

Introduced by

Agriculture and Veterans Affairs Committee

(At the request of the State Seed Department)

1 A BILL for an Act to amend and reenact subsection 1 of section 4.1-53-48, subsection 3 of
2 section 4.1-53-57, subsection 2 of section 4.1-53-61, subsection 2 of section 4.1-55-17, and
3 section 4.1-57-22 of the North Dakota Century Code, relating to requirements for certification
4 under the plant variety protection act; and to provide a penalty.

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

6 **SECTION 1. AMENDMENT.** Subsection 1 of section 4.1-53-48 of the North Dakota Century
7 Code is amended and reenacted as follows:

8 1. If a certificate of plant variety protection issued under the Plant Variety Protection Act
9 [7 U.S.C. 2121 et seq.], as amended through July 31, ~~2020~~2022, specifies that the
10 variety may be sold only as a class of certified seed, that seed must be certified by an
11 official seed-certifying agency before it can be advertised for sale, offered for sale, or
12 sold.

13 **SECTION 2. AMENDMENT.** Subsection 3 of section 4.1-53-57 of the North Dakota Century
14 Code is amended and reenacted as follows:

15 3. Any person found guilty of violating this chapter or the rules implementing this chapter
16 is subject to a civil penalty in an amount not to exceed ten thousand dollars for each
17 violation. The civil penalty may be imposed ~~by a court in a civil proceeding or~~ by the
18 seed commissioner. The seed commissioner may make application to the district court
19 to compel payment of civil penalties imposed under this section.

20 **SECTION 3. AMENDMENT.** Subsection 2 of section 4.1-53-61 of the North Dakota Century
21 Code is amended and reenacted as follows:

22 2. Seed grown by a producer and sold by that producer without advertising and without
23 using a third party as an agent or broker to effect the sale, provided this exemption is

1 not applicable if the seed is a variety protected by the Plant Variety Protection Act
2 [7 U.S.C. 2321 et seq.], as amended through July 31, ~~2020~~2022.

3 **SECTION 4. AMENDMENT.** Subsection 2 of section 4.1-55-17 of the North Dakota Century
4 Code is amended and reenacted as follows:

5 2. Any person willfully violating this chapter is subject to a civil penalty in an amount not
6 exceeding ten thousand dollars for each violation. The civil penalty may be imposed
7 by ~~a court in a civil proceeding or by~~ the seed commissioner. The seed commissioner
8 may make application to the district court to compel payment of civil penalties imposed
9 under this section.

10 **SECTION 5. AMENDMENT.** Section 4.1-57-22 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **4.1-57-22. Violations of chapter - Penalty.**

13 1. A person is guilty of a class A misdemeanor and subject to a civil penalty in an amount
14 up to ~~one~~ten thousand dollars per violation, which may be imposed ~~by a court or by~~
15 the seed commissioner in an administrative hearing, if the person:

16 1. a. Makes any false statement or report as to the grade, condition, markings, quality,
17 or quantity of potatoes received or delivered, or acts in a manner designed to
18 deceive the consignor or purchaser of the potatoes;

19 2. b. Breaches any contract for the purchase or sale of potatoes to which the person
20 was a party unless the breach is based on a state inspection certificate, secured
21 with reasonable promptness after receipt of the shipment and showing that the
22 kind or quality of potatoes is not that which was purchased or ordered;

23 3. c. Fails to account for potatoes or to pay for potatoes within the time required by
24 this chapter;

25 4. d. Purchases for the person's own account any potatoes received on consignment,
26 either directly or indirectly, without the consent of the consignor;

27 5. e. Issues false or misleading market quotations;

28 6. f. Cancels any quotations during the period advertised by the person;

29 7. g. Makes any false or misleading statement on an application for licensure as a
30 wholesale potato dealer;

31 8. h. Increases the sales charges on shipped potatoes by means of fictitious sales;

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- 1 9. i. Receives potatoes from foreign states or countries for sale or resale, within or
2 outside this state, and gives the purchaser the impression through any method of
3 advertising or description that the potatoes are from a source other than their true
4 origin; or
- 5 ~~10.~~ j. Violates this chapter or any rule implementing this chapter.
- 6 2. The seed commissioner may make application to the district court to compel payment
7 of civil penalties imposed under this section.