

FOOD, DRUGS, OILS, AND COMPOUNDS

CHAPTER 263

SENATE BILL NO. 2278
(Committee on State and Federal Government)
(At the request of the Governor)

DEPARTMENT OF HEALTH AND CONSOLIDATED LABORATORIES

AN ACT to consolidate the state department of health and the state laboratories department into the state department of health and consolidated laboratories; and to amend and reenact sections 19-01-01, 19-01-02, 19-01-02.1, 19-01-07, 19-01-18, subsection 4 of section 19-02.1-05, sections 19-02.1-20, 19-02.1-21, subsection 1 of section 19-03.1-01.1, sections 19-03.1-37, 19-10-21, subsection 9 of section 19-13.1-02, sections 19-13.1-09, 19-13.1-11, 19-13.1-12, subsection 4 of section 19-17-04, sections 19-18-02, 19-18-04, 19-18-07, 19-20.1-08, 19-20.1-17, subsection 3 of section 19-21-01, sections 23-01-01, 23-01-07, 23-01-09, 23-09-01, 43-43-01, and 61-28.1-07 of the North Dakota Century Code, relating to consolidation of the state laboratories and the state department of health; and to repeal sections 19-01-03, 19-01-04, 19-01-06, and 19-01-08 of the North Dakota Century Code, relating to the state laboratories department.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. State department of health and consolidated laboratories to replace state department of health. Wherever the terms "North Dakota state department of health", "state department of health", "department of health", or "health department" appear in this code, the term "state department of health and consolidated laboratories" must be substituted therefor.

Wherever the terms "North Dakota state laboratories department", "state laboratories department", "state laboratories department director", or "state laboratories director" appear in this code, the term "state department of health and consolidated laboratories" must be substituted therefor unless otherwise provided herein.

Wherever the terms "state food commissioner and chemist" and "commissioner" when referring to the state food commissioner and chemist appear in chapters 19-17 and 19-18 of the North Dakota Century Code, the term "state department of health and consolidated

laboratories" must be substituted therefor unless otherwise provided herein.

SECTION 2. AMENDMENT. Section 19-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-01. Definitions of terms used in title. In this title, unless the context or subject matter otherwise requires:

1. ~~"Commission" shall mean the state laboratories commission.~~
2. ~~"Department" shall mean means the state laboratories department state department of health and consolidated laboratories.~~
- 3- 2. "Person" shall ~~import~~ includes both the singular and the plural, as the case demands, and shall ~~include~~ includes individuals, partnerships, corporations, companies, and associations, or two or more individuals having a joint or common interest.

SECTION 3. AMENDMENT. Section 19-01-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-02. ~~State laboratories department - State laboratories commission Consolidated laboratories branch - Members, duties, meetings. The state laboratories department consolidated laboratories branch shall be maintained as one of the departments of the state branches of the state department of health and consolidated laboratories. The management, control, and supervision of such department branch shall be placed in the state laboratories commission, which shall be composed of the governor, who shall act as chairman thereof, the state treasurer, and the attorney general. It shall meet whenever necessary, and at least once a month delegated by the state health officer to a laboratory director. The commission department may adopt rules and regulations pursuant to under chapter 28-32 as may be necessary for the full and complete enforcement of the regulatory laws of the state under its jurisdiction. The commission shall also establish, and may alter as the need arises, a fee schedule for private samples that are submitted to the department for laboratory analysis.~~

SECTION 4. AMENDMENT. Section 19-01-02.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-02.1. Legislative intent. It is the intent of the legislative assembly that the department serve the public in the capacity of a consumer affairs office provide consumer protection services to the public by means of laboratory sampling, laboratory testing, on-site inspecting, and public information services within its jurisdiction.

SECTION 5. AMENDMENT. Section 19-01-07 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-07. Fees - Disposition. All revenues received and fees and charges collected under the provisions of this title shall be properly accounted for daily by the ~~assistant director and employees to the director of the department, and by the assistant director~~ recorded and entered upon the ~~assistant director's~~ books by counties from which the fees and charges are received. The ~~director department~~ shall forward all moneys so collected to the state treasurer monthly, and the treasurer shall place the same in the general fund of the state. Funds may be accepted from cities, counties, states, federal agencies, and private organizations for contract services of analytical and inspection work. Such funds shall be remitted by the department to the state treasurer and deposited in a special account in the state treasury, designated the "~~state consolidated~~ laboratories contract servicers fund" to be used exclusively to carry out the intent and purposes of this section. Such funds are retained by the department for payment of expenditures incurred in rendering such services and are hereby appropriated to the department to be disbursed by the department in accordance with the intent and purposes of this section. Funds in excess of fifty thousand dollars received and disbursed during any biennial period pursuant to this section shall require emergency commission approval.

SECTION 6. AMENDMENT. Section 19-01-18 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-18. Duties as to weights and measures. When requested so to do by the public service commission, the ~~director of the department,~~ when it is possible and practicable to do so, shall ~~direct one or more of the employees of the department to~~ perform such duties as may be required relating to the inspection and licensing of weights and measures. Each employee of the department, when engaged in the performance of such duties, shall have the same powers and shall charge and collect the same fees for the services the employee may perform as are provided in the case of an inspector in chapter 64-02. All fees, licenses, and other charges collected by the department in performing such additional duties shall be considered as collections made by the department to be accounted for and disposed of as provided in this chapter.

SECTION 7. AMENDMENT. Subsection 4 of section 19-02.1-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Whenever ~~the state laboratories director or any of the state laboratories director's~~ an authorized agents agent of the department shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit, or other perishable

articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the state laboratories director or the state laboratories director's department's authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.

SECTION 8. AMENDMENT. Section 19-02.1-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-20. Regulations - Hearings. The authority to ~~promulgate regulations~~ adopt rules for the efficient enforcement of this chapter is hereby vested in the department. The department is hereby authorized to make the ~~regulations promulgated~~ rules adopted under this chapter conform, insofar as practicable, with those ~~promulgated~~ adopted under the federal act. Regulations Rules shall conform and be consistent with the provisions of the Uniform Controlled Substances Act. When adopting any rules under this chapter, the department shall follow the procedures under chapter 28-32.

Hearings ~~authorized or required by this chapter shall be conducted by the state laboratories director or such officer, agent, or employee as the state laboratories director may designate for the purpose. When promulgating any regulations contemplated by section 19-02-1-08, subsection 10 of section 19-02-1-10, section 19-02-1-11, subsections 4, 7, 8, 9, 14, and 17 of section 19-02-1-14, subsection 3 of section 19-02-1-15 or subsection 2 of section 19-02-1-19, the department shall follow the procedures provided for in chapter 28-32.~~

SECTION 9. AMENDMENT. Section 19-02.1-21 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-21. Inspections - Examinations. The ~~state laboratories director or the state laboratories director's~~ duly authorized agent ~~department~~ has free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices, or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods, drugs, devices, or cosmetics in commerce, for the purpose of inspecting such factory, warehouse, establishment, or vehicle to determine if this chapter is being violated and to secure samples or specimens of any food, drug, device, or cosmetic after paying or offering to pay for such sample.

