

Act No. 258
Public Acts of 2016
Approved by the Governor
June 27, 2016
Filed with the Secretary of State
June 28, 2016
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Reps. Brett Roberts and Lauwers

ENROLLED HOUSE BILL No. 5392

AN ACT to amend 1965 PA 329, entitled “An act to regulate the labeling, coloration, advertising, sale, offering, exposing, or transporting for sale of agricultural, vegetable, lawn, flower, and forest tree seeds; to authorize the director of agriculture to adopt rules for the enforcement of this act; to provide for the inspection and testing of seed; to prescribe license fees; to preempt ordinances prohibiting or regulating certain activities with respect to seeds; and to prescribe penalties for violation of this act,” by amending section 11 (MCL 286.711), as amended by 1996 PA 86.

The People of the State of Michigan enact:

Sec. 11. (1) The director shall administer and enforce this act. The director may maintain a seed testing laboratory and facilities with all necessary equipment and analysts, inspectors, assistants, and other personnel necessary for proper enforcement of this act. The director may incur expenses as necessary to implement this act. The director shall do all of the following:

(a) Sample, inspect, analyze, and test any seed defined in this act that is sold or held for sale within this state, for seeding purposes, at the time and place and to the extent as he or she considers necessary to determine whether the seeds are in compliance with this act and notify promptly the person who sold, offered, or exposed the seed for sale of any violation found relating to the seed.

(b) Enter upon any public or private premises during regular business hours in order to have access to seeds and the records related to seeds subject to this act and the rules promulgated under this act, and upon any conveyance on land, water, or air at any time that the conveyance is accessible, for the same purpose.

(c) Promulgate any rules necessary to implement or enforce this act.

(d) Prescribe and, after public notice, establish germination standards for vegetable, flower, and forest tree seed, if necessary, to aid in the efficient enforcement of this act.

(e) Promulgate rules governing purity, germination, and other seed testing, prescribe by rule fees for testing seed that do not exceed the actual cost of conducting the test and that are comparable with fees for similar testing in other states, and establish inspection fees to enforce this act. Fees for germination and purity tests of 1 kind of agricultural seed shall not exceed \$15.00 per sample. All fees collected for the testing of seeds shall be deposited with the state treasurer and credited to the general fund.

(f) Cooperate with the United States Department of Agriculture and other agencies or associations in seed law enforcement.

(2) In the case of field bean seeds, the field inspection, laboratory analysis, and the securing and submission of a representative sample shall be performed by a person or agency approved by the director. The director shall authorize the person or agency to charge fees commensurate with the activity. Producers and persons or agencies conducting analyses or inspections shall generate inspection and analysis information and maintain that information for a period of

at least 2 years following final disposition of the seed lot. The approved persons and agencies and seed producers shall provide records and information regarding field inspections and laboratory tests to the director upon request.

(3) Except as otherwise provided in this subsection, a person does not have a cause of action against an inspection or testing agency or its employee if the inspection or testing agency or its employee is engaged in duties permitted by this act and utilizes written and approved procedures and protocols established by the director. An inspection or testing agency or its employee is liable for injuries to persons and damage to property under 1 or more of the following circumstances:

(a) The inspection or testing agency or its agent or employee failed to follow written procedures and protocols.

(b) The inspection or testing agency or its agent or employee improperly interpreted laboratory test results even though the written procedures and protocols were followed.

(c) The actions taken by the inspection or testing agency or its agent or employee were not within the scope of its official duties.

(4) As used in this section, "rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor