

# AGRICULTURE

## CHAPTER 58

### HOUSE BILL NO. 1046

(Agriculture Committee)  
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact subsection 1 of section 4.1-01-11 of the North Dakota Century Code, relating to the advisory committee on sustainable agriculture.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 4.1-01-11 of the North Dakota Century Code is amended and reenacted as follows:

1. The commissioner ~~shall~~may appoint an advisory committee on sustainable agriculture.
  - a. The committee must include:
    - (1) The chairman of the house agriculture committee or the chairman's designee;
    - (2) The chairman of the senate agriculture committee or the chairman's designee;
    - (3) The commissioner of the department of commerce or the commissioner's designee;
    - (4) The director of the North Dakota state university agricultural experiment station;
    - (5) An agricultural producer who utilizes innovative research-based technologies in farming operations;
    - (6) A representative of an international agricultural corporation; and
    - (7) An individual specializing in the domestic and international marketing of agricultural products.
  - b. If both houses of the legislative assembly are controlled by the same party, the committee also must include one member of the legislative assembly from the minority party, appointed by the chairman of the legislative management.

Approved March 8, 2021

Filed March 9, 2021

**CHAPTER 59****SENATE BILL NO. 2053**

(Agriculture Committee)  
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact section 4.1-01.1-06 of the North Dakota Century Code, relating to the required uses of the agricultural products utilization fund; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 4.1-01.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-01.1-06. Agricultural products utilization fund - Purposes.**

The agricultural products utilization fund in the state treasury must be used to fund programs for agricultural research, equipment, development, processing, technology, and marketing. The fund must be used to defray the expenses of the North Dakota agricultural products utilization commission. Interest earned on moneys in the fund must be credited to the fund.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 22, 2021

Filed March 23, 2021

## CHAPTER 60

### HOUSE BILL NO. 1475

(Representatives Satrom, Hagert, Kempenich, Kiefert, Mitskog, Ostlie)  
(Senators Conley, Wanzek)

AN ACT to create and enact three new sections to chapter 4.1-01.1 of the North Dakota Century Code, relating to an agriculture diversification and development fund, agriculture diversification and development committee, and agriculture diversification and development fund grants program; to provide an appropriation; to provide a continuing appropriation; and to provide for a transfer.

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

**SECTION 1.** A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

#### Agriculture diversification and development fund - Continuing appropriation.

1. There is created in the state treasury the agriculture diversification and development loan fund. The fund consists of all moneys transferred to the fund by the legislative assembly, interest upon moneys in the fund, and payments of interest and principal on loans made from the fund. Moneys in the fund are appropriated to the Bank of North Dakota on a continuing basis for loan disbursements, grants, and administrative costs pursuant to this section. No more than twenty-five percent of the fund may be utilized for grants in a biennium.
2. Loans, interest rate buydowns, or grants may be issued from the fund to support new or expanding value-added agriculture businesses that demonstrate financial feasibility, enhance profitability for farmers and ranchers, create jobs, and grow the state's economy. Value-added agriculture businesses include food production or processing facilities; feed or pet food processing facilities; commodity processing facilities; agriculture product manufacturers; and animal agriculture production facilities, including swine, poultry, dairy, and feed lot production facilities.
3. The Bank of North Dakota shall develop policies in consultation with the agriculture diversification and development committee. The Bank shall review loan applications. To be eligible for a loan under this section, an entity shall agree to provide the Bank with information as requested. The Bank may develop policies for loan participation with local financial institutions. The Bank shall deposit in the fund all principal and interest paid on the outstanding loans. The Bank may use a portion of the interest paid as a servicing fee to pay for administrative costs, which may not exceed one-half of one percent of the amount of the outstanding loans. The Bank shall contract with a certified public accounting firm to audit the fund if the fund has any loans. The cost of the audit must be paid from the fund.

