

WORKING DRAFT

HOUSE BILL NO. _____

Seed laws.

Sponsored by: Joint Agriculture, Public Lands and Water
Resources Interim Committee

A BILL

for

1 AN ACT relating to agriculture; creating a seed laboratory
2 advisory group; designating duties of the seed laboratory
3 advisory group; providing definitions; modifying exceptions
4 to licensing requirements; requiring a license for
5 conditioning grain or seed; providing for exemption from
6 licensure; allowing the department to establish weed lists;
7 transferring rulemaking authority from the board of
8 agriculture to the department of agriculture; establishing
9 a procedure to set seed laboratory fees; increasing a
10 penalty amount; repealing definitions; repealing certain
11 noxious weeds and quarantine provisions; and providing for
12 an effective date.

13

14 *Be It Enacted by the Legislature of the State of Wyoming:*

15

1 **Section 1.** W.S. 11-12-123 and 11-12-124 are created
2 to read:

3

4 **11-12-123. Seed laboratory advisory group created;**
5 **composition; appointment; officers; vacancy; meetings;**
6 **quorum.**

7

8 (a) There is created a seed laboratory advisory group
9 which shall be comprised of the following:

10

11 (i) Voting members shall be:

12

13 (A) One (1) member of the board, appointed
14 by the chairman of the board;

15

16 (B) One (1) member representing
17 organizations whose primary goal is improved crop
18 production, appointed by the board;

19

20 (C) Two (2) members representing the
21 Wyoming seed industry, appointed by the board;

22

23 (D) One (1) member who is a certified or
24 contract seed grower from Albany, Campbell, Carbon,

1 Converse, Crook, Goshen, Johnson, Laramie, Natrona,
2 Niobrara, Platte, Sheridan or Weston County, appointed by
3 the board;

4

5 (E) One (1) member who is a certified or
6 contract seed grower from Big Horn, Fremont, Hot Springs,
7 Lincoln, Park, Sublette, Sweetwater, Teton, Uinta or
8 Washakie County, appointed by the board;

9

10 (F) One (1) member who is a person
11 interested in seed quality, appointed by the board.

12

13 (ii) Non-voting members shall be:

14

15 (A) The director of the Wyoming department
16 of agriculture or his designee;

17

18 (B) The University of Wyoming experiment
19 station director;

20

21 (C) The head of the University of Wyoming
22 college of agriculture plant science department or his
23 designee;

24

1 (D) The Wyoming seed certification service
2 manager, who shall serve as the seed laboratory advisory
3 group secretary;

4

5 (E) The state seed analyst.

6

7 (b) All voting members shall serve terms of three (3)
8 years. A member may serve for more than one (1) term.

9

10 (c) The chairman and the vice-chairman shall be
11 elected by a majority of the voting members at the annual
12 meeting.

13

14 (d) In the event of a vacancy on the advisory
15 committee, the board shall appoint a new member to complete
16 the term of the vacating member.

17

18 (e) One (1) regular meeting shall be held annually in
19 conjunction with a Wyoming crop improvement industry
20 meeting, as called by the chairman or as called by a
21 majority of the voting members.

22

23 (f) A majority of the voting members shall constitute
24 a quorum.

1

2 **11-12-124. Seed laboratory advisory group duties.**

3

4 (a) The seed laboratory advisory group shall:

5

6 (i) Maintain a policy of operation manual, which
7 shall be reviewed by seed laboratory advisory group members
8 at the annual meeting, and shall contain the policies and
9 operational procedures of the seed laboratory advisory
10 group;

11

12 (ii) Serve in an advisory role to aid the state
13 seed analyst, the University of Wyoming, the Wyoming
14 department of agriculture and the board in the management
15 of the seed laboratory;

16

17 (iii) Annually review the price list for seed
18 testing and services provided by the laboratory;

19

20 (iv) Recommend to the board as necessary, any
21 changes to the price list or other fees of the laboratory;

22

23 (v) Review the annual seed laboratory report;

24

1 (vi) Recommend to the board as necessary, any
2 major capital purchases needed by the laboratory;

3

4 (vii) Recommend to the board as necessary, the
5 use of new technologies or other seed testing needs as they
6 occur;

7

8 (viii) Provide support as necessary to seed
9 laboratory customers;

10

11 (ix) Provide to the board as necessary,
12 constructive ideas on how the laboratory can serve Wyoming
13 and the region more effectively.

