

## HOUSE BILL NO. HB0123

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

1

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

4

5 (ii) Nonvoting members shall be:

6

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

9

10 (B) The University of Wyoming experiment  
11 station director;

12

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

16

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

20

21 (E) The state seed analyst.

22

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

1

2 (c) The chairman and the vice-chairman shall be  
3 elected by a majority of the voting members at the annual  
4 meeting.

5

6 (d) In the event of a vacancy on the advisory  
7 committee, the board shall appoint a new member to complete  
8 the term of the vacating member.

9

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

14

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

17

18 **11-12-124. Seed laboratory advisory group duties.**

19

20 (a) The seed laboratory advisory group shall:

21

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

1 operational procedures of the seed laboratory advisory  
2 group;

3

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

8

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

11

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

14

15 (v) Review the annual seed laboratory report;

16

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

19

20 (vii) Recommend to the board as necessary, the  
21 use of new technologies or other seed testing needs as they  
22 occur;

23

(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;

1           (ii) "Dormant" means viable seed, excluding hard  
2 seed, which fails to germinate when provided the specific  
3 germination conditions for the kind of seed in question;  
4

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

13           (iv) "Hard seed" means seed which remains hard  
14 at the end of the prescribed test period because it has not  
15 absorbed water due to an impermeable seed coat;  
16

17           (v) "Hybrid" as applied to kinds or varieties of  
18 seed, means the first generation seed of a cross produced  
19 by controlling the pollination and by combining;  
20

21                   (A) Two (2) or more inbred lines;  
22

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

1

2

3

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

4

5

6

7

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

8

9

10

11

12

13

(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;

14

15

16

17

18

19

(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;

20

21

22

23

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

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

5  
6           (xi) "Pure seed" means seed exclusive of inert  
7 matter and all other seed not of the seed being offered for  
8 sale;

9  
10           (xii) "Seed" means the propagative part of a  
11 plant normally capable of germination to produce a new  
12 plant, including ovules, tubers and bulbs. "Seed" also  
13 includes the following as defined for the purposes of this  
14 act:

15  
16           (A) "Agricultural seeds" means any  
17 agronomic crop seeds or seeds of species as defined in W.S.  
18 11-1-101;

19  
20           (B) "Flower seed" means seeds of herbaceous  
21 plants grown for their blooms, ornamental foliage or other  
22 ornamental parts and commonly known and sold under the name  
23 of flower seeds in this state;

24

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

4  
5                   (D) "Vegetable seed" means the seeds of  
6 those crops that are or may be grown in gardens or truck  
7 farms and are generally known and sold under the name of  
8 vegetable seeds in this state.

9  
10                   (xiii) "Total viable" means:

11  
12                   (A) Germination plus dormant seed plus hard  
13 seed; or

14  
15                   (B) Viable as determined by a tetrazolium  
16 test.

17  
18                   (xiv) "Treated seed" means any seed that has  
19 been treated with chemicals that are harmful to humans,  
20 livestock or other vertebrate animals;

21  
22                   (xv) "Variety" means a subdivision of a kind  
23 which is characterized by growth, plant, fruit, seed or  
24 other characters by which it can be differentiated from

1 other sorts of the same kind, including but not limited to,  
2 C2243 wheat and Manchu soybeans;

3  
4 (xvi) "Weeds" includes the following as defined  
5 for purposes of this act:

6  
7 (A) "Prohibited noxious weeds" means the  
8 seeds of any species for which the department by rule has  
9 established zero (0) tolerance;

10  
11 (B) "Restricted noxious weeds" means any  
12 species for which the department by rule has established an  
13 allowable tolerance;

14  
15 (C) "Regulated weeds" means seed, other  
16 than prohibited noxious weeds or restricted noxious weeds,  
17 of any species for which the department by rule has  
18 established a limitation of amount per pound in a seed lot.

19  
20 (xvii) "This act" means W.S. 11-12-101 through  
21 11-12-124.

22  
23 **11-12-102. Exceptions to applicability.**

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

2

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

8

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

13

14 **11-12-103. Licensing.**

15

16 (a) ~~No~~ Any person ~~shall sell or offer~~ who sells or  
17 offers for sale or distribution in Wyoming any  
18 ~~agricultural, vegetable, flower or tree~~ seeds ~~without~~  
19 ~~obtaining~~ shall obtain a license from the ~~state~~ department.  
20 ~~of agriculture.~~ The license shall expire annually on March  
21 31. Application for the license shall include the name and  
22 address of the person to whom the license is to be issued  
23 and the location of the place or places of business of the  
24 applicant. The application shall be accompanied by the

1 license fee authorized by W.S. 11-1-104 for each place of  
2 business selling seeds in packets, packages or bulk of ten  
3 (10) pounds or more. This ~~section~~subsection shall not  
4 apply to any person licensed in accordance with W.S.  
5 11-11-103.

6  
7 (b) Any person who conditions grain or seed for hire  
8 in Wyoming shall obtain a license from the department. The  
9 license shall expire annually on March 31. Application for  
10 the license shall include the name and address of the  
11 person to whom the license is to be issued and the location  
12 of the place or places of business of the applicant. The  
13 application shall be accompanied by the license fee which  
14 shall be the same as the fee established for a seed dealer  
15 license. This subsection shall not apply to any person  
16 licensed in accordance with W.S. 11-11-103.

17  
18 (c) An exemption from licensing requirements may be  
19 granted upon petition to the department. The department  
20 shall consider any petition and shall grant the petition  
21 within thirty (30) days of receiving the petition if the  
22 petitioner shows the exemption will only apply to  
23 operations of a charitable or educational institution or if

1 the gross annual seed sales are less than one hundred  
2 dollars (\$100.00).

