MICHIGAN SEED LAW
Act 329 of 1965

AN ACT to regulate the labeling, coloration, advertising, sale, offering, exposing, or transporting for sale of agricultural, vegetable, lawn, flower, and forest tree seeds; to authorize the director of agriculture to adopt rules for the enforcement of this act; to provide for the inspection and testing of seed; to prescribe license fees; to preempt ordinances prohibiting or regulating certain activities with respect to seeds; and to prescribe penalties for violation of this act.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 2006, Act 132, Imd. Eff. May 5, 2006.

The People of the State of Michigan enact:

286.701 Michigan seed law; short title.

Sec. 1. This act shall be known and may be cited as the "Michigan seed law".

History: 1965, Act 329, Eff. Mar. 31, 1966.

286.702 Definitions.

Sec. 2. As used in this act:

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

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

(3) "Label" includes all labels, and other written, printed, or graphic representation in any form, accompanying or pertaining to any seed in bulk or in containers and includes representation on invoices, bills, and letterheads.

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

(5) "Director" means director of the state department of agriculture or his or her authorized representative.

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

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

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

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

(10) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being considered, as determined by methods defined by rule.

(11) "Inert matter" means broken seed 1/2 or less the original size, seeds of legumes or crucifers with seed coats removed, undeveloped or badly injured weed seed, the empty glumes or attached sterile glumes of grasses, stems, leaves, stones, chaff, soil, insects, fungal bodies, material added in coating or pelleting, and all other matter other than pure seed, weed, or crop seed, as determined by methods defined by rule.

(12) "Weed seed" means the seeds of all plants generally recognized as weeds within the state, as determined by methods defined by rule, and includes prohibited and restricted noxious weed seeds.

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

(14) "Germination percent" means the percent of seeds capable of producing normal seedlings under favorable growing conditions. Broken, weak, diseased, malformed, or abnormal seedlings, as determined by methods defined by rule, shall not be considered as having germinated.

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

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

(17) "Restricted noxious weed seed" means the seeds of the plants that are objectionable in the fields,

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lawns, and gardens of this state but can be controlled by ordinary good cultural practices, and that are listed in the rules under this act.

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

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

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

(21) "Hybrid" means, as applied to kinds or varieties of seed, the first generation seed of a cross, produced by controlling the pollination and by combining 2 or more inbred lines, or 1 inbred line or a single cross with an open pollinated variety, or 2 selected clones, seed lines, varieties, or species, except open pollinated varieties of corn such as zea mays. A hybrid designation shall be treated as a variety name.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(38) "Conditioning" means drying, cleaning, scarifying, and other operations which change the purity or germination of the seed and require the seed lot to be retested to determine the label information. Conditioning does not include packaging, labeling, combining seed lots to form blends or mixtures, or other operations which would not make necessary the retesting of the seed lot to determine the label information.

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

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

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286.703 Agricultural, vegetable, or flower seed container; label or tag; information.

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Sec. 3. Each container of agricultural, vegetable, or flower seed which is offered for sale for sowing purposes shall bear, or have attached to the container in a conspicuous place, a plainly printed or imprinted label or tag in the English language giving the information provided in sections 4 to 7. If the seed is distributed in bulk, the information required in these sections shall accompany delivery and shall be supplied to the purchaser at the time of delivery.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

286.704 Agricultural seed, mixtures of agricultural seed, and vegetable seed in containers of more than 1 pound; required information.

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

(a) The commonly accepted name of the kind, or kind and variety, of each agricultural or vegetable seed component in excess of 5% by weight of the whole and the percentage by weight of each in the order of its predominance. If the director has determined in rules that a component is generally labeled as to variety, the label shall bear, in addition to the name of the kind, the name of the variety or the statement "variety not stated", except for vegetable seed which shall be labeled as to kind and variety. If any component is a hybrid, the label shall also bear the name of the hybrid and the word "hybrid" in connection with the kind of agricultural or vegetable seed component. If the seed is a blend, the word "blend" shall appear on the label in connection with the name of the kind of agricultural or vegetable seed component. If more than 1 component is required to be named, the word "mixture" or "mix" shall be stated conspicuously on the label.

(b) The lot number or identifying mark.

