

Introduced by

Legislative Management

(Agriculture Committee)

1 A BILL for an Act to create and enact chapter 4.1-16 of the North Dakota Century Code, relating
2 to beekeeping; to amend and reenact section 4.1-08-03 of the North Dakota Century Code,
3 relating to the submission of assessments by beekeepers; ~~and to repeal chapter 4-12.2 of the~~
4 North Dakota Century Code, relating to beekeeping; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Section 4.1-08-03 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **4.1-08-03. Submission of assessments - Civil penalty.**

- 9 1. Each beekeeper shall submit the assessment required by section 4.1-08-02 to the
10 commissioner at the same time the beekeeper submits the license application required
11 by section ~~4-12.2-04~~4.1-16-02.
- 12 2. If a beekeeper fails to submit the assessment as required by this section, the
13 commissioner may impose a penalty equal to five percent of the amount due, plus
14 interest at the rate of six percent per annum from the due date.

15 **SECTION 2.** Chapter 4.1-16 of the North Dakota Century Code is created and enacted as
16 follows:

17 **4.1-16-01. Definitions.**

18 In this chapter, unless the context otherwise requires:

- 19 1. "Apiary" means the site at which one or more colonies of bees are kept.
- 20 2. "Bee" means a honey-producing insect of the genus Apis, including all stages of its
21 life.
- 22 3. "Beekeeper" means a person who by virtue of ownership or a lease is responsible for
23 the maintenance of bees located in or placed in this state.

1 4. "Colony" means a familial group of adult bees consisting of drones, workers, and a
2 queen.

3 5. "Hive" means a manmade structure that houses a colony.

4 **4.1-16-02. Beekeeper's license ~~required~~- Application - Declaration.**

5 1. Before a person may act as a beekeeper in this state, the person must be licensed by
6 the agriculture commissioner.

7 2. To obtain a beekeeper's license, a person must complete an application and submit it
8 to the commissioner.

9 3. The application must include:

10 a. The applicant's name, address, and telephone number;

11 b. The maximum number of colonies to be located in or placed in this state; and

12 c. The name, address, and telephone number of a resident agent who is authorized
13 to accept service of process.

14 4. As a condition of licensure, the applicant shall declare that:

15 a. An apiary will not be placed at a location without first obtaining the consent of the
16 property owner; and

17 b. An apiary will be relocated at the request of the agriculture commissioner if:

18 (1) The commissioner, after examining documentary evidence, has determined
19 that the health or welfare of an individual is endangered as a result of the
20 apiary's location;

21 (2) The individual referenced in paragraph 1 resides on land contiguous to that
22 on which the apiary has been placed;

23 (3) The commissioner has identified another acceptable location for placement
24 of the apiary; and

25 (4) There are no other contractual or other legal impediments to the relocation.

26 **4.1-16-03. Beekeeper's license - Application of minor - Liability.**

27 An individual who is less than eighteen years of age may be licensed as a beekeeper, if that
28 individual's application for license is signed by the individual's parent. Any civil or administrative
29 liability for a violation of this chapter by a beekeeper who is less than eighteen years of age is
30 imputed to the parent who signed the application. The parent is jointly and severally liable with
31 the beekeeper.

1 **4.1-16-04. Beekeeper's license - Transferability - Expiration.**

- 2 1. A beekeeper's license issued under this chapter is not transferable.
3 2. A beekeeper's license issued under this chapter expires on December thirty-first.

4 **4.1-16-05. License - Grounds for denial.**

5 The agriculture commissioner may refuse to grant a license to any person who:

- 6 1. Has repeatedly violated this chapter;
7 2. Failed to pay an adjudicated civil penalty for violating this chapter, within thirty days
8 after a final determination that the civil penalty is owed; or
9 3. Provided false or misleading information in connection with any application or
10 notification required by this chapter.

11 **4.1-16-06. License fee.**

12 The fee for a beekeeper's license is five dollars.

13 **4.1-16-07. Colony assessment.**

14 In addition to the license fee required by section 4.1-16-06, an applicant for a license must
15 submit a colony assessment in an amount equal to fifteen cents multiplied by the maximum
16 number of colonies listed in the application.

17 **4.1-16-08. Apiary location - Notification.**

- 18 1. Before placing or locating hives in this state, a beekeeper shall notify the agriculture
19 commissioner of:
20 a. (1) The location of each apiary to the nearest section, quarter section,
21 township, and range, and, if within the corporate limits of a city, the number
22 or name of the lot, block, and addition in the city; or
23 (2) The location of each apiary using satellite navigation system coordinates;
24 and
25 b. The name of the person who owns or leases the property on which the apiary is
26 located.
27 2. The notification required by this section may be provided to the commissioner in
28 written or in electronic format.