**SECTION 2.** A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

**Agriculture diversification and development committee.**

1. The agriculture diversification and development committee consists of eleven members, five of whom must be appointed by the commissioner for terms of two years each, arranged so that two terms expire in odd-numbered years and three terms expire in even-numbered years.
  - a. Four of the members appointed by the commissioner must be actively engaged in farming in this state and the fifth member appointed by the commissioner must be actively engaged in agribusiness in this state.
  - b. The governor shall appoint one member for a term of two years which expires in odd-numbered years.
  - c. The member appointed by the governor must be actively engaged in business in this state.
  - d. The remaining committee members must consist of:
    - (1) One representative from the independent community banks of North Dakota;
    - (2) One representative from the North Dakota bankers association;
    - (3) The commissioner of commerce or the commissioner's designee;
    - (4) The president of North Dakota state university or the president's designee; and
    - (5) The agriculture commissioner or the commissioner's designee.
  - e. The committee shall elect one of its members as chairman.
2. The agriculture diversification and development committee shall develop guidelines for the grants, including eligibility criteria and reporting requirements. The guidelines must include priority for businesses with a majority of the ownership comprised of North Dakota residents. The agriculture diversification and development committee shall review grant applications and make funding determinations.

**SECTION 3.** A new section to chapter 4.1-01.1 of the North Dakota Century Code is created and enacted as follows:

**Agriculture diversification and development fund grants program - Access to records.**

1. To the extent the agriculture diversification and development committee determines the materials or data provided under section 1 of this Act consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying for grants with the committee, materials and data submitted to, made by, or received by the committee, are not public records, subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and are subject to section 44-04-18.4.

2. A person may file a request with the committee to have material designated as confidential under subsection 1. The request must contain any information required by the committee and must include at least the following:
  - a. A general description of the nature of the information sought to be protected;
  - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;
  - c. An explanation of why the information is not readily ascertainable by proper means of other persons;
  - d. A general description of any person that may obtain economic value from disclosure or use of the information, and how the person may obtain this value; and
  - e. A description of the efforts used to maintain the secrecy of the information.
3. A request under subsection 2 is confidential. The committee shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the committee determines the information is not relevant or not a trade secret, the committee shall notify the requester and the requester may ask for the return of the information and the request within ten days of the notice. If no return is sought, the information and request are public records.
4. The names or identities of independent technical reviewers on a project or program are confidential, may not be disclosed by the committee, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.

**SECTION 4. APPROPRIATION - TRANSFER TO AGRICULTURE DIVERSIFICATION AND DEVELOPMENT FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$10,000,000, or so much of the sum as may be necessary, to the agriculture diversification and development fund for the biennium beginning July 1, 2021, and ending June 30, 2023.

Approved April 23, 2021

Filed April 23, 2021

## CHAPTER 61

### HOUSE BILL NO. 1145

(Representatives D. Johnson, Beltz, Hagert, Howe)  
(Senators Lemm, Luick, Piepkorn, Wanzek, Weber)

AN ACT to amend and reenact sections 4.1-11-02 and 4.1-11-03, and subsection 2 of section 4.1-11-04 of the North Dakota Century Code, relating to soybean districts and terms of office for members elected to the North Dakota soybean council.

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

**SECTION 1. AMENDMENT.** Section 4.1-11-02 of the North Dakota Century Code is amended and reenacted as follows:

#### **4.1-11-02. Soybean districts - Establishment - Review of district lines.**

1. The state consists of the following ~~eight soybean districts~~:
  - a. ~~Richland County;~~
  - b. ~~Dickey, LaMoure, Ransom, and Sargent Counties;~~
  - e. ~~Cass County;~~
  - d. ~~Barnes, Griggs, and Steele Counties;~~
  - e. ~~Traill County;~~
  - f. ~~Grand Forks County;~~
  - g. ~~Pembina, Nelson, and Walsh Counties; and~~
  - h. ~~All other North Dakota counties in which soybeans are grown.~~
2. ~~Beginning April 1, 2012, the state consists of the following twelve soybean districts:~~
  - a. District one: Richland County;
  - b. District two: Ransom and Sargent Counties;
  - c. District three: Dickey and LaMoure Counties;
  - d. District four: Cass County;
  - e. District five: Barnes County;
  - f. District six: Stutsman County;
  - g. District seven: Grand Forks and Traill Counties;