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

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

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

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

(g) The name and complete address of the person who labels the seed or sells the seed within this state.

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

(i) Percentage by weight of inert matter. Any coating material shall be included as inert matter and a statement of percentage of the coating material may be shown immediately following inert matter.

(j) In the case of field bean seeds, a statement indicating that the lot has been field inspected and laboratory tested and meets the disease tolerances established by the director in the manner provided for in section 7a.

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

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.705 Vegetable seed in containers of 1 pound or less and flower seed; required information; seed sold outside original container; treated vegetable and flower seed.

Sec. 5. (1) For vegetable seed packed in containers of 1 pound or less, and flower seed packed in any containers, the following information is required:

(a) The name of the kind and variety of each component. Notwithstanding the labeling requirement of this subdivision, flower seed may be labeled as to type and performance characteristics, as prescribed by rule.

(b) The lot number or identifying mark.

(c) The year for which the seed was packed for sale and labeled "packed for year", or the percentage of germination exclusive of dormant or hard seed, the percentage of dormant or hard seed, and the month and year these percentages were determined by test.

(d) For seed that does not meet the minimum germination established by rule, the percentage of germination exclusive of dormant or hard seed and the percentage of dormant or hard seed, if present, with the words "below standard" printed in not less than 8-point type, and the month and year the percentages were determined by test.

(e) The name and complete address of the person who labeled the seed or who sells the seed within this state.

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(f) The number of restricted noxious weed seed per pound, if any are present.

(g) For seed which is placed in preplanted containers, mats, tapes, or other planting devices in a way that makes it difficult to determine the quantity of seed, a statement to indicate the minimum number of each kind and variety of seeds in the container or device.

(2) The labeling requirements for vegetable and flower seed sold outside their original containers are met if the seed is weighed from a properly labeled container in the presence of the purchaser. However, treated vegetable and flower seed shall be accompanied by the information required in section 7 on each container sold from the original container.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.706 Forest tree seed; required information.

Sec. 6. For forest tree seed, the following information is required:

(a) The common name of the species, and the subspecies if appropriate.

(b) The scientific name of the genus and species, and the subspecies if appropriate.

(c) The lot number or other lot identification.

(d) For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, or geographic description, or the state or county.

(e) For seed collected form a predominantly nonindigenous stand, the identity of the area of collection and the origin of the stand, or the words “origin not indigenous”.

(f) The elevation or the upper and lower limits of elevation within which the seed was collected.

(g) The percentage of pure seed by weight.

(h) For those kinds of forest tree seed for which standard testing procedures are prescribed by rule, the following is required:

(*i*) The percentage of germination exclusive of dormant seed.

(*ii*) The percentage of dormant seed, if present.

(*iii*) The calendar month and the year the percentages were determined by test.

(i) In place of the requirements of subdivision (h), the seed may be labeled “test is in progress, results will be supplied upon request”.

(j) For those species for which standard germination testing procedures have not been prescribed by the director, the calendar year in which the seed was collected.

(k) The name and complete address of the person who labeled the seed or who sells seed within this state.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

Compiler's note: In subdivision (e), the words “seed collected form a predominantly nonindigenous stand” evidently should read “seed collected from a predominantly nonindigenous stand”.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

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286.707 Seed treated with substance harmful to vertebrate animals; color; label information; description of treated seed not harmful to vertebrate animals.

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

(a) A warning statement in 12-point or larger type that the seed has been treated.

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

(c) A caution statement in 12-point type as follows: “treated seed—do not use for food, feed, or oil purposes”.

(2) 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.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

286.707a Field beans.

Sec. 7a. (1) Field bean seed produced east of a line dividing the central and mountain time zones and sold or offered for sale in Michigan, including seed offered for sale by its producer, shall be field inspected and laboratory tested for seed borne diseases including, but not limited to, common blight (Xanthomonas phaseoli), fuscous blight (Xanthomonas phaseoli var. fuscans), halo blight (Pseudomonas phaseolicola), and anthracnose (Colletotrichum lindemuthianum), which are determined by the director to be a threat to the bean industry. The director may inspect and test seed, from other sources as necessary, to determine the presence of

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or freedom from seed borne diseases.

