Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009

SENATE BILL NO. 2125
(Agriculture Committee)
(At the request of the State Seed Department)

AN ACT to amend and reenact subsection 21 of section 4-09-01, subsection 1 of section 4-09-02, subsection 2 of section 4-09-03, and sections 4-09-13, 4-09-17.1, 4-09-25, and 4-11-21 of the North Dakota Century Code, relating to the seed department's revolving fund and to the functions and responsibilities of the seed commission and the seed department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

    a. "Prohibited noxious weed seed" means a weed seed that is prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed and is highly destructive and difficult to control by good cultural practices and the use of herbicides and includes a seed of leafy spurge (euphorbia esula l.), field bindweed (convolvulus arvensis l.), Canada thistle (cirsium arvense (l.) scop.), perennial sow thistle (sonchus arvensis l.), Russian knapweed (~~centaurea~~ rhaponticum repens l.), absinth wormwood (artemisia absinthium l.), hemp (cannabis sativa L.) having more than three-tenths of one percent tetrahydrocannabinol, musk thistle (carduus nutans L.), spotted knapweed (centaurea ~~maculosa lam.~~ stoebe L. subsp. micranthos), hoary cress (~~cardaria draba (l.) desv.~~ lepidium chalepense), and yellow starthistle (centaurea solstitialis L.).

    b. "Restricted noxious weed seed" means a seed that is objectionable in agricultural crops, lawns, and gardens in this state and can be controlled by good cultural practices or the use of herbicides and includes the seed of dodder (cuscuta species), hedge bindweed (~~convolvulus~~ calystegia sepium L.), wild oats (avena fatua l.), and quackgrass (~~agropyron~~ elymus repens ~~(l.) beauv.~~ subsp. repens).

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

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

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

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

2. The commission consists of a representative of the North Dakota crop improvement association, a representative of the North Dakota certified seed potato growers association, a representative of the North Dakota dry edible bean seed growers association, a representative of the North Dakota agricultural association, an elected member of the North Dakota potato council selected by the North Dakota potato council, a representative of the Red River valley potato growers association who is a North Dakota resident, a representative of the North Dakota grain dealers association selected by the association's board of directors who operates a state-approved seed conditioning plant, and the agriculture commissioner, or the commissioner's designee, who shall serve as chairman. The ~~associate dean and~~ director of the experiment station, or the director's designee, of the college of agriculture of the North Dakota state university of agriculture and applied science is a voting member of the commission.

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

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

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

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

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

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

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

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

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

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

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

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 Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2125.

Senate Vote:	Yeas	45	Nays	1	Absent	1
House Vote:	Yeas	86	Nays	0	Absent	8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State