- h. District eight: Griggs, Nelson, and Steele Counties;
  - i. District nine: Eddy, Foster, and Wells Counties;
  - j. District ten: Cavalier, Pembina, and Walsh Counties;
  - k. District eleven: Benson, Bottineau, Burke, Divide, McHenry, Mountrail, Pierce, Ramsey, Renville, Rolette, Towner, Ward, and Williams Counties; and
  - l. District twelve: Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Kidder, Logan, McIntosh, McKenzie, McLean, Mercer, Morton, Oliver, Sheridan, Sioux, Slope, and Stark Counties.
2. The council shall review the district boundaries at least once every seven years to ensure accurate producer representation. If, upon review, the council determines the districts do not accurately represent producers in the state based upon acreage, the council may redistrict upon a two-thirds vote of the members elected to the council.

**SECTION 2. AMENDMENT.** Section 4.1-11-03 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-11-03. North Dakota soybean council - Membership - Terms.**

1. The council consists of one producer elected from each of the districts established in section 4.1-11-02.
2. Each member of the council must be a resident of ~~and a producer in the district that the member represents~~ and a producer.
3.
  - a. The term of each elected member is three years and begins on ~~April~~ July first following the member's election. Except as otherwise provided in this subsection, the terms must be staggered so that no more than ~~three~~ four expire each year.
  - b. ~~Notwithstanding subdivision a, the terms of all council members expire on March 31, 2012. Between January 1, 2012, December first and March 31, 2012, thirty-first of the subsequent year, each district established by subsection 2 of section 4.1-11-02 which has a vacancy shall elect an individual to serve as a council member with a term beginning April 1, 2012 July first. The initial terms of individuals elected to begin serving as all council members on April 1, 2012, are:~~
    - (1) ~~One year for council members representing districts one, five, seven, and nine;~~
    - (2) ~~Two years for council members representing districts two, eight, ten, and twelve; and~~
    - (3) ~~Three years for council members representing districts three, four, six, and eleven expire on June thirtieth of the third year of each member's term.~~

4. If at any time during a member's term the member ceases to possess any of the qualifications provided for in this section, the member's office is deemed vacant and the council, by majority vote, shall appoint another qualified producer to serve for the remainder of the term.
5. An elected member of the council may not serve more than two consecutive terms.
6. If an individual is appointed to complete a vacancy, that service is not counted as a term for purposes of this section unless the duration of that service exceeds one year.

**SECTION 3. AMENDMENT.** Subsection 2 of section 4.1-11-04 of the North Dakota Century Code is amended and reenacted as follows:

2. Each year during the month of ~~January~~December, the council shall publish notice of the election in the official newspaper of the county for one week. The notice must contain a description of the election process, a request for the nomination of potential candidates for the position, and a deadline for the receipt of all nominations.

Approved April 8, 2021

Filed April 9, 2021

## CHAPTER 62

### HOUSE BILL NO. 1045

(Agriculture Committee)  
(At the request of the Agriculture Commissioner)

AN ACT to create and enact three new sections to chapter 4.1-18.1 of the North Dakota Century Code, relating to prohibited acts and the commissioner's authority to charge fees for industrial hemp testing and to set the tetrahydrocannabinol concentration level; to amend and reenact section 4.1-18.1-01 and subsection 1 of section 4.1-18.1-05 of the North Dakota Century Code, relating to industrial hemp; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 4.1-18.1-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **4.1-18.1-01. Hemp (~~cannabis sativa L.~~) Definitions.**

1. "Hemp" means the plant *cannabis sativa L.* and any part of the plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a ~~delta-9 total tetrahydrocannabinol concentration of not more than three-tenths of one percent on a dry weight basis~~ an amount determined by the commissioner. The term does not include any commodity or product using hemp which exceeds the allowable amount of total tetrahydrocannabinol determined by the commissioner.
2. "Tetrahydrocannabinol" means delta-9 tetrahydrocannabinol and any structural, optical, or geometric isomers of tetrahydrocannabinol, including:
  - a. Delta-7 tetrahydrocannabinol;
  - b. Delta-8 tetrahydrocannabinol; and
  - c. Delta-10 tetrahydrocannabinol.
3. "Total tetrahydrocannabinol" means the sum of the percentage, by weight, of tetrahydrocannabinolic acid multiplied by eight hundred seventy-seven thousandths plus the percentage of weight of tetrahydrocannabinol.