The ~~state laboratories director~~ department shall make or cause to be made examinations of samples secured under this section to determine whether or not this chapter is being violated.

Inspections of slaughterhouses, meatpacking, and meat processing plants where cattle, swine, sheep, goats, horses, or other equines are slaughtered for human food or where the carcass or the parts thereof, meat, or meat food products are salted, canned, packed, smoked, cured, rendered, or otherwise processed or prepared for human food, may not be performed under this chapter if the slaughterhouses, meatpacking, or meat processing plants are inspected under the North Dakota Meat Inspection Act, or the Federal Meat Inspection Act, as amended [34 Stat. 1260-65; 21 U.S.C. 71-91].

SECTION 10. AMENDMENT. Subsection 1 of section 19-03.1-01.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. There is hereby established a North Dakota controlled substances board consisting of the attorney general or the attorney general's designee, the director of the state laboratories department consolidated laboratories branch of the department of health and consolidated laboratories or the director's designee, the chairman chairperson of the state board of medical examiners or the chairman's chairperson's designee, a member appointed by the governor, and the executive secretary of the state board of pharmacy or the executive secretary's designee. The executive secretary of the state board of pharmacy, or the executive secretary's designee, shall be the chairman chairperson of the board.

SECTION 11. AMENDMENT. Section 19-03.1-37 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-37. Burden of proof - Liabilities.

1. It is not necessary for the state to negate any exemption or exception in this chapter in any complaint, information, indictment, or other pleading or in any trial, hearing, or other proceeding under this chapter. The burden of proof of any exemption or exception is upon the person claiming it.
2. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, the person is presumed not to be the holder of the registration or form. The burden of proof is upon the person to rebut the presumption.
3. No liability is imposed by this chapter upon any authorized state, county, or municipal officer, engaged in the lawful performance of their duties.
4. In all prosecutions under this chapter involving the analysis of a substance or sample thereof, a certified copy of the analytical report signed by the state

toxicologist or the state laboratories director of the consolidated laboratories branch of the department of health and consolidated laboratories shall be accepted as prima facie evidence of the results of the analytical findings.

5. Notwithstanding any statute or rule to the contrary, the defendant may subpoena the state toxicologist or the state laboratories director of the consolidated laboratory services branch of the department of health and consolidated laboratories or any employee of either to testify at the preliminary hearing and trial of the issue at no cost to the defendant.

SECTION 12. AMENDMENT. Section 19-10-21 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-10-21. Bond may be required of dealer in petroleum products. The ~~director of the department, if the director deems it necessary,~~ may require any person importing gasoline, kerosene, tractor fuel, heating oil, or diesel fuel for sale or consignment within this state or in possession of any such petroleum products with intent to sell the same, to deposit with the department a surety bond payable to the state of North Dakota in the penal sum of five hundred dollars, or in twice the amount of inspection fees due for any calendar month, whichever amount is the greater, guaranteeing to the state true reports of receipts of gasoline, kerosene, tractor fuel, heating oil, and diesel fuel and the payment of all inspection fees provided for in this chapter. The bond shall be approved as to its sufficiency by the department. A single bond may cover dealing in one or all of the petroleum products mentioned in this chapter. When any inspection fee is not paid within twenty days after it has become delinquent, the person bonding the delinquent may be called upon to make good upon the bond for such delinquent fees.

SECTION 13. AMENDMENT. Subsection 9 of section 19-13.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

9. "Official sample" means any sample of feed taken by the state laboratories director or his agent department and designated as "official" by the department.

SECTION 14. AMENDMENT. Section 19-13.1-09 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-09. Inspection, sampling, analysis. It shall be the duty of the ~~state laboratories director, who may act through the director's authorized agent,~~ department to sample, inspect, make analyses of, and test commercial feeds and customer-formula feeds distributed within this state at such time and place to such an extent as the ~~director~~ department may deem necessary to determine whether such

feeds are in compliance with the provisions of this chapter. The ~~state laboratories director, individually or through the director's agent,~~ department is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours in order to have access to commercial feeds and customer-formula feeds and to records relating to their distribution. The methods of sampling and analysis shall be those adopted by the department from sources such as the journal of the association of official agricultural chemists.

The department, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in subsection 9 of section 19-13.1-02 and obtained and analyzed as provided for in this section. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the department to the distributor and the purchaser. Upon request within thirty days the department shall furnish to the distributor a portion of the sample concerned.

SECTION 15. AMENDMENT. Section 19-13.1-11 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-11. Detained commercial feeds. When the ~~state laboratories director or the director's authorized agent~~ department has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or of any of the prescribed regulations under this chapter, the ~~director~~ department may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the department or the court. The department shall release the lot of commercial feed so withdrawn when said provisions and ~~regulations~~ rules have been complied with. If compliance is not obtained within thirty days, the department may begin, or upon request of the distributor shall begin, proceedings for condemnation.

Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of the ~~state laboratories director~~ department to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this chapter and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this chapter.

SECTION 16. AMENDMENT. Section 19-13.1-12 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-12. Penalties. Any person convicted of violating any of the provisions of this chapter or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent the ~~state laboratories director or the state laboratories director's duly authorized agent in performance of the state laboratories director's duty~~ department from performing its duties in connection with the provisions of this chapter, shall be guilty of a class A misdemeanor. In all prosecutions under this chapter involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the ~~state laboratories director of the consolidated laboratories branch of the department of health and consolidated laboratories~~ shall be accepted as prima facie evidence of the composition.

Nothing in this chapter shall be construed as requiring the ~~state laboratories director or the state laboratories director's representative~~ department to seek prosecution or the institution of seizure proceedings based on minor violations of the chapter when the ~~state laboratories director believes~~ department deems that the public interest will be best served by a suitable notice of warning in writing.

It shall be the duty of each state's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the department reports a violation for prosecution, an opportunity shall be given the distributor to present the distributor's view to the department.

The department is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this chapter may within forty-five days thereafter bring action in the district court for Burleigh County for new trial of the issues bearing upon such act, order, or ruling, and upon such trial the court may issue and enforce such orders, judgments, or decrees as the court may deem proper, just, and equitable.

SECTION 17. AMENDMENT. Subsection 4 of section 19-17-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. For the purpose of this chapter, the ~~commissioner, or such officers or employees under the commissioner's supervision~~

as the commissioner may designate, department is authorized to take samples for analysis and to conduct examinations and investigations, and to enter, at reasonable times, any factory, mill, bakery, warehouse, shop, or establishment where flour, white bread, or rolls are manufactured, processed, packed, sold, or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread, or rolls therein, and all pertinent equipment, materials, containers, and labeling.

