

Introduced by

Senators Fairfield, O'Connell, Taylor

Representatives S. Kelsh, Kerzman, Warnke

1 A BILL for an Act to create and enact eleven new sections to chapter 4-24 of the North Dakota
2 Century Code, relating to a certificate of approval for the sale of transgenic wheat seed; and to
3 provide a penalty.

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

5 **SECTION 1.** Eleven new sections to chapter 4-24 of the North Dakota Century Code
6 are created and enacted as follows:

7 **Definitions.** For purposes of this Act, unless the context otherwise requires:

- 8 1. "Commission" means the industrial commission.
9 2. "Transgenic wheat" means wheat that is produced through genetic engineering.

10 **Certificate of approval - Sale of transgenic wheat seed.** Before a variety of
11 transgenic wheat seed may be offered for sale in this state, the patent holder shall obtain a
12 certificate of approval for the sale of the particular variety from the industrial commission.

13 **Petition for certificate of approval - Required documentation.** To obtain a certificate
14 of approval, the patent holder shall file with the industrial commission a petition that includes:

- 15 1. Identification of the transgenic wheat variety;
16 2. A description of each genetic modification made to obtain the particular variety;
17 3. A description of the techniques used in making each genetic modification;
18 4. Identification of the introduced or altered genetic material;
19 5. The effects of the genetic modification on the composition of the wheat variety that
20 was modified;
21 6. Identification of specific substances that were expressed, removed, or altered in
22 the modification process;
23 7. A description of the allergenicity and toxicity of the transgenic wheat variety;

- 1 8. Information regarding the availability of foreign markets for the transgenic wheat
- 2 variety;
- 3 9. Information regarding the manner in which the transgenic wheat variety will be
- 4 segregated from nontransgenic wheat varieties during production, harvest, storage,
- 5 and transportation;
- 6 10. Information regarding handling protocols to ensure that the transgenic wheat
- 7 variety does not enter foreign or domestic food supplies for which it has not been
- 8 approved;
- 9 11. Information regarding handling protocols to ensure that the transgenic wheat
- 10 variety does not enter foreign countries that have not approved it for use;
- 11 12. An assessment of the benefits and risks anticipated from the planting, harvest, and
- 12 sale of the transgenic wheat variety;
- 13 13. A description of any pending state or federal level administrative reviews or legal
- 14 actions regarding the transgenic wheat variety; and
- 15 14. Any other information deemed necessary by the commission in order to complete
- 16 the review process required by this Act.

17 **Petition for certificate of approval - Submission of research results.** The petition
18 for a certificate of approval must be accompanied by copies of all research results regarding the
19 transgenic wheat variety conducted by or on behalf of the patent holder, together with
20 summaries of the results.

21 **Receipt of petition - Duties of commission.** Upon receiving a petition for a certificate
22 of approval, the commission shall:

- 23 1. Verify that all documentation required by this Act has been included; and
- 24 2. Schedule and provide notice of a public hearing.

25 **Public Hearing - Notice - Availability of submitted filings.** At least thirty days before
26 the date of the public hearing, the commission shall publish notice of the hearing in the official
27 newspaper of each county and shall make available electronically all filings submitted by the
28 patent holder in conjunction with the petition for a certificate of approval. If the commission is
29 unable to make material available electronically, the commission shall provide copies of the
30 material in printed form upon request.

1 **Public hearing - Testimony and documentary evidence.** At the public hearing, the
2 commission shall accept testimony and documentary evidence regarding any information
3 required by this Act. The commission shall allow for the submission of additional written
4 testimony and documentary evidence for a period of ten days after the date of the hearing.

5 **Review by commission - Determination - Electronic availability of findings and**
6 **determination.**

- 7 1. After the public hearing, the commission shall review all documentation submitted
8 in conjunction with the petition for a certificate of approval and all testimony and
9 documentary evidence submitted both at the hearing and during the ensuing period
10 for the submission of additional written testimony and documentary evidence.
- 11 2. No later than one hundred twenty days from the date the commission received the
12 petition for a certificate of approval, the commission shall determine whether the
13 petition for a certificate of approval should be granted. The commission may not
14 grant the petition unless the commission finds that the transgenic wheat variety can
15 be grown, harvested, stored, transported, and sold in a manner that benefits
16 producers and consumers at least to the same degree achievable by a
17 nontransgenic variety.
- 18 3. The commission shall make its findings and determination available electronically
19 and shall provide copies in printed form upon request.

20 **Certificate of approval - Condition for one year.**

- 21 1. If the commission grants the petition for a certificate of approval, the grant must be
22 conditional for a period of one year, during which time any person may submit to
23 the commission for the commission's review, scientific data that was not
24 considered by the commission.
- 25 2. If the commission finds that such submissions would have resulted in a denial of
26 the petition had they been considered initially, the commission may revoke the
27 conditional certificate of approval.
- 28 3. If the commission revokes a conditional certificate of approval, the commission
29 shall provide for a reasonable period during which any transgenic wheat seed
30 brought into this state under the conditional approval can be used, sold, or
31 otherwise disposed of without economic harm to the possessor.

1 **Sale of unapproved transgenic wheat - Penalty.** Any person who sells or attempts to
2 sell in this state any transgenic wheat seed that has not received a conditional or a
3 nonconditional approval from the commission is guilty of a class B felony.

4 **Ongoing petitions for certificates of approval - Publication.** At least once each
5 month, the commission shall make available electronically a list of all petitions for certificates of
6 approval under review by the commission. The list must include:

- 7 1. The scientific and common name of each variety;
- 8 2. A brief description of the status of any pending state or federal level administrative
9 reviews or legal actions pertaining to the variety;
- 10 3. A summary of the genetic changes made to each variety; and
- 11 4. The name and address of an individual who can provide additional information
12 about the product on the part of the patent holder.