

FOOD, DRUGS, OILS, AND COMPOUNDS

CHAPTER 258

HOUSE BILL NO. 1590
(Sauter)

TITLE 19 MISCELLANEOUS CHANGES

AN ACT to create and enact a new subsection to section 19-18-02 of the North Dakota Century Code, relating to economic poisons; to amend and reenact sections 19-01-03, 19-01-04, 19-01-05, 19-01-07, 19-01-12, 19-01-14, 19-01-18, 19-02-16, 19-02-17, 19-02-20, 19-02.1-01, 19-02.1-04, 19-02.1-05, 19-02.1-06, 19-02.1-16, 19-02.1-21, subsection 5 of section 19-03.1-09, subsection 2 of section 19-03.1-13, section 19-03.1-16, subsection 1 of section 19-03.1-18, subdivision b of subsection 1 of section 19-03.1-24, sections 19-03.1-30, 19-03.1-32, subdivision a of subsection 1 of section 19-03.1-33, subsection 3 of section 19-03.1-35, paragraph 4 of subdivision e of subsection 1 of section 19-03.1-36, subsections 2 and 3 of section 19-03.1-37, sections 19-04-01, 19-07-01, 19-08-01, 19-08-04, 19-10-21, subsection 2 of section 19-13.1-03, sections 19-13.1-09, 19-13.1-11, 19-13.1-12, 19-14-03, 19-14-06, 19-14-08, 19-16.1-03, 19-17-02, 19-17-03, 19-17-04, subsection 8 of section 19-18-02, section 19-18-03, subsection 2 of section 19-18-04, sections 19-18-05, 19-18-06, 19-18-06.1, subsection 1 of section 19-18-07, sections 19-20.1-02, 19-20.1-03, 19-20.1-06, 19-20.1-08, 19-20.1-10, 19-20.1-11, 19-20.1-12, 19-20.1-13, 19-20.1-14, 19-20.1-15, 19-20.1-16, 19-20.1-17, subsection 5 of section 19-21-02, and section 19-21-04 of the North Dakota Century Code, relating to the state laboratories department; and to repeal section 19-17-06 of the North Dakota Century Code, relating to weights of containers.

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

SECTION 1. AMENDMENT. Section 19-01-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-03. Director of department - Appointment, bond, oath, salary. The commission shall appoint a director of the department who shall serve at the will of the commission. ~~He~~ The director shall act as secretary of the commission and shall keep such minutes and books as the commission shall determine. Subject to the supervision of the commission, ~~he~~ the director shall have general charge of the

department. Before assuming the duties of his the director's office, he the director shall furnish a bond in the sum of twenty-five thousand dollars for the faithful performance of his the director's duties and the proper accounting for all moneys collected in his the director's office. The premium for such bond shall be paid as an expense of the department. The director shall take the oath of office and file the same in the manner required of other state officers. He The director shall receive a salary within the amount appropriated for salaries by the legislative assembly.

SECTION 2. AMENDMENT. Section 19-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-04. Assistant director - Qualifications, appointment, bond, salary, duties. The commission shall appoint a competent chemist who shall be assistant director of the department. He The assistant director shall be designated as the state food commissioner and chemist and shall serve at the will of the commission. He The assistant director shall furnish a bond in the sum of ten thousand dollars conditioned for the faithful performance of his the assistant director's duties and the proper accounting for all moneys collected in his the assistant director's office, and shall qualify in the manner in which the director of the department is required to qualify. The annual salary of the assistant director shall be fixed by the commission. The assistant director shall have charge and supervision of all laboratory work and the laboratory equipment, and shall be in charge of the department in case of the director's absence or inability to act. He The assistant director shall have his the assistant director's office in the department.

SECTION 3. AMENDMENT. Section 19-01-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-05. Sheriff as local inspector - Compensation, duties. The director of the department shall appoint the sheriff of each county as the local inspector for his the sheriff's county. The sheriff, under the direction and supervision of the department, shall perform such duties and make such inspections as shall be assigned to him the sheriff by the department, and shall be responsible for the enforcement within his the sheriff's county of the directions given to him the sheriff. He The sheriff shall collect all fees and charges which may be collected under the provisions of this title or of any regulatory provision enforced by the department, and shall account to the department therefor on or before the first of each month and at such other times as may be required by the department. He The sheriff may call upon the state's attorney of his the sheriff's county and upon any other law enforcement officer of his the sheriff's county or of any city within his the sheriff's county to assist him the sheriff in the enforcement and administration of the directions of the department. The sheriff and those assisting him the sheriff shall receive no additional compensation for work performed under the directions of the department but shall be allowed traveling expenses allowed in the performance of the other duties of their respective offices. Such traveling expenses shall

be paid out of the appropriations made for the department by the legislative assembly.

* SECTION 4. AMENDMENT. Section 19-01-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-07. Fees - Disposition. All revenues received and fees and charges collected under the provisions of this title shall be properly accounted for daily by the assistant director and employees to the director of the department and by ~~him~~ the assistant director recorded and entered upon ~~his~~ the assistant director's books by counties from which the fees and charges are received. The director shall forward all moneys so collected to the state treasurer monthly, and the treasurer shall place the same in the general fund of the state.

SECTION 5. AMENDMENT. Section 19-01-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-12. Seizure of unlawful products - Search warrant. A search warrant may be issued by any judge, including a county or municipal judge, whenever probable cause is shown by affidavit or deposition under oath that any article, product, composition, or thing is being kept or is present upon certain premises which shall be particularly described or is in possession of any person who shall be named in the affidavit or deposition, and that such article, product, composition, or thing, is not in compliance with, or is being used or possessed contrary to, any applicable provision of this title or of any rule, regulation, standard, tolerance, or definition issued pursuant thereto. The search warrant shall be in substantially the form described in the North Dakota Rules of Criminal Procedure. It shall particularly describe the premises or the person who has possession of such article and shall be signed by the judge with the name of ~~his~~ the judge's office, and shall be directed to any peace officer of the county or to the department or any of its agents. The warrant shall command the peace officer or agent of the department to search the persons or places named and to seize all and any products, articles, compositions, or things of the kind described therein which may be held in violation of any applicable provision of this title, and to bring such products, articles, compositions, or things before the judge.

SECTION 6. AMENDMENT. Section 19-01-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-14. Service and return of search warrant and proceedings thereon. The provisions of sections 29-29-01 and 29-29-18 and rule 41 of the North Dakota Rules of Criminal Procedure, as to the service and return of a search warrant, and hearing, and return thereon to the district court, shall govern in cases of search warrants issued pursuant to the provisions of this chapter except that testimony of witnesses need not be reduced to writing. If the magistrate finds that the property seized is property of the kind described in the search warrant and that there is probable cause to believe that the

* NOTE: Section 19-01-07 was also amended by section 2 of Senate Bill No. 2012, chapter 54.

grounds on which the search warrant was issued existed, he the magistrate shall send the property so seized to the district court, together with his the magistrate's return. If he the magistrate finds that there is not probable cause to believe that the grounds on which the search warrant was issued existed, he the magistrate shall order the property returned to the person from whom it was taken.

SECTION 7. AMENDMENT. Section 19-01-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-01-18. Duties as to weights and measures. When requested so to do by the public service commission, the director of the department, when it is possible and practicable to do so, shall direct one or more of the employees of the department to perform such duties as may be required relating to the inspection and licensing of weights and measures. Each employee of the department, when engaged in the performance of such duties, shall have the same powers and shall charge and collect the same fees for the services he the employee may perform as are provided in the case of an inspector in chapter 64-02. All fees, licenses, and other charges collected by the department in performing such additional duties shall be considered as collections made by the department to be accounted for and disposed of as provided in this chapter.

SECTION 8. AMENDMENT. Section 19-02-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02-16. Bread - How sold. No person shall sell, offer, or expose for sale, or have in his their possession with intent to sell or transport, any bread, the loaf of which does not weigh either sixteen ounces or twenty-four ounces aveirdupois {453-59 grams or 680-39 grams} or a whole multiple of sixteen ounces aveirdupois {453-59 grams} eight ounces or more [226.8 grams]. The weights shall apply alike to each unit of twin or multiple loaves. A loaf shall be of the required weight at any period from the time of baking the same until twelve hours thereafter. The required weight standards shall apply alike to wheat bread, white bread, milk bread, rye bread, raisin bread, currant bread, brown bread, graham bread, whole wheat bread, and other similar kinds of farinaceous substances baked in loaves and known and designated as bread. The average weight of loaves shall be as often above as below the permissible weights. The weight standards defined in this section shall not be construed to apply to cakes, buns, biscuits, and similar small unit products.

SECTION 9. AMENDMENT. Section 19-02-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02-17. Importation and sale of infected fruit a misdemeanor. Any person who shall import into this state, sell, offer for sale, or have in his their possession for sale or barter, any fruit which has been infected or infested with peach blight, peach mildew, peach twig borer, San Jose scale or other scale insects, apple scab,

codling moth larva or larvae, shall be guilty of a class B misdemeanor. If fruit bears the mark of any of the infections or infestations mentioned in this section, the mark shall be conclusive evidence that the fruit is infected or infested within the meaning of this section.

SECTION 10. AMENDMENT. Section 19-02-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02-20. Person affected with contagious disease not to be employed in food establishment - Examinations - Penalty. No person who is affected with any contagious or infectious disease in a communicable form shall be employed, or permitted to remain as an employee, in any food establishment. If an inspector or agent of the department has reason to suspect that an employee in any such establishment is affected with any such disease, ~~he~~ the inspector or agent may require a medical examination of such employee and a certificate of health with reference to ~~him~~ the employee from the employer of such employee. The examination shall be made by a physician approved by the department, and the cost thereof shall be borne by the employer. If an employer fails to provide such a health certificate for himself or for an employee within a reasonable time after being notified to do so, ~~he~~ the employer shall be deemed guilty of a class B misdemeanor.

SECTION 11. AMENDMENT. Section 19-02.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-01. Definitions. For the purpose of this chapter:

1. "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics.
2. "Color" includes black, white, and intermediate grays.
3. "Color additive" means a material which:
 - a. Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral, or other source; or
 - b. When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto, except that such term does not include any material which has been or hereafter is exempted under the federal act.

4. "Contaminated with filth" applies to any food, drug, device, or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.
5. "Cosmetic" means:
 - a. Articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance;
 - b. Articles intended for use as a component of any such articles, except that such term shall not include soap.
6. "Department" means the state laboratories department.
7. "Device", except when used in the first paragraph following subsection 21 of this section and in subsection 10 of section 19-02.1-02, subsection 6 of section 19-02.1-10, subsections 3 and 16 of section 19-02.1-14, and subsection 3 of section 19-02.1-18, means instruments, apparatus and contrivances, including their components, parts, and accessories, intended:
 - a. For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
 - b. To affect the structure or any function of the body of man or other animals.
8. "Drug" means:
 - a. Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;
 - b. Articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;
 - c. Articles, other than food, intended to affect the structure or any function of the body of man or other animals;
 - d. Articles intended for use as a component of any article specified in subdivision a, b, or c, but does not include devices or their components, parts, or accessories. Provided, however, that "drug", for the purpose of this chapter, and as defined by this subsection, shall not include those controlled

substances or drugs regulated by or under the authority of the Uniform Controlled Substances Act, with respect to such drugs, the Uniform Controlled Substances Act shall take precedence over and supplant the provisions of this chapter only so far as its authority and control is synonymous with the provisions of this chapter.

9. "Federal act" means the federal Food, Drug, and Cosmetic Act, as amended [21 U.S.C. 301 et seq.].
10. "Food" means:
 - a. Articles used for food or drink for man or other animals;
 - b. Chewing gum;
 - c. Articles used for components of any such article.
11. "Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures, or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food, to be safe under the conditions of its intended use, except that such term does not include:
 - a. A pesticide chemical in or on a raw agricultural commodity;
 - b. A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;
 - c. A color additive; or
 - d. Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, [21 U.S.C. 451 et seq.]; or the Meat Inspection Act of March 4, 1907 [34 Stat. 1260, as amended and extended; 21 U.S.C. 71 et seq.].

12. "Immediate container" does not include package liners.
13. "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this chapter that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.
14. "Labeling" means all labels and other written, printed, or graphic matter:
 - a. Upon an article or any of its containers or wrappers; or
 - b. Accompanying such article.
15. "Manufacture, compound, or process" shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package in the furtherance of the distribution of the drug from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer, and the term "manufacturers, compounders, and processors" shall be deemed to refer to persons engaged in such defined activities.
16. "New drug" means:
 - a. Any drug the composition of which is such that such drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or
 - b. Any drug the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.
17. "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them.
18. "Person" includes individual, partnership, corporation, and association.

19. "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is an "economic poison" within the meaning of chapter 19-18, and which is used in the production, storage, or transportation of raw agricultural commodities.
20. "Practitioner" means a physician, dentist, veterinarian, or other person licensed in this state to prescribe or administer drugs which are subject to this chapter.
21. "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.

If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

The provisions of this chapter regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article, and the supplying or applying of any such articles in the conduct of any food, drug, or cosmetic establishment.

Nothing in subsection 20 21 shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest.

* SECTION 12. AMENDMENT. Section 19-02.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-04. Penalties and guarantee.

1. Any person who violates any of the provisions of subsections 1 through 14 of section 19-02.1-02 shall be guilty of a class B misdemeanor.
2. No person shall be subject to the penalties of subsection 1, for having violated subsection 1 or 3 of section 19-02.1-02 if he the person established a guaranty or undertaking signed by, and containing the name and address of, the person residing in the state of North Dakota from whom he the person received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this chapter, designating this chapter.
3. No publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him the person of such false advertisement, unless he the person has refused, on the request of the department to furnish the department the name and post-office address of the manufacturer, packer, distributor, seller, or advertising agency, residing in the state of North Dakota who caused him the person to disseminate such advertisement.
4. Repealed by S.L. 1971, ch. 235, § 49.

SECTION 13. AMENDMENT. Section 19-02.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-05. Seizure.

1. Whenever a duly authorized agent of the department finds or has probable cause to believe, that any food, drug, device, or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this chapter, he the authorized agent shall affix to such article a tag or other appropriate marking, giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to

* NOTE: Section 19-02.1-04 was also amended by section 1 of Senate Bill No. 2195, chapter 259.

- remove or dispose of such detained or embargoed article by sale or otherwise without such permission.
2. When an article detained or embargoed under subsection 1 has been found by such agent to be adulterated, or misbranded, he the authorized agent shall petition the judge of the district court in the county in which the article is detained or embargoed for a label for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he the authorized agent shall remove the tag or other marking.
 3. If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his the claimant's agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decrees and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to claimant thereof for such labeling or processing under the supervision of an agent of the department. The expense of such supervision shall be paid by claimant. Such shall be returned to the claimant of the article on the representation to the court by the department that the article is no longer in violation of this chapter, and that the expenses of such supervision have been paid.
 4. Whenever the state laboratories director or any of his the state laboratories director's authorized agents shall find in any room, building, vehicle of transportation or other structure, any meat, seafood, poultry, vegetable, fruit, or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the state laboratories director or his the state laboratories director's authorized agent, shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.
 5. Any person, firm, or corporation having an interest in the alleged article, equipment, or other thing proceeded against, or any person, firm, or corporation against whom a civil or criminal liability would exist if said merchandise is in violation of section 19-02.1-02 may, within twenty days following the seizure, appear and file

answer to the complaint. The answer shall allege the interest or liability of the party filing it. In all other respects, the issue shall be made up as in other civil actions.

6. Any article, equipment, conveyance, or other thing condemned under this section shall, after entry of the decree, be disposed of by destruction or sale as the court may, in accordance with the provisions of this section, direct and the proceeds thereof, if sold, less the legal costs and charges, shall be paid to the treasurer of the state; but such article, equipment, or other thing shall not be sold under such decree contrary to provisions of this chapter.
7. Whenever in any proceedings under this section the condemnation of any equipment or conveyance or other thing, other than a drug, is decreed, the court shall allow the claim of any claimant, to the extent of such claimant's interest, for remission or mitigation of such forfeiture if such claimant proves to the satisfaction of the court all of the following:
 - a. He The claimant has not committed or caused to be committed any prohibited act referred to in chapter 19-03.1, and has no interest in any drug or controlled substance referred to therein.
 - b. He The claimant has an interest in such equipment, or other thing as owner or lienor or otherwise, acquired by ~~him~~ the claimant in good faith.
 - c. He The claimant at no time had any knowledge or reason to believe that such equipment, conveyance, or other thing was being or would be used in, or to facilitate, the violation of the laws of this state relating to depressant, stimulant, or hallucinogenic drugs or counterfeit drugs.
8. When a decree of condemnation is entered against the article, equipment, conveyance, or other thing, court costs and fees and storage and other proper expenses, shall be awarded against the person, if any, intervening as claimant of the article.

* SECTION 14. AMENDMENT. Section 19-02.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-06. Prosecutions - State's attorney. It shall be the duty of each state's attorney to whom the department reports any violation of this chapter occurring in ~~his~~ the state's attorney's county, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

* NOTE: Section 19-02.1-06 was also amended by section 2 of Senate Bill No. 2195, chapter 259.

SECTION 15. AMENDMENT. Section 19-02.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-16. New drugs.

1. No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless:
 - a. An application with respect thereto has been approved and said approval has not been withdrawn under section 505 of the federal act; or
 - b. When not subject to the federal act, unless such drug has been tested and has been found to be safe for use and effective in use under the conditions prescribed, recommended, or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the department an application setting forth:
 - (1) Full reports of investigations which have been made to show whether or not such drug is safe for use and whether such drug is effective in use⁷;
 - (2) A full list of the articles used as components of such drug⁷;
 - (3) A full statement of the composition of such drug⁷;
 - (4) A full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drugs⁷;
 - (5) Such samples of such drug and of the articles used as components thereof as the department may require⁷;
 - (6) Specimens of the labeling proposed to be used for such drug.
2. An application provided for in subdivision b of subsection 1 shall become effective on the one hundred eightieth day after the filing thereof, except that if the department finds, after due notice to the applicant and giving ~~him~~ the applicant an opportunity for a hearing, that the drug is not safe or not effective for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof, ~~he~~ the state food commissioner and chemist shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

3. An order refusing to permit an application under this section to become effective may be revoked by the department.
4. This section shall not apply:
 - a. To a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of drugs, provided the drug is plainly labeled in compliance with regulations issued by the department or pursuant to section 505(i) or 507(d) of the federal act;
 - b. To a drug sold in this state at any time prior to the enactment of this chapter or introduced into interstate commerce at any time prior to the enactment of the federal act; or
 - c. To any drug which is licensed under the Virus, Serum, and Toxin Act of July 1, 1902, U.S.C. 1958 ed. Title 42 Chapter 6A Sec. 262; or
 - d. To any drug which is subject to subsection 5 of section 19-02.1-14.
5. The provisions of subsection 16 of section 19-02.1-01 shall not apply to any drug which, on October 9, 1962, or on the date immediately preceding the enactment of this subsection:
 - a. Was commercially sold or used in this state or in the United States;
 - b. Was not a new drug as defined by subsection 16 of section 19-02.1-01 as then in force;
 - c. Was not covered by an effective application under section 19-02.1-16 or under section 505 of the federal act, when such drug is intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug.

SECTION 16. AMENDMENT. Section 19-02.1-21 of the 1983 Supplement to 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~~ the state laboratories director's duly authorized agent has free 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 of inspecting such factory, warehouse, establishment, or vehicle to determine if this chapter is being violated and to secure samples or specimens of any food, drug, device, or cosmetic after paying or offering to pay for such sample.

The state laboratories director shall make or cause to be made examinations of samples secured under this section to determine whether or not this chapter is being violated.

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, may not be performed under this chapter if the slaughterhouses, meatpacking, or meat processing plants are inspected under 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 17. AMENDMENT.** Subsection 5 of section 19-03.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:
 - a. Not more than 1.80 grams of codeine, ~~or any of its salts,~~ per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
 - b. Not more than 1.80 grams of codeine, ~~or any of its salts,~~ per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - c. Not more than 300 milligrams of dihydrocodeinone, ~~or any of its salts,~~ per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
 - d. Not more than 300 milligrams of dihydrocodeinone, ~~or any of its salts,~~ per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - e. Not more than 1.80 grams of dihydrocodeine, ~~or any of its salts,~~ per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active,

*** NOTE:** Section 19-03.1-09 was also amended by section 3 of Senate Bill No. 2498, chapter 265, and amended by section 8 of Senate Bill No. 2381, chapter 262.

- nonnarcotic ingredients in recognized therapeutic amounts.
- f. Not more than 300 milligrams of ethylmorphine ~~or any of its salts~~, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.
 - g. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - h. Not more than 50 milligrams of morphine, ~~or any of its salts~~, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

SECTION 18. AMENDMENT. Subsection 2 of section 19-03.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- 2. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:
 - a. Not more than 200 milligrams of codeine, ~~or any of its salts~~, per 100 milliliters or per 100 grams.
 - b. Not more than 100 milligrams of dihydrocodeine, ~~or any of its salts~~, per 100 milliliters or per 100 grams.
 - c. Not more than 100 milligrams of ethylmorphine ~~or any of its salts~~, per 100 milliliters or per 100 grams.
 - d. Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.
 - e. Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
 - f. Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

*** SECTION 19. AMENDMENT.** Section 19-03.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 19-03.1-16 was also amended by section 14 of Senate Bill No. 2381, chapter 262, and amended by section 6 of Senate Bill No. 2498, chapter 265.

19-03.1-16. Registration requirements.

1. Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the department in accordance with its rules.
2. Persons registered by the department under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this chapter.
3. The following persons need not register and may lawfully possess controlled substances under this chapter:
 - a. An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance if he an agent or employee is acting in the usual course of his an agent's or employee's business or employment.
 - b. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment.
 - c. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.
4. The department may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.
5. A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.
6. The department may inspect the establishment of a registrant or applicant for registration in accordance with the state department of health laboratories department rule.

* SECTION 20. AMENDMENT. Subsection 1 of section 19-03.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* NOTE: Section 19-03.1-18 was also amended by section 16 of Senate Bill No. 2381, chapter 262.

1. A registration under section 19-03.1-17 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department upon a finding that the registrant:
 - a. Has furnished false or fraudulent material information in any application filed under this chapter;
 - b. Has been convicted of a felony under any state or federal law relating to any controlled substance; or
 - c. Has had ~~his~~ the registrant's federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.

SECTION 21. AMENDMENT. Subdivision b of subsection 1 of section 19-03.1-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- b. Who is a registrant, to manufacture a controlled substance not authorized by ~~his~~ their registration, or to distribute or dispense a controlled substance not authorized by ~~his~~ their registration to another registrant or other authorized person;

SECTION 22. AMENDMENT. Section 19-03.1-30 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-30. Conditional discharge for possession as first offense. Whenever any person who has not previously been convicted of any offense under this chapter or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, pleads guilty to or is found guilty of possession of a controlled substance under subsection 3 of section 19-03.1-23, the court, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place ~~him~~ the person on probation upon terms and conditions. Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against ~~him~~ the person. Discharge and dismissal under this section shall be without adjudication of guilt and is not a conviction for purposes of this section or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime, including the extended sentence which may be imposed under section 12.1-32-09. There may be only one discharge and dismissal under this section with respect to any person.

SECTION 23. AMENDMENT. Section 19-03.1-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-32. Powers of enforcement personnel - Search warrants.

1. Any officer of the state bureau of criminal investigation or the state drug enforcement unit designated by the attorney general of this state may:
 - a. Carry firearms in the performance of ~~his~~ official duties.
 - b. Execute and serve search warrants, arrest warrants, administrative inspection warrants, subpoenas, and summonses issued under the authority of this state.
 - c. Make arrests without warrant for any offense under this chapter committed in ~~his~~ the officer's presence, or if ~~he~~ the officer has probable cause to believe that the person to be arrested has committed or is committing a violation of this chapter which may constitute a felony.
 - d. Make seizures of property pursuant to this chapter.
 - e. Perform other law enforcement duties as the attorney general designates.
2. A search warrant relating to offenses involving controlled substances may be issued and executed at any time of the day or night, if the judge or magistrate issuing the warrant so specifies in the warrant.
3. Any officer authorized to execute a search warrant, without notice of ~~his~~ the officer's authority and purpose, may break open an outer or inner door or window of a building, or any part of the building, or anything therein, if the judge or magistrate issuing the warrant has probable cause to believe that if such notice were to be given the property sought in the case may be easily and quickly destroyed or disposed of, or that danger to the life or limb of the officer or another may result, and has included in the warrant a direction that the officer executing it shall not be required to give such notice. Any ~~officer~~ officers acting under such warrant, as soon as practicable after entering the premises, shall identify ~~himself~~ themselves and state the purpose of ~~his~~ entering the premises and ~~his~~ the authority for doing so.

SECTION 24. AMENDMENT. Subdivision a of subsection 1 of section 19-03.1-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- a. A district judge within ~~his~~ a district judge's jurisdiction, and upon proper oath or affirmation showing probable cause, may issue warrants for the purpose of conducting administrative inspections

authorized by this chapter or rules hereunder and seizures of property appropriate to the inspections. For purposes of the issuance of administrative inspection warrants, probable cause exists upon showing a valid public interest in the effective enforcement of this chapter or rules thereunder, sufficient to justify administrative inspection of the area, premises, building, or conveyance in the circumstances specified in the application for the warrant.

*** SECTION 25. AMENDMENT.** Subsection 3 of section 19-03.1-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the department nor may ~~he~~ the practitioner be compelled in any state or local civil, criminal, administrative, legislative, or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

SECTION 26. AMENDMENT. Paragraph 4 of subdivision e of subsection 1 of section 19-03.1-36 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- (4) A forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if ~~he~~ they neither had knowledge of nor consented to the act or omission.

SECTION 27. AMENDMENT. Subsections 2 and 3 of section 19-03.1-37 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. In the absence of proof that a person is the duly authorized holder of an appropriate registration or order form issued under this chapter, ~~he~~ the person is presumed not to be the holder of the registration or form. The burden of proof is upon ~~him~~ the person to rebut the presumption.
3. No liability is imposed by this chapter upon any authorized state, county, or municipal officer, engaged in the lawful performance of ~~his~~ their duties.

SECTION 28. AMENDMENT. Section 19-04-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE:** Section 19-03.1-35 was also amended by section 22 of Senate Bill No. 2381, chapter 262.

19-04-01. Selling certain enumerated poisons regulated - Penalty. Every person who, at retail, without receiving a physician's prescription specifying that such prescription shall contain a poison and giving the name thereof, sells, furnishes, gives away, or delivers to another:

1. Arsenic or any preparation thereof, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocyanic acid, strychnia, or any other poison or vegetable alkaloid, or the salts thereof, or essential oil of bitter almonds; or
2. Aconite, belladonna, colchicum, conium, formaldehyde, nux vomica, henbane, savin, ergot, cotton root, cantharides, creosote, digitalis, or the pharmaceutical preparations of any of them, croton oil, chloroform, sulfate of zinc, mineral acids, carbolic acid, or oxalic acid,

without affixing to the bottle, box, vessel, or package containing the same, the name of the contents, the word "poison", and his the person's name and place of business, is guilty of a class A misdemeanor. Any storekeeper, however, may sell in original, unbroken packages, fungicides and insecticides, including formaldehyde and Paris green, generally used for agricultural purposes which have been designated as such by the state board of pharmacy.

SECTION 29. AMENDMENT. Section 19-07-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-07-01. Eggs to be graded - Exemption. All eggs sold or offered for sale to an ultimate consumer in this state must be candled, graded, and labeled with the correct grade designation. "Eggs" in this chapter means eggs in the shell which are the product of the domesticated chicken. A producer of eggs when selling only eggs of his the producer's own flock production is exempt from the provisions of this chapter.

SECTION 30. AMENDMENT. Section 19-08-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-08-01. Certain beverages unlawful to sell. A person 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 19-02.1, or that is not licensed as provided in this chapter.

SECTION 31. AMENDMENT. Section 19-08-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-08-04. License required. The department may, in its discretion, require manufacturers, importers, jobbers, or other retailers to furnish suitable samples to the department for inspection and chemical analysis. If any beverage does not meet all requirements of law, the department shall refuse to license it and shall prevent its sale. The license fee shall be paid annually during the month of December or prior to placing the beverage on the market. The license shall expire December thirty-first next following its issuance. If the manufacturer or jobber secures a license for a product, subsequent sellers, including retailers and dispensers, need not again secure a license for the same product, and no dispenser shall be required to secure a license for a product prepared for his the dispenser's own use from a product already licensed.

SECTION 32. AMENDMENT. Section 19-10-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-10-21. Bond may be required of dealer in petroleum products. The director of the department, if he the director deems it necessary, may require any person importing gasoline, kerosene, tractor fuel, heating oil, or diesel fuel for sale or consignment within this state or in possession of any such petroleum products with intent to sell the same, to deposit with the department a surety bond payable to the state of North Dakota in the penal sum of five hundred dollars, or in twice the amount of inspection fees due for any calendar month, whichever amount is the greater, guaranteeing to the state true reports of receipts of gasoline, kerosene, tractor fuel, heating oil, and diesel fuel and the payment of all inspection fees provided for in this chapter. The bond shall be approved as to its sufficiency by the department. A single bond may cover dealing in one or all of the petroleum products mentioned in this chapter. When any inspection fee is not paid within twenty days after it has become delinquent, the person bonding the delinquent may be called upon to make good upon the bond for such delinquent fees.

SECTION 33. AMENDMENT. Subsection 2 of section 19-13.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. A distributor shall not be required to register any brand of commercial feed which is already registered under this chapter by another person. Changes in the guarantee of either chemical or ingredient composition of a registered commercial feed may be permitted provided there is satisfactory evidence that such changes would not result in a lowering of the feeding value of the product for the purpose for which designed. The department is empowered to refuse registration of any application not in compliance with the provisions of this chapter and to cancel any registration subsequently found not to be in compliance with any provision of this chapter; provided, however, that no registration shall be refused or canceled until the registrant shall have been given opportunity to

be heard before the department and to amend ~~his~~ the application in order to comply with the requirements of this chapter.

SECTION 34. AMENDMENT. Section 19-13.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-09. Inspection, sampling, analysis. It shall be the duty of the state laboratories director, who may act through ~~his~~ the director's authorized agent, to sample, inspect, make analyses of, and test commercial feeds and customer-formula feeds distributed within this state at such time and place to such an extent as ~~he~~ the director may deem necessary to determine whether such feeds are in compliance with the provisions of this chapter. The state laboratories director, individually or through ~~his~~ the director's agent, is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours in order to have access to commercial feeds and customer-formula feeds and to records relating to their distribution. The methods of sampling and analysis shall be those adopted by the department from sources such as the journal of the association of official agricultural chemists.

The department, in determining for administrative purposes whether a commercial feed is deficient in any component, shall be guided solely by the official sample as defined in subsection 9 of section 19-13.1-02 and obtained and analyzed as provided for in this section. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the results of analysis shall be forwarded by the department to the distributor and the purchaser. Upon request within thirty days the department shall furnish to the distributor a portion of the sample concerned.

SECTION 35. AMENDMENT. Section 19-13.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-11. Detained commercial feeds. When the state laboratories director or ~~his~~ the director's authorized agent has reasonable cause to believe any lot of commercial feed is being distributed in violation of any of the provisions of this chapter or of any of the prescribed regulations under this chapter, ~~he~~ the director may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the department or the court. The department shall release the lot of commercial feed so withdrawn when said provisions and regulations have been complied with. If compliance is not obtained within thirty days, the department may begin, or upon request of the distributor shall begin, proceedings for condemnation.

Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to seizure on complaint of the state laboratories director to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this chapter and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state; provided, that in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this chapter.

SECTION 36. AMENDMENT. Section 19-13.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-13.1-12. Penalties. Any person convicted of violating any of the provisions of this chapter or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent the state laboratories director or his the state laboratories director's duly authorized agent in performance of his the state laboratories director's duty in connection with the provisions of this chapter, shall be guilty of a class A misdemeanor. In all prosecutions under this chapter involving the composition of a lot of commercial feed, a certified copy of the official analysis signed by the state laboratories director shall be accepted as prima facie evidence of the composition.

Nothing in this chapter shall be construed as requiring the state laboratories director or his the state laboratories director's representative to seek prosecution or the institution of seizure proceedings based on minor violations of the chapter when he the state laboratories director believes that the public interest will be best served by a suitable notice of warning in writing.

It shall be the duty of each state's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay. Before the department reports a violation for prosecution, an opportunity shall be given the distributor to present his the distributor's view to the department.

The department is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

Any person adversely affected by an act, order, or ruling made pursuant to the provisions of this chapter may within forty-five days thereafter bring action in the district court for Burleigh

County for new trial of the issues bearing upon such act, order, or ruling, and upon such trial the court may issue and enforce such orders, judgments, or decrees as the court may deem proper, just, and equitable.

SECTION 37. AMENDMENT. Section 19-14-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-14-03. Regulations for sale. No person shall sell, offer, or expose for sale, have in his possession with intent to sell, any livestock medicine:

1. Which is sold under a name, brand, trademark, or labeling which is misleading, deceptive, or false, or which is dangerous to animals under the conditions of use prescribed in the labeling or advertising thereof.
2. Which purports to cure ~~infectious abortion, hog cholera, fowl cholera, tuberculosis, foot and mouth disease, roup, white diarrhea, or any other infectious disease~~ of domestic animals for which no genuine cure is known.
3. Which has not been registered by the department for sale in this state. The certificate of registration shall include a disclosure of the name and quantity or proportion of each active ingredient, and the names of the inert ingredients or fillers.
4. Which does not have printed or written upon the label of each package sold at retail, in type not less than one-fourth the size of the largest type on the package:
 - a. The common name in English of all active ingredients in the order of their predominance in the product;
 - b. ~~The total quantity or proportion of active ingredients, and the total quantity or proportion of inert ingredients, provided, however, if such statement of ingredients alone be insufficient to prevent fraud or deception or to convey to the purchaser the true nature of the product, the percentage of each ingredient shall in addition be required. A statement of the actual percentage or relative amounts of each ingredients active and inert.~~ In the case of certain products (such as coated medicinal tablets) it may be impractical to state the quantity or proportion of inert ingredients and exemptions shall be established by regulations issued by the food commissioner and chemist;
 - c. A statement of the actual percentage or relative amounts of each of the following substances if present: All mineral (inorganic) acids, caustic alkalis, the elements copper, mercury, arsenic,

antimony, fluorine, or compounds thereof; tobacco; opium; belladonna; nux vomica; pilocarpus; santonica; area nut; chenopodium; digitalis; strephanthus; calabar bean; aconite; veratrum; croton oil; ergot; cotton root bark; cantharides; carbon disulphide; carbon tetrachloride; tetrachloroethylene; or derivatives thereof;

- d- The net contents, by weight, measure, or numerical count of such package;
 - e- d. The name and principal address of the manufacturer or person responsible for placing such livestock medicine on the market; and
 - f- e. Complete and explicit directions for use of such medicine.
5. When the contents of the package as originally put up have been removed in whole or in part, and other contents shall have been placed in such package.

SECTION 38. AMENDMENT. Section 19-14-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-14-06. Department may adopt rules and regulations, take testimony, grant public hearings. The department may adopt rules and regulations pursuant to chapter 28-32 governing applications for registration, the submission of samples for analysis, and all other matters necessary to give effect to this chapter, ~~but no such rule or regulation shall impose any requirement for registration other than is provided by section 19-14-03.~~ It may take expert and other testimony whenever it deems such testimony advisable and, upon request, shall grant a public hearing prior to the cancellation of a registration and also to any manufacturer or distributor whose request for registration of any livestock medicine has been denied.

SECTION 39. AMENDMENT. Section 19-14-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-14-08. Penalty. Any person who shall sell, offer, or expose for sale, or have in his possession with intent to sell, any livestock medicine in violation of any of the provisions of this chapter, or who shall willfully and falsely represent that any livestock medicine is registered for sale in this state when in fact it is not so registered, shall be guilty of a class B misdemeanor.

*** SECTION 40. AMENDMENT.** Section 19-16.1-03 of the 1983 Supplement to 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

- * NOTE: Section 19-16.1-03 was also amended by section 1 of Senate Bill No. 2210, chapter 266.

forms provided by the latter for registration for each antifreeze which he the manufacturer or person whose name appears on the label desires to distribute. All registrations expire on June thirtieth of each year. The application shall be accompanied by specimens or facsimiles of its labeling, an inspection fee of 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. The department shall remit inspection fees received by the department to the state treasurer for deposit in the state general fund.

SECTION 41. AMENDMENT. Section 19-17-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-17-02. Flour standards. It shall be unlawful for any person to manufacture, mix, compound, sell or offer for sale, for human consumption in this state, flour (as defined in section 19-17-01) unless the following vitamins and minerals are contained in each pound {453-59 grams} of such flour- not less than 2-0 milligrams and not more than 2-5 milligrams of thiamine; not less than 1-2 milligrams and not more than 1-5 milligrams of riboflavin; not less than 16-0 milligrams and not more than 20-0 milligrams of niacin or niacin-amide; not less than 13-0 milligrams and not more than 16-5 milligrams of iron {Fe}; except in the case of self-rising flour which in addition to the above ingredients shall contain not less than 500 milligrams and not more than 1500 milligrams of calcium {Ca}; provided, unless, vitamin and mineral levels are in conformity with the legally established governing interstate shipments of enriched flour, however, that the terms of this section shall not apply to flour sold to distributors, bakers, or other processors, if the purchaser furnishes to the seller a certificate in such form as the commissioner shall by regulation prescribe, certifying that such flour, will be (1) resold to a distributor, baker, or other processor, or (2) used in the manufacture, mixing, or compounding of flour, white bread, or rolls enriched to meet the requirements of this chapter, or (3) used in the manufacture of products other than flour, white bread, or rolls. It shall be unlawful for any such purchaser so furnishing any such certificate to use or resell the flour so purchased in any manner other than as prescribed.

SECTION 42. AMENDMENT. Section 19-17-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-17-03. White bread standards. It shall be unlawful for any person to manufacture, bake, sell, or offer for sale, for human consumption in this state, any white bread or rolls (as defined in section 19-17-01) unless the following vitamins and minerals are contained in each pound {453-59 grams} of such bread or rolls- not

less than 1-1 milligrams and not more than 1-8 milligrams of thiamine; not less than 0-7 milligrams and not more than 1-6 milligrams of riboflavin; not less than 10-0 milligrams and not more than 15-0 milligrams of niacin; not less than 8-0 milligrams and not more than 12-5 milligrams of iron (Fe) vitamin and mineral levels are in conformity with the legally established governing interstate shipments of enriched flour.

SECTION 43. AMENDMENT. Section 19-17-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-17-04. Enforcement.

1. The commissioner shall enforce this chapter and he the commissioner may adopt rules, regulations, and orders pursuant to chapter 28-32 for the efficient enforcement of this chapter.
2. Whenever the vitamin and mineral requirements set forth in sections 19-17-02 and 19-17-03 are no longer in conformity with the legally established standards governing the interstate shipments of enriched flour and enriched white bread or enriched rolls, the commissioner, in order to maintain uniformity between intrastate and interstate vitamin and mineral requirements for the foods within the provisions of this chapter, shall modify or revise such requirements to conform with amended standards governing interstate shipments.
3. In the event of findings by the commissioner that there is an existing or imminent shortage of any ingredient required by sections 19-17-02 and 19-17-03, and that because of such shortage the sale and distribution of flour or white bread or rolls may be impeded by the enforcement of this chapter, the commissioner shall issue an order, to be effective immediately upon issuance, permitting the omission of such ingredients from flour or white bread or rolls, and if he the commissioner finds it necessary or appropriate, excepting such foods from labeling requirements until the further order of the commissioner. Any such findings may be made without hearing, on the basis of an order or of factual information supplied by the appropriate federal agency or officer. In the absence of any such order of the appropriate federal agency or factual information supplied by it, the commissioner on his the commissioner's own motion may, and upon receiving the sworn statements of ten or more persons subject to this chapter that they believe such a shortage exists or is imminent shall, within twenty days thereafter hold a public hearing with respect thereto at which any interested person may present evidence; and shall make findings based upon the evidence presented. The commissioner shall publish notice of any such hearing at least ten days prior thereto. Whenever the

commissioner has reason to believe that such shortage no longer exists, he the commissioner shall hold a public hearing, after at least ten days' notice shall have been given, at which any interested person may present evidence, and he the commissioner shall make findings based upon the evidence so presented. If ~~his~~ the commissioner's findings be that such shortage no longer exists, he the commissioner shall issue an order to become effective not less than thirty days after the publication thereof, revoking such previous order; provided, however, that undisposed floor stocks of flour on hand at the effective date, of such revocation order, or flour manufactured prior to such effective date, for sale in this state may thereafter be lawfully sold or disposed of.

4. For the purpose of this chapter, the commissioner, or such officers or employees under ~~his~~ the commissioner's supervision as he the commissioner may designate, is authorized to take samples for analysis and to conduct examinations and investigations, and to enter, at reasonable times, any factory, mill, bakery, warehouse, shop, or establishment where flour, white bread, or rolls are manufactured, processed, packed, sold, or held, or any vehicle being used for the transportation thereof, and to inspect any such place or vehicle and any flour, white bread, or rolls therein, and all pertinent equipment, materials, containers, and labeling.

SECTION 44. AMENDMENT. Subsection 8 of section 19-18-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Economic poison" shall mean any substance intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, snails, slugs, fungi, weeds, or other forms of plant or animal life or viruses, ~~except viruses on or in living man or other animals, which the commissioner shall declare to be a pest~~ bacteria, or other micro-organisms; and any substance intended for use as a plant regulator, defoliant, or desiccant.

SECTION 45. A new subsection to section 19-18-02 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Pest" shall mean any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life, vires, bacteria, or other micro-organisms except viruses, bacteria, or other micro-organisms on or in living man or other living animals.

* SECTION 46. AMENDMENT. Section 19-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE: Section 19-18-03 was also amended by section 1 of House Bill No. 1538, chapter 267.

19-18-03. **Prohibited acts.** No person shall distribute, sell, or offer for sale within this state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

1. Any economic poison which has not been registered pursuant to the provisions of section 19-18-04, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration; provided, that in the discretion of the commissioner, a change in the labeling or formula of an economic poison may be made within a registration period without requiring reregistration of the product.
2. Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing:
 - a. The name and address of the manufacturer, registrant, or person for whom manufactured;
 - b. The name, brand, or trademark under which said article is sold; and
 - c. The net weight or measure of the content subject, however, to such reasonable variations as the commissioner may permit.
3. Any economic poison which contains any substance or substances in quantities highly toxic to man, determined as provided in section 19-18-05, unless the label shall bear, in addition to any other matter required by this chapter:
 - a. The skull and crossbones;
 - b. The word "poison" prominently, in red, on a background of distinctly contrasting color; and
 - c. A statement of an antidote for the economic poison.
4. The economic poison commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this chapter, or any other white powder economic poison which the commissioner,

after investigation of and after public hearing on the necessity for such action for the protection of the public health and the feasibility of such coloration or discoloration, by regulation, shall require to be distinctly colored or discolored; unless it has been so colored or discolored. The commissioner may exempt any economic poison to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if he the commissioner determines that such coloring or discoloring for such use or uses is not necessary for the protection of the public health.

5. Any economic poison which is adulterated or misbranded, or any device which is misbranded.

No person shall detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this chapter or regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of this chapter. No person shall use for his their own advantage or reveal other than in response to a proper subpoena, except to a physician or other qualified person for use in the preparation of an antidote, any information relative to the formula of any product acquired by authority of subsection 4.

SECTION 47. AMENDMENT. Subsection 2 of section 19-18-04 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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 the commissioner shall issue to the applicant a certificate of registration of the product. If after public hearing before the commission and the commissioner the application is denied, the product shall not be offered for sale.

SECTION 48. AMENDMENT. Section 19-18-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-05. Determinations - Rules and regulations - Uniformity. The commissioner is authorized, after opportunity for a hearing:

1. To declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles, or substances.

2. To determine whether economic poisons are highly toxic to man and whether the use thereof should be restricted.
3. To determine standards of coloring or discoloring for economic poisons, and to subject economic poisons to the requirements of subsection 4 of section 19-18-03.

The commissioner may adopt appropriate rules and regulations pursuant to chapter 28-32 for carrying out the provisions of this chapter, including rules and regulations providing for the collection and examination of samples of economic poisons or devices, and also may adopt such regulations, applicable to and in conformity with the primary standards established by this chapter, as have been or may be prescribed by the United States ~~department of agriculture~~ environmental protection agency with respect to economic poisons in order that there may be uniformity between the requirements of the several states and the federal government.

SECTION 49. AMENDMENT. Section 19-18-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-06. Enforcement. The examination of economic poisons or devices shall be made under the direction of the commissioner for the purpose of determining whether they comply with the requirements of this chapter. If it shall appear from such examination that an economic poison or device fails to comply with the provisions of this chapter, and the commissioner contemplates instituting criminal proceedings against any person, the commissioner shall cause appropriate notice to be given to such person. Any person so notified shall be given an opportunity to present ~~his~~ their views, either orally or in writing, with regard to such contemplated proceedings and if thereafter in the opinion of the commissioner it shall appear that the provisions of the chapter have been violated by such person, then the commissioner shall refer the facts to the state's attorney for the county in which the violation shall have occurred with a copy of the results of the analysis or the examination of such article. Nothing in this chapter shall be construed as requiring the commissioner to report for prosecution or for the institution of libel proceedings minor violations of the chapter whenever ~~he~~ the commissioner believes that the public interests will be best served by a suitable notice of warning in writing. Each state's attorney to whom any such violation is reported shall cause appropriate proceedings to be instituted and prosecuted in the proper court of jurisdiction without delay. The commissioner, by publication in such manner as ~~he~~ the commissioner may prescribe, shall give notice of all judgments entered in actions instituted under the authority of this chapter.

SECTION 50. AMENDMENT. Section 19-18-06.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-18-06.1. "Stop-sale" orders. The department may issue and enforce a stop-sale order to the owner or custodian of any economic

poison when the department finds that the product is being offered for sale in violation of the provisions of this chapter, and the order shall direct that the product ~~be~~ be held at a designated place until released in writing by the department. The owner or custodian of such product shall have the right to petition a court of competent jurisdiction in the county where the product is found for an order releasing the product for sale in accordance with the findings of the court.

SECTION 51. AMENDMENT. Subsection 1 of section 19-18-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any carrier while lawfully engaged in transporting an economic poison within this state, if such carrier, upon request, shall permit the commissioner or ~~his~~ the commissioner's designated agent to copy all records showing the transactions in and movement of the articles.

*** SECTION 52. AMENDMENT.** Section 19-20.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-02. Definitions of words and terms. When used in this chapter:

1. "Brand" means a term, design, or trademark used in connection with one or several grades of commercial fertilizer or soil amendments, auxiliary soil and plant substance.
2. "Bulk" means in a nonpackaged form.
3. "Commercial fertilizer" means any substance containing one or more primary plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and other products excluded by department regulation. The term includes:
 - a. "Agricultural fertilizer" which must contain a minimum of fifteen percent primary plant nutrients.
 - b. "Specialty fertilizer" which is distributed primarily for nonfarm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses, and nurseries.
 - c. "Micronutrient" which contains essential chemical elements which are required at low levels for normal plant growth.

*** NOTE:** Section 19-20.1-02 was also amended by section 2 of Senate Bill No. 2238, chapter 268.

- d. "Fertilizer material" is a commercial fertilizer which:
- (1) Contains no more than one of the primary plant nutrients;
 - (2) Has approximately eighty-five percent of its primary plant nutrient content present in the form of a single chemical compound; or
 - (3) Is derived from a plant or animal residue or byproduct or a natural material deposit which has been processed in such a way that its content of primary plant nutrients has not been materially changed except by purification or concentration.
4. "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer or soil amendments, auxiliary soil and plant substances, or who sells commercial fertilizer or soil amendments or auxiliary soil and plant substances in this state.
5. "Grade" means the percentages of total nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash stated in the same terms, order, and percentages as in the "guaranteed analysis".
6. Until the department prescribes the alternative form of "guaranteed analysis" in accordance with the provisions of this subsection, "guaranteed analysis" shall mean the minimum percentage of plant nutrients claimed in the following order and form:
- a. Total Nitrogen (N) ---- percent
Available Phosphoric Acid (P_2O_5) . . ---- percent
Soluble Potash (K_2O) ---- percent
 - b. For unacidulated mineral phosphatic materials and basic slag, both total and available phosphoric acid and the degree of fineness. For bone, tankage, and other organic phosphatic materials, total phosphoric acid.
 - c. Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by regulation of the department. The guarantees for such other nutrients shall be expressed in the form of the element. The sources of such other nutrients, oxides, salt, chelates, etc., may be required to be stated on the application for registration and may be included as a parenthetical statement on the label. Other beneficial substances or compounds, determinable by laboratory methods, also may be guaranteed by permission of the department and with the advice of

the director of the agricultural experiment station. When any plant nutrients or other substances or compounds are guaranteed, they shall be subject to inspection and analysis in accord with the methods and regulations prescribed by the department.

- d. Potential basicity or acidity expressed in terms of calcium carbonate equivalent in multiples of one hundred pounds [45.36 kilograms] per ton [907.18 kilograms] when required by regulation. At any time after July 1, 1967, when the department finds, after public hearing following due notice, that the requirement for expressing the guaranteed analysis of phosphorus and potassium in the elemental form would not impose an economic hardship on distributors and users of fertilizer by reason of conflicting labeling requirements among the states, it may require by regulation thereafter that the "guaranteed analysis" shall be in the following form:

Total Nitrogen (N) ---- percent
 Available Phosphorus (P) . . . ---- percent
 Soluble Potassium (K) ---- percent

Provided, however, that the effective date of said regulation shall be not less than six months following the issuance thereof, and provided, further, that for a period of two years following the effective date of said regulation, the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash; provided, however, that after the effective date of a regulation issued under the provisions of this section, requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium shall constitute the grade.

- e. The minimum quantity of each active ingredient contained in soil amendments auxiliary soil and plant substances, shall be guaranteed in terms approved by the department or prescribed by its rules.
7. "Label" means all written, printed, or graphic matter upon or accompanying any commercial fertilizer or soil amendment, auxiliary soil and plant substance, or advertisements, brochures, posters, or media announcements used in promoting the sale thereof.
8. "Licensee" means any person licensed by the department as a distributor of agricultural fertilizer, soil amendment, auxiliary soil and plant substance.
9. "Mobile mechanical unit" means any portable machine or apparatus used to blend, mix, or manufacture fertilizer

- materials, soil amendment, auxiliary soil and plant substance.
10. "Official sample" means any sample of commercial fertilizer or soil amendment, auxiliary soil and plant substance, taken by the department and designated as "official" by the department.
 11. "Percent" or "percentage" means the percentage by weight.
 12. "Primary plant nutrients" are nitrogen, phosphoric acid, and potash.
 13. "Registrant" means the person who registers commercial fertilizer or soil amendments, auxiliary soil and plant substance under the provisions of this chapter.
 14. "Sell" when applied to commercial fertilizer or soil amendments, auxiliary soil and plant substance includes:
 - a. The act of selling, transferring ownership.
 - b. The offering and exposing for sale, exchange, or distribution.
 - c. Giving away.
 - d. Receiving, accepting, holding, or possession for sale, exchange, or distribution.
 15. "Small package fertilizer" means fertilizer sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less.
 16. "Soil amendment" means any substance which is intended to improve the physical, chemical, biological, or other characteristics of the soil to improve crop production, except the following: commercial fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated vegetable manures, and pesticides. The term shall include commercial fertilizer if the fertilizer is represented to contain, as an active ingredient, a substance other than a primary plant nutrient or micronutrient or is represented as promoting plant growth by supplying something other than a primary plant nutrient or micronutrient.
 17. "Ton" means a net weight of two thousand pounds avoirdupois [907.18 kilograms].

SECTION 53. AMENDMENT. Section 19-20.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-03. **Registration.** Each brand and grade of commercial fertilizer sold as small package fertilizer or specialty fertilizer, each soil amendment, auxiliary soil and plant substance, and each brand and grade of fertilizer material except unmanipulated animal and vegetable manures, shall be registered before being distributed in this state. The application for registration shall be submitted to the department on a form prescribed by the department and shall be accompanied by a fee of twenty-five dollars. Upon approval by the department, a copy of the registration shall be furnished to the applicant setting forth the information to be set out in the product label required by this chapter. All registrations expire on June thirtieth of each year. A distributor shall not be required to register any brand of commercial fertilizer or soil amendment, auxiliary soil and plant substance which is already registered under this chapter by another person, providing the label complies with the issued registration.

* SECTION 54. **AMENDMENT.** Section 19-20.1-06 of the 1983 Supplement to 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, auxiliary soil and plant substance distributed in this state an inspection fee at the rate of 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, auxiliary soil and plant substance 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, auxiliary soil and plant substance 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 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 statement is due on or before the fifteenth day of the month following each semiannual period. The person filing the statement shall pay the inspection fee at the rate stated in this section. If the tonnage 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

* NOTE: Section 19-20.1-06 was also amended by section 4 of Senate Bill No. 2238, chapter 268.

licensee, and the amount of fees due shall constitute a debt and become the basis of a judgment against the licensee.

SECTION 55. AMENDMENT. Section 19-20.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-08. Inspection, sampling, analysis. It shall be the duty of the state laboratories director, who may act through ~~his~~ the director's authorized agent, to sample, inspect, make analyses of, and test commercial fertilizers and soil amendments, auxiliary soil and plant substance distributed within this state at time and place and to such an extent as ~~he~~ the director may deem necessary to determine whether such commercial fertilizers or soil amendments are in compliance with the provisions of this chapter. The state laboratories director individually or through ~~his~~ the director's agent, is authorized to enter upon any public or private premises or carriers during regular business hours in order to have access to commercial fertilizers or soil amendments, auxiliary soil and plant substance subject to the provisions of this chapter and the rules and regulations pertaining thereto. The methods of analysis and sampling shall be those adopted by the department from sources such as the A.O.A.C. journal.

The department, in determining for administrative purposes whether any commercial fertilizer or soil amendment, auxiliary soil and plant substance is deficient, shall be guided solely by the official sample obtained and analyzed by the department. The results of official analysis of any commercial fertilizer or soil amendment, auxiliary soil and plant substance which has been found to be subject to penalty or other legal action shall be forwarded by the department to the registrant at least ten days before the report is submitted to the purchaser. If during that period no adequate evidence to the contrary is made available to the department, the report shall become official. Upon request the department shall furnish to the registrant a portion of any sample found subject to penalty or other legal action.

* **SECTION 56. AMENDMENT.** Section 19-20.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-10. False or misleading statements. A commercial fertilizer or soil amendment, auxiliary soil and plant substance is misbranded if it carries a false or misleading statement on the container, on the label attached to the container, or if false or misleading statements concerning the fertilizer or soil amendment, auxiliary soil and plant substance are disseminated in any manner or by any means. It shall be unlawful to distribute a misbranded fertilizer or soil amendment, auxiliary soil and plant substance.

SECTION 57. AMENDMENT. Section 19-20.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

* **NOTE:** Section 19-20.1-10 was also amended by section 5 of Senate Bill No. 2238, chapter 268.

19-20.1-11. **Publications.** The department may publish in such forms as it may deem proper:

1. Information concerning the distribution of commercial fertilizers and soil amendments, auxiliary soil and plant substance.
2. Results of analyses based on official samples of commercial fertilizers and soil amendments, auxiliary soil and plant substance distributed within the state as compared with the analyses guaranteed under sections 19-20.1-03 and 19-20.1-04.

SECTION 58. AMENDMENT. Section 19-20.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-12. **Rules and regulations.** For the enforcement of this chapter, the state laboratories director is authorized to prescribe and enforce such rules, regulations, and tolerances relating to the labeling and distribution of commercial fertilizers and soil amendments as ~~he~~ the state laboratories director may find necessary to carry into effect the full intent and meaning of this chapter. When promulgating any rules or regulations under the authority of this section, the state laboratories director shall follow the procedures provided in chapter 28-32.

SECTION 59. AMENDMENT. Section 19-20.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-13. **Short weight.** If any commercial fertilizer or soil amendment, auxiliary soil and plant substance in the possession of the consumer is found by the department to be short in weight, the registrant of said commercial fertilizer or soil amendment, auxiliary soil and plant substance shall within thirty days after official notice from the department pay to the consumer a penalty equal to four times the value of the actual shortage.

SECTION 60. AMENDMENT. Section 19-20.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-14. **Cancellation of registrations.** The department is authorized and empowered to cancel the registration of any brand of commercial fertilizer or soil amendment, auxiliary soil and plant substance and to cancel the license of any distributor or to refuse to register any brand of commercial fertilizer or soil amendment, auxiliary soil and plant substance or to license any distributor as herein provided, upon satisfactory evidence that the registrant, licensee, or distributor has used fraudulent or deceptive practices in the evasions or attempted evasions of the provisions of this chapter or any rules and regulations promulgated thereunder;

provided, that no registration or license shall be revoked or refused without opportunity for hearing given by the department.

SECTION 61. AMENDMENT. Section 19-20.1-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-15. "Stop-sale" orders. The department may issue and enforce a written or printed "stop-sale, use, or removal" order to the owner or custodian of any lot of commercial fertilizer or soil amendment, auxiliary soil and plant substance and an order to hold at a designated place when the department finds said commercial fertilizer or soil amendment, auxiliary soil and plant substance is being offered or exposed for sale in violation of any of the provisions of this chapter until the law has been complied with and said commercial fertilizer or soil amendment, auxiliary soil and plant substance is released in writing by the department or said violation has been otherwise legally disposed by written authority. The department shall release the commercial fertilizer or soil amendment, auxiliary soil and plant substance so withdrawn when the requirements of the provisions of this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

SECTION 62. AMENDMENT. Section 19-20.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-16. Seizure, condemnation, and sale. Any lot of commercial fertilizer or soil amendment, auxiliary soil and plant substance not in compliance with the provisions of this chapter shall be subject to seizure on complaint of the department to the district court in the county in which said commercial fertilizer or soil amendment, auxiliary soil and plant substance is located. In the event the court finds the said commercial fertilizer or soil amendment, auxiliary soil and plant substance to be in violation of this chapter and orders its condemnation, it shall be disposed of in any manner consistent with the quality of the commercial fertilizer or soil amendment, auxiliary soil and plant substance and the laws of the state; provided, that in no instance shall the disposition of said commercial fertilizer or soil amendment, auxiliary soil and plant substance be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial fertilizer or soil amendment, auxiliary soil and plant substance or for permission to process or relabel said commercial fertilizer or soil amendment, auxiliary soil and plant substance to bring it into compliance with this chapter.

SECTION 63. AMENDMENT. Section 19-20.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-17. Violations - Penalty.

1. If it shall appear from the examination of any commercial fertilizer or soil amendment, auxiliary soil and plant substance that any of the provisions of this chapter or the rules and regulations issued thereunder have been violated, the department shall cause notice of the violations to be given to the registrant, licensee, manufacturer, distributor, or possessor from whom said sample was taken. Any person so notified shall be given opportunity to be heard under such rules and regulations as may be prescribed by the department. If it appears after such hearing, either in the presence or absence of the person so notified, that any of the provisions of this chapter or rules and regulations issued thereunder have been violated, the state laboratories director may certify the facts to the proper prosecuting attorney.
2. Any person convicted of violating any of the provisions of this chapter or the rules and regulations issued thereunder or who shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent said state laboratories director or his the state laboratories director's duly authorized agent in the performance of his their duty in connection with the provisions of this chapter, shall be guilty of a class A misdemeanor. In all prosecutions under this chapter involving the composition of a lot of commercial fertilizers or soil amendments, auxiliary soil and plant substance, a certified copy of the official analysis signed by the state laboratories director shall be accepted as prima facie evidence of the composition.
3. Nothing in this chapter shall be construed as requiring the state laboratories director or his the director's representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when he the director believes that the public interests will be best served by a suitable notice of warning in writing.
4. It shall be the duty of each state's attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.
5. The department is hereby authorized to apply for and the court to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.

SECTION 64. AMENDMENT. Subsection 5 of section 19-21-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. The use by any person to ~~his~~ their own advantage, or revealing, other than to the department, or to the courts when relevant in any judicial proceeding under this chapter, of any information acquired under authority of section 19-21-06 concerning any method of process which, as a trade secret, is entitled to protection.

SECTION 65. AMENDMENT. Section 19-21-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-21-04. Hearing before report of criminal violation. Before any violation of this chapter is reported by the department to any state's attorney for institution of a criminal proceeding, the person against whom such proceedings is contemplated shall be given appropriate notice and an opportunity to present ~~his~~ their views, either orally or in writing, with regard to such contemplated proceeding.

SECTION 66. REPEAL. Section 19-17-06 of the North Dakota Century Code is hereby repealed.

Approved March 27, 1985

CHAPTER 259

SENATE BILL NO. 2195
(Committee on Industry, Business and Labor)
(At the request of the Board of Pharmacy)

FOOD, DRUG, AND COSMETIC ACT PENALTIES

AN ACT to amend and reenact subsection 1 of section 19-02.1-04, sections 19-02.1-06 and 19-02.1-07 of the North Dakota Century Code, relating to penalties, prosecutions, and minor violations of the Food, Drug, and Cosmetic Act; and providing a penalty.

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

* SECTION 1. AMENDMENT. Subsection 1 of section 19-02.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any person who violates any of the provisions of subsections 1 through ~~14~~ 16 of section 19-02.1-02 shall be guilty of a class B misdemeanor.

** SECTION 2. AMENDMENT. Section 19-02.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-06. Prosecutions - State's attorney. It shall be the duty of each state's attorney to whom the department or board of pharmacy reports any violation of this chapter occurring in his county, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law.

SECTION 3. AMENDMENT. Section 19-02.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-02.1-07. Minor violations. Nothing in this chapter shall be construed as requiring the state laboratories director or the board of pharmacy to report for the institution of proceedings under this chapter, minor violations of this chapter, whenever the state laboratories director or the board of pharmacy believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

Approved March 22, 1985

* NOTE: Section 19-02.1-04 was also amended by section 12 of House Bill No. 1590, chapter 258.

** NOTE: Section 19-02.1-06 was also amended by section 14 of House Bill No. 1590, chapter 258.

CHAPTER 260

SENATE BILL NO. 2239
(Committee on Industry, Business and Labor)
(At the request of the Board of Pharmacy)

PRESCRIPTION DRUG LABELS

AN ACT to amend and reenact subsection 2 of section 19-02.1-14.1 of the North Dakota Century Code, relating to the label of drugs.

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

SECTION 1. AMENDMENT. Subsection 2 of section 19-02.1-14.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Drugs or medicines dispensed pursuant to a prescription shall bear a label permanently affixed to the immediate container in which the drug or medicine is dispensed or delivered and which is received by the purchaser or patient. The label shall bear the brand name or the generic name and, strength, quantity, serial number, date of dispensing, patient name, and directions for use of the drug or medicine, except when the physician or other health care provider authorized by law to prescribe drugs or medicine has notified the pharmacist that the appearance of the name on the label would be alarming to or detrimental to the well-being of the purchaser of the prescription.

Approved March 22, 1985

CHAPTER 261

HOUSE BILL NO. 1188
(Committee on Social Services and Veterans Affairs)
(At the request of the Board of Pharmacy)

BOARD OF PHARMACY POWERS REGARDING DRUG IDENTIFICATION

AN ACT to amend and reenact subsections 7, 8, and 9 of section 19-02.1-14.1 of the North Dakota Century Code, relating to the identification of drugs.

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

SECTION 1. AMENDMENT. Subsections 7, 8, and 9 of section 19-02.1-14.1 of the North Dakota Century Code are hereby amended and reenacted to read as follows:

7. All manufacturers and distributors of prescription drugs in solid dosage form shall provide to the department or board of pharmacy, upon request, a listing of all such prescription drugs identifying by code imprint the manufacturer and the specific type of drug. The listing shall at all times be kept current by all manufacturers and distributors subject to the provisions of this section.
8. The ~~department~~ board of pharmacy may grant exemptions from the requirements of this section upon application by any drug manufacturer or distributor which shows size, physical characteristics, or other unique characteristics of a drug that render the use of a code imprint on the drug impractical or impossible. Any exemption granted by the ~~department~~ board of pharmacy shall be included by the manufacturer or distributor in the listing required by this section. The listing shall describe the physical characteristics and type of drug to which the exemption relates.
9. All prescription drugs in solid dosage form that are possessed, distributed, sold, or offered for sale in violation of the provisions of this section shall be deemed misbranded and shall be seized by the department or board of pharmacy.

Approved March 14, 1985

CHAPTER 262

SENATE BILL NO. 2381
(Lips, Satrom)

CONTROLLED SUBSTANCES BOARD

AN ACT to create and enact a new section to chapter 19-03.1 and a new subsection to section 19-03.1-01 of the North Dakota Century Code, relating to the creation of a controlled substances board to carry out the provisions of the Uniform Controlled Substances Act, and the definition of "board"; to amend and reenact subsection 12 of section 19-03.1-01, sections 19-03.1-02, 19-03.1-04, 19-03.1-06, 19-03.1-08, subsection 6 of section 19-03.1-09, section 19-03.1-10, subsection 7 of section 19-03.1-11, sections 19-03.1-12, 19-03.1-14, 19-03.1-15, 19-03.1-16, 19-03.1-17, 19-03.1-18, 19-03.1-19, 19-03.1-20, subsection 2 of section 19-03.1-22, section 19-03.1-26, subsection 2 of section 19-03.1-33, section 19-03.1-35, subsections 2, 4, 5, and 8 of section 19-03.1-36, sections 19-03.1-38, 19-03.1-39, and 54-12-15 of the North Dakota Century Code, relating to the implementation of and authority to control the Uniform Controlled Substances Act, and the duties of the drug enforcement unit; to repeal section 19-03.1-40 of the North Dakota Century Code, relating to proceedings pending prior to enactment of the Uniform Controlled Substances Act; and to provide an appropriation.

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

SECTION 1. A new subsection to section 19-03.1-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Board" means the North Dakota controlled substances board.

SECTION 2. AMENDMENT. Subsection 12 of section 19-03.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

12. "Immediate precursor" means a substance which the ~~department~~ board has found to be and by rule designates as being the principal compound commonly used or produced

primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

SECTION 3. A new section to chapter 19-03.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

Controlled substances board - Expense - Advise and assistance.

1. There is hereby established a North Dakota controlled substances board consisting of the attorney general or the attorney general's designee, the director of the state laboratories department or the director's designee, the chairman of the state board of medical examiners or the chairman's designee, a member appointed by the governor, and the executive secretary of the state board of pharmacy or the executive secretary's designee. The executive secretary of the state board of pharmacy, or the executive secretary's designee, shall be the chairman of the board.
2. In carrying out its duties under this chapter, the board shall consult with representatives of each of the following interest: board of dental examiners, board of registry in podiatry, board of veterinary medical examiners, board of nursing, the college of pharmacy, and the school of medicine.
3. To carry out its duties under this chapter, the board may enter into agreements or memorandums of understanding with the interests named in subsection 2. Additionally, the board may contract for and accept private contributions, gifts and grants-in-aid from the federal government, private industry, and other sources. The income received from these sources must be spent for the purpose designated in the gift, grant, or donation.
4. Members of the board may not receive any compensation for their service on the board, but they are entitled to be reimbursed for their expenses incurred in performing their duties in the amounts provided for state employees.

SECTION 4. AMENDMENT. Section 19-03.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-02. Authority to control.

1. The North Dakota state laboratories department board shall administer this chapter and may add substances to or delete or reschedule all substances enumerated in the schedules in sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, or 19-03.1-13 pursuant to the procedures of

chapter 28-32. In making a determination regarding a substance, the department board shall consider the following:

- a. The actual or relative potential for abuse;
 - b. The scientific evidence of its pharmacological effect, if known;
 - c. The state of current scientific knowledge regarding the substance;
 - d. The history and current pattern of abuse;
 - e. The scope, duration, and significance of abuse;
 - f. The risk to the public health;
 - g. The potential of the substance to produce psychic or physiological dependence liability; and
 - h. Whether the substance is an immediate precursor of a substance already controlled under this chapter.
2. After considering the factors enumerated in subsection 1, the department board shall make findings with respect thereto and issue a rule controlling the substance if it finds the substance has a potential for abuse.
 3. If the department board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.
 4. If any substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice thereof is given to the department board, the department board shall similarly control the substance under this chapter after the expiration of thirty days from publication in the federal register of a final order designating a substance as a controlled substance or rescheduling, or deleting a substance, unless within that thirty-day period, the department board objects to inclusion, rescheduling, or deletion. In that case, the department board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the department board shall publish its decision, which shall be final unless altered by statute. Upon publication of objection to inclusion, rescheduling, or deletion under this chapter by the department board, control under this chapter is stayed until the department board publishes its decision.

5. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in title 5.

SECTION 5. AMENDMENT. Section 19-03.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-04. Schedule I tests. The department board shall place a substance in schedule I if it finds that the substance:

1. Has high potential for abuse; and
2. Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

SECTION 6. AMENDMENT. Section 19-03.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-06. Schedule II tests. The department board shall place a substance in schedule II if it finds that:

1. The substance has high potential for abuse;
2. The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
3. The abuse of the substance may lead to severe psychic or physical dependence.

SECTION 7. AMENDMENT. Section 19-03.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-08. Schedule III tests. The department board shall place a substance in schedule III if it finds that:

1. The substance has a potential for abuse less than the substances listed in schedules I and II;
2. The substance has currently accepted medical use in treatment in the United States; and
3. Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

*** SECTION 8. AMENDMENT.** Subsection 6 of section 19-03.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- * NOTE:** Section 19-03.1-09 was also amended by section 17 of House Bill No. 1590, chapter 258, and amended by section 3 of Senate Bill No. 2498, chapter 265.

6. The state laboratories department board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 2 and 3 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

SECTION 9. AMENDMENT. Section 19-03.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-10. Schedule IV tests. The department board shall place a substance in schedule IV if it finds that:

1. The substance has a low potential for abuse relative to substances in schedule III;
2. The substance has currently accepted medical use in treatment in the United States; and
3. Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in schedule III.

* SECTION 10. AMENDMENT. Subsection 7 of section 19-03.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

7. The department board may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 11. AMENDMENT. Section 19-03.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-12. Schedule V tests. The department board shall place a substance in schedule V if it finds that:

- * NOTE: Section 19-03.1-11 was also amended by section 4 of Senate Bill No. 2498, chapter 265.

1. The substance has low potential for abuse relative to the controlled substances listed in schedule IV;
2. The substance has currently accepted medical use in treatment in the United States; and
3. The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in schedule IV.

SECTION 12. AMENDMENT. Section 19-03.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-14. Republishing of schedules. The department board shall revise and republish the schedules semiannually for two years from July 1, 1971, and thereafter annually.

SECTION 13. AMENDMENT. Section 19-03.1-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-15. Rules. The department board may adopt rules pursuant to chapter 28-32 and charge reasonable fees relating to the registration and control of the manufacture, distribution, and dispensing of controlled substances within this state.

*** SECTION 14. AMENDMENT.** Section 19-03.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-16. Registration requirements.

1. Every person who manufactures, distributes, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the department board in accordance with its rules.
2. Persons registered by the department board under this chapter to manufacture, distribute, dispense, or conduct research with controlled substances may possess, manufacture, distribute, dispense, or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this chapter.
3. The following persons need not register and may lawfully possess controlled substances under this chapter:
 - a. An agent or employee of any registered manufacturer, distributor, or dispenser of any controlled substance

* NOTE: Section 19-03.1-16 was also amended by section 19 of House Bill No. 1590, chapter 258, and amended by section 6 of Senate Bill No. 2498, chapter 265.

- if he is acting in the usual course of his business or employment.
- b. A common or contract carrier or warehouseman, or an employee thereof, whose possession of any controlled substance is in the usual course of business or employment.
 - c. An ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or in lawful possession of a schedule V substance.
4. The department board may waive by rule the requirement for registration of certain manufacturers, distributors, or dispensers if it finds it consistent with the public health and safety.
 5. A separate registration is required at each principal place of business or professional practice where the applicant manufactures, distributes, or dispenses controlled substances.
 6. The department board may inspect the establishment of a registrant or applicant for registration in accordance with the state department of health rule rules of the board.

SECTION 15. AMENDMENT. Section 19-03.1-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-17. Registration.

1. The department board shall register an applicant to manufacture or distribute controlled substances included in sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, and 19-03.1-13 unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the department board shall consider the following factors:
 - a. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
 - b. Compliance with applicable state and local laws;
 - c. Any convictions of the applicant under any federal and state laws relating to any controlled substance;
 - d. Past experience in the manufacture or distribution of controlled substances, and the existence in the

- applicant's establishment of effective controls against diversion;
- e. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
 - f. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and
 - g. Any other factors relevant to and consistent with the public health and safety.
2. Registration under subsection 1 does not entitle a registrant to manufacture and distribute controlled substances in schedule I or II other than those specified in the registration.
 3. Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the laws of this state. The department board need not require separate registration under this chapter for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this chapter in another capacity. Practitioners registered under federal law to conduct research with schedule I substances may conduct research with schedule I substances within this state upon furnishing the state department of health evidence of that federal registration.
 4. Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this chapter.

* SECTION 16. AMENDMENT. Section 19-03.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-18. Revocation and suspension of registration.

1. A registration under section 19-03.1-17 to manufacture, distribute, or dispense a controlled substance may be suspended or revoked by the department board upon a finding that the registrant:
 - a. Has furnished false or fraudulent material information in any application filed under this chapter;

* NOTE: Section 19-03.1-18 was also amended by section 20 of House Bill No. 1590, chapter 258.

- b. Has been convicted of a felony under any state or federal law relating to any controlled substance; or
 - c. Has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances.
2. The department board may limit revocation or suspension of a registration to the particular controlled substance with respect to which grounds for revocation or suspension exist.
 3. If the department board suspends or revokes a registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation order may be placed under seal. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation order becoming final, all controlled substances may be forfeited to the state.
 4. The department board shall promptly notify the bureau of all orders suspending or revoking registration and all forfeitures of controlled substances.

SECTION 17. AMENDMENT. Section 19-03.1-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-19. Order to show cause.

1. Before denying, suspending, or revoking a registration, or refusing a renewal of registration, the department board shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be refused. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the state laboratories department board at a time and place not less than thirty days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty days before the expiration of the registration. These proceedings shall be conducted in accordance with chapter 28-32 without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration which shall remain in effect pending the outcome of the administrative hearing.

2. The department board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 19-03.1-18, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the department board or dissolved by a court of competent jurisdiction.

SECTION 18. AMENDMENT. Section 19-03.1-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-20. Records of registrants. Persons registered to manufacture, distribute, or dispense controlled substances under this chapter shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of federal law and with any additional rules the department board issues.

SECTION 19. AMENDMENT. Subsection 2 of section 19-03.1-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. In emergency situations, as defined by rule of the department board, schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescriptions shall be retained in conformity with the requirements of section 19-03.1-20. No prescription for a schedule II substance may be refilled.

SECTION 20. AMENDMENT. Section 19-03.1-26 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-26. Disposing of needles and paraphernalia - Penalty. Any registrant who shall use, administer, dispense or cause to be used, administered, or dispensed any drug or controlled substance in a manner requiring the use of any type of syringe, needle, eyedropper or other similar paraphernalia shall destroy and dispose of said syringe, needle, eyedropper, or other similar paraphernalia in a manner that will prevent its reuse by any person other than the registrant. The department board may adopt rules and regulations pursuant to chapter 28-32 setting out the specific manner in which the provisions of this section shall be carried out. Any registrant who violates the provisions of this section is guilty of a class A misdemeanor.

SECTION 21. AMENDMENT. Subsection 2 of section 19-03.1-33 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. The department board may make administrative inspections of controlled premises in accordance with the following provisions:
- a. For purposes of this section only, "controlled premises" means:
 - (1) Places where persons registered or exempted from registration requirements under this chapter are required to keep records; and
 - (2) Places including factories, warehouses, establishments, and conveyances in which persons registered or exempted from registration requirements under this chapter are permitted to hold, manufacture, compound, process, sell, deliver, or otherwise dispose of any controlled substance.
 - b. When authorized by an administrative inspection warrant issued pursuant to subsection 1 an officer or employee designated by the department board, upon presenting the warrant and appropriate credentials to the owner, operator, or agent in charge, may enter controlled premises for the purpose of conducting an administrative inspection.
 - c. When authorized by an administrative inspection warrant, an officer or employee designated by the department board may:
 - (1) Inspect and copy records required by this chapter to be kept;
 - (2) Inspect, within reasonable limits and in a reasonable manner, controlled premises and all pertinent equipment, finished and unfinished material, containers and labeling found therein, and, except as provided in subdivision e, all other things therein, including records, files, papers, processes, controls, and facilities bearing on violation of this chapter; and
 - (3) Inventory any stock of any controlled substance therein and obtain samples thereof.
 - d. This section does not prevent the inspection without a warrant of books and records pursuant to an administrative subpoena issued in accordance with section 28-32-09, nor does it prevent entries and administrative inspections, including seizures of property, without a warrant:

- (1) If the owner, operator, or agent in charge of the controlled premises consents;
 - (2) In situations presenting imminent danger to health or safety;
 - (3) In situations involving inspection of conveyances if there is reasonable cause to believe that the mobility of the conveyance makes it impracticable to obtain a warrant;
 - (4) In any other exceptional emergency circumstances where time or opportunity to apply for a warrant is lacking; or
 - (5) In all other situations in which a warrant is not constitutionally required.
- e. An inspection authorized by this section shall not extend to financial data, sales data, other than shipment data, or pricing data unless the owner, operator, or agent in charge of the controlled premises consents in writing.

* SECTION 22. AMENDMENT. Section 19-03.1-35 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-35. Cooperative arrangements and confidentiality.

1. The department board shall cooperate with federal and other state agencies in discharging its responsibilities concerning traffic in controlled substances and in suppressing the abuse of controlled substances. To this end, it may:
 - a. Arrange for exchange of information among governmental officials concerning the use and abuse of controlled substances.
 - b. Coordinate and cooperate in training programs concerning controlled substance law enforcement at local and state levels.
 - c. Cooperate with the bureau by establishing a centralized unit to accept, catalog, file, and collect statistics, including records of drug dependent persons and other controlled substance law offenders within the state, and make the information available for federal, state, and local law enforcement purposes. It shall not furnish the name or identity of a patient or research subject whose identity could not be obtained under subsection 3.

* NOTE: Section 19-03.1-35 was also amended by section 25 of House Bill No. 1590, chapter 258.

- d. Conduct programs of eradication aimed at destroying wild or illicit growth of plant species from which controlled substances may be extracted.
2. Results, information, and evidence received from the bureau relating to regulatory functions of this chapter, including results of inspections conducted by it may be relied and acted upon by the department board in the exercise of its regulatory functions under this chapter.
3. A practitioner engaged in medical practice or research is not required or compelled to furnish the name or identity of a patient or research subject to the department board nor may he be compelled in any state or local civil, criminal, administrative, legislative, or other proceedings to furnish the name or identity of an individual that the practitioner is obligated to keep confidential.

SECTION 23. AMENDMENT. Subsections 2, 4, 5, and 8 of section 19-03.1-36 of the 1983 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

2. Property subject to forfeiture under this chapter, except conveyances, may be seized by the department board upon process issued by any district court having jurisdiction over the property. A conveyance subject to forfeiture under this chapter may be seized by a state, county, or city law enforcement agency upon process issued by any district court having jurisdiction over the conveyance. Seizure without process may be made if:
 - a. The seizure is incident to an arrest or a search under a search warrant or an inspection under an administrative inspection warrant.
 - b. The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceedings based upon this chapter.
 - c. The department board or a law enforcement agency has probable cause to believe that the property is directly or indirectly dangerous to health or safety.
 - d. The department board or a law enforcement agency has probable cause to believe that the property was used or is intended to be used in violation of this chapter.
4. Property taken or detained under this section shall not be subject to replevin, but is deemed to be in custody of the department board or a law enforcement agency subject only to the orders and decrees of the district court having

jurisdiction over the forfeiture proceedings as set out in subsection 2. When property is seized under this chapter, the ~~department~~ board or a law enforcement agency may:

- a. Place the property under seal.
 - b. Remove the property to a place designated by it.
 - c. Require the attorney general to take custody of the property and remove it to an appropriate location for disposition in accordance with law.
5. A district court shall order a seized conveyance to be forfeited upon conviction of the person arrested, upon a guilty plea, or upon the failure of a law enforcement agency to locate and arrest after one month the person who used the conveyance subject to forfeiture. When property is forfeited under this chapter the ~~department~~ board or a law enforcement agency may:
- a. Retain it for official use.
 - b. Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be used for payment of all proper expenses of the proceedings for forfeiture and sale, including expenses of seizure, maintenance of custody, advertising and court costs, with any remaining proceeds to be deposited in the appropriate state, county, or city general fund. When two or more law enforcement agencies are involved in seizing a conveyance, the remaining proceeds may be divided proportionately.
 - c. Require the attorney general to take custody of property and remove it for disposition in accordance with law.
 - d. Forward it to the bureau for disposition.
8. The failure, upon demand by the ~~department~~ board, or its authorized agent, of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

SECTION 24. AMENDMENT. Section 19-03.1-38 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-38. Judicial review. All final determinations, findings, and conclusions of the ~~department~~ board under this chapter are final

and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision in the district court. Findings of fact by the department board, if supported by substantial evidence are conclusive.

SECTION 25. AMENDMENT. Section 19-03.1-39 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-39. Education and research.

1. The department board shall carry out educational programs designed to prevent and deter misuse of controlled substances. In connection with these programs it may:
 - a. Promote better recognition of the problems of misuse and abuse of controlled substances within the regulated industry and among interested groups and organizations.
 - b. Assist the regulated industry and interested groups and organizations in contributing to the reduction of misuse and abuse of controlled substances.
 - c. Consult with interested groups and organizations to aid them in solving administrative and organizational problems.
 - d. Evaluate procedures, projects, techniques, and controls conducted or proposed as part of educational programs on misuse and abuse of controlled substances.
 - e. Disseminate the results of research on misuse and abuse of controlled substances to promote a better public understanding of what problems exist and what can be done to combat them.
 - f. Assist in the educational and training of state and local law enforcement officials in their efforts to control misuse and abuse of controlled substances.
2. The department board shall encourage research on misuse and abuse of controlled substances. In connection with the research, and in furtherance of the enforcement of this chapter, it may:
 - a. Establish methods to assess accurately the effects of controlled substances and identify and characterize those with potential for abuse.
 - b. Make studies and undertake programs of research to:

- (1) Develop new or improved approaches, techniques, systems, equipment and devices to strengthen the enforcement of this chapter.
 - (2) Determine patterns of misuse and abuse of controlled substances and the social effects thereof.
 - (3) Improve methods for preventing, predicting, understanding, and dealing with the misuse and abuse of controlled substances.
- c. Enter contracts with public agencies, institutions of higher education, and private organizations or individuals for the purpose of conducting research, demonstrations, or special projects which bear directly on misuse and abuse of controlled substances.
3. The department board may enter into contracts for educational and research activities without performance bonds and without regard to statutory provisions affecting such contracts.
 4. The department board may authorize persons engaged in research on the use and effects of controlled substances to withhold the names and other identifying characteristics of individuals who are the subjects of the research. Persons who obtain this authorization are not compelled in any civil, criminal, administrative, legislative, or other proceeding to identify the individuals who are the subjects of research for which the authorization was obtained.
 5. The department board may authorize the possession and distribution of controlled substances by persons engaged in research. Persons who obtain this authorization are exempt from state prosecution for possession and distribution of controlled substances to the extent of the authorization.