3  
4 **11-12-104. Restrictions on the sale of weed seeds;**  
5 **allowed tolerance for other noxious weeds; rulemaking.**

6  
7 (a) No person shall sell or offer for sale or  
8 distribution in Wyoming ~~any agricultural, vegetable, flower~~  
9 ~~or tree seeds~~ seed which ~~contain~~ contains any prohibited  
10 noxious weed seeds. ~~listed in subsection (b) of this~~  
11 ~~section or any restricted noxious weed seeds which exceed~~  
12 ~~the tolerance established under subsection (c) of this~~  
13 ~~section~~ The department, by rule and regulation, may  
14 establish a list of prohibited noxious weeds, restricted  
15 noxious weeds and regulated weeds and establish tolerances  
16 for restricted noxious weeds and regulated weeds.

17  
18 (d) Any ~~agricultural, vegetable, flower or tree seeds~~  
19 seed which ~~contain~~ contains any prohibited noxious weed  
20 seeds or exceeds the tolerance established on restricted  
21 noxious weed seeds or regulated weed seeds shall be removed  
22 from sale in Wyoming and impounded by the director ~~of the~~  
23 ~~department of agriculture~~ and shall be released only for  
24 the following purposes:

1

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

7

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

10

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

12

13 **11-12-105. Labeling of packages required; contents;**  
14 **exception.**

15

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

21

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

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

3  
4 (ii) The full name and address of the person  
5 selling, offering or ~~transporting~~ distributing the seeds  
6 for sale;

7  
8 (iii) The percentage of pure seed, crop seed  
9 (not to be added to pure seed), inert matter, common weed  
10 seeds by weight, germination, hard seed and the month and  
11 year of the germination test; ~~which shall have been made~~  
12 ~~within twelve (12) months prior to the sale of the seed;~~

13  
14 (vii) The words "poisonous treated" shall appear  
15 in bold print if the seeds have been treated with chemicals  
16 which are toxic or poisonous to either humans, ~~or~~ or other vertebrate animals.

17  
18  
19 (c) This section does not apply to flower, tree,  
20 garden or vegetable seeds labeled to comply with ~~labeling~~  
21 the requirements of the United States department of  
22 agriculture by authority of the Federal Seed Act.

23  
24 **11-12-107. Weed seeds.**

1

2 No person shall sell in the retail trade in this state, any  
3 ~~agricultural, vegetable, flower or tree seeds either in~~  
4 ~~package or in bulk,~~ seed which ~~contain~~ contains two percent  
5 (2%) or more of ~~common~~ weed seeds by weight.

6

7 **11-12-110. Importation of seeds.**

8

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

13

14 **11-12-112. Director to enforce provisions; power of**  
15 **director to examine seeds; exception; purchase of samples.**

16

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

1

2       **11-12-113. Rulemaking.**

3

4   The ~~board~~department shall promulgate, adopt and publish  
5   rules and regulations in accordance with the Wyoming  
6   Administrative Procedure Act for the purpose of carrying  
7   out this act.

8

9       **11-12-114. Seed and grain cleaning establishments;**  
10   **certificates of approval; lists thereof.**

11

12   The ~~board~~department shall establish standards and other  
13   requirements whereby seed and grain cleaning establishments  
14   may be issued ~~an approved~~a certificate of approval. A list  
15   of approved establishments for cleaning seeds and grain  
16   shall be ~~published~~maintained by the director. ~~of the~~  
17   ~~department of agriculture.~~

18

19       **11-12-115. State seed analyst; seed laboratory.**

20

21       (a) The ~~board of agriculture~~department shall operate  
22   a state seed laboratory through a memorandum of  
23   understanding with the University of Wyoming. The terms  
24   and conditions of the memorandum of understanding shall

1 include the designation and compensation of a state seed  
2 analyst.

3  
4 **11-12-116. Analysis of seeds.**

5  
6 (a) Any person may have his seed analyzed by the  
7 state seed analyst by paying transportation charges to the  
8 laboratory and a fee. ~~established by the board.~~

9  
10 (d) The state seed analyst may provide a list of  
11 recommended fees for seed testing and services to the seed  
12 laboratory advisory group.

13  
14 (e) The seed laboratory advisory group shall review  
15 the state seed analyst's list and provide their  
16 recommendation for testing and service fees to the board.

17  
18 (f) Fees for testing and services shall become  
19 effective upon approval by the board.

20  
21 (g) The state seed analyst, upon approval by the  
22 board, may enter into a separately negotiated contract with  
23 a government entity to provide testing and services at  
24 approximate cost.

1

2       **11-12-122. Quarantine.**

3

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

12

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

16

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

19

20       ~~11-12-123~~11-12-125. **Penalties; director authorized**  
21 **to investigate and file complaint.**

22

23       (a) Any person violating any provision of this act is  
24 guilty of a misdemeanor and shall be fined not more than

1 ~~two hundred dollars (\$200.00)~~ seven hundred fifty dollars  
2 (\$750.00), or imprisoned for not more than six (6) months,  
3 or both for each offense. Each day shall constitute a  
4 separate violation.

5  
6 (b) The director ~~of the department of agriculture~~ is  
7 authorized to investigate alleged violations and to file a  
8 complaint with the proper district or county and  
9 prosecuting attorney for the prosecution of violations.

10  
11 (c) Any person found guilty of violating any  
12 provision of W.S. 11-12-101 through 11-12-124, shall  
13 reimburse the state for the cost of any control actions,  
14 treatments, quarantine, confiscation, destruction or  
15 removal of any seed from the state resulting from the  
16 violation. Amounts collected under this subsection shall  
17 be paid to the department of agriculture technical services  
18 division account.

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.

