

**SENATE BILL NO. 2082**

Introduced by

Agriculture Committee

(At the request of the Agriculture Commissioner)

1 A BILL for an Act to amend and reenact subsections 5, 6, 11, 28, and 29 of section 4-35-05,  
2 sections 4-35-09, 4-35-16, 4-35-17, and 4-35-18, and subsection 4 of section 4-35-23 of the  
3 North Dakota Century Code, relating to the North Dakota pesticide act.

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

5 **SECTION 1. AMENDMENT.** Subsections 5, 6, 11, 28, and 29 of section 4-35-05 of the  
6 North Dakota Century Code are amended and reenacted as follows:

7 5. "Certified applicator" means any individual who is certified under this chapter ~~The~~  
8 ~~term includes a commercial applicator and a private applicator~~ as authorized to use  
9 or supervise the use of any pesticide that is classified for restricted use.

10 6. "Commercial applicator" means ~~a certified applicator who uses any pesticide, for~~  
11 ~~any purpose or on any property, other than as provided for by a private applicator~~  
12 an applicator, whether or not the applicator is a private applicator with respect to  
13 some uses, who uses or supervises the use of a pesticide, whether classified as  
14 restricted or general use, for any purpose or on any property, other than as  
15 provided by subsection 26.

16 11. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver, or  
17 supply pesticides in this state.

18 28. "Public ~~operator~~ applicator" means a certified applicator who applies ~~restricted use~~  
19 pesticides as an employee of a state or federal agency, municipal corporation,  
20 public utility, or other governmental agency.

21 29. "Restricted use pesticide" means any pesticide formulation which is classified for  
22 restricted use by the ~~board~~ United States environmental protection agency. The  
23 term also includes a pesticide formulation classified for restricted use by the  
24 agriculture commissioner under section 19-18-05.

1           **SECTION 2. AMENDMENT.** Section 4-35-09 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **4-35-09. Commercial and public applicator's certification.**

- 4           1. A commercial or public applicator may not purchase ~~or~~ use, or supervise the use  
5 of a pesticide without first complying with the certification standards and  
6 requirements of this chapter, or other restrictions as may be determined by the  
7 board.
- 8           2. An individual may be certified as a commercial or public applicator within a  
9 classification if the individual successfully completes an examination for the  
10 classification as prescribed by the board and administered by the North Dakota  
11 state university extension service or the service's designee. An application for  
12 certification must be on a form prescribed by the board and accompanied by a  
13 reasonable examination fee set by the board.
- 14           3. If the North Dakota state university extension service, or its designee, finds the  
15 applicant qualified to apply pesticides in the classifications for which the applicant  
16 has applied, after examination as the board requires, and the applicant meets all  
17 other requirements of this chapter, the North Dakota state university extension  
18 service shall issue a commercial applicator's certificate limited to the classifications  
19 in which the applicant is qualified.
- 20           4. If certification is not to be issued as applied for, the North Dakota state university  
21 extension service, or its designee, shall inform the applicant in writing of the  
22 reasons for not issuing the certification. Individuals certified pursuant to this  
23 section are deemed certified commercial or public applicators for the use of  
24 pesticides.

25           **SECTION 3. AMENDMENT.** Section 4-35-16 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **4-35-16. Commercial and public applicators to keep records - Duration -**

28 **Submission to commissioner.** The board shall require the holders of certificates to maintain  
29 records of sales of restricted use and special exemption pesticides and all ~~commercial~~  
30 applications of pesticides by commercial or public applicators. The board may also require  
31 restricted use pesticide application records of private applicators. Such relevant information as

1 the board may deem necessary may be specified by rule. The records must be kept for a  
2 period of three years from the date of the application or sale of the ~~restricted use~~ pesticide to  
3 which the records refer. Upon request, these records or pertinent parts thereof, must be  
4 submitted to the commissioner.

5 **SECTION 4. AMENDMENT.** Section 4-35-17 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **4-35-17. License plates for equipment.** The board may require all motor vehicles, as  
8 defined in chapter 39-01, which are used for the application of restricted use pesticides to be  
9 identified by a license plate or decal furnished by the board. Such license plate or decal must  
10 be issued at no cost to the certified applicator or public applicator, and must be affixed to the  
11 vehicle as prescribed by the board. This section must not be interpreted to apply to aircraft  
12 engaged in aerial spraying which are licensed under section 2-05-18.

13 **SECTION 5. AMENDMENT.** Section 4-35-18 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **4-35-18. Reciprocal agreement.** The North Dakota state university extension service,  
16 or its designee, may issue a certification on a reciprocal basis, without examination, to a  
17 nonresident who is certified to use restricted use pesticides under a plan substantially similar to  
18 this chapter and after the applicant has paid a fee, set by the board, not greater than the fee or  
19 charge authorized under sections 4-35-09, 4-35-12, or 4-35-14 if the applicant would have  
20 taken the appropriate examination. Such a certification may be suspended or revoked in the  
21 same manner and on the same grounds as certifications pursuant to this chapter, and must be  
22 suspended or revoked if the nonresident's home state certification is suspended or revoked.

23 **SECTION 6. AMENDMENT.** Subsection 4 of section 4-35-23 of the North Dakota  
24 Century Code is amended and reenacted as follows:

25 4. ~~In addition to the criminal sanctions which may be imposed pursuant to~~  
26 ~~subsections 1 and 2, a person found guilty of violating~~ A person who violates a  
27 provision of this chapter or the rules adopted under this chapter is subject to a civil  
28 penalty not to exceed five thousand dollars for each violation. The civil penalty  
29 may be imposed by a court in a civil proceeding or by the commissioner of  
30 agriculture through an ~~administrative hearing~~ adjudicative proceeding pursuant to  
31 chapter 28-32. The assessment of a civil penalty does not preclude the imposition

Fifty-eighth  
Legislative Assembly

- 1 of other sanctions authorized by law, this chapter, or rules adopted under this
- 2 chapter.