

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2326

Introduced by

Senators Tallackson, Klein

Representatives Headland, Nicholas, Pollert, Solberg

1 A BILL for an Act to amend and reenact sections 4-10-01, 4-10-06.1, and 4-10-06.3 of the
2 North Dakota Century Code, relating to seed potato certification requirements; and to declare
3 an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 4-10-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **4-10-01. Definitions.** In this chapter, unless the context ~~or subject matter~~ otherwise
8 requires:

- 9 1. "Agent" or "agents", when used to indicate or refer to the commissioner's agent or
10 agents, means the commissioner's deputies, inspectors, representatives, agents,
11 or other assistants as the case requires.
- 12 2. "Certified" means the potatoes were randomly inspected and found to meet the
13 rules and regulations of the state seed department.
- 14 3. "Closed container", or its plural form, means any container which shall be sewed,
15 tied, sealed, glued, nailed, or otherwise closed in a practical or secure manner for
16 handling.
- 17 4. "Commissioner" means the state seed commissioner.
- 18 5. "Inspection" means a random sample of potato plants or potato tubers were
19 examined according to the rules ~~and regulations~~ of the state seed department or
20 according to the instructions of the United States department of agriculture, food
21 safety and quality service.
- 22 6. "Label", and its various grammatical forms, when used as a noun means any tag,
23 label, brand, or device attached to, or written, stamped, printed, or stenciled on,
24 any container and carrying a term or terms setting forth the grade, condition,

1 quality, weight, variety, or class of the potatoes or other produce therein contained,
2 and when used as a verb means the act or the fact of the use of the aforesaid
3 labeling items and methods in connection with potatoes or other produce, and
4 when used as an adjective, its descriptive meaning must be interpreted from its
5 use and meaning as a noun and verb as herein prescribed.

6 7. "Other produce" means natural products of the farm, garden, and orchard,
7 exclusive of grain, true seeds, livestock, and livestock products.

8 8. ~~"Person" means both the singular and plural, as the case requires, and includes~~
9 ~~individuals, copartnerships, companies, societies, associations, firms,~~
10 ~~corporations, or limited liability companies.~~

11 9. "Potatoes" means what is commonly called and known as white or Irish potatoes.

12 ~~40.~~ 9. "State seed department" means the seed department of the state of North Dakota.

13 10. "Variety" means a plant group within a single botanical taxon of the lowest-known
14 rank which, without regard to whether the conditions for plant variety protection are
15 met, can be defined by the expression of the characteristics resulting from a given
16 genotype or combination of genotypes, distinguished from any other plant grouping
17 by the expression of at least one characteristic, and considered as a unit with
18 regard to the suitability of the plant grouping for being propagated unchanged. A
19 variety may be represented by seed, transplants, plants, tubers, tissue culture,
20 plantlets, and other matter.

21 **SECTION 2. AMENDMENT.** Section 4-10-06.1 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **4-10-06.1. Seed potatoes - Certification requirement.**

24 1. A person may not plant seed potatoes in lots of one acre [.405 hectare] or more,
25 for the purpose of selling the crop to be harvested, unless the seed potatoes:

26 a. Have been certified by the commissioner as meeting the standards of this
27 chapter;

28 b. Have been certified by another state or province having a similar seed potato
29 quality assurance program; or

30 c. Have been field-inspected and approved by the commissioner.

- 1 2. ~~The commissioner shall permit a North Dakota grower to plant uncertified potatoes~~
2 ~~grown by the grower, if the grower is within twelve months of having the grower's~~
3 ~~own certified parent seed potatoes.~~
- 4 ~~3.~~ The commissioner shall permit a North Dakota potato grower to sell or otherwise
5 transfer certified seed potatoes to another North Dakota potato grower. The
6 recipient grower may plant the seed potatoes only for commercial production. The
7 seed potatoes may not be recertified or retained for use in the following production
8 cycle.
- 9 4. 3. If the commissioner has reason to believe that seed potatoes meeting the
10 requirements of this section are not available in sufficient quantities to fulfill
11 planting needs, the commissioner may permit the planting of seed potatoes with a
12 higher disease content, provided that bacterial ring rot is not present and that a
13 serious disease threat is not posed.

14 **SECTION 3. AMENDMENT.** Section 4-10-06.3 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **4-10-06.3. Imported seed potatoes - Certification requirement.** All seed potatoes
17 imported into this state for planting purposes by any person from any state, territory, or country
18 must be accompanied by ~~an~~:

- 19 1. a. An official grade certificate describing the grade of the potatoes; or a
20 b. A health certificate to certify that the lot of seed potatoes was field inspected
21 by an official certifying agency and is similar to the standards established by
22 this chapter for seed potatoes; and
- 23 2. Any other document or certificate required for the importation of seed potatoes by
24 the state, province, territory, or country of origin, including test results issued by a
25 laboratory approved by the United States department of agriculture's animal and
26 plant health inspection service.

27 **SECTION 4. EMERGENCY.** Section 3 of this Act is declared to be an emergency
28 measure.