



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 713 (as enrolled)
 Sponsor: Senator Dianne Byrum
 Committee: Agriculture and Forestry

Date Completed: 12-19-95

RATIONALE

According to the Michigan Department of Agriculture (MDA), field bean production in Michigan is an extremely important industry that has been threatened in recent years by bacterial blights and anthracnose, seed borne diseases. Although certified bean seed is field inspected and laboratory tested to ensure its genetic purity and freedom from disease, noncertified seed is not similarly examined. As a result of the diseases that threaten bean seed, the MDA reports, a substantial portion of the production acreage has moved to the western states, where the climate is less conducive to disease. To ensure the integrity of dry bean seed used in Michigan, it has been suggested that inspection requirements be established in statute.

CONTENT

The bill would amend the Michigan Seed Law to do the following:

- **Require field bean seed produced east of a line dividing the central and mountain time zones and sold in Michigan to be field inspected and laboratory tested for seed borne diseases.**
- **Require the Director of the Michigan Department of Agriculture to approve standards for field inspections and laboratory tests of field beans.**
- **Extend certain labeling requirements to field bean seed.**
- **Require the field inspection, laboratory analysis, and securing and submission of a representative sample of field bean seed to be performed by a person or agency approved by the MDA Director.**
- **Create a field bean advisory committee within the MDA.**

Inspection and Testing Requirement

The bill provides that 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, would have to 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*), determined by the Director to be a threat to the bean industry. The Director could inspect and test seed, from other sources as necessary, to determine the presence of or freedom from seed borne diseases.

The Director would have to 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 would have to be at least equal to those inspections and tests used for certified seed under the seed certification Act and rules promulgated under that Act. The Director could modify the standards, tolerances, methods, procedures, and protocols if their application would threaten the normal propagation of a type or variety of field bean seed.

In the case of field beans sold by variety name, the Director could waive the inspection and analysis requirement relative to a specific field bean disease if he or she determined, through consultation with Michigan State University or other authorities recognized by the Director, that the variety was resistant to one or more specific field bean diseases.

The Director would be required to take enforcement action against any seed lots that he or she determined to be infected.

Information and Labeling Requirements

Currently, each container of agricultural, vegetable, or flower seed that is offered for sale for sowing purposes must bear or have attached to the container a label or tag in English giving information specified in the Law. If the seed is distributed in bulk, the required information must accompany delivery and be supplied to the purchaser at the time of delivery.

Specific information is required for agricultural seed and mixtures of agricultural seed, and for vegetable seed in containers of more than one pound. Under the bill, in the case of field bean seed, this information would have to include a statement indicating that the lot had been field inspected and laboratory tested and met the disease tolerances established by the Director. Also, in the case of field bean seed, the information would have to include a statement on the label indicating the state or foreign country of origin.

The bill would prohibit a person from selling, offering for sale, advertising, exposing, or transporting for sale in this State field bean seed if the label did not include a statement indicating that the lot had been field inspected and laboratory tested and met the disease tolerances established by the Director; or if the lot were found to contain diseases in excess of the prescribed tolerances.

Currently, the Law's labeling requirements do not apply to 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. Under the bill, this exception to the labeling requirements would not apply to field bean seed.

Approved Inspectors

The bill provides that, in the case of field bean seed, the field inspection, laboratory analysis, and securing and submission of a representative sample would have to be performed by a person or agency approved by the Director. The Director would have to authorize the person or agency to charge fees commensurate with the activity. ("Representative sample" would mean a sample taken from a seed lot that was of sufficient size to supply an adequate amount of seed for laboratory

testing and that was secured and submitted according to the guidelines approved by the Director.)

Producers and persons or agencies conducting analyses or inspections would have to generate inspection and analysis information and maintain that information for at least two years after final disposition of the seed lot. The approved persons and agencies and seed producers would have to provide records and information regarding field inspections and laboratory tests to the Director upon request.

Except as provided below, a person would not have a cause of action against an inspection or testing agency or its employee if the agency or employee were engaged in duties permitted by the Law and used written and approved procedures and protocols established by the Director. An agency or its employee would be liable for personal injury and property damage under one or more of the following circumstances:

- The agency or its agent or employee failed to follow written procedures and protocols.
- The agency or its agent or employee improperly interpreted laboratory test results even through the written procedures and protocols were followed.
- The actions taken by the agency or its agent or employee were not within the scope of its official duties.

Field Bean Advisory Committee

The bill would create a field bean advisory committee within the MDA. The committee would have to review the standards, tolerances, methods, procedures, and protocols to be used by the Department as well as standards used in other states and provinces, and advise the Director of its findings.

Members of the committee would have to be appointed by the Director and consist of one individual from the following groups:

- The Michigan Bean Commission.
- The Michigan State University Department of Botany and Plant Pathology.
- The Michigan State University Department of Crop and Soil Sciences.
- The Michigan Department of Agriculture.
- Field bean producers.
- Field bean processors.

Rules

The Seed Law requires the MDA to promulgate any rules, in accordance with the Administrative Procedures Act (APA), incidental to or necessary for the accomplishment of the purpose and enforcement of the Law. The bill would prohibit the Department from promulgating rules under the Law if the Michigan Supreme Court ruled that Sections 45 and 46 of the APA (governing rule-making) were unconstitutional, and a statute requiring legislative review of administrative rules were not enacted within 90 days after the Court's ruling.

MCL 286.702 et al.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By establishing field inspection and laboratory testing requirements, the bill would protect bean producers from purchasing uncertified seed that had not been examined for various strains of anthracnose and bacterial blights that can affect Michigan seed and that threaten field bean production in this State. At the same time, according to the Michigan Bean Commission, the bill would preserve the integrity of Michigan certified seed producers.

Opposing Argument

According to the MDA, the bill's inspection and testing requirements would increase the cost of producing noncertified field bean seed. Evidently, the bill would add from 60 cents to \$1 per cwt (hundredweight) to the cost of noncertified seed.

Legislative Analyst: S. Margules

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: A. Rich

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.