

**OPINION**  
**65-202**

February 8, 1965 (OPINION)

Mr. Arne Dahl, Commissioner

Department of Agriculture and Labor

RE: Narcotics - Marihuana - Legality of Growing

In your letter to this office, dated February 3, 1965, you say:

"We have received an inquiry from Charles J. Klick, Acting District Supervisor, Bureau of Narcotics, Minneapolis, regarding the growing of marihuana. They have an application from the Peter J. Schweitzer Division of the Kimberly-Clark Corporation, Windom, Minnesota, to grow marihuana in the state of North Dakota for the manufacture of paper.

"This was referred to the Extension Division, State University, Fargo, and they have advised that neither they nor the College of Pharmacy have any responsibility or authority to grant permission for the growing of marihuana in North Dakota."

You then request an opinion as to whether or not it is legal to seed and grow marihuana in the state of North Dakota.

Marihuana is a "narcotic drug" as that term is defined in the North Dakota Century Code. (See subsection 13 of section 19-03-01 of the North Dakota Century Code.) As such, its growth and dispersal is regulated by state law. (See chapter 19-03 of the North Dakota Century Code, as amended.)

Section 19-03-02 of the North Dakota Century Code, as amended, provides as follows:

"19-03-02. ACTS PROHIBITED - PENALTY. It shall be unlawful for any person to grow, manufacture, possess, have under his control, sell, prescribe, administer, dispense, furnish, give away, trade, or compound any narcotic drug, except as authorized in this chapter. Any person violating any of the provisions of this section shall be guilty of a felony and shall be punished by a fine of not more than ten thousand dollars or by imprisonment at hard labor in the penitentiary for not more than ninety-nine years, or by both such fine and imprisonment."

Section 19-03-03 of the North Dakota Century Code provides:

"MANUFACTURERS AND WHOLESALERS. - No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the department."

The department to which reference is made in section 19-03-03 is the State Laboratories Department. (See subsection 1 of section 19-01-01 of the North Dakota Century Code.)

Certain conditions are prescribed before a license can be issued by the State Laboratories Department under section 19-03-04, and other restrictions are placed upon the manufacturer of narcotic drugs. To specifically answer your question, however, marihuana can, subject to restrictions mentioned in passing above, be seeded and grown in the state of North Dakota.

HELGI JOHANNESON

Attorney General