SECTION 18. AMENDMENT. Section 19-18-02 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-02. Definitions. For the purposes of this chapter, unless the context or subject matter otherwise requires:

1. "Active ingredient" shall mean:
 - a. In the case of an economic poison other than a plant regulator, defoliant, or desiccant, any ingredient which will prevent, destroy, repel, or mitigate insects, fungi, rodents, weeds, or other pests.
 - b. In the case of a plant regulator, any ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof.
 - c. In the case of a defoliant, any ingredient which will cause the leaves or foliage to drop from a plant.
 - d. In the case of a desiccant, any ingredient which will artificially accelerate the drying of plant tissue.
2. "Adulterated" shall apply to any economic poison if its strength or purity falls below the professed standard or quality as expressed on labeling or under which it is sold, or if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.
3. "Antidote" shall mean the most practical immediate treatment in case of poisoning and includes first aid treatment.
4. "~~Commissioner~~" shall mean the state food commissioner and chemist.
5. "Defoliant" means any substance intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

- 6- 5. "Desiccant" means any substance intended to artificially accelerate the drying of plant tissues.
- 7- 6. "Device" shall mean any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating fungi, nematodes, or weeds, or such other pests as may be designated by the ~~commissioner~~ department, but not including equipment used for the application of economic poisons when sold separately therefrom or rodent traps.
- 8- 7. "Economic poison" shall mean any substance intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, snails, slugs, fungi, weeds, or other forms of plant or animal life or viruses, bacteria, or other micro-organisms; and any substance intended for use as a plant regulator, defoliant, or desiccant.
- 9- 8. "Fungi" shall mean all non-chlorophyll-bearing thallophytes, that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts, as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those on or in living man or other animals.
- 10- 9. "Fungicide" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any fungi.
- 11- 10. "Herbicide" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any weed.
- 12- 11. "Inert ingredient" shall mean an ingredient which is not an active ingredient.
- 13- 12. "Ingredient statement" shall mean:
- a. A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic poison; or
 - b. A statement of the name of all active ingredients in the order of their predominance in the product, together with the name of each and total percentage of the inert ingredients, if there be, in the economic poison, except subdivision a shall apply if the preparation is highly toxic to man, determined as provided in section 19-18-05, and in addition to subsections 1 and 2 of section 19-18-05. In case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

- ~~14-~~ 13. "Insect" shall mean any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as, for example, spiders, mites, ticks, centipedes, and wood lice.
- ~~15-~~ 14. "Insecticide" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects which may be present in any environment whatsoever.
- ~~16-~~ 15. "Label" shall mean the written, printed, or graphic matter on, or attached to, the economic poison or device, or the immediate container thereof, and the outside container or wrapper of the retail package, if any there be, of the economic poison or device.
- ~~17-~~ 16. "Labeling" shall mean all labels and other written, printed, or graphic matter;
- a. Upon the economic poison or device or any of its containers or wrappers;
 - b. Accompanying the economic poison or device at any time;
 - c. To which reference is made on the label or in literature accompanying the economic poison or device, except when accurate, nonmisleading reference is made to current official publications of the United States department of agriculture or interior, the United States public health service, state experiment stations, state agricultural colleges, or other similar federal institutions or official agencies of this state or other states authorized by law to conduct research in the fields of economic poisons.
- ~~18-~~ 17. "Misbranded" shall apply:
- a. To any economic poison or device if its labeling bears any statement, design, or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
 - b. To any economic poison:
 - (1) If it is an imitation of or is offered for sale under the name of another economic poison;
 - (2) If its labeling bears any reference to registration under this chapter;

- (3) If the labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;
- (4) If the label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;
- (5) If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read, of the retail package which is presented or displayed under customary conditions of purchase;
- (6) If any word, statement, or other information required by or under the authority of this chapter to appear on the labeling is not prominently placed thereon such conspicuousness, as compared with other words, statements, designs, or graphic matter in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (7) If in the case of an insecticide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such economic poison; or
- (8) If a plant regulator, defoliant, or desiccant when used as directed shall be injurious to man or other vertebrate animals, or the vegetation to which it is applied; provided, that physical or physiological effect on plants or parts thereof shall not be deemed injurious when this is the purpose for which the plant regulator, defoliant, or desiccant is applied in accordance with label claims and recommendations.

~~19-~~ 18. "Nematocide" means any substance intended to prevent, destroy, repel, or mitigate nematodes.

~~20-~~ 19. "Nematode" means any of the nonsegmented roundworms harmful to agricultural plants.

- ~~21-~~ 20. "Person" shall mean any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.
- ~~21-1-~~ 21. "Pest" shall mean any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life, viruses, bacteria, or other micro-organisms except viruses, bacteria, or other micro-organisms on or in living man or other living animals.
22. "Plant regulator" means any substance intended through physiological action to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or the produce thereof, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.
23. "Registrant" shall mean the person registering any economic poison pursuant to the provisions of this chapter.
24. "Restricted use pesticides" means any pesticide which the department has found and determined under the provisions of this chapter to be injurious to persons, pollinating insects, animals, crops, or lands in addition to the pests it is intended to repel, destroy, control, or mitigate.
25. "Rodenticide" shall mean any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating rodents or any other vertebrate animal which the ~~commissioner~~ department shall declare to be a pest.
26. "Snails or slugs" include all harmful agricultural mollusks.
27. "Weed" shall mean any plant which grows where not wanted.

SECTION 19. AMENDMENT. Section 19-18-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-04. Registration - Fees. Any person before selling or offering for sale any economic poison for use within this state shall file annually with the ~~commissioner~~ department an application for registration of such economic poison. The application must:

1. Give the name and address of each manufacturer or distributor.
2. Give the name and brand, if any, of each product registered, together with an ingredient statement of each product registered in accordance with the provisions of subsection 13 of section 19-18-02, and accompanying each

registration application there shall be filed with the ~~commissioner~~ department a label of each product so registered. If the ~~commissioner~~ department finds that the application conforms to law, the ~~commissioner~~ department shall issue to the applicant a certificate of registration of the product. If after public hearing before the ~~commissioner~~ and the ~~commissioner~~ department the application is denied, the product shall not be offered for sale.

3. Be accompanied by an inspection fee of twenty-five dollars for each product. But in cases where the registration fees have been paid by the manufacturer, jobber, or any person, as required by this section, then in that event nothing in this section shall be construed as applying to retail dealers selling economic poisons. At the close of each calendar month, the department shall transmit to the state treasurer all moneys received for such licenses. The state treasurer shall credit such moneys to the general fund of the state.

Each registration expires on the thirty-first of December following its issuance. A certificate of registration may not be issued for a term longer than one year, and is not transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. A penalty of fifty percent of the license or registration fee shall be imposed if the license or certificate of registration is not applied for on or before January first of each year, within the same month such economic poisons are first manufactured or sold within this state.

