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Sixty-fifth
Legislative Assembly
of North Dakota

FIRST DRAFT:
Prepared by the Legislative Council staff for the
Agriculture and Natural Resources Committee
May 2016

Introduced by

A BILL for an Act

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4-24-06 of the North Dakota Century Code is amended and reenacted as follows:

~~4-24-06~~4.1-54-01. Sale of chemically treated grain - Misdemeanor.

~~No~~A person may not sell grain, for the purpose of human or animal consumption, which has been chemically treated for insect or fungus control, without informing the purchaser of the ~~fact of such~~ treatment. Any person selling ~~such~~ chemically treated grain without informing the purchaser ~~thereof~~of the treatment is guilty of a class B misdemeanor.

SECTION 2. AMENDMENT. Section 4-24-08 of the North Dakota Century Code is amended and reenacted as follows:

~~4-24-08~~4.1-54-02. North Dakota winter show - Official site of the North Dakota agricultural hall of fame.

The North Dakota winter show, an annual exhibition, ~~is to~~shall be held in Valley City. No other event may be designated as, nor call itself, the North Dakota winter show, or any similar name designed to confuse the public with the exhibition sponsored every year in Valley City by the North Dakota winter show~~,~~. The North Dakota winter show is a nonprofit corporation organized under the laws of this state. The North Dakota winter show is the official site of the North Dakota agricultural hall of fame.

SECTION 3. AMENDMENT. Section 4-24-09 of the North Dakota Century Code is amended and reenacted as follows:

~~4-24-09~~4.1-54-03. Agricultural commodity assessments funds - Investment income allocation.

The state treasurer, notwithstanding any other provision of law to the contrary, shall invest all available moneys in accordance with section 21-10-07 ~~all available moneys~~ in ~~the~~:

1. The ~~spud~~potato fund~~,~~;

NOTE: The spud fund was renamed the potato fund in the 2009 rewrite, but this reference was not updated.

2. The oilseed fund~~,~~;
3. The dry bean fund~~,~~;
4. The dry pea and lentil fund~~,~~;

NOTE: The 2009 rewrite of current chapter 4.1-07 did not mention the fund in which assessments are to be deposited. There is no statutory reference to this fund other than this subsection. A correction should be made in chapter 4.1-07.

5. The barley fund~~,~~;
6. The soybean fund~~,~~;
7. The corn fund~~,~~;
8. The honey fund~~,~~;
9. The turkey fund~~,~~;
10. The milk ~~stabilization~~marketing fund~~,~~;

NOTE: The milk stabilization board name was changed to milk marketing board in 1995 and the fund name was changed at that time. This reference was not updated since that time.

11. The dairy promotion commission fund~~,~~;
12. The state wheat commission fund~~,~~;
13. The ethanol fund~~,~~; and ~~the~~
14. The North Dakota beef commission fund.

NOTE: In 4.1-03-16, the name of the fund includes "North Dakota."

The investment of moneys must be made in cooperation with the governing body of the respective agricultural commodity entity. The state treasurer shall establish rules, in cooperation with the agricultural commodity organizations, ~~guidelines~~ to be followed regarding the investment of moneys in each fund. The state treasurer shall credit twenty percent of the investment income derived from each fund to the general fund in the state treasury as payment for accounting, printing, data processing, legal, and other services when provided without cost by the state to the agricultural commodity entity. The state treasurer shall credit eighty percent of the investment income derived from each fund to the respective fund.

SECTION 4. AMENDMENT. Section 4-24-10 of the North Dakota Century Code is amended and reenacted as follows:

~~4-24-10~~4.1-54-04. Agricultural commodity promotion groups to report to legislative assembly - Report contents.

Between the first and tenth legislative day of each regular legislative session, the following entities must file a uniform report at a public hearing before the standing agriculture committee of each house of the legislative assembly:

1. The North Dakota ethanol council~~, the~~;
2. The North Dakota potato council~~, the~~;
3. The North Dakota oilseed council~~, the~~;
4. The North Dakota dry bean council~~, the~~;
5. The North Dakota dry pea and lentil council~~, the~~;
6. The North Dakota barley council~~, the~~;
7. The North Dakota soybean council~~, the~~;
8. The North Dakota corn utilization council~~, the~~;
9. The North Dakota beekeepers association~~, the~~;
10. The North Dakota turkey federation~~, the~~;
11. The North Dakota milk marketing board~~, the~~;
12. The North Dakota dairy promotion commission~~, the~~;
13. The North Dakota state wheat commission~~,~~; and ~~the~~
14. The North Dakota beef commission ~~must file a uniform report at a public hearing before the standing agriculture committee of each house of the legislative assembly~~.

