

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the Capitol in the City of Bismarck, on Monday, the sixth day of January, one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2351  
(Senators Kringstad, Cook, Lindaas)  
(Representative Martinson)

AN ACT to amend and reenact section 38-16-01.1 of the North Dakota Century Code, relating to gravel and sand surface mining operations and reclamation.

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

**SECTION 1. AMENDMENT.** Section 38-16-01.1 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

**38-16-01.1. Gravel and sand surface mining operations - Reclamation - Civil action - Penalty.** Any surface mining operator conducting a gravel or sand surface mining operation on land in this state owned by another person ~~shall~~, upon completion or abandonment of the surface mining operation, shall reclaim the affected land. Each surface mining operator shall negotiate with the landowner a written agreement providing for the reclamation of the affected land. Unless the affected land is to be used for other purposes as agreed upon between the surface mining operator and the landowner, the reclamation agreement must, at a minimum, provide for restoration by the surface mining operator of the affected land as nearly as possible to ~~its original~~ the agreed contour and ~~productivity~~ useability; indicate the amount of topsoil and subsoil to be saved, segregated, and respread; and indicate the party responsible for compaction of backfill, soil testing, fertilization, revegetation, weed control, rock disposal, and replacement or establishment of conservation practices. The reclamation must be within a time period agreed upon between the parties, but within one year after the final cessation of surface mining operations. A landowner may bring a claim for relief in any appropriate district court against the surface mining operator who has failed to reclaim properly affected land pursuant to a reclamation agreement under this section. In an action under this section, a surface mining operator is liable for damage in an amount necessary to reclaim the land. Any person who violates any provision of this section is guilty of a class B misdemeanor.

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President of the Senate

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2351.

Senate Vote:      Yeas    45          Nays    1          Absent    3

House Vote:      Yeas    94          Nays    0          Absent    3

\_\_\_\_\_  
Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 1997.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 1997,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State