

ENROLLED ACT NO. 13, HOUSE OF REPRESENTATIVES

FIFTY-NINTH LEGISLATURE OF THE STATE OF WYOMING
2007 GENERAL SESSION

AN ACT relating to agriculture; creating a seed laboratory advisory group; designating duties of the seed laboratory advisory group; providing definitions; modifying exceptions to licensing requirements; requiring a license for conditioning grain or seed; providing for exemption from licensure; allowing the department to establish weed lists; establishing a procedure to set seed laboratory fees; increasing a penalty amount; repealing definitions; repealing certain noxious weeds and quarantine provisions; limiting regulation by political subdivisions as specified and providing for an effective date.

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

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

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

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

(i) Voting members shall be:

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

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

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

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(D) Two (2) members who are certified or contract seed growers, appointed by the board;

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

(ii) Nonvoting members shall be:

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

(B) The University of Wyoming experiment station director;

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

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

(E) The state seed analyst.

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

(c) The chairman and the vice-chairman shall serve terms of two (2) years with the vice-chairman succeeding the chairman. The chairman and vice-chairman shall be elected by a majority of the voting members at the annual meeting. In the event that the chairman is not able to complete his term, the vice-chairman shall complete that term in addition to serving the succeeding term. In the event the vice-chairman is unable to complete his term, an

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election of a new chairman and vice-chairman shall take place at the next annual meeting.

(d) In the event of a vacancy on the seed laboratory advisory group, the board shall appoint a new member to complete the term of the vacating member.

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

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

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

(a) The seed laboratory advisory group shall:

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

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

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

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

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- (v) Review the annual seed laboratory report;
- (vi) Recommend to the board as necessary, any major capital purchases needed by the laboratory;
- (vii) Recommend to the board as necessary, the use of new technologies or other seed testing needs as they occur;
- (viii) Provide support as necessary to seed laboratory customers;
- (ix) Provide to the board as necessary, constructive ideas on how the laboratory can serve Wyoming and the region more effectively.

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

11-12-101. Definitions.

(b) As used in this act:

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

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

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(iii) "Germination" means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions. For the purposes of this act, "germination" may also mean the percentage of seed determined viable by a tetrazolium test for species identified in the rules for testing, or for species for which there are no rules for testing;

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

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

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

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

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

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

(vii) "Kind" means one (1) or more related species or subspecies which singly or collectively is known by one (1) common name, including but not limited to, soybean, flax, barley and wheat;

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(viii) "Labeling" means the display or displays of written, printed or graphic matter upon or attached to the container of seed or accompanying and pertaining to any seed whether sold in bulk or in containers, including invoices;

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

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

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

(xii) "Rules for testing" means procedures specified by the Association of Official Seed Analysts for conducting seed analysis;

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

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

(B) "Flower seed" means seeds of herbaceous plants grown for their blooms, ornamental foliage or other

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ornamental parts and commonly known and sold under the name of flower seeds in this state;

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

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

(xiv) "Total viable" means:

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

(B) Viable as determined by a tetrazolium test for species identified in the rules for testing, or for species for which there are no rules for testing.

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

(xvi) "Variety" means a subdivision of a kind which is characterized by growth, plant, fruit, seed or other characters by which it can be differentiated from other sorts of the same kind, including but not limited to, C2243 wheat and Manchu soybeans;

(xvii) "Weeds" includes the following as defined for purposes of this act:

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

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

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

(xviii) "This act" means W.S. 11-12-101 through 11-12-124.

11-12-102. Exceptions to applicability.

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

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

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

11-12-103. Licensing.

