

FOODS, DRUGS, OILS, AND COMPOUNDS

CHAPTER 223

SENATE BILL NO. 2281
(Senator Thane)
(Representative Hausauer)

CONTROLLED SUBSTANCE SCHEDULES

AN ACT to create and enact a new subsection to section 19-03.1-07 of the North Dakota Century Code, relating to controlled substances; and to amend and reenact section 19-03.1-01, subsections 3, 5, and 7 of section 19-03.1-05, subsections 3, 4, 7, and 8 of section 19-03.1-07, subsections 4, 6, 7, and 8 of section 19-03.1-09, subsections 3 and 4 of section 19-03.1-11, and subsection 5 of section 19-03.1-13 of the North Dakota Century Code, relating to controlled substances.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-03.1-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-03.1-01. Definitions. As used in this chapter:

1. "Administer" means ~~the direct application of to apply~~ a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:
 - a. A practitioner (or, in ~~his~~ the practitioner's presence, by ~~his~~ the practitioner's authorized agent); or
 - b. The patient or research subject at the direction and in the presence of the practitioner.
2. "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.
3. "Anabolic steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, and corticosteroids.
- ~~2-1-~~ 4. "Board" means the North Dakota controlled substances board.
- ~~3-~~ 5. "Bureau" means the ~~Bureau of Narcotics and Dangerous Drugs, Drug Enforcement Administration in the~~ United States Department of Justice or its successor agency.
- ~~4-~~ 6. "Controlled substance" means a drug, substance, or immediate precursor in schedules I through V as set out in this chapter.

- 5- 7. "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
- 6- 8. "Deliver" or "delivery" means the actual, constructive, or attempted transfer from one person to another of a controlled substance whether or not there is an agency relationship.
- 7- 9. "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- 8- 10. "Dispenser" means a practitioner who dispenses.
- 9- 11. "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- +0- 12. "Distributor" means a person who distributes.
- +1- 13. "Drug" means:
- Substances recognized as drugs in the official United States pharmacopeia, national formulary, or the official homeopathic pharmacopeia of the United States, or official national formulary, or any supplement to any of them;
 - Substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man individuals or animals;
 - Substances (other than food) intended to affect the structure or any function of the body of man individuals or animals; and
 - Substances intended for use as a component of any article specified in subdivision a, b, or c. ~~It~~ The term does not include devices or their components, parts, or accessories.
- +1-1- 14. "Hashish" means the resin extracted from any part of the plant cannabis with or without its adhering plant parts, whether growing or not, and every compound, manufacture, salt, derivative, mixture, or preparation of the resin.
- +2- 15. "Immediate precursor" means a substance which:
- That the board has found to be and by rule designates as being the principal compound commonly used or produced primarily for use, and which in the manufacture of a controlled substance;
 - That is an immediate chemical intermediary used or likely to be used in the manufacture of a the controlled substance, the; and

c. The control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

~~13-~~ 16. "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container, ~~except that this.~~ The term does not include the preparation or compounding of a controlled substance by an individual for his own use or the preparation, compounding, packaging, or labeling of a controlled substance:

- a. By a practitioner as an incident to ~~his~~ the practitioner's administering or dispensing of a controlled substance in the course of ~~his~~ the practitioner's professional practice; or
- b. By a practitioner, or by ~~his~~ the practitioner's authorized agent under ~~his~~ the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

~~14-~~ 17. "Marijuana" means all parts of the plant cannabis whether growing or not; the seeds thereof; the resinous product of the combustion of the plant cannabis; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds. ~~It~~ The term does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of mature stalks, fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

~~15-~~ 18. "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- a. Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
- 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, any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

~~16-~~ 19. "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable

of conversion into a drug having addiction-forming or addiction-sustaining liability. ~~It~~ The term does not include, unless specifically designated as controlled under section 19-03.1-02, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). ~~It does include~~ The term includes its racemic and levorotatory forms.

- ~~17-~~ 20. "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.
- ~~18-~~ 21. "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.
- ~~19-~~ 22. "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.
- ~~20-~~ 23. "Practitioner" means:
- a. A physician, dentist, veterinarian, pharmacist, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.
 - b. A pharmacy, hospital, or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.
- ~~21-~~ 24. "Production" includes the ~~manufacture~~ manufacturing, planting, ~~cultivation~~ cultivating, growing, or harvesting of a controlled substance.
- ~~22-~~ 25. "State" when applied to a part of the United States, includes any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.
- ~~23-~~ 26. "Ultimate user" means ~~a person~~ an individual who lawfully possesses a controlled substance for ~~his~~ the individual's own use or for the use of a member of ~~his~~ the individual's household or for administering to an animal owned by ~~him~~ the individual or by a member of ~~his~~ the individual's household.

SECTION 2. AMENDMENT. Subsections 3, 5, and 7 of section 19-03.1-05 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. Opiates. Unless specifically excepted or unless listed 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 those isomers, esters, ethers, and salts is possible within the specific chemical designation:

- a. ~~Acetyl-Alpha-Methylfentanyl (N-(1-(1-methyl-2-phenethyl)-4-piperidinyl)-N-phenylacetamide).~~
- a. Acetyl-alpha-methylfentanyl (also known as N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).
- b. Acetylmethadol.
- c. Allylprodine.
- d. Alphacetylmethadol.
- e. Alphameprodine.
- f. Alphamethadol.
- g. Alpha-methylfentanyl (also known as N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] ~~(N-(1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl) propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).~~
- h. ~~Alpha-Methylthiofentanyl~~ Alpha-methylthiofentanyl (also known as N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).
- i. Benzethidine.
- j. Betacetylmethadol.
- k. ~~Beta-hydroxyfentanyl (N-(1-(2-hydroxy-2-phenethyl)-4-piperidinyl)-N-phenylpropanamide).~~
- k. Beta-hydroxyfentanyl (also known as N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).
- l. ~~Beta-hydroxy-3-methylfentanyl (N-(1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl)-N-phenylpropanamide).~~
- l. Beta-hydroxy-3-methylfentanyl (also known as N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide).
- m. Betameprodine.
- n. Betamethadol.
- o. Betaprodine.
- p. Clonitazene.
- q. Dextromoramide.
- r. Diampromide.
- s. Diethylthiambutene.
- t. DifenoXin.

- u. Dimenoxadol.
- v. Dimepheptanol.
- w. Dimethylthiambutene.
- x. Dioxaphetyl butyrate.
- y. Dipipanone.
- z. Ethylmethylthiambutene.
- aa. Etonitazene.
- bb. Etoxidine.
- cc. Furethidine.
- dd. Hydroxypethidine.
- ee. Ketobemidone.
- ff. Levomoramide.
- gg. Levophenacymorphan.
- hh. 3-Methylfentanyl (also known as N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).
- ii. ~~3-Methylthiofentanyl~~ 3-methylthiofentanyl (also known as N-[3-methyl-1-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide).
- jj. Morpheridine.
- kk. MPPP (also known as 1-methyl-4-phenyl-4-propionoxypiperidine).
- ll. Noracymethadol.
- mm. Norlevorphanol.
- nn. Normethadone.
- oo. Norpipanone.
- pp. Para-fluorofentanyl (also known as N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny] propanamide).
- qq. PEPAP ~~(1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine)~~
(1-(2-Phenylethyl)-4-Phenyl-4-acetoxypiperidine).
- rr. Phenadoxone.
- ss. Phenampromide.
- tt. Phenomorphan.
- uu. Phenoperidine.

