

HOUSE BILL NO. 105

INTRODUCED BY BARNETT, HARGROVE, SWYSGOOD

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY AND RESPONSIBILITY OF THE DEPARTMENT OF AGRICULTURE FOR THE CONTROL AND PREVENTION OF THE SPREAD OF CONTAGIOUS DISEASE IN SEED POTATO STOCK; DEFINING "COMMERCIAL PURPOSE"; REVISING CERTIFICATION RECORD COMPILATION AND PUBLICATION REQUIREMENTS; AND AMENDING SECTIONS 80-5-402, 80-5-403, 80-5-404, AND 80-5-405, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 80-5-402, MCA, is amended to read:

"80-5-402. Definitions. As used in this part, the following definitions apply:

(1) "Certified seed potatoes" means potato seed stock that has passed limited field and storage inspections and that has been grown in accordance with the certification rules and regulations of an official seed potato certifying agency of the state or country of origin and certified as such.

(2) "Commercial purpose" means planting or propagating potatoes for the purpose of selling, trading, or otherwise exchanging for profit.

(3) "Department" means the department of agriculture provided for in 2-15-3001.

~~(3)~~(4) "Person" means an individual, firm, partnership, corporation, company, association, or separate business or legal entity.

~~(4)~~(5) "Seed potatoes" or "potato seed" means all varieties of potato tubers, stems, and other plant parts of the herb plant known as *Solanum tuberosum* that are intended or used for seed purposes, planting, propagation, or reproduction."

Section 2. Section 80-5-403, MCA, is amended to read:

"80-5-403. Imported seed potatoes -- restrictions -- exceptions -- quarantine. (1) To control and prevent the spread of contagious diseases among seed potato stock,

~~(a)~~ seed potatoes may not be imported into this state for any commercial or agricultural purpose

1 unless the seed potatoes are:

2 ~~(i)(a)~~ from seed stock produced as a part of a certified seed potato crop in the state or country of
3 origin and certified as being from that stock;

4 ~~(ii)(b) inspected~~ subject to inspection at the Montana receiving point by a federal or state-federal
5 standard grade inspector;

6 ~~(iii)(c)~~ shipped in a clean, disinfected container or transportation carrier; and

7 ~~(iv)(d)~~ accompanied by a United States department of agriculture or state of origin certification of
8 inspection describing the seed variety, seed class, standard grade, quality or condition, and seed source
9 and have affixed to each inspection certificate an official state of origin seed potato certification tag or
10 label; and

11 ~~(b) seed or commercial potatoes, equipment, machinery, bags, or containers known to be diseased~~
12 ~~or contaminated with bacterial ring rot, nematode, or tuber moth may not be brought into this state.~~

13 (2) The provisions of ~~this section~~ subsection (1) do not apply to any unit of the Montana university
14 system when it is importing into this state potato seed for research or educational purposes.

15 (3) ~~The department shall quarantine seed potatoes imported into the state in violation of this~~
16 ~~section. The department shall adopt rules governing quarantines and regulating the use or disposition of~~
17 ~~quarantined seed potatoes. Seed or commercial potatoes, equipment, machinery, bags, or containers known~~
18 ~~to be diseased or contaminated with bacterial ring rot, golden nematode, or other diseases designated by~~
19 ~~department rule may not be brought into this state.~~

20

21 **Section 3.** Section 80-5-404, MCA, is amended to read:

22 **"80-5-404. Planting noncertified seed potatoes prohibited in certain counties -- restrictions --**
23 **exceptions.** (1) To control and prevent the spread of contagious diseases and viruses among seed potato
24 stock, it ~~shall be~~ is unlawful ~~after January 1, 1990,~~ for any person to plant or produce potatoes, either seed
25 or commercial, from any seed potato stock unless the seed potatoes are:

26 (a) from seed stock produced as a part of a certified seed potato crop in the state or country of
27 origin and certified as being from that stock;

28 (b) ~~inspected~~ subject to inspection at the receiving point by a federal or state-federal standard
29 grade inspector if from a source outside the county;

30 (c) shipped in a clean, disinfected container or transportation carrier; and

1 (d) for each individual lot of seed potatoes, accompanied by a United States department of
 2 agriculture or state of origin certificate of inspection describing the seed variety, seed class, standard grade,
 3 quality or condition, and seed source and have affixed to each inspection certificate an official state of
 4 origin seed potato certification tag or label.

5 (2) The provisions of this section apply only to counties where ~~Montana-certified~~ Montana-certified
 6 seed potatoes are produced and certified by Montana state university-Bozeman during the preceding crop
 7 year as provided for in 80-5-301 through 80-5-305. On or before ~~November 15~~ January 1 of each year,
 8 the department shall compile from official certification records at Montana state university-Bozeman a list
 9 of counties affected by this section ~~and shall publish the provisions of this section throughout these~~
 10 ~~counties.~~

11 (3) The provisions of this section do not apply to:

12 (a) potatoes grown in home gardens;

13 (b) potatoes grown by any unit of the Montana university system for research or educational
 14 purposes."

