62nd Legislature

1	SENATE BILL NO. 126		
2	INTRODUCED BY C. LARSEN, T. BROWN		
3			
4	A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LICENSING REQUIREMENTS AND FEES FOR		
5	FIRMS, NURSERIES, AND PLANT DEALERS, AND SMALL PLANT VENDORS THAT SELL OR DISTRIBUTE		
6	NURSERY STOCK; PROVIDING FOR RECIPROCAL LICENSURE; EXEMPTING SMALL PLANT VENDORS		
7	FROM LICENSURE EXEMPTING CERTAIN FIRMS, NURSERIES, PLANT DEALERS, AND SMALL PLANT		
8	VENDORS FROM LICENSURE; IMPOSING A FEE FOR CERTAIN PLANT INSPECTIONS; REQUIRING THE		
9	DEPARTMENT OF AGRICULTURE TO ADOPT RULES; PROHIBITING REQUIRING THE DEPARTMENT OF		
10	AGRICULTURE FROM ASSESSING A TO INCLUDE THE ACTUAL COSTS OF INSPECTION, SURVEYS, AND		
11	OTHER SERVICES IN THE FEE FOR CERTAIN PLANT INSPECTIONS; ESTABLISHING A MINIMUM AND		
12	MAXIMUM HOURLY FEE FOR INSPECTIONS; AMENDING SECTIONS 80-7-106 AND 80-7-108, MCA; AND		
13	PROVIDING AN <u>IMMEDIATE</u> EFFECTIVE DATE."		
14			
15	BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:		
16			
16 17	Section 1. Section 80-7-106, MCA, is amended to read:		
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17			
17 18	"80-7-106. License required application and payment of license fee exemption. (1) (a) A		
17 18 19	"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, <u>OR SMALL PLANT VENDOR</u> engaging in the		
17 18 19 20	"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, <u>OR SMALL PLANT VENDOR</u> engaging in the business of selling or distributing nursery stock in this state shall obtain a license from the department. If the firm,		
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17 18 19 20 21 22	"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, OR SMALL PLANT VENDOR shall obtain:		
17 18 19 20 21 22 23	"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, <u>OR SMALL PLANT VENDOR</u> 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, <u>OR SMALL PLANT VENDOR IS REQUIRED TO BE LICENSED AND</u> sells or distributes nursery stock at more than one location, the firm, nursery, or plant dealer, <u>OR SMALL PLANT VENDOR</u> shall obtain: (a)(i) one license if its combined annual gross sales are less than \$10,000 \$5,000; and		
17 18 19 20 21 22 23 24	"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, OR SMALL PLANT VENDOR shall obtain: (a)(i) one license if its combined annual gross sales are less than \$10,000 \$5,000; and (b)(ii) a license for each location if its gross annual sales are \$10,000 \$5,000 or more, THE FIRM, NURSERY,		
 17 18 19 20 21 21 22 23 24 25 	"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, 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, OR SMALL PLANT VENDOR shall obtain: (a)(i) one license if its combined annual gross sales are less than \$10,000 \$5,000; and (b)(ii) a license for each location if its gross annual sales are \$10,000 \$5,000 or more, THE FIRM, NURSERY, 		
 17 18 19 20 21 22 23 24 25 26 	"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, 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, OR SMALL PLANT VENDOR shall obtain: (a)(i) one license if its combined annual gross sales are less than \$10,000 \$5,000; and (b)(ii) a license for each location if its gross annual sales are \$10,000 \$5,000 or more, THE FIRM, NURSERY, PLANT DEALER, OR SMALL PLANT VENDOR USES WHEN SELLING OR DISTRIBUTING NURSERY STOCK. 		
 17 18 19 20 21 22 23 24 25 26 27 	"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, 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, OR SMALL PLANT VENDOR shall obtain: (a)(i) one license if its combined annual gross sales are less than \$10,000 \$5,000; and (b)(ii) a license for each location if its gross annual sales are \$10,000 \$5,000 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, or plant dealer, OR SMALL PLANT VENDOR IS NOT REQUIRED TO OBTAIN A LICENSE IN		
 17 18 19 20 21 22 23 24 25 26 27 28 	"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, 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, OR SMALL PLANT VENDOR shall obtain:		