**SECTION 2.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created and enacted as follows:

##### **Commissioner - Authority - Tetrahydrocannabinol concentration.**

The commissioner shall determine the total tetrahydrocannabinol concentration under this chapter up to an amount not to exceed the federal Agriculture Improvement Act of 2018 [Pub. L. 115-334; 132 Stat. 4490] and federal domestic hemp production program regulations under title 7, Code of Federal Regulations, part 990.

**SECTION 3.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created and enacted as follows:

**Hemp testing - Fee - Exemption.**

1. The commissioner may charge a fee of up to one hundred twenty-five dollars to inspect, sample, and test hemp under this chapter.
2. The commissioner shall deposit fees collected under this section in the commissioner's operating fund.
3. The provisions of chapter 54-44.4 do not apply to hemp testing under this section.

**SECTION 4.** A new section to chapter 4.1-18.1 of the North Dakota Century Code is created and enacted as follows:

**Prohibited acts.**

A licensee may not:

1. Engage in the isomerization of cannabinoids to create isomers of tetrahydrocannabinol, including delta-8, delta-9, and delta-10 tetrahydrocannabinol; and
2. Sell hemp or hemp products that were created using the isomerization of cannabinoids to create isomers of tetrahydrocannabinol, including delta-8, delta-9, and delta-10 tetrahydrocannabinol.

**SECTION 5. AMENDMENT.** Subsection 1 of section 4.1-18.1-05 of the North Dakota Century Code is amended and reenacted as follows:

1. A producer found in violation of this chapter for negligently failing to provide the legal description of the land where the producer is growing hemp, failing to obtain a license, or by producing hemp with a ~~delta-9 total tetrahydrocannabinol concentration of more than three-tenths of one percent on a dry weight basis~~ greater than the amount determined by the commissioner is subject to:
  - a. Meeting a deadline set by the commissioner to come into compliance with this chapter; and
  - b. Additional reporting requirements set by the commissioner for a period of no less than two years.

**SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 23, 2021

Filed April 23, 2021

## CHAPTER 63

### SENATE BILL NO. 2049

(Agriculture Committee)  
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact subsection 19 of section 4.1-25-01 and sections 4.1-25-31, 4.1-25-32, and 4.1-25-33 of the North Dakota Century Code, relating to the definition of pasteurized milk ordinance and the pasteurized milk ordinance revision.

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

**SECTION 1. AMENDMENT.** Subsection 19 of section 4.1-25-01 of the North Dakota Century Code is amended and reenacted as follows:

19. "Pasteurized milk ordinance" means the ~~2017~~2019 revision of the Grade "A" Pasteurized Ordinance issued by the United States food and drug administration and by the United States department of agriculture's public health service.

**SECTION 2. AMENDMENT.** Section 4.1-25-31 of the North Dakota Century Code is amended and reenacted as follows:

#### **4.1-25-31. State milk sanitation rating and sampling surveillance officer - Duties - Guidelines.**

The state milk sanitation rating and sampling surveillance officer is responsible for the rating and certification of milk and dairy products. The rating and certification of milk and dairy products must be in accordance with the procedures outlined in the public health service food and drug administration publication entitled "Methods of Making Sanitation Ratings of Milk Shippers - ~~2017~~2019 Revision, Edition" and the sampling of milk and dairy products must be in accordance with the guidelines in the Standard Methods.