SECTION 20. AMENDMENT. Section 19-18-07 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-07. Exemptions. The penalties provided for violations of section 19-18-03 shall not apply to:

1. Any carrier while lawfully engaged in transporting an economic poison within this state, if such carrier, upon request, shall permit the ~~commissioner~~ or the ~~commissioner's designated agent~~ department to copy all records showing the transactions in and movement of the articles.
2. Public officials of this state and the federal government engaged in the performance of their official duties.
3. The manufacturer or shipper of an economic poison for experimental use only:
 - a. By or under the supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of economic poisons; or

- b. By others if the economic poison is not sold and if the container thereof is plainly and conspicuously marked "For experimental use only - not to be sold", together with the manufacturer's name and address. If a written permit has been obtained from the ~~commissioner~~ department, economic poisons may be sold for experiment purposes subject to such restrictions and conditions as may be set forth in the permit.

No article shall be deemed in violation of this chapter when intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported all the provisions of this chapter shall apply.

SECTION 21. AMENDMENT. Section 19-20.1-08 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-08. Inspection, sampling, analysis. It shall be the duty of the ~~state laboratories director, who may act through the director's authorized agent,~~ department to sample, inspect, make analyses of, and test commercial fertilizers and soil amendments, auxiliary soil and plant substance distributed within this state at time and place and to such an extent as the ~~director~~ department may deem necessary to determine whether such commercial fertilizers or soil amendments are in compliance with the provisions of this chapter. The ~~state laboratories director individually or through the director's agent,~~ department is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to commercial fertilizers or soil amendments, auxiliary soil and plant substance subject to the provisions of this chapter and the rules and regulations pertaining thereto. The methods of analysis and sampling shall be those adopted by the department from sources such as the A.O.A.C. journal.

The department, in determining for administrative purposes whether any commercial fertilizer or soil amendment, auxiliary soil and plant substance is deficient, shall be guided solely by the official sample obtained and analyzed by the department. The results of official analysis of any commercial fertilizer or soil amendment, auxiliary soil and plant substance which has been found to be subject to penalty or other legal action shall be forwarded by the department to the registrant at least ten days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the department, the report shall become official. Upon request the department shall furnish to the registrant a portion of any sample found subject to penalty or other legal action.

SECTION 22. AMENDMENT. Section 19-20.1-17 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-17. Violations - Penalty.

1. If it shall appear from the examination of any commercial fertilizer or soil amendment, auxiliary soil and plant substance that any of the provisions of this chapter or the rules and regulations issued thereunder have been violated, the department shall cause notice of the violations to be given to the registrant, licensee, manufacturer, distributor, or possessor from whom said sample was taken. Any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the department. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this chapter or rules and regulations issued thereunder have been violated, the state laboratories director department may certify the facts to the proper prosecuting attorney.
2. Any person convicted of violating any of the provisions of this chapter or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent said state laboratories director or the state laboratories director's duly authorized agent the department in the performance of their its duty in connection with the provisions of this chapter, shall be guilty of a class A misdemeanor. In all prosecutions under this chapter involving the composition of a lot of commercial fertilizers or soil amendments, auxiliary soil and plant substance, a certified copy of the official analysis signed by the state laboratories director of the consolidated laboratories branch of the department shall be accepted as prima facie evidence of the composition.
3. Nothing in this chapter shall be construed as requiring the state laboratories director or the director's representative department to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when the director believes that the public interests will be best served by a suitable notice of warning in writing.
4. It shall be the duty of each state's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.
5. The department is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

SECTION 23. AMENDMENT. Subsection 3 of section 19-21-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. "Department" means the state laboratories department state department of health and consolidated laboratories.

SECTION 24. AMENDMENT. Section 23-01-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-01-01. State department of health and consolidated laboratories - Officers. The state department of health and consolidated laboratories shall consist of a health council, a state health officer, a laboratories branch director, section chiefs, directors of divisions and other employees of the department.

SECTION 25. AMENDMENT. Section 23-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-01-07. Working divisions Structure of department. The state department of health may establish the following divisions of health: and consolidated laboratory services shall contain a consolidated laboratories branch and a health services branch.

- 1- Division of vital statistics-
- 2- Division of preventable disease-
- 3- Division of sanitary engineering-
- 4- Division of public health laboratories with such laboratories and branches thereof at such places as the health council may deem necessary-
- 5- Division of maternal and child hygiene-
- 6- Division of public health nursing-
- 7- Division of administration-
- 8- Division of health education-
- 9- Division of oral health-
- 10- Such other divisions as may be deemed necessary from time to time by the council-

SECTION 26. AMENDMENT. Section 23-01-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-01-09. Duties of director of public health consolidated laboratories division branch. The director of the division of public health consolidated laboratories branch of the state department of health and consolidated laboratories shall include:

1. Make bacteriological examination of bodily secretions and excretions and of waters and foods.
2. Make preparations and examinations of pathological tissues submitted by the state health officer, by any county superintendent of public health, or by any physician who has been regularly licensed to practice in this state.
3. Make all analyses and preparations which he is required to make, and furnish the results thereof, as expeditiously and promptly as possible.
4. Cause sanitary statistics to be collected and tabulated, and cause to be ascertained by research work such methods as will lead to the improvement of the sanitation of the various parts of the state.
5. From time to time, cause to be issued bulletins and reports setting forth the results of the sanitary and pathological work done in the laboratories embodying all useful and important information resulting from the work carried on in the laboratories during the year, the substance of such bulletins and reports to be incorporated in the annual report of the state health officer.
6. Be empowered to establish by regulation a schedule of reasonable fees which it may charge for laboratory analysis. No charge shall, however, be made for any analysis conducted in connection with any public health incident affecting an entire region, community, or neighborhood.

* SECTION 27. AMENDMENT. Section 23-09-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-09-01. Definitions. In this chapter, unless the context or subject matter otherwise requires:

- 1- "Hotel" or "motel" includes every building or structure, or any part thereof, kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public for periods of less than one week, whether such accommodations are furnished with or without meals,
- 2- "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith, kept, used, maintained, advertised, or held out to the public as a place where meals or lunches are served, but where sleeping accommodations are not furnished,
- 3- "Lodginghouse" includes every building or structure, or any part thereof, with accommodations for four or more

* NOTE: Section 23-09-01 was also amended by section 1 of Senate Bill No. 2553, chapter 299.

persons; which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished to regular roomers for one week or more.