SECTION 26. AMENDMENT. Section 54-12-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-12-15. Drug enforcement unit - Personnel - Duties. A law enforcement unit to be designated as the drug enforcement unit is created under the attorney general. The drug enforcement unit shall consist of a director and such other personnel as may be designated by the attorney general. It shall be the duty of the drug enforcement unit to enforce all of the provisions of chapter 19-03.1 and any other provision of law dealing with controlled substances. The ~~state laboratories department board~~ and other state and local agencies shall cooperate with the drug enforcement unit in the discharge of its responsibilities concerning traffic in controlled

substances and in suppressing the abuse of controlled substances. To this end the unit is authorized to:

1. Arrange for the exchange of information between governmental officials concerning the use and abuse of controlled substances.
2. Coordinate and cooperate in training programs on controlled substance law enforcement at the local and state levels.
3. Establish a centralized information system which will accept, catalog, file, and collect statistics, including records of drug-dependent persons and other controlled substance law offenders within the state, and make such information available for federal, state, and local law enforcement purposes on request.
4. Cooperate in locating, eradicating, and destroying wild or illicit growth of plant species from which controlled substances may be extracted.

SECTION 27. REPEAL. Section 19-03.1-40 of the North Dakota Century Code is hereby repealed.

SECTION 28. APPROPRIATION. There is hereby appropriated out of any moneys in the general fund of the state treasury, not otherwise appropriated, the sum of \$5,000, or so much thereof as may be necessary, to the North Dakota controlled substances board for the purpose of carrying out the provisions of chapter 19-03.1 of the North Dakota Century Code for the biennium beginning July 1, 1985, and ending June 30, 1987.

Approved March 30, 1985

CHAPTER 263

HOUSE BILL NO. 1406
(Nalewaja)

ALCOHOL-BLENDED GASOLINE NOTICE

AN ACT to create and enact a new section to chapter 19-10 of the North Dakota Century Code, to make unlawful the retail selling of alcohol-blended gasoline without proper notice.

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

SECTION 1. A new section to chapter 19-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

Retail sale of alcohol-blended gasoline - Notice required. No dealer may sell at retail alcohol-blended gasoline unless the dispensing unit bears the word "contains" and the name of the alcohol blended with the gasoline if the alcohol-blended gasoline consists of one percent or more by volume of any alcohol.

Approved March 29, 1985

CHAPTER 264

HOUSE BILL NO. 1529
(Thompson)

COMMERCIAL FEED LABELING

AN ACT to amend and reenact subsection 3 of section 19-13.1-04 of the North Dakota Century Code, relating to labeling of commercial feed.

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

SECTION 1. AMENDMENT. Subsection 3 of section 19-13.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

3. The guaranteed analysis of the commercial feed, listing the minimum percentage of crude protein, minimum percentage of crude fat, and maximum percentage of crude fiber; additional guarantees required to be or intentionally shown, shall appear only in the guaranteed analysis section of the label after the guarantee for maximum crude fiber. For all mineral feeds and for those commercial feeds containing a level of added mineral ingredients established by regulation, the list shall include the following, if added: minimum and maximum percentages of calcium (Ca), minimum percentage of phosphorus (P), minimum percentage of iodine (I), ~~and~~ minimum and maximum percentages of ~~salt (NaCl)~~ sodium (Na), and minimum and maximum percentage of chloride (Cl). Other substances or elements, determinable by laboratory methods, may be guaranteed by permission of the department. When any items are guaranteed, they shall be subject to inspection and analysis in accordance with the methods and regulations that may be prescribed by the department. The department may by regulation designate certain commercial feeds which need not be labeled to show guarantees for crude protein, crude fat, and crude fiber.

Approved March 14, 1985

CHAPTER 265

SENATE BILL NO. 2498
(Matchie)

UNIFORM CONTROLLED SUBSTANCES ACT SCHEDULES

AN ACT to create and enact subsection 3 to section 19-03.1-13 of the North Dakota Century Code, relating to definitions of certain controlled substances; and to amend and reenact sections 19-03.1-05, 19-03.1-07, 19-03.1-09, 19-03.1-11, and subsection 6 of section 19-03.1-16 of the North Dakota Century Code, relating to the Uniform Controlled Substances Act schedules.

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

SECTION 1. AMENDMENT. Section 19-03.1-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-05. Schedule I.

1. The controlled substances listed in this section are included in schedule I.
2. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:
 - a. Acetylmethadol.
 - b. Allylprodine.
 - c. Alphacetylmethadol.
 - d. Alphameprodine.
 - e. Alphamethadol.
 - f. Alpha-methylfentanyl (N-[1(alpha-menthyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).

- g. Benzethidine.
- g- h. Betacetylmethadol.
- h- i. Betameprodine.
- i- j. Betamethadol.
- j- k. Betaprodine.
- k- l. Clonitazene.
- i- m. Dextromoramide.
- m- ~~Bextrophan-~~
- n. Diampromide.
- o. Diethylthiambutene.
- p. Difenoxin.
- q. Dimenoxadol.
- r. Dimepheptanol.
- s. Dimethylthiambutene.
- t. Dioxaphetyl butyrate.
- u. Dipipanone.
- v. ~~Ethymethythiambutene~~ Ethylmethylthiambutene.
- w. Etonitazene.
- x. ~~Etokeridene~~ Etokeridine.
- y. Furethidine.
- z. Hydroxypethidine.
- aa. Ketobemidone.
- bb. Levomoramide.
- cc. Levophenacylmorphan.
- dd. Morpheridine.
- ee. Noracymethadol.
- ff. Norlevorphanol.

- gg. Normethadone.
 - hh. Norpipanone.
 - ii. Phenadoxone.
 - jj. Phenampromide.
 - kk. Phenomorphan.
 - ll. Phenoperidine.
 - mm. Piritramide.
 - nn. Propheptazine.
 - oo. Properidine.
 - pp. Propiram.
 - qq. Racemoramide.
 - rr. Tilidine.
 - ss. Trimeperidine.
3. Any of the following opium derivatives, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Acetorphine.
 - b. Acetyldihydrocodeine.
 - c. Benzylmorphine.
 - d. Codeine methylbromide.
 - e. ~~Codeine-n-oxide~~ Codeine-N-Oxide.
 - f. Cyprenorphine.
 - g. Desomorphine.
 - h. Dihydromorphine.
 - i. Drotebanol.
 - j. Etorphine (except hydrochloride salt).
 - k. Heroin.

- l. Hydromorphenol.
 - m. Methyl-desorphine.
 - n. Methyl-dihydromorphine.
 - o. Morphine methylbromide.
 - p. Morphine methylsulfonate.
 - q. ~~Morphine-n-oxide~~ Morphine-N-Oxide.
 - r. Myrophine.
 - s. Nicocodeine.
 - t. Nicomorphine.
 - u. Normorphine.
 - v. Pholcodine.
 - w. Thebacon.
4. Any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. 4-bromo-2, 5-dimethoxyamphetamine. (Some trade or other names: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; 4-bromo-2, 5-DMA.)
 - b. 2, 5-dimethoxyamphetamine. (Some trade or other names: 2, 5-dimethoxy-a-methylphenethylamine; 2, 5-DMA.)
 - c. 4-methoxyamphetamine. (Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA.)
 - d. 5-methoxy-3, 4-methylenedioxyamphetamine.
 - e. 4-methyl-2, 5-dimethoxyamphetamine. (Some trade and other names: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP".)
 - f. 3, 4-methylenedioxy amphetamine.
 - g. 3, 4, 5-trimethoxy amphetamine.

- h. Bufotenine. (Some trade and other names: 3-(B-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.)
- i. Diethyltryptamine. (Some trade and other names: N,N-Diethyltryptamine; DET.)
- j. Dimethyltryptamine. (Some trade and other names: DMT.)
- k. Ethyl amine analog of phencyclidine. (Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.)
- l. Hashish.
- m. Ibogaine. (Some trade and other names: 7-Ethyl-6,6B,7,8,9,10, 12, 13-octahydro-2-methoxy-6,9-methano-5H-pyrido (1, 2,: 1,2) azepino (5,4-b) indole; ~~tabernanthe~~ Tabernanthe iboga.)
- n. Lysergic acid diethylamide.
- o. Marijuana.
- p. Mescaline.
- q. Parahexyl-7374 (Some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl.)
- r. Peyote.
- r- s. N-ethyl-3-piperidyl benzilate.
- s- t. N-methyl-3-piperidyl benzilate.
- t- u. Psilocybin.
- u- v. Psilocyn.
- v- Pyrrolidine analog of phencyclidine. (Some trade or other names: 1-(1-phenylcyclohexyl) pyrrolidine; PCP; PHP-)
- w. Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

- (1) cis or trans tetrahydrocannabinol, and their optical isomers.
- (2) cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)
- x. Thiophene Analog of Phencyclidine. (Some trade or other names: (1-(1-(2-thienyl) cyclohexyl) piperidine, 2-Thienyl Analog of Phencyclidine, TPCP, TCP.
5. Depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substance having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. mecloqualone Mecloqualone.
- b. Methaqualone.
6. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:
- a. Fenethylamine.
- b. N-ethylamphetamine.

SECTION 2. AMENDMENT. Section 19-03.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-07. Schedule II.

1. The controlled substances listed in this section are included in schedule II.
2. Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

- a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone and its salts, and excluding naltrexone and its salts, but including the following:
- (1) Raw opium.
 - (2) Opium extracts.
 - (3) Opium fluid extracts.
 - (4) Powdered opium.
 - (5) Granulated opium.
 - (6) Tincture of opium.
 - (7) Codeine.
 - (8) Ethylmorphine.
 - (9) Etorphine Hydrochloride.
 - (10) Hydrocodone.
 - (11) Hydromorphone.
 - (12) Metopon.
 - (13) Morphine.
 - (14) Oxycodone.
 - (15) Oxymorphone.
 - (16) Thebaine.
- b. Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in subdivision a, but not including the isoquinoline alkaloids of opium.
- c. Opium poppy and poppy straw.
- d. Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine.

- e. Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrine alkaloids of the opium poppy).
3. Any Unless specifically excepted or unless in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers whenever the existence of these such isomers, esters, ethers, and salts is possible within the specific chemical designation dextrophan and levopropoxyphene excepted:
- a. Alphaprodine.
 - b. Anileridine.
 - c. Bezitramide.
 - d. Bulk dextropropoxyphene (nondosage forms).
 - e. Dihydrocodeine.
 - ~~e~~ f. Diphenoxylate.
 - ~~f~~ g. Fentanyl.
 - ~~g~~ h. Isomethadone.
 - ~~h~~ i. Levomethorphan.
 - ~~i~~ j. Levorphanol.
 - ~~j~~ k. Metazocine.
 - ~~k~~ l. Methadone.
 - ~~l~~ m. Methadone - intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
 - ~~m~~ n. Moramide - intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylic acid.
 - ~~n~~ o. Pethidine (meperidine).
 - ~~o~~ p. Pethidine - intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
 - ~~p~~ q. Pethidine - intermediate - B, ethyl-4-phenylpiperidine-4-carboxylate.
 - ~~q~~ r. Pethidine - intermediate - C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.

- r- s. Phenazocine.
 - s- t. Priminodine.
 - t- u. Racemethorphan.
 - u- v. Racemorphan.
 - w. Sufentanil.
4. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:
- a. Amphetamine, its salts, optical isomers, and salts of its optical isomers.
 - b. Methamphetamine, including its salts, isomers, and salts of isomers.
 - c. Phenmetrazine and its salts.
 - d. Methylphenidate.
5. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Amobarbital.
 - b. Methaqualone-
 - e- Pentobarbital.
 - d- c. Phencyclidine.
 - e- Phenylelidine immediate precursors-
 - (1) 1-phenyletylohexylamine-
 - (2) 1-piperidineetylohexanecarbonitrile (PEG)-
 - f- d. Secobarbital.
6. Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

- a. Immediate precursor to amphetamine and methamphetamine: Phenylacetone. Some trade or other names: phenyl-2-propanone; P2P, benzyl methyl ketone; methyl benzyl ketone.
- b. Immediate precursors to phencyclidine (PCP):
- (1) 1-phenylcyclohexylamine.
 - (2) 1-piperidinocyclohexanecarbonitrile (PCC).

* SECTION 3. AMENDMENT. Section 19-03.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-09. Schedule III.

1. The controlled substances listed in this section are included in schedule III.
2. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II and any other drug of the quantitative composition shown in that schedule for those drugs or which is the same except that it contains a lesser quantity of controlled substances.
 - b. Benzphetamine.
 - c. Chlorphentermine.
 - d. Clortermine.
 - e. ~~Mazindol-~~
 - f. Phendimetrazine.
3. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:
 - a. Any compound, mixture, or preparation containing:

* NOTE: Section 19-03.1-09 was also amended by section 17 of House Bill No. 1590, chapter 258, and amended by section 8 of Senate Bill No. 2381, chapter 262.

- (1) Amobarbital;
- (2) Secobarbital;
- (3) Pentobarbital;

or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.

b. Any suppository dosage form containing:

- (1) Amobarbital;
- (2) Secobarbital;
- (3) Pentobarbital;

or any salt of any of these drugs and approved by the food and drug administration for marketing only as a suppository.

- c. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules.
- d. Chlorhexadol.
- e. Glutethimide.
- f. Lysergic acid.
- g. Lysergic acid amide.
- h. Methyprylon.
- i. Sulfondiethylmethane.
- j. Sulfonethylmethane.
- k. Sulfonmethane.

4. Nalorphine.

5. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

- a. Not more than 1.80 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

- b. Not more than 1.80 grams of codeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - c. Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
 - d. Not more than 300 milligrams of dihydrocodeinone, or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - e. Not more than 1.80 grams of dihydrocodeine, or any of its salts, per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - f. Not more than 300 milligrams of ethylmorphine or any of its salts, per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more ingredients in recognized therapeutic amounts.
 - g. Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - h. Not more than 50 milligrams of morphine, or any of its salts, per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
6. The state laboratories department may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 2 and 3 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

* SECTION 4. AMENDMENT. Section 19-03.1-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-03.1-11. Schedule IV.

