

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 5967

(As passed the House, November 9, 2000)

A bill to amend 1965 PA 114, entitled

"An act relating to dry, edible beans; to create a bean commission and prescribe its functions; to levy and collect assessments on bean production; and to provide penalties for violation of this act,"

by amending sections 1, 2, 3, 4, 10, 12, 14, and 17 (MCL 290.551, 290.552, 290.553, 290.554, 290.560, 290.562, 290.564, and 290.567), sections 1, 14, and 17 as amended by 1980 PA 493 and sections 2 and 3 as amended by 1989 PA 144.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Beans" means Michigan dry, edible beans, except
3 soybeans.

4 (b) "Commission" means the Michigan bean commission.

5 (c) "Director" means the director of the department of
6 agriculture.

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1 (d) "Grower" means any business unit, including a family
2 operation, sole proprietorship, partnership, corporation, com-
3 pany, association, trust, or other business organization engaged
4 in the business of producing beans for sale within 1 OF the past
5 ~~2~~ 3 years.

6 (e) "Processor" means a person who cleans and grades, dries,
7 dehydrates, cans, powders, extracts, cooks, or uses in producing
8 or manufacturing a product or article, ships, or otherwise han-
9 dles beans, including seed.

10 (f) "Sold or shipped for processing" means that beans are
11 loaded by the grower, in bulk or loose in bags or other contain-
12 ers, or packed in any style package, in a car, boat, truck,
13 wagon, or other conveyance to be transported to a processor.

14 Sec. 2. ~~(1)~~ For the purposes of this act, the state is
15 divided into 8 districts:

16 (a) District 1 consists of the counties of Arenac, Bay,
17 ~~Mecosta,~~ and Midland PLUS ALL COUNTIES NORTH OF MIDLAND COUNTY
18 THAT ARE NOT OTHERWISE DESIGNATED IN A DISTRICT.

19 (b) District 2 consists of the county of Gratiot.

20 ~~(c) District 3 consists of the county of Saginaw.~~

21 (C) ~~(d)~~ District ~~4~~ 3 consists of the county of Tuscola.

22 (D) ~~(e)~~ District ~~5~~ 4 consists of the counties of
23 Genesee, Lapeer, Macomb, St. Clair, and Sanilac.

24 (E) ~~(f)~~ District ~~6~~ 5 consists of the EASTERN HALF OF THE
25 county of Huron USING HIGHWAY 53 AS THE WESTERN BOUNDARY.

26 (F) DISTRICT 6 CONSISTS OF THE WESTERN HALF OF THE COUNTY OF
27 HURON USING HIGHWAY 53 AS THE EASTERN BOUNDARY.

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1 (g) District 7 consists of the counties of MONTCALM, KENT,
2 ISABELLA, MECOSTA, Eaton, Ingham, Clinton, and Shiawassee PLUS
3 ALL COUNTIES WEST AND SOUTH OF THIS DISTRICT NOT OTHERWISE DESIG-
4 NATED IN A DISTRICT.

5 (h) District 8 consists of the ~~counties of Montcalm, Kent,~~
6 ~~Isabella, and Ionia as well as all counties north of these coun-~~
7 ~~ties that are not otherwise assigned to a district~~ COUNTY OF
8 SAGINAW.

9 ~~-(2) Any area not represented in the districts described in~~
10 ~~subsection (1) may vote in the nearest adjacent county.~~

11 Sec. 3. (1) The Michigan bean commission of ~~11~~ 9 voting
12 members is created, consisting of a grower from each district
13 ~~and 3 processors, except as provided in subsection (5)~~ CREATED
14 UNDER SECTION 2 AND 1 PROCESSOR SHIPPER HANDLER MEMBER UNDER SEC-
15 TION 4(2). ~~Two processor members shall be shipper handlers and~~
16 ~~1 processor member shall be a major canner of beans.~~ The direc-
17 tor and the dean of the college of agriculture of Michigan state
18 university, OR THEIR DESIGNEES, are ex officio members without
19 vote. An appointed member shall be of legal voting age in this
20 state and ~~, except the processor canner,~~ shall be a citizen and
21 resident of this state. ~~who is and has~~ COMMISSION MEMBERS,
22 EXCEPT FOR THE PROCESSOR MEMBER, SHALL BE OR SHALL HAVE been
23 engaged in the actual growing ~~,~~ OR producing ~~,~~ ~~or processing~~
24 of beans within the state. ~~for a period of at least 5 years~~
25 ~~immediately preceding his or her appointment.~~

26 (2) The terms of office of members of the commission shall
27 be 3 years after the date of appointment or until their

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1 successors are appointed and qualified. ~~The first appointments,~~
2 ~~however, shall be made as follows: 2 grower members and 1 pro-~~
3 ~~cessor member shall be appointed for a term of 1 year; 2 grower~~
4 ~~members and 1 processor member shall be appointed for a term of 2~~
5 ~~years; and, 2 grower members and 1 processor member shall be~~
6 ~~appointed for a term of 3 years. A person shall not serve more~~
7 ~~than 2 full terms in succession.~~

