

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1329
(Representatives Hagert, Fegley, Howe, Satrom, Trottier)
(Senators Klein, Meyer, Wanzek, Weber)

AN ACT to amend and reenact subsection 7 of section 4.1-53-13, subsection 1 of section 4.1-53-37, section 4.1-53-38, subsection 2 of section 4.1-53-43, subsection 1 of section 4.1-53-48, and subsection 2 of section 4.1-53-61 of the North Dakota Century Code, relating to seed labels, tolerances, permits, and certification; to repeal section 4.1-53-41 of the North Dakota Century Code, relating to nonresident seed dealer licenses; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 7 of section 4.1-53-13 of the North Dakota Century Code is amended and reenacted as follows:

7. a. The percentage of germination, exclusive of hard or dormant seed;
- b. The percentage of hard or dormant seed, if applicable; and
- c. The month and year in which the percentages were determined; and

SECTION 2. AMENDMENT. Subsection 1 of section 4.1-53-37 of the North Dakota Century Code is amended and reenacted as follows:

1. ~~In order to~~To determine correctness and accuracy in labeling seed as required by this chapter, the seed commissioner shall:
 - a. Apply the tolerances established by the Federal Seed Act of August 9, 1939 [53 Stat. 1275; 7 U.S.C. 1551 et seq.], as amended through ~~June 30, 2014~~August 6, 2020; or
 - b. Establish stricter tolerances by rule.

SECTION 3. AMENDMENT. Section 4.1-53-38 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-38. Seed labelingsales permit - Reports - Fees - Civil penalty.

1. Before a resident or nonresident person in this state may label or sell agricultural, vegetable, flower, or tree or shrub seed and before a person may label agricultural, vegetable, flower, or tree or shrub seed for delivery into this state, the person shall obtain a seed labelingsales permit from the seed commissioner.
2. A permit issued under this section applies to employees and agents of the permitholder.
3. Each person issued a seed labelingsales permit under this section shall:
 - a. Record all seeds sold by that person in this state;
 - b. Report all seeds sold by that person in this state to the seed commissioner at the time and in the manner determined by the seed commissioner; and
 - c. Submit at the time and in the manner determined by the seed commissioner, fees in the amount set by the seed commissioner and applicable to all seeds that the person sells in this state.

- ~~3.4.~~ If a person issued a seed ~~labelingsales~~ permit under this section fails to submit the reports or fees required by this section within thirty days of the date determined by the seed commissioner, the seed commissioner may assess a penalty equal to ~~five percent of the amount due or ten dollars, whichever is greater.~~

SECTION 4. AMENDMENT. Subsection 2 of section 4.1-53-43 of the North Dakota Century Code is amended and reenacted as follows:

2. ~~In order to~~To pursue certification, a person shall provide to the seed commissioner:
 - a. The name of the variety;
 - b. A statement regarding the variety's origin and the breeding procedure or reproductive stabilization used in its development;
 - c. A description of the morphological, physiological, or other characteristics that distinguish the variety from other varieties;
 - d. Evidence supporting the identity of the variety;
 - e. A statement regarding the geographic area of adaptation;
 - f. A statement regarding plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied;
 - g. A description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified;
 - h. Any additional restrictions on the variety specified by the breeder; and
 - i. A sample of seed that is representative of the variety as marketed.

SECTION 5. AMENDMENT. Subsection 1 of section 4.1-53-48 of the North Dakota Century Code is amended and reenacted as follows:

1. If a certificate of plant variety protection issued under the Plant Variety Protection Act [7 U.S.C. 2121 et seq.], as amended through July 31, ~~2015~~2020, specifies that the variety may be sold only as a class of certified seed, that seed must be certified by an official seed-certifying agency before it can be advertised for sale, offered for sale, or sold.

SECTION 6. AMENDMENT. Subsection 2 of section 4.1-53-61 of the North Dakota Century Code is amended and reenacted as follows:

2. Seed grown by a producer and sold by that producer without advertising and without using a third party as an agent or broker to effect the sale, provided this exemption is not applicable if the seed is a variety protected by the Plant Variety Protection Act [7 U.S.C. 2321 et seq.], as amended through July 31, ~~2015~~2020.

SECTION 7. REPEAL. Section 4.1-53-41 of the North Dakota Century Code is repealed.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1329.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,

at _____ o'clock _____ M.

Secretary of State