**SECTION 3. AMENDMENT.** Section 4.1-25-32 of the North Dakota Century Code is amended and reenacted as follows:

#### **4.1-25-32. Milk laboratory evaluations officer - Duties - Guidelines.**

The milk laboratory evaluations officer is responsible for the certification and evaluation of milk and dairy products laboratories within the state. Evaluations and certification of milk laboratories must be made in accordance with the Standard Methods and the procedures outlined in the public health service food and drug administration publication entitled "Evaluation of Milk Laboratories - ~~2017~~2019 Edition".

**SECTION 4. AMENDMENT.** Section 4.1-25-33 of the North Dakota Century Code is amended and reenacted as follows:

#### **4.1-25-33. Grade A pasteurized milk ordinance.**

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Dairy producers, processors, and manufacturers shall comply with the pasteurized milk ordinance and follow the standards set by the "Procedures Governing the Cooperative State-Public Health Service Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 20172019 Revision".

Approved March 17, 2021

Filed March 18, 2021

## CHAPTER 64

### SENATE BILL NO. 2054

(Agriculture Committee)  
(At the request of the Agriculture Commissioner)

A Bill for and Act to amend and reenact section 4.1-27-19 of the North Dakota Century Code, relating to refusal or revocation of a license to operate a livestock auction market; and to repeal chapter 4.1-88 of the North Dakota Century Code, relating to wool dealers.

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

**SECTION 1. AMENDMENT.** Section 4.1-27-19 of the North Dakota Century Code is amended and reenacted as follows:

#### **4.1-27-19. Use of fees - Grounds for refusal or revocation of license - Procedure on default of licensee.**

All fees collected by the commissioner under this chapter must be credited to the general fund of the state treasury. A license to operate a livestock auction market may be refused or revoked for any of the reasons specified in sections 4.1-83-10; or 4.1-83-19; ~~4.1-88-09, or 4.1-88-18.~~ When the holder of a license issued under this chapter defaults in any of the conditions of any bond filed with the commissioner by the licensee, the commissioner will become trustee of the bond and sections 4.1-83-21 through 4.1-83-28 ~~and 4.1-88-20 through 4.1-88-27~~ govern the procedure to be followed.

**SECTION 2. REPEAL.** Chapter 4.1-88 of the North Dakota Century Code is repealed.

Approved April 12, 2021

Filed April 13, 2021

## CHAPTER 65

### SENATE BILL NO. 2050

(Agriculture Committee)  
(At the request of the Agriculture Commissioner)

AN ACT to amend and reenact section 4.1-31-01.1 of the North Dakota Century Code, relating to the federal meat inspection revision.

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

**SECTION 1. AMENDMENT.** Section 4.1-31-01.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **4.1-31-01.1. Federal meat inspection regulations.**

All federal meat and poultry inspection regulations effective as of ~~May 31, 2018~~October 1, 2019, as provided under title 9, Code of Federal Regulations, parts 301-320, 325, 329, 381, 391, 416-418, 424, 430, 441, 442, and 500, but excluding parts 307.5 and 381.38, are incorporated by reference and made a part of this title.

Approved March 22, 2021

Filed March 23, 2021

## CHAPTER 66

### HOUSE BILL NO. 1338

(Representative Trotter)

AN ACT to create and enact a new subsection to section 4.1-33-16 and a new section to chapter 4.1-33 of the North Dakota Century Code, relating to the waiver of certification requirements during a declared state of emergency and an exemption to certification requirements for antimicrobial pesticides; to amend and reenact section 4.1-33-01 of the North Dakota Century Code, relating to the definition of antimicrobial pesticide; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 4.1-33-01 of the North Dakota Century Code is amended and reenacted as follows:

##### **4.1-33-01. Definitions.**

As used in this chapter:

1. "Animal" means all vertebrate and invertebrate species, including humans and other mammals, birds, fish, and shellfish.
2. "Antimicrobial pesticide" means a substance or mixture of substances intended for preventing, destroying, repelling, suppressing, or mitigating the growth of micro-organisms, including bacteria, viruses, and fungi on inanimate objects and surfaces.
3. "Applicator" means any person who applies a pesticide to land.
- ~~3-4.~~ "Certified applicator" means any individual who is certified under this chapter to purchase or use a restricted use pesticide.
- ~~4-5.~~ "Commercial applicator" means a person who, by contract or for hire, engages in the business of applying pesticides for compensation.
- ~~5-6.~~ "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant, with or without causing abscission.
- ~~6-7.~~ "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissue.
- ~~7-8.~~ "Device" means any instrument or contrivance, other than a firearm, which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life, other than human and other than bacteria, virus, or other micro-organism on or in living humans or other living animals, but not including equipment used for the application of pesticides when sold separately from pesticide.
- ~~8-9.~~ "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver, or supply pesticides in this state.

