

HEALTH AND SAFETY

CHAPTER 208

S. B. No. 104
(Baker, Bopp, Lips)

STATE LABORATORIES' LICENSING

AN ACT

To create and enact section 23-09-20.1 and to amend and reenact section 19-08-02, subsection 4 of section 19-08-05, subsections 3 and 4 of section 23-09-01, subsection 8 of section 23-09-09, 23-09-17, subsection 1 of section 23-10-01, 23-10-05, and 23-10-09 of the North Dakota Century Code, relating to the licensing of hotels, boarding houses, trailer courts and beverages by the state laboratories department.

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

§ 1. **Amendment.)** Section 19-08-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-08-02. Beverage—Definition.) The term "beverage" as used in this chapter shall include intoxicating liquors, carbonated and noncarbonated soda water, ginger ale, root beer, aromatic flavors, cereal or malt beverages, apple cider, tomato juice, grape juice and other fruit juices, imitations or compounds of any of these, concentrated extracts and essences from which beverages are made, mineral or spring water sold under private label, and potable water sold by a private individual, firm, or corporation for household or culinary purposes.

§ 2. **Amendment.)** Subsection 4 of section 19-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Mineral and spring water, and potable water sold by a private individual, firm, or corporation for household or culinary purposes, each brand 20.00

§ 3. **Amendment.)** Subsections 3 and 4 of section 23-09-01 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

3. "Lodginghouse" includes every building or structure, or any part thereof, with accommodations for four or more persons, which is kept, used, maintained, or held

out to the public as a place where sleeping accommodations are furnished to regular roomers for one week or more;

4. "Boardinghouse" includes every building or structure, or any part thereof, with accommodations for four or more boarders, which is kept, used, maintained, advertised, or held out to the public as a place where food is furnished to regular boarders for periods of one week or more;

§ 4. Amendment.) Subsection 8 of section 23-09-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. **Cleaning Carpets.** If bedrooms in a hotel or lodginghouse are carpeted, the carpets shall be thoroughly cleaned at least once each year;

§ 5. Amendment.) Section 23-09-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-09-17. License Fees.) The following annual license fees shall be paid to the state laboratories department by proprietors of hotels, restaurants, boardinghouses, and lodginghouses:

1. For a restaurant or boardinghouse, five dollars;
2. For a hotel or lodginghouse containing at least four but not more than ten sleeping rooms, five dollars;
3. For a hotel or lodginghouse containing more than ten sleeping rooms and not more than twenty sleeping rooms, ten dollars;
4. For a hotel or lodginghouse containing more than twenty sleeping rooms and not more than fifty sleeping rooms, twenty dollars;
5. For a hotel or lodginghouse containing fifty-one sleeping rooms or more, forty dollars.

§ 6.) Section 23-09-20.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

23-09-20.1. Guest Record.) A record shall be kept in each hotel or lodginghouse in which every individual patronizing such hotel or lodginghouse shall write his or her name and address and the number of members in his or her party who will occupy a room or rooms therein.

§ 7. Amendment.) Subsection 1 of section 23-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Motor court" includes every plot of land equipped with buildings or structures, or any part thereof, kept, used,

maintained, advertised, or held out to the public as a place where sleeping accommodations, with or without cooking facilities, are furnished to the public for periods of less than one week and shall include only such establishments where buildings or structures have guest units opening to the outside, and where accommodations include parking space for at least one motor vehicle to each guest unit, and shall include establishments known as motels, cabins, camps or by whatever name the same may be called.

§ 8. **Amendment.)** Section 23-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-05. License Fees.) The following fees shall be charged for licenses to operate motor or trailer courts in this state:

1. For a motor court having at least four but not more than ten sleeping rooms, five dollars;
2. For a motor court having more than ten and not more than twenty sleeping rooms, ten dollars;
3. For a motor court having more than twenty and not more than fifty sleeping rooms, twenty dollars;
4. For a motor court having more than fifty sleeping rooms, forty dollars;
5. For a trailer court capable of accommodating at least two but not more than ten trailers, five dollars;
6. For a trailer court capable of accommodating more than ten but not more than twenty trailers, ten dollars;
7. For a trailer court capable of accommodating more than twenty but not more than fifty trailers, twenty dollars;
8. For a trailer court capable of accommodating more than fifty trailers, fifty dollars.

§ 9. **Amendment.)** Section 23-10-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-09. Guest Record.) A record shall be kept in each motor or trailer court in which every individual patronizing the court shall write his or her name and address and the number of members in his or her party.

Approved March 22, 1963.

CHAPTER 209

H. B. No. 782
(Fitch, Poling)

CEMETERY ORGANIZATIONS

AN ACT

Relating to the operation of cemeteries in the state of North Dakota, and funds for the perpetual care and maintenance thereof, and the sale of burial space therein, and providing penalties for the violation thereof.

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

§ 1. Applicability of Statute.) Any person, firm, corporation or other form of organization organized or engaging in the business under the laws of the state of North Dakota, or wheresoever organized and engaging in the business in the state of North Dakota, of the ownership, maintenance or operation of a cemetery, providing lots or other interment space therein for the remains of human bodies, except such organizations which are churches or religious or established fraternal societies, charitable associations or incorporated cities or towns or other political subdivisions of the state of North Dakota owning, maintaining or operating cemeteries, shall be subject to the provisions of this chapter.

§ 2. Definitions.) All such organizations subject to the provisions of this chapter shall be, for the purposes hereof, designated either as "perpetual care cemeteries" or "nonperpetual care cemeteries".

§ 3. Creation of Perpetual Care Fund.) Any such organization subject to the provisions of this chapter which is organized or commences business in the state of North Dakota and desires to operate as a perpetual care cemetery shall, before selling or disposing of any interment space or lots, establish a minimum perpetual care and maintenance guarantee fund of twenty-five thousand dollars in cash. However, organizations in operation on the effective date of this chapter may deposit an initial minimum sum of five thousand dollars, with the remaining twenty thousand dollars to be deposited within a period of five years from the date of the initial deposit. The perpetual care and maintenance guarantee fund shall be permanently set aside in trust to be administered under the jurisdiction of the district court of the county wherein the cemetery is located. The district court shall have jurisdiction over the approval of trustees, reports and accounting of trustees, amount of surety bond required, and

investment of funds as provided by chapter 59-04 North Dakota Century Code as amended relating to the administration of trust estates. Only the income from such fund shall be used for the care and maintenance of the cemetery for which it was established. All such organizations shall submit at least annually, to the district court, such reports as are required. The clerks of each of the district courts shall transmit copies of all reports, and rules and regulations enacted by the organization, to the state department of health and the state examiner.

To continue to operate as a perpetual care cemetery, any such organization shall set aside and deposit in the perpetual care fund not less than the following amounts for lots of interment space thereafter sold or disposed of:

1. A minimum of twenty percent of the gross selling price with a minimum of twenty dollars for each adult space, whichever is the greater.
2. A minimum of twenty percent of the gross selling price for each child's space with a minimum of five dollars for each space up to forty-two inches in length or ten dollars for each space up to sixty inches in length, whichever is the greater.
3. A minimum of twenty percent of the gross selling price with a minimum of one hundred dollars for each space or crypt in a mausoleum, whichever is the greater.
4. A minimum of twenty percent of the gross selling price with a minimum of ten dollars for each inurnment niche in a columbarium.
5. A minimum of twenty percent of the gross selling price with a minimum of one hundred dollars, whichever is the greater, for each interment space in crypt gardens or any other structure or device by whatever name, established or constructed wholly or partially above the natural surface of the ground, for the interment of any dead human body.

The initial perpetual care fund established for any cemetery shall remain in an irrevocable trust fund until such time as this fund has reached fifty thousand dollars. The amount in excess of the initial twenty-five thousand dollars may then be withdrawn at the rate of one thousand dollars for each additional two thousand dollars added to the fund. However, under special, unusual, or compelling circumstances and upon proper application to the district courts, said courts may in their discretion grant a modified schedule of withdrawals to be used only for perpetual care and maintenance purposes.

§ 4. Previously Existing Organizations.) Any such organization subject to the provisions of this chapter which was

organized and engaged in business prior to the effective date of this chapter shall be a perpetual care cemetery if it shall at all times subsequent to the effective date of this chapter comply with the requirements of a perpetual care cemetery as set forth in section three of this chapter.

§ 5. Nonperpetual Care Cemeteries.) All other organizations subject to the provisions of this chapter shall be nonperpetual care cemeteries.

Each nonperpetual care cemetery shall post in a conspicuous place in the office or offices where sales are conducted a legible sign stating: "This is a nonperpetual care cemetery." The lettering of this sign shall be of suitable size so it is easily read at a distance of fifty feet.

Each nonperpetual care cemetery shall also have printed or stamped at the head of all of its contracts, deeds, statements, letterheads and advertising material, the legend: "This is a nonperpetual care cemetery." and shall not sell any lot or interment space therein unless the purchaser thereof is informed in writing that the cemetery is a nonperpetual care cemetery.