The presiding officer of each house of the legislative assembly may direct that the reports be filed with some other standing committee of that house. Each report must contain a summary of the activities of the commodity group during the current biennium, and a single-page uniform statement of revenues and expenditures for the next biennium. Each report, except the reports of the North Dakota beekeepers association and the North Dakota turkey federation, must also include a state auditor's report on the commodity group's single-page uniform statement of revenues and expenditures for the previous two fiscal years.

SECTION 5. AMENDMENT. Section 4-24-11 of the North Dakota Century Code is amended and reenacted as follows:

~~4-24-11~~4.1-54-05. North Dakota agricultural hall of fame - Establishment - Induction.

The North Dakota agricultural hall of fame is established ~~for the purpose of honoring individuals who have made outstanding contributions to the state's agricultural industry~~ at the North Dakota winter show.

1. To be eligible for induction into the North Dakota agricultural hall of fame, an individual must:
   a. Have reached the age of forty-five;
   b. Have been involved in the state's agricultural industry for a minimum of twenty years; and
   c. Be nominated for induction by a member of the North Dakota agricultural hall of fame committee.
2. ~~The~~A nomination ~~provided for in this section~~ must be in writing and must include the nominee's personal history, ~~including~~ education, employment, and history of contributions to and achievements in the state's agricultural industry~~,~~; the nominee's participation in professional organizations~~,~~; the nominee's career-related activities and civic contributions, honors, and awards~~,~~; ~~if possible~~ a statement from the candidate, if possible; and the date and signature of the nominator.
3. The North Dakota agricultural hall of fame committee shall select inductees by simple majority vote. The selections must be based on the nominee's record of accomplishment in the state's agricultural industry. The committee shall give due consideration to the nominee's participation in organizations represented by members of the North Dakota agricultural hall of fame committee.

SECTION 6. AMENDMENT. Section 4-24-11.1 of the North Dakota Century Code is amended and reenacted as follows:

~~4-24-11.1~~4.1-54-06. North Dakota agricultural hall of fame committee - Members.

1. The North Dakota agricultural hall of fame committee consists of the following individuals, each of whom must be selected by the governing body of the entity or the official to be represented:
   a. A representative of the North Dakota winter show;
   b. A representative of agricultural media;
   c. A representative of agriculture in the area of career and technical education;

d. A representative of the North Dakota stockmen's association;

e. A representative of the North Dakota grain growers association;

f. A representative of the North Dakota oilseed council;

g. A representative of county extension agents;

h. A representative of the agriculture commissioner;

i. A representative of the North Dakota pork producers;

j. A representative of the North Dakota sheep producers;

k. A representative of the national agricultural marketing association;

l. A representative of the North Dakota implement dealers association;

m. A representative of the North Dakota farm bureau;

n. A representative of the North Dakota farmers union; and

o. A representative of the national farmers organization.

2. The committee, by a two-thirds majority, may add a new agricultural organization to select a representative on the North Dakota agricultural hall of fame committee. The committee, by a majority vote, may remove the name of an organization that no longer exists from the North Dakota agricultural hall of fame committee.

3. The representative of the North Dakota winter show shall serve as the chairman of the committee and the secretary of the North Dakota winter show shall serve as the secretary of the committee. The chairman shall determine the time and location of all committee meetings.

4. The committee shall determine the number of nominees to be inducted into the North Dakota agricultural hall of fame each year. Any person who is nominated for induction into the North Dakota agricultural hall of fame and fails to receive the requisite votes for induction but receives at least one vote is automatically ~~considered~~carried over for consideration for induction the following year. The nominee may provide the committee with updated or additional information to be considered.

5. The committee shall select the inductees by secret ballot and shall announce the selection at the North Dakota agricultural hall of fame banquet, to be held each year during the North Dakota winter show. Inductees must receive a plaque and have their photographs displayed at the North Dakota agricultural hall of fame.

SECTION 7. AMENDMENT. Section 4-24-12 of the North Dakota Century Code is amended and reenacted as follows:

~~4-24-12~~4.1-54-07. Purple coneflowers (Echinacea purpurea or Echinacea angustifolia) - Unauthorized removal - Penalty.

1. ~~A person~~It is ~~guilty of~~ a class A misdemeanor~~,~~ for any person to willfully enter upon state-owned land or land owned by another and remove or attempt to remove a purple coneflower, Echinacea purpurea or Echinacea angustifolia, from the land without the express written consent of the landowner. A person in violation of this section is subject to court-ordered restitution to the landowner, and ~~also~~ is also subject to a civil penalty of up to ten thousand dollars ~~if that person willfully enters upon land owned by another and, without the express written consent of the owner, removes or attempts to remove a purple coneflower, Echinacea purpurea or Echinacea angustifolia, from the land~~.

