

Introduced by

1 A BILL for an Act to amend and reenact sections 4-09-01, 4-09-02, 4-09-03, 4-09-04, 4-09-05,
2 4-09-06, 4-09-06.1, 4-09-07, 4-09-08, 4-09-10, 4-09-11, 4-09-11.1, 4-09-11.2, 4-09-12, 4-09-13,
3 4-09-14, 4-09-14.1, 4-09-14.4, 4-09-15, 4-09-16, 4-09-18, 4-20.1, 4-09.1-02, 4-09.1-06,
4 4-25-01, 4-25-02, and 4-25-03 of the North Dakota Century Code, relating to the state seed
5 department, seed labeling, and certified seed; and to repeal sections 4-09-03.1, 4-09-10.1, and
6 4-09-14.3 of the North Dakota Century Code, relating to the state seed arbitration board,
7 labeling requirements for seed labeling permit fees.

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

9 **SECTION 1. AMENDMENT.** Section 4-09-01 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **4-09-01. Definitions.** In this chapter, unless the context or subject matter otherwise
12 requires:

- 13 1. "Advertisement" means any representation, other than representations made on
14 labels, which relates to seed.
- 15 2. "Agent" when used in connection with the ~~state seed~~ commissioner, means the
16 commissioner's ~~deputies~~ deputy, ~~inspectors~~ inspector, ~~analysts~~ analyst, ~~specialists~~
17 specialist, and ~~any other aides~~ aid, ~~agents~~ agent, and ~~employees of the~~
18 ~~commissioner and the seed department~~ employee, when ~~they are~~ each is acting
19 officially for the commissioner or performing any duty or duties as provided in this
20 chapter or in the rules duly adopted under this chapter.
- 21 3. "Agricultural seeds" means the seeds of grass, forage, cereal, fiber, oil crops, Irish
22 potato seed tubers, and any other kind of seeds commonly recognized within this
23 state as agricultural seeds, lawn seeds, and mixture of ~~such~~ these seeds.
- 24 4. "Commission" means the state seed commission.

- 1 5. "Commissioner" means the state seed commissioner.
- 2 6. "Conditioning" means drying, cleaning, scarifying, and other operations that may
3 change the purity or germination of the seed.
- 4 7. "Flower seeds" include seeds of a herbaceous plant grown for the blooms,
5 ornamental foliage, or other ornamental parts, and commonly known and sold
6 under the name of flower or wild flower seeds in this state.
- 7 ~~5. "Foundation seed", "registered seed", and "certified seed" means seed that has~~
8 ~~been produced and labeled in accordance with the procedures and in compliance~~
9 ~~with the rules of an officially recognized seed certifying agency.~~
- 10 ~~6.~~ 8. "Germination" means the percentage of seed capable of producing normal
11 seedlings under ordinarily favorable conditions as determined by methods
12 prescribed under the rules established by the association of official seed analysts;
13 ~~but not including.~~ The term does not include seed which produces weak,
14 malformed, or obviously abnormal sprouts.
- 15 ~~7.~~ 9. "Hard seed" means ~~the percentage of seed which, because of hardness or~~
16 ~~impermeability, does not absorb moisture or germinate under prescribed test but~~
17 ~~remains hard during the period prescribed for germination of the kind of seed~~
18 ~~concerned as determined by methods prescribed under the rule established by the~~
19 ~~association of official seed analysts.~~ A seed remains hard at the end of the
20 prescribed test period because the seed has not absorbed water due to an
21 impermeable seed coat.
- 22 8. "Hybrid" means ~~the first generation seed of a cross produced by controlling the~~
23 ~~pollination and by combining:~~
- 24 a: ~~Two or more inbred lines;~~
- 25 b: ~~One inbred or a single cross with an open pollinated variety; or~~
- 26 e: ~~Two varieties or species, except open pollinated varieties of corn (Zea mays).~~
- 27 ~~The second generation or subsequent generations from such crosses must not be~~
28 ~~regarded as hybrids. Hybrid designations must be treated as variety names.~~
- 29 10. "Inert matter" means all matter not seed and includes the broken seed, a sterile
30 floret, chaff, a fungus body, and a stone.

- 1 9- 11. "Kind" means one or more related species or subspecies which singly or
2 collectively is known by one common name, such as corn, oats, alfalfa, or timothy.
- 3 ~~40-~~ 12. "Labeler" means the person who furnishes the information required in sections
4 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2.
- 5 ~~41-~~ 13. "~~Labeling" means all labels and other written, printed, or graphic representation in~~
6 ~~any form accompanying or pertaining to any seed, whether in bulk or in containers,~~
7 ~~including representations on invoices~~ includes a tag or other device attached to or
8 information written, stamped, or printed on any container or accompanying lot of
9 bulk seeds that contains information required by this chapter..
- 10 ~~42-~~ 14. "Lot" means a definite quantity of seed identified by a lot number or other mark,
11 every portion or bag of which is uniform, within permitted tolerances, for the factors
12 which appear in the labeling.
- 13 15. "Mixture" means seed consisting of more then one kind, each in excess of five
14 percent by weight of the whole.
- 15 ~~43-~~ 16. "Noxious weed seeds" ~~means the seeds of either of the following classifications~~
16 are divided into three classes defined as:
- 17 a. "Prohibited noxious weed seeds" ~~means the seeds of perennial weeds which~~
18 ~~reproduce by seed or spread by underground roots, stems, and other~~
19 ~~reproductive parts and which, when established, are highly destructive and~~
20 ~~difficult to control by ordinary good cultural practice~~ those weed seeds that are
21 prohibited from being present in agricultural, vegetable, flower, tree, or shrub
22 seed and are highly destructive and difficult to control by good cultural
23 practices and the use of herbicides; including the seeds of leafy spurge
24 (euphorbia esula l.), field bindweed (convolvulus arvensis l.), Canada thistle
25 (cirsium arvense (l.) scop.), perennial sow thistle (sonchus arvensis l.),
26 Russian knapweed (centaurea repens l.), absinth wormwood (artemisia
27 absinthium l.), hemp (cannabis sativa L.) having more than three-tenths of
28 one percent tetrahydrocannabinol, musk thistle (carduus nutans L.), spotted
29 knapweed (centaurea maculosa lam.), hoary cress (cardaria draba (l.) desv.),
30 and yellow starthistle (centaurea solstitialis L.).

- 1 b. "Restricted noxious weed seeds" means ~~the seeds of weeds which are highly~~
2 ~~objectionable in fields, lawns, and gardens, but which can be controlled by~~
3 ~~good cultural practices or other means~~ seeds that are objectionable in
4 agricultural crops, lawns, and gardens in this state and can be controlled by
5 good cultural practices or the use of herbicides;, including the seeds of dodder
6 (cuscuta species), hedge bindweed (convolvulus sepium l.), wild oats (avena
7 fatua l.), and quackgrass (agropyron repens (l.) beauv.).
- 8 c. "Undesirable grass seeds" are seeds of grass species declared to be
9 restricted noxious weed seed when found in lawn or turf seed.
- 10 ~~44.~~ 17. "Official seed-certifying agency" means:
11 a. An agency authorized under the laws of a state, territory, or possession to
12 officially certify seed which has standards and procedures approved by the
13 United States secretary of agriculture to assure the genetic purity and identity
14 of the seed certified; or
15 b. An agency of a foreign country determined by the United States secretary of
16 agriculture to adhere to procedures and standards for seed certification
17 comparable to those adhered to generally by seed-certifying agencies under
18 subdivision a.
- 19 ~~45.~~ ~~"Person" means any individual, partnership, corporation, limited liability company,~~
20 ~~company, society, or association.~~
- 21 ~~46.~~ 18. "Pest" means any invertebrate animal, pathogen, parasitic plant, or similar
22 organism causing or capable of causing injury or damage to any plant or part of a
23 plant or any processed, manufactured, or other product of a plant.
- 24 ~~47.~~ 19. "Phytosanitary certificate" means a document issued or authorized by the
25 commissioner indicating that the seed or tubers were inspected and considered to
26 be free from quarantine pests and practically free from injurious pests according to
27 the sanitary requirements of the importing country.
- 28 ~~48.~~ 20. "Pure seed" means agricultural and vegetable seed, exclusive of inert matter, and
29 all other seed not of the kind or variety being considered.
- 30 ~~49.~~ 21. "Record" means all information relating to lot identification, source, origin, variety,
31 amount, processing, testing, labeling, distribution, and file sample of the seed.

- 1 ~~20.~~ ~~"Seed department" means the seed department of this state.~~
- 2 21. ~~"Seizure" means the legal process carried out by court order against a definite~~
3 ~~amount of seed.~~
- 4 22. "Stop-sale" means an administrative order provided by law restraining the sale,
5 use, disposition, and movement of a definite amount of seed.
- 6 23. "Treated" means that the seed has received an application of a ~~seed protectant~~
7 ~~pesticide which is designed to reduce, control, or repel certain disease organisms,~~
8 ~~insects, or other pests attacking such seeds or seedlings growing therefrom~~
9 substance, or that the seed has been subjected to a process for which a claim is
10 made.
- 11 24. "Tree and shrub seed" include seed of woody plants commonly known and sold as
12 tree and shrub seeds in this state.
- 13 25. "Type" means a group of variety so nearly similar that the individual varieties can
14 not be clearly differentiated accept under special conditions.
- 15 ~~24.~~ 26. "Variety" means a subdivision of a kind ~~characterized by growth, yield, plant, fruit,~~
16 ~~seed, or other characteristic by which it can be differentiated from other plants of~~
17 ~~the same kind that is distinct, uniformed, and stable. The term "distinct" means the~~
18 variety can be differentiated by one or more identifiable morphological,
19 physiological, or other characteristics from all varieties of public knowledge. The
20 term "uniform" means the variations in essential and distinctive characteristics are
21 describable. Term "stable" means the variety will remain unchanged in its
22 essential and distinctive characteristics and uniformity when reproduced or
23 reconstituted as required by the different categories of varieties.
- 24 ~~25.~~ 27. "Vegetable seeds" means the seeds of those crops which are grown in gardens
25 and on truck farms, and which are generally known and sold under the name of
26 vegetable seeds within this state.
- 27 ~~26.~~ 28. "Weed seeds" means the seeds of all plants generally recognized as weeds within
28 this state, including noxious weed seeds.

29 **SECTION 2. AMENDMENT.** Section 4-09-02 of the North Dakota Century Code is
30 amended and reenacted as follows:

31 **4-09-02. Seed department - Offices and laboratories.**

- 1 1. There must be maintained a ~~state seed~~ department ~~to be known as the seed~~
2 ~~department~~ of the state of North Dakota. ~~It~~ The department's headquarters, main
3 offices, and other principal operating facilities and equipment must be located at
4 the North Dakota state university of agriculture and applied science. The
5 commissioner, subject to the approval and supervision of the commission, shall
6 provide and maintain necessary laboratories and facilities properly equipped to
7 make analysis, tests, and variety and disease determinations of seeds and plants,
8 and to do work and effect other results as may be necessary to carry out this
9 chapter. For these purposes, the commissioner may utilize the premises, space,
10 and equipment at the North Dakota state university of agriculture and applied
11 science as may be assigned to the commissioner by the state board of higher
12 education. The commissioner, subject to the approval of the state board of higher
13 education, shall permit the facilities and services of the official laboratories to be
14 used by the university at convenient times.
- 15 2. The state seed commission may locate and establish branch offices and
16 laboratories at other locations in this state as in the commissioner's judgment are
17 necessary to carry out properly and effectively the provisions of this or other
18 chapters in which the seed department is charged with duties and responsibilities.

19 **SECTION 3. AMENDMENT.** Section 4-09-03 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **4-09-03. State seed commission - Members - Meetings - Appointment and duties**
22 **of commissioner.**

- 23 1. The state seed commission is the governing board of the seed department and
24 shall adopt rules and regulations pursuant to chapter 28-32 to effectuate the
25 purposes of this section.
- 26 2. The ~~state seed~~ commission consists of a representative of the North Dakota crop
27 improvement association, a representative of the North Dakota certified seed
28 potato growers association, a representative of the North Dakota dry edible bean
29 seed growers association, a representative of the North Dakota agricultural
30 association, an elected member of the North Dakota potato council selected by the
31 North Dakota potato council, a representative of the Red River valley potato

- 1 growers association who is a North Dakota resident, a representative of the North
2 Dakota grain dealers association selected by the board of directors of the North
3 Dakota grain dealers association who ~~also~~ operates a state-approved seed
4 conditioning plant ~~selected by the board of directors of the North Dakota grain~~
5 ~~dealers association~~, and the agriculture commissioner, or the commissioner's
6 designee, who shall serve as chairman. The associate dean and director of the
7 experiment station, or the director's designee, of the college of agriculture of the
8 North Dakota state university of agriculture and applied science is a voting member
9 of the commission.
- 10 3. The commission shall meet a minimum of two times each calendar year and may
11 hold special meetings at the call of the chairman or by request of any two members
12 of the commission. ~~Members of the commission must be reimbursed for mileage~~
13 ~~and travel as specified in section 54-06-09 and expenses as specified in section~~
14 ~~44-08-04 for attendance at regular and special meetings.~~ Each member of the
15 commission is entitled to receive compensation at the rate of seventy-five dollars
16 per day and reimbursement for expenses, as provided by law for state officers, for
17 attending commission meetings. Compensation under this section may not be paid
18 to any member who receives compensation or salary as a regular state employee
19 or official. A commission member unable to attend a meeting of the commission
20 may be represented by a proxy who has written authorization from ~~such~~ the absent
21 commission member.
- 22 4. The commission shall appoint a qualified manager of the ~~seed~~ department who
23 must be known as the state seed commissioner. The commission shall fix the
24 salary of the commissioner within legislative appropriation ~~therefor~~. The
25 commissioner's appointment must be reviewed annually by the commission, and
26 the commissioner is subject to removal for cause. In the event of a vacancy in the
27 office of ~~seed~~ the commissioner, the commission may appoint a temporary ~~state~~
28 ~~seed~~ commissioner to serve until ~~such time as~~ the appointment of a permanent
29 commissioner ~~is appointed~~. The ~~state seed~~ commissioner has responsibility for
30 preparing the biennial budget and annual salary schedules ~~which~~ that must be
31 approved by the commission ~~prior to~~ before submission to the state budget

1 director. The commissioner is directly responsible to the commission and shall
2 make semiannual reports to the commission and ~~such~~ any other reports as
3 requested by the commission.

