

Fifty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2385

Introduced by

Senators Taylor, Fairfield, Klein

Representatives DeKrey, Gulleson, Kerzman

1 A BILL for an Act to create and enact two new sections to chapter 4-38 of the North Dakota
2 Century Code, relating to organic food standards; to amend and reenact section 4-38-02 of the
3 North Dakota Century Code, relating to certifying agents; to repeal sections 4-38-01, 4-38-03,
4 4-38-04, 4-38-05, and 4-38-06 of the North Dakota Century Code, relating to organic food
5 standards; and to provide a penalty.

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

7 **SECTION 1. AMENDMENT.** Section 4-38-02 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **4-38-02. Definitions.** As used in this chapter, unless the context otherwise requires:

- 10 1. "Certifying agent" means a person ~~or persons registered with the North Dakota~~
11 ~~agriculture commissioner who have demonstrated to the North Dakota agriculture~~
12 ~~commissioner that they have the staff and expertise to carry out the requirements~~
13 ~~of certification as outlined in this chapter~~ accredited by the United States
14 department of agriculture as an organic certifying agent under 7 CFR part 205.
- 15 2. "Organic food" means any food product, including meat, dairy, or a beverage, that
16 is marketed or sold using the term or a derivative of the term organic food in the
17 labeling or advertising of the product.
- 18 3. "Pesticides" means synthetic herbicides, insecticides, and fungicides, and all other
19 toxic materials. The term does not include material from naturally derived
20 substances.
- 21 4. "Synthetic fertilizer" means all nitrogen sources derived from ammonia;
22 phosphorus derived from the acid treatment of rock phosphates; refined or highly
23 soluble potassium salts, whether manufactured or mined; and all other chemically
24 refined, synthesized, or acid-treated material.

- 1 5. ~~"Vendor" means any person who sells organic food to a consumer or another~~
2 ~~vendor, or who processes, manufactures, or otherwise transforms an organic food~~
3 ~~on behalf of a seller of organic food.~~
- 4 6. ~~"Verification" means a system maintained by the vendor of organic foods that~~
5 ~~demonstrates compliance to standards under which product identity may be traced~~
6 ~~from farm to consumer, using a series of documents that record information about~~
7 ~~the vendor's production and processing techniques, including records documenting~~
8 ~~inspection visits by a certifying agent, records documenting inventory, and records~~
9 ~~documenting adherence to standards. "Commissioner" means the agriculture~~
10 ~~commissioner.~~

11 **SECTION 2.** A new section to chapter 4-38 of the North Dakota Century Code is
12 created and enacted as follows:

13 **Certifying agent - Registration.** Before a person may act as a certifying agent in this
14 state, the person must register with the commissioner on a form prescribed by the
15 commissioner. The form must include:

- 16 1. The name of the certifying agent;
17 2. The name of all partners if the certifying agent is a partnership and all officers if the
18 certifying agent is a corporation;
19 3. A copy of the certifying agent's program requirements;
20 4. A copy of all documents relating to the certifying agent's certification process;
21 5. A copy of the certifying agent's letter of authorization or certificate of accreditation
22 issued by the national organic program; and
23 6. Any other information requested by the commissioner.

24 **SECTION 3.** A new section to chapter 4-38 of the North Dakota Century Code is
25 created and enacted as follows:

26 **Penalty.** A person that violates this chapter is guilty of a class B misdemeanor. In
27 addition to a criminal penalty, a person found guilty of violating this chapter or a rule adopted to
28 implement this chapter is subject to a civil penalty of up to five thousand dollars for each
29 violation. The civil penalty may be imposed by a court in a civil proceeding or by the
30 commissioner through an administrative proceeding pursuant to chapter 28-32.

- 1 **SECTION 4. REPEAL.** Sections 4-38-01, 4-38-03, 4-38-04, 4-38-05, and 4-38-06 of
- 2 the North Dakota Century Code are repealed.