- vv. Piritramide.
 - ww. Proheptazine.
 - xx. Properidine.
 - yy. Propiram.
 - zz. Racemoramide.
 - aaa. ~~Thiofentany] (N-phenyl-N-[1-(2-thienyl) ethyl-4-piperidinyl]-propanamide).~~
 - aaa. Thiofentany] (also known as N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide).
 - bbb. Tilidine.
 - ccc. Trimeperidine.
5. Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following hallucinogenic substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subsection only, the term "isomer" includes the optical, position and geometric isomers):
- a. ~~4-bromo-2, 5-dimethoxy amphetamine. (Some trade or other names: 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; 4-bromo-2, 5-DMA.)~~
 - b. ~~2, 5-dimethoxy amphetamine. (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-methylenedioxy amphetamine.~~
 - e. ~~4-methyl-2, 5-dimethoxyamphetamine. (Some trade and other names: 4-methyl-2, 5-dimethoxy-a-methylphenethylamine; BDM and STP.)~~
 - f. ~~3, 4-methylenedioxy amphetamine.~~
 - g. ~~3, 4-methylenedioxymethamphetamine (MDMA).~~
 - a. 4-bromo-2, 5-dimethoxy-amphetamine (also known as 4-bromo-2, 5-dimethoxy-a-methylphenethylamine; 4-bromo-2, 5-DMA).
 - b. 2, 5-dimethoxy-amphetamine (also known as 2, 5-dimethoxy-a-methylphenethylamine; 2, 5-DMA).
 - c. 4-methoxyamphetamine (also known as 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA).

- d. 5-methoxy-3,4-methylenedioxy-amphetamine.
- e. 4-methyl-2,5-dimethoxy-amphetamine (also known as 4-methyl-2,5-dimethoxy- α -methylphenethylamine; "DOM" and "STP").
- f. 3,4-methylenedioxy amphetamine.
- g. 3,4-methylenedioxymethamphetamine (also known as MDMA).
- h. 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl- α -methyl-3,4(methylenedioxy)phenethylamine, N-ethyl, MDA, MDE, MDEA.
- i. N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy- α -methyl-3,4(methylenedioxy)phenylamine, and N-hydroxy MDA.
- j. 3,4,5-trimethoxy amphetamine.
- i- k. Bufotenine- (Some trade and other names: 3-B Beta-Dimethyl-aminoethyl-5-hydroxyindole; (also known as 3-(Beta-Dimethyl-aminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N, N-dimethyltryptamine; mappine- \rightarrow 5-hydroxy-N,N-dimethyltryptamine; mappine).
- j- l. Diethyltryptamine- (Some trade or other names: N, N-Diethyltryptamine; DET- \rightarrow (also known as N, N-Diethyltryptamine; DET).
- k- m. Dimethyltryptamine- (Some trade and other names: DMT- \rightarrow (also known as DMT).
- i- n. Hashish.
- m- o. Ibogaine- (Some trade and other names: (also known as 7-Ethyl-6, 6B, 7, 8, 9, 10, 12, 13-octahydro-2-methoxy-6, 9-methano-5 H-pyrido \leftarrow 2- \rightarrow 2- [1', 2':1,2] azepino \leftarrow 5- \leftarrow b- \rightarrow (5,4-b) indole; Tabernanthe iboga- \rightarrow iboga).
- m- p. Lysergic acid diethylamide.
- o- q. Marijuana.
- p- r. Mescaline.
- q- s. Parahexyl- (Some trade or other names: (also known as 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzol[b, d]pyran; Synhexyl- \rightarrow 8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzol[b,d]pyran; Synhexyl).
- r- t. Peyote, meaning (all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts).

s- u. N-ethyl-3-piperidyl benzilate.

t- v. N-methyl-3-piperidyl benzilate.

u- w. Psilocybin.

v- x. Psilocyn.

w- v. Tetrahydrocannabinols- **Synthetic (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) Delta-1 cis or trans tetrahydrocannabinol, and their optical isomers.

(2) 6 Delta-6 cis or trans tetrahydrocannabinol, and their optical isomers.

(3) 3, 4 Delta-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- z. Ethylamine analog of phencyclidine- ~~Some trade or other names-~~ (also known as N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE.)

y- aa. Pyrrolidine analog of phencyclidine- ~~Some trade or other names-~~ (also known as 1-(1-phenylcyclohexyl)-pyrrolidine, **PCy PCPy, PHP.**)

z- bb. Thiophene Analog of Phencyclidine- ~~Some trade or other names-~~ analog of phencyclidine (also known as ~~1-(1-(2-thienyl) cyclohexyl) piperidine~~; **2-Thienyl Analog of Phencyclidine**; ~~TPCP, TEP~~ → (1-[1-(2-thienyl) cyclohexyl] piperidine; 2-Thienyl analog of phencyclidine; TPCP, TCP).

cc. 1-[1-(2-thienyl)cyclohexyl]pyrrolidine (also known as TCPy).

7. 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. (±)cis-4-methylaminorex (also known as (±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).

c. N-ethylamphetamine.

d. N, N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.)

SECTION 3. AMENDMENT. Subsections 3, 4, 7, and 8 of section 19-03.1-07 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

3. Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a 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, nalmefene, naloxone, and naltrexone and their respective 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, including cocaine and ecgonine and their salts, isomers, derivatives, and salts of isomers and derivatives, and any salt, compound, derivative, or preparation thereof that is chemically equivalent or identical with any of these substances, but not including except that the nondosage substances must include decocainized coca leaves or extractions of coca leaves 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).
4. Opiates. 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 those isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:
- a. Alfentanil.
 - b. Alphaprodine.
 - c. Anileridine.
 - d. Bezitramide.
 - e. Bulk dextropropoxyphene (nondosage forms).
 - f. Carfentanil.
 - g. Dihydrocodeine.
 - h. Diphenoxylate.
 - i. Fentanyl.
 - j. Isomethadone.
 - k. Levomethorphan.
 - l. Levorphanol.
 - m. Metazocine.
 - n. Methadone.
 - o. Methadone - Intermediate Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane.
 - p. Moramide - Intermediate Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid.
 - q. Pethidine (also known as meperidine).

- r. ~~Pethidine - Intermediate A~~ Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
- s. ~~Pethidine - Intermediate B~~ Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
- t. ~~Pethidine - Intermediate C~~ Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid.
- u. Phenazocine.
- v. Priminodine.
- w. Racemethorphan.
- x. Racemorphan.
- y. Sufentanil.
7. ~~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).~~
8. ~~Hallucinogenic substances.~~
- a. Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a ~~federal~~ United States food and drug administration approved drug product. (Some other names for dronabinol: (6aR-trans)-6a, 7, 8, 10a-tetrahydro-6, 6, 9-trimethyl-3-pentyl-6H-dibenzo ~~fb, d~~ [b,d] pyran-1-01, or (-)-delta-9-(trans)-tetrahydrocannabinol) (THC).
- b. Nabilone [another name for nabilone (±)-trans-3-(1, 1-dimethylheptyl)-6, 6a, 7, 8, 10, 10a-hexahydro-1-hydroxy-6, 6-dimethyl-9Hdibenzo [b, d] pyran-9-one].

SECTION 4. A new subsection to section 19-03.1-07 of the 1989 Supplement to the North Dakota Century Code is created and enacted as follows:

Immediate precursors. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that 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 5. AMENDMENT. Subsections 4, 6, 7, and 8 of section 19-03.1-09 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted as follows:

4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing that contains any quantity of the following substances having a depressant effect on the central nervous system:
 - a. Any compound, mixture, or preparation containing:
 - (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 containing that 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 thereof.
 - d. Chlorhexadol.
 - e. Glutethimide.
 - f. Lysergic acid.
 - g. Lysergic acid amide.
 - h. Methyprylon.
 - i. Sulfondiethylmethane.

- j. Sulfonethylmethane.
- k. Sulfonmethane.
- l. Tiletamine and zolazepam or any salt thereof. Some trade or other names for a tiletamine-zolazepam combination product: Telazol. Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone. Some trade or other names for zolazepam: ~~4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one; flupyrzapon~~ 4-2(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e][1,4]-diazepin-7(1H)-one, flupyrzapon.
6. Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation **containing that contains** any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
- Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.
 - Not more than 1.80 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - Not more than 300 milligrams of ~~dihydrocodeinone~~ hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.
 - Not more than 300 milligrams of ~~dihydrocodeinone~~ hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - Not more than 1.80 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.
 - 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.
 - Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

7. Anabolic steroids. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any of the following anabolic steroids:

- a. Boldenone;
- b. Chlorotestosterone;
- c. Clostebol;
- d. Dehydrochlormethyltestosterone;
- e. Dihydrotestosterone;
- f. Drostanolone;
- g. Ethylestrenol;
- h. Fluoxymesterone;
- i. Formebolone;
- j. Mesterolone;
- k. Methandienone;
- l. Methandranone;
- m. Methandriol;
- n. Methandrostenolone;
- o. Methenolone;
- p. Methyltestosterone;
- q. Mibolerone;
- r. Nandrolone;
- s. Norethandrolone;
- t. Oxandrolone;
- u. Oxymesterone;
- v. Oxymetholone;
- w. Stanolone;
- x. Stanozolol;
- y. Testolactone;
- z. Testosterone;
- aa. Trenbolone;

or any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

The term does not include an anabolic steroid that is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for administration unless any person prescribes, dispenses, possesses, delivers or distributes for human use.