15
 16 **Section 4.** Section 80-5-405, MCA, is amended to read:

17 "**80-5-405. Enforcement -- penalty.** (1) The department shall administer and enforce the provisions
 18 of this part.

19 (2) When potatoes are found to be in violation of this part, the department may issue orders:

20 (a) restricting transportation of the potatoes;

21 (b) requiring treatment or destruction of the potatoes; or

22 (c) requiring other disease prevention or suppression measures.

23 (3) The department may adopt rules governing quarantines to prevent the intrastate or interstate
 24 movement of diseases of potatoes from infested areas and adjacent areas. Quarantines may restrict or
 25 prohibit the transportation of plants, seed potatoes, machinery, equipment, soil, or other material capable
 26 of transporting the disease in any stage of development.

27 (4) Any A person violating any provision of this part is guilty of a misdemeanor and upon conviction
 28 shall be punished as provided in 46-18-212."

29 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0105, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying the authority and responsibility of the Department of Agriculture for the control and prevention of the spread of contagious disease in seed potato stock; defining "Commercial purpose"; revising certification record compilation and publication requirements.

ASSUMPTIONS:

Agricultural Experiment Stations:

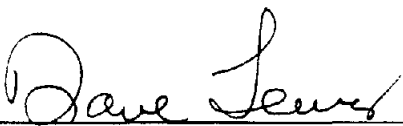
1. Any costs associated with this law can be absorbed within the certification program.

Department of Agriculture:


2. The department will absorb associated costs within present law base budgets.

FISCAL IMPACT:

No Fiscal Impact



DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning



JOE BARNETT, PRIMARY SPONSOR DATE
Fiscal Note for HB0105, as introduced

HB 105

APPROVED BY COM ON
AGRICULTURE

HOUSE BILL NO. 105

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BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

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(2) "Commercial purpose" means planting or propagating potatoes for the purpose of selling, trading, or otherwise exchanging for profit.

~~(3)~~ (3) "Department" means the department of agriculture provided for in 2-15-3001.

~~(4)~~ (4) "Person" means an individual, firm, partnership, corporation, company, association, or separate business or legal entity.

~~(4)~~ (5) "Seed potatoes" or "potato seed" means all varieties of potato tubers, stems, and other plant parts of the herb plant known as *Solanum tuberosum* that are intended or used for seed purposes, planting, propagation, or reproduction."

Section 2. Section 80-5-403, MCA, is amended to read:

"80-5-403. Imported seed potatoes -- restrictions -- exceptions ~~—quarantine.~~ (1) To control and

1 prevent the spread of contagious diseases among seed potato stock;

2 ~~(a)~~ seed potatoes may not be imported into this state for any commercial ~~or agricultural~~ purpose
3 unless the seed potatoes are:

4 ~~(i)~~(a) from seed stock produced as a part of a certified seed potato crop in the state or country of
5 origin and certified as being from that stock;

6 ~~(ii)~~(b) ~~inspected~~ subject to inspection at the Montana receiving point by a federal or state-federal
7 standard grade inspector;

8 ~~(iii)~~(c) shipped in a clean, disinfected container or transportation carrier; and

9 ~~(iv)~~(d) accompanied by a United States department of agriculture or state of origin certification of
10 inspection describing the seed variety, seed class, standard grade, quality or condition, and seed source
11 and have affixed to each inspection certificate an official state of origin seed potato certification tag or
12 label; ~~and~~

13 ~~(b) seed or commercial potatoes, equipment, machinery, bags, or containers known to be diseased~~
14 ~~or contaminated with bacterial ring rot, nematode, or tuber moth may not be brought into this state.~~

15 (2) The provisions of ~~this section subsection (1)~~ do not apply to any unit of the Montana university
16 system when it is importing into this state potato seed for research or educational purposes.

17 (3) ~~The department shall quarantine seed potatoes imported into the state in violation of this~~
18 ~~section. The department shall adopt rules governing quarantines and regulating the use or disposition of~~
19 ~~quarantined seed potatoes. Seed or commercial potatoes, equipment, machinery, bags, or containers known~~
20 ~~to be diseased or contaminated with bacterial ring rot, golden nematode, or other diseases designated by~~
21 ~~department rule may not be brought into this state.~~"

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23 **Section 3.** Section 80-5-404, MCA, is amended to read:

24 **"80-5-404. Planting noncertified seed potatoes prohibited in certain counties -- restrictions --**
25 **exceptions.** (1) To control and prevent the spread of contagious diseases and viruses among seed potato
26 stock, it ~~shall be~~ is unlawful ~~after January 1, 1990,~~ for any person to plant or produce potatoes, either seed
27 or commercial, from any seed potato stock unless the seed potatoes are:

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1 grade inspector if from a source outside the county;

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3 (d) for each individual lot of seed potatoes, accompanied by a United States department of
4 agriculture or state of origin certificate of inspection describing the seed variety, seed class, standard grade,
5 quality or condition, and seed source and have affixed to each inspection certificate an official state of
6 origin seed potato certification tag or label.

