

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2204

Introduced by

Senators Nichols, Erbele, Tomac

Representatives Boehm, Nelson, Rennerfeldt

1 A BILL for an Act to amend and reenact section 4-09-13 and subsection 1 of section 4-09-14 of
2 the North Dakota Century Code, relating to noxious weed seeds.

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

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

6 **4-09-13. Tolerances.** The tolerances used in determining correctness and accuracy in
7 labeling seed as described in this chapter must be those tolerances used under the Federal
8 Seed Act of August 9, 1939, and subsequent amendments ~~thereto~~ as of July 1, 2001, except
9 that the tolerance for yellow starthistle must be zero and the commissioner may, by rule,
10 establish tolerances that are more strict than the Federal Seed Act tolerances.

11 **SECTION 2. AMENDMENT.** Subsection 1 of section 4-09-14 of the 1999 Supplement
12 to the North Dakota Century Code is amended and reenacted as follows:

- 13 1. It is unlawful for any person to sell, offer for sale, expose for sale, transport for
14 sale, or hold or store with the intent to sell, any agricultural, vegetable, flower, or
15 tree and shrub seed within this state if:
- 16 a. The test to determine the percentage of germination required under sections
17 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2 has not been completed within a
18 nine-month period, exclusive of the calendar month in which the test was
19 completed, immediately prior to the sale, offering for sale, or transportation,
20 provided that seeds contained in a hermetically sealed container, as defined
21 by regulation issued by the seed commissioner, may be sold, transported for
22 sale, or held for sale unless the test provided in this subdivision has not been
23 completed within a thirty-six-month period, exclusive of the calendar month in

1 which the test was completed, immediately prior to the sale, offering for sale,
2 or transportation for sale;

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

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

- 1 this state from points outside ~~thereof~~ this state in lieu of the labeling provided for in
- 2 this chapter.