

SENATE BILL No. 637

December 3, 2015, Introduced by Senator HUNE and referred to the Committee on Agriculture.

A bill to amend 1965 PA 329, entitled
"Michigan seed law,"
by amending sections 2, 4, 7, and 9 (MCL 286.702, 286.704, 286.707,
and 286.709), sections 2, 4, and 9 as amended by 1996 PA 86 and
section 7 as amended by 1988 PA 455.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:

2 (1) "Person" means any individual, partnership, company,
3 corporation, society, cooperative, union, or association.

4 (2) "Sale or sell" means the act of transferring property for
5 any consideration and includes the acts of offering, advertising,
6 exposing, holding, or transporting for sale.

7 (3) "Label" includes all labels, and other written, printed,
8 or graphic representation in any form, accompanying or pertaining

1 to any seed in bulk or in containers and includes representation on
2 invoices, bills, and letterheads.

3 (4) "Agricultural seed" means the seed of grass, forage,
4 cereal, fiber, oil plants, and any other seed commonly recognized
5 within this state as agricultural or field seed, lawn seed, or
6 mixtures of those seeds.

7 (5) "Director" means director of the ~~state~~ department of
8 agriculture **AND RURAL DEVELOPMENT** or his or her authorized
9 representative.

10 (6) "Screenings" means chaff, florets, immature seed, weed
11 seed, or inert and other foreign matter removed in any way in
12 cleaning or conditioning of seed, or obtained from weedy fields or
13 any source, and contains less than 50% agricultural seed.

14 (7) "Vegetable seed" means the seed of those crops ~~which~~ **THAT**
15 are grown in gardens or on truck farms and that generally are known
16 and sold under the name of vegetable or herb seed in this state.

17 (8) "Flower seed" means the seed of those plants usually grown
18 for their blooms, ornamental foliage, or other ornamental parts and
19 commonly are known and sold under the name of flower seed in this
20 state.

21 (9) "Forest tree seed" means the seeds of those forest trees
22 that are usually grown in nurseries and forests in this state, and
23 that are listed in the rules **PROMULGATED** under this act.

24 (10) "Pure seed" means seed exclusive of inert matter and all
25 other seeds not of the seed being considered, as determined by
26 methods defined by rule **PROMULGATED UNDER THIS ACT**.

27 (11) "Inert matter" means broken seed 1/2 or less the original

1 size, seeds of legumes or crucifers with seed coats removed,
2 undeveloped or badly injured weed seed, the empty glumes or
3 attached sterile glumes of grasses, stems, leaves, stones, chaff,
4 soil, insects, fungal bodies, material added in coating or
5 pelleting, and all other matter other than pure seed, weed, or crop
6 seed, as determined by methods defined by rule **PROMULGATED UNDER**
7 **THIS ACT.**

8 (12) "Weed seed" means the seeds of all plants generally
9 recognized as weeds within the state, as determined by methods
10 defined by rule **PROMULGATED UNDER THIS ACT**, and includes prohibited
11 and restricted noxious weed seeds.

12 (13) "Crop seed" means the seed of plants grown as crops,
13 other than the kind or variety included in the pure seed, as
14 determined by methods defined by rule **PROMULGATED UNDER THIS ACT.**

15 (14) "Germination percent" means the percent of seeds capable
16 of producing normal seedlings under favorable growing conditions.
17 Broken, weak, diseased, malformed, or abnormal seedlings, as
18 determined by methods defined by rule **PROMULGATED UNDER THIS ACT**,
19 shall not be considered as having germinated.

20 (15) "Hard seed percent" means the seed which, due to hardness
21 or impermeability, does not absorb moisture and start growth under
22 favorable conditions during a prescribed germination period but
23 remains hard.

24 (16) "Prohibited noxious weed seed" means the seed of plants
25 that are highly destructive and difficult to control in this state
26 by ordinary good cultural practices, and that are listed in the
27 rules promulgated under this act.

1 (17) "Restricted noxious weed seed" means the seeds of the
2 plants that are objectionable in the fields, lawns, and gardens of
3 this state but can be controlled by ordinary good cultural
4 practices, and that are listed in the rules **PROMULGATED** under this
5 act.

6 (18) "Lot" means a definite quantity of seed identified by a
7 number or other mark, every portion of which is uniform within
8 recognized tolerances for the factors ~~which~~**THAT** appear in the
9 labeling.

10 (19) "Kind" means 1 or more related species or subspecies
11 ~~which~~**THAT** singly or collectively is known by 1 common name,
12 including, but not limited to, oats, wheat, soybeans, and corn.

