

FOOD AND DRUGS

CHAPTER 253

HOUSE BILL NO. 1086
(Mertens)

REGULATION OF BEVERAGES

AN ACT to amend and reenact sections 19-01-10, 19-02.1-21, 19-08-01, 19-08-03, and 19-08-05 of the North Dakota Century Code, relating to the regulation of beverages by the state laboratories department.

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

SECTION 1. AMENDMENT. Section 19-01-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-10. Department to make analyses, inspections, and examinations - Report of examination as evidence - Publication of report. The department shall make, or cause to be made, analyses, examinations, and inspections of all products, articles, compositions, or things included under any of the provisions of this title whenever such analyses, inspections, or examinations are necessary to determine whether any of such products, articles, compositions, or things violate in any particular any provision of this title relating to the products, articles, compositions, or things in question, or violate any definition, standard, tolerance, rule, or regulation issued with regard to such products, articles, compositions, or things pursuant to any provision contained in this title. The department may also make or cause to be made, analysis, examination, inspection, or test of any product, article, composition, or thing at the request of any prosecutor, defense counsel, or law enforcement officer in the state of North Dakota when such analysis, examination, inspection, or test is made in connection with an investigation into violations of the criminal law of this state. A copy of any report of the examination or analyses of any product, article, composition, or thing, duly authenticated by the chemist making the analysis or examination, when given under oath, shall be prima facie evidence in all courts of the matters and facts therein contained. The department may collect samples of any product, article, composition, or thing for the purpose of making analyses, inspections, and investigations in connection with research carried on by it, and may publish the reports thereof for the information of the public.

SECTION 2. AMENDMENT. Section 19-02.1-21 of 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 his duly authorized agent shall have ~~has~~ 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:

- 1- ~~Of~~ of inspecting such factory, warehouse, establishment, or vehicle to determine if ~~any of the provisions of this chapter are~~ is being violated;
- 2- ~~To~~ and to secure samples or specimens of any food, drug, device, or cosmetic after paying or offering to pay for such sample.

~~It shall be the duty of the~~ The state laboratories director ~~to~~ shall make or cause to be made examinations of samples secured under ~~the provisions of this section to determine whether or not any provision of this chapter is being violated.~~

~~Provided that inspections~~ 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, ~~shall~~ may not be performed under this chapter if ~~such~~ the slaughterhouses, meatpacking, or meat processing plants are inspected under ~~the provisions of~~ 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 3. AMENDMENT. Section 19-08-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-08-01. Certain beverages unlawful to sell. ~~No~~ A person ~~shall~~ may not sell, offer, or expose for sale, or have in his possession with intent to sell within this state, any beverage of whatever nature that contains any ingredient that is injurious to health, or is adulterated, misbranded, or insufficiently or improperly labeled within the meaning of chapter ~~19-02~~ 19-02.1, or that is not licensed as provided in this chapter.

SECTION 4. AMENDMENT. Section 19-08-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-08-03. Requirements for labeling - Standards of purity and quality. The requirements for labeling and standards of purity and quality of all beverages included in this chapter shall be the same as those required under chapter ~~19-02~~ 19-02.1, together with such other

standards, and rules, and regulations as the department may adopt pursuant to chapter 28-32 to carry out the intent of this chapter.

SECTION 5. AMENDMENT. Section 19-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-08-05. License fees. The license fees for beverages licensed for sale by the department ~~shall be~~ are as follows:

1.	Soda water, ginger ale, root beer, and pop, each brand or class	\$ 20-00	<u>40.00</u>
2.	Concentrated extracts, fountain syrups, beverage bases, each brand	20-00	<u>40.00</u>
3.	True fruit juices, imitation or compound fruit beverages, each brand	20-00	<u>40.00</u>
4.	Mineral and spring water, and potable water sold by a private individual, firm, or corporation for household or culinary purposes, each brand	20-00	<u>40.00</u>
5-	Cereal beverages and malts, each brand	50-00	
6-	Wines, each brand	25-00	
7-	Whiskey, rum, brandy, liquors, and other distilled liquors:		
	a- First brand	150-00	
	b- Each additional brand	50-00	

Approved March 10, 1983

CHAPTER 254

HOUSE BILL NO. 1046
(Legislative Council)
(Interim Budget "C" Committee)

EGG DEALERS' REGISTRATION AND FEES

AN ACT to amend and reenact sections 19-02.1-24, 19-07-02, 19-07-05, 19-07-06, 19-13.1-06, 19-14-04, 19-16.1-03, 19-18-04, 19-20.1-06, and 23-10-05 of the North Dakota Century Code, relating to inspection, license, and registration fees collected by the state laboratories department; and to repeal section 19-07-04 of the North Dakota Century Code, relating to egg dealers' licenses.

