

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2365

Introduced by

Senators Wanzek, Mutch, Naaden

Representative Brusegaard

1 A BILL for an Act to create and enact a new section to chapter 23-25 of the North Dakota
2 Century Code, relating to state department of health odor readings.

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

4 **SECTION 1.** A new section to chapter 23-25 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Regulation of odors - Rules.**

- 7 1. In areas located within a city or the area over which a city has exercised
8 extraterritorial zoning as defined in section 40-47-01.1, a person may not
9 discharge into the ambient air any objectionable odorous air contaminant that
10 measures seven odor concentration units or higher outside the property boundary
11 where the discharge is occurring.
- 12 2. In areas located outside a city or outside the area over which a city has exercised
13 extraterritorial zoning as defined in section 40-47-01.1, a person may not
14 discharge into the ambient air any objectionable odorous air contaminant that
15 causes odors that measure seven odor concentration units or higher as measured
16 at any of the following locations:
- 17 a. Within one hundred feet [30.48 meters] of any residence, church, school,
18 business, or public building, or within a campground or public park. An odor
19 measurement may not be taken at the residence of the owner or operator of
20 the source of the odor, or at any residence, church, school, business, or
21 public building, or within a campground or public park, that is built or
22 established within one-half mile [.80 kilometer] of the source of the odor after
23 the source of the odor has been built or established; or

- 1 b. At any point located beyond one-half mile [30.48 meters] from the source of
2 the odor, except for property owned by the owner or operator of the source of
3 the odor, or over which the owner or operator of the source of the odor has
4 purchased an odor easement.
- 5 3. An odor measurement may be taken only with a properly maintained scentometer,
6 by an odor panel, or by another instrument or method approved by the state
7 department of health, and only by inspectors certified by the department who have
8 successfully completed a department-sponsored odor certification course and
9 demonstrated the ability to distinguish various odor samples and concentrations.
- 10 4. A person is exempt from this section while spreading or applying animal manure or
11 other recycled agricultural material to land in accordance with a nutrient
12 management plan approved by the state department of health. A person is
13 exempt from this section while spreading or applying animal manure or other
14 recycled agricultural material to land owned or leased by that person in
15 accordance with rules adopted by the department. An owner or operator of a
16 lagoon or waste storage pond permitted by the department is exempt from this
17 section in the spring from the time when the cover of the permitted lagoon or pond
18 begins to melt until fourteen days after all the ice cover on the lagoon or pond has
19 completely melted. Notwithstanding these exemptions, all persons shall manage
20 their property and systems to minimize the impact of odors on their neighbors.
- 21 5. This section does not apply to chemical compounds that can be individually
22 measured by instruments, other than a scentometer, that have been designed and
23 proven to measure the individual chemical or chemical compound, such as
24 hydrogen sulfide, to a reasonable degree of scientific certainty, and for which the
25 state department of health has established a specific limitation by rule.
- 26 6. For purposes of this section, a public park is a park established by the federal
27 government, the state, or a political subdivision of the state in the manner
28 prescribed by law. For purposes of this section, a campground is a public or
29 private area of land used exclusively for camping and open to the public for a fee
30 on a regular or seasonal basis.