

Legislative Analysis



COOL SEASON LAWN AND TURF GRASS LABELING REQUIREMENT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Analysis available at
<http://www.legislature.mi.gov>

Senate Bill 637 as passed by the Senate
Sponsor: Sen. Joe Hune
House Committee: Agriculture
Senate Committee: Agriculture
Complete to 5-3-16

(Enacted as Public Act 166 of 2016)

SUMMARY:

Senate Bill 637 would amend several sections of the Michigan Seed Law, Public Act 329 of 1965, by adding a definition for "cool season lawn and turf grass," and requiring that such seed varieties be packaged with a "best by" date. It would also set the deadline for when the germination percentage test for those varieties must be completed in order to be comply with the Seed Law.

SB 637 also would change to 8-point font, from 12-point font, the minimum size of certain warning and caution statements. The bill would make other technical changes which would not significantly alter its present meaning.

Cool season lawn and turf grass would mean "grasses, including Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass, annual bentgrass, and mixtures of any of these."

For cool season lawn and turf seed and mixtures in containers of more than one pound, the "sell by date" could not be more than 15 months from the date of the germination test, exclusive of the month of the test. As part of the requirements to sell, offer for sale, advertise, expose, or transport for sale in Michigan, any seed subject to the Seed Law, a test to determine the percentage of germination must be completed within an 11-month period. The bill would set this at 15 months for cool season lawn and turf seed and mixtures.

Seed that has been treated with an irritating or poisonous substance, harmful to human or other vertebrate animals, is currently required to be colored or dyed a color contrasting with the natural color of the seed, and must be labeled with the following information:

- A warning statement in 12-point or larger type that the seed has been treated.
- The common, coined, chemical, or abbreviated chemical name of the substance applied to the seed.
- A caution statement in 12-point or larger type as follows: "treated seed—do not use for food, feed, or oil purposes."
- If the seed is treated, and the treatment is not irritating, poisonous, or harmful to humans or other vertebrate animals, the seed shall be labeled with a statement, in 12-point or larger type, describing the applied substance.

The bill would change only the font size requirement, so that the required statements must be printed in 8-point font or larger type.

FISCAL IMPACT:

To the extent that the Michigan Department of Agriculture and Rural Development (MDARD) no longer has an active seed testing program, the bill would have little or no fiscal impact on the department. (See explanation below.)

Although Michigan does not require the licensing or registration of seed dealers or retailers, Public Act 329 of 1965, the Michigan Seed Law, does authorize the Michigan Department of Agriculture & Rural Development (MDARD) to regulate the labeling, coloration, advertising, sale, offering, exposing, or transporting for sale of agricultural, vegetable, lawn, flower, and forest tree seeds. The act also authorizes the department director to adopt rules for the enforcement of the act, provides for the inspection and testing of seed, prescribes testing fees; and prescribes penalties for violation of the act.

The Administrative Rules governing Seed Law implementation are found in Section R 285.715.1 of the State Administrative Code.

http://w3.lara.state.mi.us/orr/Files/AdminCode/1567_2015-062AC_AdminCode.pdf

[A separate statute, Public Act 221 of 1959, Certification of Seed, established the MDARD director as the legal seed certifying officer of the state, and authorizes the director to promulgate rules governing the certification of seed as to variety, type, strain, or other genetic character, the labeling of certified seed, as well as authorizing the director to adopt general seed certification standards in cooperation with certifying agencies.]

Although MDARD has statutory authority over the sale of seed in Michigan, the department does not actively sample and test seed for quality or correct labeling. The department's seed testing program was suspended during the 2008-09 fiscal year as part of an overall state General Fund budget reduction. Seed testing fee revenue, which averaged \$25,000 from FY 1999-2000 through FY 2006-07, was not sufficient to cover the cost of the testing program. The balance not covered by fee revenue had been supported with state General Fund revenue. As noted above, to the extent that the MDARD no longer has an active seed testing program, the bill would have little or no fiscal impact on the department.

We note that under Section 15 of the current act, violations of the act are considered a criminal offense – a misdemeanor punishable by a fine of from \$100 to \$2,000 for each offense, or by imprisonment for not more than 90 days. Section 5 of Public Act 221 of 1959 also establishes violations of the act as misdemeanors. We do not believe that these provisions are actively enforced.

Legislative Analyst: Josh Roesner
Fiscal Analyst: William E. Hamilton

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.