

SENATE BILL NO. 22

INTRODUCED BY L. NELSON, E. CLARK, J. KEANE, J. TESTER, J. WITT, L. LEHMAN
BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE MONTANA AGRICULTURAL SEED LAWS TO ESTABLISH NEW LICENSING AND ASSESSMENT FEES, TO ESTABLISH MINIMUM AND MAXIMUM LICENSING AND ASSESSMENT FEES, AND TO AUTHORIZE THE DEPARTMENT OF AGRICULTURE TO ADJUST THESE FEES BY RULE; AMENDING SECTIONS 80-5-130 AND 80-5-131, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

Section 1. Section 80-5-130, MCA, is amended to read:

"80-5-130. Licensing -- application -- fee. (1) All facilities located in the state that condition agricultural seed shall obtain a license from the department for each facility. However, a seed grower, when conditioning only seed from that grower's own production, is not required to be licensed under this part.

(2) Each seed conditioning plant ~~must~~ shall post in a conspicuous location in the facility:

- (a) its fees for conditioning services; and
- (b) the license for the facility.

(3) A person whose name and address appear on the label of agricultural seed sold in Montana, as required by 80-5-123, shall obtain a seed labeler's license from the department before doing business in Montana. The following persons, however, are excluded from the licensing requirements under this subsection:

- (a) a Montana certified seed grower when labeling certified seed from that grower's own production;
- (b) any person who updates germination test data by affixing to the package of seed a supplemental label bearing new germination data, the lot number, and the person's name and address; or
- (c) a Montana grower who labels seed only of that labeler's own production with a gross annual sales value of \$5,000 or less.

(4) A person who sells agricultural seed in Montana shall obtain a seed dealer's license from the department for each place where seed is located or sold, except for:

- (a) a person who sells seed only in sealed packages of 10 pounds or less;
- (b) a person who sells seed that has a gross sales value of \$1,000 or less a year;

(c) a person who sells seed only to a Montana-licensed seed dealer, labeler, or conditioner; or

(d) a Montana grower selling only seed of that grower's own production with a gross annual sales value of \$5,000 or less.

(5) (a) ~~Each type of license for an in-state person costs \$50 a year.~~ Except as provided in this subsection (5), the fee is \$55 a year for each type of license. The department may by rule adjust the license fee by type of license to maintain adequate funding for the administration of this part. The fee may not be less than \$55 a year or more than \$75 a year.

(b) ~~The~~ Except as provided in this subsection (5)(b), the license fee for an out-of-state person selling seed in Montana is \$100 \$110 a year. The department may by rule adjust the license fee to maintain adequate funding for the administration of this part. The fee may not be less than \$110 a year or more than \$150 a year.

~~(c) The license fee for an out-of-state person who labels seed that is being sold in Montana is \$50 a year.~~

~~————(d) The license fee for a person who sells only lawn and turf grass seed is \$50 a year.~~

~~(e)(c) The~~ Except as provided in this subsection (5)(c), the license fee for a Montana grower who sells, or labels, or sells and labels only seed of that grower's own production is \$50 \$55 a year. The department may by rule adjust the license fee to maintain adequate funding for the administration of this part. The fee may not be less than \$55 a year or more than \$75 a year.

(6) An application for a license under this section must be made in a manner and on forms provided by the department. The application must contain ~~among other things~~:

(a) the location of each seed conditioning plant if the application is for a seed conditioning plant license;

(b) a sample label if the application is for a seed labeler license; and

(c) a list of persons selling seed if required by department rule.

(7) Seed dealers shall provide with all shipments of agricultural seed a bill of lading or other evidence of delivery that includes:

(a) the names of:

(i) the seed dealer;

(ii) the shipper, if other than the seed dealer;

(iii) the buyer; and

(iv) the receiver, if other than the buyer; and

(b) the destination where the seed will be first unloaded."

Section 2. Section 80-5-131, MCA, is amended to read:

"80-5-131. Assessment on sales into Montana -- reporting -- rulemaking. (1) ~~Seed~~ Except as provided in this subsection, seed labelers located outside Montana who sell agricultural seed in Montana shall report those sales and pay a fee of ~~15~~ 20 cents per \$100 in gross annual sales of agricultural seed. The department may by rule adjust the assessment fee to maintain adequate funding for the administration of this part. The assessment fee may not be less than 20 cents per \$100 or more than 30 cents per \$100 in gross annual sales of agricultural seed.

(2) The department shall by rule establish:

(a) reporting requirements, including persons who shall report, the form of reports, and the scope of information to be reported;

(b) the due date applicable to reports; and

(c) penalty provisions applicable to reports that are not received by the due date, not to exceed \$10 or 10% of the assessment due, whichever is greater.

(3) Failure to submit the report as required or to pay the assessment in full constitutes a violation subject to the penalty provisions of this chapter."

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

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