

**Sixty-fourth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2015**

SENATE BILL NO. 2261
(Senators Wanzek, Larsen, Miller)
(Representatives Brandenburg, D. Johnson, Pollert)

AN ACT to amend and reenact sections 4.1-53-12, 4.1-53-16, 4.1-53-17, 4.1-53-48, 4.1-53-57, 4.1-53-59, 4.1-53-61, 4.1-55-17, 4.1-56-13, and 4.1-57-22 of the North Dakota Century Code, relating to agricultural seed; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-53-12 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-12. Agricultural seed - Label requirements.

1. a. Agricultural seed offered for sale or sold in this state, for planting purposes, must be labeled.
 - b. The requirements of subdivision a extend to agricultural seed used for cover crops.
2.
 - a. If the agricultural seed is offered for sale or sold in a container, the label must be plainly printed in English and conspicuously placed on or attached to the container.
 - b. If the agricultural seed is offered for sale or sold in bulk, the label must be plainly printed in English and provided to the purchaser at or before the time of delivery.

SECTION 2. AMENDMENT. Section 4.1-53-16 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-16. Agricultural seed - Additional label requirements - Limited applicability.

1. In addition to any other label requirements set forth in this chapter, the label on each container of barley, canola, dry beans, durum, field peas, flax, oats, ~~rye~~, soybeans, and wheat seed offered for sale or sold in this state for planting purposes must include:
 - a. The kind of each agricultural seed;
 - b. The variety of each agricultural seed component constituting more than five percent of the whole; and
 - c. The percentage by weight of each agricultural seed component constituting more than five percent of the whole.
2. In addition to any other requirements set forth in this chapter, the label on each container of agricultural seed other than barley, canola, dry beans, durum, field peas, flax, oats, ~~rye~~, soybeans, and wheat seed offered for sale in this state for planting purposes:
 - a. Must include the kind of each agricultural seed;
 - b. May include the variety of each agricultural seed component constituting more than five percent of the whole; and
 - c. Must include the percentage by weight of each agricultural seed component constituting more than five percent of the whole.

SECTION 3. AMENDMENT. Section 4.1-53-17 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-17. Agricultural seed - Selling by brand - Label requirement.

The seed of barley, canola, dry beans, durum, field peas, flax, oats, ~~rye~~, soybeans, and wheat may be sold by brand, provided the true variety name or number is clearly stated on the label.

SECTION 4. AMENDMENT. Section 4.1-53-48 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-48. Plant Variety Protection Act - Requirements for certification.

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, ~~2014~~2015, 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.
2. Seed from a certified lot may be used in a blend or mixture by or with the approval of the owner of the variety.

SECTION 5. AMENDMENT. Section 4.1-53-57 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-57. Penalty - Criminal - Civil - Exemption.

1. Any person willfully violating this chapter or the rules implementing this chapter is guilty of a class A misdemeanor.
2. When construing and enforcing this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any person must be deemed to be the act, omission, or failure of such person as well as that of the person employed.
3. Any person found guilty of violating this chapter or the rules implementing this chapter is subject to a civil penalty in an amount not to exceed ~~five~~ten thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the seed commissioner.
4. A person is not subject to the penalties of this chapter for having offered for sale or sold any seed that was incorrectly represented as to kind, variety, or origin and which could not be identified through examination, unless the person failed to:
 - a. Obtain an invoice or grower's declaration stating the required information; or
 - b. Take other actions necessary to ensure that the seed was properly identified.

SECTION 6. AMENDMENT. Section 4.1-53-59 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-59. Liability of seed commission, seed department, seed commissioner, and certified or noncertified agricultural seed producers.

A warranty of any kind, either expressed or implied, including a warranty of merchantability, fitness for a particular purpose, varietal identity, or absence of disease, is not made by the seed commission, the seed department, the seed commissioner, or certified or noncertified seed producers as to the quantity or quality of the crop produced from the seeds or as to other produce, which is inspected and certified, except as provided in this section. The sole warranty made is that the seeds were inspected under the rules of the seed department or the United States department of agriculture. The seed commissioner functions and serves only in an official regulatory manner.

SECTION 7. AMENDMENT. Section 4.1-53-61 of the North Dakota Century Code is amended and reenacted as follows:

4.1-53-61. Applicability of chapter.

This chapter does not apply to:

1. Seed that is not intended for planting purposes; and
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, ~~2014~~2015.

SECTION 8. AMENDMENT. Section 4.1-55-17 of the North Dakota Century Code is amended and reenacted as follows:

4.1-55-17. Penalties.

1. Any person willfully violating this chapter is guilty of a class A misdemeanor.
2. Any person willfully violating this chapter is subject to a civil penalty in an amount not exceeding ~~five~~ten thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the seed commissioner.

SECTION 9. AMENDMENT. Section 4.1-56-13 of the North Dakota Century Code is amended and reenacted as follows:

4.1-56-13. Penalty.

1. Any person willfully violating this chapter is guilty of a class BA misdemeanor.
2. Any person willfully violating this chapter is subject to a civil penalty in an amount not exceeding ten thousand dollars for each violation. The civil penalty may be imposed by a court in a civil proceeding or by the seed commissioner.

SECTION 10. AMENDMENT. Section 4.1-57-22 of the North Dakota Century Code is amended and reenacted as follows:

4.1-57-22. Violations of chapter - Penalty.

A person is guilty of a class A misdemeanor and subject to a civil penalty in an amount up to ~~five hundredone~~ five hundred thousand dollars per violation, which may be imposed by a court or by the seed commissioner in an administrative hearing, if the person:

1. Makes any false statement or report as to the grade, condition, markings, quality, or quantity of potatoes received or delivered, or acts in a manner designed to deceive the consignor or purchaser of the potatoes;
2. Breaches any contract for the purchase or sale of potatoes to which the person was a party unless the breach is based on a state inspection certificate, secured with reasonable promptness after receipt of the shipment and showing that the kind or quality of potatoes is not that which was purchased or ordered;
3. Fails to account for potatoes or to pay for potatoes within the time required by this chapter;
4. Purchases for the person's own account any potatoes received on consignment, either directly or indirectly, without the consent of the consignor;
5. Issues false or misleading market quotations;

6. Cancels any quotations during the period advertised by the person;
7. Makes any false or misleading statement on an application for licensure as a wholesale potato dealer;
8. Increases the sales charges on shipped potatoes by means of fictitious sales;
9. Receives potatoes from foreign states or countries for sale or resale, within or outside this state, and gives the purchaser the impression through any method of advertising or description that the potatoes are from a source other than their true origin; or
10. Violates this chapter or any rule implementing this chapter.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-fourth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2261.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 81 Nays 8 Absent 5

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2015.

Approved at _____ M. on _____, 2015.

Governor

Filed in this office this _____ day of _____, 2015,

at _____ o'clock _____ M.

Secretary of State