8. The board may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subsections 3 and 4 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 6. AMENDMENT. Subsections 3 and 4 of section 19-03.1-11 of the 1989 Supplement to the North Dakota Century Code are amended and reenacted 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 or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:
 - a. Not more than 1 milligram of difenoxin ~~(DEA drug code No. 9168)~~ and not less than 25 micrograms of atropine sulfate per dosage unit.
 - b. Dextropropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane also known as alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).
4. Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - a. Alprazolam.
 - b. Barbital.
 - c. Bromazepam.
 - d. Camazepam.
 - e. Chloral betaine.

- f. Chloral hydrate.
- g. Chlordiazepoxide.
- h. Clobazam.
- i. Clonazepam.
- j. Clorazepate.
- k. Clotiazepam.
- l. Cloxazolam.
- m. Delorazepam.
- n. Diazepam.
- o. Estazolam.
- p. Ethchlorvynol.
- q. Ethinamate.
- r. Ethyl loflazepate.
- s. Fludiazepam.
- t. Flunitrazepam.
- u. Flurazepam.
- v. Halazepam.
- w. Haloxazolam.
- x. Ketazolam.
- y. Loprazolam.
- z. Lorazepam.
- aa. Lormetazepam.
- bb. Mebutamate.
- cc. Medazepam.
- dd. Meprobamate.
- ee. Methohexital.
- ff. Methylphenobarbital (also known as mephobarbital).
- gg. Midazolam.
- hh. Nimetazepam.

- ii. Nitrazepam.
- jj. Nordiazepam.
- kk. Oxazepam.
- ll. Oxazolam.
- mm. Paraldehyde.
- nn. Petrichloral.
- oo. Phenobarbital.
- pp. Pinazepam.
- qq. Prazepam.
- rr. Quazepam.
- ss. Temazepam.
- tt. Tetrazepam.
- uu. Triazolam.

SECTION 7. AMENDMENT. Subsection 5 of section 19-03.1-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

- 5. Stimulants. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:
 - a. ~~Propylhexedrine~~ Propylhexedrine.
 - b. Pyrovalerone.

Approved April 5, 1991
Filed April 8, 1991

CHAPTER 224

SENATE BILL NO. 2161
(Committee on Agriculture)
(At the request of the State Department of Health and
Consolidated Laboratories)

SHELL EGG HANDLING RULES

AN ACT to amend and reenact section 19-07-02 of the North Dakota Century Code, relating to authority of the department of health and consolidated laboratories and the commissioner of agriculture to adopt rules governing shell eggs.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-07-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-07-02. Rulemaking power. The department may adopt, only upon approval of the commissioner of agriculture, after consultation with the poultry advisory board, may adopt appropriate rules pursuant to chapter 28-32 to establish registration of egg dealers and to establish standards for candling, grading, and inspecting eggs as to size, quality, purity, strength, holding requirements, transportation, labeling, and sanitation. The department commissioner of agriculture shall be guided in establishing such standards by United States department of agriculture regulations governing the grading and inspecting of eggs after consultation with the poultry advisory board. The state department of health and consolidated laboratories may adopt appropriate rules pursuant to chapter 28-32 to establish standards for proper labeling and temperature during the retail storage and sale of shell eggs.

Approved April 2, 1991
Filed April 4, 1991

CHAPTER 225

HOUSE BILL NO. 1232
(Committee on Agriculture)
(At the request of the State Department of Health and
Consolidated Laboratories)

COMMERCIAL FEED

AN ACT to create and enact section 19-13.1-14 of the North Dakota Century Code, relating to registration, labeling, and cooperation with other entities under the commercial feed laws; to amend and reenact sections 19-13.1-01, 19-13.1-02, 19-13.1-03, 19-13.1-04, 19-13.1-06, 19-13.1-07, 19-13.1-08, 19-13.1-09, 19-13.1-10, 19-13.1-12, and 19-13.1-13 of the North Dakota Century Code, relating to registration, licensing, labeling, inspection fees, and penalties; to repeal section 19-13.1-05 of the North Dakota Century Code, relating to labeling under the commercial feed laws; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-13.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-01. Enforcing official. This chapter shall be administered by the state department of health and consolidated laboratories ~~department~~, hereinafter referred to as the department.

SECTION 2. AMENDMENT. Section 19-13.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-13.1-02. Definitions of words and terms. When used in this chapter:

1. "Brand name" means any word, name, symbol, or device, or any combination thereof, identifying the commercial feed of a distributor and distinguishing it from that of others.
2. "Commercial feed" means all materials, except whole seeds unmixed or physically altered entire unmixed seeds when not adulterated within the meaning of section 19-13.1-07, which are distributed for use as feed or for mixing in feed, for animals other than man ~~except:~~
 - a. ~~Unmixed seed, whole or processed, made directly from the entire seed.~~
 - b. ~~Hay, straw, stover, silage, cobs, husks, and hulls when unground and when unmixed with other materials.~~
 - c. ~~Individual chemical compounds when not mixed with other materials.~~ The department, by rule, may exempt from this

definition, or from specific provisions of this chapter, commodities such as hay, straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances when such commodities, compounds, or substances are not intermixed or mixed with other materials, and are not adulterated within the meaning of section 19-13.1-07.

3. "Contract feeder" means a person who, as an independent contractor, feeds commercial feed to animals pursuant to a contract whereby such commercial feed is supplied, furnished, or otherwise provided to such person and where by such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product.
4. "Customer-formula feed" means a mixture of commercial feeds or ~~materials~~ feed ingredients each batch of which ~~mixture~~ is mixed according to the specific instructions of the final purchaser, or contract feeder.
5. "Distribute" means to offer for sale, sell, exchange, or barter, commercial feed or customer-formula feed; or to supply, furnish, or otherwise provide commercial feed or customer-formula feed to a contract feeder. "Distributor" means any person who distributes.
6. "Drug" means any article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of diseases in animals other than man and articles other than feed intended to affect the structure or any function of the animal body.
- ~~6-~~ 7. "Feed ingredient" means each of the constituent materials making up a commercial feed.
- ~~7-~~ 8. "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed or customer-formula feed is distributed.
9. "Labeling" means all labels and other written, printed, or graphic matter upon a commercial feed or any of its containers or wrapper or accompanying such commercial feed.
10. "Manufacture" means to grind, mix, or blend, or further process a commercial feed for distribution.
- ~~8-~~ 11. "Mineral feed" means a substance or mixture of substances designed or intended to supply primarily mineral elements or inorganic nutrients.
- ~~9-~~ 12. "Official sample" means any sample of feed taken by the department and designated as "official" by the department.
- ~~10-~~ 13. "Percent" or "percentage" means percentage by weight.
- ~~11-~~ 14. "Person" includes individual, partnership, corporation, and association.

15. "Pet means any domesticated animal normally maintained in or near the household of the owner.
16. "Pet food" means any commercial feed prepared and distributed for consumption by pets.
- ~~17.~~ "Product name" means the name of the commercial feed which identifies it as to kind, class, or specific use.
18. "Retail" means to sell to the consumer or final purchaser.
- ~~19.~~ "Sell" or "sale" includes exchange.
20. "Specialty pet food" means any commercial feed prepared and distributed for consumption by any animal normally maintained in confinement including, gerbils, hamsters, birds, fish, snakes, turtles, and zoo animals.
- ~~21.~~ "Ton" means a net weight of two thousand pounds avoirdupois [907.18 kilograms].