4. "Boardinghouse" includes every building or structure, or any part thereof, with accommodations for four or more boarders, which is kept, used, maintained, advertised, or held out to the public as a place where food is furnished to regular boarders for periods of one week or more.
1. "Boardinghouse" includes every building or structure, or any part thereof, with accommodations for four or more boarders, which is kept, used, maintained, advertised, or held out to the public as a place where food is furnished to regular boarders for periods of one week or more.
2. "Department" means the state department of health and consolidated laboratories.
3. "Hotel" or "motel" includes every building or structure, or any part thereof, kept, used, maintained, advertised, or held out to the public as a place where sleeping accommodations are furnished to the public for periods of less than one week, whether such accommodations are furnished with or without meals.
4. "Lodginghouse" includes every building or structure, or any part thereof, with accommodations for four or more persons, which is kept, used, maintained, or held out to the public as a place where sleeping accommodations are furnished to regular roomers for one week or more.
5. "Proprietor" includes the person in charge of a restaurant, hotel, boardinghouse, or lodginghouse, as the case may be, whether as owner, lessee, manager, or agent.
6. "Restaurant" includes every building or other structure, or any part thereof, and all buildings in connection therewith, kept, used, maintained, advertised, or held out to the public as a place where meals or lunches are served, but where sleeping accommodations are not furnished.

* SECTION 28. AMENDMENT. Section 43-43-01 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

43-43-01. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "Advisory board" means the following or their appointed agents: secretary of state as chairperson, the director of the state laboratories department consolidated laboratories branch of the department of health and

* NOTE: Section 43-43-01 was also amended by section 1 of Senate Bill No. 2459, chapter 535.

consolidated laboratories, the state health officer, and the president of the North Dakota environmental health association. The secretary of state shall appoint one agent of a district or local health unit and one consumer.

2. "Environmental health practitioner" means a person who, by environmental health science education and experience, is qualified and licensed under this chapter to practice environmental health.
3. "Practice of environmental health" means any service or work, such as consultation, investigation, evaluation, surveys, and inspections in the environmental program areas of food, beverage, housing, and lodging sanitation.

SECTION 29. AMENDMENT. Section 61-28.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-28.1-07. Certification of laboratories. No laboratory analysis of water taken from a public water system or any report of such analysis required by this chapter or any ~~regulation rule~~ adopted pursuant to this chapter shall be accepted by the department unless such analysis or report shall be made by the ~~division of public health laboratories of the~~ department or by any other laboratory certified by the department for such purposes. The department shall provide for the certification of any laboratory, for the purposes of this section, which meets such criteria as the department may establish to ensure the accuracy of laboratory analyses.

SECTION 30. REPEAL. Sections 19-01-06 and 19-01-08 of the North Dakota Century Code and sections 19-01-03 and 19-01-04 of the 1985 Supplement to the North Dakota Century Code are hereby repealed.

Approved March 27, 1987
Filed March 30, 1987

CHAPTER 264

SENATE BILL NO. 2143
(Committee on Judiciary)
(At the request of the Controlled Substances Board)

CONTROLLED SUBSTANCES SCHEDULES

AN ACT to amend and reenact sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, and 19-03.1-13 of the North Dakota Century Code, relating to controlled substances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-05 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-05. Schedule I.

1. The controlled substances listed in this section are included in schedule I.
2. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation: Schedule I consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:
 - a. Acetyl-Alpha-Methylfentanyl (N-(1-(1-methyl-2-phenethyl)-4-piperidiny)-N-phenylacetamide).
 - ~~a-~~ b. Acetylmethadol.
 - ~~b-~~ c. Allylprodine.

- e- d. Alphacetylmethadol.
- d- e. Alphameprodine.
- e- f. Alphamethadol.
- f- g. Alpha-methylfentanyl (N-(1-(alpha-menthyl-beta-phenyl)ethyl-4-piperidyl) propionamide, 1-(1-methyl-2-phenylethyl)-4-(N-propanilide) piperidine) (N-(1-methyl-2-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide).
- h. Alpha-Methylthiofentanyl.
- i. Benzylfentanyl.
- g- j. Benzethidine.
- h- k. Betacetylmethadol.
- l. Beta-hydroxyfentanyl (N-(1-(2-hydroxy-2-phenethyl)-4-piperidinyl)-N-phenylpropanamide).
- m. Beta-hydroxy 3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide).
- i- n. Betameprodine.
- j- o. Betamethadol.
- h- p. Betaprodine.
- i- q. Clonitazene.
- m- r. Dextromoramide.
- n- s. Diampromide.
- e- t. Diethylthiambutene.
- p- u. Difenoxin.
- g- v. Dimenoxadol.
- f- w. Dimepheptanol.
- s- x. Dimethylthiambutene.
- t- y. Dioxaphetyl butyrate.
- u- z. Dipipanone.
- v- aa. Ethylmethylthiambutene.

- w- bb. Etonitazene.
x- cc. Etoxeridine.
y- dd. Furethidine.
z- ee. Hydroxypethidine.
aa- ff. Ketobemidone.
bb- gg. Levomoramide.
ee- hh. Levophenacymorphan.
dd- ii. Morpheridine.
ee- jj. Noracymethadol.
ff- kk. Norlevorphanol.
gg- ll. Normethadone.
hh- mm. Norpipanone.
nn. 1-Methyl-4-Phenyl-4-Propionoxypiperdine. (MPPP).
oo. 1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine. (PEPAP).
pp. Para-fuorofentanyl.
ii- qq. Phenadoxone.
jj- rr. Phenampromide.
kk- ss. Phenomorphan.
ii- tt. Phenoperidine.
mm- uu. Piritramide.
nn- Propheptazine
vv. Proheptazine.
ee- ww. Properidine.
pp- xx. Propiram.
gg- yy. Racemoramide.
rr- zz. Tilidine.

- aaa. 3-methylthiofentanyl (N-(1-(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl)-N-phenylpropanamide)
- bbb. Thenylfentanyl.
- ccc. Thiofentanyl (N-phenyl-N-(1-(2-thienyl)ethyl-4-piperidinyl)-propanamide).
- ss- ddd. Trimeperidine.
- 3- Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation
4. Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Acetorphine.
 - b. Acetyldihydrocodeine.
 - c. Benzylmorphine.
 - d. Codeine methylbromide.
 - e. Codeine-N-Oxide.
 - f. Cyprenorphine.
 - g. Desomorphine.
 - h. Dihydromorphine.
 - i. Drotebanol.
 - j. Etorphine (except hydrochloride salt).
 - k. Heroin.
 - l. Hydromorphinol.
 - m. Methyldesorphine.
 - n. Methyldihydromorphine.
 - o. Morphine methylbromide.
 - p. Morphine methylsulfonate.

- q. Morphine-N-Oxide.
- r. Myrophine.
- s. Nicocodeine.
- t. Nicomorphine.
- u. Normorphine.
- v. Pholcodine.
- w. Thebacon.
4. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted; whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation
5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical position and geometric isomers):
- a. 4-bromo-2, 5-dimethoxyamphetamine
dimethoxy-amphetamine. (Some trade or other names:
4-bromo-2, 5-dimethoxy-a-methylphenethylamine; 4-
bromo-2, 5-DMA.)
- b. 2, 5-dimethoxyamphetamine dimethoxy-amphetamine.
(Some trade or other names: 2,5-dimethoxy-a-
methylphenethylamine; 2, 5-DMA.)
- c. 4-methoxyamphetamine. (Some trade or other names: 4-
methoxy-a-methylphenethylamine;
paramethoxyamphetamine; PMA.)
- d. 5-methoxy-3, 4-methylenedioxyamphetamine
methylenedioxy-amphetamine.
- e. 4-methyl-2, 5-dimethoxyamphetamine. (Some trade and
other names: 4-methyl-2, 5-dimethoxy-a-
methylphenethylamine dimethoxy-a-methylphenethyl-
amine; "DOM"; and "STP".)
- f. 3, 4-methylenedioxy amphetamine.