4 **SECTION 4. AMENDMENT.** Section 4-09-04 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4-09-04. Official seal.** The official seal of the ~~seed~~ department as recorded in the
7 office of the secretary of state must be used exclusively in connection with the affairs of the
8 ~~seed~~ department. The use of ~~such~~ the seal contrary to the provisions of this chapter or the
9 commissioner's regulations is punishable as provided in section 4-09-24.

10 **SECTION 5. AMENDMENT.** Section 4-09-05 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **4-09-05. Rules and regulations - Authority to make.** The commissioner may adopt
13 rules ~~in conformance with the provision of~~ under chapter 28-32.

14 **SECTION 6. AMENDMENT.** Section 4-09-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **4-09-06. Examination of seed by commissioner - Right of access to premises -**
17 **Publication of reports - "Stop-sale" order.**

18 1. The commissioner, ~~or the commissioner's agents, shall~~ may inspect, examine,
19 make analysis of, and test any seed sold, offered, or exposed for sale, held, or
20 distributed within this state for planting purposes, at ~~such~~ a time and place, and to
21 ~~such~~ and extent, as determined by the commissioner ~~may determine~~. ~~The~~

22 2. At a reasonable time, the commissioner ~~and the commissioner's agents, at all~~
23 ~~reasonable times, have~~ the right of free access to the premises or structures
24 controlled, owned, or operated by any person who may be, or whose seed, or the
25 seed the person may be holding or storing or transporting, may be, investigated or
26 proceeded against, and to any premises or structures or any kind of vehicle or
27 conveyance where any seed may be located or in the process of transportation
28 within the state, ~~when not prohibited by interstate commerce laws and rules, for the~~
29 ~~purpose of inspecting~~ to inspect, examining examine, and ~~sampling~~ sample any
30 seed or seed ~~plants~~ plant.

1 3. Any person involved in any way in the handling, transportation, storage, buying, or
2 selling of seed shall cooperate with the commissioner ~~and the commissioner's~~
3 ~~agents~~ and shall render all possible assistance to aid the commissioner ~~and the~~
4 ~~commissioner's agents~~ in the carrying out and enforcement of this chapter ~~and the~~
5 ~~rules adopted under this chapter.~~

6 4. The commissioner may publish, or cause to be published, the results of the
7 examination, analyses, and tests of any samples of seed or mixtures of seed,
8 together with any other information the commissioner may deem advisable.

9 5. The commissioner ~~or the commissioner's agent~~ may issue and enforce a written or
10 printed "stop-sale" order to the owner or custodian of any lot of agricultural or
11 vegetable seed which the commissioner ~~or the commissioner's agent~~ finds to be in
12 violation of this chapter, ~~which.~~ The order shall prohibit further sale, conditioning,
13 and movement of ~~such~~ the seed until the commissioner ~~or the commissioner's~~
14 ~~agent~~ has evidence that the law has been complied with and a release from ~~such~~
15 the "stop-sale" order has been issued. ~~Provided, that in respect to seeds~~ As to
16 seed which ~~have~~ has been denied sale, conditioning, and movement ~~as provided~~
17 ~~in this section,~~ the owner or custodian of ~~such~~ seeds has the right to appeal from
18 the order to a court of competent jurisdiction in the locality in which the ~~seeds are~~
19 is found, praying for a judgment as to the justification of the order and for the
20 discharge of the seed from the order ~~prohibiting the sale, conditioning, and~~
21 ~~movement~~ in accordance with the findings of the court. This ~~section~~ subsection
22 does not limit the right of the commissioner ~~or the commissioner's agent~~ to
23 proceed as authorized by other sections of this chapter.

24 **SECTION 8. AMENDMENT.** Section 4-09-06.1 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **4-09-06.1. Inspection - Export certification - Fees.** The commissioner or the
27 ~~commissioner's authorized representative~~ may inspect agricultural seed, flower seed, vegetable
28 seed, tree and shrub seed, and Irish potato tubers when the seed or tubers are offered for
29 export. The commissioner may issue a phytosanitary certificate to plant quarantine officials and
30 may make reasonable charges for this service. ~~Certificates~~ The commissioner may be withheld
31 withhold the certificate if the product does not meet sanitary requirements and if all state

1 licensing and bonding requirements have not been met. The name and address of the
2 consignee on the phytosanitary certificate is confidential.

3 **SECTION 9. AMENDMENT.** Section 4-09-07 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **4-09-07. ~~Official laboratories—Location—~~ Certificates and reports - Publication.**

6 ~~The commissioner, subject to the approval and supervision of the state seed commission, shall~~
7 ~~provide and maintain under the commissioner's direction necessary laboratories and facilities~~
8 ~~properly equipped to make analyses, tests, and variety and disease determinations of seeds~~
9 ~~and plants, and to effect such other results and work as may be necessary to carry out this~~
10 ~~chapter. For these purposes, the commissioner may utilize such premises, space, and~~
11 ~~equipment at the North Dakota state university of agriculture and applied science as may be~~
12 ~~assigned to the commissioner by the state board of higher education. The commissioner,~~
13 ~~subject to the approval of the state board of higher education, shall permit the facilities and~~
14 ~~services of the official laboratories to be used by the university at convenient times.~~

15 1. When a report or certificate relating to the findings and determinations made in a
16 laboratory is issued and signed by the commissioner ~~or a duly authorized agent, it~~
17 the document must be accepted as prima facie evidence of the statements ~~therein~~
18 contained in the document, but the commissioner ~~or the commissioner's analysts~~
19 ~~are~~ is subject to court order for a review of findings as set forth ~~by such certificates~~
20 ~~or reports~~ in the document.

21 2. The commissioner may publish reports or explanatory material concerning seed or
22 inspections, tests, analyses, or other determinations made by the commissioner
23 and may enlarge the same with material setting forth the value or condition of the
24 seed stocks which are produced in this state or in which North Dakota persons are
25 interested. The commissioner also may publish lists of certified seed.

26 **SECTION 10. AMENDMENT.** Section 4-09-08 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **4-09-08. Public laboratory service - Fees for tests.** The commissioner shall accept
29 samples submitted ~~to the state laboratory~~ for testing and shall determine the types of tests to be
30 conducted on the samples. The commissioner, with the approval of the ~~seed~~ commission, shall
31 establish and charge fees for laboratory tests and services.

