



AN ACT REVISING LAWS RELATING TO THE MONTANA SEED LABORATORY; CREATING A SEED LABORATORY ADVISORY BOARD; ALLOWING THE LABORATORY TO DETERMINE APPROPRIATE FEES FOR THE COSTS OF SEED ANALYSIS; AMENDING SECTIONS 20-25-229, 80-5-126, 80-5-128, AND 80-5-139, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

**Section 1. Seed laboratory advisory board -- duties.** (1) There is a seed laboratory advisory board.

(2) (a) The board consists of:

(i) five members appointed by the director of the agricultural experiment station provided for in 20-25-222; and

(ii) the director of the agricultural experiment station, serving in an ex officio, nonvoting capacity.

(b) The five members appointed by the director of the agricultural experiment station must be selected as follows:

(i) three representatives from seed industry-related organizations;

(ii) a representative of the department of agriculture; and

(iii) a representative of the agricultural experiment station.

(c) The members appointed as representatives of seed industry-related organizations may not represent the same organization.

(3) The board shall advise the director of the agricultural experiment station on matters related to the Montana seed laboratory provided for in 20-25-229, including but not limited to:

(a) rates to be charged for seed analysis;

(b) staffing levels;

(c) budget matters; and

(d) operational procedures for the laboratory.

(4) The board shall meet at least annually and may meet more frequently as needed.

(5) Board members may request reimbursement for travel expenses as provided for in 2-18-501 through 2-18-503. The ex officio member is not entitled to travel expenses.

(6) The board is attached to the agricultural experiment station for administrative purposes. The agricultural experiment station shall establish operating procedures for the board that are consistent with the provisions of this section.

**Section 2.** Section 20-25-229, MCA, is amended to read:

**"20-25-229. Montana seed laboratory -- purpose -- fees.** (1) There is established as a part of the agricultural experiment station the Montana seed laboratory.

(2) The purpose of the laboratory ~~shall be the carrying on of~~ is to conduct effective scientific and practical research ~~and or~~ testing work to develop as complete and accurate ~~a knowledge an analysis~~ an analysis of grains and seeds as ~~possible~~ requested.

(3) The laboratory ~~shall be~~ is under the general direction of the director of the agricultural experiment station.

(4) The laboratory shall:

(a) establish procedures for submitting seed samples for analysis; and

(b) determine the appropriate fees for analytical services provided by the laboratory."

**Section 3.** Section 80-5-126, MCA, is amended to read:

**"80-5-126. Analysis by seed laboratory -- reports.** The seed laboratory of the agricultural experiment station shall analyze and test seeds sold or offered or exposed for sale in this state at a time and place and to the extent the director of the agricultural experiment station ~~and the department determine~~ determines. The laboratory shall report to the department all violations as they appear. It may also annually before September 1 make a report to the department of all tests made and the results, which may be published by the department."

**Section 4.** Section 80-5-128, MCA, is amended to read:

**"80-5-128. Laboratory testing of samples -- fees.** (1) Any citizen of this state may request that the seed laboratory ~~to~~ examine, analyze, ~~and or~~ test samples of seed upon payment of the fee and compliance with ~~rules~~ procedures governing the submission of seed samples for that service.

(2) Samples of seed analyzed and tested must be charged for at rates established by ~~rule of the department as recommended by the agricultural experiment station~~ the seed laboratory as provided in 20-25-229.

(3) All fees collected by the seed laboratory must be used to defray the expenses incurred by the laboratory under this chapter and the expenses incurred by the seed laboratory advisory board provided for in [section 1]."

**Section 5.** Section 80-5-139, MCA, is amended to read:

**"80-5-139. Rules -- promulgated by department.** (1) The department is authorized to promulgate necessary rules as authorized by this part. All rules are to be promulgated in accordance with procedures as set forth in the Montana Administrative Procedure Act.

(2) Rules may address but are not limited to the following subjects:

- (a) designation of kinds of seed as agricultural, vegetable, flower, or indigenous;
- (b) designation of kinds of seed that must be labeled as to variety name;
- (c) designation of kinds and varieties of flower seeds that may be labeled according to type and performance characteristics;
- (d) standards for determining and stating pure live seed, germination, or viability;
- (e) plants to be designated as weeds, restricted weeds, and prohibited weeds and standards for allowing weeds and restricted weeds in seeds;
- (f) procedures for implementing the administrative provisions of 80-5-136;
- (g) procedures for implementing and administering civil penalties, including establishing a penalty matrix that schedules the types of penalties, the amounts for initial and subsequent offenses, and any other matters necessary for the administration of civil penalties under 80-5-136;
- (h) procedures for submitting applications for licensing and establishing the period for which licenses are issued under 80-5-130;
- (i) minimum standards for equipment and handling procedures for facilities that require licensing, including sellers and distributors of agricultural seed, seed labelers, and conditioning plants;
- (j) standards that restrict or exempt from restriction the holding and movement of screenings, when in the public interest; and
- (k) recordkeeping requirements for persons who handle agricultural, vegetable, flower, or indigenous

seeds, including file samples of seed for each lot handled for a period of time up to 2 years.

~~———(3) The department may promulgate rules related to the operation of the state seed laboratory. The rules may include but are not limited to procedures for submitting seed samples and rates charged for seed analysis."~~

**Section 6. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 2, chapter 15, part 15, and the provisions of Title 2, chapter 15, part 15, apply to [section 1].

**Section 7. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,  
SB 0195, originated in the Senate.

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

SENATE BILL NO. 195

INTRODUCED BY R. RIPLEY, CLARK, STEINBEISSER

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