

AGRICULTURE

CHAPTER 86

S. B. No. 242

(Senate Agriculture Committee)

(at the request of the State Seed Department)

LABELING AND SALE OF AGRICULTURAL AND VEGETABLE SEEDS

AN ACT

Relating to the labeling, sale, offering, and exposing for sale of agricultural and vegetable seeds, establishing fees for testing and inspection of seeds, providing for penalty for misrepresentation, and repealing sections 4-0901, 4-0906, 4-0907, 4-0908, 4-0910, 4-0911, 4-0912, 4-0913, 4-0914, 4-0915, 4-0918, 4-0923, and 4-0924 of the North Dakota Revised Code of 1943.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DEFINITIONS.) In this act, unless the context or subject matter otherwise requires:

1. "Person" shall mean any individual, partnership, corporation, company, society or association;
2. "Agricultural seeds" shall mean the seeds of grass, forage, cereal, fiber, oil crops, Irish potato seed tubers and any other kind of seeds commonly recognized within this state as agricultural seeds, lawn seeds and mixture of such seeds;
3. "Vegetable seeds" shall mean the seeds of those crops which are grown in gardens and on truck farms, and which are generally known and sold under the name of vegetable seeds within this state;
4. "Weed seeds" shall mean the seeds of all plants generally recognized as weeds within this state, including noxious weed seeds;
5. "Noxious weed seeds" shall mean the seeds of either of the following classifications:
 - a. "Prohibited noxious weed seeds" shall mean the seeds of perennial weeds which reproduce by seed or spread by underground roots, stems and other reproductive parts and which, when established, are highly destructive and difficult to control by ordinary good cultural practice. Included herein are the seeds of leafy spurge (*Euphorbia esula* L.), field bindweed or creeping Jennie (*Convolvulus*

lus arvensis L.), Canada thistle (*Cirsium arvense* L.), perennial sow thistle (*Sonchus arvensis* L.), Russian knapweed (*Centaurea picris* Pall), and perennial pepper grass (*Cardaria draba* L., *Cardaria repens* Schrenk, *Cardaria pubescens* Meyer);

6. "Restricted noxious weed seeds" shall mean the seeds of weeds which are highly objectionable in fields, lawns and gardens, but which can be controlled by good cultural practices or other means. Included herein are the seeds of Dodder (*Cuscuta* species except *coryli*), wild mustard (*Brassica* spp), Frenchweed (*Thlaspi arvense*), wild morning-glory (*Ipomoea* spp), wild oats (*Avena fatua*), and quack grass (*Agropyron repens* L. Beauv.); Provided, however, that the commissioner may, through promulgation of regulations, add to or delete from the list of seeds included under either classification in this subsection whenever he finds, after due consideration, that such additions or deletions are within the respective classifications.
7. "Labeling" shall mean all labels and other written, printed or graphic representation in any form whatsoever accompanying or pertaining to any seed, whether in bulk or in containers, including representations on invoices;
8. "Advertisement" shall mean any representation, other than representations made on labels, made in any manner or by any means which relate to seed within the scope of this Act;
9. "Record" shall mean all information relating to lot identification, source, origin, variety, amount, processing, testing, labeling, distribution and file sample of the seed;
10. "Stop-sale" shall mean an administrative order provided by law restraining the sale, use, disposition and movement of a definite amount of seed;
11. "Seizure" shall mean the legal process carried out by court order against a definite amount of seed;
12. "Kind" shall mean one or more related species or subspecies which singly or collectively is known by one common name, such as corn, oats, alfalfa, timothy;
13. "Variety" shall mean a subdivision of a kind characterized by growth, yield, plant, fruit, seed or other characteristic by which it can be differentiated from other plants of the same kind;
14. "Lot" shall mean a definite quantity of seed identified by a lot number or other mark, every portion or bag of

which is uniform, within a permitted tolerances, for the factors which appear in the labeling;