13 (20) "Variety" means a subdivision of a kind ~~which~~**THAT** is
14 distinct, uniform, and stable; distinct in the sense that the
15 variety can be differentiated by 1 or more identifiable
16 morphological, physiological, or other characteristics from all
17 other varieties of public knowledge; uniform in the sense that
18 variations in essential and distinctive characteristics are
19 describable, and stable in the sense that the variety will remain
20 unchanged in its essential and distinctive characteristics and its
21 uniformity when reproduced or reconstituted as required by the
22 different categories of varieties; for example, heritage oats,
23 augusta wheat, corsoy soybeans.

24 (21) "Hybrid" means, as applied to kinds or varieties of seed,
25 the first generation seed of a cross, produced by controlling the
26 pollination and by combining 2 or more inbred lines, or 1 inbred
27 line or a single cross with an open pollinated variety, or 2

1 selected clones, seed lines, varieties, or species, except open
2 pollinated varieties of corn such as zea mays. A hybrid designation
3 shall be treated as a variety name.

4 (22) "Records" means all label information and the source of
5 this information required by this act for the seed being
6 considered, and all information relating to the shipment or
7 shipments involved with seed, such as invoices, vouchers, freight
8 bills, and other records.

9 (23) "Advertising" means all representations other than those
10 on the label, disseminated in any manner or by any means, and
11 relating to seed within the scope of this act.

12 (24) "Treated" means that the seed has received an effective
13 application of substance or method designed to reduce, control, or
14 repel certain disease organisms, fungi, insects, or other pests
15 attacking the seed or seedlings or has received some other
16 treatment to improve its planting value.

17 (25) "Tolerance" means the allowable deviation from any
18 percentage claim used on a label and is based on the law of normal
19 variation from a mean. Tolerance tables used in the enforcement of
20 this act are those prescribed in the rules promulgated under this
21 act.

22 (26) "Official sample" means the sample taken from a lot of
23 seed by a representative of the director.

24 (27) "Representative sample" means a sample taken from a seed
25 lot that is of sufficient size to supply an adequate amount of seed
26 for laboratory testing and that is secured and submitted according
27 to the guidelines approved by the director.

1 (28) "Vendor" means a person engaged in the selling of seed.

2 (29) "Grower's declaration" means a statement signed by the
3 grower or shipper giving, for any lot of seed, the lot number, the
4 kind, variety, weight, and origin.

5 (30) "Hermetically sealed seed" means seed packed in a
6 moisture proof container when the container and the seed in the
7 container meet the requirements specified in the rules promulgated
8 under this act.

9 (31) "Type" means a group of varieties so nearly similar that
10 individual varieties cannot be clearly differentiated except under
11 special conditions.

12 (32) "Blend" means seed consisting of more than 1 variety of a
13 kind, each in excess of 5% of the whole.

14 (33) "Mixture" means seed consisting of more than 1 kind, each
15 in excess of 5% of the whole.

16 (34) "Dormant seed" means viable seed, excluding hard seed
17 that fail to germinate when provided with the specified germination
18 conditions for the kind of seed in question.

19 (35) "Controlling the pollination" means a method of
20 hybridization that will produce pure seed that is at least 75%
21 hybrid seed. The second generation or subsequent generations from
22 these crosses are not hybrids.

23 (36) "Seizure" means a legal process carried out by a court
24 order against a definite amount of seed.

25 (37) "Stop sale" means an administrative order restraining the
26 sale, disposition, and movement of a definite amount of seed.

27 (38) "Conditioning" means drying, cleaning, scarifying, and

1 other operations ~~which~~**THAT** change the purity or germination of the
2 seed and require the seed lot to be retested to determine the label
3 information. Conditioning does not include packaging, labeling,
4 combining seed lots to form blends or mixtures, or other operations
5 ~~which~~**THAT** would not make necessary the retesting of the seed lot
6 to determine the label information.

7 (39) "Brand" means a word, name, symbol, number, or design
8 used to identify seed of 1 person to distinguish it from the seed
9 of another person.