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

SECTION 1. AMENDMENT. Section 19-02.1-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-24. Sale of prepackaged food from vending machines - License - Rules and regulations - Inspections.

1. No establishment may sell any type of prepackaged food from a food vending machine without first obtaining a license from the department. ~~Such licenses~~ A license may be issued upon payment of a fee of five ten dollars annually ~~and shall expire~~. The license expires on June thirtieth of each year.
2. The department may, in accordance with chapter 28-32, revoke an establishment's license if the establishment fails to comply with the ~~regulations promulgated~~ rules adopted pursuant to subsection 3.
3. The department ~~is hereby authorized~~ may adopt, in accordance with chapter 28-32, ~~to promulgate rules and regulations~~ which shall define "food vending machine" for the purposes of this section and ~~to promulgate rules and regulations~~ governing the sanitation, maintenance, and construction of such vending machines and ~~to exempt~~ exempting certain types of machines from this section, if

it is deemed appropriate and not materially detrimental to public health.

4. The department may inspect any food vending machine for compliance with the ~~regulations~~ rules and for the presence of a license required by this section.

SECTION 2. AMENDMENT. Section 19-07-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-07-02. Rulemaking power. The department may adopt, only upon approval of the commissioner of agriculture, appropriate ~~regulations~~ rules pursuant to chapter 28-32 to establish registration of egg dealers and to establish standards for candling, grading, and inspecting eggs as to size, quality, purity, strength, holding requirements, and sanitation; ~~and.~~ The department shall be guided in establishing such standards by United States department of agriculture regulations governing the grading and inspecting of eggs.

SECTION 3. AMENDMENT. Section 19-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-07-05. Bond. ~~No first or second buyer license shall egg dealer, except one selling eggs directly to the ultimate consumer, may be issued registered under this chapter for an applicant who unless the dealer has not maintained a place of business for buying, selling, or trading in eggs within this state for at least eight months immediately prior to making license application hereunder, registration or unless such applicant the dealer first posts a corporate surety bond with the department in an amount to be determined by the department, but not less than five thousand dollars.~~

SECTION 4. AMENDMENT. Section 19-07-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-07-06. Penalty. Anyone violating the provisions of this chapter is guilty of an infraction. ~~The court may authorize the department to suspend or revoke his license. Any person who engages in the business of buying, selling, or trading in eggs while his license is suspended or revoked shall be guilty of an infraction, his license shall be revoked, and no license may thereafter be issued to him under this chapter.~~

SECTION 5. AMENDMENT. Section 19-13.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-06. Inspection fees. There shall be paid to the department for all commercial feeds distributed in this state an inspection fee at the rate of twenty cents per ton [907.18 kilograms]; ~~provided, however.~~ However, that customer-formula feeds are hereby exempted if the inspection fee is paid on the commercial

feeds which they contain, and provided, further, that distribution of commercial feeds to manufacturers is hereby exempted if the commercial feeds so distributed are used solely in manufacture of feeds which are registered, and provided, further, that any. A distributor shall pay an annual registration fee of ~~fifteen~~ twenty-five dollars for each commercial feed product distributed only in individual packages of ten pounds [4.54 kilograms] or less, and the distributor of such product shall not be required to pay the inspection fee on such packages of the product so registered. All fees received by the department, as provided for in this chapter, shall be properly recorded by it and forwarded monthly to the state treasurer.

Every person, except as hereinafter provided, who distributes commercial feed in this state shall:

1. File, not later than the fifteenth day of January and July of each year, a semiannual statement under oath, setting forth the number of net tons [kilograms] of commercial feeds distributed in this state during the preceding six months; and upon filing such statement shall pay the inspection fee. When more than one person is involved in the distribution of a commercial feed, the person who distributes to the consumer is responsible for reporting the tonnage and paying the inspection fee.
2. Keep such records as may be necessary or required by the department to indicate accurately the tonnage of commercial feed distributed in this state, and the department shall have the right to examine such records to verify statements of tonnage.

Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations on file for the distributor.

SECTION 6. AMENDMENT. Section 19-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-14-04. Registration fee. Prior to each annual registration, a registration fee of ~~six~~ ten dollars shall be paid to the department for each livestock medicine which is registered.

SECTION 7. AMENDMENT. Section 19-16.1-03 of 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 he desires to distribute. All registrations ~~shall~~ expire on June thirtieth of each year. The application shall be accompanied

by specimens or facsimiles of its labeling, an inspection fee of ~~twenty~~ forty dollars for each product, and by a properly labeled sample of the antifreeze. 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. 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. ~~All~~ The ~~department shall~~ remit ~~inspection fees received by the department shall be remitted~~ to the state treasurer for deposit in the state general fund.

SECTION 8. AMENDMENT. Section 19-18-04 of 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, an application for registration of such economic poison, ~~which~~. The application shall ~~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 a label of each product so registered. If the commissioner finds that the application conforms to law, he shall issue to the applicant a certificate of registration of the product. ~~If the application,~~ after public hearing before the commission and the commissioner the application is denied, the product shall not be offered for sale, .
3. Be accompanied by an inspection fee of ~~five~~ 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 ~~shall expire~~ expires on the thirty-first of December following its issuance ~~and no.~~ . A certificate of registration ~~shall may not~~ be issued for a term longer than one year, and ~~shall is not be~~ 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 9. AMENDMENT. Section 19-20.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-06. Inspection fees and tonnage reports. There shall be paid to the department for all commercial fertilizers and soil amendments distributed in this state an inspection fee at the rate of ~~ten~~ twenty cents per ton [907.18 kilograms]; provided, that sales to manufacturers or exchanges between them are hereby exempted. Fees so collected shall be used for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this chapter.

Individual packages of commercial fertilizer and soil amendments sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less shall be exempt from the provisions of this section. Where a person sells commercial fertilizer or soil amendments in packages of twenty-five pounds [11.34 kilograms] or less and in packages over twenty-five pounds [11.34 kilograms], that portion sold in packages over twenty-five pounds [11.34 kilograms] shall be subject to the same inspection fee of ~~ten~~ twenty cents per ton [907.18 kilograms] as provided in this chapter.

Every licensed person who distributes a commercial fertilizer to a nonlicensed person in this state shall file with the department, on forms furnished by the department, a semiannual statement for the periods ending December thirty-first and June thirtieth, setting forth the number of net tons [kilograms] of each commercial fertilizer so distributed in this state during such period. The ~~report shall be~~ statement is due on or before the fifteenth day of the month following each semiannual period and upon such. The person filing the statement shall pay the inspection fee at the rate stated in this section. If the tonnage ~~report~~ statement is not filed and the payment of inspection fee is not made within thirty days after the end of the semiannual period, a collection fee amounting to ten percent, minimum ten dollars, of the amount shall be assessed against the licensee, and the amount of fees due shall constitute a debt and become the basis of a judgment against the licensee.

SECTION 10. AMENDMENT. Section 23-10-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

23-10-05. License fees. The following fees shall be charged for licenses to operate mobile home parks, trailer parks, or campgrounds in this state:

1. For a mobile home park containing at least three but not more than ten lots, ~~twenty~~ thirty-five dollars.
 2. For a mobile home park containing at least eleven but not more than twenty-five lots, ~~thirty-five~~ fifty dollars.
 3. For a mobile home park containing at least twenty-six but not more than fifty lots, ~~fifty~~ sixty-five dollars.
 4. For a mobile home park containing more than fifty lots, ~~one dollar for each lot up to a maximum of sixty-five~~ eighty dollars.
 5. For a trailer park or campground containing at least three but not more than ten lots, ~~fifteen~~ thirty dollars.
 6. For a trailer park or campground containing at least eleven but not more than twenty-five lots, ~~thirty~~ forty-five dollars.
 7. For a trailer park or campground containing at least twenty-six but not more than fifty lots, ~~forty-five~~ sixty dollars.
 8. For a trailer park or campground containing more than fifty lots, ~~sixty-five~~ eighty dollars.
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The license fee shall be waived for any mobile home park, trailer park, or campground owned by the state, a municipality, or a nonprofit organization. The department shall waive all or a portion of the license fee for any mobile home park, trailer park, or campground which is subject to local sanitation, safety, and inspection requirements accepted by the department under section 23-10-02.1.