(2) The director shall approve standards, tolerances, methods, procedures, and protocols employed in field inspections and laboratory tests of field beans. The field inspections and laboratory tests for disease approved by the director shall be at least equal to those field inspections and laboratory tests utilized for certified seed under Act No. 221 of the Public Acts of 1959, being sections 286.71 to 286.75 of the Michigan Compiled Laws, and rules promulgated under that act. The director may modify those standards, tolerances, methods, procedures, and protocols described in this subsection if their application would threaten the normal propagation of a type or variety of field bean seed.

(3) In the case of field beans sold by variety name, the director may waive the requirement of inspection and analysis relative to a specific field bean disease if it is determined by the director that, through consultation with Michigan state university or other authorities recognized by the director, the variety is resistant to 1 or more specific field bean diseases.

(4) The director shall take enforcement action against any seed lots which he or she determines to be infected.

History: Add. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

286.708 Correction of erroneous or unlawful seed labels; removal of seed from sale; obtaining and replacing labels.

Sec. 8. Seed labels, when found to be in error, shall be replaced by new, correct labels. Whenever, by examination of the label or by sampling and testing of the seed or by other dependable information, the label on any container of seed is found to be unlawful or to be in error beyond the limits of tolerance allowed by law, the unlawful label shall be replaced or completely covered by a new corrected label at once if the seed is of legal quality, otherwise the seed shall be removed from sale at once. Obtaining and replacing labels shall be the responsibility of the vendor who offers the seed for sale.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

286.709 Seed; circumstances prohibiting selling, offering for sale, advertising, exposing, or transporting for sale; unlawful conduct.

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

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

(b) The test to determine the percentage of germination required by section 3 was not completed within an 11-month period, exclusive of the month in which the test was completed immediately prior to sale, exposure, offering, or transporting for sale, except that a longer period of time shall be permitted for any kind of agricultural or vegetable seed which is packaged in container materials and under conditions prescribed under the rules that will maintain the viability of the seed under ordinary conditions of handling.

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

(d) The seed consists of, or contains, restricted noxious weed seed in excess of the limits prescribed by rule.

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

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

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

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

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

(j) When seed, under tag or label, has been substituted or altered.

(k) When stop sale orders have been instituted by the director.

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

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

(n) When the name of the department is used in connection with the labeling or advertising or sale of any

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seed in any manner.

(o) When the word “trace” is used as a substitute for any statement that is required by this act.

(p) When the word “type” is used on any labeling in connection with the name of any agricultural or vegetable seed variety.

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

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

(s) The seed is labeled with a variety name but is not certified by an official seed certifying agency when it is a variety for which a U.S. certificate of plant variety protection, under the plant variety protection act, 7 U.S.C. 2321 to 2582, specifies sale only as a class of certified seed. However, seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety.

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

(u) In the case of field bean seeds, the lot is found to contain diseases in excess of the tolerances prescribed in section 7a.

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

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

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

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

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1970, Act 208, Imd. Eff. Aug. 25, 1970;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

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286.710 Applicability of MCL 286.703.

Sec. 10. Section 3 does not apply to the following:

(a) Seed or grain not intended for sowing purposes.

(b) Seed stored in, transported to, or consigned to, a conditioning establishment for conditioning if the invoice or label accompanying the shipment of the seed bears the statement “seed for conditioning”. However, any labeling or other representation which may be made with respect to the unconditioned seed is subject to this act.

(c) Except for field bean seed, seed grown, sold, and delivered by the producer on his or her own premises directly to the purchaser if the seed does not contain prohibited noxious or restricted noxious weed seed, prohibited noxious or restricted noxious weed seed in excess of limits provided by rule, or not more than 2% of all weed seed. If, however, the seed is advertised for sale through the medium of the public press, by circular, catalog, or by exposing a sample of the seed, or a printed or written statement pertaining to the seed, in a public place or in any place of business, or if the seed is delivered by a common carrier, except when transported for the purpose of being conditioned as provided in this section, the producer shall be considered a vendor and the seed shall meet all requirements of the act including complete labeling of the seed. For cereal, field bean seed, and soybean seed where the purpose for which the seed is intended may be in question, all seeds advertised for sale by variety name or as conditioned or tested, or treated or offered at a price substantially higher than current market prices, shall be presumed to be offered for seeding purposes and subject to the labeling provisions of this act.

