

**SENATE BILL NO. 2125
with House Amendments**

Sixty-first
Legislative Assembly
of North Dakota

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, and sections 4-09-13, 4-09-17.1, 4-09-25,
3 and 4-11-21 of the North Dakota Century Code, relating to the seed department's revolving
4 fund and to the functions and responsibilities of the seed commission and the seed department.

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

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

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

1 sepium L.), wild oats (*avena fatua* L.), and quackgrass (~~*agropyron*~~ *elymus*
2 *repens* (~~L.~~ Beauv. subsp. *repens*).

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

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

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

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

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

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

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

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

13 **SECTION 5. AMENDMENT.** Section 4-09-17.1 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **4-09-17.1. Plant Variety Protection Act.** Any seed advertised, offered for sale, or
16 sold by variety name and for which a certificate of plant variety protection has been issued
17 under the Plant Variety Protection Act, as amended [Pub. L. 91-577; 84 Stat. 1551; 7 U.S.C.
18 2481 et seq., effective as of July 1, ~~2007~~ 2009], as being for sale only as a class of certified
19 seed must be certified by an official seed certifying agency in order for the seed to be
20 advertised, offered for sale, or sold by variety name in the state of North Dakota. Seed from a
21 certified lot may be labeled as to variety name when used in a blend or mixture by or with
22 approval of the owner of the variety.

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

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

27 1. Records of any plant or seed inspection, analysis, or testing and germination,
28 purity, variety, or disease determination determinations conducted by the state
29 seed department on a fee-for-service basis for nonpublic entities or persons.

1 2. Information received by the seed commission under chapter 4-09, 4-10, or 4-42
2 from a nonpublic entity or person that the nonpublic entity or person determines is
3 proprietary information or a trade secret.

4 **SECTION 7. AMENDMENT.** Section 4-11-21 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4-11-21. Fees and collections - Revolving fund - ~~Continuing appropriation~~**

7 **Appropriation.** The commissioner shall deposit all moneys arising from the collection of fees
8 and other charges under this chapter with the state treasurer for credit to the seed department
9 revolving fund. Moneys in this fund must be disbursed upon order of the commissioner, with
10 the approval of the office of management and budget, and funds so approved by the office of
11 management and budget ~~are appropriated on a continuing basis~~ must be disbursed within
12 limits of legislative appropriations.