15. "Hybrid seed corn," as applied to field corn, sweet corn of popcorn, shall mean the first generation seed of a cross made under controlled conditions between different strains and involving one or more inbred lines of corn or combination thereof. For purposes of labeling, the number or other designation of hybrid corn shall be used as a variety name;
16. "Pure seed" shall mean agricultural and vegetable seed, exclusive of inert matter, and all other seed not of the kind or variety being considered;
17. "Germination" shall mean the percentage of seed capable of producing normal seedlings under ordinarily favorable conditions as determined by methods prescribed under the rules established by the seed analysts association of North America, but not including seed which produces weak, malformed or obviously abnormal sprouts;
18. "Hard seed" shall mean the percentage of seed which, because of hardness or impermeability, do not absorb moisture or germinate under prescribed test but remain hard during the period prescribed for germination of the kind of seed concerned as determined by methods prescribed under the rules established by the seed analysts association of North America.
19. "Registered seed" and "certified seed" shall mean seed that has been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of an officially recognized seed-certifying agency;
20. "Agent" or its plural form, when used in connection with the state seed commissioner, shall mean the commissioner's deputies, inspectors, analysts, specialists, and any other aides, agents and employees of the commissioner and the seed department, when they are acting officially for the commissioner or performing any duty or duties as provided in this Act or in the regulations duly made thereunder;
21. "Commissioner" shall mean the state seed commissioner;
22. "Seed department" shall mean the seed department of the state of North Dakota.

§ 2. EXAMINATION OF SEED BY COMMISSIONER; RIGHT OF ACCESS TO PREMISES; PUBLICATION OF REPORTS; "STOP-SALE"

ORDER.) The commissioner, either by himself or his agents, shall inspect, examine, make analysis of, and test any seed sold, offered or exposed for sale, held, or distributed within this state for sowing or planting purposes, at such time and place, and to such extent, as he may determine. The commissioner and his agents, at all reasonable times, shall have the right of free access to the premises or structures controlled, owned, or operated by any person who may be, or whose seed, or the seed he may be holding or storing or transporting, may be, investigated or proceeded against, and to any premises or structures or any kind of vehicle or conveyance where any seed may be located or in the process of transportation within the state, when not prohibited by interstate commerce laws and regulations, for the purpose of inspecting, examining, and sampling any seed or seed plants. Any person involved in any way in the handling, transportation, storage, buying, or selling of seed shall cooperate with the commissioner and his agents and shall render all possible assistance to aid the commissioner and his agents in the carrying out and enforcement of the provisions of this Act and the regulations duly made thereunder. The commissioner may publish, or cause to be published, the results of the examination, analyses, and tests of any samples of seed or mixtures of seed, together with any information he may deem advisable.

The commissioner or his agent may issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the commissioner or his agent finds to be in violation of any of the provisions of this Act, which order shall prohibit further sale, processing and movement of such seed until the commissioner or his agent has evidence that the law has been complied with and a release from such "stop-sale" order has been issued. Provided, that in respect to seeds which have been denied sale, processing and movement as provided in this paragraph, the owner or custodian of such seeds shall have the right to appeal from said order to a court of competent jurisdiction in the locality in which the seeds are found, praying for a judgment as to the justification of such order and for the discharge of such seed from the order prohibiting the sale, processing and movement in accordance with the findings of the court; and provided further, that the provisions of this paragraph shall not be construed as limiting the right of the commissioner or his agent to proceed as authorized by other sections of this Act.

§ 3. OFFICIAL LABORATORIES; LOCATION; CERTIFICATES AND REPORTS; PUBLICATION.) The commissioner, subject to the approval and supervision of the board of administration, shall

provide and maintain under his direction necessary laboratories and facilities properly equipped to make analyses, tests, and variety and disease determinations of seeds and plants, and to effect such other results and work as may be necessary to carry out the provisions of this Act. For these purposes, he may utilize such premises, space, and equipment at the agricultural college as may be assigned to him by the board. The commissioner, subject to the approval of said board, shall permit the facilities and services of the official laboratories to be used by the agricultural college at convenient times. When a report or certificate relating to the findings and determinations made in a laboratory is issued and signed by the commissioner or a duly authorized agent, it shall be accepted as prima facie evidence of the statements therein contained, but the commissioner or his analysts shall be subject to court order for a review of findings as set forth by such certificates or reports. The commissioner may publish reports or explanatory material concerning seed or inspections, tests, analyses, or other determinations made by him and may enlarge the same with material setting forth the value or condition of the seed stocks which are produced in this state or in which North Dakota persons are interested. He also may publish lists of registered or certified seed.

