



AN ACT REVISING COUNTY WEED LAWS; DEFINING "INTEGRATED WEED MANAGEMENT PROGRAM"; REVISING THE DEFINITION OF "WEED MANAGEMENT" OR "CONTROL"; REVISING REFERENCES TO PESTICIDES AND CHEMICALS; AND AMENDING SECTIONS 7-22-2101, 7-22-2109, 7-22-2121, 7-22-2142, 80-5-120, 80-7-105, 80-7-801, AND 80-7-903, MCA.

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

Section 1. Section 7-22-2101, MCA, is amended to read:

"7-22-2101. Definitions. As used in this part, unless the context indicates otherwise, the following definitions apply:

- (1) "Board" means a district weed board created under 7-22-2103.
- (2) "Commissioners" means the board of county commissioners.
- (3) "Coordinator" means the person employed by the county to conduct the district noxious weed management program and supervise other district employees.
- (4) "Department" means the department of agriculture provided for in 2-15-3001.
- (5) "District" means a weed management district organized under 7-22-2102.
- (6) "Integrated weed management program" means a program designed for the long-term management and control of weeds using a combination of techniques, including hand-pulling, cultivation, use of herbicide, use of biological control, mechanical treatment, prescribed grazing, prescribed burning, education, prevention, and revegetation.

~~(6)~~(7) "Native plant" means a plant indigenous to the state of Montana.

~~(7)~~(8) "Native plant community" means an assemblage of native plants occurring in a natural habitat.

~~(8)~~(9) (a) "Noxious weeds" or "weeds" means any exotic plant species established or that may be introduced in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated:

- (i) as a statewide noxious weed by rule of the department; or

(ii) as a district noxious weed by a board, following public notice of intent and a public hearing.

(b) A weed designated by rule of the department as a statewide noxious weed must be considered noxious in every district of the state.

~~(9)~~(10) "Person" means an individual, partnership, corporation, association, or state or local government agency or subdivision owning, occupying, or controlling any land, easement, or right-of-way, including any county, state, or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, barrow pit, or right-of-way for a canal or lateral.

~~(10)~~(11) "Weed management" or "control" means the ~~planning and implementation of a coordinated program for the containment, suppression, and, where possible, eradication of noxious weeds~~ use of an integrated weed management program for the containment, suppression, and, where possible, eradication of noxious weeds."

Section 2. Section 7-22-2109, MCA, is amended to read:

"7-22-2109. Powers and duties of board. (1) In addition to any powers or duties established in the resolution creating a district weed board, the board may:

(a) supervise a coordinator and other employees and provide for their compensation;

(b) purchase ~~chemicals~~ herbicide, materials, and equipment and pay other operational costs necessary for implementing an effective noxious weed management program. The costs must be paid from the noxious weed fund.

(c) determine what ~~chemicals~~ herbicide, materials, or equipment may be made available to persons controlling weeds on their own land. The cost for the ~~chemicals~~ herbicide, materials, or equipment must be paid by the person and collected as provided in this part.

(d) enter into agreements with the department for the control and eradication of any new exotic plant species not previously established in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial use if the plant species spreads or threatens to spread into the state;

(e) enter into cost-share agreements for noxious weed management;

(f) enter into agreements with commercial applicators, as defined in 80-8-102, for the control of noxious weeds;

(g) request legal advice and services from the county attorney; and

- (h) perform other activities relating to weed management.
- (2) The board shall:
 - (a) administer the district's noxious weed management program;
 - (b) establish management criteria for noxious weeds on all land within the district; and
 - (c) make all reasonable efforts to develop and implement a noxious weed management program covering all land within the district owned or administered by a federal agency."

Section 3. Section 7-22-2121, MCA, is amended to read:

"7-22-2121. Weed management program. (1) The noxious weed management program must be based on a plan approved by the board and the commissioners.

- (2) The noxious weed management plan must:
 - (a) specify the goals and priorities of the program;
 - (b) review the distribution and abundance of each noxious weed species known to occur within the district and specify the locations of new infestations and areas particularly susceptible to new infestations;
 - (c) specify ~~pesticide~~ herbicide management goals and procedures, including but not limited to water quality protection, public and worker safety, equipment selection and maintenance, and ~~pesticide~~ herbicide selection, application, mixing, loading, storage, and disposal; and
 - (d) estimate the personnel, operations, and equipment costs of the proposed program;
 - (e) develop a compliance plan or strategy; and
 - (f) incorporate cooperative agreements established pursuant to 7-22-2151.
- (3) The board shall provide for the management of noxious weeds on all land or rights-of-way owned or controlled by a county or municipality within the district. It shall take particular precautions while managing the noxious weeds to preserve beneficial vegetation and wildlife habitat. When possible, management must include cultural, ~~chemical~~ herbicide, and biological methods.
- (4) The board may establish special management zones within the district. The management criteria in those zones may be more or less stringent than the general management criteria for the district."

Section 4. Section 7-22-2142, MCA, is amended to read:

"7-22-2142. Sources of money for noxious weed fund. (1) The commissioners may provide sufficient

money in the noxious weed fund for the board to fulfill its duties, as specified in 7-22-2109, by:

(a) appropriating money from any source in an amount not less than \$100,000 or an amount equivalent to 1.6 mills levied ~~upon~~ on the taxable value of all property; and

(b) subject to 15-10-420 and at any time fixed by law for levy and assessment of taxes, levying a tax of not less than 1.6 mills on the taxable value of all taxable property in the county. The tax levied under this subsection must be identified on the assessment as the tax that will be used for noxious weed control.

(2) The proceeds of the noxious weed control tax or other contribution must be used solely for the purpose of managing noxious weeds in the county and must be deposited in the noxious weed fund.

(3) Any proceeds from work or ~~chemical~~ herbicide sales must revert to the noxious weed fund and must be available for reuse within that fiscal year or any subsequent year.

(4) The commissioners may accept any private, state, or federal gifts, grants, contracts, or other funds to aid in the management of noxious weeds within the district. These funds must be placed in the noxious weed fund.

(5) Subject to 15-10-420, the commissioners may impose a tax for weed control within a special management zone as provided in 7-22-2121(4). For the purposes of imposing the tax, the special management zone boundaries must be established by the board and approved by a majority of the voters within the special management zone. Pursuant to an election held in accordance with 15-10-425, the amount of the tax must be approved by a majority of the voters within the special management zone, and approval of the zone and the tax may occur simultaneously. Revenue received from a special management zone tax must be spent on weed management projects within the boundaries of the special management zone."

Section 5. Section 80-5-120, MCA, is amended to read:

"80-5-120. Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Advertisement" means a representation, other than a representation on the label, that is disseminated by any means and that relates to seed governed by the provisions of this chapter.

(2) (a) "Agricultural seeds" means the seeds of grass, forage, cereal, fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds. The term includes lawn seeds and mixtures of seeds.

(b) The term does not include seeds from plants of the genus Cannabis that contain more than 0.3% tetrahydrocannabinol.

(3) "Approximate percentage" and "approximate number" mean the percentage or number with the variations above and below that value as allowed according to the tolerance limits defined in the rules for seed testing adopted by the association of official seed analysts.

(4) "Bulk" means not packaged in separate units.

(5) "Certifying agency" means:

(a) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and that has standards and procedures to ensure the genetic purity and identity of the seed certified; or

(b) an agency of a foreign country determined by the department to adhere to procedures and standards for seed certification that are comparable to those adhered to generally by the seed certifying agencies described in subsection (5)(a).

(6) "Conditioning" means drying, cleaning, scarifying, and other operations that could change the purity or germination of a seed and require the seed lot to be retested to determine labeling.

(7) "Controlling the pollination" means to use a method of hybridization that will produce pure seed that is at least 75% hybrid seed.

(8) "Dormant" means viable seeds, excluding hard seeds, that fail to germinate when provided the specified germination conditions for the seed in question.

(9) "Flower seeds" means seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and that are commonly known and sold under the name of flower seeds in this state.

(10) "Genuine grower declaration" means a statement signed by the grower that indicates, for each lot of seed, the lot number, kind, variety, origin, weight, year of production, date, and destination of shipment.

(11) "Germination" means the emergence and development from the seed embryo as evidence of vitality when the seeds are subjected to the proper moisture and temperature conditions with proper aeration for the customary length of time for each specific kind of seed, as specified in the rules for seed testing adopted by the association of official seed analysts.