- 9-10. "Environment" includes water, air, land, and all plants and humans and other animals living therein, and the interrelationships that exist among them.
- 40-11. "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, inhabiting, or stored on or in that land. The term does not include any pressurized hand-held household apparatus used to apply any pesticide, or any equipment or contrivance of which the individual who is applying the pesticide is the source of power or energy to make the pesticide application.
- 44-12. "Fungus" means any non-chlorophyll-bearing thallophytes, that is, any non-chlorophyll-bearing plant of a lower order than mosses and liverworts as, for example, rust, smut, mildew, mold, yeast, and bacteria, except those on or in living humans or other living animals, and except those on or in processed food, beverages, or pharmaceuticals.
- 42-13. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class of insecta, comprising six-legged, usually winged forms, and to other allied classes of arthropods whose members are wingless and usually have more than six legs.
- 43-14. "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.
- 44-15. "Labeling" means the label and all other written, printed, or graphic matter:
- a. Accompanying the pesticide or device; or
  - b. To which reference is made on the label or in literature accompanying or referring to the pesticide, except when accurate nonmisleading references are made to current official publications of the board, the United States environmental protection agency, the United States departments of agriculture and interior, the United States department of health and human services, state agricultural colleges, and other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.
- 45-16. "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant to or situated on land, fixed or mobile, including any used for transportation.
- 46-17. "Nematode" means invertebrate animals of the phylum nemathelminthes, and class nematoda, i.e., unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts, may also be called nemas or eelworms.
- 47-18. "Pest" means any insect, rodent, nematode, fungus, or weed; or any other form of terrestrial or aquatic plant or animal life, viruses, bacteria, or other micro-organism, except viruses, bacteria, or other micro-organisms on or in living humans or other living animals.
- 48-19. "Pesticide" means:

- a. Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and
  - b. Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.
- 19-20. "Pesticide dealer" means any person, other than a pesticide wholesaler, distributing pesticides.
- 20-21. "Plant regulator" means any substance or mixture of substances intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or to otherwise alter the behavior of plants or the produce thereof, but does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.
- 21-22. "Private applicator" means an individual who is required to be a certified applicator to buy or use a restricted use pesticide on property owned or rented by the applicator or the applicator's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.
- 22-23. "Public applicator" means an applicator who applies pesticides, other than ready-to-use pesticides, as an employee of:
- a. A governmental agency, municipal corporation, or public utility; or
  - b. A hospital, privately owned golf course, nursery, or greenhouse.
- 23-24. "Ready-to-use pesticide" means a pesticide other than a restricted use pesticide which is applied directly from its original container consistent with label directions, and includes aerosol spray cans, ready-to-use spray containers, bait packs, and other types of containers that do not require mixing or loading before application.
- 24-25. "Restricted use pesticide" means any pesticide formulation that is classified as restricted use by the United States environmental protection agency or the agriculture commissioner under section 4.1-34-06.
- 25-26. "Rinsate" means a diluted mixture of pesticide obtained from triple rinsing or pressure rinsing pesticide containers or from rinsing the inside and outside of spray equipment.
- 26-27. "Tank mix" means any pesticidal formulation used alone or in combination with another pesticide and mixed with a liquid carrier prior to application.
- 27-28. "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.
- 28-29. "Weed" means any plant that grows where not wanted.
- 29-30. "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests, including mammals, birds, and aquatic life.

