



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 637 (as enrolled)
Sponsor: Senator Joe Hune
Senate Committee: Agriculture
House Committee: Agriculture

Date Completed: 5-18-16

RATIONALE

The Michigan Seed Law governs the coloration, advertising, and sale of seeds, and authorizes the Department of Agriculture and Rural Development to inspect and test seeds. The Law also prescribes various labeling requirements for seed products. Generally, in order for seed to be transported or sold, a germination test (a test that determines the percentage of seeds in a lot that germinate) must have been conducted within an 11-month period preceding the sale or transport. Seed that is distributed through interstate commerce also must comply with the labeling and testing requirements established under the Federal Seed Act.

In 2002, the Association of American Seed Control Officials, an organization of seed regulatory officials in the United States and Canada, amended the model Recommended Uniform State Seed Law (RUSSL) to implement "sell by" language and change the test period for cool season grass seed to 15 months. In addition, the Federal Seed Act specifies font sizes for labeling treated seed that differ from the Seed Law's requirements. It has been suggested that including the RUSSL modifications pertaining to cool season grass seed and the Federal Seed Act font sizes in the Michigan Seed Law would maintain uniformity in the seeds laws between the states and would be beneficial for consumers and retailers.

CONTENT

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

- **Require cool season lawn and turf seed and mixtures to include a "sell by" date, which would have to be within 15 months from the date of the germination test.**
- **Prohibit a person from selling any cool season lawn and turf seed and mixtures if the germination test were not completed within 15 months immediately before the sale.**
- **Require seed treated with a harmful substance to be labeled with warning and caution statements in at least 8-point, rather than 12-point, font.**

The bill would take effect 90 days after its enactment.

Under the Seed Law, for agricultural seed and mixtures of agriculture seed, and for vegetable seed in containers of more than one pound, certain information is required. Under the bill, cool season lawn and turf seed and mixtures would have to include the statement "sell by", which would have to be within 15 months from the date of the germination test exclusive of the month of the test. "Cool season lawn and turf grass" would mean grasses including Kentucky Bluegrass, Red Fescue, Chewings Fescue, Hard Fescue, Tall Fescue, Intermediate Ryegrass, Annual Ryegrass, Colonial Bentgrass, Annual Bentgrass, and mixtures of any of these.

A person may not sell, offer for sale, advertise, expose, or transport for sale any seed subject to the Law if the test to determine the percentage of germination was not completed within an 11-month period, exclusive of the month in which the test was completed, immediately before the sale, advertisement, exposure, or transport. Under the bill, this provision also would refer to the 15-month period described above for cool season lawn and turf seed and mixtures.

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

- A warning statement in 12-point or larger type that the seed has been treated.
- The common, coined, or abbreviated chemical name of the substance applied to the seed.
- A caution statement in 12-point type as follows: "treated seed--do not use for food, feed, or oil purposes".

Where the Law specifies 12-point type, the bill instead would require 8-point or larger type.

A person who violates the Seed Law is guilty of a misdemeanor punishable by a fine of at least \$100 but not more than \$2,000 for each offense, or imprisonment for up to 90 days. Also, the Director of the Department of Agriculture and Rural Development may issue and enforce a stop sale order, and the lot of seeds not in compliance with the Law is subject to seizure and destruction or other method of disposal.

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

Under different state laws, the period of time grass seed is permitted to remain on the shelf varies between seven and 15 months. According to the Michigan Agribusiness Association, at least 29 other states have changed their seed laws to a 15-month test period. Some states, including Michigan, use a "test period" labeling phrase. This phrase can be confusing for consumers when other terminology, e.g., "sell by", better conveys the concept that maximum viability for grass seed can be obtained within the period of time stated on the package.

The bill would benefit consumers and retailers. If the "sell by" language were used, a consumer would have an easy-to-understand label similar to what is on other products subject to expiration or reduced effectiveness over time. A less ambiguous label would give a buyer adequate assurances that he or she was buying good-quality seed. Also, grass seed retailers could keep cool season grass seed on shelves for up to 15 months instead of 11 months. Northern climates have few times throughout the year in which to plant grass seed. A 15-month period allows grass seed to stay on the shelf for three full selling seasons without a reduction in seed viability. Allowing grass seed to remain on the shelf during three, instead of two, selling seasons would save businesses money in labor costs, allow additional time to sell product on hand, and reduce the regulatory burden for grass seed retailers.

The bill also would modify the font sizes for treated seed labels. The modification would bring the Michigan Seed Law in line with the Federal Seed Act regulations for labeling treated seeds.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill could have a negative fiscal impact on State and local government. The additional provisions in the bill could lead to more misdemeanor charges and convictions for violations. An increase in misdemeanor arrests and convictions could place incremental resource demands on local court systems, law enforcement, and jails. Any associated increase in fine revenue would be dedicated to public libraries.

Fiscal Analyst: Ryan Bergan

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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.