(12) "Hard seeds" means seeds that remain hard at the end of the prescribed test period because they have not absorbed water because of an impermeable seed coat.

(13) "Hybrid", as the term applies to varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:

(a) two or more inbred lines;

(b) one inbred or a single cross with an open pollinated variety; or

(c) two or more selected clones, seed lines, varieties, or species except open-pollinated varieties of corn (*Zea mays*). The second generation of subsequent generations from those crosses may not be regarded as hybrids. Hybrid designations must be treated as variety names.

(14) "Indigenous seeds" means the seeds of those plants that are naturally adapted to an area where the intended use is for revegetation of disturbed sites. These plants include grasses, forbs, shrubs, and legumes.

(15) "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones as determined by methods defined by the association of official seed analysts.

(16) "Kind" means one or more related species or subspecies that are known singly or collectively by one common name, such as corn, oats, alfalfa, and timothy.

(17) "Labeling" means a tag or other device, attached to or written, stamped, or printed on a container or accompanying a lot of bulk seeds, that purports to set forth the information required on the seed label under 80-5-123 and that may include any other information relating to the labeled seed.

(18) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion of which is uniform within recognized tolerances for the factors that appear in the labeling.

(19) "Mixture" means seed consisting of more than one kind, each in excess of 5% by weight of the whole.

(20) "Montana certified seed grower" means a member of an authorized Montana seed certifying agency who has consented to produce seed under the rules for certified classes of seed, with respect to the maintenance of genetic purity and variety identity, set forth by the establishing agency.

(21) "Other crop seeds" means any agricultural, vegetable, or flower seeds other than the kind or variety of seed or the mixture of seeds included as pure seed.

(22) "Person" means an individual, firm, partnership, corporation, or association.

(23) "Prohibited noxious weed seeds" means the seeds of plant species that are designated as noxious weeds as defined in 7-22-2101~~(b)~~(a)(i).

(24) "Protected variety" means a variety for which a certificate has been issued by the United States plant

variety protection office or for which an application for protection has been filed granting the owner or the owner's authorized agent exclusive rights in the sale and distribution of the variety.

(25) "Pure live seed" means the product of the percentage of germination plus hard seed or dormant seed multiplied by the percentage of pure seed, divided by 100, with the result expressed as a whole number.

(26) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being considered, as determined by methods defined by the association of official seed analysts.

(27) "Restricted weed seeds" means the seeds of any plant that may adversely affect agriculture or the environment and that are designated as restricted weed seeds under rules adopted by the department.

(28) "Screening" means chaff, sterile florets, immature seed, weed seed, inert matter, and any other materials removed from seed by any kind of cleaning or conditioning.

(29) "Seed conditioning plant" means a place of business, whether a permanent or portable facility, that conditions seeds.

(30) "Seed dealer" means a person who sells seeds.

(31) "Seed labeler" means a person affixing labels to seeds, with that person's name, address, and other information as required in 80-5-123.

(32) "Sell" means to offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade. The term includes furnishing agricultural seed to growers for the production of a crop on contract.

(33) "Stop sale" means an administrative order provided by law that restrains the sale, use, disposition, and movement of a definite amount of seed.

(34) "Treated" means that seed has received an application of a substance or has been subjected to a process for which a claim is made.

(35) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

(36) "Variety" means a subdivision of a kind that is:

(a) distinct, in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties known publicly;

(b) uniform, in the sense that the variations in essential and distinctive characteristics are describable;
and

(c) stable, in the sense that the variety will remain unchanged in its essential and distinctive

characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties.

(37) "Vegetable seeds" means seeds of those crops that are or may be grown in gardens or on truck farms and are or may be sold generally under the name of vegetable seeds or herbs.

(38) "Viable" means that seeds are capable of producing a normal seedling under optimum growing conditions after all forms of dormancy have been overcome, if present.

(39) "Weed seeds" means the seeds of all plants generally recognized as weeds within this state and includes noxious weed seeds."

Section 6. Section 80-7-105, MCA, is amended to read:

"80-7-105. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Firm" means an individual, company, partnership, association, or corporation.

(2) "Landscape service" means a firm that buys, sells, or resells nursery stock.

(3) "Nursery" means the business or location where nursery stock is grown, offered for sale, or distributed.