SECTION 3. AMENDMENT. Section 19-13.1-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-13.1-03. Registration and license.

1. Each ~~commercial feed shall~~ pet food and specialty pet food must be registered before being distributed in this state; ~~provided, however, that customer formula feeds are exempt from registration. The application for registration shall must~~ be submitted on forms furnished by the department, ~~and, if the department so requests, shall also.~~ The application must be accompanied by a label ~~or and any other printed matter describing the each product and the registration fee of twenty-five dollars per product. Upon approval by the department a copy certificate of the registration shall must~~ be furnished to the applicant. ~~All registrations are considered permanent unless new registrations are called for by the department or unless canceled by the registrant. The application shall include the information required by subsections 2, 3, 4, and 5 of section 19-13.1-04. The department may by regulation permit on the registration the alternative listing of ingredients of comparable feeding value; provided, that the label for each package shall state the specific ingredients which are in such package. Registrations are not transferable. All registrations expire on December thirty-first of each year. Registration renewals received after January thirty-first must be assessed a penalty fee of ten dollars per product.~~
2. A distributor ~~shall is~~ not be required to register any brand of ~~commercial feed which pet food or specialty pet food that 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.~~

3. Each person who manufactures commercial feed or whose name appears on the label of a commercial feed, other than pet food or specialty pet food, shall obtain a feed manufacturer's license from the department. Each person who sells commercial feed, other than pet food or specialty pet food, at retail, shall obtain a feed retailer's license from the department. The license application must be on forms furnished by the department and must be accompanied by a fee of fifty dollars for feed manufacturers or twenty-five dollars for feed retailers. If a manufacturer is also a retailer of feed, the retail license is waived. A feed retailer's license must be obtained for each location used by the retailer. All licenses expire on December thirty-first of each year. Licenses are not transferable. License renewal applications received after January thirty-first may be assessed a penalty fee of ten dollars for retailers and twenty dollars for manufacturers. This subsection does not apply to any person who custom manufactures feed only for another person at that person's request and for that person's own use.
4. Each feed manufacturer required to be licensed under this chapter shall submit and maintain a current label file of all the feeds distributed in the state with the department.
5. The department is empowered to may refuse of registration to register or license any application product or applicant not in compliance with the provisions of this chapter and to cancel any registration or license subsequently found not to be in compliance with any provision of this chapter; provided, however, that no registration shall or license may be refused or canceled until the registrant shall have or licensee has been given opportunity to be heard before the department and to amend the application in order to comply with the requirements of this chapter.

SECTION 4. AMENDMENT. Section 19-13.1-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-13.1-04. Labeling. Any commercial feed distributed in this state must be accompanied by a legible label bearing the ~~following~~ information prescribed by rule.

1. ~~The net weight.~~
2. ~~The product name and brand name, if any, under which the commercial feed is distributed.~~
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, must 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 must 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). Other substances or elements, determinable by laboratory methods, may be guaranteed by permission~~

of the department. When any items are guaranteed, they are 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.

4. The common or usual name of each ingredient used in the manufacture of the commercial feed, except as the department may, by regulation, permit the use of a collective term for a group of ingredients all of which perform the same function. An ingredient statement is not required for single standardized ingredient feeds which are officially defined.
5. The name and principal address of the person responsible for distributing the commercial feed.

SECTION 5. AMENDMENT. Section 19-13.1-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-13.1-06. Inspection fees. There ~~shall~~ must be paid to the department for all commercial feeds and customer-formula feeds, except pet foods and specialty pet foods, distributed in this state an inspection fee at the rate of twenty cents per ton [907.18 kilograms]. However, customer-formula feeds are ~~hereby~~ exempted if the inspection fee is paid on the commercial feeds which that they contain, and distribution of commercial feeds to manufacturers is ~~hereby~~ exempted if the commercial feeds so distributed are used solely in manufacture of feeds which that are registered. A distributor shall pay an annual registration fee of twenty five dollars for each commercial feed product distributed only in individual packages of ten pounds [4.54 kilograms] or less, and the distributor of such product shall not be required to pay the inspection fee on such packages of the product so registered. All fees received by the department, as provided for in this chapter, shall be properly recorded by it and forwarded monthly to the state treasurer. Every person, except as hereinafter provided, who distributes commercial feed in this state shall:

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

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

SECTION 6. AMENDMENT. Section 19-13.1-07 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-07. Adulteration. No person ~~shall~~ may distribute an adulterated feed. A commercial feed or customer-formula feed ~~shall be deemed to be~~ is adulterated:

1. a. If it bears any poisonous, or deleterious, or nonnutritive ingredient has been found in sufficient amount to substantiate that may render it injurious to health when fed in accordance with directions for use on the label. If the substance is not an added substance, the commercial feed is not considered adulterated if the quantity of the substance in the commercial feed does not ordinarily render it injurious to health;
- b. If it bears or contains any added poisonous, added deleterious, or added nonnutritive substance that is unsafe within the meaning of section 406 of the Federal Food, Drug, and Cosmetic Act as amended [Pub. L. 75-717; 52 Stat. 1049; 21 U.S.C. 346] other than one which is a pesticide chemical in or on a raw agricultural commodity or a food additive;
- c. If it is, or it bears or contains any food additive that is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act as amended [Pub. L. 85-929; 72 Stat. 1788; 21 U.S.C. 3481];
- d. If it is a raw agricultural commodity and it bears or contains a pesticide chemical that is unsafe within the meaning of section 408a of the Federal Food, Drug, and Cosmetic Act as amended [Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a]. Except that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under section 408 of the Federal Food, Drug, and Cosmetic Act as amended [Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a] and the raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating, or milling, the residue of the pesticide chemical remaining in or on the processed feed shall not be deemed unsafe if the residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of the residue in the processed feed is not greater than the tolerance prescribed for the raw agricultural commodity unless the feeding of such processed feed will result or is likely to result in a pesticide residue in the edible product of the animal, which is unsafe within the meaning of section 408a of the Federal Food, Drug, and Cosmetic Act as amended [Pub. L. 85-791; 68 Stat. 511; 21 U.S.C. 346a];
- e. If it is, or it bears or contains any color additive that is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act as amended [Pub. L. 75-717; 52 Stat. 1058; 21 U.S.C. 376]; or
- f. If it is, or it bears or contains any new animal drug which is unsafe within the meaning of section 512 of the Federal Food,

Drug, and Cosmetic Act as amended [Pub. L. 90-399; 82 Stat. 343; 21 U.S.C. 360b].

2. If any valuable constituent has been in whole or in part omitted or abstracted therefrom or any less valuable substance substituted therefor.
3. If its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.
4. If it contains added hulls, screenings, straw, cobs, or other high fiber material unless the name of each such material is stated on the label.
5. If it contains viable weed seeds in amounts exceeding the limits which the department shall establish by rule or regulation.
6. If it contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules adopted by the department to assure that the drug meets the requirement of this chapter as to safety and has the identity and strength and meets the quality and purity characteristics that it purports or is represented to possess.

SECTION 7. AMENDMENT. Section 19-13.1-08 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-08. Misbranding. No person ~~shall~~ may distribute misbranded feed. A commercial feed or customer-formula feed ~~shall be deemed to be~~ is misbranded:

1. If its labeling is false or misleading in any particular.
2. If it is distributed under the name of another feed.
3. If it is not labeled as required in section 19-13.1-04 and in ~~regulations~~ rules prescribed under this chapter.
4. If it purports to be or is represented as a commercial feed ingredient, or if it purports to contain or is represented as containing a commercial feed ingredient, unless such commercial feed or feed ingredient conforms to the definition of identity, if any, prescribed by regulation rules of the department; in the adopting of such regulations rules the department shall give due regard to commonly accepted definitions such as those issued by the association of American feed control officials.
5. If any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs, or devices, in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

SECTION 8. AMENDMENT. Section 19-13.1-09 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-13.1-09. Inspection, sampling, analysis. It shall be the duty of the department 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 the department may deem necessary to determine whether such feeds are in compliance with the provisions of this chapter. The department 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.