1 **SECTION 11. AMENDMENT.** Section 4-09-10 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **4-09-10. Labeling requirements for agricultural seed.**

- 4 1. Each container of agricultural seed which is sold, offered for sale, exposed for sale,
5 transported for sale, or held in storage with the intent to sell for planting purposes
6 within this state must conspicuously bear ~~thereon~~ or have attached ~~thereto in a~~
7 ~~conspicuous place~~, or there must be properly delivered with bulk sales or
8 movements of ~~said~~ agricultural seed, a plainly ~~written or~~ printed label ~~or tag~~ in the
9 English language giving with the following information, which ~~statement~~ may not
10 be modified or denied in the labeling ~~or on another label attached to the container:~~
- 11 ~~4-a.~~ 2. In seeds of wheat, durum, barley, oats, rye, soybeans, dry beans, and flax the
12 commonly accepted name of the kind and variety of each agricultural seed
13 component in excess of five percent of the whole and the percentage by weight of
14 each. Variety identification is not required for seeds labeled "for vegetative cover
15 only".
- 16 ~~b.~~ 3. In seeds of canola, a statement that the seed must be ~~is~~ certified by the
17 commissioner as meeting the standards of this chapter or ~~have been~~ certified by
18 another state or province having certification standards for canola which meet or
19 exceed standards adopted by this chapter.
- 20 ~~e.~~ 4. In all other seeds not named in ~~subdivisions a~~ subsections 2 and b 3, the
21 commonly accepted name of the kind or the kind and variety of each agricultural
22 seed component in excess of five percent of the whole and the percentage of
23 weight of each.
- 24 ~~e.~~ 5. When more than ten percent of the whole consists of an aggregate of agricultural
25 seed components, each present in an amount not exceeding five percent of the
26 whole, each component in excess of one percent of the whole must be named
27 together with the percentage by weight of each. All components must be listed in
28 the order of their predominance. Where more than one component is named, the
29 word "mixture", or the word "mixed", must be shown conspicuously on the label.
- 30 ~~z.~~ 6. Lot number or other lot identification.

- 1 ~~3.~~ 7. Origin, state or foreign country where grown. If the origin is unknown, that fact
2 must be stated.
- 3 ~~4.~~ 8. Percentage by weight of all weed seeds.
- 4 ~~5.~~ 9. The name and rate of occurrence per pound [453.59 grams] of each kind of
5 restricted noxious weed seeds present, if the restricted noxious weed seeds are
6 present singly or collectively in amounts:
- 7 a: ~~In~~ in seeds of grasses and small seeded legumes; in excess of thirteen seeds
8 per pound [453.59 grams]; ~~and,~~ or
- 9 b: ~~In~~ in other agricultural seeds including the cereals, oil seed crops, millets, and
10 seeds of similar size, in excess of five seeds per pound [453.59 grams].
- 11 ~~6.~~ 10. Percentage by weight of agricultural seed which may be designated as crop seed,
12 other than those required to be named on the label.
- 13 ~~7.~~ 11. Percentage by weight of inert matter.
- 14 ~~8.~~ 12. For each agricultural seed:
- 15 a: ~~Percentage~~ the percentage of germination, exclusive of hard seed. ~~Total, and~~
16 the percentage of hard seed at present, and if desired the total germination
17 and hard seed may be stated as such, if desired.
- 18 b: ~~Percentage of hard seed, if present. Total germination and hard seed may be~~
19 ~~stated as such, if desired.~~
- 20 c: ~~The~~ In addition, the calendar month and year the test was completed to
21 determine ~~such~~ these percentages.
- 22 ~~9.~~ 13. The full name and address of the person who labeled ~~said~~ the seed, or who sells,
23 offers for sale or exposes ~~said~~ the seed for sale within this state.
- 24 ~~10.~~ 14. For treated seeds ~~as defined in this chapter~~, for which a separate label may be
25 used:
- 26 a: A a word or statement indicating that the seed has been treated;
- 27 b: ~~The~~ the commonly accepted, coined, chemical or abbreviated chemical
28 (~~generic~~) name of the applied seed protectant pesticide; and
- 29 c: ~~If~~ if the substance in the amount present with the seed is harmful to human or
30 other vertebrate animals, a caution statement ~~such as "Do not~~ prohibiting use

1 for food or, feed or oil purposes". ~~The caution and~~ for mercurials and similar
2 toxic substances ~~must be~~ a poison statement or symbol.

3 44. 15. That the seed container ~~itself is a hermetically sealed container as defined by rules~~
4 ~~adopted by the commissioner.~~

5 42. 16. A disease test result for seedborne diseases. ~~For the purpose of this subsection,~~
6 ~~the words "disease test result" have the meaning ascribed to them by rules~~
7 ~~adopted by the commissioner.~~

8 17. If the seed is treated with an inoculant, the date beyond which the inoculant is not
9 to be considered affective.

10 **SECTION 12. AMENDMENT.** Section 4-09-11 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **4-09-11. Labeling requirements for vegetable seed.**

13 1. Each container of vegetable seed which is sold, offered for sale, exposed for sale,
14 transported for sale, or held in storage with the intent to sell for ~~sewing~~ planting
15 purposes within this state ~~shall~~ must conspicuously bear ~~thereon~~, or have attached
16 ~~thereto, in a conspicuous place~~ a plainly ~~written or~~ printed label ~~or tag~~ in the
17 English language.

18 4. 2. For vegetable seeds in containers of one pound [.45 kilograms] or less, ~~such the~~
19 ~~label or tag must give~~ contain the following information and may not be modified
20 or denied in the labeling:

- 21 a. The name of kind and variety of seed.
- 22 b. For seeds which germinate less than the standards as set forth in section
23 201.31 of the rules and regulations under the Federal Seed Act, "Service and
24 Regulatory Announcement No. 156", and subsequent revisions:
- 25 (1) ~~Percentage~~ the percentage of germination, exclusive of hard seed-
- 26 (2) ~~Percentage;~~ the percentage of hard seed, if present-
- 27 (3) ~~The;~~ the calendar month and year the test was completed-
- 28 (4) ~~The;~~ and the words "below standard" in not less than eight point type.
- 29 c. The full name and address of the person who labeled said seed, or who sells,
30 offers for sale or exposes said seed for sale within this state.

- 1 d. For treated seed ~~as defined in this chapter~~, for which a separate label may be
2 used:
- 3 (1) A a word or statement indicating that the seed has been treated:-
4 (2) ~~The~~; the commonly accepted, coined, chemical or abbreviated chemical
5 (~~generic~~) name of the applied substance:-
6 (3) ~~If~~; if the substance in the amount present with the seed is harmful to
7 human or other vertebrate animals a caution statement ~~such as "Do not~~
8 prohibiting use for food ~~or~~, feed or oil purposes". ~~The caution and~~ for
9 mercurials and similar toxic substances ~~must be~~ a poison statement or
10 symbol. If the seed is treated with an inoculant, the date beyond the
11 inoculant is not to be considered effective.
- 12 e. That the seed container itself is a hermetically sealed container. For the
13 purposes of this subsection, the words "hermetically sealed container" have
14 the meaning ascribed to them by regulation promulgated by the state seed
15 commissioner.
- 16 2. 3. For vegetable seeds in containers of more than one pound [.45 kilograms], ~~such~~
17 the label or tag must ~~give~~ contain the following information that may not be
18 modified or denied in the labeling:
- 19 a. The name of each kind and variety of vegetable seed present in excess of five
20 percent and the percentage by weight of each in order of its predominance.
21 b. Lot number or other lot identification.
22 c. Origin, meaning the state or foreign country where grown. If the origin is
23 unknown, that fact must be stated.
24 d. The name and rate of occurrence per pound [.45 kilograms] of each kind of
25 restricted noxious weed seeds present.
26 e. For each named vegetable seed:
- 27 (1) ~~Percentage~~ the percentage of germination, exclusive of hard seed:-
28 ~~Total~~, and the percentage of hard seed if present, and if desired the
29 total germination and hard seed ~~may be stated as such, if desired.~~
30 (2) ~~Percentage of hard seed, if present. Total germination and hard seed~~
31 ~~may be stated as such, if desired.~~

1 (3) ~~The~~ In addition, the calendar month and year the test was completed to
2 determine ~~such~~ these percentages.

