

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 5392**

A bill to amend 1965 PA 329, entitled
"Michigan seed law,"
by amending section 11 (MCL 286.711), as amended by 1996 PA 86.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11. (1) The director shall administer and enforce this
2 act. ~~and~~ **THE DIRECTOR MAY** maintain a seed testing laboratory and
3 facilities with all necessary equipment and ~~such~~ analysts,
4 inspectors, assistants, and other personnel necessary for proper
5 enforcement ~~and~~ **OF THIS ACT. THE DIRECTOR MAY** incur expenses as ~~may~~
6 ~~be necessary to carry out the provisions of~~ **IMPLEMENT** this act. The
7 director shall do all of the following:

8 (a) Sample, inspect, ~~make analysis of,~~ **ANALYZE**, and test any
9 ~~of the~~ seed defined in this act ~~which~~ **THAT** is sold or held for sale
10 within ~~the~~ **THIS** state, for seeding purposes, at the time and place
11 and to the extent as he or she considers necessary to determine

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

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

9 (c) Promulgate any rules ~~, in accordance with the~~
10 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
11 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
12 ~~Compiled Laws, as may be incidental to, or necessary for, the~~
13 ~~accomplishment of the purpose and the enforcement of~~ **TO IMPLEMENT**
14 **OR ENFORCE** this act. ~~If the Michigan supreme court rules that~~
15 ~~sections 45 and 46 of the administrative procedures act of 1969,~~
16 ~~Act No. 306 of the Public Acts of 1969, being sections 24.245 and~~
17 ~~24.246 of the Michigan Compiled Laws, are unconstitutional, and a~~
18 ~~statute requiring legislative review of administrative rules is not~~
19 ~~enacted within 90 days after the Michigan supreme court ruling, the~~
20 ~~department shall not promulgate rules under this act.~~

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

24 (e) ~~Make or provide for the making of purity, germination, and~~
25 ~~other tests of seed for any person on request, prescribe~~ **PROMULGATE**
26 rules governing ~~such~~ **PURITY, GERMINATION, AND OTHER SEED** testing,
27 prescribe by rule fees for testing seed that ~~shall~~ **DO** not exceed

1 the actual cost of conducting the test and that are comparable with
2 fees for similar testing in other states, and establish inspection
3 fees to enforce ~~the provisions of this act~~. Fees for germination
4 and purity tests of 1 kind of agricultural seed shall not exceed
5 \$15.00 per sample. All fees collected for the testing of seeds
6 shall be deposited with the state treasurer and credited to the
7 general fund.

8 (f) Cooperate with the United States ~~department~~ **DEPARTMENT** of
9 ~~agriculture~~ **AGRICULTURE** and other agencies or associations in seed
10 law enforcement.

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

23 (3) Except as otherwise provided in this subsection, a person
24 ~~shall~~ **DOES** not have a cause of action against an inspection or
25 testing agency or its employee if the inspection or testing agency
26 or its employee is engaged in duties permitted by this act and
27 utilizes written and approved procedures and protocols established

1 by the director. An inspection or testing agency or its employee is
2 liable for injuries to persons and damage to property under 1 or
3 more of the following circumstances:

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

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

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

12 (4) AS USED IN THIS SECTION, "RULE" MEANS A RULE PROMULGATED
13 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,
14 MCL 24.201 TO 24.328.

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