1. For the purpose of enforcement of this chapter, and in order to determine whether its provisions have been complied with, including whether or not any operations may be subject to such provisions, officers or employees duly designated by the department, upon presenting appropriate credentials, and a written notice to the owner, operator, or agent in charge, are authorized to enter, during normal business hours, any factory, warehouse, or establishment within the state in which commercial feeds are manufactured, processed, packed, or held for distribution, or to enter any vehicle being used to transport or hold such feeds; and to inspect at reasonable times and within reasonable limits and in a reasonable manner, such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein. The inspection may include the verification of only such records, and production and control procedures as may be necessary to determine compliance with the good manufacturing practice rules established under subsection 6 of section 19-13.1-07.
2. A separate notice must be given for each such inspection, but a notice is not required for each entry made during the period covered by the inspection. Each inspection must be commenced and completed with reasonable promptness. Upon completion of the inspection, the person in charge of the facility or vehicle must be so notified.
3. If the officer or employee making an inspection of a factory, warehouse, or other establishment has obtained a sample in the course of the inspection, upon completion of the inspection and prior to leaving the premises the officer or employee shall give to the owner, operator, or agent in charge a receipt describing the samples obtained.

4. If the owner, or agent of the owner, of any factory, warehouse, or establishment described in subsection 1, refuses to admit the officer or agent to inspect in accordance with this section, the department is authorized to obtain a warrant from any state court directing the owner or the owner's agent to submit the premises described in the warrant to inspection.
5. Any agent of the department is authorized to enter upon any public or private premises including any vehicle of transport during regular business hours to have access to, and to obtain samples, and to examine records relating to distribution of commercial feeds to enforce this chapter.
6. Sampling and analysis must be conducted in accordance with methods published by the association of official analytical chemists, or in accordance with other generally recognized methods.
7. The results of all analyses of official samples must be forwarded by the department to the person named on the label and to the purchaser. When the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, the registrant may request a portion of the sample concerned within thirty days following receipt of the analysis.
8. In determining for administrative purposes whether a commercial feed is deficient in any component, the department must be guided by the official sample obtained and analyzed as provided for in this chapter.

SECTION 9. AMENDMENT. Section 19-13.1-10 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-10. Rules and regulations.

1. The department is hereby charged with the enforcement of this chapter, and is empowered to promulgate and may adopt such reasonable rules and regulations as may be necessary in order to secure the efficient administration of efficiently administer this chapter. When promulgating adopting any rules or regulations under the authority of this section, the department shall follow the procedures provided for in chapter 28-32. Publicity concerning the public hearing shall must be reasonably calculated to give interested parties adequate notice and adequate opportunity to be heard.
2. The official definitions of feed ingredients and official feed terms adopted and published by the association of American feed control officials and any amendments or supplements thereto may be adopted by rule as the official definitions.

SECTION 10. AMENDMENT. Section 19-13.1-12 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-13.1-12. Penalties.

1. Any person convicted of violating any of the provisions of this chapter or the rules issued thereunder or who shall impede,

obstruct, hinder, or otherwise prevent or attempt to prevent the department from performing its duties 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 director of the consolidated laboratories branch of the department of health and consolidated laboratories, or the director's authorized agent, shall be accepted as prima facie evidence of the composition.

2. Nothing in this chapter may be construed as requiring the department to seek prosecution or the institution of seizure proceedings based on minor violations of the chapter when the department deems that the public interest will be best served by a suitable notice of warning in writing.
3. 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 the distributor's view to the department.
4. 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 promulgated under the chapter notwithstanding the existence of other remedies at law. Said injunction to be issued without bond.
5. 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 11. AMENDMENT. Section 19-13.1-13 of the North Dakota Century Code is amended and reenacted as follows:

19-13.1-13. Publications. The department may publish, in such forms as it may deem proper, information concerning the sales of commercial feeds, together with such data on their production and use as it may consider advisable, and a report of the results of the analyses of official samples of commercial feeds sold within the state **as compared with the analyses guaranteed in the registration and on the label**. However, the information concerning production and use of commercial feeds shall not disclose the operations of any person.

SECTION 12. Section 19-13.1-14 of the North Dakota Century Code is created and enacted as follows:

19-13.1-14. Cooperation with other entities. The department may cooperate with and enter into agreements with governmental agencies of this state, other states, agencies of the federal government, and private associations to carry out the purpose and provisions of this chapter.

SECTION 13. REPEAL. Section 19-13.1-05 of the North Dakota Century Code is repealed.

Approved March 25, 1991
Filed March 26, 1991

CHAPTER 226

HOUSE BILL NO. 1135
(Committee on Agriculture)
(At the request of the State Department of Health and
Consolidated Laboratories)

PESTICIDE REPORTING

AN ACT to create and enact sections 19-18-04.1 and 19-18-04.2 of the North Dakota Century Code, relating to use reporting requirements for pesticides, and protection of trade secrets; and to amend and reenact section 19-18-08 of the North Dakota Century Code, relating to penalties.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 19-18-04.1 of the North Dakota Century Code is created and enacted as follows:

19-18-04.1. Reporting requirements. Upon request of the department, a registrant shall report the amount and type of each registered pesticide sold, offered for sale, or otherwise distributed in the state. The report must be filed by March first. The information required must include the brand name, amount, and formulation of each pesticide sold, offered for sale, or otherwise distributed in the state. However, specific brand names may not be identified in any report or otherwise made public.

SECTION 2. Section 19-18-04.2 of the North Dakota Century Code is created and enacted as follows:

19-18-04.2. Protection of trade secrets.

1. Requirements. In submitting data required by this chapter, the applicant may:
 - a. Clearly mark any portions that in the applicant's opinion are trade secrets, commercial, or financial information; and
 - b. Submit the marked material separately from other material.
2. Information revealed. After consideration of the applicant's request submitted under subsection 1, the department may not make any information public which in the department's judgment contains or relates to trade secrets or to commercial or financial information obtained from an applicant. When necessary, information relating to formulas of products may be revealed to any state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the department.

3. Notification. If the department proposes to release information that the applicant or registrant believes to be protected from disclosure under this section, the department shall notify the applicant or registrant by certified mail. The department may not make the information available for inspection until thirty days after receipt of the notice by the applicant or registrant. During this period the applicant or registrant may institute an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.

SECTION 3. AMENDMENT. Section 19-18-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-18-08. Penalties. Any person violating any provision of this chapter is guilty of an infraction. In any case where a registrant was issued a warning by the department pursuant to the provisions of this chapter, such registrant is, upon violating any provision of this chapter other than subsection 1 of section 19-18-03, guilty of a class A misdemeanor, and the registration of the article with reference to which the violation occurred terminates automatically. A pesticide, the registration of which has been terminated, may not again be registered unless the pesticide, its labeling, and other material required to be submitted appear to the department to comply with all the requirements of this chapter. In addition to the criminal sanctions that may be imposed, a person found guilty of violating this chapter or the rules adopted under this chapter is subject to a civil penalty not to exceed one thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the department through an administrative hearing pursuant to chapter 28-32.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 227

SENATE BILL NO. 2451
(Senators Kelsh, Wogsland)
(Representatives Nowatzki, Gerntholz, Martin)

ENVIRONMENT AND RANGELAND PROTECTION FUND

AN ACT to create and enact two new sections to chapter 19-18 of the North Dakota Century Code, relating to the environment and rangeland protection fund and to create an advisory board; to amend and reenact section 19-18-04 of the North Dakota Century Code, relating to registration of pesticides; and to provide an appropriation.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 19-18 of the North Dakota Century Code is created and enacted as follows:

Environment and rangeland protection fund. The environment and rangeland protection fund is a special fund in the state treasury. The moneys in this fund may be used for rangeland improvement projects. These projects include noxious weed control; ground water testing, analysis, protection, and improvement; analysis of food products for residues of pesticides and other materials; and analysis and disposal of unusable pesticides and pesticide containers.