§ 4. PUBLIC LABORATORY SERVICE; FREE TESTS; FEES FOR ADDITIONAL TESTS.) Any resident of this state may send samples of seed to the commissioner for examination, analysis, or test, but not to exceed three samples per year per person shall be examined and reported on free of charge. Samples for such free tests must be received by the state seed department laboratory before the first day of February of each fiscal year, after which time the schedule of fees shall apply on all samples. For samples submitted by any resident of the state in excess of three, a fee of one dollar and fifty cents shall be paid for each purity analysis of clover, alfalfa, cereals, flax, corn, beans, peas, and similar products, a fee of two dollars for each purity analysis of grass seeds or mixtures of grass or clover seeds, and a fee of one dollar for each germination test. The fees for all tests and analyses for nonresident persons shall be one dollar and fifty cents for each germination test and two dollars and fifty cents for each purity analysis.

§ 5. LABELING REQUIREMENTS FOR AGRICULTURAL SEED.) Each container of agricultural seed which is sold, offered for sale, exposed for sale, transported for sale, or held in storage with the intent to sell for sowing purposes within this state shall bear thereon or have attached thereto in a conspicuous place, or there shall be properly delivered with bulk sales or move-

ments of said seed, a plainly written or printed label or tag in the English language giving the following information:

1. The commonly accepted name of the kind, or the kind and variety, of each agricultural seed component in excess of five percent of the whole and the percentage by weight of each. When more than ten percent of the whole consists of an aggregate of agricultural seed components, each present in an amount not exceeding five percent of the whole, each component in excess of one percent of the whole shall be named together with the percentage by weight of each. All components shall be listed in the order of their predominance. Where more than one component is named, the word "mixture", or the word "mixed," shall be shown conspicuously on the label;
2. Lot number or other lot identification;
3. Origin, state or foreign country where grown. If the origin is unknown, that fact shall be stated;
4. Percentage by weight of all weed seeds;
5. The name and rate of occurrence per pound of each kind of restricted noxious weed seeds present, if the said restricted noxious weed seeds are present singly or collectively in amounts:
 - a. In the case of quackgrass (*Agropyron repens* L. Beauv.) and Dodder (*Cuscuta* species except *coryli*), in excess of twenty-one seeds per pound; and
 - b. In case of wild mustard (*Brassica* spp), Frenchweed (*Thalspi arvense*), wild morning-glory (*Ipomea* spp) and wild oats (*Avena fatua*), in excess of thirty-one seeds per pound;
6. Percentage by weight of agricultural seed which may be designated as crop seed, other than those required to be named on the label;
7. Percentage by weight of inert matter;
8. For each agricultural seed:
 - a. Percentage of germination, exclusive of hard seed. Total germination and hard seed may be stated as such, if desired;
 - b. Percentage of hard seed, if present. Total germination and hard seed may be stated as such, if desired; and
 - c. The calendar month and year the test was completed to determine such percentages;

9. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state; and
10. The relative maturity in number of days, in the case of hybrid corn.

§ 6. LABELING REQUIREMENTS FOR VEGETABLE SEED.) Each container of vegetable seed which is sold, offered for sale, exposed for sale, transported for sale, or held in storage with the intent to sell for sowing purposes within this state shall bear thereon, or have attached thereto, in a conspicuous place a plainly written or printed label or tag in the English language.

For vegetable seeds in containers of one pound or less, such label or tag shall give the following information:

1. The name of kind and variety of seed; and
2. For seeds which germinate less than the standards as set forth in section 201.31 of the rules and regulations under the Federal Seed Act, "Service and Regulatory Announcement No. 156" ,and subsequent revisions:
 - a. Percentage of germination, exclusive of hard seed;
 - b. Percentage of hard seed, if present;
 - c. The calendar month and year the test was completed;
 - d. The words "below standard" in not less than eight point type; and
3. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state.

For vegetable seeds in containers of more than one pound, such label or tag shall give the following information:

1. The name of each kind and variety of vegetable seed and the percentage by weight of each variety;
2. Lot number or other lot identification;
3. Origin, meaning the state or foreign country where grown. If the origin is unknown, that fact shall be stated;
4. The name and rate of occurrence per pound of each kind of restricted noxious weed seeds present;
5. For each named vegetable seed:
 - a. Percentage of germination, exclusive of hard seed. Total germination and hard seed may be stated as such, if desired;

- b. Percentage of hard seed, if present. Total germination and hard seed may be stated as such, if desired; and
- c. The calendar month and year the test was completed to determine such percentages; and

6. The full name and address of the person who labeled said seed, or who sells, offers for sale or exposes said seed for sale within this state.

