and enact a new section to chapter 23-25 of the North Dakota  
2 Century Code, relating to the regulation of odors by the state department of health.

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

4 **SECTION 1.** A new section to chapter 23-25 of the North Dakota Century Code is  
5 created and enacted as follows:

6 **Regulation of odors.**

- 7 1. Except as otherwise provided in this section, a person may not discharge into the  
8 ambient air an objectionable odorous air contaminant that measures seven odor  
9 concentration units or higher outside the property boundary where the discharge is  
10 occurring.
- 11 2. Odor measurements may be taken only on a properly maintained scentometer or  
12 other instrumental method approved by the department, and only by a  
13 department-certified inspector who has successfully completed a  
14 department-sponsored odor certification course and demonstrated the ability to  
15 distinguish various odor samples and concentrations.
- 16 3. In areas located outside a city or the area over which a city exercises  
17 extraterritorial zoning, odor measurements must be taken at least two-tenths of a  
18 mile [.32 kilometers] from the source discharging the objectionable odorous air  
19 contaminant, or at the property boundary, whichever is greater.
- 20 4. Except for a chronic violator, the department may send a certified inspector to take  
21 odor measurements for the purpose of determining compliance with this section  
22 only after receiving a complaint from the public. For a chronic violator, the  
23 department may take or require odor measurements until the chronic violator has  
24 no more than two odor measurements of seven odor concentration units or higher

- 1                   within a three hundred sixty-five-day period and no odor measurements of  
2                   thirty-one odor concentration units or higher within that period.
- 3           5.   A chronic violator is a person who:
- 4               a.   On separate days, has no fewer than three measurements of seven odor  
5                   concentration units or higher, or two measurements of fifteen odor units or  
6                   higher, within a thirty day period; or
- 7               b.   On separate days, has no fewer than seven measurements of seven odor  
8                   concentration units or higher, or four measurements of fifteen odor units or  
9                   higher, within a ninety day period.
- 10          6.   A person is exempt from this section while applying animal manure or other  
11           recycled agricultural material to land in accordance with a nutrient management  
12           plan approved by the department. A farmer is exempt from this section while  
13           applying animal manure or other recycled agricultural material to land owned or  
14           leased by the farmer in accordance with rules adopted by the department.