7 ~~(2) The provisions of this section apply only to counties where Montana certified Montana certified
8 seed potatoes are produced and certified by Montana state university Bozeman during the preceding crop
9 year as provided for in 80-5-301 through 80-5-305. On or before November 15 January 1 of each year,
10 the department shall compile from official certification records at Montana state university Bozeman a list
11 of counties affected by this section and shall publish the provisions of this section throughout those
12 counties.~~

13 ~~(3) The provisions of this section do not apply to:~~

14 (a) potatoes grown in home gardens;

15 (b) potatoes grown by any unit of the Montana university system for research or educational
16 purposes."

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18 **Section 4.** Section 80-5-405, MCA, is amended to read:

19 **"80-5-405. Enforcement -- penalty.** (1) The department shall administer and enforce the provisions
20 of this part.

21 (2) When potatoes are found to be in violation of this part, the department may issue orders:

22 (a) restricting transportation of the potatoes;

23 (b) requiring treatment or destruction of the potatoes; or

24 (c) requiring other disease prevention or suppression measures.

25 (3) The department may adopt rules governing quarantines to prevent the intrastate or interstate
26 movement of diseases of potatoes from infested areas and adjacent areas. Quarantines may restrict or
27 prohibit the transportation of plants, seed potatoes, machinery, equipment, soil, or other material capable
28 of transporting the disease in any stage of development.

29 (4) ~~Any~~ **A** person violating any provision of this part is guilty of a misdemeanor and upon conviction
30 shall be punished as provided in 46-18-212."

-END-

1 HOUSE BILL NO. 105

2 INTRODUCED BY BARNETT, HARGROVE, SWYSGOOD
 3 BY REQUEST OF THE DEPARTMENT OF AGRICULTURE
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5 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE AUTHORITY AND RESPONSIBILITY OF THE
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 7 CONTAGIOUS DISEASE IN SEED POTATO STOCK; EXTENDING TO ALL COUNTIES CERTAIN
 8 RESTRICTIONS REGARDING THE PLANTING OR PROPAGATION OF NONCERTIFIED SEED POTATOES;
 9 DEFINING "COMMERCIAL PURPOSE"; REVISING CERTIFICATION RECORD COMPILATION AND
 10 PUBLICATION REQUIREMENTS; AND AMENDING SECTIONS 80-5-402, 80-5-403, 80-5-404, AND
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22 (3) "Department" means the department of agriculture provided for in 2-15-3001.

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 24 separate business or legal entity.

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APPROVED BY COM ON AGRICULTURE,
LIVESTOCK & IRRIGATION

HOUSE BILL NO. 105

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22

23 **Section 3.** Section 80-5-404, MCA, is amended to read:

24 **"80-5-404. Planting noncertified seed potatoes prohibited in certain counties -- restrictions --**
25 **exceptions.** (1) To control and prevent the spread of contagious diseases and viruses among seed potato
26 stock, it ~~shall be~~ is unlawful ~~after January 1, 1990,~~ for any person to plant or produce potatoes, either seed
27 or commercial, from any seed potato stock unless the seed potatoes are:

28 (a) from seed stock produced as a part of a certified seed potato crop in the state or country of
29 origin and certified as being from that stock;

30 (b) ~~inspected~~ subject to inspection at the receiving point by a federal or state-federal standard

1 grade inspector if from a source outside the county;

2 (c) shipped in a clean, disinfected container or transportation carrier; and

3 (d) for each individual lot of seed potatoes, accompanied by a United States department of
4 agriculture or state of origin certificate of inspection describing the seed variety, seed class, standard grade,
5 quality or condition, and seed source and have affixed to each inspection certificate an official state of
6 origin seed potato certification tag or label.

7 ~~(2) The provisions of this section apply only to counties where Montana certified Montana certified~~
8 ~~seed potatoes are produced and certified by Montana state university Bozeman during the preceding crop~~
9 ~~year as provided for in 80-5-301 through 80-5-305. On or before November 15 January 1 of each year,~~
10 ~~the department shall compile from official certification records at Montana state university Bozeman a list~~
11 ~~of counties affected by this section and shall publish the provisions of this section throughout those~~
12 ~~counties.~~

13 ~~(3)~~ The provisions of this section do not apply to:

14 (a) potatoes grown in home gardens;

15 (b) potatoes grown by any unit of the Montana university system for research or educational
16 purposes."

17

18 **Section 4. Section 80-5-405, MCA, is amended to read:**

19 **"80-5-405. Enforcement -- penalty. (1) The department shall administer and enforce the provisions**
20 **of this part.**

21 **(2) When potatoes are found to be in violation of this part, the department may issue orders:**

22 **(a) restricting transportation of the potatoes;**

23 **(b) requiring treatment or destruction of the potatoes; or**

24 **(c) requiring other disease prevention or suppression measures.**

25 **(3) The department may adopt rules governing quarantines to prevent the intrastate or interstate**
26 **movement of diseases of potatoes from infested areas and adjacent areas. Quarantines may restrict or**
27 **prohibit the transportation of plants, seed potatoes, machinery, equipment, soil, or other material capable**
28 **of transporting the disease in any stage of development.**

29 **(4) Any A person violating any provision of this part is guilty of a misdemeanor and upon conviction**
30 **shall be punished as provided in 46-18-212."**

-END-