



AN ACT REVISING THE LICENSING REQUIREMENTS AND FEES FOR FIRMS, NURSERIES, PLANT DEALERS, AND SMALL PLANT VENDORS THAT SELL OR DISTRIBUTE NURSERY STOCK; PROVIDING FOR RECIPROCAL LICENSURE; EXEMPTING CERTAIN FIRMS, NURSERIES, PLANT DEALERS, AND SMALL PLANT VENDORS FROM LICENSURE; IMPOSING A FEE FOR CERTAIN PLANT INSPECTIONS; REQUIRING THE DEPARTMENT OF AGRICULTURE TO ADOPT RULES; REQUIRING THE DEPARTMENT OF AGRICULTURE TO INCLUDE THE ACTUAL COSTS OF INSPECTION, SURVEYS, AND OTHER SERVICES IN THE FEE FOR CERTAIN PLANT INSPECTIONS; ESTABLISHING A MINIMUM AND MAXIMUM HOURLY FEE FOR INSPECTIONS; AMENDING SECTIONS 80-7-106 AND 80-7-108, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 80-7-106, MCA, is amended to read:

**"80-7-106. License required -- application and payment of license fee -- exemption.** (1) ~~(a) A~~ Except as provided in subsection (1)(b), a firm, nursery, or plant dealer, or small plant vendor engaging in the business of selling or distributing nursery stock in this state shall obtain a license from the department. If the firm, nursery, or plant dealer, or small plant vendor is required to be licensed and sells or distributes nursery stock ~~at more than one location, the firm, nursery, or plant dealer shall obtain:~~

~~— (a) one license if its combined annual gross sales are less than \$10,000; and~~

~~— (b) a license for each location if its gross annual sales are \$10,000 or more, the firm, nursery, plant dealer, or small plant vendor shall obtain a license for each taxpayer identification number the firm, nursery, plant dealer, or small plant vendor uses when selling or distributing nursery stock.~~

(b) A firm, nursery, plant dealer, or small plant vendor is not required to obtain a license in Montana if the firm, nursery, plant dealer, or small plant vendor:

(i) is licensed as a nursery in another state and the state in which the firm, nursery, plant dealer, or small plant vendor is licensed grants nonresident licenses to residents of this state on the same basis; or

(ii) operates only in Montana and has less than \$1,000 in gross annual sales of nursery stock.

(2) The license must be in the name of the firm, nursery, ~~or plant dealer,~~ or small plant vendor seeking the license and expires on the anniversary date established by rule by the board of review established in 30-16-302. The applicant shall provide information that the department finds necessary to carry out the provisions and purposes of this chapter and in the form determined by rule by the board of review established in 30-16-302.

~~(3) A small plant vendor must be licensed but is exempt from the license fee requirements of this section.~~

~~———— (4)(3) (a) A firm, nursery, or plant dealer, or small plant vendor that earns at least \$1,000 but less than \$1,000 \$5,000 in gross annual sales of nursery stock must be licensed but is exempt from licensing fees.~~

~~———— (b) A firm, nursery, or plant dealer that earns \$1,000 but less than \$3,000 in gross annual sales of nursery stock shall pay a license fee of \$50 \$25.~~

~~(c)(b) A firm, nursery, or plant dealer, or small plant vendor that earns \$3,000 but less than \$10,000 \$5,000 or more in gross annual sales of nursery stock shall pay a license fee of \$125 \$100.~~

~~(d) A firm, nursery, or plant dealer that earns \$10,000 or more in gross annual sales of nursery stock shall pay a license fee of \$160.~~

~~(5)(4) The department may seek verification from the department of revenue as to whether a firm, nursery, plant dealer, or small plant vendor has met the income thresholds established in this section have been met.~~

~~(6)(5) A new applicant or a firm, nursery, or plant dealer, or small plant vendor failing to renew a license on or before the annual anniversary date provided for in subsection (2) shall pay an additional nonrefundable late fee of \$25 for each license.~~

~~(7)(6) The fees required by the provisions of this section may be paid by credit card and may be discounted for payment processing charges paid by the department to a third party."~~

**Section 2.** Section 80-7-108, MCA, is amended to read:

**"80-7-108. Nursery stock inspection -- fees.** (1) The department:

(a) may enter the premises of a licensed firm, nursery, or plant dealer, or of a small plant vendor during regular business hours for the purpose of inspecting nursery stock or other materials for possible plant pests or for determining licensure compliance. An inspection fee may not be assessed if the department requests the inspection; and

(b) shall, pursuant to rules promulgated by the department, determine the schedule, the need for inspections based on complaints received and the department's assessment of risk to the state from potential plant pests, and the expected amount of time for the inspections.

(2) A firm, nursery, plant dealer, or small plant vendor may request the inspection of nursery stock, plants, or other materials by giving the department 5 days' notice prior to the time when the nursery stock, plants, or other materials are ready for inspection. ~~A firm, nursery, plant dealer, or small plant vendor requesting an inspection shall pay a fee as established by department rule.~~ The fee ~~firm, nursery, plant dealer, or small plant vendor shall pay a fee to the department for an inspection conducted pursuant to this section. The fee~~ must cover the actual costs of inspection, surveys, and other services ~~required to issue the plant inspection certificate performed by the department and may not be less than \$42 per hour or more than \$50 per hour as established~~ by department rule.

(3) The department may issue a plant inspection certificate based on the results of a nursery stock or other plant inspection or inspection survey."

**Section 3. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
SB 0126, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

SENATE BILL NO. 126

INTRODUCED BY C. LARSEN, T. BROWN

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