

SENATE BILL NO. 2104

Introduced by

Agriculture Committee

(At the request of the State Seed Department)

1 A BILL for an Act to amend and reenact subsection 15 of section 4-09-01, sections 4-09-03,
2 4-09-13, 4-09-14.3, 4-09-14.4, 4-09-16, 4-09-17, 4-09-17.1, and 4-09-18 of the North Dakota
3 Century Code, relating to state seed commission membership, seed labeling, and seed fees.

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

5 **SECTION 1. AMENDMENT.** Subsection 15 of section 4-09-01 of the 1999 Supplement
6 to the North Dakota Century Code is amended and reenacted as follows:

7 15. "Person" means any individual, farmer, partnership, corporation, limited liability
8 company, company, society, or association.

9 **SECTION 2. AMENDMENT.** Section 4-09-03 of the 1999 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **4-09-03. State seed commission - Members - Meetings - Appointment and duties**
12 **of commissioner.**

13 1. The state seed commission is the governing board of the seed department and
14 shall adopt rules and regulations pursuant to chapter 28-32 to effectuate the
15 purposes of this section.

16 2. The state seed commission consists of a representative of the North Dakota crop
17 improvement association, a representative of the North Dakota certified seed
18 potato growers association, a representative of the North Dakota dry edible bean
19 seed growers association, a representative of the North Dakota agricultural
20 association, an elected member of the North Dakota potato council selected by the
21 North Dakota potato council, a representative of the red river valley potato growers
22 association who is a North Dakota resident, a representative of the North Dakota
23 grain dealers association who also operates a state-approved seed conditioning
24 plant selected by the board of directors of the North Dakota grain dealers

1 association, and the agriculture commissioner, or the commissioner's designee,
2 who shall serve as chairman. The associate dean and director of the experiment
3 station, or the director's designee, of the college of agriculture of the North Dakota
4 state university of agriculture and applied science is ~~an advisory, nonvoting a~~
5 voting member of the commission.

6 3. The commission shall meet ~~during the months of November and June of each a~~
7 minimum of two times each calendar year and may hold special meetings at the
8 call of the chairman or by request of any two members of the commission.

9 Members of the commission must be reimbursed for mileage and travel as
10 specified in section 54-06-09 and expenses as specified in section 44-08-04 for
11 attendance at regular and special meetings. A commission member unable to
12 attend a meeting of the commission may be represented by a proxy who has
13 written authorization from such commission member.

14 4. The commission shall appoint a qualified manager of the seed department who
15 must be known as the state seed commissioner. The commission shall fix the
16 salary of the commissioner within legislative appropriation therefor. The
17 commissioner's appointment must be reviewed annually by the commission, and
18 the commissioner is subject to removal for cause. In the event of a vacancy in the
19 office of seed commissioner, the commission may appoint a temporary state seed
20 commissioner to serve until such time as a permanent commissioner is appointed.
21 The state seed commissioner has responsibility for preparing the biennial budget
22 and annual salary schedules which must be approved by the commission prior to
23 submission to the state budget director. The commissioner is directly responsible
24 to the commission and shall make semiannual reports to the commission and such
25 other reports as requested by the commission.

26 **SECTION 3. AMENDMENT.** Section 4-09-13 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **4-09-13. Tolerances.** The tolerances used in determining correctness and accuracy in
29 labeling seed as described in this chapter must be those tolerances used under the Federal
30 Seed Act of August 9, 1939, and subsequent amendments ~~thereto~~ as of July 1, 2001, except if

1 the commissioner, by rule, establishes tolerances that meet or exceed Federal Seed Act
2 tolerances as of July 1, 2001.

3 **SECTION 4. AMENDMENT.** Section 4-09-14.3 of the 1999 Supplement to the North
4 Dakota Century Code is amended and reenacted as follows:

5 **4-09-14.3. Fees.** The commissioner, with the approval of the seed commission, shall
6 establish and charge fees required by section 4-09-14.1 shall be pursuant to the following fee
7 schedule:

- | | | | |
|----|----|--|-------------|
| 8 | 1. | A container containing: | |
| 9 | | 100 to 160 lbs. of seed | eight cents |
| 10 | | 60 to 99 lbs. of seed | seven cents |
| 11 | | 30 to 59 lbs. of seed | six cents |
| 12 | | 15 to 29 lbs. of seed | five cents |
| 13 | | 1/2 to 14 lbs. of seed | four cents |
| 14 | 2. | Cereal grains, per 100 pounds [45.36 kilograms], two cents. Flax, soybeans, dry | |
| 15 | | beans, per 100 pounds [45.36 kilograms], four cents. | |
| 16 | 3. | Seeds sold in bulk, and not specified in subsection 2, per 100 pounds, | |
| 17 | | [45.36 kilograms], six cents. | |
| 18 | 4. | Whenever seed is sold at wholesale or on consignment or commission in packets | |
| 19 | | of eight ounces [226.80 grams] or less, the fee shall be fifty cents per twenty five | |
| 20 | | dollars of wholesale value, or fraction thereof, of the packets in the lot container. | |

21 **SECTION 5. AMENDMENT.** Section 4-09-14.4 of the 1999 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **4-09-14.4. Permit.** The commissioner is authorized at the commissioner's discretion,
24 under such rules as may be promulgated, to issue a permit to any person to label agricultural,
25 vegetable, flower, and tree and shrub seeds in North Dakota. The person shall apply to the
26 commissioner for a permit and shall furnish the seed department with periodic statements an
27 annual statement of all seeds sold in North Dakota when requested by the seed commissioner.
28 Each statement must be itemized to show the number of each class of containers referred to in
29 section 4-09-14.3. Statements that must be furnished for each reporting period, must be
30 delivered to the commissioner not later than thirty-one days after the end of each reporting
31 period, and must be accompanied by the appropriate fee. A penalty fee of ten dollars, or five

1 percent of the total amount due, whichever is greater, will be assessed for reports that are not
2 postmarked within thirty-one days after the end of the reporting period. Any person to whom a
3 permit is granted shall show such information in connection therewith as the commissioner may
4 require as part of the label on all seed sold. The commissioner or the commissioner's
5 authorized agent has the right at all reasonable times to examine the records of any
6 permitholder to verify the correctness of its statements. ~~The commissioner, when requested,~~
7 ~~may grant a farmer who grows his own seed and sells only his own seed, the right to report~~
8 ~~annually.~~

9 **SECTION 6. AMENDMENT.** Section 4-09-16 of the 1999 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **4-09-16. Certified seed.** The commissioner shall:

- 12 1. Establish a seed certification system for this state and adopt rules governing
13 application for service, acceptance of suitable seed stocks for the production of a
14 foundation, registered, certified, or inspected crop, field inspection, bin inspections,
15 harvesting, handling, storage, conditioning, and preparation and handling of such
16 seed for market.
- 17 2. Designate kinds, varieties, and names of seed stocks, and establish standards of
18 quality, degree of disease infection, and amounts of any admixtures, foreign seeds,
19 noxious weeds, or other weed seeds that are allowed in any lot or stock of seed,
20 which may be or become eligible for field inspection or for final certification of the
21 seed crop.
- 22 3. Prescribe all labels, seals, certificates, or similar statements that must be used for,
23 or in relation to, any seed, or the various kinds and qualities grown, handled,
24 stored, held for sale, sold, or offered or exposed for sale in this state as "breeders",
25 "foundation", "registered", or "certified", ~~or "inspected"~~ seed, and shall specify what
26 words, terms, or figures such labels, seals, certificates, or the containers of such
27 seed must bear.
- 28 4. Cooperate with the managers of any seed conditioning plants, or any commercially
29 established seed firm, or any person within or outside of the state having proper
30 facilities and equipment to store, condition, and otherwise handle seed which is

1 eligible for certification, for the purposes of handling and marketing "breeders",
2 "foundation", "registered", or "certified", ~~or "inspected"~~ seed.

3 5. Cooperate in the selection, testing, and growing of seed for certification purposes
4 and in the arrangement for increase of foundation seed stocks suitable for the
5 production of certified seed.

6 6. Establish an equitable schedule of fees and charges, which must be uniform
7 throughout the state, for inspecting, testing, analyzing, and recording such seed,
8 and for other work and duties incident to the growing, handling, marketing, and
9 certifying of North Dakota seed, and shall collect all such fees and charges.

10 **SECTION 7. AMENDMENT.** Section 4-09-17 of the 1999 Supplement to the North
11 Dakota Century Code is amended and reenacted as follows:

12 **4-09-17. Certified seed - Regulations governing labeling and representing.** Seed
13 grown in North Dakota, or grown elsewhere and transported into this state, which is sold,
14 offered or exposed for sale, stored, transported, or distributed, or held with intent to sell or plant
15 the same, may not be represented, advertised, labeled, or characterized in any way, either
16 orally or in writing, with or by the use of the term "breeders", "foundation", "registered",
17 "certified", "pedigreed", or "elite", ~~or "inspected"~~ seed, or any term or terms conveying a
18 meaning substantially equivalent to the meaning of any of said terms, without the approval and
19 authorization of the commissioner, who may adopt such rules as the commissioner finds
20 necessary for the proper regulation and protection of the certified seed industry.

21 **SECTION 8. AMENDMENT.** Section 4-09-17.1 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **4-09-17.1. Plant Variety Protection Act.** Any seed advertised, offered for sale, or sold
24 by variety name and for which a certificate of plant variety protection has been issued under the
25 Plant Variety Protection Act, as amended, [Pub. L. 91-577; 84 Stat. 1551; 7 U.S.C. 2481
26 et seq., effective as of July 1, 2001] as being for sale only as a class of certified seed must be
27 certified by an official seed certifying agency in order for the seed to be advertised, offered for
28 sale, or sold by variety name in the state of North Dakota. Seed from a certified lot may be
29 labeled as to variety name when used in a blend or mixture by or with approval of the owner of
30 the variety.

1 **SECTION 9. AMENDMENT.** Section 4-09-18 of the 1999 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **4-09-18. Certified seed standards –Fees.** The rules; and requirements; ~~and fees~~ for
4 certification of crop seeds, other than potatoes, must be those prescribed and set forth in the
5 state seed department bulletin number 51, published in March 1945, and subsequent
6 announcements and revisions of the bulletin.

7 The rules; and requirements; ~~and fees~~ for seed potato certification must be those
8 prescribed and set forth in the state seed department bulletin number 49 as revised in August
9 1950, and subsequent announcements and revisions of the bulletin.