14

15 **Section 2.** W.S. 11-12-101 creating new subsection
16 (b), 11-12-102(a)(i) and (ii), 11-12-103, 11-12-104(a) and
17 (d)(intro) and (iii) through (v), 11-12-105(a)(i), (ii),
18 (iii) and (vii) and (c), 11-12-107, 11-12-110, 11-12-112
19 through 11-12-114, 11-12-115(a), 11-12-116(a) and by
20 creating new subsections (d) through (g) and 11-12-122(a)
21 and (d) are amended to read:

22

23 **11-12-101. Definitions.**

24

1 (b) As used in this act:

2

3 (i) "Controlling the pollination" means to use a
4 method of hybridization which will produce pure seed which
5 is at least seventy-five percent (75%) hybrid seed;

6

7 (ii) "Dormant" means viable seed, excluding hard
8 seed, which fails to germinate when provided the specific
9 germination conditions for the kind of seed in question;

10

11 (iii) "Germination" means the emergence and
12 development from the seed embryo of those essential
13 structures which, for the kind of seed in question, are
14 indicative of the ability to produce a normal plant under
15 favorable conditions. For the purposes of this act,
16 "germination" may also mean the percentage of seed
17 determined viable by a tetrazolium test;

18

19 (iv) "Hard seed" means seed which remains hard
20 at the end of the prescribed test period because it has not
21 absorbed water due to an impermeable seed coat;

22

1 (v) "Hybrid" as applied to kinds or varieties of
2 seed, means the first generation seed of a cross produced
3 by controlling the pollination and by combining:

4
5 (A) Two (2) or more inbred lines;

6
7 (B) One (1) inbred or a single cross with
8 an open pollinated variety; or

9
10 (C) Two (2) selected clones, seed lines,
11 varieties or species.

12
13 (vi) "Inert matter" means all matter that is not
14 a seed, including broken seeds, sterile florets, chaff,
15 fungus bodies and stones;

16
17 (vii) "Kind" means one (1) or more related
18 species or subspecies which singly or collectively is known
19 by one (1) common name, including soybean, flax, barley and
20 wheat;

21
22 (viii) "Labeling" means the display or displays
23 of written, printed or graphic matter upon or attached to
24 the container of seed or accompanying and pertaining to any

1 seed whether sold in bulk or in containers, including
2 invoices;

3
4 (ix) "Lot" means the number or other
5 identification that relates to records pertaining to the
6 known quantity of seed;

7
8 (x) "Origin" means the state, District of
9 Columbia, Puerto Rico or possession of the United States,
10 or the foreign country or designated portion thereof, where
11 the seed was grown;

12
13 (xi) "Pure seed" means seed exclusive of inert
14 matter and all other seed not of the seed being offered for
15 sale;

16
17 (xii) "Seed" means the propagative part of a
18 plant normally capable of germination to produce a new
19 plant, including ovules, tubers and bulbs. "Seed" also
20 includes the following as defined for the purposes of this
21 act:

1 (A) "Agricultural seeds" means any
2 agronomic crop seeds or seeds of species as defined in W.S.
3 11-1-101;

4
5 (B) "Flower seed" means seeds of herbaceous
6 plants grown for their blooms, ornamental foliage or other
7 ornamental parts and commonly known and sold under the name
8 of flower seeds in this state;

9
10 (C) "Tree seed" means seeds of woody plants
11 commonly known and sold as tree and shrub seeds in this
12 state; or

13
14 (D) "Vegetable seed" means the seeds of
15 those crops that are or may be grown in gardens or truck
16 farms and are generally known and sold under the name of
17 vegetable seeds in this state.

18
19 (xiii) "Treated seed" means any seed that has
20 been treated with chemicals that are harmful to humans,
21 livestock or other vertebrate animals;

22
23 (xiv) "Total viable" means:
24

1 (A) Germination plus dormant seed plus hard
2 seed; or

3

4 (B) Viable as determined by a tetrazolium
5 test.

6

7 (xv) "Variety" means a subdivision of a kind
8 which is characterized by growth, plant, fruit, seed or
9 other characters by which it can be differentiated from
10 other sorts of the same kind, including C2243 wheat and
11 Manchu soybeans;

12

13 (xvi) "Weeds" includes the following as defined
14 for purposes of this act:

15

16 (A) "Prohibited noxious weeds" means the
17 seeds of any species for which the department by rule has
18 established zero (0) tolerance;

19

20 (B) "Restricted noxious weeds" means any
21 species for which the department by rule has established an
22 allowable tolerance;

23

1 (C) "Regulated weeds" means seed, other
2 than prohibited noxious weeds or restricted noxious weeds,
3 of any species for which the department by rule has
4 established a limitation of amount per pound in a seed lot.

5
6 (xvii) "This act" means W.S. 11-12-101 through
7 11-12-124.