SECTION 2. A new section to chapter 19-18 of the North Dakota Century Code is created and enacted as follows:

Advisory board - Creation - Duties. The state health officer shall appoint and consult with a six-member advisory board regarding the testing and analyzing of North Dakota food and agricultural products for pesticide residue. The board must consist of a representative of a food processing company, a representative of the North Dakota agricultural experiment station, two representatives of North Dakota farm organizations, an individual representing agribusiness organizations, and a representative of the commissioner of agriculture.

SECTION 3. AMENDMENT. Section 19-18-04 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-18-04. Registration - Fees. Any person before selling or offering for sale any pesticide for use within this state shall file annually with the department an application for registration of such pesticide. The application must:

1. Give the name and address of each manufacturer or distributor.
2. Give the name and brand of each product registered.
3. Be accompanied by a current label of each product so registered.

4. Be accompanied by an inspection a registration fee of twenty-five one hundred fifty dollars for each product registered. But in cases where the registration fees have been paid by the manufacturer, jobber, or any person, as required by this section, then in that event nothing in this section may be construed as applying to retail dealers selling pesticides. At the close of each calendar month, the department shall transmit to the state treasurer all moneys received for such licenses registrations. The state treasurer shall credit such moneys twenty-five dollars for each registered product to the general fund of the state in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.
5. Be accompanied by a material safety data sheet.

The department may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment. If the department finds that the application conforms to law, the department shall issue to the applicant a certificate of registration of the product. If after public hearing before the department the application is denied, the product may not be offered for sale.

Each registration expires on the thirty-first of December following its issuance. A certificate of registration may not be issued for a term longer than one year, and is not transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January first of each year, or within the same month such pesticides are first manufactured or sold within this state.

This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

SECTION 4. APPROPRIATION. There is hereby appropriated out of any moneys in the environment and rangeland protection fund in the state treasury, not otherwise appropriated, the sum of \$200,000, or so much thereof as may be necessary, to the department of health and consolidated laboratories for testing and analyzing ground water for contamination by pesticides and other harmful substances for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 5. APPROPRIATION. There is hereby appropriated out of any moneys in the environment and rangeland protection fund in the state treasury, not otherwise appropriated, the sum of \$485,000, or so much thereof as may be necessary, to the commissioner of agriculture for the purpose of noxious weed control for the biennium beginning July 1, 1991, and ending June 30, 1993.

SECTION 6. APPROPRIATION PRIORITY. If available moneys in the environment and rangeland protection fund are insufficient to fully fund all appropriations made from the fund by the fifty-second legislative assembly for the 1991-93 biennium, all other appropriations must be made from the fund prior to making the appropriation for noxious weed control as set forth in section 5 of this Act.

Approved April 16, 1991
Filed April 18, 1991

CHAPTER 228

HOUSE BILL NO. 1248
 (Committee on Agriculture)
 (At the request of the State Department of Health and
 Consolidated Laboratories)

FERTILIZER

AN ACT to create and enact sections 19-20.1-03.3, 19-20.1-03.4, and 19-20.1-05.1 of the North Dakota Century Code, relating to the registration, labeling, and storage of fertilizers; to amend and reenact subsection 3 of section 4-35.1-01, sections 19-20.1-01, 19-20.1-02, 19-20.1-03, 19-20.1-03.1, 19-20.1-03.2, 19-20.1-04, 19-20.1-06, 19-20.1-07, 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, and 19-20.1-18 of the North Dakota Century Code, relating to the registration, labeling, licensing, inspection, sampling, and analysis of fertilizers, tonnage fees, and penalties for fertilizers and soil amendments; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 4-35.1-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Fertilizer" means any ~~commercial~~ fertilizer as defined by ~~subsection 3 of~~ section 19-20.1-02.

SECTION 2. AMENDMENT. Section 19-20.1-01 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-01. Enforcing official. This chapter ~~shall~~ must be administered by the state ~~laboratories~~ department of health and consolidated laboratories of the state of North Dakota, hereinafter referred to as the department.

SECTION 3. AMENDMENT. Section 19-20.1-02 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

00.1. "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.

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 or plant substance amendments.
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.
 - 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. "Compost" is a material derived primarily or entirely from biological decomposition of vegetative organic matter or animal manure that does not have inorganic fertilizer added other than to promote decomposition.

4. "Deficiency" means that amount of plant nutrient or active ingredient found by analysis is less than the amount guaranteed resulting from a lack of nutrient or active ingredients or from lack of uniformity.
- 4- 5. "Distributor" means any person who imports, consigns, manufactures, produces, compounds, mixes, or blends commercial fertilizer or, soil amendments, auxiliary soil and or plant substances amendments, or who sells commercial or offers for sale fertilizer or, soil amendments, or auxiliary soil and plant substances amendments in this state.
6. "Fertilizer" means any substance containing one or more recognized 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.
7. "Fertilizer material" is a fertilizer which either:
- a. Contains no more than one of the primary plant nutrients;
 - b. Has approximately eighty-five percent of its primary plant nutrient content present in the form of a single chemical compound; or
 - c. 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.
8. "Foliar fertilizer" means a fertilizer designed and ordinarily applied directly to growing plant foliage to stimulate further growth.
- 5- 9. "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 "Guaranteed analysis" shall mean means the minimum percentage of plant nutrients claimed in the following order and form:
- a. Total Nitrogen (N) - - - - - percent
Available Phosphoric Acid (P₂O₅) - - - - - percent
Soluble Potash (K₂O) - - - - - 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.

~~6.~~ 10. "Inert" means any ingredient not active.

11. "Investigational allowance" means an allowance for variations inherent in the taking, preparation, and analysis of an official sample of fertilizer, soil amendment, or plant amendment.

~~7.~~ 12. "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 plant amendment and any printed material or media announcements used in promoting the sale thereof.

- ~~8-~~ 13. "Licensee" means any person licensed by the department ~~as a distributor of agricultural~~ to distribute a fertilizer, soil amendment, or ~~auxiliary soil and plant substance~~ amendment.
14. "Manipulated" means fertilizers, soil amendments, or plant amendments that are manufactured, blended, or mixed, or animal or vegetable manures that have been treated in any manner, including mechanical drying, grinding, pelleting, and other means, or by adding other chemicals or substances.
15. "Micronutrient" means a fertilizer that contains only essential chemical elements that are required at low levels for normal plant growth.
- ~~9-~~ 16. "Mobile mechanical unit" means any portable machine or apparatus used to blend, mix, or manufacture ~~fertilizer materials~~ fertilizers, soil amendment, ~~auxiliary soil and~~ amendments, or plant ~~substance~~ amendments.
- ~~10-~~ 17. "Official sample" means any sample of ~~commercial~~ fertilizer or, soil amendment, ~~auxiliary soil and~~ or plant ~~substance~~ amendment, taken by the department and designated as "official" by the department.
18. "Organic" in reference to fertilizer nutrients refers only to naturally occurring substances generally recognized as the hydrogen compounds of carbon and their derivatives or synthetic products of similar composition with a water insoluble nitrogen content of at least sixty percent of the guaranteed total nitrogen.
- ~~11-~~ 19. "Percent" or "percentage" means the percentage by weight.
20. "Plant amendment" means a substance applied to plants or seeds which is intended to improve germination, growth, yield, product quality, reproduction, flavor, or other desirable characteristics of plants except fertilizers, unless 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.
21. "Plant nutrient" means a nutrient generally recognized as beneficial for plant growth, including nitrogen, phosphorus, potassium, calcium, magnesium, sulfur, boron, chlorine, cobalt, copper, iron, manganese, molybdenum, sodium, and zinc.
- ~~12-~~ 22. "Primary plant nutrients" are nitrogen, phosphoric acid, and potash.
- ~~13-~~ 23. "Registrant" means the person who registers ~~commercial fertilizer~~ or fertilizers, soil amendments, ~~auxiliary soil and~~ or plant ~~substance~~ amendments under the provisions of this chapter.
- ~~14-~~ 24. "Sell" when applied to ~~commercial fertilizer~~ or fertilizers, soil amendments, ~~auxiliary soil and~~ or plant ~~substance~~ amendments 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~~ possessing for sale, exchange, or distribution.
- +5- 25. "Small package fertilizer" means fertilizer sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less.
- +6- 26. "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.
27. "Specialty fertilizer" means a fertilizer distributed primarily for nonfarm use.
- +7- 28. "Ton" means a net weight of two thousand pounds avoirdupois [907.18 kilograms].