(a) ~~No~~ Any person ~~shall sell or offer~~ who sells or offers for sale or distribution in Wyoming any ~~agricultural, vegetable, flower or tree~~ seeds ~~without~~

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~~obtaining shall obtain~~ a license from the ~~state~~ department. ~~of agriculture.~~ The license shall expire annually on March 31. Application for the license shall include the name and address of the person to whom the license is to be issued and the location of the place or places of business of the applicant. The application shall be accompanied by the license fee authorized by W.S. 11-1-104 for each place of business selling seeds in packets, packages or bulk of ten (10) pounds or more. This ~~section~~ subsection shall not apply to any person licensed in accordance with W.S. 11-11-103.

(b) Any person who conditions grain or seed for hire in Wyoming shall obtain a license from the department. The license shall expire annually on March 31. Application for the license shall include the name and address of the person to whom the license is to be issued and the location of the place or places of business of the applicant. The application shall be accompanied by the license fee which shall be the same as the fee established for a seed dealer license. This subsection shall not apply to any person licensed in accordance with W.S. 11-11-103.

(c) Charitable and educational institutions shall be exempt from licensing requirements imposed by this section.

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

(a) No person shall sell or offer for sale or distribution in Wyoming ~~any agricultural, vegetable, flower or tree seeds~~ seed which ~~contain~~ contains any prohibited noxious weed seeds. ~~listed in subsection (b) of this section or any restricted noxious weed seeds which exceed the tolerance established under subsection (c) of this~~

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~~section~~ The department, by rule and regulation, may establish a list of prohibited noxious weeds, restricted noxious weeds and regulated weeds and establish tolerances for restricted noxious weeds and regulated weeds.

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

(iii) To be ~~re-cleaned~~ conditioned to the point that no prohibited noxious ~~weed seeds~~ weeds are present ~~or~~ and to the point that the tolerance established on restricted noxious ~~weed seeds~~ weeds and regulated weeds is not exceeded;

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

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

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

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

(i) The commonly accepted name of the kind and ~~variety~~ of seed. and If seeds are mixed, the kind and

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~~variety~~ of each seed—making up five percent (5%) or more of the mixture shall be stated separately;

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

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

(vii) The words "poisonous treated" shall appear in bold print if the seeds have been treated with chemicals which are toxic or poisonous to either humans, ~~or~~ livestock or other vertebrate animals.

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

11-12-107. Weed seeds.

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

11-12-110. Importation of seeds.

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

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

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

11-12-113. Rulemaking.

(a) The board shall promulgate, adopt and publish rules and regulations in accordance with the Wyoming Administrative Procedure Act for the purpose of carrying out this act.

(b) Except as otherwise provided for in this act, no ordinance or regulation of any political subdivision may prohibit or in any way attempt to regulate any matter relating to the registration, labeling, sale, storage, transportation, distribution, notification of use or use of seeds, if any ordinance, law or regulation of the political subdivision is in conflict of this chapter.

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

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

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be ~~published~~ maintained by the director. ~~of the department of agriculture.~~

11-12-115. State seed analyst; seed laboratory.

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

11-12-116. Analysis of seeds.

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

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

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

(f) Fees for testing and services shall become effective upon approval by the board. The board may set testing and service fees at different levels for in-state and out-of-state samples.

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

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11-12-122. Quarantine.

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

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

Section 3. W.S. 11-12-123 as 11-12-125 is amended and renumbered to read:

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

(a) Any person violating any provision of this act is guilty of a misdemeanor and shall be fined not more than ~~two hundred dollars (\$200.00)~~ seven hundred fifty dollars (\$750.00), or imprisoned for not more than six (6) months, or both for each offense. Each day shall constitute a separate violation.

(b) The director ~~of the department of agriculture~~ is authorized to investigate alleged violations and to file a complaint with the proper district or county and prosecuting attorney for the prosecution of violations.

(c) Any person found guilty of violating any provision of W.S. 11-12-101 through 11-12-124, shall reimburse the state for the cost of any control actions, treatments, quarantine, confiscation, destruction or

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removal of any seed from the state resulting from the violation. Amounts collected under this subsection shall be paid to the department of agriculture technical services division account.

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

Section 5. This act is effective July 1, 2007.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk