

**SENATE BILL NO. 2125**

Introduced by

Agriculture Committee

(At the request of the State Seed Department)

1 A BILL for an Act to amend and reenact subsection 21 of section 4-09-01, subsection 1 of  
2 section 4-09-02, subsection 2 of section 4-09-03, sections 4-09-13, 4-09-17, 4-09-17.1,  
3 4-09-25, 4-10-14, and 4-11-21 of the North Dakota Century Code, relating to the seed  
4 department's revolving fund and to the functions and responsibilities of the seed commission,  
5 seed department, and seed labelers.

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

7 **SECTION 1. AMENDMENT.** Subsection 21 of section 4-09-01 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9 21. "Noxious weed seed" is divided into three classes defined as:

- 10 a. "Prohibited noxious weed seed" means a weed seed that is prohibited from  
11 being present in agricultural, vegetable, flower, tree, or shrub seed and is  
12 highly destructive and difficult to control by good cultural practices and the use  
13 of herbicides and includes a seed of leafy spurge (*euphorbia esula* L.), field  
14 bindweed (*convolvulus arvensis* L.), Canada thistle (*cirsium arvense* (L.) Scop.),  
15 perennial sow thistle (*sonchus arvensis* L.), Russian knapweed (~~*centaurea*~~  
16 *rhaponticum repens* L.), absinth wormwood (*artemisia absinthium* L.), hemp  
17 (*cannabis sativa* L.) having more than three-tenths of one percent  
18 tetrahydrocannabinol, musk thistle (*carduus nutans* L.), spotted knapweed  
19 (~~*centaurea maculosa*~~ Lam. *stoebe* L. subsp. *micranthos*), hoary cress  
20 (~~*cardaria draba*~~ (L.) Desv. *lepidium chalepense*), and yellow starthistle  
21 (*centaurea solstitialis* L.).  
22 b. "Restricted noxious weed seed" means a seed that is objectionable in  
23 agricultural crops, lawns, and gardens in this state and can be controlled by  
24 good cultural practices or the use of herbicides and includes the seed of

1                    dodder (*Cuscuta* species), hedge bindweed (~~*Convolvulus*~~ *calystegia sepium* L.),  
2                    wild oats (*Avena fatua* L.), and quackgrass (~~*Agropyron*~~ *elymus repens* (L.)  
3                    Beauv. *subsp. repens*).

4                    c. "Undesirable grass seed" means a seed of grass species declared by the  
5                    commissioner to be a restricted noxious weed seed when found in lawn or turf  
6                    seed.

7                    **SECTION 2. AMENDMENT.** Subsection 1 of section 4-09-02 of the North Dakota  
8 Century Code is amended and reenacted as follows:

9                    1. There must be maintained a seed department of the state of North Dakota, which  
10                    is designated as the official seed certification agency of the state. The  
11                    department's headquarters, main offices, and other principal operating facilities  
12                    and equipment must be located at the North Dakota state university of agriculture  
13                    and applied science. The commissioner, subject to the approval and supervision  
14                    of the commission, shall provide and maintain necessary laboratories and facilities  
15                    properly equipped to make analyses, tests, and variety and disease determinations  
16                    of seeds and plants, and to do work and effect other results as may be necessary  
17                    to carry out this chapter. For these purposes, the commissioner may utilize the  
18                    premises, space, and equipment at North Dakota state university as may be  
19                    assigned to the commissioner by the university. The commissioner shall permit the  
20                    facilities and services of the official laboratories to be used by the university at  
21                    convenient times.

22                    **SECTION 3. AMENDMENT.** Subsection 2 of section 4-09-03 of the North Dakota  
23 Century Code is amended and reenacted as follows:

24                    2. The commission consists of a representative of the North Dakota crop  
25                    improvement association, a representative of the North Dakota certified seed  
26                    potato growers association, a representative of the North Dakota dry edible bean  
27                    seed growers association, a representative of the North Dakota agricultural  
28                    association, an elected member of the North Dakota potato council selected by the  
29                    North Dakota potato council, a representative of the Red River valley potato  
30                    growers association who is a North Dakota resident, a representative of the North  
31                    Dakota grain dealers association selected by the association's board of directors

1           who operates a state-approved seed conditioning plant, and the agriculture  
2           commissioner, or the commissioner's designee, who shall serve as chairman. The  
3           ~~associate dean and~~ director of the experiment station, or the director's designee, of  
4           the college of agriculture of the North Dakota state university of agriculture and  
5           applied science is a voting member of the commission.