8
9 **11-12-102. Exceptions to applicability.**

10
11 (a) This act does not apply to any person who:

12
13 (i) Has ~~agricultural, vegetable, flower or tree~~
14 seeds in storage for ~~recleaning, but are not processed and~~
15 ~~sold or offered for sale for seed purposes within the state~~
16 conditioning or cleaning and the intended use of the seed
17 is not planting;

18
19 (ii) Is a resident grower of ~~agricultural,~~
20 ~~vegetable, flower or tree seeds~~ seed who sells his seed to
21 ~~seed merchants~~ a seed dealer who is licensed pursuant to
22 this act;

23
24 **11-12-103. Licensing.**

1

2 (a) ~~No~~ Any person ~~shall sell or offer~~ who sells or
3 offers for sale or distribution in Wyoming any
4 ~~agricultural, vegetable, flower or tree~~ seeds ~~without~~
5 ~~obtaining~~ shall obtain a license from the ~~state~~ department.
6 ~~of agriculture.~~ The license shall expire annually on March
7 31. Application for the license shall include the name and
8 address of the person to whom the license is to be issued
9 and the location of the place or places of business of the
10 applicant. The application shall be accompanied by the
11 license fee authorized by W.S. 11-1-104 for each place of
12 business selling seeds in packets, packages or bulk of ten
13 (10) pounds or more. This ~~section~~ subsection shall not
14 apply to any person licensed in accordance with W.S.
15 11-11-103.

16

17 (b) Any person who conditions grain or seed for hire
18 in Wyoming shall obtain a license from the department. The
19 license shall expire annually on March 31. Application for
20 the license shall include the name and address of the
21 person to whom the license is to be issued and the location
22 of the place or places of business of the applicant. The
23 application shall be accompanied by the license fee which
24 shall be the same as the fee established for a seed dealer

1 license. This subsection shall not apply to any person
2 licensed in accordance with W.S. 11-11-103.

3
4 (c) An exemption from licensing requirements may be
5 granted upon petition to the department. The department
6 shall consider any petition and shall grant or deny the
7 petition within thirty (30) days of receiving the petition.

8 [Note: Without setting some standards at least for denying
9 or granting an exemption raises issues of unlawful
10 delegation of legislative authority.]

11
12 **11-12-104. Restrictions on the sale of weed seeds;**
13 **allowed tolerance for other noxious weeds; rulemaking.**

14
15 (a) No person shall sell or offer for sale or
16 distribution in Wyoming ~~any agricultural, vegetable, flower~~
17 ~~or tree seeds~~ seed which ~~contain~~ contains any prohibited
18 noxious weed seeds. ~~listed in subsection (b) of this~~
19 ~~section or any restricted noxious weed seeds which exceed~~
20 ~~the tolerance established under subsection (c) of this~~
21 ~~section.~~ The department, by rule and regulation, may
22 establish a list of prohibited noxious weeds, restricted
23 noxious weeds and regulated weeds and establish tolerances
24 for restricted noxious weeds and regulated weeds.

1

2 (d) Any ~~agricultural, vegetable, flower or tree seeds~~
3 seed which ~~contain~~ contains any prohibited noxious weed
4 seeds or exceeds the tolerance established on restricted
5 noxious weed seeds or regulated weed seeds shall be removed
6 from sale in Wyoming and impounded by the director ~~of the~~
7 ~~department of agriculture~~ and shall be released only for
8 the following purposes:

9

10 (iii) To be ~~recleaned~~ conditioned to the point
11 that no prohibited noxious ~~weed seeds~~ weeds are present ~~or~~
12 and to the point that the tolerance established on
13 restricted noxious ~~weed seeds~~ weeds and regulated weeds is
14 not exceeded;

15

16 (iv) For processing in such a way as to make the
17 weed seeds harmless and ~~to be~~ sold as feed; or

18

19 (v) For burial in an approved landfill. ~~dump.~~

20

21 **11-12-105. Labeling of packages required; contents;**
22 **exception.**

23

1 (a) Each ~~package or~~ lot of seed, ~~whether in package~~
2 ~~or bulk,~~ which is sold or offered for sale in Wyoming,
3 shall be legibly labeled in English upon the exterior of
4 the container with a written or printed label. The label
5 shall show:

6
7 (i) The commonly accepted name of the kind ~~and~~
8 ~~variety~~ of seed., ~~and~~ If seeds are mixed, the kind ~~and~~
9 ~~variety~~ of each seed-making up five percent (5%) or more of
10 the mixture shall be stated separately;

11
12 (ii) The full name and address of the person
13 selling, offering or ~~transporting~~ distributing the seeds
14 for sale;

15
16 (iii) The percentage of pure seed, crop seed
17 (not to be added to pure seed), inert matter, common weed
18 seeds by weight, germination, hard seed and the month and
19 year of the germination test; ~~which shall have been made~~
20 ~~within twelve (12) months prior to the sale of the seed;~~

21
22 (vii) The words "poisonous treated" shall appear
23 in bold print if the seeds have been treated with chemicals

1 which are toxic or poisonous to either humans, ~~or~~ livestock
2 or other vertebrate animals.