1. The controlled substances listed in this section are included in schedule IV.
2. Any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:
 - a. Alprazolam.
 - b. Barbital.
 - ~~b-~~ c. Chloral betaine.
 - ~~c-~~ d. Chloral hydrate.
 - ~~d-~~ e. Chlordiazepoxide, but not including Librax (chlordiazepoxide hydrochloride and clindinium bromide) or Menrium (chlordiazepoxide and water soluble esterified estrogens).
 - ~~e-~~ f. Clonazepam.
 - ~~f-~~ g. Clorazepate.
 - ~~g-~~ h. Diazepam.
 - ~~h-~~ i. Ethchlorvynol.
 - ~~i-~~ j. Ethinamate.
 - ~~j-~~ k. Flurazepam.
 - l. Halazepam.
 - m. Lorazepam.
 - ~~k-~~ n. Mebutamate.
 - o. Meproamate.
 - ~~l-~~ p. Methohexital.
 - ~~m-~~ ~~Meproamate-~~
 - ~~n-~~ q. Methylphenobarbital (mephobarbital).
 - ~~o-~~ r. Oxazepam.

* NOTE: Section 19-03.1-11 was also amended by section 10 of Senate Bill No. 2381, chapter 262.

- p- s. Paraldehyde.
- q- t. Petrichloral.
- r- u. Phenobarbital.
- v. Prazepam.
- w. Temazepam.
- x. Triazolam.
3. Fenfluramine. Any material, compound, mixture, or preparation which contains any quantity of the following substance substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: Fenfluramine.
4. Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:
- a. Diethylpropion.
- b. Mazindol.
- c. Phentermine.
- e- d. Pemoline (including organometallic complexes and chelates thereof).
- e. Pipradrol.
- f. SPA ((-) -1-dimethylamino-1, 2-diphenylethane).
5. Other substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances pentazocine, including its salts-
- a- Dextropropoxyphene (Alpha- (+) - 4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane)-
- b- Pentazocine.
6. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound,

mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any of their salts thereof calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below: Not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

- a. Not more than 2 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.
 - b. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).
7. The department may except by rule any compound, mixture, or preparation containing any depressant substance listed in subsection 2 from the application of all or any part of this chapter if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

SECTION 5. Subsection 3 of section 19-03.1-13 of the North Dakota Century Code is hereby created and enacted to read as follows:

3. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs and their salts, as set forth below:
 - a. Buprenorphine.
 - b. Reserved.

* **SECTION 6. AMENDMENT.** Subsection 6 of section 19-03.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. The department may inspect the establishment of a registrant or applicant for registration in accordance with the state laboratories department ~~of health~~ rule.

Approved March 31, 1985

- * NOTE: Section 19-03.1-16 was also amended by section 19 of House Bill No. 1590, chapter 258, and amended by section 14 of Senate Bill No. 2381, chapter 262.

CHAPTER 266

SENATE BILL NO. 2210
(Committee on State and Federal Government)
(At the request of the State Laboratories Department)

ANTIFREEZE REGISTRATION

AN ACT to amend and reenact section 19-16.1-03 of the North Dakota Century Code, relating to registration of antifreeze; and to provide a penalty.

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

* SECTION 1. AMENDMENT. Section 19-16.1-03 of the 1983 Supplement to 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 expire on June thirtieth of each year. The application shall be accompanied by specimens or facsimiles of its labeling, an inspection fee of 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 ending June thirtieth. 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. The department shall remit inspection fees received by the department to the state treasurer for deposit in the state general fund. A penalty of fifty percent of the registration fee shall be imposed if the certificate of registration is not applied for on or before July first of each year, or within the same month such antifreeze is first manufactured or sold within this state.

Approved March 22, 1985

* NOTE: Section 19-16.1-03 was also amended by section 40 of House Bill No. 1590, chapter 258.

CHAPTER 267

HOUSE BILL NO. 1538
(Linderman)

ECONOMIC POISON CONTAINERS

AN ACT to amend and reenact subsection 2 of section 19-18-03 of the North Dakota Century Code, relating to economic poisons; and to declare an emergency.

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

* SECTION 1. AMENDMENT. Subsection 2 of section 19-18-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. Any economic poison unless it is in the registrant's or the manufacturer's unbroken immediate container, or in a container repackaged by a facility or person with a federal environmental protection agency issued establishment number, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing:
 - a. The name and address of the manufacturer, registrant, or person for whom manufactured;
 - b. The name, brand, or trademark under which said article is sold; and
 - c. The net weight or measure of the content subject, however, to such reasonable variations as the commissioner may permit.

SECTION 2. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 27, 1985

* NOTE: Section 19-18-03 was also amended by section 46 of House Bill No. 1590, chapter 258.

CHAPTER 268

SENATE BILL NO. 2238
(Committee on Agriculture)
(At the request of the State Laboratories Department)

SOIL FERTILIZERS OR ADDITIVES

AN ACT to create and enact two new subsections to section 19-20.1-02 of the North Dakota Century Code, relating to soil amendment and fertilizer definitions; to amend and reenact subsections 8 and 9 of section 19-20.1-02, and sections 19-20.1-03.1, 19-20.1-06, 19-20.1-10, and 19-20.1-18 of the North Dakota Century Code, relating to soil additives.

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

SECTION 1. Two new subsections to section 19-20.1-02 of the North Dakota Century Code are hereby created and enacted to read as follows:

"Inert" means any ingredient not active.

"Auxiliary soil and plant substance" means any chemical or biological substance or mixture of substances or device distributed in this state to be applied to soil, plants, or seeds for soil corrective purposes; or which is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants; or which is intended to produce any chemical, biochemical, biological, or physical change in soil; except the following:

- a. Commercial fertilizers.
- b. Agricultural liming materials.
- c. Unmanipulated animal manures.
- d. Unmanipulated vegetable manures.
- e. Pesticides.

The term includes commercial fertilizers if the fertilizer is represented to contain, as an active ingredient, a substance other than a primary plant nutrient, or micronutrient or is represented as promoting plant growth by supplying something other than a primary plant nutrient or micronutrient.

* SECTION 2. AMENDMENT. Subsections 8 and 9 of section 19-20.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

8. "Licensee" means any person licensed by the department as a distributor of agricultural fertilizer, soil amendment, or auxiliary soil and plant substance.
9. "Mobile mechanical unit" means any portable machine or apparatus used to blend, mix, or manufacture fertilizer materials, soil amendments, or auxiliary soil and plant substances.

SECTION 3. AMENDMENT. Section 19-20.1-03.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-03.1. License required. No person shall sell at retail agricultural fertilizer, soil amendment or auxiliary soil and plant substance in this state without first obtaining a distributor's license from the department. A license shall be obtained for each location or mobile mechanical unit used by a distributor in the state. The application for the license shall be submitted on a form prescribed by the department, and shall be accompanied by a fee of fifty dollars. All licenses shall expire on June thirtieth of each year. Licenses shall not be transferable, and each license shall be conspicuously posted at each location and shall accompany each mobile mechanical unit operating in the state.

** SECTION 4. AMENDMENT. Section 19-20.1-06 of the 1983 Supplement to 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 or auxiliary soil and plant substances distributed in this state an inspection fee at the rate of 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 or auxiliary soil and plant substances 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

* NOTE: Section 19-20.1-02 was also amended by section 52 of House Bill No. 1590, chapter 258.

** NOTE: Section 19-20.1-06 was also amended by section 54 of House Bill No. 1590, chapter 258.

commercial fertilizer or soil amendments or auxiliary soil and plant substances 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 twenty cents per ton [907.18 kilograms] as provided in this chapter.

Every licensed person who distributes a commercial fertilizer, soil amendment or auxiliary soil and plant substance 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, soil amendment or auxiliary soil and plant substance so distributed in this state during such period. The statement is due on or before the fifteenth day of the month following each semiannual period. The person filing the statement shall pay the inspection fee at the rate stated in this section. If the tonnage 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 5. AMENDMENT. Section 19-20.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-10. False or misleading statements. A commercial fertilizer or soil amendment or auxiliary soil and plant substance is misbranded if it carries a false or misleading statement on the container, on the label attached to the container, or if false or misleading statements concerning the fertilizer or soil amendment or auxiliary soil and plant substance are disseminated in any manner or by any means. It shall be unlawful to distribute a misbranded fertilizer or soil amendment or auxiliary soil and plant substance.

SECTION 6. AMENDMENT. Section 19-20.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

19-20.1-18. Exchanges between manufacturers. Nothing in this chapter shall be construed to restrict or avoid sales or exchanges of commercial fertilizers or soil amendments or auxiliary soil and plant substances to each other by importers, manufacturers, or manipulators who mix fertilizer materials, soil amendments or auxiliary soil and plant substances for sale or as preventing the free and unrestricted shipments of commercial fertilizer or soil amendments or auxiliary soil and plant substances to manufacturers or manipulators who have registered their brands as required by the provisions of this chapter.

Approved March 30, 1985

* NOTE: Section 19-20.1-10 was also amended by section 56 of House Bill No. 1590, chapter 258.

CHAPTER 269

HOUSE BILL NO. 1587
(Representatives Dalrymple, A. Olson)
(Senator Heinrich)

ANHYDROUS AMMONIA FACILITIES SAFETY STANDARDS

AN ACT to set safety standards for anhydrous ammonia facilities; and to provide a penalty.

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

SECTION 1. Anhydrous ammonia safety rules. The commissioner of agriculture shall adopt the 1981 American national standard safety requirements for the storage and handling of anhydrous ammonia, except as otherwise required by this Act, and other rules necessary to implement this chapter.

SECTION 2. License required - Existing anhydrous ammonia storage facilities. Any user or retail vendor of anhydrous ammonia owning one or more bulk storage facilities exceeding six thousand gallons [22712.47 liters] of storage capacity and constructed before July 1, 1985, shall apply for an operator's license to the commissioner of agriculture before September 30, 1985. However, any permanent anhydrous ammonia storage facility constructed before July 1, 1985, is exempt from the siting requirements of this Act, and may receive a license under this Act regardless of noncompliance with the siting requirements. The commissioner may deny a license for failure to remit the proper fee with the application, or failure to comply with the rules adopted pursuant to this Act. The license is valid indefinitely, but may not be transferred.

SECTION 3. License required - Construction of anhydrous ammonia facilities. No permanent anhydrous ammonia storage facility may be constructed after June 30, 1985, without a license issued by the commissioner of agriculture and the board of county commissioners of the county in which the facility is to be constructed. An application for a license to site an anhydrous ammonia storage facility must be made to the commissioner of agriculture and to the board of county commissioners. The commissioner or the board may deny a license for failure to remit the proper fee to the commissioner of agriculture, for failure to comply with the siting requirements of this Act and rules adopted pursuant to this Act, or for failure to comply with local siting requirements.

SECTION 4. State license fee. The commissioner of agriculture shall charge a one-time fee for a license for each anhydrous ammonia storage facility site. The licensing fee is twenty-five dollars for a bulk storage facility exceeding six thousand gallons [22712.47 liters] of storage capacity and one hundred dollars for each retail storage site.

SECTION 5. State siting requirements - Facilities constructed after June 30, 1985. For facilities constructed after June 30, 1985:

1. Any permanent anhydrous ammonia storage facility with a container nominal capacity of less than one hundred thousand gallons [378541.2 liters] must be sited at least:
 - a. Fifty feet [15.24 meters] from the line of any adjoining property which may be built upon, or any highway or railroad mainline.
 - b. Four hundred fifty feet [137.16 meters] from any place of public assembly or residence, other than the company's business office.
 - c. Seven hundred fifty feet [213.36 meters] from any institutional residence.
2. Any permanent anhydrous ammonia storage facility with container nominal capacity of one hundred thousand gallons [378541.2 liters] or more must be located at least:
 - a. Fifty feet [15.24 meters] from the property line of adjoining property, which may be built upon, or any highway or railroad mainline.
 - b. Six hundred feet [182.88 meters] from any place of public assembly or residence, other than the company's business office.
 - c. One thousand feet [300.48 meters] from any institution residence.
3. Upon relocation of any permanent storage container, the container must be hydrostatically pressure tested.
4. All valves and other appurtenances to any anhydrous ammonia storage facility must be protected against physical damage. All shutoff valves must be kept closed and locked when not in use.

SECTION 6. Transfer hose requirements.

1. Any liquid transfer hose that is not drained of liquid upon completion of transfer operations must be equipped with an approved shutoff valve at the discharge end.

2. To prevent excessive hydrostatic pressure in hoses, differential pressure pass valves may be added, not to exceed fifty pounds per square inch of pressure, hydrostatic relief valves may be installed between each pair of valves in which liquid may be trapped, or a hose may be used to discharge liquid at a safe location. Any start-to-discharge pressure of relief valve must not be designed to handle less than three hundred fifty pounds per square inch nor more than four hundred pounds per square inch.
3. Pressure relief valves must be replaced every five years.

SECTION 7. Inspection.

1. The commissioner may inspect each permanent installation for storage of anhydrous ammonia and each farm transportation wagon or vehicle designed to apply anhydrous ammonia.
2. The commissioner shall inspect any anhydrous ammonia facility where the commissioner has reason to believe violations of the safety standards under this Act exist. The safety engineer of the North Dakota workmen's compensation bureau shall inform the commissioner of agriculture of any violations of this Act that arise in the course of the safety engineer's regular inspections of anhydrous ammonia storage facilities.
3. The commissioner may revoke or suspend the license of any storage facility violating this chapter or the rules adopted under this chapter. The commissioner may order the discontinuance of use of any farm transportation wagon or implement of husbandry which is found unsafe or hazardous.

SECTION 8. Promotion of safety - Use of excess fees. Any excess fees collected under this Act must be used by the commissioner of agriculture to promote safety in anhydrous ammonia use and storage.

SECTION 9. Enforcement. The commissioner of agriculture may seek an injunction in the district court of the county where any alleged violation is occurring, or may issue a cease and desist order to any person allegedly violating this Act.

SECTION 10. Penalty. Any person violating this Act is guilty of a class A misdemeanor.

Approved April 11, 1985