29 **4.1-16-09. Identification of apiary.**

- 30 ~~1. A beekeeper shall identify each apiary for which the beekeeper is responsible, by~~
31 ~~means of:~~

- 1 ~~_____ a. An identification number that:~~
2 ~~_____ (1) Is assigned by the agriculture commissioner;~~
3 ~~_____ (2) Is affixed to a hive;~~
4 ~~_____ (3) Is colored in a manner that contrasts with the hive to which it is affixed;~~
5 ~~_____ (4) Is visible upon approach to the apiary's main entrance; and~~
6 ~~_____ (5) Consists of digits having a height of at least three inches [7.62 centimeters];~~
7 ~~_____ and a line thickness of at least one-half inch; or~~
8 ~~_____ b. A weatherproof placard that:~~
9 ~~_____ (1) Measures at least eight inches [20.32 centimeters] by eleven inches~~
10 ~~_____ [27.94 centimeters];~~
11 ~~_____ (2) Is visible upon approach to the apiary's main entrance; and~~
12 ~~_____ (3) Displays the beekeeper's name, address, and telephone number using~~
13 ~~_____ printed letters and digits having a height of at least one-half inch [1.27~~
14 ~~_____ centimeters].~~

15 1. A beekeeper shall identify each apiary for which the beekeeper is responsible by:

- 16 a. Affixing a three-digit identification number, assigned by the agriculture
17 commissioner, to the uppermost box of a hive that is visible upon approach to the
18 apiary's main entrance, provided each digit is at least three inches [7.62
19 centimeters] high, one-half inch [1.27 centimeters] wide, and weather-resistant;
20 and
21 b. Displaying the beekeeper's name and phone number in a location that is visible
22 upon approach to the apiary's main entrance, provided the numbers and letters
23 used are at least one and one-half inches [3.81 centimeters] high and
24 weather-resistant.

25 2. Any apiary that is not identified, as required by this section, is may be subject to
26 seizure by the commissioner.

27 **4.1-16-10. Unidentified apiary - Notice - Seizure.**

- 28 1. If the agriculture commissioner determines that an apiary is not identified, as required
29 by section 4.1-16-09, and if after making a reasonable effort the commissioner fails to
30 identify the beekeeper responsible for the apiary, the commissioner shall publish in the
31 official newspaper of the county in which the apiary is located, a notice indicating that

1 at a time certain, all of the colonies, the hives, including their content, and all
2 beekeeping equipment present at the apiary, will be seized and sold at auction or
3 destroyed, unless the beekeeper or other responsible person appears to claim the
4 property and pay for any costs incurred by the commissioner under this section.

5 2. A seizure under this section may not occur until at least the sixth day after the date of
6 the published notice.

7 **4.1-16-11. Confiscation and disposal.**

8 Except as provided for in section 4.1-16-10, the agriculture commissioner or a law
9 enforcement officer may confiscate bees, hives, or beekeeping equipment, being transported or
10 maintained in violation of this chapter. Any bees, hives, or beekeeping equipment, confiscated
11 under this section, must be disposed of pursuant to a court order or an administrative order
12 issued by the commissioner.

13 **4.1-16-12. Agriculture commissioner - Powers.**

14 The agriculture commissioner may:

- 15 1. Assist farmers in identifying beekeepers who provide pollination services; and
16 2. Enter upon private land during daylight hours, for the purpose of enforcing this
17 chapter, ~~provided~~. Except when conducting an inspection in accordance with section
18 4.1-16-13, the commissioner shall first ~~make~~ a good faith effort to notify the
19 owner of the land or a lessee regarding the entry.

20 **4.1-16-13. Agriculture commissioner - Inspection of apiary - Issuance of certificate.**

21 At the request of a beekeeper, the agriculture commissioner shall inspect an apiary for the
22 purpose of issuing a certificate of inspection or other official document or validation. ~~The~~
23 commissioner may charge a fee to cover the costs of inspecting an apiary under this section.

24 **4.1-16-14. Agriculture commissioner - Inspection of apiary - Noncertification**
25 **purposes.**

26 The agriculture commissioner may:

- 27 1. At the request of a beekeeper, inspect apiaries for any purpose other than the
28 issuance of a certificate of inspection or other official document or validation; and
29 2. Charge a fee to cover the costs of inspecting an apiary under subsection 1.