10 (40) **"COOL SEASON LAWN AND TURF GRASS" MEANS GRASSES INCLUDING**
11 **KENTUCKY BLUEGRASS, RED FESCUE, CHEWINGS FESCUE, HARD FESCUE, TALL**
12 **FESCUE, PERENNIAL RYEGRASS, INTERMEDIATE RYEGRASS, ANNUAL RYEGRASS,**
13 **COLONIAL BENTGRASS, ANNUAL BENTGRASS, AND MIXTURES OF ANY OF THESE.**

14 (41) **"RULE" MEANS A RULE PROMULGATED PURSUANT TO THE**
15 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO**
16 **24.326.**

17 Sec. 4. For agricultural seed and mixtures of agricultural
18 seed, and for vegetable seed in containers of more than 1 pound,
19 the following information is required:

20 (a) The commonly accepted name of the kind, or kind and
21 variety, of each agricultural or vegetable seed component in excess
22 of 5% by weight of the whole and the percentage by weight of each
23 in the order of its predominance. If the director has determined in
24 rules **PROMULGATED UNDER THIS ACT** that a component is generally
25 labeled as to variety, the label shall bear, in addition to the
26 name of the kind, the name of the variety or the statement "variety
27 not stated", except for vegetable seed, which shall be labeled as

1 to kind and variety. If any component is a hybrid, the label shall
2 also bear the name of the hybrid and the word "hybrid" in
3 connection with the kind of agricultural or vegetable seed
4 component. If the seed is a blend, the word "blend" shall appear on
5 the label in connection with the name of the kind of agricultural
6 or vegetable seed component. If more than 1 component is required
7 to be named, the word "mixture" or "mix" shall be stated
8 conspicuously on the label.

9 (b) The lot number or identifying mark.

10 (c) The percentage by weight of all weed seed present.

11 (d) The percentage of germination exclusive of dormant or hard
12 seed, and the percentage of dormant or hard seed, if present, and
13 the calendar month and year that these percentages were determined
14 by test for each agricultural seed named.

15 **(E) FOR COOL SEASON LAWN AND TURF SEED AND MIXTURES, THE**
16 **STATEMENT "SELL BY", WHICH SHALL BE NOT MORE THAN 15 MONTHS FROM**
17 **THE DATE OF THE GERMINATION TEST EXCLUSIVE OF THE MONTH OF THE**
18 **TEST.**

19 **(F)** ~~(e)~~—For alfalfa, red clover, and white clover, the state
20 or foreign country where originally grown. If the origin is
21 unknown, that fact shall be stated.

22 **(G)** ~~(f)~~—The name and the number per pound, if present, of each
23 kind of the restricted noxious weed seed, except buckhorn and
24 yellow rocket, which must be shown on the label only ~~when~~ **IF** in
25 excess of 90 seeds per pound.

26 **(H)** ~~(g)~~—The name and complete address of the person who labels
27 the seed or sells the seed within this state.

1 (I) ~~(h)~~—Percentage by weight of crop seed other than those
 2 required to be named on the label, and this figure shall be shown
 3 under the heading "crop" or "other crop".

4 (J) ~~(i)~~—Percentage by weight of inert matter. Any coating
 5 material shall be included as inert matter, and a statement of
 6 percentage of the coating material may be shown immediately
 7 following inert matter.

8 (K) ~~(j)~~ ~~In the case of~~ **FOR** field bean seeds, a statement
 9 indicating that the lot has been field inspected and laboratory
 10 tested and meets the disease tolerances established by the director
 11 in the manner provided for in section 7a **AND A STATEMENT ON THE**
 12 **LABEL INDICATING THE STATE OR FOREIGN COUNTRY OF ORIGIN.**

13 ~~—— (k) In the case of field bean seeds, a statement on the label~~
 14 ~~indicating the state or foreign country of origin.~~

15 Sec. 7. (1) Seed that has been treated with an irritating or
 16 poisonous substance, harmful to human or other vertebrate animals,
 17 shall be colored or dyed a color contrasting with the natural color
 18 of the seed, and shall be labeled with the following information:

19 (a) A warning statement in ~~12-point~~ **8-POINT** or larger type
 20 that the seed has been treated.

21 (b) The common, coined, chemical, or abbreviated chemical name
 22 of the substance applied to the seed.

23 (c) A caution statement in ~~12-point~~ **8-POINT OR LARGER** type as
 24 follows: "treated seed—do not use for food, feed, or oil purposes".

25 (2) If the seed is treated, and the treatment is not
 26 irritating, poisonous, or harmful to humans or other vertebrate
 27 animals, the seed shall be labeled with a statement, in ~~12-point~~ **8-**

1 **POINT** or larger type, describing the applied substance.

2 Sec. 9. (1) A person shall not sell, offer for sale,
3 advertise, expose, or transport for sale in this state any of the
4 seed subject to this act if any 1 or more of the following
5 circumstances exist:

6 (a) The seed is not labeled in accordance with this act, or
7 has a false or misleading label.