NOTE: The reference to "state-owned land or land owned by another" would cover all land. It seems pointless to specify these two kinds of ownership.

2. ~~A person is guilty of a class A misdemeanor, is subject to court-ordered restitution to the state, and is subject to a civil penalty of up to ten thousand dollars if that person willfully removes or attempts to remove a purple coneflower, Echinacea purpurea or Echinacea angustifolia, from state-owned land.~~

~~3.~~ ~~A person~~It is ~~guilty of~~ a class A misdemeanor ~~and also~~ for any person to willfully possess a purple coneflower removed from land in violation of this section. A person in violation of this section is also subject to a civil penalty of up to ten thousand dollars ~~if that person willfully possesses a purple coneflower removed from land in violation of this section~~.

~~4.~~3. Any vehicle used to transport a purple coneflower removed or possessed in violation of this section is forfeitable property under chapter 29-31.1.

SECTION 8. AMENDMENT. Section 4-24-13 of the North Dakota Century Code is amended and reenacted as follows:

~~4-24-13~~4.1-54-08. Genetically modified seed - Patent infringement - Sampling - Mediation.

1. For purposes of this section, "farmer" means the person responsible for planting a crop on, managing the crop, and harvesting the crop from land on which a patent infringement is alleged to have occurred.
2. a. Before a person holding a patent on a genetically modified seed may enter upon any land farmed by another for the purpose of obtaining crop samples to determine whether patent infringement has occurred, the person holding the patent shall:
   (1) ~~Shall notify~~Provide written notice to the agriculture commissioner ~~in writing~~ of the person's belief that a patent infringement has occurred and include facts ~~from~~supporting the allegation;
   (2) ~~Shall notify~~Provide written notice to the farmer ~~in writing~~ of the allegation that a patent infringement has occurred and request written permission to enter upon the farmer's land; and
   (3) ~~Must obtain~~Obtain the written permission of the farmer.

   b. If the farmer withholds written permission, the person holding a patent may petition the state district court for an order granting permission to enter upon the farmer's land.
3. The farmer may accompany the person holding the patent at the time any samples are taken.
4. If requested by the farmer or the person holding the patent, the state seed commissioner shall accompany the person holding the patent at the time any sample is taken. The state seed commissioner may impose a fee for providing that service. The patent holder and the farmer shall each pay one-half of the fee charged by the commissioner.
5. If the person holding a patent believes that the crop from which samples are to be taken may be subject to intentional damage or destruction, the person may seek a protection order from the state district court. The protection order may not interrupt or interfere with normal farming practices, including harvest and tillage.

6. The person holding the patent may take samples from a standing crop, from representative standing plants in the field, or from crops remaining in the field after harvest.

7. The person holding the patent may not obtain ~~no~~ more samples ~~than those~~than are reasonably necessary to make a determination regarding patent infringement. An equal number of samples must remain in the custody of the state seed commissioner or the farmer for future comparison and verification purposes. All samples taken must be placed in containers~~,~~ labeled as to the date, time, and location from which they were taken~~, and the~~. The labels must be signed by the farmer, the person who took the samples, and the state seed commissioner if the commissioner was present at the time the samples were taken. The patent holder and the farmer shall share equally the cost of the containers needed for the second set of samples which are retained by the state seed commissioner or the farmer. The farmer and the person holding the patent shall share equally the cost of the containers and the cost of obtaining the samples.

8. Within sixty days from the date the samples are taken, an independent laboratory shall conduct all tests to determine whether patent infringement has occurred. The person holding the patent shall notify the farmer of the test results, by certified mail or by any other method of delivery for which a signature is required, within twenty-one days from the date the results were reported to the person holding the patent.

9. The parties may participate in mediation at any time. The mediation must be conducted by a mediator jointly selected by the farmer and the person holding the patent. If the farmer and the person holding the patent are unable to select a mediator, the mediation must be conducted by an independent mediation service.

10. If the case is not settled after mediation, either party may file a claim for relief with the federal district court having jurisdiction over the claim. Unless otherwise specified in a contract between the farmer and the person holding the patent, the appropriate state district court is the one that has jurisdiction over that portion of this state in which the farmer's land is located.

NOTE: It is unfortunate to have a chapter entitled "Miscellaneous." However, the sections in this chapter do not appear to fit within other chapters. When this chapter is located in Title 4.1, we can change the chapter heading to "General Agricultural Provisions" or something of that nature.