SECTION 11. REPEAL. Section 19-07-04 of the North Dakota Century Code is hereby repealed.

Approved March 3, 1983

CHAPTER 255

SENATE BILL NO. 2135
(Committee on Judiciary)
(At the request of the Attorney General)

DELIVERY OF MARIJUANA

AN ACT to amend and reenact subsection 1 of section 19-03.1-23 of the North Dakota Century Code, relating to a separate penalty for the delivery of one hundred pounds or more of marijuana.

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

SECTION 1. AMENDMENT. Subsection 1 of section 19-03.1-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Except as authorized by this chapter, it is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance; provided, that any person whose conduct is in violation of section 12-46-24, 12-47-21, or 12-51-11 shall not be prosecuted under this subsection. Any person who violates this subsection with respect to:
 - a. A controlled substance classified in schedule I or II which is a narcotic drug, is guilty of a class A felony.
 - b. Any other controlled substance classified in schedule I, II, or III, is guilty of a class B felony, except that any person who delivers one hundred pounds or more of marijuana is guilty of a class A felony.
 - c. A substance classified in schedule IV, is guilty of a class C felony.
 - d. A substance classified in schedule V, is guilty of a class A misdemeanor.

Approved March 4, 1983

CHAPTER 256

HOUSE BILL NO. 1151
(Committee on Judiciary)
(At the request of the Attorney General)

PROPERTY TRACEABLE TO CONTROLLED SUBSTANCES

AN ACT to create and enact a new subdivision to subsection 1 of section 19-03.1-36 of the North Dakota Century Code, relating to property traceable to controlled substances which is subject to forfeiture.

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

SECTION 1. A new subdivision to subsection 1 of section 19-03.1-36 of the North Dakota Century Code is hereby created and enacted to read as follows:

All money, coin, currency, and everything of value furnished, or intended to be furnished, in exchange for a controlled substance in violation of this chapter, and all proceeds traceable to any violation of this chapter. The property described in this section shall be forfeited in the same manner and procedure as conveyances.

Approved April 11, 1983

CHAPTER 257

SENATE BILL NO. 2305
(Senators Stenehjem, Holmberg)
(Representatives Hamerlik, E. Pomeroy)

IMITATION CONTROLLED SUBSTANCES

AN ACT to control the manufacture, distribution, possession, and advertising of imitation controlled substances; to amend and reenact subsection 1 of section 19-03.1-36 of the North Dakota Century Code, relating to forfeiture; to provide a penalty; and to declare an emergency.

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

SECTION 1. Definitions.

1. "Controlled substance" means a substance as defined in section 19-03.1-01.
2. "Distribute" means the actual, constructive, or attempted transfer, delivery, or dispensing to another of an imitation controlled substance.
3. "Imitation controlled substance" means a substance that is not a controlled substance, but which by appearance, including color, shape, size, markings, or packaging, or by representations made, would lead a reasonable person to believe that the substance is a controlled substance.
4. "Manufacture" means producing, preparing, compounding, processing, encapsulating, packaging, repackaging, labeling, or relabeling of an imitation controlled substance.

SECTION 2. Determination of imitation controlled substance.

When the appearance of the dosage unit is not reasonably sufficient to establish that the substance is an "imitation controlled substance" as in the case of a powder or a liquid substance, the court or authority concerned should consider, in addition to all other logically relevant factors, all of the following factors as related to "representations made" in determining whether the substance is an "imitation controlled substance":

1. Statements made by an owner or by anyone else in control of the substance concerning the nature of the substance, or its use or effect.
2. Statements made to the recipient that the substance may be resold for inordinate profit.
3. Whether the substance is packaged in a manner normally used for illicit controlled substances.
4. Evasive tactics or actions utilized by the owner or person in control of the substance to avoid detection by law enforcement authorities.
5. Prior convictions, if any, of an owner, or anyone in control of the object, under state or federal law related to controlled substances, imitation controlled substances, or fraud.
6. The proximity of the substances to controlled substances.

SECTION 3. Prohibited acts - Penalties - Exception.

1. It is a class C felony for any person to manufacture, distribute, or possess with intent to distribute, an imitation controlled substance.
2. It is a class C felony for a person to place in any newspaper, magazine, handbill, or other publication, or to post or distribute in any public place, any advertisement or solicitation with reasonable knowledge that the purpose of the advertisement or solicitation is to promote the distribution of imitation controlled substances.
3. It is a class B misdemeanor for a person to use, or to possess with intent to use, an imitation controlled substance.
4. It is not a defense that the defendant believed the substance actually to be a controlled substance.
5. No civil or criminal liability may be imposed by virtue of sections 1 through 3 on any person registered under chapter 19-03.1 who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo by a registered practitioner in the course of professional practice or research.

SECTION 4. AMENDMENT. Subsection 1 of section 19-03.1-36 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. The following are subject to forfeiture:

- a. All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this chapter.
- b. All imitation controlled substances as defined by sections 1 and 2 of this Act.
- c. All raw materials, products, and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this chapter.
- e- d. All property which is used, or intended for use, as a container for property described in subdivision a ~~e~~, b, or c.
- d- e. All conveyances, including aircraft, vehicles, or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, for the purpose of sale or receipt of property described in subdivision a ~~e~~, b, or c, but:
 - (1) No conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this chapter.
 - (2) No conveyance is subject to forfeiture under this section by reason of any act or omission established by the owner thereof to have been committed or omitted without his knowledge or consent.
 - (3) A conveyance is not subject to forfeiture for a violation of subsection 3 of section 19-03.1-23, or subsection 3 of section 3 of this Act.
 - (4) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he neither had knowledge of nor consented to the act or omission.
- e- f. All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this chapter.
- f- g. All drug paraphernalia as defined in title 12.1.

SECTION 5. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 18, 1983

CHAPTER 258

SENATE BILL NO. 2229
(Senator Peterson)
(Representative Swiontek)

CHARITABLE FOOD DONATION LIABILITY

AN ACT to provide immunity from civil and criminal liability in certain cases when food is donated for charitable purposes; to provide a penalty; and to declare an emergency.

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

SECTION 1. Definitions. As used in this Act:

1. "Gleaner" means a person that harvests for free distribution an agricultural crop that has been donated by the owner.
2. "Perishable food" means any food that may spoil or otherwise become unfit for human consumption because of its nature, type, or physical condition or any food not readily marketable due to appearance, freshness, grade, surplus, or other considerations. The term includes fresh or processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits, or vegetables and foods that have been packaged, canned, refrigerated, or frozen.

SECTION 2. Donor or gleaner liability for injury. The good faith donor of any perishable food, apparently fit for human consumption at the time of donation, to a bona fide charitable or nonprofit organization for free distribution, or a gleaner of any perishable food apparently fit for human consumption at the time of donation, is not subject to criminal penalty or civil damages arising from the condition of the food, unless an injury is caused by the grossly negligent or willful conduct of the donor or gleaner.

SECTION 3. Charitable or nonprofit organization liability for injury. A bona fide charitable or nonprofit organization which in good faith receives food, apparently fit for human consumption, and distributes it at no charge, is not subject to criminal penalty or civil damages resulting from the condition of the food unless an injury results from the negligent or willful conduct of the organization.

SECTION 4. Sale of food prohibited - Unlawful sale or use - Penalty.

1. Any bona fide charitable or nonprofit organization, that receives any perishable food pursuant to this Act, shall not sell or offer to sell any of the food. This subsection does not apply to food products which comply with all maturity, quality, size, standard pack container, and labeling requirements of title 19 of the North Dakota Century Code.
2. No person other than the recipient of the food provided as charitable assistance, shall sell, offer for sale, use, or consume any food donated pursuant to this Act.
3. Any violation of this section is punishable by a civil penalty not to exceed one thousand dollars.

SECTION 5. Inspection of food. Upon the request made by a bona fide charitable or nonprofit organization receiving perishable food under this Act, a representative from the county health district where the organization is located or the department of health shall provide inspection of the food received to determine whether the food may be used for human consumption. This Act does not restrict the authority of any appropriate agency to inspect, regulate, or ban the use of perishable food.

SECTION 6. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 23, 1983