

MICHIGAN SEED LAW (EXCERPT)
Act 329 of 1965

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

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

(a) Sample, inspect, analyze, and test any seed defined in this act that is sold or held for sale within this state, for seeding purposes, at the time and place and to the extent as he or she considers 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 necessary to implement or enforce 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) Promulgate rules governing purity, germination, and other seed testing, prescribe by rule fees for testing seed that do 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 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 does 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.

(4) As used in this section, "rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

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;—Am. 2016, Act 258, Eff. Sept. 26, 2016.

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.