8 ~~(3) The initial appointments of members from districts 7~~
9 ~~and 8 shall be made in the manner described in section 4(2). The~~
10 ~~term of office of the member appointed from district 7 shall be 2~~
11 ~~years, and the term of office of the member appointed from dis-~~
12 ~~trict 8 shall be 3 years.~~

13 (3) ~~(4)~~ Not less than 5 years after ~~the effective date of~~
14 ~~the 1989 amendatory act that added this subsection~~ JUNE 29, 1989
15 and every 5 calendar years after that date, the commission may,
16 with the advice and consent of the director and the commission of
17 agriculture, reapportion the districts described in section 2.
18 Reapportionment of the districts shall be on the basis of 1 or
19 more counties with the amount of planted dry bean acreage being
20 as nearly equal as possible between districts EXCEPT THAT IF 1
21 COUNTY CONSTITUTES GREATER THAN 20% OF THE TOTAL BEAN PRODUCTION
22 WITHIN THE STATE, THEN THAT COUNTY MAY BE DIVIDED INTO 2 OR MORE
23 RELATIVELY EQUAL DISTRICTS.

24 (4) ~~(5)~~ After the reapportionment described in subsection
25 ~~(4)~~ (3), if the residence of a member of the commission falls
26 outside of the district for which he or she serves on the
27 commission and falls within the district for which another member

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1 serves on the commission, then both members shall continue to
2 serve on the commission for a term equal to the remaining term of
3 the member who served for the longest period of time. If after
4 the reapportionment described in subsection ~~-(4)-~~ (3) a district
5 is created in which no member serving on the commission resides,
6 then a member shall be selected in a manner described in
7 section 4(2).

8 Sec. 4. (1) The governor shall appoint the first members of
9 the commission within 30 days after this act takes effect with
10 the advice and consent of the senate and without use of the nomi-
11 nating procedures provided in this section. The governor shall
12 appoint subsequent members only from the lists of nominees sub-
13 mitted to him OR HER and subject to the advice and consent of the
14 senate. If a list is not submitted to the governor at least 30
15 days before the term of office of a member would normally expire,
16 or within 30 days after a vacancy otherwise occurs, the governor
17 may appoint any person who is otherwise qualified under this
18 act.

19 (2) A meeting of growers shall be held in each district in
20 each year when a vacancy occurs. The commission shall give
21 notice of each meeting by at least 2 insertions in a farm publi-
22 cation of general circulation in the district where the meeting
23 is to be held, with the final insertion to be at least 10 days
24 before the meeting. The commission shall supervise the conduct
25 of the meeting. Two nominees for members of the commission shall
26 be selected at each meeting and submitted to the governor.

27 ~~Appointments~~ APPOINTMENT of A processor shipper handler

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1 ~~members~~ MEMBER shall be made only from any list submitted to
2 the governor by ~~a state bean processor shipper handler~~

3 ~~organization~~ THE COMMISSION with 2 names submitted for ~~each~~
4 ~~position to be filled~~ THE APPOINTMENT OF THAT MEMBER.

5 ~~Appointment of the processor canner member shall be made from~~
6 ~~any list of 2 nominees submitted to the governor by an organiza-~~
7 ~~tion of canners of beans.~~

8 (3) A member of the commission who fails to meet the quali-
9 fications of this act shall cease to be a member of the
10 commission. This vacancy or a vacancy for another reason shall
11 be filled by the governor for the unexpired term in the same
12 manner as the original appointment.

13 Sec. 10. (1) The commission shall perform the following:

14 (a) Adopt, amend, or rescind rules, pursuant to ~~Act No. 306~~
15 ~~of the Public Acts of 1969, as amended, being sections 24.201 to~~
16 ~~24.315 of the Michigan Compiled Laws~~ THE ADMINISTRATIVE PROCE-
17 DURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328, for the
18 exercise of its powers and performance of its duties.

19 (b) Administer this act and investigate violations of this
20 act, and perform all acts and exercise all powers reasonably nec-
21 essary to implement this act.

22 (c) Employ and discharge employees as it considers neces-
23 sary, prescribe their powers and duties, and fix their
24 compensation.

25 (d) Establish offices, incur expenses, enter into contracts
26 and agreements, and create liabilities, when reasonable, for the
27 proper administration and enforcement of this act.

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1 (e) Enter into in the name of the commission necessary
2 advertising contracts and other agreements and cooperate with and
3 support national and state associations of bean growers or pro-
4 cessors in implementing this act.

5 (f) Keep accurate books, records, and accounts of all com-
6 mission dealings, which shall be open to inspection by the
7 public, and shall be audited by the auditor general or by a cer-
8 tified public accountant. A writing prepared, owned, used, in
9 the possession of, or retained by the commission in the per-
10 formance of an official function shall be made available to the
11 public in compliance with ~~Act No. 442 of the Public Acts of~~
12 ~~1976, being sections 15.231 to 15.246 of the Michigan Compiled~~
13 ~~Laws~~ THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO
14 15.246.