6           **SECTION 4. AMENDMENT.** Section 4-09-13 of the North Dakota Century Code is  
7           amended and reenacted as follows:

8           **4-09-13. Tolerances.** The tolerances used in determining correctness and accuracy in  
9           labeling seed as described in this chapter must be those tolerances used under the Federal  
10          Seed Act of August 9, 1939 [53 Stat. 1275; 7 U.S.C. 1551 et seq.], and subsequent  
11          amendments as of June 30, ~~2005~~ 2009, except that the tolerance for yellow starthistle must be  
12          zero and the commissioner may, by rule, establish tolerances that are more strict than the  
13          Federal Seed Act tolerances.

14          **SECTION 5. AMENDMENT.** Section 4-09-17 of the North Dakota Century Code is  
15          amended and reenacted as follows:

16          **4-09-17. Certified seed - Regulations governing labeling and representing.** Seed  
17          grown in North Dakota, or grown elsewhere and transported into this state, which is sold,  
18          offered or exposed for sale, stored, transported, or distributed, or held with intent to sell or plant  
19          the same, may not be represented, advertised, labeled, or characterized in any way, either  
20          orally or in writing, with or by the use of the term "breeders", "foundation", "registered",  
21          "certified", "pedigreed", or "elite" seed, or any term or terms conveying a meaning substantially  
22          equivalent to the meaning of any of said terms, without the approval and authorization of the  
23          commissioner, who may adopt such rules as the commissioner finds necessary for the proper  
24          regulation and protection of the certified seed industry. The correctness and accuracy of seed  
25          labeling is the sole responsibility of the labeler under state and federal seed laws.

26          **SECTION 6. AMENDMENT.** Section 4-09-17.1 of the North Dakota Century Code is  
27          amended and reenacted as follows:

28          **4-09-17.1. Plant Variety Protection Act.** Any seed advertised, offered for sale, or sold  
29          by variety name and for which a certificate of plant variety protection has been issued under the  
30          Plant Variety Protection Act, as amended [Pub. L. 91-577; 84 Stat. 1551; 7 U.S.C. 2481 et seq.,  
31          effective as of July 1, ~~2007~~ 2009], as being for sale only as a class of certified seed must be

1 certified by an official seed certifying agency in order for the seed to be advertised, offered for  
2 sale, or sold by variety name in the state of North Dakota. Seed from a certified lot may be  
3 labeled as to variety name when used in a blend or mixture by or with approval of the owner of  
4 the variety.

5 **SECTION 7. AMENDMENT.** Section 4-09-25 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **4-09-25. Plant and seed records - Exempt.** The following records of the state seed  
8 commission are exempt from section 44-04-18:

- 9 1. Records of any plant or seed inspection, analysis, or testing and germination,  
10 purity, variety, or disease ~~determination~~ determinations conducted by the state  
11 seed department on a fee-for-service basis for nonpublic entities or persons.
- 12 2. Information received by the seed commission under chapter 4-09, 4-10, or 4-42  
13 from a nonpublic entity or person that the nonpublic entity or person determines is  
14 proprietary information or a trade secret.

15 **SECTION 8. AMENDMENT.** Section 4-10-14 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **4-10-14. Misbranding potatoes and other produce.** No person, either while acting in  
18 that person's own behalf or while acting as agent or servant for any other person, shall sell,  
19 consign for sale, offer or expose for sale, have in possession or storage for sale, deliver within  
20 this state, or convey or cause to be conveyed out of this state, any potatoes or other produce  
21 which are mislabeled within the meaning of this chapter or the regulations thereunder, or which  
22 are labeled, represented, or advertised falsely in any respect, whether they are in closed  
23 containers, open containers, or in bulk regardless of the quantity. The correctness and  
24 accuracy of seed labeling is the sole responsibility of the labeler under state and federal seed  
25 laws.

26 **SECTION 9. AMENDMENT.** Section 4-11-21 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **4-11-21. Fees and collections - Revolving fund - ~~Continuing appropriation~~**  
29 **Appropriation.** The commissioner shall deposit all moneys arising from the collection of fees  
30 and other charges under this chapter with the state treasurer for credit to the seed department  
31 revolving fund. Moneys in this fund must be disbursed upon order of the commissioner, with

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- 1 the approval of the office of management and budget, and funds so approved by the office of
- 2 management and budget ~~are appropriated on a continuing basis~~ and must be disbursed within
- 3 limits of legislative appropriations.