

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2365

Introduced by

Senators Wanzek, Mutch, Naaden

Representative Brusegaard

1 A BILL for an Act to create and enact a new section to chapter 23-25 of the North Dakota  
2 Century Code, relating to state department of health odor readings.

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

4 **SECTION 1.** A new section to chapter 23-25 of the North Dakota Century Code is  
5 created and enacted as follows:

6 **Regulation of odors - Rules.**

- 7 1. In areas located within a city or the area over which a city has exercised  
8 extraterritorial zoning as defined in section 40-47-01.1, a person may not  
9 discharge into the ambient air any objectionable odorous air contaminant that  
10 measures seven odor concentration units or higher outside the property boundary  
11 where the discharge is occurring.
- 12 2. In areas located outside a city or outside the area over which a city has exercised  
13 extraterritorial zoning as defined in section 40-47-01.1, a person may not  
14 discharge into the ambient air any objectionable odorous air contaminant that  
15 causes odors that measure seven odor concentration units or higher as measured  
16 at any of the following locations:
- 17 a. Within one hundred feet [30.48 meters] of any residence, church, school,  
18 business, or public building, or within a campground or public park. An odor  
19 measurement may not be taken at the residence of the owner or operator of  
20 the source of the odor, or at any residence, church, school, business, or  
21 public building, or within a campground or public park, that is built or  
22 established within one-half mile [.80 kilometer] of the source of the odor after  
23 the source of the odor has been built or established; or

- 1           b.    At any point located beyond one-half mile [30.48 meters] from the source of  
2           the odor, except for property owned by the owner or operator of the source of  
3           the odor, or over which the owner or operator of the source of the odor has  
4           purchased an odor easement.
- 5           3.    An odor measurement may be taken only with a properly maintained scentometer,  
6           by an odor panel, or by another instrument or method approved by the state  
7           department of health, and only by inspectors certified by the department who have  
8           successfully completed a department-sponsored odor certification course and  
9           demonstrated the ability to distinguish various odor samples and concentrations.
- 10          4.    A person is exempt from this section while spreading or applying animal manure or  
11          other recycled agricultural material to land in accordance with a nutrient  
12          management plan approved by the state department of health. A person is  
13          exempt from this section while spreading or applying animal manure or other  
14          recycled agricultural material to land owned or leased by that person in  
15          accordance with rules adopted by the department. An owner or operator of a  
16          lagoon or waste storage pond permitted by the department is exempt from this  
17          section in the spring from the time when the cover of the permitted lagoon or pond  
18          begins to melt until fourteen days after all the ice cover on the lagoon or pond has  
19          completely melted. Notwithstanding these exemptions, all persons shall manage  
20          their property and systems to minimize the impact of odors on their neighbors.
- 21          5.    This section does not apply to chemical compounds that can be individually  
22          measured by instruments, other than a scentometer, that have been designed and  
23          proven to measure the individual chemical or chemical compound, such as  
24          hydrogen sulfide, to a reasonable degree of scientific certainty, and for which the  
25          state department of health has established a specific limitation by rule.
- 26          6.    For purposes of this section, a public park is a park established by the federal  
27          government, the state, or a political subdivision of the state in the manner  
28          prescribed by law. For purposes of this section, a campground is a public or  
29          private area of land used exclusively for camping and open to the public for a fee  
30          on a regular or seasonal basis.