(d) A common carrier with respect to seed transported or delivered for transportation in the ordinary course of its business, if the carrier is not engaged in producing, conditioning, or marketing seed subject to this act.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.711 Duties of director; field bean inspections and analyses performed by person or agency; liability.

Sec. 11. (1) The director shall administer and enforce this act and maintain a seed testing laboratory and facilities with all necessary equipment and such analysts, inspectors, assistants, and other personnel necessary for proper enforcement and incur expenses as may be necessary to carry out the provisions of this act. The director shall do all of the following:

(a) Sample, inspect, make analysis of, and test any of the seed defined in this act which is sold or held for sale within the state, for seeding purposes, at the time and place and to the extent as he or she considers

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necessary to determine whether the seeds are in compliance with this act and notify promptly the person who sold, offered, or exposed the seed for sale of any violation found relating to the seed.

(b) Enter upon any public or private premises during regular business hours in order to have access to seeds and the records related to seeds subject to this act and the rules promulgated under this act, and upon any conveyance on land, water, or air at any time that the conveyance is accessible, for the same purpose.

(c) Promulgate any rules, in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, as may be incidental to, or necessary for, the accomplishment of the purpose and the enforcement of this act. If the Michigan supreme court rules that sections 45 and 46 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional, and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, the department shall not promulgate rules under this act.

(d) Prescribe and, after public notice, establish germination standards for vegetable, flower, and forest tree seed, if necessary, to aid in the efficient enforcement of this act.

(e) Make or provide for the making of purity, germination, and other tests of seed for any person on request, prescribe rules governing such testing, prescribe by rule fees for testing seed that shall not exceed the actual cost of conducting the test and that are comparable with fees for similar testing in other states, and establish inspection fees to enforce the provisions of this act. Fees for germination and purity tests of 1 kind of agricultural seed shall not exceed $15.00 per sample. All fees collected for the testing of seeds shall be deposited with the state treasurer and credited to the general fund.

(f) Cooperate with the United States department of agriculture and other agencies or associations in seed law enforcement.

(2) In the case of field bean seeds, the field inspection, laboratory analysis, and the securing and submission of a representative sample shall be performed by a person or agency approved by the director. The director shall authorize the person or agency to charge fees commensurate with the activity. Producers and persons or agencies conducting analyses or inspections shall generate inspection and analysis information and maintain that information for a period of at least 2 years following final disposition of the seed lot. The approved persons and agencies and seed producers shall provide records and information regarding field inspections and laboratory tests to the director upon request.

(3) Except as otherwise provided in this subsection, a person shall not have a cause of action against an inspection or testing agency or its employee if the inspection or testing agency or its employee is engaged in duties permitted by this act and utilizes written and approved procedures and protocols established by the director. An inspection or testing agency or its employee is liable for injuries to persons and damage to property under 1 or more of the following circumstances:

(a) The inspection or testing agency or its agent or employee failed to follow written procedures and protocols.

(b) The inspection or testing agency or its agent or employee improperly interpreted laboratory test results even though the written procedures and protocols were followed.

(c) The actions taken by the inspection or testing agency or its agent or employee were not within the scope of its official duties.

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History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988;—Am. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Administrative rules: R 285.714.1 et seq. of the Michigan Administrative Code.

286.711a Field bean advisory committee.

Sec. 11a. (1) There is created a field bean advisory committee within the department of agriculture. The committee shall review the standards, tolerances, methods, procedures, and protocols to be used by the department as well as standards utilized in other states and provinces and advise the director of its findings.

(2) Members of the committee shall be appointed by the director and shall consist of 1 individual from the following groups:

(a) The Michigan bean commission.

(b) The Michigan state university department of botany and plant pathology.

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(c) The Michigan state university department of crop and soil sciences.
(d) The Michigan department of agriculture.
(e) Field bean producers.
(f) Field bean processors.

History: Add. 1996, Act 86, Imd. Eff. Feb. 27, 1996.

