

Fifty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1185

Introduced by

Representatives Rennerfeldt, Monson, Aarsvold

Senators Kinnoin, Urlacher, Thane

1 A BILL for an Act to amend and reenact sections 4-10.4-03, 4-10.4-08, and 4-10.4-12 of the
2 North Dakota Century Code, relating to the state barley council and the tax assessment on
3 barley production.

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

5 **SECTION 1. AMENDMENT.** Section 4-10.4-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **4-10.4-03. Council - Membership - Election - Term.** The council is composed of one
8 participating grower elected from each of the districts established in section 4-10.4-04. The
9 chairman of the council must be an elected member of the council elected by a majority vote of
10 the council. The commissioner is an ex officio member of the council and does not have a
11 vote. Every elected council member must be a citizen of the state and a bona fide resident of
12 and participating grower in the district the member represents. The term of each elected
13 member is three years and begins on April first of the year of election, except that initially two
14 members must be elected for a three-year term; two members must be elected for a two-year
15 term; and one member must be elected for a one-year term as designated by the
16 commissioner. Notwithstanding the terms provided for members elected before August 1,
17 1997, the board, before December 31, 1997, shall determine by lot the order of subsequent
18 elections for its members so that two members are elected for a four-year term during 1998,
19 and one member is elected for a four-year term during each of the subsequent three years.
20 The term of each member elected after July 31, 1997, is four years and begins on April first of
21 the year of election. If at any time during a member's term a member ceases to possess any of
22 the qualifications provided for in this chapter, the member's office is vacant and the remaining
23 members of the council shall appoint another qualified participating grower for the remainder of
24 the term of the office vacated. The commissioner, or a county agent designated by the

1 commissioner, in cooperation with the cooperative extension service, shall conduct all elections
2 under this section in each district in the manner the commissioner deems fair and reasonable.
3 All such elections must be completed ~~at least sixty days~~ prior to expiration of the members'
4 terms. No ~~elected~~ member of serving on the council before August 1, 1997, is eligible to serve
5 more than two consecutive ~~three-year~~ four-year terms. No member elected to the council after
6 July 31, 1997, is eligible to serve more than three consecutive four-year terms.

7 **SECTION 2. AMENDMENT.** Section 4-10.4-08 of the 1995 Supplement to the North
8 Dakota Century Code is amended and reenacted as follows:

9 **4-10.4-08. Tax levied.**

- 10 1. A tax at the rate of ~~five~~ ten mills per bushel [35.24 liters] must be levied and
11 imposed upon all barley grown in the state, delivered into the state, or sold to a
12 first purchaser in the state. This tax is due upon any identifiable lot or quantity of
13 barley.
- 14 2. Every first purchaser of barley shall collect the tax imposed by this section by
15 charging and collecting from the seller the tax at the rate of ~~five~~ ten mills per
16 bushel [35.24 liters] by deducting the tax from the purchase price of all barley
17 subject to the tax and purchased by the first purchaser.
- 18 3. Every first purchaser shall keep as a part of its permanent records a record of all
19 purchases, sales, and shipments of barley, which may be examined by the council
20 at all reasonable times. Every first purchaser shall report to the council by the
21 ~~twentieth~~ thirtieth day of each calendar quarter stating the quantity of barley
22 received, sold, or shipped by it, ~~except that if less than twenty-five thousand~~
23 ~~bushels [880.98 cubic meters] have been purchased, in any calendar quarter, the~~
24 ~~tax may be reported and remitted with the following quarter's return, provided that~~
25 ~~all taxes collected must be remitted at least annually.~~ The remittance of the tax as
26 provided in this section must accompany the report. All moneys levied and
27 collected under this chapter must be paid to the council for deposit in the state
28 treasury to the credit of an account or accounts designated "barley fund" to be
29 used exclusively to carry out the intent and purposes of this chapter. Regular
30 audits of the council's accounts must be conducted in accordance with chapter
31 54-10 and submitted to the commissioner.

1 4. The tax provided for by this section must be deducted as provided by this chapter
2 whether the barley is stored or sold in this or any other state, but if agreements
3 have not been made with dealers and first purchasers outside of the state for
4 collecting the tax, the grower shall remit the tax to the council on all barley sold by
5 the grower outside the state.

6 **SECTION 3. AMENDMENT.** Section 4-10.4-12 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **4-10.4-12. Penalty for nonpayment of tax.** Any first purchaser who fails to pay any
9 tax levied by this chapter on the date the tax becomes due is delinquent ~~and the~~. The council
10 ~~shall~~ may levy a penalty on the delinquent payments of ten percent of the tax due, plus interest
11 at the rate of six percent per annum from the due date. The council shall collect ~~the~~ any
12 penalty and interest in the manner prescribed by section 4-10.4-11.