

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1124

Introduced by

Agriculture Committee

(At the request of the State Seed Commission)

1 A BILL for an Act to amend and reenact sections 4-09-01, 4-10-01, 4-10-05, and 4-42-11 of the
2 North Dakota Century Code, relating to labeling requirements and potato seed and crop
3 warranties or representations; and to repeal section 4-10-11 of the North Dakota Century Code,
4 relating to inspector certificates.

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

6 **SECTION 1. AMENDMENT.** Section 4-09-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **4-09-01. Definitions.** In this chapter, unless the context otherwise requires:

- 9 1. "Advertisement" means any representation, other than representations made on
10 labels, which relates to seed.
- 11 2. "Agent", when used in connection with the commissioner, means the
12 commissioner's deputy, inspector, analyst, specialist, aide, agent, and employee,
13 when each is acting officially for the commissioner or performing any duty or duties
14 as provided in this chapter or in the rules adopted to implement this chapter.
- 15 3. "Agricultural seed" means the seed of grass, forage, cereal, fiber, oil crops, Irish
16 potato seed tubers, and any other kind of seeds commonly recognized within this
17 state as agricultural seed, lawn seed, and mixture of these seeds.
- 18 4. "Blend" means seed consisting of more than one variety of a kind, each in excess
19 of five percent by weight of the whole.
- 20 5. "Brand" means a word, name, or symbol, number, or design used to identify seed
21 of one person to distinguish that seed from seed of another person.
- 22 6. "Certified" means the agricultural seed was randomly inspected and found to meet
23 the rules of the department at the time of inspection.
- 24 7. "Commission" means the state seed commission.

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- 1 ~~7.~~ 8. "Commissioner" means the state seed commissioner.
- 2 ~~8.~~ 9. "Conditioning" means drying, cleaning, scarifying, and other operations that may
3 change the purity or germination of the seed.
- 4 ~~9.~~ 10. "Department" means the seed department of this state.
- 5 ~~10.~~ 11. "Flower seed" includes a seed of a herbaceous plant grown for the bloom,
6 ornamental foliage, or other ornamental part, and commonly known and sold under
7 the name of flower or wildflower seed in this state.
- 8 ~~11.~~ 12. "Foundation seed", "registered seed", and "certified seed" means seed that has
9 been produced and labeled in accordance with the procedures and in compliance
10 with the rules of an officially recognized seed-certifying agency.
- 11 ~~12.~~ 13. "Germination" means the percentage of seed capable of producing normal
12 seedlings under ordinarily favorable conditions as determined by methods
13 prescribed under the rules established by the association of official seed analysts.
14 The percentage does not include seed that produces weak, malformed, or
15 obviously abnormal sprouts.
- 16 ~~13.~~ 14. "Hard seed" means a seed that remains hard at the end of the prescribed test
17 period because the seed has not absorbed water due to an impermeable seed
18 coat.
- 19 ~~14.~~ 15. "Inert matter" means all matter not seed and includes the broken seed, a sterile
20 floret, chaff, a fungus body, and a stone.
- 21 ~~15.~~ 16. "Kind" means one or more related species or subspecies which singly or
22 collectively is known by one common name, such as corn, oats, alfalfa, or timothy.
- 23 ~~16.~~ 17. "Labeler" means the person who furnishes the information required in sections
24 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2.
- 25 ~~17.~~ 18. "Labeling" means a tag or other device attached to or information written, stamped,
26 or printed on any container or accompanying a lot of bulk seed that contains
27 information required by this chapter.
- 28 ~~18.~~ 19. "Lot" means a definite quantity of seed identified by a lot number or other mark,
29 every portion or bag of which is uniform, within permitted tolerances, for the factors
30 which appear in the labeling.

1 ~~32.~~ 34. "Weed seed" means the seed of a plant generally recognized as a weed within this
2 state, including noxious weed seed.

3 **SECTION 2. AMENDMENT.** Section 4-10-01 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **4-10-01. Definitions.** In this chapter, unless the context otherwise requires:

- 6 1. "Agent" or "agents", when used to indicate or refer to the commissioner's agent or
7 agents, means the commissioner's deputies, inspectors, representatives, agents,
8 or other assistants as the case requires.
- 9 2. "Certified" means the potatoes were randomly inspected and found to meet the
10 rules ~~and regulations~~ of the ~~state~~ seed department at the time of inspection.
- 11 3. "Closed container", or its plural form, means any container which shall be sewed,
12 tied, sealed, glued, nailed, or otherwise closed in a practical or secure manner for
13 handling.
- 14 4. "Commissioner" means the state seed commissioner.
- 15 5. "Inspection" means a random sample of potato plants or potato tubers were
16 examined according to the rules of the ~~state~~ seed department or according to the
17 instructions of the United States department of agriculture, food safety and quality
18 service.
- 19 6. "Label", and its various grammatical forms, when used as a noun means any tag,
20 label, brand, or device attached to, or written, stamped, printed, or stenciled on,
21 any container and carrying a term or terms setting forth the grade, condition,
22 quality, weight, variety, or class of the potatoes or other produce therein contained,
23 and when used as a verb means the act or the fact of the use of the aforesaid
24 labeling items and methods in connection with potatoes or other produce, and
25 when used as an adjective, its descriptive meaning must be interpreted from its
26 use and meaning as a noun and verb as herein prescribed.
- 27 7. "Other produce" means natural products of the farm, garden, and orchard,
28 exclusive of grain, true seeds, livestock, and livestock products.
- 29 8. "Potatoes" means what is commonly called and known as white or Irish potatoes.
- 30 9. "Selection" means a subgroup of a variety of potato and is commonly referred to
31 as line selection, clonal selection, or strain selection.

1 5. A vendor of seed may not alter the label or certificate furnished by the inspector
2 under subsection 4.

3 6. A person in this state may not sell, offer for sale, transport for sale, or store with
4 intent to sell within this state certified potato seed that is not labeled in accordance
5 with this chapter.

6 **SECTION 4. AMENDMENT.** Section 4-42-11 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **4-42-11. Warranties or representations regarding seeds or crops.** The
9 commission, the commissioner, and the department make no warranties or representations of
10 any kind, either expressed or implied, including warranties of merchantability, fitness for a
11 particular purpose, or absence of disease, as to seed or crop that is inspected, analyzed, or
12 verified under this chapter.

13 **SECTION 5. REPEAL.** Section 4-10-11 of the North Dakota Century Code is repealed.