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

SENATE BILL NO. 2025
(Legislative Management)
(Agriculture Committee)

AN ACT to create and enact chapter 4.1-16 of the North Dakota Century Code, relating to beekeeping; to amend and reenact section 4.1-08-03 of the North Dakota Century Code, relating to the submission of assessments by beekeepers; to repeal chapter 4-12.2 of the North Dakota Century Code, relating to beekeeping; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 4.1-08-03 of the North Dakota Century Code is amended and reenacted as follows:

4.1-08-03. Submission of assessments - Civil penalty.

1. Each beekeeper shall submit the assessment required by section 4.1-08-02 to the commissioner at the same time the beekeeper submits the license application required by section ~~4-12.2-04~~4.1-16-02.

2. If a beekeeper fails to submit the assessment as required by this section, the commissioner may impose a penalty equal to five percent of the amount due, plus interest at the rate of six percent per annum from the due date.

SECTION 2. Chapter 4.1-16 of the North Dakota Century Code is created and enacted as follows:

4.1-16-01. Definitions.

In this chapter, unless the context otherwise requires:

1. "Apiary" means the site at which one or more colonies of bees are kept.

2. "Bee" means a honey-producing insect of the genus Apis, including all stages of its life.

3. "Beekeeper" means a person who by virtue of ownership or a lease is responsible for the maintenance of bees located in or placed in this state.

4. "Colony" means a familial group of adult bees consisting of drones, workers, and a queen.

5. "Hive" means a manmade structure that houses a colony.

4.1-16-02. Beekeeper's license - Application - Declaration.

1. Before a person may act as a beekeeper in this state, the person must be licensed by the agriculture commissioner.

2. To obtain a beekeeper's license, a person must complete an application and submit it to the commissioner.

3. The application must include:

   a. The applicant's name, address, and telephone number;

   b. The maximum number of colonies to be located in or placed in this state; and

c. The name, address, and telephone number of a resident agent who is authorized to accept service of process.

4. As a condition of licensure, the applicant shall declare that:

a. An apiary will not be placed at a location without first obtaining the consent of the property owner; and

b. An apiary will be relocated at the request of the agriculture commissioner if:

(1) The commissioner, after examining documentary evidence, has determined that the health or welfare of an individual is endangered as a result of the apiary's location;

(2) The individual referenced in paragraph 1 resides on land contiguous to that on which the apiary has been placed;

(3) The commissioner has identified another acceptable location for placement of the apiary; and

(4) There are no other contractual or other legal impediments to the relocation.

4.1-16-03. Beekeeper's license - Application of minor - Liability.

An individual who is less than eighteen years of age may be licensed as a beekeeper, if that individual's application for license is signed by the individual's parent. Any civil or administrative liability for a violation of this chapter by a beekeeper who is less than eighteen years of age is imputed to the parent who signed the application. The parent is jointly and severally liable with the beekeeper.

4.1-16-04. Beekeeper's license - Transferability - Expiration.

1. A beekeeper's license issued under this chapter is not transferable.

2. A beekeeper's license issued under this chapter expires on December thirty-first.

4.1-16-05. License - Grounds for denial.

The agriculture commissioner may refuse to grant a license to any person who:

1. Has repeatedly violated this chapter;

2. Failed to pay an adjudicated civil penalty for violating this chapter, within thirty days after a final determination that the civil penalty is owed; or

3. Provided false or misleading information in connection with any application or notification required by this chapter.

4.1-16-06. License fee.

The fee for a beekeeper's license is five dollars.

4.1-16-07. Colony assessment.

In addition to the license fee required by section 4.1-16-06, an applicant for a license must submit a colony assessment in an amount equal to fifteen cents multiplied by the maximum number of colonies listed in the application.

4.1-16-08. Apiary location - Notification.

1. Before placing or locating hives in this state, a beekeeper shall notify the agriculture commissioner of:

a. (1) The location of each apiary to the nearest section, quarter section, township, and range, and, if within the corporate limits of a city, the number or name of the lot, block, and addition in the city; or

(2) The location of each apiary using satellite navigation system coordinates; and

b. The name of the person who owns or leases the property on which the apiary is located.

2. The notification required by this section may be provided to the commissioner in written or in electronic format.

4.1-16-09. Identification of apiary.

1. A beekeeper shall identify each apiary for which the beekeeper is responsible by:

a. Affixing a three-digit identification number, assigned by the agriculture commissioner, to the uppermost box of a hive that is visible upon approach to the apiary's main entrance, provided each digit is at least three inches [7.62 centimeters] high, one-half inch [1.27 centimeters] wide, and weather-resistant; and

b. Displaying the beekeeper's name and phone number in a location that is visible upon approach to the apiary's main entrance, provided the numbers and letters used are at least one and one-half inches [3.81 centimeters] high and weather-resistant.