- g. 3, 4, 5-trimethoxy amphetamine.
- h. Bufotenine. (Some trade and other names: 3-(~~B-Dimethylaminoethyl~~ 3-B Beta Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine.)
- i. Diethyltryptamine. (Some trade and other names: N,N-Diethyltryptamine; DET.)
- j. Dimethyltryptamine. (Some trade and other names: DMT.)
- k- Ethyl amine analog of phenylethylidene- (Some trade or other names- N-ethyl-1-phenylethylhexylamine; (1-phenylethylhexyl) ethylamine; N-(1-phenylethylhexyl) ethylamine; ethylhexamine; PEE-)
- l- Hashish-
- m- k. Ibogaine. (Some trade and other names: 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6,9-methano-5 H-pyrido (1, 2,: 1,2) azepino (5,4-b) indole; Tabernanthe iboga.)
- n- l. Lysergic acid diethylamide.
- o- Marijuana
- m. Marihuana.
- p- n. Mescaline.
- q- o. Parahexyl-7374; (Some trade or other names 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl.)
- r- p. Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts.
- s- q. N-ethyl-3-piperidyl benzilate.
- t- r. N-methyl-3-piperidyl benzilate.
- u- s. Psilocybin.
- v- t. Psilocyn.

w- u. Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- (1) cis or trans tetrahydrocannabinol, and their optical isomers.
- (2) cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.) 5 cis or trans tetrahydrocannabinol, and their optical isomers.
- (3) 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- (4) Ethylamine analog of phencyclidine. Some trade or other names N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.
- (5) Pyrrolidine analog of phencyclidine. Some trade or other names 1-(1-phenylcyclohexyl)-pyrrolidine, PCy, PHP.
- m- (6) Thiophene Analog of Phencyclidine. (Some trade or other names: (1-(1-(2-thienyl) cyclohexyl) piperidine; 2-Thienyl Analog of Phencyclidine; TPCP, TCP.)

v. 3, 4-Methylenedioxymethamphetamine. (MDMA)

5- 6. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

a. Mecloqualone.

- b. Methaqualone.
- 6- 7. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
- a. Fenethylline.
 - b. N-ethylamphetamine.

SECTION 2. AMENDMENT. Section 19-03.1-07 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-07. Schedule II.

1. The controlled substances listed in this section are included in schedule II.
2. Any of the following substances, except these narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis. Schedule II consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
 - a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, ~~naltrexone and its salts~~, and excluding ~~naltrexone and its salts~~, but including the following nalmefene, naloxone, and naltrexone and their respective salts, but including the following:
 - (1) Raw opium.
 - (2) Opium extracts.
 - (3) Opium fluid extracts.
 - (4) Powdered opium.

- (5) Granulated opium.
 - (6) Tincture of opium.
 - (7) Codeine.
 - (8) Ethylmorphine.
 - (9) Etorphine ~~Hydrochloride~~ hydrochloride.
 - (10) Hydrocodone.
 - (11) Hydromorphone.
 - (12) Metopon.
 - (13) Morphine.
 - (14) Oxycodone.
 - (15) Oxymorphone.
 - (16) Thebaine.
- b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
 - c. Opium poppy and poppy straw.
 - d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.
 - e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy).
- 3- 4. Opiates. Unless specifically excepted or unless in another schedule, any of the following opiates, including ~~their~~ its isomers, esters, ethers, salts, and salts of isomers, esters and ethers whenever the existence of these such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
- a. Alfentanil.

- b. Alphaprodine.
- b- c. Anileridine.
- e- d. Bezitramide.
- d- e. Bulk dextropropoxyphene (nondosage forms).
- e- f. Dihydrocodeine.
- f- g. Diphenoxylate.
- g- h. Fentanyl.
- k- i. Isomethadone.
- i- j. Levomethorphan.
- j- k. Levorphanol.
- k- l. Metazocine.
- i- m. Methadone.
- m- n. Methadone - ~~intermediate~~ Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
- m- o. Moramide - ~~intermediate~~ Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-~~propane~~ diphenylpropane-carboxylic acid.
- e- p. Pethidine (meperidine).
- p- q. Pethidine - ~~intermediate~~ Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
- q- r. Pethidine - ~~intermediate~~ Intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate.
- r- s. Pethidine - ~~intermediate~~ Intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
- s- t. Phenazocine.
- t- u. Priminodine.
- u- v. Racemethorphan.
- v- w. Racemorphan.
- w- x. Sufentanil.
- 4- Any material, compound, mixture, or preparation which contains any quantity of the following substances having a

potential for abuse associated with a stimulant effect on the central nervous system

5. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
- a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
 - b. Methamphetamine, including its salts, isomers, and salts of isomers.
 - c. Phenmetrazine and its salts.
 - d. Methylphenidate.
- ~~5-~~ 6. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Amobarbital.
 - b. Pentobarbital.
 - c. Phencyclidine.
 - d. Secobarbital.
- ~~6-~~ 7. Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:
- a. Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Some trade or other names: phenyl-2-propanone; P2P, benzyl methyl ketone; methyl benzyl ketone.
 - b. Immediate precursors to phencyclidine (PCP):
 - (1) 1-phenylcyclohexylamine.
 - (2) 1-piperidinocyclohexanecarbonitrile (PCC).
8. Hallucinogenic substances.

- a. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo [b, d] pyran-1-01, or (-)-delta-9-(trans)-tetrahydrocannabinol) (THC).

SECTION 3. AMENDMENT. Section 19-03.1-09 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-09. Schedule III.

1. The controlled substances listed in this section are included in schedule III.
2. Schedule III consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II and any other drug of the quantitative composition shown in that schedule for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
 - b. Benzphetamine.
 - c. Chlorphentermine.
 - d. Clortermine.
 - e. Phendimetrazine.
- 3- 4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:
 - a. Any compound, mixture, or preparation containing:

- (1) Amobarbital;
- (2) Secobarbital;
- (3) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

b. Any suppository dosage form containing:

- (1) Amobarbital;
- (2) Secobarbital;
- (3) Pentobarbital;

or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

c. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules thereof.

- d. Chlorhexadol.
- e. Glutethimide.
- f. Lysergic acid.
- g. Lysergic acid amide.
- h. Methyprylon.
- i. Sulfondiethylmethane.
- j. Sulfonethylmethane.
- k. Sulfonmethane.