3
4 (c) This section does not apply to flower, tree,
5 garden or vegetable seeds labeled to comply with ~~labeling~~
6 the requirements of the United States department of
7 agriculture by authority of the Federal Seed Act.

8
9 **11-12-107. Common weed seeds.**

10
11 No person shall sell in the retail trade in this state, any
12 ~~agricultural, vegetable, flower or tree seeds either in~~
13 ~~package or in bulk,~~ seed which ~~contain~~ contains two percent
14 (2%) or more of common weed seeds by weight.

15
16 **11-12-110. Importation of seeds.**

17
18 It is unlawful for any person to transport or cause to be
19 transported into Wyoming any ~~agricultural, vegetable,~~
20 ~~flower or tree seeds~~ seed without meeting the requirements
21 of this act.

22
23 **11-12-112. Director to enforce provisions; power of**
24 **director to examine seeds; exception; purchase of samples.**

1

2 The director ~~of the department of agriculture~~ shall enforce
3 this act. The director or his agents shall have free
4 access at all reasonable hours upon and into any premises
5 or structures where seed is stored or offered for sale,
6 except federally sealed granaries or warehouses, to examine
7 any seeds and, upon tendering payment therefor at the
8 current value, may take from any person a sample or samples
9 of the seeds.

10

11 **11-12-113. Rulemaking.**

12

13 The ~~board~~ department shall promulgate, adopt and publish
14 rules and regulations in accordance with the Wyoming
15 Administrative Procedure Act for the purpose of carrying
16 out this act.

17

18 **11-12-114. Seed and grain cleaning establishments;
19 certificates of approval; lists thereof.**

20

21 The ~~board~~ department shall establish standards and other
22 requirements whereby seed and grain cleaning establishments
23 may be issued an ~~approved~~ certificate of approval. A list
24 of approved establishments for cleaning seeds and grain

1 shall be ~~published~~ maintained by the director. ~~of the~~
2 ~~department of agriculture.~~

3
4 **11-12-115. State seed analyst; seed laboratory.**

5
6 (a) The ~~board of agriculture~~ department shall operate
7 a state seed laboratory through a memorandum of
8 understanding with the University of Wyoming. The terms
9 and conditions of the memorandum of understanding shall
10 include the designation and compensation of a state seed
11 analyst.

12
13 **11-12-116. Analysis of seeds.**

14
15 (a) Any person may have his seed analyzed by the
16 state seed analyst by paying transportation charges to the
17 laboratory and a fee. ~~established by the board.~~

18
19 (d) The state seed analyst may provide a list of
20 recommended fees for seed testing and services to the seed
21 laboratory advisory group.

1 (e) The seed laboratory advisory group shall review
2 the state seed analyst's list and provide their
3 recommendation for testing and service fees to the board.

4
5 (f) Fees for testing and services shall become
6 effective upon approval by the board.

7
8 (g) The state seed analyst, upon approval by the
9 board, may enter into a separately negotiated contract with
10 a government entity to provide testing and services at
11 approximate cost.

12
13 **11-12-122. Quarantine.**

14
15 (a) The ~~board~~department, in compliance with this
16 act, may promulgate rules and regulations to establish a
17 quarantine against ~~the entry into Wyoming and intrastate~~
18 movement of seed containing prohibited noxious weed seed
19 and restricted noxious weed seed which exceeds the
20 tolerance established—and may enter into an agreement with
21 law enforcement agencies to carry out the quarantine
22 provisions.

1 (d) ~~Interstate~~All seed shipments through the state
2 shall be covered in a prescribed manner so as not to allow
3 the dissemination of noxious weed seed.

4
5 **Section 3.** W.S. 11-12-123 by amending and renumbering
6 11-12-123 as 11-12-125.

7
8 ~~11-12-123~~11-12-125. **Penalties; director authorized to**
9 **investigate and file complaint.**

10
11 Any person violating any provision of this act is guilty of
12 a misdemeanor and shall be fined not more than ~~two hundred~~
13 ~~dollars (\$200.00)~~one thousand dollars (\$1,000.00), or
14 imprisoned for not more than six (6) months, or both for
15 each offense. The director of the department of agriculture
16 is authorized to investigate alleged violations and to file
17 a complaint with the proper district or county and
18 prosecuting attorney for the prosecution of violations.

19
20 **Section 4.** W.S. 11-12-101(a), 11-12-104(b) and (c)
21 and 11-12-122(b) and (c) are repealed.

22
23 **Section 5.** This act is effective July 1, 2005.

24

1

(END)