

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2206
(Senators Nichols, Erbele, Urlacher)
(Representatives Onstad, Pollert, Skarphol)

AN ACT to amend and reenact section 4-09-14 of the North Dakota Century Code, relating to requirements for the sale of seed.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-09-14 of the North Dakota Century Code is amended and reenacted as follows:

4-09-14. (~~Effective through July 31, 2003~~) Prohibitions.

1. It is unlawful for any person to sell, offer for sale, expose for sale, transport for sale, or hold or store with the intent to sell, any agricultural, vegetable, flower, or tree and shrub seed within this state if:
 - a. The test to determine the percentage of germination required under sections 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2 has not been completed within a nine-month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale, or transportation, provided that seeds contained in a hermetically sealed container, as defined by regulation issued by the seed commissioner, may be sold, transported for sale, or held for sale unless the test provided in this subdivision has not been completed within a thirty-six-month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale, or transportation for sale;
 - b. The seed is not labeled in accordance with the provisions of this chapter or bears false or misleading labeling;
 - c. There has been false or misleading advertising in connection with the seed;
 - d. The seed contains prohibited noxious weed seeds;
 - e. With regard to agricultural or vegetable seed, the seed is not labeled to show the rate of occurrence of restricted noxious weed seeds, as required under sections 4-09-10 and 4-09-11;
 - f. The seed is designated, offered, represented, or advertised under any name or identification other than that by which it was known originally;
 - g. The seed contains restricted noxious weed seeds in excess of twenty-five seeds per pound [453.59 grams]; or
 - h. The percentage by weight of all weed seeds in the seed exceeds one percent.

Any person, under rules adopted by the commissioner, may submit to the commissioner a sample of any seed which the person claims to be a new variety, distinct from any commonly known variety of the seed, together with a proposed, distinctive name. The commissioner, within one year, shall make any tests the commissioner considers necessary, and if the commissioner finds as a result of the tests that the seed or plant is of a new variety, distinct from any known variety of the seed and that the proposed name will properly distinguish the seed from any and all other varieties, the commissioner shall issue

to the applicant a permit to designate the seed by the proposed name. The purchaser, vendor, or any person receiving any seed shipped into this state from without the state, shall have the same labeled in accordance with this chapter. Certain standardized grades and labeling of seed in use elsewhere may be permitted by the commissioner in connection with shipments of seed into this state from points outside this state in lieu of the labeling provided for in this chapter.

2. It is unlawful for any person in this state to:
 - a. Detach, alter, deface, or destroy any label provided for in this chapter or to alter or substitute seed in any manner with the intent to defeat the purpose of this chapter;
 - b. Disseminate any false or misleading advertisement concerning agriculture or vegetable seed in any manner or by any means;
 - c. Hinder or obstruct in any way any authorized person in the performance of the person's duties under this chapter;
 - d. Fail to comply with a "stop-sale" order;
 - e. Use on seed labels or tags, or to use or attach to literature, or to state in any manner or form of wording designed as a "disclaimer" or "nonwarranty" clause with the intent to disclaim responsibility of the vendor of the seed for the data on the label required by law;
 - f. Use the words "type" or "trace" on any labeling in connection with the name and description of any agricultural and vegetable seed;
 - g. Move or otherwise handle or dispose of any lot of seed held under a "stop-sale" order, except with the written permission of the commissioner or the commissioner's agent, and only for the purpose specified in such written permission;
 - h. Use the name of the state seed department or the name of the official laboratory for advertising purposes in connection with seed analyzed or tested by the department or official laboratory, except in the case of registered or certified seed; or
 - i. Plant any seed labeled "for vegetative cover only" with the intent to harvest for seed or grain.

(Effective after July 31, 2003) Prohibitions:

1. ~~It is unlawful for any person to sell, offer for sale, expose for sale, transport for sale, or hold or store with the intent to sell, any agricultural, vegetable, flower, or tree and shrub seed within this state if:~~
 - a. ~~The test to determine the percentage of germination required under sections 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2 has not been completed within a nine month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale, or transportation, provided that seeds contained in a hermetically sealed container, as defined by regulation issued by the seed commissioner, may be sold, transported for sale, or held for sale unless the test provided in this subdivision has not been completed within a thirty six month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale, or transportation for sale;~~
 - b. ~~Such seed is not labeled in accordance with the provisions of this chapter or bears false or misleading labeling;~~
 - e. ~~There has been false or misleading advertising in connection with such seed;~~

- d. ~~Such seed contains prohibited noxious weed seeds;~~
- e. ~~With regard to agricultural or vegetable seed, such seed is not labeled to show the rate of occurrence of restricted noxious weed seeds, as required under sections 4-09-10 and 4-09-11;~~
- f. ~~Such seed is designated, offered, represented, or advertised under any name or identification other than that by which it was known originally;~~
- g. ~~Such seed contains restricted noxious weed seeds in excess of ninety seeds per pound [453.59 grams]; or~~
- h. ~~The percentage by weight of all weed seeds in the seed exceeds one percent.~~

~~Any person, under rules and regulations to be made therefor by the commissioner, may submit to the commissioner a sample of any seed which the person claims to be a new variety, distinct from any commonly known variety of such seed, together with a proposed, distinctive name therefor. The commissioner, within one year, shall make such tests as the commissioner considers necessary, and if the commissioner finds as a result of such tests that such seed or plant is of a new variety, distinct from any variety of such seed known theretofore and that the name proposed therefor will properly distinguish said seed from any and all other varieties thereof, the commissioner shall issue to the person applying therefor a permit to designate such seed by said name. The purchaser, vendor, or any person receiving any seed shipped into this state from without the state, shall have the same labeled in accordance with and in conformity to the requirements of this chapter. Certain standardized grades and labeling of seed in use elsewhere may be permitted by the commissioner in connection with shipments of seed into this state from points outside thereof in lieu of the labeling provided for in this chapter.~~

2. ~~It is unlawful for any person in this state to:~~

- a. ~~Detach, alter, deface, or destroy any label provided for in this chapter or to alter or substitute seed in any manner with the intent to defeat the purpose of this chapter;~~
- b. ~~Disseminate any false or misleading advertisement concerning agriculture or vegetable seed in any manner or by any means;~~
- e. ~~Hinder or obstruct in any way any authorized person in the performance of the person's duties under this chapter;~~
- d. ~~Fail to comply with a "stop sale" order;~~
- e. ~~Use on seed labels or tags, or to use or attach to literature, or to state in any manner or form of wording designed as a "disclaimer" or "nonwarranty" clause with the intent to disclaim responsibility of the vendor of the seed for the data on the label required by law;~~
- f. ~~Use the words "type" or "trace" on any labeling in connection with the name and description of any agricultural and vegetable seed;~~
- g. ~~Move or otherwise handle or dispose of any lot of seed held under a "stop sale" order, except with the written permission of the commissioner or the commissioner's agent, and only for the purpose specified in such written permission;~~
- h. ~~Use the name of the state seed department or the name of the official laboratory for advertising purposes in connection with seed analyzed or tested by the department or official laboratory, except in the case of registered or certified seed; or~~

- i. ~~Plant any seed labeled "for vegetative cover only" with the intent to harvest for seed or grain.~~

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-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2206.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 85 Nays 0 Absent 9

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State