Compiler's note: For transfer of powers and duties of the field bean advisory committee to the director of the department of agriculture, and abolishment of the field bean advisory committee, see E.R.O. No. 1996-3, compiled at MCL 286.731 of the Michigan Compiled Laws.

286.712, 286.713 Repealed. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

Compiler's note: The repealed sections pertained to seed testing and seizure of seeds.

286.714 Prohibition or regulation of labeling, sale, storage, transportation, distribution, use, or planting of certain seeds; ordinances by local government prohibited; exceptions.

Sec. 14. (1) Except as otherwise provided in this section, a local unit of government shall not adopt, maintain, or enforce an ordinance that prohibits or regulates the labeling, sale, storage, transportation, distribution, use, or planting of agricultural seeds, vegetable seeds, flower seeds, turf grass seeds, or forest tree seeds.

(2) A local unit of government may enact an ordinance prescribing standards different from those contained in this act and rules promulgated under this act and that prohibits or regulates the use or planting of agricultural seeds, vegetable seeds, flower seeds, turf grass seeds, or forest tree seeds under either or both of the following circumstances:

(a) Unreasonable adverse effects on the environment or public health will exist within the local unit of government.

(b) The local unit of government has determined that the activity to be prohibited or regulated within that unit of government has resulted or will result in the violation of other existing state or federal law.

(3) An ordinance enacted pursuant to subsection (2) shall not be enforced by a local unit of government until approved by the commission of agriculture. If the commission of agriculture denies an ordinance enacted pursuant to subsection (2), the commission of agriculture shall provide a detailed explanation of the basis of the denial within 30 days.

(4) Within 60 days after submission to the department of agriculture of a resolution of a local unit of government identifying unreasonable adverse effects on the environment or public health under subsection (2), the department of agriculture shall hold a local public meeting to determine the nature and extent of unreasonable adverse effects on the environment or public health. Within 30 days after the local public meeting, the department of agriculture shall issue a detailed opinion regarding the existence of unreasonable adverse effects on the environment or public health as identified by the resolution of the local unit of government.

(5) Section 15 does not apply to a violation of this section.

(6) This section does not limit the authority of a local unit of government under 1941 PA 359, MCL 247.61 to 247.72.

History: Add. 2006, Act 132, Imd. Eff. May 5, 2006.

Compiler's note: Former MCL 286.714, which pertained to injunctions, was repealed by Act 455 of 1988, Imd. Eff. Dec. 27, 1988.

286.715 Violation as misdemeanor; penalty; stop sale order; appeal; hearing; seizure of seed; condemnation of seed; application for release of seed or permission to condition or relabel seed; temporary or permanent injunction; bond not required.

Sec. 15. (1) A person who violates this act is guilty of a misdemeanor punishable by a fine of not less than $100.00 nor more than $2,000.00 for each offense, or, by imprisonment for not more than 90 days.

(2) The director may issue and enforce a written or printed stop sale order to the owner or custodian of any lot of seed the director finds to be in violation of this act. The order shall prohibit further sale, conditioning, or movement of the seed, except on approval of the director, until the director has evidence that the law has been complied with and has issued a release from the "stop sale" order. The owner or custodian of seed subject to a stop sale order may appeal the order to the department for a hearing, to discharge the stop sale order. The hearing shall be conducted in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws.

(3) Any lot of seed not in compliance with this act is subject to a seizure of the lot on a complaint of the director to a court of competent jurisdiction in the locality where the seed is located. If the court finds the seed to be in violation and orders the condemnation of the seed, it shall be denatured, destroyed, relabeled, or

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otherwise disposed of in compliance with the law. The court shall not order the disposition of the seed without first giving the claimant an opportunity to apply to the court for the release of the seed or permission to condition or relabel the seed into compliance with this act.

(4) If the director applies to a court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating or continuing to violate this act, the injunction shall be issued without requiring a bond.

History: 1965, Act 329, Eff. Mar. 31, 1966;—Am. 1988, Act 455, Imd. Eff. Dec. 27, 1988.

286.716 Repealed. 2006, Act 132, Imd. Eff. May 5, 2006.

Compiler's note: The repealed section pertained to repeal of Act 314 of 1923, MCL 286.51-286.63.

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