SECTION 4. AMENDMENT. Section 19-20.1-03 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-03. Registration. Each brand and grade of ~~commercial fertilizer sold as small package fertilizer or specialty fertilizer, each, material, foliar fertilizer, micronutrient, specialty fertilizer, soil amendment, auxiliary soil and or plant substance, and each brand and grade of fertilizer material except unmanipulated animal and vegetable manures, shall~~ amendment must be registered in the name of the person whose name appears upon the label before being offered for sale or distributed in this state. The application for registration ~~shall~~ must be submitted to the department on a form ~~prescribed~~ furnished by the department and ~~shall~~ must be accompanied by a fee of twenty-five dollars. Upon approval by the department, a ~~copy of the certificate of registration shall~~ must 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~~ is not be required to register any brand of ~~commercial fertilizer or, soil amendment, auxiliary soil and or plant substance amendment~~ which is already registered under this chapter by another person, providing the label complies with the issued registration. Compost that is transferred between parties without compensation is exempt from these requirements.

SECTION 5. AMENDMENT. Section 19-20.1-03.1 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-03.1. License required. No person ~~shall sell at retail agricultural~~ may distribute any fertilizer, soil amendment, or ~~auxiliary soil~~

and plant substance amendment in this state without first obtaining a distributor's license from the department. However, a distributor's license is not required for those distributors selling only specialty fertilizers. A license shall must be obtained for each location or mobile mechanical unit used by a distributor in the state. The application for the license shall must be submitted on a form prescribed furnished by the department, and shall must be accompanied by a fee of fifty dollars. All licenses shall expire on June thirtieth of each year. Licenses shall are not be transferable, and each license shall must be conspicuously posted at each location and shall must accompany each mobile mechanical unit operating in the state.

SECTION 6. AMENDMENT. Section 19-20.1-03.2 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-03.2. Proof of effectiveness. The department may require ~~an applicant or registrant to furnish~~ proof of claims made for any product covered by this chapter and may require proof of value when used as directed or recommended. The department shall rely on ~~replicate, or the data derived therefrom, performed by a reputable investigator.~~ The experimental data must be obtained from scientifically designed and reported studies conducted under conditions similar to those in this state under which the product is intended to be used. The department may accept or reject other sources of proof as additional evidence.

SECTION 7. Section 19-20.1-03.3 of the North Dakota Century Code is created and enacted as follows:

19-20.1-03.3. Protected information. In submitting data required by this chapter, the applicant may clearly mark any portions that in the applicant's opinion are trade secrets or commercial or financial information and submit the marked material separately from other material.

After consideration of the applicant's request, the department may decide not to allow the information to become public which the department determines to contain or relate to trade secrets or to commercial or financial information obtained from an applicant. If necessary, information relating to formulas of products may be revealed to a state or federal agency consulted with similar protection of trade secret authority and may be revealed at a public hearing or in findings of facts issued by the department. If the department proposes to release information that the applicant or registrant believes to be protected from disclosure, the department shall notify the applicant or registrant by certified mail. The department may not make the information available for inspection until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may begin an action in an appropriate court for a declaratory judgment as to whether the information is subject to protection under this section.

SECTION 8. Section 19-20.1-03.4 of the North Dakota Century Code is created and enacted as follows:

19-20.1-03.4. Guaranteed analysis. Until the department prescribes the alternative form of guaranteed analysis in accordance with the provisions of this section, guaranteed analysis must be claimed in the following order and form:

1. Total Nitrogen (N) percent

Available Phosphoric Acid (P_2O_5) _____ percent

Soluble Potash (K_2O) _____ percent

2. For unacidulated mineral phosphatic materials and basic slag, bone, tannage, and other organic phosphatic materials, the total phosphoric acid or degree of fineness, or both, may also be guaranteed.
3. Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium may be permitted or required by rules adopted by the department. The guarantees for such other nutrients must be expressed in the form of the element. The sources of other nutrients including oxides, salt, and chelates 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 are subject to inspection and analysis in accord with the methods and rules prescribed by the department.
4. The department may, by rule, require 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].
5. 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 rule that the guaranteed analysis be in the following form:

Total Nitrogen (N) _____ percent

Available phosphorus (P) _____ percent

Soluble Potassium (K) _____ percent

The effective date of a rule under this subsection may not be less than six months following the issuance of the rule and for a period of two years following the effective date of the rule the equivalent of phosphorus and potassium may also be shown in the form of phosphoric acid and potash. After the effective date of a rule issued under this section, requiring that phosphorus and potassium be shown in the elemental form, the guaranteed analysis for nitrogen, phosphorus, and potassium constitutes the grade.

6. The guaranteed analysis of a soil amendment or plant amendment must be an accurate statement of composition including the percentages of each ingredient. If the product is a microbiological product, the number of viable microorganisms per milliliter for a liquid or the number of viable microorganisms per gram for a dry product must also be listed.

SECTION 9. AMENDMENT. Section 19-20.1-04 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-04. Labeling.

1. Every product registered pursuant to this chapter shall Any fertilizer, soil amendment, or plant amendment distributed in this state in containers must have placed on or affixed to the container a label setting forth in clearly legible and conspicuous form the information required by the department in the registration thereof.
2. If distributed in bulk, a written or printed statement showing the net weight, brand and grade, guaranteed analysis, name and address of the distributor, and the sources from which the nitrogen, phosphorus, and potassium are derived ~~shall~~ must accompany delivery and be supplied to the purchaser at time of delivery.
3. A ~~commercial~~ fertilizer, formulated according to specifications ~~which that~~ are furnished by a consumer prior to mixing, ~~shall~~ must be labeled to show the net weight, guaranteed analysis or number of pounds [kilograms] of each plant nutrient ~~contained therein it~~ contains, and the name and address of the distributor.
4. The department may require the labels of specialty fertilizer sold in packages of fifty pounds [22.68 kilograms] or more, or sold in bulk, to contain the prominent statement "Not intended for farm use" prominently placed thereon.

SECTION 10. Section 19-20.1-05.1 of the North Dakota Century Code is created and enacted as follows:

19-20.1-05.1. Fertilizer in bulk storage. Fertilizer in bulk storage must be identified with a label attached to the storage bin or container stating the appropriate grade or guaranteed analysis.

SECTION 11. AMENDMENT. Section 19-20.1-06 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-06. Inspection fees and tonnage reports. There ~~shall~~ must be paid to the department for all ~~commercial~~ fertilizers, soil amendments, or ~~auxiliary soil and plant substances, amendments~~ distributed in this state an inspection fee at the rate of twenty cents per ton [907.18 kilograms]; ~~provided, that sales. Sales~~ to manufacturers or exchanges between them are ~~hercby exempted exempt~~ from the inspection fee. Fees ~~so~~ collected ~~shall~~ under this section must 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 fertilizers,~~ soil amendments, or ~~auxiliary soil and plant substances, amendments~~ sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less ~~shall~~ be exempt from the provisions of this section. ~~Where If~~ a person sells ~~commercial~~ fertilizer, soil amendments, or ~~auxiliary soil and plant substances amendments~~ in packages of twenty-five pounds [11.34 kilograms] or less and in packages over twenty-five pounds [11.34 kilograms], that portion sold in packages over twenty-five pounds [11.34 kilograms] ~~shall be is~~

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 amendment~~ 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 amendment~~ so distributed in this state during such period. The statement is due on or before ~~the fifteenth day the end~~ 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 12. AMENDMENT. Section 19-20.1-07 of the North Dakota Century Code is amended and reenacted as follows:

19-20.1-07. Inspection fees and tonnage reports. When more than one person is involved in the distribution of a registered product, the last person who has the product registered under section 19-20.1-03 and who distributes to a nonregistrant ~~dealer, or consumer,~~ is responsible for reporting the tonnage and paying the inspection fee; ~~unless the reporting and paying of fees have been made by a prior distributor of the product.~~ The department may verify the records on which the statement of tonnage is based.