~~4-~~ 5. Nalorphine.

~~5-~~ 6. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- a. Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage

- unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
- b. Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - c. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
 - d. Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - e. Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - f. Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.
 - g. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - h. Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
- 6- 7. The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 2 3 and 3 4 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 4. AMENDMENT. Section 19-03.1-11 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-11. Schedule IV.

1. The controlled substances listed in this section are included in schedule IV.
2. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system. Schedule IV consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.
3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - a. Not more than 1 milligram of difenoxin (DEA drug code No. 9168) and not less than 25 micrograms of atropine sulfate per dosage unit.
 - b. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxy-butane.
4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Alprazolam.
 - b. Barbital.
 - c. Bromazepam.
 - d. Camazepam.
 - e- e. Chloral betaine.
 - d- f. Chloral hydrate.
 - e- g. Chlordiazepoxide, but not including Librax (chlordiazepoxide hydrochloride and cimetidine

bromide) or Menrium (chloridiazepoxide and water soluble esterified estrogens).

- h. Clobazam.
- ~~f~~- i. Clonazepam.
- ~~g~~- j. Clorazepate.
- k. Clotiazepam.
- l. Cloxazolam.
- m. Delorazepam.
- ~~h~~- n. Diazepam.
- o. Estazolam.
- ~~i~~- p. Ethchlorvynol.
- ~~j~~- q. Ethinamate.
- r. Ethyl Loflazepate.
- s. Ethylloflazepale.
- t. Fludiazepam.
- u. Flunitrazepam.
- ~~k~~- v. Flurazepam.
- ~~l~~- w. Halazepam.
- x. Haloxazolam.
- y. Ketazolam.
- z. Loprazolam.
- ~~m~~- aa. Lorazepam.
- bb. Lormetazepam.
- ~~n~~- cc. Mebutamate.
- dd. Medazepam.
- ~~e~~- ee. Meprobamate.
- ~~p~~- ff. Methohexital.
- ~~q~~- gg. Methylphenobarbital (mephobarbital).

- hh. Midazolam.
- ii. Nimetazepam.
- jj. Nitrazepam.
- kk. Nordiazepam.
- l. ll. Oxazepam.
- mm. Oxazolam.
- n. nn. Paraldehyde.
- o. oo. Petrichloral.
- p. pp. Phenobarbital.
- q. qq. Pinazepam.
- r. rr. Prazepam.
- s. ss. Quazepam.
- t. tt. Temazepam.
- u. uu. Tetrazepam.
- v. vv. Triazolam.
- 3- 5. Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.
- 4- 6. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Diethylpropion.
 - b. Mazindol.
 - c. Phentermine

- d- Pemoline (including organometallic complexes and chelates thereof).
 - d. Phentermine.
 - e. Pipradrol.
 - f. SPA ((-)-1-dimethylamino-1, 2-diphenylethane).
- 5- 7. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of pentazocine, including its salts.
- 6- Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any of their salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below. Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
- a- Not more than 2 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
 - b- Dextropropoxyphene (α -(+)-4-dimethylamino-1-2-diphenyl-3-methyl-2-propionoxybutane).
- 7- 8. The board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 5. AMENDMENT. Section 19-03.1-13 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-13. Schedule V.

1. The controlled substances listed in this section are included in schedule V.
2. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the

compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone. Schedule V consists of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing Buprenorphine or its salts.
4. Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which includes one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone.
 - a. Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
 - b. Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
 - c. Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
 - d. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - f. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
- 3- Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:
 - a- Buprenorphine-
 - b- Reserved-

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 265

HOUSE BILL NO. 1226
(Committee on Judiciary)
(At the request of the Attorney General)

**FIREARMS POSSESSION UNDER CONDITIONAL
DISCHARGE**

AN ACT to amend and reenact sections 19-03.1-30 and 62.1-02-01 of the North Dakota Century Code, relating to possession of firearms by a person granted a conditional discharge and defining those persons who are convicted of an offense; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-30 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-30. Conditional discharge for possession as first offense. Whenever any person who has not previously been convicted of any offense under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under subsection 3 of section 19-03.1-23, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place the person on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the extended sentence which may be imposed under section 12.1-32-09, except those disqualifications or disabilities pertaining to the possession of firearms imposed by section 62.1-02-01. There may be only one discharge and dismissal under this section with respect to any person.

SECTION 2. AMENDMENT. Section 62.1-02-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

62.1-02-01. Who not to possess firearms - Penalty.

1. A person who has been convicted anywhere for a felony involving violence or intimidation, as defined in chapters 12.1-16 through 12.1-25, is prohibited from owning a firearm or having one in possession or under control for a period of ten years from the date of conviction or release from incarceration or probation, whichever is the latter.
2. A person who has been convicted of any felony not provided for in subsection 1 or has been convicted of a class A misdemeanor involving violence or intimidation and that crime was committed while using or possessing a firearm or dangerous weapon, as defined in chapters 12.1-16 through 12.1-25, is prohibited from owning a firearm or having one in possession or under control for a period of five years from the date of conviction or release from incarceration or probation, whichever is the latter.
3. A person who is or has ever been diagnosed and confined or committed to a hospital or other institution in North Dakota or elsewhere by a court of competent jurisdiction, as a mentally ill person as defined in section 25-03.1-02, or as a mentally deficient person as defined in section 25-01-01, is prohibited from purchasing a firearm or having one in possession or under control. This limitation does not apply to a person who has not suffered from the disability for the previous three years.
4. A person under the age of eighteen years may not possess a handgun except that such a person may, while under the direct supervision of an adult, possess a handgun for the purposes of firearm safety training, target shooting, or hunting.

A person who violates subsection 1 or 2 is guilty of a class C felony, and a person who violates subsection 3 or 4 is guilty of a class A misdemeanor. For the purposes of this section, "conviction" means determination by a jury or court that a person committed one of the above-mentioned crimes even though the court suspended or deferred imposition of sentence in accordance with sections 12-53-13 through 12-53-19 ~~or~~, placed the defendant on probation, granted a conditional discharge in accordance with section 19-03.1-30, or the defendant's conviction has been reduced in accordance with subsection 9 of section 12.1-32-02.

SECTION 3. EMERGENCY. This Act is declared to be an emergency measure and is in effect upon its filing with the secretary of state or on a date specified in this Act.