§ 7. INVOICE AND RECORDS.) Each person whose name appears on the label handling agricultural and vegetable seeds subject to this Act, shall keep for a period of two years complete records of each lot of agricultural or vegetable seed handled, and shall keep for a period of one year a file sample of each lot of seed after final disposition of said lot. All records pertaining to the lot or lots involved shall be accessible for inspection by the commissioner or his agents at any time during customary business hours.

§ 8. TOLERANCES.) The tolerances used in determining correctness and accuracy in labeling seed as described in this Act shall be those tolerances used under the Federal Seed Act of August 9, 1939, and subsequent amendments thereto.

§ 9. PROHIBITIONS.) It shall be unlawful for any person to sell, offer for sale, expose for sale, transport for sale, or hold or store with the intent to sell any agricultural or vegetable seed within this state if:

- 1. The test to determine the percentage of germination required under section 5 and section 6 of this Act shall not have been completed within a nine month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale or transportation;
- 2. Such seed is not labeled in accordance with the provisions of this Act or bears false or misleading labeling;
- 3. There has been false or misleading advertising in connection with such seed;
- 4. Such seed contains prohibited noxious weed seeds;
- 5. Such seed is not labeled to show the rate of occurrence of restricted noxious weed seeds, as required under section 5 and section 6 of this Act; or
- 6. Such seed is designated, offered, represented or advertised under any name or identification other than that by which it was known originally.

Any person, under rules and regulations to be made therefor by the commissioner, may submit to the commissioner a sample of any seed which he claims to be a new variety, distinct from any commonly known variety of such seed, together with a proposed, distinctive name therefor. The commissioner, within one year, shall make such tests as he shall consider necessary, and if he finds as a result of such tests that such seed or plant is of a new variety, distinct from any variety of such seed known theretofore and that the name proposed therefor will properly distinguish said seed from any and all other varieties thereof, he shall issue to the person applying therefor a permit to designate such seed by said name. The purchaser, vendor, or any person receiving any seed shipped into this state from without the state, shall have the same labeled in accordance with and in conformity to the requirements of this Act. Certain standardized grades and labeling of seed in use elsewhere may be permitted by the commissioner in connection with shipments of seed into this state from points outside thereof in lieu of the labeling provided for in this Act.

Further, it shall be unlawful for any person in this state to:

1. Detach, alter, deface, or destroy any label provided for in this Act or to alter or substitute seed in any manner with the intent to defeat the purpose of this Act;
2. Disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means;
3. Hinder or obstruct in any way any authorized person in the performance of his duties under this Act;
4. Fail to comply with a "stop-sale" order;
5. Use on seed labels or tags, or to use or attach to literature, or to state in any manner or form of wording designed as a "disclaimer" or "non-warranty" clause with the intent to disclaim responsibility of the vendor of the seed for the data on the label required by law;
6. Use the words "type" or "trace" on any labeling in connection with the name and description of any agricultural and vegetable seed;
7. Move or otherwise handle or dispose of any lot of seed held under a "stop-sale" order, except with the written permission of the commissioner or his agent, and only for the purpose specified in such written permission; or
8. Use the name of the state seed department or the name of the official laboratory for advertising purposes in con-

nection with seed analyzed or tested by the department or official laboratory, except in the case of registered or certified seed.

§ 10. EXEMPTIONS.) The provisions of section 5 and section 6 of this Act shall not apply to:

1. Potatoes, whether sold or intended for food, manufacturing, or planting purposes;
2. Seed or grain which is not intended for sowing purposes;
3. Seed stored by or consigned to a seed cleaning or processing plant for the purpose of cleaning or processing; provided, that any labeling or other representation which may be made with respect to uncleaned or unprocessed seed shall be subject to the requirements of this Act; and
4. A common carrier with respect to any seed transported or delivered for transportation in the ordinary course of business.
5. Seeds which are sold or exchanged by farmers within any community who are not engaged in commercial seed business.