15 (g) Promote research on bean varieties and agronomic
16 practices.

17 (h) Promote scientific research to develop and discover the
18 health, food, therapeutic, NUTRITIONAL, and dietetic value of
19 beans and bean products.

20 (i) Carry out market development, market research, and pro-
21 motional programs.

22 (j) Compile and publish commodity information.

23 (2) THE COMMISSION MAY DEVELOP, PUBLISH, AND DISPENSE TO
24 GROWERS INFORMATION PERTAINING TO MARKETS AND MARKETING, AND
25 SHALL INCLUDE SUCH ITEMS AS COMPETING PRODUCTION AREAS, PRAC-
26 TICES, CROP PRODUCTION, CROP CONDITIONS, CROP PRICES, AND OTHER

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1 FACTORS AFFECTING THE PRICING STRUCTURE OF DRY BEANS THROUGHOUT
2 THE WORLD.

3 (3) ~~—(2)—~~ The commission shall not be a party to a procedure
4 which includes price setting or production quotas. The commis-
5 sion shall not engage in marketing or an activity which would
6 result in the setting up of a marketing order.

7 Sec. 12. (1) A grower assessment of ~~—5—~~ 10 cents per hun-
8 dredweight, when sold or shipped, is levied and imposed upon all
9 beans grown and produced in this state in the year ~~—1977—~~ 2000,
10 and annually thereafter. The grower or certified seed grower
11 shall pay the assessment.

12 (2) The first receiver who purchases or receives beans from
13 growers shall deduct the assessment from the price paid and remit
14 it to the commission on or before the fifteenth of the following
15 month.

16 (3) The commission may set a reasonable fee for the collect-
17 ing of assessments from growers. ~~—Moneys—~~

18 (4) MONEY levied and collected under this act shall be spent
19 for purposes authorized by this act.

20 Sec. 14. (1) Whenever ~~—1,200—~~ 800 of the growers, of which
21 not more than ~~—400—~~ 200 are in the same district, petition the
22 commission, the commission shall conduct a referendum among the
23 growers of the state to determine the rate of supplemental
24 assessment for special projects. ~~—This—~~

25 (2) THE supplemental assessment PROVIDED FOR IN SUBSECTION
26 (1) shall be collected and remitted to the commission in the same

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1 manner as provided in section 12. The referendum shall be
2 conducted in a manner to protect the purity of the ballot.

3 (3) If a majority of the growers voting upon the question
4 vote in favor of the proposed change, the assessment shall be
5 ineffective in the year in which it is voted unless the change is
6 published before June 1 of that year.

7 (4) The total rate of supplemental assessment shall not
8 exceed 25 cents per hundredweight.

9 Sec. 17. (1) Five years after the latest referendum held
10 under this section, the department of agriculture shall conduct a
11 referendum at which growers shall vote whether or not the commis-
12 sion shall continue to levy the assessments and otherwise carry
13 out this act. If a majority of the growers voting who represent
14 a majority of the hundredweight sold in ANY 1 OF the previous
15 ~~year~~ 3 YEARS of those voting, vote against having the commis-
16 sion continue to function, the commission shall cease its opera-
17 tions and deliver its assets to the director who shall transfer
18 the assets to Michigan state university for bean research. A
19 grower ~~shall be~~ IS entitled to 1 vote and the grower must be
20 able to verify the hundredweight claimed as being sold AS
21 INDICATED on the ballot.

22 (2) Upon written petition signed by at least ~~1,200~~ 200
23 growers but with not more than ~~400~~ 100 of them from any 1
24 district, the director shall, within 30 days, give 10 days'
25 notice and hold a hearing on termination of the commission.
26 Within ~~30~~ 45 days after the close of the hearings, the director
27 shall conduct a referendum to determine whether the growers

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1 assent to the proposed action. The commission is terminated if a
2 majority by number of those voting, representing a majority of
3 the hundredweight sold in ANY 1 OF the previous ~~year~~ 3 YEARS of
4 those voting, vote against its continuation. The commission
5 shall then cease its operations and deliver its assets to the
6 director who shall transfer the assets to Michigan state univer-
7 sity for bean research. A referendum described in this subsec-
8 tion shall not be conducted within 1 year before or after any
9 other referendum. A grower ~~shall be~~ IS entitled to 1 vote and
10 the grower must be able to verify the hundredweight claimed as
11 being sold AS INDICATED on the ballot.

12 (3) Not less than 30 days before the referendum required by
13 subsection (1), the department of agriculture shall submit FOR
14 REVIEW the ballot to be used in conducting the referendum to the
15 SENATE'S AND THE house of ~~representatives committee on agricul-~~
16 ~~ture and the senate committee on environmental and agricultural~~
17 ~~affairs for review~~ REPRESENTATIVE'S STANDING COMMITTEES DEALING
18 PRIMARILY WITH AGRICULTURAL ISSUES.