

July 2010

Introduced by

1 A BILL for an Act to amend and reenact sections 4-25-01, 4-25-02, 4-25-03, and 4-25-04 of the
2 North Dakota Century Code, relating to seed sales; and to provide a penalty.

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

4 **SECTION 1. AMENDMENT.** Section 4-25-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4-25-01. Definition of agricultural seed.** In this chapter unless the context otherwise
7 requires, ~~the term "agricultural seed" includes seeds~~ means:

- 8 1. The seed of grass, forage, cereals cereal, fiber, and or oil crops;
- 9 2. Any seed designated by the seed commissioner as agricultural seed; and any
10 ~~other kinds of seeds commonly recognized within this state as agricultural or field~~
11 ~~seeds and mixtures of these seeds for planting purposes~~
- 12 3. Any mixture of seeds referenced in this section.

NOTE: The definition of agricultural seed, as used in the rewrite of Chapter 4-09, also
references Irish potato tubers and lawn seed.

13 **SECTION 2. AMENDMENT.** Section 4-25-02 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **4-25-02. Prohibitions.**

- 16 1. A person ~~in this state~~ may not accept full or partial payment in connection with the
17 sale of any agricultural seeds to be delivered to the buyer at a later date, unless
18 ~~each~~ the transaction is ~~accompanied~~ evidenced by a written ~~sales agreement~~¹ ~~or~~
19 contract that ~~contains the following provisions~~ includes:
 - 20 a. The date and place² of the transaction;
 - 21 b. The signature and address of the buyer and the seller or the seller's agent
22 ~~acting for the seller;~~

- 1 c. ~~The number of quantity of the transaction in units and the;~~
2 d. The price per unit;
3 ~~e.~~ e. ~~The total value of the transaction;~~
4 ~~e.~~ f. ~~The total amount of the full or partial payment made by the buyer to the seller~~
5 ~~by the buyer;~~
6 f. g. ~~The kind and variety of seed for wheat, durum, if the transaction action~~
7 ~~involves barley, durum, edible beans, field peas, flax, oats, rye, flax,~~
8 ~~soybeans, field pea, and edible beans. or wheat;~~
9 g. ~~The class of the seed to be delivered, and if the seed is not certified, then the~~
10 ~~minimum germination and seed purity percentages must be stated. If the~~
11 ~~seed is certified, the words "breeders", "foundation", "registered", or~~
12 ~~"certified", as the case may be, must be shown.~~
13 h. ~~The date of delivery or the latest date at by which delivery is to be made;~~
14 i. ~~The place of delivery; and~~
15 j. A statement indicating whether the seed is certified or not certified, provided:
16 (1) If the seed is certified, the contract must indicate whether the seed is
17 breeders, foundation, registered, or certified seed; and
18 (2) If the seed is not certified, the contract must indicate the percentage of
19 germination and purity.³
20 2. Any provision in any written order or contract, which is contrary to any of the
21 provisions of this section hereby is declared to be against public policy and void.⁴

NOTE:

- 1 ¹ A sales agreement is a contract and therefore does not need to be referenced separately.
- 2 ² Is the word "place" intended to mean a state, county, city, or a more specific location?
- 3 ³ Current law requires that in the case of a noncertified seed, the contract must contain the "minimum germination." Is the reference intended to mean something other than the "percentage of germination" referenced in the rewrite?
- 4 ⁴ Subsection 1 requires the inclusion of various facts. If any one of those facts is omitted, intentionally or otherwise, is the contract to be void? By whom? It would be helpful to clarify the intent of this subsection.

1 **SECTION 3. AMENDMENT.** Section 4-25-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **4-25-03. Penalty.** Any person violating section 4-25-02 is guilty of a class B
4 misdemeanor.

NOTE: If this penalty is applicable only to Section 4-25-02, it could be added as a subsection to Section 4-25-02. Perhaps a determination should be made regarding the enforcement of Section 4-25-04, as set forth below.

5 **SECTION 4. AMENDMENT.** Section 4-25-04 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **4-25-04. Nonresident seed dealer dealer's license.** ~~Any nonresident person~~
8 ~~engaged in the business of selling~~

- 9 1. A person that is not a resident of this state may not offer for sale or sell agricultural
10 seed in this state directly to the a consumer in this state shall submit an annual
11 application for unless the person first obtains a nonresident seed dealer dealer's
12 license and submit an annual license fee, in an amount determined by the
13 commissioner. In order to obtain the license, a person must submit to the state
14 seed commissioner. ~~A list of agents representing the nonresident company in this~~
15 ~~state must accompany the an application for a license, together with the required~~
16 fee.
- 17 2. A license issued under this section covers all employees and agents of the
18 applicant, provided their names are included with the application.
- 19 3. A license issued under this section expires on December thirty-first.¹

NOTE:

- ¹ Current law indicates that the person is to submit an "annual" application for the nonresident seed dealer's license. A date of expiration would be preferable to ensure that there is no confusion with a concept such as the license being valid for 12 months from the date of issuance.