No person shall be subject to the penalties of this Act for having sold, exposed for sale, or transported for sale in this state any agricultural or vegetable seeds which were incorrectly labeled or incorrectly represented as to kind, variety, or origin and which could not be identified by examination thereof, unless such person has failed to obtain an invoice or grower's declaration stating the kind, or kind and variety, and origin, if required, or has failed to take such other precautions as may have been necessary to insure that the seed was properly identified.

§ 11. REGISTERED AND CERTIFIED SEED STANDARDS; FEES.) The rules, requirements, and fees for certification of crop seeds, other than potatoes, shall be those prescribed and set forth in the state seed department bulletin No. 51, published in March, 1945, and subsequent announcements and revisions thereof.

The rules, requirements, and fees for seed potato certification shall be those prescribed and set forth in the state seed department bulletin No. 49 as revised in August, 1950, and subsequent announcements and revisions thereof.

§ 12. SEIZURE AND INJUNCTION; ACTION.) Any lot of agricultural or vegetable seed not in compliance with the provisions of this Act shall be subject to seizure on complaint of the commissioner, or his agent, to a court of competent jurisdiction in

the locality in which the seed is located. In the event that the court finds the seed to be in violation of this Act and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this state. Provided, that in no instance shall the court order such disposition of said seed without first having given the claimant an opportunity to apply to the court for the release of said seed, or permission to process or relabel it in compliance with the provisions of this Act. Any violation of this Act may be enjoined in a court of competent jurisdiction without bringing any other civil or criminal action.

§ 13. PENALTY.) Any person who violates any of the provisions, or who refuses to comply with any of the requirements, of this Act, or of any regulation duly made hereunder, or who wilfully interferes with the commissioner or any of his agents in the execution, or on account of the execution, or his or their duties under this Act and the regulations duly made thereunder, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars and costs of prosecution for the first offense nor more than five hundred dollars and costs of prosecution for each subsequent offense.

§ 14. REPEAL.) Sections 4-0901, 4-0906, 4-0907, 4-0908, 4-0910, 4-0911, 4-0912, 4-0913, 4-0914, 4-0915, 4-0918, 4-0923, and 4-0924 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 11, 1953.

CHAPTER 87

S. B. No. 182
(Morgan and Solberg)
(at the request of State Seed Department)

GRADE INSPECTION OF POTATOES; FEES AND CHARGES

AN ACT

To amend and reenact section 4-1013 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to grade inspection of potatoes, and prescribing fees.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) Section 4-1013 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

4-1013. GRADE INSPECTION; FEES AND CHARGES.) The commissioner, by regulation, shall fix the fees for making grade inspections, and said fees shall be uniform throughout the state for such periods of time as shall be specified. The fee for potato grade inspection shall approximate the cost of such service and shall be approved by the directors of the North Dakota certified potato growers association. A minimum of twenty-five cents of each inspection fee for potatoes shall be covered into an advertising fund to be used by the commissioner in consultation with the growers for the purpose of advertising North Dakota seed and table stock potatoes in the wholesale and retail markets of the United States. Any person soliciting an inspection or inspections at points other than those at which inspectors are located, or at which itinerant inspectors may be at the time inspection is requested, may obtain inspection service on payment of the necessary traveling expenses, in addition to the regular inspection fee. The owner and the consignor or shipper of the potatoes shall be held responsible for the payment of the inspection fees when they are not paid otherwise. The commissioner shall collect all fees and charges and shall make detailed annual reports of all receipts and expenditures to the board of administration which shall publish the same for distribution to interested parties. Provided, however, that there shall be no increase in fees except with the approval of a majority of the directors and officers of the North Dakota certified seed potato growers association and the North Dakota members of the board of directors and

officers of the Red River valley potato growers association present at a meeting called by the state seed commissioner, preferably at Grand Forks.

Approved March 9, 1953.