8 (b) The test to determine the percentage of germination
9 required by section 3 was not completed within an 11-month period,
10 **OR A 15-MONTH PERIOD FOR COOL SEASON LAWN AND TURF SEED AND**
11 **MIXTURES**, exclusive of the month in which the test was completed
12 immediately prior to sale, exposure, offering, or transporting for
13 sale, except that a longer ~~period of~~ time shall be permitted for
14 any kind of agricultural or vegetable seed ~~which~~ **THAT** is packaged
15 in container materials and under conditions prescribed under the
16 rules **PROMULGATED UNDER THIS ACT** that will maintain the viability
17 of the seed under ordinary conditions of handling.

18 (c) The seed consists of, or contains, prohibited noxious weed
19 seed.

20 (d) The seed consists of, or contains, restricted noxious weed
21 seed in excess of the limits prescribed by rule **PROMULGATED UNDER**
22 **THIS ACT**.

23 (e) The seed has a percentage of germination, including hard
24 seeds, that is below 60%, or, in the case of vegetable seed and
25 flower seed, below the germination standard established in the
26 rules ~~authorized by~~ **PROMULGATED UNDER** this act, unless labeled
27 according to section 5.

1 (f) The seed has tags or labels on, or attached to, the
2 container of seed including a liability or nonwarranty clause
3 disclaiming responsibility for the information on the label
4 required by this act.

5 (g) The seed has been the subject of false or misleading
6 advertisement in any manner or by any means.

7 (h) The seed contains in excess of 1% by weight of all weed
8 seeds.

9 (i) The seed was not produced and labeled in accordance with
10 the procedures and in compliance with rules ~~of the department as~~
11 ~~prescribed in section 2 of Act No. 221 of the Public Acts of 1959,~~
12 ~~being section 286.72 of the Michigan Compiled Laws.1959 PA 221, MCL~~
13 ~~286.72.~~

14 (j) ~~When~~ **IF** seed, under tag or label, has been substituted or
15 altered.

16 (k) ~~When~~ **IF** stop sale orders have been instituted by the
17 director.

18 (l) The seed is **FALSELY** represented to be a hybrid ~~and is not~~
19 ~~one~~ as defined in this act.

20 (m) A person whose name appears on the label as distributing
21 agricultural, vegetable, or flower seed subject to this act fails
22 to retain, for a period of 2 years, complete records of each lot of
23 agricultural, vegetable, or flower seed distributed, fails to
24 retain, for 1 year, a file sample of each lot of seed that is
25 distributed after final disposition of the lot, and fails to make
26 accessible for inspection by the director during customary business
27 hours, records and samples pertaining to the shipment or shipments

1 involved.

2 (n) ~~When~~ **IF** the name of the department is used in connection
3 with the labeling or advertising or sale of any seed in any manner.

4 (o) ~~When~~ **IF** the word "trace" is used as a substitute for any
5 statement that is required by this act.

6 (p) ~~When~~ **IF** the word "type" is used on any labeling in
7 connection with the name of any agricultural or vegetable seed
8 variety.

9 (q) There is less than the stated number of seed in the
10 container.

11 (r) The seed is labeled with a brand or a trademark, or a term
12 taken from a brand or trademark, unless the brand name or trademark
13 is clearly identified with the word "brand" and is other than a
14 part of the variety.

15 (s) The seed is labeled with a variety name but is not
16 certified by an official seed certifying agency when it is a
17 variety for which a ~~U.S.~~ **UNITED STATES** certificate of plant variety
18 protection, under the plant variety protection act, 7 ~~U.S.C.~~ **USC**
19 2321 to 2582, specifies sale only as a class of certified seed.
20 However, seed from a certified lot may be labeled as to variety
21 name ~~when~~ **IF** used in a mixture by, or with the approval of, the
22 owner of the variety.

23 (t) ~~In the case of~~ **FOR** field bean seeds, the label does not
24 include a statement indicating that the lot has been field
25 inspected and laboratory tested and meets the disease tolerances
26 established by the director.

27 (u) ~~In the case of~~ **FOR** field bean seeds, the lot is found to

1 contain diseases in excess of the tolerances prescribed in section
2 7a.

3 (2) A person shall not do any of the following:

4 (a) Hinder, obstruct, or resist the director in the discharge
5 of his or her duties under this act.

6 (b) Store, ship, or handle seed under conditions ~~which~~**THAT**
7 make it impossible to properly inspect or obtain a sample
8 representative of the seed being sold, offered, exposed, or
9 transported for sale.

10 (c) Sell seed ~~which~~**THAT** has been treated, as defined in this
11 act, to any person for any purpose unless the seed is colored and
12 clearly labeled as required in section 7.

13 Enacting section 1. This amendatory act takes effect 90 days
14 after the date it is enacted into law.