§ 6. Nonperpetual Care Cemetery's Qualification as Perpetual Care Cemetery.) Any nonperpetual care cemetery after the effective date of this chapter may become a perpetual care cemetery by placing in the perpetual care trust fund twenty-five thousand dollars or five thousand dollars per acre of all property sold, whichever is the greater, and shall comply with the requirement for a perpetual care cemetery as provided in section three of this chapter.

§ 7. Unlawful Acts.) It shall be unlawful for any organization subject to the provisions of this chapter to pay or offer to pay to, or for any person, firm or corporation to receive directly or indirectly a commission or bonus or rebate or other things of value, for or in connection with the sale of any interment space, lot or part thereof, in any cemetery described in section one of this chapter. The provisions of this section shall not apply to an individual regularly employed and supervised by such organization.

§ 8. Unlawful Acts—Denial of Privilege of Interment Because of Race or Color.) It shall be unlawful for any organization subject to the provisions of this chapter to deny the privilege of interment of the remains of any deceased person in any cemetery described in section one of this chapter solely because of the race or color of such deceased person. Any contract, agreement, deed, covenant, restriction or charter provision at any time entered into, or bylaw, rule or regulation adopted or put in force, either subsequent or prior to the

effective date of this chapter, authorizing, permitting or requiring any organization subject to the provisions of this chapter to deny such privilege of interment because of race or color of such deceased person is hereby declared to be null and void and in conflict with the public policy of this state. No organization subject to the provisions of this chapter or any director, officer, agent, employee or trustee thereof or therefor, shall be liable for damages or other relief, or be subject to any action in any court otherwise having jurisdiction in the premises by reason of refusing to commit any act declared unlawful herein.

§ 9. Penalties.) Any person, firm or corporation violating any of the provisions of this chapter, shall, upon conviction, be punishable by a fine of not less than one hundred dollars nor more than one thousand dollars.

§ 10. Continuing Penalties.) Each day any person, firm or corporation violates any provision of this chapter, except the commission of any act declared unlawful in section eight of this chapter, shall be deemed to be a separate and distinct offense.

§ 11. Representations As To Speculative Investment Prohibited.) No organization subject to the provisions of this chapter nor any person representing it shall advertise or represent, in connection with the sale or attempted sale of any interment space, that the same is or will be a desirable speculative investment for resale purposes.

§ 12. Severability.) If any provision hereof or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

§ 13. Effect on Existing Cemetery Organizations—Enforcement.) The provisions of this chapter shall in no way affect existing statutes relating to the administration, regulation, or registration of all cemetery organizations. It shall be the duty of the state's attorney or the attorney general to enforce the provisions of this chapter.

Approved March 13, 1963.

CHAPTER 210

H. B. No. 768
(Wagner, Johnston)

CANCER CURES OR TREATMENTS

AN ACT

Relating to the treatment or cure of cancer, and providing a penalty.

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

§ 1. Definition.) For the purposes of this Act, "cancer" means all malignant neoplasms regardless of the tissue of origin, including malignant lymphoma and leukemia.

§ 2. Prohibition Against Prescription, Treatment, Sale or Distribution of Cancer Cure.) No person other than a licensed physician shall in any manner hold himself out to any other person as being able to prescribe treatment for, or cure the disease of cancer, nor in any manner undertake to treat, or prescribe for the treatment of the disease of cancer. No person shall sell or offer to sell, or give away or offer to give away, except upon the prescription of a licensed physician, any drug, medicine, compound, nostrum or device which is represented by the manufacturer or seller thereof to have curative powers when used in the treatment of the disease of cancer.

§ 3. Enforcement by Health Officer—Seizure—Inspection—Injunction.) It shall be the duty of the state health officer to enforce the provisions of this Act, and for that purpose the investigators, inspectors, representatives and agents of the department of health shall have the full power and authority of peace officers in this state, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents or other evidence. The state health officer may institute, in its own name, proceedings to enjoin and restrain violations of this Act, regardless of whether the defendant has been convicted of violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith.

§ 4. Penalty.) Any person who violates any provision of this Act shall, upon first offense, be fined not less than one thousand dollars nor more than five thousand dollars, or confined in the county jail for not less than thirty days nor more than twelve months, or both. Each subsequent violation of

any provision of this Act shall constitute a felony and be punishable by a fine of not less than three thousand dollars nor more than ten thousand dollars, or by imprisonment in the penitentiary for not less than one nor more than three years, or both.

Approved March 13, 1963.