

**FIRST ENGROSSMENT
with House Amendments**

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2104

Introduced by

Agriculture Committee

(At the request of the State Seed Department)

1 A BILL for an Act to amend and reenact sections 4-09-03, 4-09-13, 4-09-14.4, 4-09-16,
2 4-09-17, 4-09-17.1, and 4-09-18 of the North Dakota Century Code, relating to state seed
3 commission membership and seed labeling.

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

5 **SECTION 1. AMENDMENT.** Section 4-09-03 of the 1999 Supplement to the North
6 Dakota Century Code is amended and reenacted as follows:

7 **4-09-03. State seed commission - Members - Meetings - Appointment and duties**
8 **of commissioner.**

- 9 1. The state seed commission is the governing board of the seed department and
10 shall adopt rules and regulations pursuant to chapter 28-32 to effectuate the
11 purposes of this section.
- 12 2. The state seed commission consists of a representative of the North Dakota crop
13 improvement association, a representative of the North Dakota certified seed
14 potato growers association, a representative of the North Dakota dry edible bean
15 seed growers association, a representative of the North Dakota agricultural
16 association, an elected member of the North Dakota potato council selected by the
17 North Dakota potato council, a representative of the red river valley potato growers
18 association who is a North Dakota resident, a representative of the North Dakota
19 grain dealers association who also operates a state-approved seed conditioning
20 plant selected by the board of directors of the North Dakota grain dealers
21 association, and the agriculture commissioner, or the commissioner's designee,
22 who shall serve as chairman. The associate dean and director of the experiment
23 station, or the director's designee, of the college of agriculture of the North Dakota

1 state university of agriculture and applied science is ~~an advisory, nonvoting a~~
2 voting member of the commission.

3 3. The commission shall meet ~~during the months of November and June of each a~~
4 minimum of two times each calendar year and may hold special meetings at the
5 call of the chairman or by request of any two members of the commission.

6 Members of the commission must be reimbursed for mileage and travel as
7 specified in section 54-06-09 and expenses as specified in section 44-08-04 for
8 attendance at regular and special meetings. A commission member unable to
9 attend a meeting of the commission may be represented by a proxy who has
10 written authorization from such commission member.

11 4. The commission shall appoint a qualified manager of the seed department who
12 must be known as the state seed commissioner. The commission shall fix the
13 salary of the commissioner within legislative appropriation therefor. The
14 commissioner's appointment must be reviewed annually by the commission, and
15 the commissioner is subject to removal for cause. In the event of a vacancy in the
16 office of seed commissioner, the commission may appoint a temporary state seed
17 commissioner to serve until such time as a permanent commissioner is appointed.
18 The state seed commissioner has responsibility for preparing the biennial budget
19 and annual salary schedules which must be approved by the commission prior to
20 submission to the state budget director. The commissioner is directly responsible
21 to the commission and shall make semiannual reports to the commission and such
22 other reports as requested by the commission.

23 **SECTION 2. AMENDMENT.** Section 4-09-13 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **4-09-13. Tolerances.** The tolerances used in determining correctness and accuracy in
26 labeling seed as described in this chapter must be those tolerances used under the Federal
27 Seed Act of August 9, 1939, and subsequent amendments ~~thereto~~ as of July 1, 2001, except if
28 the commissioner, by rule, establishes tolerances that meet or exceed Federal Seed Act
29 tolerances.

30 **SECTION 3. AMENDMENT.** Section 4-09-14.4 of the 1999 Supplement to the North
31 Dakota Century Code is amended and reenacted as follows:

1 **4-09-14.4. Permit.** The commissioner is authorized at the commissioner's discretion,
2 under such rules as may be promulgated, to issue a permit to any person to label agricultural,
3 vegetable, flower, and tree and shrub seeds in North Dakota. The person shall apply to the
4 commissioner for a permit and shall furnish the seed department with ~~periodic statements~~ an
5 annual statement of all seeds sold in North Dakota when requested by the seed commissioner.
6 ~~Each statement must be itemized to show the number of each class of containers referred to in~~
7 ~~section 4-09-14.3.~~ Statements that must be furnished for each reporting period, must be
8 delivered to the commissioner not later than thirty-one days after the end of each reporting
9 period, and must be accompanied by the appropriate fee. A penalty fee of ten dollars, or five
10 percent of the total amount due, whichever is greater, will be assessed for reports that are not
11 postmarked within thirty-one days after the end of the reporting period. Any person to whom a
12 permit is granted shall show such information in connection therewith as the commissioner may
13 require as part of the label on all seed sold. The commissioner or the commissioner's
14 authorized agent has the right at all reasonable times to examine the records of any
15 permitholder to verify the correctness of its statements. ~~The commissioner, when requested,~~
16 ~~may grant a farmer who grows his own seed and sells only his own seed, the right to report~~
17 ~~annually.~~

18 **SECTION 4. AMENDMENT.** Section 4-09-16 of the 1999 Supplement to the North
19 Dakota Century Code is amended and reenacted as follows:

20 **4-09-16. Certified seed.** The commissioner shall:

- 21 1. Establish a seed certification system for this state and adopt rules governing
22 application for service, acceptance of suitable seed stocks for the production of a
23 foundation, registered, certified, or inspected crop, field inspection, bin inspections,
24 harvesting, handling, storage, conditioning, and preparation and handling of such
25 seed for market.
- 26 2. Designate kinds, varieties, and names of seed stocks, and establish standards of
27 quality, degree of disease infection, and amounts of any admixtures, foreign
28 seeds, noxious weeds, or other weed seeds that are allowed in any lot or stock of
29 seed, which may be or become eligible for field inspection or for final certification
30 of the seed crop.

- 1 3. Prescribe all labels, seals, certificates, or similar statements that must be used for,
2 or in relation to, any seed, or the various kinds and qualities grown, handled,
3 stored, held for sale, sold, or offered or exposed for sale in this state as "breeders",
4 "foundation", "registered", or "certified", ~~or "inspected"~~ seed, and shall specify what
5 words, terms, or figures such labels, seals, certificates, or the containers of such
6 seed must bear.
- 7 4. Cooperate with the managers of any seed conditioning plants, or any commercially
8 established seed firm, or any person within or outside of the state having proper
9 facilities and equipment to store, condition, and otherwise handle seed which is
10 eligible for certification, for the purposes of handling and marketing "breeders",
11 "foundation", "registered", or "certified", ~~or "inspected"~~ seed.
- 12 5. Cooperate in the selection, testing, and growing of seed for certification purposes
13 and in the arrangement for increase of foundation seed stocks suitable for the
14 production of certified seed.
- 15 6. Establish an equitable schedule of fees and charges, which must be uniform
16 throughout the state, for inspecting, testing, analyzing, and recording such seed,
17 and for other work and duties incident to the growing, handling, marketing, and
18 certifying of North Dakota seed, and shall collect all such fees and charges.

19 **SECTION 5. AMENDMENT.** Section 4-09-17 of the 1999 Supplement to the North
20 Dakota Century Code is amended and reenacted as follows:

21 **4-09-17. Certified seed - Regulations governing labeling and representing.** Seed
22 grown in North Dakota, or grown elsewhere and transported into this state, which is sold,
23 offered or exposed for sale, stored, transported, or distributed, or held with intent to sell or plant
24 the same, may not be represented, advertised, labeled, or characterized in any way, either
25 orally or in writing, with or by the use of the term "breeders", "foundation", "registered",
26 "certified", "pedigreed", or "elite", ~~or "inspected"~~ seed, or any term or terms conveying a
27 meaning substantially equivalent to the meaning of any of said terms, without the approval and
28 authorization of the commissioner, who may adopt such rules as the commissioner finds
29 necessary for the proper regulation and protection of the certified seed industry.

30 **SECTION 6. AMENDMENT.** Section 4-09-17.1 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **4-09-17.1. Plant Variety Protection Act.** Any seed advertised, offered for sale, or
2 sold by variety name and for which a certificate of plant variety protection has been issued
3 under the Plant Variety Protection Act, as amended, [Pub. L. 91-577; 84 Stat. 1551; 7 U.S.C.
4 2481 et seq., effective as of July 1, 2001] as being for sale only as a class of certified seed
5 must be certified by an official seed certifying agency in order for the seed to be advertised,
6 offered for sale, or sold by variety name in the state of North Dakota. Seed from a certified lot
7 may be labeled as to variety name when used in a blend or mixture by or with approval of the
8 owner of the variety.

9 **SECTION 7. AMENDMENT.** Section 4-09-18 of the 1999 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **4-09-18. Certified seed standards –Fees.** The rules; and requirements; ~~and fees~~ for
12 certification of crop seeds, other than potatoes, must be those prescribed and set forth in the
13 state seed department bulletin number 51, published in March 1945, and subsequent
14 announcements and revisions of the bulletin.

15 The rules; and requirements; ~~and fees~~ for seed potato certification must be those
16 prescribed and set forth in the state seed department bulletin number 49 as revised in August
17 1950, and subsequent announcements and revisions of the bulletin.