3 f. The full name and address of the person who labeled said seed, or who sells,
4 offers for sale or exposes said seed for sale within this state.

5 g- 4. For vegetable seeds in any size container, the label for treated seed ~~as defined in~~
6 ~~this chapter~~ for which a separate label may be used:

7 (1) A must contain a word or statement indicating that the seed has been
8 treated-

9 (2) ~~The:~~ the commonly accepted, coined, chemical or abbreviated
10 chemical (~~generic~~) name of the applied substance-

11 (3) ~~If;~~ and if the substance in the amount present with the seed is harmful
12 to human or other vertebrate animals a caution statement ~~such as "Do~~
13 ~~not prohibiting~~ use for food or, feed or oil purposes". ~~The caution and~~
14 for mercurials and similar toxic substances ~~shall be~~ a poison statement
15 or symbol.

16 h- 5. The labeling requirements for vegetable seeds in containers of more than one
17 pound [.45 kilograms] are deemed to have been met if the seed is weighed from a
18 properly labeled container in the presence of the purchaser.

19 i- 6. ~~That~~ For vegetable seeds in any size container the label must state the seed
20 container ~~itself~~ is a hermetically sealed container. ~~For the purposes of this~~
21 ~~subsection, the words "hermetically sealed container" have the meaning ascribed~~
22 ~~to them by regulation promulgated by the state seed commissioner.~~

23 **SECTION 13. AMENDMENT.** Section 4-09-11.1 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **4-09-11.1. Labeling requirements for flower seeds.**

26 1. Each container of flower seeds which is sold, offered for sale, exposed for sale, or
27 transported within this state for ~~sewing~~ planting purposes, ~~shall~~ must
28 conspicuously bear ~~thereon~~ or have attached ~~thereto~~ ~~in a conspicuous~~ place a
29 plainly ~~written~~ or printed label or tag in the English language, ~~giving the following~~
30 ~~information, which statement may not be modified or denied in the labeling or on~~
31 ~~another label attached to the container.~~

- 1 4. For all flower seeds:
- 2 a. A the label must contain a word or statement indicating whether the seed has
- 3 been treated:
- 4 b. ~~The~~; the commonly accepted coined, chemical, or abbreviated chemical
- 5 (~~generic~~) name of the applied substance or description of the process used:
- 6 e. ~~If~~; if the substance in the amount present with the seed is harmful to human or
- 7 other vertebrate animals, a caution statement ~~such as "Do not prohibiting~~ use
- 8 for food, feed, or oil purposes". ~~The caution~~ and for mercurials and similarly
- 9 toxic substances ~~must be~~ a poison statement and symbol.
- 10 e. If the seed is treated with an inoculant, the date beyond which the inoculant is
- 11 not to be considered effective (~~date of expiration~~).
- 12 ~~2.~~ 3. For flower seeds in packets prepared for use in home gardens or household
- 13 plantings or flower seeds in preplanted containers, mats, tapes, or other planting
- 14 devices the label must contain:
- 15 a. For all kinds of flower seeds:
- 16 (1) ~~The~~ the name of the kind and variety or a statement of type and
- 17 performance characteristics as ~~prescribed in the rules and regulations~~
- 18 ~~promulgated under the provisions of this chapter.~~
- 19 (2) ~~The~~ required by the commissioners; the calendar month and year the
- 20 seed was tested or the year for which the seed was packaged:
- 21 (3) ~~The~~ and the name and address of the person who labeled said seed, or
- 22 who sells, offers, or exposes said seed for sale within this state.
- 23 b. For seeds of those kinds for which standard testing procedures are prescribed
- 24 and which germinate less than the germination standard last established
- 25 under ~~the provisions of~~ this chapter:
- 26 (1) ~~Percentage~~ the percentage of germination exclusive of hard seeds:
- 27 (2) ~~The~~ and the words "below standard" in not less than eight-point type.
- 28 c. For seeds placed in a germination medium, mat, tape, or other device ~~in such~~
- 29 ~~a way~~ so as to make it difficult to determine the quantity of seed without
- 30 removing the seeds from the medium, mat, tape, or device, a statement to
- 31 indicate the minimum number of seeds in the container.

- 1 ~~3.~~ 4. For flower seeds in containers other than packets prepared for use in home flower
2 gardens or household plantings and other than preplanted containers, mats, tapes,
3 or other planting devices the label must contain:
- 4 a. The name of the kind and variety or a statement of type and performance
5 characteristics as prescribed in rules and regulations promulgated under the
6 provisions of this chapter.
- 7 b. The lot number or other lot identification.
- 8 c. The calendar month and year that the seed was tested or the year for which
9 the seed was packaged.
- 10 d. The name and address of the person who labeled said seed or who sells,
11 offers, or exposes said seed for sale within this state.
- 12 e. For those kinds of seed for which standard testing procedures are prescribed:
- 13 (1) ~~Percentage~~ the percentage germination exclusive of hard seed-
- 14 (2) ~~Percentage~~ and the percentage of hard seed, if present.

15 **SECTION 14. AMENDMENT.** Section 4-09-11.2 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **4-09-11.2. Labeling requirements for tree and shrub seeds.**

- 18 1. Each container of tree and shrub seed which is sold, offered for sale, or exposed
19 for sale, or transported within this state for ~~sewing~~ planting purposes, must
20 conspicuously bear ~~thereon~~ or have attached ~~thereto in a conspicuous place~~ a
21 plainly ~~written~~ or printed label ~~or tag~~ in the English language, giving the following
22 information, which statement must not be modified or denied in the labeling ~~or on~~
23 ~~another label attached to the container~~, except that labeling of seed supplied under
24 a contractual agreement may be by invoice accompanying the shipment or by an
25 analysis tag attached to ~~said~~ the invoice if each ~~bag or other~~ container is clearly
26 identified by a lot number stenciled on the container or if the seed is in bulk. ~~Each~~
27 ~~bag or container that is not so identified must carry complete labeling:~~
- 28 ~~4.~~ 2. For all tree and shrub seeds:
- 29 a. ~~A~~ the label must contain a word or statement indicating whether the seed has
30 been treated-

