

## SENATE BILL NO. 126

INTRODUCED BY C. LARSEN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LICENSING FEES FOR FIRMS, NURSERIES, AND  
5 PLANT DEALERS THAT SELL OR DISTRIBUTE NURSERY STOCK; PROVIDING FOR RECIPROCAL  
6 LICENSURE; EXEMPTING SMALL PLANT VENDORS FROM LICENSURE; REQUIRING THE DEPARTMENT  
7 OF AGRICULTURE TO ADOPT RULES; PROHIBITING THE DEPARTMENT OF AGRICULTURE FROM  
8 ASSESSING A FEE FOR CERTAIN PLANT INSPECTIONS; ESTABLISHING A MINIMUM AND MAXIMUM  
9 HOURLY FEE FOR INSPECTIONS; AMENDING SECTIONS 80-7-106 AND 80-7-108, MCA; AND PROVIDING  
10 AN EFFECTIVE DATE."

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

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14 **Section 1.** Section 80-7-106, MCA, is amended to read:  
15 **"80-7-106. License required -- application and payment of license fee -- exemption.** (1) (a) A  
16 Except as provided in subsection (1)(b), a firm, nursery, or plant dealer engaging in the business of selling or  
17 distributing nursery stock in this state shall obtain a license from the department. If the firm, nursery, or plant  
18 dealer sells or distributes nursery stock at more than one location, the firm, nursery, or plant dealer shall obtain:  
19 (a)(i) one license if its combined annual gross sales are less than \$10,000 \$5,000; and  
20 (b)(ii) a license for each location if its gross annual sales are \$10,000 \$5,000 or more.  
21 (b) A firm, nursery, or plant dealer licensed as a nursery in another state is not required to obtain a  
22 license in Montana if the state in which the firm, nursery, or plant dealer is licensed grants nonresident licenses  
23 to residents of this state on the same basis.  
24 (2) The license must be in the name of the firm, nursery, or plant dealer seeking the license and expires  
25 on the anniversary date established by rule by the board of review established in 30-16-302. The applicant shall  
26 provide information that the department finds necessary to carry out the provisions and purposes of this chapter  
27 and in the form determined by rule by the board of review established in 30-16-302.  
28 ~~(3) A small plant vendor must be licensed but is exempt from the license fee requirements of this section.~~  
29 ~~—————(4)(3) (a) A firm, nursery, or plant dealer that earns less than \$1,000 \$5,000 in gross annual sales of~~  
30 ~~nursery stock must be licensed but is exempt from licensing fees.~~

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

3 ~~(c)(b) A firm, nursery, or plant dealer that earns \$3,000 but less than \$10,000 \$5,000 or more in gross~~  
 4 ~~annual sales of nursery stock shall pay a license fee of \$125 \$95.~~

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

7 ~~(5)(4) The department may seek verification from the department of revenue as to whether a firm,~~  
 8 ~~nursery, or plant dealer has met the income thresholds established in this section have been met.~~

9 ~~(6)(5) A new applicant or a firm, nursery, or plant dealer failing to renew a license on or before the annual~~  
 10 ~~anniversary date provided for in subsection (2) shall pay an additional nonrefundable late fee of \$25 for each~~  
 11 ~~license.~~

12 ~~(7)(6) The fees required by the provisions of this section may be paid by credit card and may be~~  
 13 ~~discounted for payment processing charges paid by the department to a third party."~~

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

16 **"80-7-108. Nursery stock inspection -- fees.** (1) The department:

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

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

24 (2) (a) A firm, nursery, plant dealer, or small plant vendor may request the inspection of nursery stock,  
 25 plants, or other materials by giving the department 5 days' notice prior to the time when the nursery stock, plants,  
 26 or other materials are ready for inspection. A firm, nursery, plant dealer, or small plant vendor requesting an  
 27 inspection shall pay a fee of not less than \$42 per hour and not more than \$50 per hour as established by  
 28 department rule.

29 (b) A firm, nursery, plant dealer, or small plant vendor may not be charged a fee for an inspection of  
 30 nursery stock, plants, or other materials if the inspection is initiated by the department under the department's

1 authority.

2 (c) The fee imposed in subsection (2)(a) must cover the actual costs of inspection, surveys, and other  
3 services required to issue the plant inspection certificate.

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

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7 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2011.

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