(4) "Nursery stock" means botanically classified plants or parts of plants, including but not limited to tropical potted plants, aquatic plants, and turf or sod grass. Certain plants and plant materials intended for human or animal consumption and not intended for planting may not be considered nursery stock, including the following:

(a) commodity plants and their seeds;

(b) pasture grasses;

(c) cut plants not for propagation;

(d) fruits or vegetables for human or animal consumption;

(e) cut trees and products that are going to be processed to a point that they no longer represent a pest risk; and

(f) plant debris for disposal or processing.

(5) "Plant dealer" means a firm that buys plants or plant products from a producer for the purpose of offering the plants or plant products for sale or resale or as part of a landscape service.

(6) "Plant inspection certificate" means a document issued by the department or the plant pest regulatory

agency of another state that declares that the nursery stock, plants, or plant material grown by the firm named on the certificate is apparently free of injurious plant pests.

(7) "Plant pest" means an insect, weed, fungus, virus, bacteria, or other organism that can directly or indirectly injure or cause damage in a plant or a product of a plant and that meets the criteria as a pest established by department rule. For purposes of this chapter, noxious weeds, as defined in 7-22-2101~~(8)(a)(i)~~, or other exotic weeds are defined as plant pests."

Section 7. Section 80-7-801, MCA, is amended to read:

"80-7-801. Definitions. As used in this part, the following definitions apply:

(1) "Crop weed" means any plant commonly accepted as a weed and for which grants for management research, evaluation, and education under 80-7-814(5)(g) may be given.

(2) "Department" means the department of agriculture established in 2-15-3001.

(3) "Noxious weed" means any weed defined in 7-22-2101~~(8)(a)~~(9)(a)."

Section 8. Section 80-7-903, MCA, is amended to read:

"80-7-903. Definitions. As used in this part, the following definitions apply:

(1) "Advisory council" means the Montana noxious weed seed free forage advisory council. Except as provided in 80-7-904, the council is subject to the provisions of 2-15-122.

(2) "Certification" means the state-approved and documented process of determining within a standard range of variances or tolerances that forage production fields are free of the seeds of noxious weeds, as defined in 7-22-2101~~(8)(a)(i)~~, which process allows a person to sell the forage as noxious weed seed free and to attach approved certification identification.

(3) "Forage" means any crop, including alfalfa, grass, small grains, straw, and similar crops and commodities, that is grown, harvested, and sold for livestock forage, bedding material, or mulch or related uses and the byproducts of those crops or commodities that have been processed into pellets, cubes, or related products.

(4) "Noxious weed seed free" means that forage has an absence of noxious weed seeds within a standardized range of variances or tolerances established by department rule.

(5) "Person" means a natural person, individual, firm, partnership, association, corporation, company,

joint-stock association, body politic, or organized group of persons, whether incorporated or not, and any trustee, receiver, assignee, or similar representative.

(6) "Producer" means a person engaged in growing forage, a tenant personally engaged in growing forage, or both the owner and the tenant jointly and includes a person, cooperative organization, trust, sharecropper, and any other business entity, devices, and arrangements that grow forage that is proposed to be certified as noxious weed seed free.

(7) "Sale" or "sell" means the selling, wholesaling, distributing, offering, exposing for sale, advertising, exchanging, brokering, bartering, or giving away by any person within this state of any forage as noxious weed seed free or certified or approved as noxious weed seed free."

- END -

I hereby certify that the within bill,
HB 0142, originated in the House.

Speaker of the House

Signed this _____ day
of _____, 2019.

Chief Clerk of the House

President of the Senate

Signed this _____ day
of _____, 2019.

HOUSE BILL NO. 142

INTRODUCED BY J. KASSMIER, L. JONES

AN ACT REVISING COUNTY WEED LAWS; DEFINING "INTEGRATED WEED MANAGEMENT PROGRAM"; REVISING THE DEFINITION OF "WEED MANAGEMENT" OR "CONTROL"; REVISING REFERENCES TO PESTICIDES AND CHEMICALS; AND AMENDING SECTIONS 7-22-2101, 7-22-2109, 7-22-2121, 7-22-2142, 80-5-120, 80-7-105, 80-7-801, AND 80-7-903, MCA.