2. Any apiary that is not identified, as required by this section, may be subject to seizure by the commissioner.

4.1-16-10. Unidentified apiary - Notice - Seizure.

1. If the agriculture commissioner determines that an apiary is not identified, as required by section 4.1-16-09, and if after making a reasonable effort the commissioner fails to identify the beekeeper responsible for the apiary, the commissioner shall publish in the official newspaper of the county in which the apiary is located, a notice indicating that at a time certain, all of the colonies, the hives, including their content, and all beekeeping equipment present at the apiary, will be seized and sold at auction or destroyed, unless the beekeeper or other responsible person appears to claim the property and pay for any costs incurred by the commissioner under this section.

2. A seizure under this section may not occur until at least the sixth day after the date of the published notice.

4.1-16-11. Confiscation and disposal.

Except as provided for in section 4.1-16-10, the agriculture commissioner or a law enforcement officer may confiscate bees, hives, or beekeeping equipment, being transported or maintained in violation of this chapter. Any bees, hives, or beekeeping equipment, confiscated under this section, must be disposed of pursuant to a court order or an administrative order issued by the commissioner.

4.1-16-12. Agriculture commissioner - Powers.

The agriculture commissioner may:

1. Assist farmers in identifying beekeepers who provide pollination services; and

2. Enter upon private land during daylight hours, for the purpose of enforcing this chapter. Except when conducting an inspection in accordance with section 4.1-16-13, the commissioner shall first make a good faith effort to notify the owner of the land or a lessee regarding the entry.

4.1-16-13. Agriculture commissioner - Inspection of apiary - Issuance of certificate.

At the request of a beekeeper, the agriculture commissioner shall inspect an apiary for the purpose of issuing a certificate of inspection or other official document or validation. The commissioner may charge a fee to cover the costs of inspecting an apiary under this section.

4.1-16-14. Agriculture commissioner - Inspection of apiary - Noncertification purposes.

The agriculture commissioner may:

1. At the request of a beekeeper, inspect apiaries for any purpose other than the issuance of a certificate of inspection or other official document or validation; and

2. Charge a fee to cover the costs of inspecting an apiary under subsection 1.

4.1-16-15. Quarantine - Declaration - Hearing - Penalty.

1. a. If the agriculture commissioner determines that a quarantine of this state or any portion thereof may be necessary to eradicate or control the spread of disease, insects, or pests, within the apicultural industry, the commissioner shall schedule a public hearing on the matter and provide notice of the hearing by publishing its time, place, and date in the official newspaper of each county having land within the proposed quarantine area.

   b. If after the hearing the commissioner orders the imposition of a quarantine, the order must include the date by which or the circumstances under which the commissioner shall lift the quarantine order.

2. If the commissioner determines that the imposition of an emergency quarantine is necessary to eradicate or control the spread of disease, insects, or pests, within the apicultural industry, the commissioner may impose such an order for a period not exceeding fourteen days. Within the fourteen-day period, the commissioner shall hold a public hearing as provided for in subsection 1 and determine whether a quarantine order under subsection 1 should be imposed.

3. Following the establishment of a quarantine, the movement of any colonies, hives, or other beekeeping equipment, described in the quarantine order, is subject to the order.

4. For purposes of this section, "insects" include Africanized honeybees.

4.1-16-16. Service of process.

If neither the beekeeper nor the beekeeper's registered agent can be located for the purpose of serving process, in connection with a violation of this chapter or rules adopted to implement this chapter, the agriculture commissioner becomes the statutory agent for service of process and any service upon the commissioner is deemed to be complete.

4.1-16-17. Penalties.

1. A person violating this chapter is guilty of a class A misdemeanor.

2. In addition to criminal sanctions that may be imposed pursuant to subsection 1, a person found to have violated this chapter or rules adopted under this chapter is subject to a civil penalty not to exceed five thousand dollars per violation. The civil penalty may be adjudicated by a court or by the agriculture commissioner through an administrative hearing pursuant to chapter 28-32.

3. The commissioner may maintain a civil action in the name of the state against any person violating this chapter.

4. The violation of any condition of licensure, as set forth in section 4.1-16-02, is deemed to be a violation of this chapter.

4.1-16-18. Beekeeping - Agricultural practice.

Beekeeping is deemed to be an agricultural practice.

SECTION 3. REPEAL. Chapter 4-12.2 of the North Dakota Century Code is repealed.

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. 2025.

Senate Vote:	Yeas 47	Nays 0	Absent 0
House Vote:	Yeas 72	Nays 18	Absent 4

Secretary of the Senate

Received by the Governor at 2:23 P. M. on March 27, 2015.

Approved at 2:20 P. M. on March 30, 2015.

Governor

Filed in this office this 31st day of March, 2015,

at 8:17 o'clock A M.

Secretary of State