**SECTION 2.** A new subsection to section 4.1-33-16 of the North Dakota Century Code is created and enacted as follows:

The certification requirements of this chapter do not apply to an individual applying nonrestricted-use antimicrobial pesticides.

**SECTION 3.** A new section to chapter 4.1-33 of the North Dakota Century Code is created and enacted as follows:

**Statutes - Certification requirements - Waiver for emergencies.**

If the governor declares a statewide state of disaster or emergency that affects the certification requirements under this chapter, the pesticide control board may temporarily waive statutory requirements, or any associated rules, relating to the certification for the duration of the declared state of disaster or emergency.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 16, 2021

Filed March 16, 2021

## CHAPTER 67

### HOUSE BILL NO. 1197

(Representatives D. Johnson, Beltz, Thomas, Westlund)  
(Senators Klein, Luick, Myrdal)

AN ACT to amend and reenact subsection 7 of section 4.1-40-03, subsection 1 of section 4.1-40-06, and section 4.1-40-07 of the North Dakota Century Code, relating to the definition, licensing, labeling, and inspection fees for specialty fertilizers.

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

**SECTION 1. AMENDMENT.** Subsection 7 of section 4.1-40-03 of the North Dakota Century Code is amended and reenacted as follows:

7. The requirements of this section do not apply to persons that distribute only:
  - a. Specialty fertilizers to end users; or
  - b. Seed inoculants.

**SECTION 2. AMENDMENT.** Subsection 1 of section 4.1-40-06 of the North Dakota Century Code is amended and reenacted as follows:

1. If the product is in a container, the label must be plainly printed in English and conspicuously placed on or attached to the container. The label must include:
  - a. The net weight of the product;
  - b. The brand;
  - c. The grade, unless no primary nutrients are claimed;
  - d. The guaranteed analysis; ~~and~~
  - e. The name and address of the registrant; and
  - f. For soil or plant amendments, the purpose for which the product is used.

**SECTION 3. AMENDMENT.** Section 4.1-40-07 of the North Dakota Century Code is amended and reenacted as follows:

#### **4.1-40-07. Inspection fees - Tonnage reports - Penalty.**

1. a. An inspection fee of ten dollars or twenty cents per ton [907.18 kilograms], whichever is greater, must be paid to the commissioner on all fertilizer, fertilizer material, micronutrients, specialty fertilizer, soil amendments, and plant amendments distributed in this state.
- b. This subsection does not apply to:

- (1) Exchanges of product between manufacturers and distributors; or
  - (2) Individual fertilizers, fertilizer material, micronutrients, specialty fertilizers, soil amendments, or plant amendments sold exclusively in packages of ~~twenty-five~~ten pounds [~~11.344~~.54 kilograms] or less.
2. a. On or before January thirty-first, each licensed person who distributes a fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment ~~to an end-user~~ in this state shall:
    - (1) File with the commissioner a form stating the number of net tons [kilograms] of each listed product distributed in this state during the preceding calendar year; and
    - (2) Submit to the commissioner the inspection fee required by this section.
  - b. If a person fails to submit an inspection fee, at the time and in the manner required by this section, the commissioner may impose a penalty of ten dollars or ten percent of the amount due, whichever is greater.
  - c. The requirements of subdivisions a and b apply only to the last licensed person to handle the same lot of fertilizer.
3. a. ~~On or before January thirty first, each licensed person that distributes a fertilizer, fertilizer material, micronutrient, specialty fertilizer, soil amendment, or plant amendment to a licensed entity in this state shall file with the commissioner a form stating the number of net tons [kilograms] of each listed product distributed in this state during the preceding calendar year.~~
  - b. ~~If a person fails to file the form, at the time and in the manner required by this subsection, the commissioner may impose a late fee of thirty five dollars.~~
4. Each distributor shall keep all records regarding purchases and sales for a period of three years. The records may be examined by the commissioner upon request.
- ~~5.4.~~ The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

Approved March 16, 2021

Filed March 16, 2021

## CHAPTER 68

### 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, 2011~~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 labeling sales 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.

Approved March 25, 2021

Filed March 26, 2021