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1	residents of this state on the same basis;		
2	(II) OPERATES ONLY IN MONTANA AND HAS LESS THAN \$1,000 IN ANNUAL SALES OF NURSERY STOCK; OR		
3	(III) BUYS ALL OF ITS NURSERY STOCK FROM ONE OR MORE LICENSED FIRMS, NURSERIES, PLANT DEALERS, OR		
4	SMALL PLANT VENDORS.		
5	(C) A FIRM, NURSERY, PLANT DEALER, OR SMALL PLANT VENDOR THAT IS NOT REQUIRED TO OBTAIN A LICENS		
6	PURSUANT TO SUBSECTION (1)(B)(III) SHALL PROVIDE ITS ADDRESS OR PRIMARY BUSINESS LOCATION AND THE NAME AN		
7	CONTACT INFORMATION OF ITS PRINCIPAL CONTACT PERSON TO THE DEPARTMENT.		
8	(2) The license must be in the name of the firm, nursery, or plant dealer, OR SMALL PLANT VENDOR seekin		
9	the license and expires on the anniversary date established by rule by the board of review established in		
10	30-16-302. The applicant shall provide information that the department finds necessary to carry out the provisions		
11	and purposes of this chapter and in the form determined by rule by the board of review established in 30-16-302.		
12	(3) A small plant vendor must be licensed but is exempt from the license fee requirements of this section.		
13	(4)(3) (a) A firm, nursery, or plant dealer <u>, OR SMALL PLANT VENDOR</u> that earns <u>AT LEAST \$1,000 BUT</u> less		
14	than \$1,000 \$5,000 in gross annual sales of nursery stock must be licensed but is exempt from licensing fees.		
15	(b) A firm, nursery, or plant dealer that earns \$1,000 but less than \$3,000 in gross annual sales of		
16	nursery stock shall pay a license fee of \$50 <u>\$25</u> .		
17	(c) (b) A firm, nursery, or plant dealer <u>, OR SMALL PLANT VENDOR</u> that earns \$3,000 but less than \$10,00		
18	<u>\$5,000 or more</u> in gross annual sales of nursery stock shall pay a license fee of \$125 \$95 \$100.		
19	(d) A firm, nursery, or plant dealer that earns \$10,000 or more in gross annual sales of nursery stock		
20	shall pay a license fee of \$160.		
21	(5)(4) The department may se	ek verification from the department of revenue as to whether a firm,	
22	nursery, or plant dealer, OR SMALL PLANT VENDOR has met the income thresholds established in this section have		
23	been met.		
24	(6)(5) A new applicant or a firm, nursery, or plant dealer <u>, OR SMALL PLANT VENDOR</u> failing to renew a		
25	license on or before the annual anniversary date provided for in subsection (2) shall pay an additional		
26	nonrefundable late fee of \$25 for each license.		
27	(7)(6) The fees required by the provisions of this section may be paid by credit card and may be		
28	discounted for payment processing charges paid by the department to a third party."		
29			
30	Section 2. Section 80-7-108, MCA, is amended to read:		
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1	"80-7-108. Nursery stock inspection fees. (1) The department:		
2	(a) may enter the premises of a licensed firm, nursery, or plant dealer <u>,</u> or of a small plant vendor during		
3	regular business hours for the purpose of inspecting nursery stock or other materials for possible plant pests or		
4	for determining licensure compliance. An inspection fee may not be assessed if the department requests the		
5	inspection.; and		
6	(b) shall, pursuant to rules promulgated by the department, determine the schedule, and THE need for		
7	inspections based on complaints received and the department's assessment of risk to the state from potential		
8	plant pests, AND THE EXPECTED AMOUNT OF TIME FOR THE INSPECTIONS.		
9	(2) (a) A firm, nursery, plant dealer, or small plant vendor may request the inspection of nursery stock,		
10	plants, or other materials by giving the department 5 days' notice prior to the time when the nursery stock, plants,		
11	or other materials are ready for inspection. A firm, nursery, plant dealer, or small plant vendor requesting an		
12	inspection shall pay a fee <u>of not less than \$42 per hour and not more than \$50 per hour</u> as established by		
13	department rule.		
14	(b) A firm, nursery, plant dealer, or small plant vendor may not be charged a fee for an inspection of		
15	nursery stock, plants, or other materials if the inspection is initiated by the department under the department's		
16	authority.		
17	(c) The f ee <u>imposed in subsection (2)(a)</u> FIRM, NURSERY, PLANT DEALER, OR SMALL PLANT VENDOR SHALL		
18	PAY A FEE TO THE DEPARTMENT FOR AN INSPECTION CONDUCTED PURSUANT TO THIS SECTION. THE FEE MUST COVER the		
19	actual costs of inspection, surveys, and other services required to issue the plant inspection certificate		
20	PERFORMED BY THE DEPARTMENT AND MAY NOT BE LESS THAN \$42 PER HOUR OR MORE THAN \$50 PER HOUR AS		
21	ESTABLISHED BY DEPARTMENT RULE.		
22	(3) The department may issue a plant inspection certificate based on the results of a nursery stock or		
23	other plant inspection or inspection survey."		
24			
25	NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2011 ON PASSAGE AND		
26	APPROVAL.		
27	- END -		



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