1 **4.1-16-15. Quarantine - Declaration - Hearing - Penalty.**

- 2 1. a. If the agriculture commissioner determines that a quarantine of this state or any
3 portion thereof may be necessary to eradicate or control the spread of disease,
4 insects, or pests, within the apicultural industry, the commissioner shall schedule
5 a public hearing on the matter and provide notice of the hearing by publishing its
6 time, place, and date in the official newspaper of each county having land within
7 the proposed quarantine area.
- 8 b. If after the hearing the commissioner orders the imposition of a quarantine, the
9 order must include the date by which or the circumstances under which the
10 commissioner shall lift the quarantine order.
- 11 2. If the commissioner determines that the imposition of an emergency quarantine is
12 necessary to eradicate or control the spread of disease, insects, or pests, within the
13 apicultural industry, the commissioner may impose such an order for a period not
14 exceeding fourteen days. Within the fourteen-day period, the commissioner shall hold
15 a public hearing as provided for in subsection 1 and determine whether a quarantine
16 order under subsection 1 should be imposed.
- 17 3. Following the establishment of a quarantine, the movement of any colonies, hives, or
18 other beekeeping equipment, described in the quarantine order, is subject to the order.
- 19 4. For purposes of this section, "insects" include Africanized honeybees.

20 **4.1-16-16. Service of process.**

21 If neither the beekeeper nor the beekeeper's registered agent can be located for the
22 purpose of serving process, in connection with a violation of this chapter or rules adopted to
23 implement this chapter, the agriculture commissioner becomes the statutory agent for service of
24 process and any service upon the commissioner is deemed to be complete.

25 **4.1-16-17. Penalties.**

- 26 1. A person violating this chapter is guilty of a class A misdemeanor.
- 27 2. In addition to criminal sanctions that may be imposed pursuant to subsection 1, a
28 person found to have violated this chapter or rules adopted under this chapter is
29 subject to a civil penalty not to exceed five thousand dollars per violation. The civil
30 penalty may be adjudicated by a court or by the agriculture commissioner through an
31 administrative hearing pursuant to chapter 28-32.

1 3. The commissioner may maintain a civil action in the name of the state against any
2 person violating this chapter.

3 4. The violation of any condition of licensure, as set forth in section 4.1-16-02, is deemed
4 to be a violation of this chapter.

5 **4.1-16-18. Relocation of apiary - Petition - Hearing****Beekeeping - Agricultural practice.**

6 ~~1. An individual may petition the agriculture commissioner for an order requiring the~~
7 ~~relocation of an apiary if:~~

8 ~~a. The individual resides on land contiguous to that on which the beekeeper has~~
9 ~~placed an apiary; and~~

10 ~~b. The individual's health or welfare is endangered as a result of the apiary's~~
11 ~~location.~~

12 ~~2. Upon receipt of a petition, as set forth in subsection 1, the commissioner may provide~~
13 ~~notice and schedule a hearing regarding the matter.~~

14 ~~3. If after considering any testimony and documentary evidence offered at the hearing,~~
15 ~~the commissioner determines that any threat to the individual's health or welfare would~~
16 ~~be eliminated or significantly mitigated through the relocation of the apiary, the~~
17 ~~commissioner may order that the beekeeper, on or before a date certain, remove the~~
18 ~~apiary from its current location.~~

19 ~~4. The commissioner may not preclude the beekeeper from relocating the apiary to any~~
20 ~~other location on land:~~

21 ~~a. That the beekeeper owns;~~

22 ~~b. That the beekeeper leases; or~~

23 ~~c. That the beekeeper utilizes, with the permission of the land's owner or lessee, for~~
24 ~~the placement of an apiary.~~

25 ~~5. The commissioner may not require that the beekeeper remove the apiary from its~~
26 ~~current location, if:~~

27 ~~a. The removal would negatively affect the level of honey production reasonably~~
28 ~~anticipated from the current location; or~~

29 ~~b. The land's owner or lessee does not agree to a relocation of the apiary.~~

30 ~~6. If the beekeeper can demonstrate that labor costs will be incurred as a result of an~~
31 ~~order issued under this section, the commissioner may direct that the labor costs are~~

1 ~~to be the responsibility of the petitioner or that they are to be shared equally between~~
2 ~~the petitioner and the beekeeper.~~
3 ~~7. An order under this section is not appealable.~~
4 ~~8. An order under this section expires on December thirty first.~~
5 ~~9. If a beekeeper relocates an apiary in accordance with this section, the commissioner~~
6 ~~may not, during the same calendar year, consider any additional petition regarding the~~
7 ~~relocated apiary.~~ Beekeeping is deemed to be an agricultural practice.

8 **SECTION 3. REPEAL.** Chapter 4-12.2 of the North Dakota Century Code is repealed.