SECTION 13. AMENDMENT. Section 19-20.1-08 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-08. Inspection, sampling, analysis. It shall be the duty of the department to sample, inspect, make analyses of, and test ~~commercial fertilizers and soil amendments, auxiliary soil and plant substance amendments~~ distributed within this state at time and place and to such an extent as the department may deem necessary to determine whether such ~~commercial fertilizers or soil amendments products~~ are in compliance with the provisions of this chapter. The department 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 products~~ subject to the provisions of this chapter and the rules pertaining ~~thereto~~ to this chapter. The methods of analysis and sampling ~~shall must~~ be those adopted by the department from sources such as the A.O.A.C. journal. In cases not covered by such methods, or if methods are available in which improved applicability has been demonstrated, the department may adopt such appropriate methods from other sources.

In sampling a lot of fertilizer, a single package may constitute the official sample. The department, in determining for administrative purposes whether any ~~commercial fertilizer or, soil amendment, auxiliary soil and or plant substance amendment~~ 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 or plant substance amendment~~ 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~~ becomes official. Official samples found to be deficient must be retained by the laboratory for thirty days from issuance of the analytical report. Upon request the department shall furnish to the registrant a portion of any sample found subject to penalty or other legal action.

SECTION 14. AMENDMENT. Section 19-20.1-10 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-10. ~~False or misleading statements~~ Misbranding. A ~~commercial fertilizer, soil amendment, or auxiliary soil and plant substance amendment~~ is misbranded if false or misleading statements concerning the product are disseminated in any manner or by any means, 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, soil amendment, or auxiliary soil and plant substance are disseminated in any manner or by any means or labeling, if it is distributed under the name of another product, if it is not labeled as required by section 19-20.1-04 and in accordance with rules adopted under this chapter, and if it purports to be or is represented as a fertilizer, or is represented as containing a plant nutrient or fertilizer unless such plant nutrient or fertilizer conforms to the definition of identity, if any, prescribed by rule of the department. In adopting such rules the department shall give due regard to commonly accepted definitions and official fertilizer terms such as those issued by the association of American plant food control officials. It shall be unlawful to distribute a misbranded fertilizer, soil amendment, or auxiliary soil and plant substance amendment.

SECTION 15. AMENDMENT. Section 19-20.1-11 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 16. AMENDMENT. Section 19-20.1-12 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-12. ~~Rules and regulations.~~ For the enforcement of this chapter, the department is authorized to ~~prescribe~~ adopt and enforce such ~~rules, regulations, and tolerances~~ relating to the labeling, investigational allowances, definitions, records, licensing, inspection, analysis, labeling, storage, and distribution of commercial fertilizers and, soil amendments, and plant amendments as the state department of health and consolidated laboratories may find necessary to carry into effect the full intent and meaning of this chapter. When promulgating adopting any rules or regulations

under the authority of this section, the department shall follow the procedures provided in chapter 28-32.

SECTION 17. AMENDMENT. Section 19-20.1-13 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-13. Short weight Deficiencies.

1. A product is deficient if one or more of its guaranteed primary plant nutrients or other guaranteed active ingredients falls below the investigational allowances and compensations as established by rule or if the overall index value of the fertilizer is shown below the level established by rule.
2. A deficiency in an official sample of mixed fertilizer resulting from nonuniformity is not distinguishable from a deficiency due to actual plant nutrient shortage and is properly subject to official action.
3. For the purpose of determining the commercial index value to be applied, the department shall determine at least annually the values per unit of nitrogen, available phosphoric acid, and soluble potash in fertilizers in this state.
4. If any commercial fertilizer or, soil amendment, auxiliary soil and or plant substance amendment 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 the product 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 18. AMENDMENT. Section 19-20.1-14 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-14. Cancellation of registrations. The department is authorized and empowered to may cancel the registration of any brand of commercial fertilizer or, soil amendment, auxiliary soil and or plant substance amendment and to may cancel the license of any distributor or to may refuse to register any brand of commercial fertilizer or, soil amendment, auxiliary soil and or plant substance amendment or may refuse 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 adopted under this chapter. No registration or license shall may be revoked or refused without opportunity for hearing given by the department.

SECTION 19. AMENDMENT. Section 19-20.1-15 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted 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 or plant substance amendment and an order to hold at a designated place when the department finds said commercial the fertilizer or, soil amendment, auxiliary soil and or plant substance amendment is being offered

or exposed for sale in violation of any of the provisions of this chapter or a rule adopted under this chapter until the law or rule has been complied with and said commercial the fertilizer or, soil amendment, auxiliary soil and or plant substance amendment is released in writing by the department or said the violation has been otherwise legally disposed by written authority. The department shall release the commercial fertilizer or, soil amendment, auxiliary soil and or plant substance amendment so withdrawn when the requirements of the provisions of this chapter and the rules adopted under this chapter have been complied with and all costs and expenses incurred in connection with the withdrawal have been paid.

SECTION 20. AMENDMENT. Section 19-20.1-16 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 21. AMENDMENT. Section 19-20.1-17 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.1-17. Violations - Penalty.

1. If it shall appear appears from the examination of any commercial fertilizer or, soil amendment, auxiliary soil and or plant substance amendment that any of the provisions of this chapter or the rules issued thereunder adopted under this chapter 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 the sample was taken. Any person so notified shall must be given opportunity to be heard under such rules as may be prescribed adopted 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 issued thereunder adopted under this chapter have been violated, the department 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 issued thereunder adopted under this chapter or who shall impede, obstruct, hinder, or otherwise prevent or attempt impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the department in the performance of its duty in connection with the provisions of this chapter, shall be or the rules adopted under this chapter is 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 or plant substance amendments, a certified copy of the official analysis signed by the director of the consolidated laboratories branch of the department shall or the director's assigned agent must be accepted as prima facie evidence of the composition.
3. Nothing in this chapter may be construed as requiring the department to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when the director believes that the public interests will be best served by a suitable notice of warning in writing.
4. It shall be is 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 may apply for and the court to may 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 promulgated adopted under the this chapter notwithstanding the existence of other remedies at law. Said An injunction to under this section must be issued without bond.

SECTION 22. AMENDMENT. Section 19-20.1-18 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

Approved March 27, 1991
Filed March 28, 1991

CHAPTER 229

SENATE BILL NO. 2177
 (Committee on Agriculture)
 (At the request of the Commissioner of Agriculture)

ANHYDROUS AMMONIA SAFETY RULES

AN ACT to amend and reenact section 19-20.2-01 of the North Dakota Century Code, relating to the regulation of anhydrous ammonia facilities.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 19-20.2-01 of the 1989 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-20.2-01. Anhydrous ammonia safety rules. The Except as otherwise required by law, the commissioner of agriculture shall adopt rules necessary to implement this chapter and adopt the 1989 American national standard safety requirements for the storage and handling of anhydrous ammonia, except as otherwise required by this chapter, and other rules necessary to implement this chapter sections 2.5, 5.2.1, and 5.2.2.2 of the 1989 American national standard safety requirements are adopted as follows:

1. (2.5) Refers to paragraphs U-68, U-69, U-200, or U-201 of section VIII of the boiler and pressure vessel code of the American society of mechanical engineers, 1949 edition, or to section VIII division of the boiler and pressure vessel code of the American society of mechanical engineers, 1950 edition, through the current edition including addenda and applicable code case interpretations.

Where referenced in this standard only division I of the American society of mechanical engineers code applies except that paragraphs UG-125 through UG-135 and paragraph UW-2 do not apply.

2. (5.2.1) Containers used with systems covered in sections 6, 9, 11, and 12 must be made of steel or other material compatible with ammonia, and tested in accordance with the current American society of mechanical engineers code. An exception to the American society of mechanical engineers code requirements is that construction under table UW 12 at a basic joint efficiency of under eighty percent is not authorized.
3. (5.2.2.2) Steels used in fabricating pressure-containing parts of a container must have a tensile strength no greater than a nominal seventy-five thousand pounds per square inch [517110 kilopascals], except this does not apply to sections 8, 9, and 10.

Approved April 2, 1991
 Filed April 4, 1991