Approved March 12, 1987
Filed March 16, 1987

CHAPTER 266

SENATE BILL NO. 2090
(Thane)CONTROLLED SUBSTANCES VIOLATION
FORFEITURES

AN ACT to amend and reenact subsection 5 of section 19-03.1-36 and sections 54-12-14 and 54-12-16 of the North Dakota Century Code, relating to property forfeited for violation of controlled substances laws and powers of drug enforcement unit personnel.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 5 of section 19-03.1-36 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. A district court shall order a seized conveyance to be forfeited upon conviction of the person arrested, upon a guilty plea, or upon the failure of a law enforcement agency to locate and arrest after one month the person who used the conveyance subject to forfeiture. When property is forfeited under this chapter the board or a law enforcement agency may:
 - a. Retain it for official use or transfer the custody or ownership of any forfeited property to any federal, state, or local agency. The board shall ensure the equitable transfer of any forfeited property to the appropriate federal, state, or local law enforcement agency so as to reflect generally the contribution of that agency participating directly in any of the acts that led to the seizure or forfeiture of the property. A decision to transfer the property is not subject to review.
 - b. Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs, with any remaining

proceeds to be deposited, subject to section 54-12-14, in the appropriate state, county, or city general fund. When two or more law enforcement agencies are involved in seizing a conveyance, the remaining proceeds may be divided proportionately.

- c. Require the attorney general to take custody of property and remove it for disposition in accordance with law.
- d. Forward it to the bureau for disposition.

SECTION 2. AMENDMENT. Section 54-12-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-14. Drug control cash Assets forfeiture fund - Created - Purpose. There is hereby created from the attorney general's appropriation a cash fund to be known as the attorney general drug control cash assets forfeiture fund in such amount as may be appropriated by the legislative assembly, which shall be used for the purpose of obtaining evidence for enforcement of any state law relating to the control of drug abuse. The fund consists of funds appropriated by the legislative assembly and additional funds obtained from moneys, assets, and proceeds seized and forfeited pursuant to section 19-03.1-36 and amounts remaining from the forfeiture of property after the payment of expenses for forfeiture and sale authorized by law. The total aggregate amount in the fund may not exceed five hundred thousand dollars and at the end of each fiscal year any moneys in excess of that amount shall be deposited in the general fund. Subject to legislative appropriation, the funds must be made available to the attorney general for the following purposes:

1. For obtaining evidence for enforcement of any state criminal law or law relating to the control of drug abuse.
2. For paying, at the discretion of the attorney general, awards for information or assistance leading to a forfeiture under section 19-03.1-36.
3. For paying, at the discretion of the attorney general, any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property seized, detained, or forfeited pursuant to section 19-03.1-36, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property.
4. For equipping for law enforcement functions forfeited vessels, vehicles, and aircraft retained as provided by law for official use by the state controlled substances board or a law enforcement agency.

The attorney general shall, with the concurrence of the director of the office of management and budget, establish the necessary

accounting procedures for the use of such fund, and shall personally approve, in writing, all requests from the chief of the bureau of criminal investigation or the director of the drug enforcement unit for the use of said fund and shall be accountable to the legislative council, upon request, for the expenditure thereof.

SECTION 3. AMENDMENT. Section 54-12-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-16. Powers of drug enforcement unit personnel. For purposes of carrying out the provisions of section 54-12-15, and such other duties in the investigation, detection, apprehension, prosecution, or suppression of crime as may be assigned by the attorney general, any officer of the drug enforcement unit designated by the attorney general shall have all the powers conferred by law upon any peace officer of this state.

Approved April 1, 1987
Filed April 2, 1987

CHAPTER 267

HOUSE BILL NO. 1685

(Dorso, A. Olson)

(Approved by the Committee on Delayed Bills)

ALCOHOL-BLENDED GASOLINE DISCLOSURE

AN ACT to amend and reenact section 19-10-03.1 of the North Dakota Century Code, relating to disclosure of contents of certain gasoline.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-10-03.1 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-10-03.1. Retail sale of alcohol-blended gasoline - Notice required. No dealer may sell at retail alcohol-blended gasoline unless the dispensing unit ~~bears the word "contains"~~ and any price advertising bear the name of the alcohol blended with the gasoline, if the alcohol-blended gasoline consists of one percent or more by volume of any alcohol. The disclosure must be in letters at least the same size as those used for the label of the basic grade of gasoline and must be next to the gasoline grade label.

Approved April 17, 1987

Filed April 20, 1987

CHAPTER 268

SENATE BILL NO. 2206
(Committee on Agriculture)
(At the request of the State Laboratories Department)

FEED LABELING — ANTIFREEZE REGISTRATION

AN ACT to amend and reenact sections 19-13.1-04 and 19-16.1-03 of the North Dakota Century Code, relating to the labeling of commercial feed and registration of antifreeze.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-13.1-04 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-04. Labeling. Any commercial feed distributed in this state shall be accompanied by a legible label bearing the following information:

1. The net weight.
2. The product name and brand name, if any, under which the commercial feed is distributed.
3. The guaranteed analysis of the commercial feed, listing the minimum percentage of crude protein, minimum percentage of crude fat, and maximum percentage of crude fiber; additional guarantees required to be or intentionally shown, shall appear only in the guaranteed analysis section of the label after the guarantee for maximum crude fiber. For all mineral feeds and for those commercial feeds containing a level of added mineral ingredients established by regulation, the list shall include the following, if added: minimum and maximum percentages of calcium (Ca), minimum percentage of phosphorus (P), minimum percentage of iodine (I), and minimum and maximum percentages of sodium (Na); and minimum and maximum percentage of chloride (Cl) salt (NaCl). Other substances or elements, determinable by laboratory methods, may be guaranteed by permission of the department. When any items are guaranteed, they shall be subject to inspection and analysis in accordance with the

methods and regulations that may be prescribed by the department. The department may by regulation designate certain commercial feeds which need not be labeled to show guarantees for crude protein, crude fat, and crude fiber.

4. The common or usual name of each ingredient used in the manufacture of the commercial feed, except as the department may, by regulation, permit the use of a collective term for a group of ingredients all of which perform the same function. An ingredient statement is not required for single standardized ingredient feeds which are officially defined.
5. The name and principal address of the person responsible for distributing the commercial feed.

SECTION 2. AMENDMENT. Section 19-16.1-03 of the 1985 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-16.1-03. Registration. Before any antifreeze may be distributed in this state, the manufacturer or person whose name appears on the label shall make application to the department on forms provided by the latter for registration for each antifreeze which the manufacturer or person whose name appears on the label desires to distribute. All registrations expire on June thirtieth of each year. The application for registration shall be accompanied by specimens or facsimiles of its labeling, an inspection fee of forty dollars for each product, and by a properly labeled sample of the antifreeze label or other printed matter describing the product. The department shall inspect, test, or analyze the antifreeze and review the label. If the antifreeze and labeling is not adulterated or misbranded, the department shall issue a certificate of registration, authorizing the distribution of such antifreeze in this state for one year ending June thirtieth. If the antifreeze or label is not in conformity with the law, the department shall refuse to register the antifreeze and shall return the application to the applicant, stating the reasons therefor. Upon approval by the department, a copy of the registration must be furnished to the applicant. The department shall remit inspection fees received by the department to the state treasurer for deposit in the state general fund. A penalty of fifty percent of the registration fee shall be imposed if the certificate of registration is not applied for on or before July first of each year, or within the same month such antifreeze is first manufactured or sold within this state.

Approved March 12, 1987
Filed March 16, 1987