- 1 b. ~~The;~~ the commonly accepted coined, chemical, or abbreviated chemical
2 (~~generic~~) name of the applied substance or description of the process used:-
- 3 e. ~~If;~~ and if the substance in the amount present with the seed is harmful to
4 human or other vertebrate animals, a caution statement ~~such as "Do not~~
5 prohibition use for food ~~or,~~ feed or oil purposes". ~~The caution~~ and for
6 mercurials and similarly toxic substances ~~must be~~ a poison statement and
7 symbol.
- 8 d. If the seed has been treated with an inoculant, the date beyond which the
9 inoculant is not to be considered effective (~~date of expiration~~).
- 10 2. ~~For all tree and shrub seeds subject to this chapter:~~
- 11 a. ~~b.~~ Common ~~The common~~ name of the species of seed (~~and subspecies, if~~
12 appropriate).
- 13 b. ~~b.~~ The scientific name of the genus and species (~~and subspecies, if~~
14 appropriate).
- 15 e. ~~Let~~ The lot number or other lot identification.
- 16 d. Origin:
- 17 (1) ~~e. For~~ The origin for seed collected from a predominately indigenous stand; as the
18 area ~~of collection~~ the trees are growing and collected given by latitude and
19 longitude, ~~or~~ geographic description, or political subdivision ~~such as state or~~
20 county:-
- 21 (2) ~~For~~ and for seed collected from other than a predominantly indigenous
22 stand, identify as identified by the ~~area of collection and the origin of~~
23 ~~the stand~~ the place from which the seeds or plants were originally
24 introduced or state "origin not indigenous".
- 25 e. ~~f.~~ The elevation or the upper and lower limits of elevations within which ~~said~~ the
26 seed was collected.
- 27 f. ~~g.~~ Purity The purity as a percentage of pure seed by weight.
- 28 g. ~~h.~~ For those species for which standard germination testing procedures are
29 prescribed, ~~the following:~~
- 30 (1) Percentage percentage germination exclusive of hard seed:-
- 31 (2) Percentage; the percentage of hard seed, if present:-

1 (3) ~~The~~; and the calendar month and year test was completed to determine
2 such the percentages.

3 h. ~~i.~~ In lieu of ~~paragraphs 1, 2, and 3~~ of subdivision ~~g~~ i., the seed may be labeled
4 "Test is in process, results will be supplied upon request".

5 i. ~~j.~~ For those species for which standard germination testing procedures have not
6 been prescribed, the calendar year in which the seed was collected.

7 j. ~~k.~~ The name and address of the person who labeled ~~said~~ the seed or who sells,
8 offers, or exposes said seed for sale within this state.

9 **SECTION 15. AMENDMENT.** Section 4-09-12 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **4-09-12. Invoice and records.** Each person whose name appears on the label
12 ~~handling agricultural, vegetable, flower, or tree and shrub seeds subject to this chapter, and~~
13 handles seed shall keep for a period of ~~two~~ three years complete records of each lot of seed
14 handled, and shall keep for a period of one year a file sample of each lot of seed after final
15 disposition of ~~said~~ the lot. All records pertaining to the lot ~~or lots~~ involved must be accessible
16 for inspection by the commissioner ~~or his agents~~ at any time during customary business hours.

17 **SECTION 16. AMENDMENT.** Section 4-09-13 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **4-09-13. Tolerances.** The tolerances used in determining correctness and accuracy in
20 labeling seed as described in this chapter must be those tolerances used under the Federal
21 Seed Act of August 9, 1939 [53 Stat. 1275; 7 U.S.C. 1551 et seq.], and subsequent
22 amendments as of December 31, ~~2002~~ 2004, except that the tolerance for yellow starthistle
23 must be zero and the commissioner may, by rule, establish tolerances that are more strict than
24 the Federal Seed Act tolerances.

25 **SECTION 17. AMENDMENT.** Section 4-09-14 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **4-09-14. Prohibitions.**

28 1. It is unlawful for any person to sell, offer for sale, expose for sale, transport for
29 sale, or hold or store with the intent to sell, any agricultural, vegetable, flower, or
30 tree and shrub seed within this state if:

- 1 a. The test to determine the percentage of germination required under sections
2 4-09-10, 4-09-11, 4-09-11.1, and 4-09-11.2 has not been completed within a
3 ~~nine-month~~ twelve-month period, exclusive of the calendar month in which the
4 test was completed, ~~immediately prior to the sale, offering for sale, or~~
5 ~~transportation, provided that seeds contained in a hermetically sealed~~
6 ~~container, as defined by regulation issued by the seed commissioner, may be~~
7 ~~sold, transported for sale, or held for sale unless the test provided in this~~
8 ~~subdivision has not been completed within a thirty-six month period, exclusive~~
9 ~~of the calendar month in which the test was completed, immediately prior to~~
10 ~~the sale, offering for sale, or transportation for sale~~ or it is offered for sale
11 beyond the sell by date exclusive of the calendar month in which the seed
12 was to have been sold, except that;
- 13 (1) When advertised or offered for sale, native grass and foreign seeds
14 must have been tested for percentage of germination as required by
15 sections 4-09-10, 4-09-11 and 4-09-11.1 within a fifteen month period,
16 exclusive of the calendar month in which the test was completed.
- 17 (2) It is unlawful to offer cool season lawn and turf grasses including
18 Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall
19 fescue, perennial rye grass, intermediate rye grass, annual rye grass,
20 colonial bent grass, creeping bent grass, and mixtures or blends of
21 those grasses, for sale beyond the sale by date that may not be more
22 than fifteen months from the date of test, exclusive of the calendar
23 month in which the test was completed.
- 24 (3) This prohibition does not apply to tree, shrub, agricultural, flower, wild
25 flower, or vegetable seeds packaged in humidically sealed containers.
26 Seeds packaged in humidically sealed containers under conditioned as
27 defined by the commissioner may be offered for sale for a period of
28 thirty-six months after the last day of the month that the seeds were
29 tested for germination before packaging.
- 30 (4) If seeds in humidically containers are offered for sale more than
31 thirty-six months after the last day of the month in which they were

- 1 tested before packaging, the seeds must be retested within a
2 nine-month period, exclusive of the calendar month in which the retest
3 was completed.
- 4 b. The seed is not labeled in accordance with the provisions of this chapter or
5 bears false or misleading labeling;
- 6 c. There has been false or misleading advertising in connection with the seed;
- 7 d. The seed contains prohibited noxious weed seeds;
- 8 e. With regard to agricultural or vegetable seed, the seed is not labeled to show
9 the rate of occurrence of restricted noxious weed seeds, as required under
10 sections 4-09-10 and 4-09-11;
- 11 f. The seed is designated, offered, represented, or advertised under any name
12 or identification other than that by which it was known originally;
- 13 g. The seed contains restricted noxious weed seeds in excess of twenty-five
14 seeds per pound [453.59 grams]; or
- 15 h. The percentage by weight of all weed seeds in the seed exceeds one percent.
- 16 2. Any person, ~~under rules adopted by the commissioner,~~ may submit to the
17 commissioner a sample of any seed which the person claims to be a new variety,
18 distinct from any commonly known variety of the seed, together with a proposed,
19 distinctive name. The commissioner, within one year, shall make any tests the
20 commissioner considers necessary, and if the commissioner finds as a result of the
21 tests that the seed or plant is of a new variety, distinct from any known variety of
22 the seed and that the proposed name will properly distinguish the seed from any
23 and all other varieties, the commissioner shall issue to the applicant a permit to
24 designate the seed by the proposed name.
- 25 3. The purchaser, vendor, or any person receiving any seed shipped into this state
26 from without the state, shall have the same labeled in accordance with this chapter.
27 Certain standardized grades and labeling of seed in use elsewhere may be
28 permitted by the commissioner in connection with shipments of seed into this state
29 from points outside this state in lieu of the labeling provided for in this chapter.
- 30 ~~2.~~ 4. It is unlawful for any person in this state to:

- 1 a. Detach, alter, deface, or destroy any label provided for in this chapter or to
- 2 alter or substitute seed in any manner with the intent to defeat the purpose of
- 3 this chapter;
- 4 b. Disseminate any false or misleading advertisement concerning agriculture or
- 5 vegetable seed in any manner or by any means;
- 6 c. Hinder or obstruct in any way any authorized person in the performance of the
- 7 person's duties under this chapter;
- 8 d. Fail to comply with a "stop-sale" order;
- 9 e. Use on seed labels or tags, or to use or attach to literature, or to state in any
- 10 manner or form of wording designed as a "disclaimer" or "nonwarranty" clause
- 11 with the intent to disclaim responsibility of the vendor of the seed for the data
- 12 on the label required by law;
- 13 f. Use the words "type" or "trace" on any labeling in connection with the name
- 14 and description of any agricultural and vegetable seed;
- 15 g. Move or otherwise handle or dispose of any lot of seed held under a
- 16 "stop-sale" order, except with the written permission of the commissioner or
- 17 the commissioner's agent, and only for the purpose specified in such written
- 18 permission;
- 19 h. Use the name of the state seed department or the name of the official
- 20 laboratory for advertising purposes in connection with seed analyzed or tested
- 21 by the department or official laboratory, except in the case of registered or
- 22 certified seed; or
- 23 i. Plant any seed labeled "for vegetative cover only" with the intent to harvest for
- 24 seed or grain.

25 **SECTION 18. AMENDMENT.** Section 4-09-14.1 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **4-09-14.1. Seed sales - Seed labeling fee permit - Exception.** ~~No~~ A person may not
28 label agricultural, vegetable, flower, or tree or shrub seed within, or for delivery within, this state
29 unless a seed labeling fee permit has been obtained from the seed department and has been
30 issued to the labeler pursuant to section 4-09-14.4.

1 **SECTION 19. AMENDMENT.** Section 4-09-14.4 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **4-09-14.4. Permit.** The commissioner ~~is authorized at the commissioner's discretion,~~
4 ~~under such rules as may be promulgated, to~~ may issue a permit to any person to label
5 agricultural, vegetable, flower, and tree and shrub seeds in North Dakota. The person shall
6 apply to the commissioner for a permit and shall furnish the ~~seed~~ department with an annual
7 statement of all seeds sold in North Dakota when requested by the ~~seed~~ commissioner.
8 Statements that must be furnished for each reporting period, must be delivered to the
9 commissioner not later than thirty-one days after the end of each reporting period, and must be
10 accompanied by the appropriate fee. A penalty fee of ten dollars, or five percent of the total
11 amount due, whichever is greater, will be assessed for reports that are not postmarked within
12 thirty-one days after the end of the reporting period. Any person to whom a permit is granted
13 shall show such information in connection therewith as the commissioner may require as part of
14 the label on all seed sold. The commissioner ~~or the commissioner's authorized agent~~ has the
15 right at all reasonable times to examine the records of any permitholder to verify the
16 correctness of its statements.

17 **SECTION 20. AMENDMENT.** Section 4-09-15 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **4-09-15. Exemptions.**

20 1. Sections 4-09-10, 4-09-11, 4-09-11.1, 4-09-11.2, 4-09-14.1, 4-09-14.2, 4-09-14.3,
21 and 4-09-14.4 ~~shall~~ do not apply to:

22 ~~4-~~ a. Potatoes, whether sold or intended for food, manufacturing, or planting
23 purposes.

24 ~~2-~~ b. Seed or grain that is not intended for planting purposes.

25 ~~a-~~ a. The seller shall indicate on a form provided by the seller the purpose for which
26 the seed or grain is purchased. The form must be available for inspection by
27 the seed department.

28 ~~b-~~ b. It is unlawful for the seller or buyer to make a false representation as to the
29 use of the seed or grain.

30 ~~e-~~ e. A farmer selling the farmer's own seed or grain to a commercial establishment
31 is exempt from the recordkeeping requirements of this subsection.

- 1 3. Prescribe all labels, seals, certificates, or similar statements that must be used for,
2 or in relation to, any seed, or the various kinds and qualities grown, handled,
3 stored, held for sale, sold, or offered or exposed for sale in this state as "breeders",
4 "foundation", "registered", or "certified" seed, and shall specify what words, terms,
5 or figures such labels, seals, certificates, or the containers of such seed must bear.
- 6 4. Cooperate with the managers of any seed conditioning plants, or any commercially
7 established seed firm, or any person within or outside of the state having proper
8 facilities and equipment to store, condition, and otherwise handle seed which is
9 eligible for certification, for the purposes of handling and marketing "breeders",
10 "foundation", "registered", or "certified" seed.
- 11 5. Cooperate in the selection, testing, and growing of seed for certification purposes
12 and in the arrangement for increase of foundation seed stocks suitable for the
13 production of certified seed.
- 14 6. Establish an equitable schedule of fees and charges, which must be uniform
15 throughout the state, for inspecting, testing, analyzing, and recording ~~such~~ the
16 seed, and for other work and duties incident to the growing, handling, marketing,
17 and certifying of North Dakota seed, and shall collect all ~~such~~ the fees and
18 charges.

19 **SECTION 23. AMENDMENT.** Section 4-09-17.1 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **4-09-17.1. Plant Variety Protection Act.** Any seed advertised, offered for sale, or sold
22 by variety name and for which a certificate of plant variety protection has been issued under the
23 Plant Variety Protection Act, as amended, [Pub. L. 91-577; 84 Stat. 1551; 7 U.S.C. 2481
24 et seq., effective as of July 1, ~~2004~~ 2005] as being for sale only as a class of certified seed
25 must be certified by an official seed certifying agency in order for the seed to be advertised,
26 offered for sale, or sold by variety name in the state of North Dakota. Seed from a certified lot
27 may be labeled as to variety name when used in a blend of seed consisting in more than one
28 variety of a kind, each in excess of five percent by weight of the whole, or mixture by or with
29 approval of the owner of the variety.

30 **SECTION 24. AMENDMENT.** Section 4-09-18 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **4-09-18. Certified seed standards.**

2 1. The rules and requirements for certification of crop seeds, other than potatoes,
3 must be those prescribed and set forth in the state seed department bulletin
4 number 51, published in March 1945, and subsequent announcements and
5 revisions of the bulletin.

6 2. The rules and requirements for seed potato certification must be those prescribed
7 and set forth in the state seed department bulletin number 49 as revised in August
8 1950, and subsequent announcements and revisions of the bulletin.

