

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2204
(Senators Nichols, Erbele, Tomac)
(Representatives Boehm, Nelson, Rennerfeldt)

AN ACT to create and enact a new section to chapter 4-09 of the North Dakota Century Code, relating to the establishment of a seed classification system; to amend and reenact section 4-09-13 and subsection 1 of section 4-09-14 of the North Dakota Century Code, relating to noxious weed seeds; and to provide an expiration date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. 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, and subsequent amendments ~~thereto~~ as of July 1, 2001, 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 2. A new section to chapter 4-09 of the North Dakota Century Code is created and enacted as follows:

Seed classification system - Weed tolerances. The seed commission shall establish a seed classification system for annual crops and perennial crops which references tolerances for each restricted noxious weed species.

SECTION 3. AMENDMENT. Subsection 1 of section 4-09-14 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

1. It is unlawful for any person to sell, offer for sale, expose for sale, transport for sale, or hold or store with the intent to sell, any agricultural, vegetable, flower, or tree and shrub seed within this state if:
 - a. The test to determine the percentage of germination required under sections 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2 has not been completed within a nine-month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale, or transportation, provided that seeds contained in a hermetically sealed container, as defined by regulation issued by the seed commissioner, may be sold, transported for sale, or held for sale unless the test provided in this subdivision has not been completed within a thirty-six-month period, exclusive of the calendar month in which the test was completed, immediately prior to the sale, offering for sale, or transportation for sale;
 - b. ~~Such~~ The seed is not labeled in accordance with the provisions of this chapter or bears false or misleading labeling;
 - c. There has been false or misleading advertising in connection with ~~such~~ the seed;
 - d. ~~Such~~ The seed contains prohibited noxious weed seeds;

- e. With regard to agricultural or vegetable seed, ~~such~~ the seed is not labeled to show the rate of occurrence of restricted noxious weed seeds, as required under sections 4-09-10 and 4-09-11;
- f. ~~Such~~ The seed is designated, offered, represented, or advertised under any name or identification other than that by which it was known originally;
- g. ~~Such~~ The seed contains restricted noxious weed seeds in excess of ~~ninety~~ twenty-five seeds per pound [453.59 grams]; or
- h. The percentage by weight of all weed seeds in the seed exceeds one percent.

Any person, under rules ~~and regulations to be made therefor~~ adopted by the commissioner, may submit to the commissioner a sample of any seed which the person claims to be a new variety, distinct from any commonly known variety of ~~such~~ the seed, together with a proposed, distinctive name ~~therefor~~. The commissioner, within one year, shall make ~~such~~ any tests ~~as~~ the commissioner considers necessary, and if the commissioner finds ~~as~~ a result of ~~such~~ the tests that ~~such~~ the seed or plant is of a new variety, distinct from any known variety of ~~such~~ the seed ~~known theretofore~~ and that the proposed name ~~proposed therefor~~ will properly distinguish ~~said~~ the seed from any and all other varieties ~~thereof~~, the commissioner shall issue to the ~~person applying therefor~~ applicant a permit to designate ~~such~~ the seed by ~~said~~ the proposed name. The purchaser, vendor, or any person receiving any seed shipped into this state from without the state, shall have the same labeled in accordance with ~~and in conformity to the requirements of~~ this chapter. Certain standardized grades and labeling of seed in use elsewhere may be permitted by the commissioner in connection with shipments of seed into this state from points outside ~~thereof~~ this state in lieu of the labeling provided for in this chapter.

SECTION 4. EXPIRATION DATE. This Act is effective through July 31, 2003, and after that date is ineffective.

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 Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2204.

Senate Vote: Yeas 46 Nays 0 Absent 3

House Vote: Yeas 95 Nays 3 Absent 0

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State