

**FIRST ENGROSSMENT  
with House Amendments**

**ENGROSSED SENATE BILL NO. 2204**

Introduced by

Senators Nichols, Erbele, Tomac

Representatives Boehm, Nelson, Rennerfeldt

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

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

6 **SECTION 1. AMENDMENT.** Section 4-09-13 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **4-09-13. Tolerances.** The tolerances used in determining correctness and accuracy in  
9 labeling seed as described in this chapter must be those tolerances used under the Federal  
10 Seed Act of August 9, 1939, and subsequent amendments ~~thereto~~ as of July 1, 2001, except  
11 that the tolerance for yellow starthistle must be zero and the commissioner may, by rule,  
12 establish tolerances that are more strict than the Federal Seed Act tolerances.

13 **SECTION 2.** A new section to chapter 4-09 of the North Dakota Century Code is  
14 created and enacted as follows:

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

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

20 1. It is unlawful for any person to sell, offer for sale, expose for sale, transport for  
21 sale, or hold or store with the intent to sell, any agricultural, vegetable, flower, or  
22 tree and shrub seed within this state if:

23 a. The test to determine the percentage of germination required under sections  
24 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2 has not been completed within a

1 nine-month period, exclusive of the calendar month in which the test was  
2 completed, immediately prior to the sale, offering for sale, or transportation,  
3 provided that seeds contained in a hermetically sealed container, as defined  
4 by regulation issued by the seed commissioner, may be sold, transported for  
5 sale, or held for sale unless the test provided in this subdivision has not been  
6 completed within a thirty-six-month period, exclusive of the calendar month in  
7 which the test was completed, immediately prior to the sale, offering for sale,  
8 or transportation for sale;

- 9 b. ~~Such~~ The seed is not labeled in accordance with the provisions of this  
10 chapter or bears false or misleading labeling;
- 11 c. There has been false or misleading advertising in connection with ~~such~~ the  
12 seed;
- 13 d. ~~Such~~ The seed contains prohibited noxious weed seeds;
- 14 e. With regard to agricultural or vegetable seed, ~~such~~ the seed is not labeled to  
15 show the rate of occurrence of restricted noxious weed seeds, as required  
16 under sections 4-09-10 and 4-09-11;
- 17 f. ~~Such~~ The seed is designated, offered, represented, or advertised under any  
18 name or identification other than that by which it was known originally;
- 19 g. ~~Such~~ The seed contains restricted noxious weed seeds in excess of ~~ninety~~  
20 twenty-five seeds per pound [453.59 grams]; or
- 21 h. The percentage by weight of all weed seeds in the seed exceeds one  
22 percent.

23 Any person, under rules ~~and regulations to be made therefor~~ adopted by the  
24 commissioner, may submit to the commissioner a sample of any seed which the  
25 person claims to be a new variety, distinct from any commonly known variety of  
26 ~~such~~ the seed, together with a proposed, distinctive name ~~therefor~~. The  
27 commissioner, within one year, shall make ~~such~~ any tests as the commissioner  
28 considers necessary, and if the commissioner finds as a result of ~~such~~ the tests  
29 that ~~such~~ the seed or plant is of a new variety, distinct from any known variety of  
30 ~~such~~ the seed ~~known theretofore~~ and that the proposed name ~~proposed therefor~~  
31 will properly distinguish ~~said~~ the seed from any and all other varieties ~~thereof~~, the

1            commissioner shall issue to the ~~person applying therefor~~ applicant a permit to  
2            designate ~~such~~ the seed by ~~said~~ the proposed name. The purchaser, vendor, or  
3            any person receiving any seed shipped into this state from without the state, shall  
4            have the same labeled in accordance with ~~and in conformity to the requirements of~~  
5            this chapter. Certain standardized grades and labeling of seed in use elsewhere  
6            may be permitted by the commissioner in connection with shipments of seed into  
7            this state from points outside ~~thereof~~ this state in lieu of the labeling provided for in  
8            this chapter.

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