9 **SECTION 25. AMENDMENT.** Section 4-09-20.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **4-09-20.1. Liability of seed commission, seed department, commissioner, and**
12 **certified or noncertified agricultural seed producers.** No warranties of any kind, either
13 expressed or implied, including warranties of merchantability, fitness for a particular purpose, or
14 absence of disease, are made by the ~~state seed~~ commission, ~~the seed~~ department, the
15 commissioner ~~or the commissioner's employees~~, or certified or noncertified agricultural seed
16 producers as to the quantity or quality of the crop produced from the agricultural seeds or as to
17 other produce which is inspected and certified, except as provided in this section. The only
18 warranty made is that the agricultural seeds or other produce were produced, graded, packed,
19 and inspected under the rules of the state seed department or United States department of
20 agriculture. The commissioner ~~and the commissioner's employees function~~ functions and
21 ~~serve~~ serves only in an official regulatory manner.

22 **SECTION 26. AMENDMENT.** Section 4-09-20.2 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **4-09-20.2. Seed arbitration board - Petition - Arbitration hearing.**

25 1. The state seed arbitration board consists of the agriculture commissioner, the state
26 seed commissioner, the director of the North Dakota state university extension
27 service, the director of the North Dakota agricultural experiment station, the chair of
28 the North Dakota seed trade committee of the North Dakota agriculture
29 association, and a representative of a major North Dakota farm organization
30 appointed by the agriculture commissioner, or an authorized designee. Each
31 board member is entitled to receive as per diem compensation sixty-two dollars

1 and fifty cents, and reimbursement of expenses as provided by law for state
2 officers, while attending meetings or performing duties directed by the board,
3 except that compensation under this section may not be paid to any member who
4 receives compensation or salary as a regular state employee or official.
5 Compensation and expenses for board members who do not receive
6 compensation or salary as a regular state employee or official must be paid by the
7 department of agriculture.

8 2. A seed labeler, seed dealer, or seed customer may petition the agriculture
9 commissioner in writing for a hearing to settle a dispute involving a seed
10 transaction. The agriculture commissioner shall submit the dispute to the seed
11 arbitration board, and the board shall arbitrate the dispute. The board, within thirty
12 days after the hearing, shall make a nonbinding recommendation for the resolution
13 of the dispute. Evidence presented to the board and any findings or
14 recommendations by the board are admissible as evidence in any subsequent
15 proceeding. The board shall adopt rules and procedures for arbitration
16 proceedings, including a formula for reimbursement by the parties of the expenses
17 of the arbitration process.

18 **SECTION 27. AMENDMENT.** Section 4-09.1-02 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **4-09.1-02. Seed commissioner - Duties.** The commissioner may establish commodity
21 grades and inspection services for the purpose of making inspection and otherwise providing
22 for the proper handling and marketing of the agricultural commodities ~~defined in this chapter~~
23 ~~and may adopt rules necessary for and consistent with the provisions of this chapter.~~ The
24 commissioner shall appoint a chief inspector and other agents, inspectors, assistants, and
25 clerical aides as are necessary to assist, represent, and act for the commissioner in carrying out
26 the provisions of this chapter. The commissioner shall fix the salaries of employees of the
27 commission within the limits of legislative appropriations ~~therefor.~~

28 **SECTION 28. AMENDMENT.** Section 4-09.1-06 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **4-09.1-06. Administrative procedure and judicial review.** The commissioner may
31 adopt rules to administer this chapter. Any proceeding under this chapter for issuing or

1 modifying rules and determining compliance with rules of the commission or commissioner
2 must be conducted in accordance with chapter 28-32 and appeals may be taken as provided in
3 chapter 28-32.

4 **SECTION 29. AMENDMENT.** Section 4-25-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4-25-01. Definitions Definition of agricultural seed.** In this chapter unless the
7 context or subject matter otherwise requires:

- 8 1. ~~The~~ the term "agricultural seed" includes seeds of grass, forage, cereals, fiber, and
9 oil crops, and any other kinds of seeds commonly recognized within this state as
10 agricultural or field seeds and mixtures of such seeds for sowing or planting
11 purposes.
- 12 2. ~~"Person" means any individual, partnership, corporation, limited liability company,~~
13 ~~company, society, or association, except a farmer resident of North Dakota who~~
14 ~~may sell seed of that person's own production.~~

15 **SECTION 30. AMENDMENT.** Section 4-25-02 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **4-25-02. Prohibitions.**

- 18 1. It is unlawful for any person in this state to accept full or partial payment in
19 connection with the sale of any agricultural seeds to be delivered to the buyer at a
20 later date, unless each and every transaction is accompanied by a written sales
21 agreement or contract which must contain thereon the following provisions:
- 22 1. a. The date and place of the transaction.
- 23 2. b. The signature and address of the buyer and the seller or the agent acting for
24 the seller.
- 25 3. c. The number of units and the price per unit.
- 26 4. d. The total value of the transaction.
- 27 5. e. The total amount of the full or partial payment made to the seller by the buyer.
- 28 6. f. The kind and variety of seed for wheat, durum, barley, oats, rye, flax,
29 soybeans, and edible beans.
- 30 7. g. The class of the seed to be delivered, and if the seed is not certified, then the
31 minimum germination and seed purity percentages must be stated. If the

1 seed is certified, the words "breeders", "foundation", "registered", or
2 "certified", as the case may be, must be shown.

3 ~~8.~~ h. The date of delivery or the latest date at which delivery is to be made.

4 ~~9.~~ i. The place of delivery.

5 2. Any provision in any written order or contract, which is contrary to any of the
6 provisions of this section hereby is declared to be against public policy and void.

7 3. A farmer resident of this state is exempt from the prohibitions of this section if the
8 farmer sells seed of the farmer's own production.

9 **SECTION 31. AMENDMENT.** Section 4-25-03 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **4-25-03. Penalty.** Any person violating the provisions of ~~sections 4-25-01 and section~~
12 ~~4-25-02~~ is guilty of a class B misdemeanor.

13 **SECTION 32. AMENDMENT.** Section 4-25-04 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **4-25-04. ~~Repurchase contracts—Bonding requirement for nonresident seed~~**
16 **dealers Nonresident seed dealers license.** ~~Any nonresident person or that person's agent~~
17 ~~shall pay an annual license fee of twenty five dollars to the commissioner before engaging in~~
18 ~~the business of selling any agricultural grain or grass seed and entering into any contract with a~~
19 ~~purchaser whereby that person agrees to purchase or retains an option to purchase the grain or~~
20 ~~grass seed or feed grain produced. The license is renewable annually on January first of each~~
21 ~~year. At the time of applying for a license, the applicant shall furnish a corporate surety bond to~~
22 ~~be approved by the commissioner in the penal sum of ten thousand dollars running to the state~~
23 ~~of North Dakota for the use and benefit of any such purchaser of seed or seller under a~~
24 ~~repurchase contract or option, who may have a claim for relief against any seller or repurchaser~~
25 ~~who fails to comply with the terms of the purchase or repurchase contract. All fees collected~~
26 ~~under this section must be deposited in the seed department revolving fund. With any~~
27 nonresident person engaged in the business in selling agricultural seed directly to the consumer
28 in this state shall submit an application on an annual basis for a nonresident seed dealers
29 license and submit an annual license fee, in an amount determined by the commission to the
30 state seed department. A list of agents representing the nonresident company in this state
31 must accompany the application.

- 1 **SECTION 33. REPEAL.** Sections 4-09-03.1, 4-09-10.1, and 4-09-14.3 of the North
- 2 Dakota Century Code are repealed.