CHAPTER 88

S. B. No. 72

(Thomas, Sandness, Schoeder and Sauer)

REGULATING "FILLED DAIRY PRODUCTS"

AN ACT

To prevent confusion, fraud, and deception of the public in connection with the sale of dairy products; to make unlawful the manufacture, sale, exchange, transportation, possession, or offer for sale or exchange of "filled dairy products" as defined herein; to provide for the enforcement and administration of this Act; to prescribe penalties for its violation; and to repeal sections 4-1842 and 4-1845 of the North Dakota Revised Code of 1943.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DECLARATION OF POLICY.) Filled dairy products resemble genuine dairy products so closely that they lend themselves readily to substitution for or confusion with such dairy products and in many cases cannot be distinguished from genuine dairy products by the ordinary consumer. The manufacture, sale, exchange, transportation, possession, or offering for sale or exchange of filled dairy products creates a condition conducive to substitution, confusion, deception, and fraud, and one which if permitted to exist tends to interfere with the orderly and fair marketing of foods essential to the well being of the people of this state. It is hereby declared to be the purpose of this Act to correct and eliminate the condition above referred to; to protect the public from confusion, fraud, and deception; to prohibit practices inimical to the general welfare; and to promote the orderly and fair marketing of essential foods.

§ 2. DEFINITIONS.) Whenever used in this Act:

1. The term "person" includes individuals, firms, partnerships, associations, trusts, estates, corporations, and any and all other business units, devices, or arrangements.

2. The term "filled dairy products" means any milk, cream, or skimmed milk, or any combination thereof, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, or any food product made or manufactured therefrom, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat so that the resulting product is in imitation or semblance of any dairy product, including but not limited to, milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skimmilk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk: provided, however, that this term shall not be construed to mean or include:
 - a. Any distinctive proprietary food compound not readily mistaken for a dairy product, where such compound is customarily used on the order of a physician and is prepared and designed for medicinal or special dietary use and prominently so labeled;
 - b. Any dairy product flavored with chocolate or cocoa, or the vitamin content of which has been increased, or both, where the fats or oils other than milk fat contained in such product do not exceed the amount of cacao fat naturally present in the chocolate or cocoa used and the food oil, not in excess of .01 per centum of the weight of the finished product, used as a carrier of such vitamins; or
 - c. Oleomargarine.

§ 3. PROHIBITED ACTS.) It shall be unlawful for any person to manufacture, sell, exchange, transport, possess, or offer for sale or exchange any filled dairy product.

§ 4. PENALTIES.) Any person who shall violate any of the provisions of this Act, and any officer, agent, or employee thereof who directs or knowingly permits such violation or who aids or assists therein, shall, upon conviction thereof, be subject to a fine of not more than \$1,000, or to imprisonment for not more than 90 days, or both.

§ 5. ENFORCEMENT.) The dairy commissioner is authorized and directed to administer and supervise the enforcement of this Act; to provide for such periodic inspections and investigations as he may deem necessary to disclose violations; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution of civil or criminal actions or both. The provisions of this Act may be enforced by injunction in any court having jurisdiction to grant injunctive relief,

and filled dairy products illegally held or otherwise involved in a violation of this Act shall be subject to seizure and disposition in accordance with an appropriate court order.

§ 6. SEPARABILITY.) If any provision of this Act, or any part or section thereof, is declared unconstitutional or the applicability thereof to any person, circumstance, or product is held invalid, the validity of the remainder of this Act and the applicability thereof to other persons, circumstances, or products shall not be affected thereby.

§7. REPEAL.) Sections 4-1842 and 4-1845 of the North Dakota Revised Code of 1943 are hereby repealed.

Approved March 4, 1953.

CHAPTER 89

H. B. No. 612
(Committee on Agriculture)
(By request of)
(State Soil Conservation Department)

DISTRICT SUPERVISORS OF SOIL CONSERVATION DISTRICTS; ELECTION AND TERMS OF OFFICE

AN ACT

To amend and reenact Section 4-2221 of the 1949 Supplement to the North Dakota Revised Code of 1943 as amended and reenacted by section 2 of chapter 99 of the Session Laws of 1951 and to amend and reenact section 4-2222 of the North Dakota Revised Code of 1943 as amended by section 3 of chapter 99 of the Session Laws of 1951 relating to the election and terms of office of district supervisors of soil conservation districts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.) That section 4-2221 of the 1949 Supplement to the Revised Code of North Dakota for 1943 as amended by section 2 of chapter 99 of the session laws of North Dakota for 1951 be and the same is hereby amended and reenacted to read as follows:

4-2221. REGULAR ELECTION OF DISTRICT; WHEN HELD; REGULATIONS GOVERNING.) The regular election of soil conservation districts shall be held at the same time, and in organized townships at the same place, as the annual township meetings are

held. Each organized township shall constitute an election precinct. In unorganized territory the board of district supervisors shall designate the polling place or places. The notice of a district election and the conduct thereof shall be substantially the same as required for the first election except that the board of supervisors shall cause the notice of election to be published and posted. The notice of election shall state that petitions for the nomination of candidates for the office of supervisor may be filed with the secretary of the board. No nominating petition shall be filed later than the date designated in the notice of election. Any land occupier desiring to be a candidate for the office of supervisor at a district election and who has failed to file a nominating petition may furnish stickers to be attached to the ballot; and the ballot shall have blank spaces below the names of candidates nominated by petition for writing in other names. The board of district supervisors shall cause ballots, ballot boxes, poll books and other needed election supplies to be delivered to the various polling places. The state committee is authorized to determine what election supplies may be required.

In organized townships the election board appointed to supervise and conduct the township election shall also function as the board of election for the soil conservation district election. Prior to a district election, the board of supervisors shall appoint from the land occupiers in the unorganized territory in the district a board of election for each precinct or polling place designated therein consisting of one inspector, one judge and two clerks. The compensation of the members of such election board shall be the same as the compensation of the members of the township election board in an organized township. Payment may be made from any funds available for such purpose. The members of an election board in unorganized territory shall qualify in the same manner as prescribed by section 4-2219 of the North Dakota Revised Code of 1943.

After the polls are closed the election board shall publicly open and proceed to canvass the ballots cast and shall declare the result of such canvass. The inspector of elections shall thereupon wrap securely all lists, tally sheets, votes, affirmations and other documents relating to the progress of the election and shall deliver the same to the secretary of the board of supervisors of the soil conservation district. The board of supervisors shall not later than ten days after the election meet at its usual meeting place and canvass the returns. The canvass shall be made in public by opening the returns and ascertaining the vote for each person voted for and declaring the result thereof, and also ascertaining the vote for and against any question voted upon and declaring the result

thereof. As soon as the results of the election are declared the secretary shall enter upon the records of the board a statement of such results showing: (1) The whole number of votes cast in the district; (2) The names of the persons voted for; (3) Each question, if any, voted upon; and (4) The number of votes cast for each person and the number of votes cast for and against each question voted upon at the election.

The secretary of the board shall certify the returns of the election to the state committee. Such certification shall be signed by the chairman of the board and attested by the secretary. The state committee shall issue certificates of election to each elected supervisor and the executive secretary of the committee shall certify the results of the election in each district to the county auditor of the county or counties in which such district is located.

§ 2. AMENDMENT.) Section 4-2222 of the Revised Code of North Dakota for 1943 as amended by section 3 of chapter 99 of the session laws of North Dakota for 1951 is hereby amended and reenacted to read as follows:

4-2222. SUPERVISORS: TERMS OF OFFICE; VACANCIES: REMOVAL.) The election at which a board of supervisors of a soil conservation district is first elected, after organization of such district, shall be considered the first regular election of the district regardless of when the election was held. The term of supervisors elected at such first regular election shall be determined as follows: The elected supervisor having received the lowest number of votes shall hold office until the first Tuesday in April following such first election; the elected supervisor receiving the next highest number of votes shall hold office until the first Tuesday in April of the second year following such first election; and the supervisor having received the largest number of votes shall hold office until the first Tuesday in April of the third year following the year in which such first election was held. The successor of a supervisor elected at a regular election held after such first election shall hold office for a term of three years until his successor is duly elected and qualified except where a supervisor is elected to fill the unexpired term of a supervisor whose office has become vacant.

District supervisors whose terms of office expired as of January 1, 1953, or whose terms of office expired prior thereto and who are holding office by reason of the circumstance that no district election has been held, shall hold office until the first Tuesday in April, 1954, and until their successors are duly elected and qualified. The offices of supervisors whose terms have been thus extended under the provisions of this Act shall be filled at the regular district elections in March of 1954. The

term of office of the elected supervisor receiving the lowest number of votes for such office shall expire the first Tuesday in April, 1955; the supervisor having received next to the highest number of votes, shall hold office until the first Tuesday in April, 1956; and the term of office of the supervisor having received the largest number of votes shall expire as of the first Tuesday in April, 1957. A supervisor shall, however, hold office until his successor has been elected and qualified. After 1954 a soil conservation district supervisor elected at a district regular election for a full term shall hold office for three years and until his successor is elected and has qualified. In case the office of any supervisor shall, for any reason, become vacant, the remaining members of the board of supervisors shall, with the advice and consent of the state committee, fill the vacancy by appointment. In the event that vacancies shall occur in the office of two supervisors the remaining supervisor and the state committee shall fill the vacancy; and in case the offices of all the supervisors of a district shall become vacant the state committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy shall hold office until the first Tuesday in April of the year following the first regular district election held after such appointment was made. A supervisor elected to fill a vacancy shall serve the balance of the unexpired term in which the vacancy occurred.

Any supervisor of a soil conservation district may after notice given and hearing held in accordance with the administrative practices act of this state, be removed from office by the state committee.

Approved March 18, 1953.

The ballot will be in the following form:

Shall
(Names of Districts)

soil conservation districts embracing the following townships

.....
(Designate townships by number and range)
be consolidated into one soil conservation district?

Yes.....

No.....

The board of election for each polling place shall be appointed by the board of supervisors of the district and shall consist of one inspector, one judge and one clerk. Members of such election board shall receive the sum of \$5.00 for their services.

§ 2. CONDUCT OF REFERENDUM; CANVASS OF VOTES.) A referendum upon the question of consolidating two or more soil conservation districts shall be conducted in accordance with the laws of the state prescribing the conduct of general elections. After the polls are closed the board of election shall proceed to canvass the votes and the clerk of the board shall certify to the board of supervisors of his district and to the state committee the result of the referendum. The clerk shall then securely wrap the ballots cast at such referendum and shall express or mail the same to the secretary of the state committee. The committee shall also canvass the ballots and verify the result. The secretary of the committee shall file the ballots in his office. Upon the expiration of two years after such ballots were canvassed by the state committee they may be destroyed.

The state committee shall publish the results of the referendum after having canvassed the ballots and if the committee shall find that a majority of the ballots cast in each district are for consolidation, the committee shall file with the secretary of state a statement certifying that the consolidated district has been duly and regularly established.

§ 3. SUPERVISORS OF CONSOLIDATED DISTRICT; TERMS OF OFFICE; POWERS AND DUTIES.) The members of the board of supervisors of a newly consolidated district shall be the supervisors from each of the districts having been consolidated whose terms of office herein would last expire if such new consolidated district were not established. Such members shall determine by lot the order in which their terms of office in the consolidated district shall expire. Where more than three districts are consolidated, the members of the board of supervisors of the consolidated district shall be determined by lot among the supervisors from the districts whose terms therein would expire last. Where only two districts are consolidated, the third member of the board of supervisors of the consolidated district shall be determined by lot among the remaining supervisors from both such districts. The supervisors thus

selected shall hold office until the next general election of the district and until their successors are elected and qualified. Supervisors of a consolidated district shall have all the powers and duties of supervisors of a soil conservation district as enumerated in chapter 4-22 of the Revised Code of North Dakota of 1943. The name of a consolidated district shall be determined by the new supervisors thereof.

§ 4. COSTS AND EXPENSES OF CONSOLIDATION; DISPOSITION OF PROPERTY; CONTRACTS OF DISTRICTS AFTER CONSOLIDATION.) All costs and expenses incidental to the consolidation of two or more districts shall be borne equally by each of the districts which have been consolidated. All property and money of the districts which have been consolidated shall become the property of the newly established district. All contracts to which the supervisors of each of the districts consolidated are parties shall remain in force and effect for the period provided in the contracts and the supervisors of the consolidated district shall be substituted as parties therein. Supervisors of a consolidated district shall be entitled to all the benefits and subject to all the liabilities under such contracts and shall have the same rights as the supervisors of the district which entered into such contract or contracts would have had if a consolidated district had not been established.

Approved February 14, 1953.

CHAPTER 91

H. B. No. 674
(Fleenor, Leet, Laske)

SALE OF CHEMICALLY TREATED GRAIN WITHOUT INFORMING PURCHASER PROHIBITED; PENALTY

AN ACT

Prohibiting the sale of chemically treated grain without informing the purchaser of such fact.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1.) No person shall sell grain, for the purpose of human or animal consumption, which has been chemically treated for insect or fungus control, without informing the purchaser of the fact of such treatment. Any person selling such chemically treated grain without informing the purchaser thereof shall be guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars.

Approved March 2, 1953.