

SENATE BILL NO. 53

INTRODUCED BY HERTEL

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF AGRICULTURE TO ESTABLISH RULES GOVERNING QUARANTINES TO CONTROL INJURIOUS PLANT PESTS, PLANTS CAPABLE OF SPREADING PLANT PESTS, NOXIOUS WEEDS, AND OTHER EXOTIC PLANTS DEFINED BY THE DEPARTMENT AS PLANT PESTS; AUTHORIZING THE ADOPTION OF PEST MANAGEMENT STANDARDS AND PROCEDURES REGARDING THE INTRODUCTION OF THESE PESTS AND BIOLOGICAL CONTROL AGENTS; PROVIDING FOR RECEIPT AND DEPOSIT OF FUNDS; PROVIDING A PENALTY; AMENDING SECTIONS 80-7-123 AND 80-7-135, MCA; AND REPEALING SECTION 80-7-121, MCA."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 2] allows the department of agriculture to adopt all rules necessary to impose and administer quarantines. It is intended that the rules address:

(1) quarantines applicable to both intrastate and interstate plant and plant pest movement;

(2) procedures necessary to prevent the introduction and spread of pests that are considered plant pests and of plants capable of spreading plant pests, noxious weeds, and certain exotic plants that are considered pests;

(3) establishment of plant pest standards and procedures for surveying and controlling plant pests in this state;

(4) procedures that will allow the introduction of certain plant pests and biological control agents into Montana when necessary to control plant diseases or other plant pests; and

(5) procedures that will allow the department to recover costs incurred in implementing quarantines and plant pest management standards and to impose civil fines for violations of these rules, which may include a penalty schedule for initial and subsequent violations.

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

1 **NEW SECTION. Section 1. Short title.** [Sections 1 through 4] may be cited as the "Montana
2 Quarantine and Pest Management Act".

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4 **NEW SECTION. Section 2. Quarantines and pest management procedures -- department rules.** The
5 department may adopt rules concerning:

- 6 (1) intrastate and interstate quarantines;
- 7 (2) procedures to investigate and enforce quarantines to prevent the introduction or spread of plant
8 pests, plants capable of spreading plant pests, plants defined as noxious weeds in 7-22-2101, and other
9 exotic plants defined by department rule as plant pests;
- 10 (3) pest management standards and procedures for surveying and controlling plant pests;
- 11 (4) procedures for the introduction of plant pests and biological control agents into the state; and
- 12 (5) procedures for the recovery of expenses and imposition of penalties.

13
14 **NEW SECTION. Section 3. Receipt and deposit of gifts, grants, and other funds.** (1) To fund the
15 provisions of [section 2], the department may receive funds from any source as gifts, grants, contracts,
16 cost-share funds, and other funds, including civil penalties and recovered expenses.

17 (2) Except for funds received in the form of civil penalties, funds received pursuant to this section
18 must be deposited in the produce account established in 80-3-304. Funds received in the form of civil
19 penalties must be deposited in the general fund.

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21 **NEW SECTION. Section 4. Penalty.** (1) A person who violates the quarantines, procedures, or
22 rules of the department adopted under [section 2] commits a civil offense and is subject to a civil penalty
23 of not more than \$1,000 for each violation.

24 (2) Assessment of a civil penalty may be made in conjunction with another warning, order, or
25 administrative action authorized by [sections 1 through 4]. A civil penalty collected under this section must
26 be deposited in the general fund.

27 (3) The department shall establish by rule:

28 (a) a penalty schedule that establishes the types of penalties and the amounts, not to exceed
29 \$1,000, for initial and subsequent offenses; and

30 (b) other matters necessary for the enforcement of civil penalties.

1 (4) This section may not be construed as requiring the department or its agents to report violations
2 of [section 2] when the department believes that the public interest will be best served by a suitable notice
3 of warning.

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5 **Section 5.** Section 80-7-123, MCA, is amended to read:

6 **"80-7-123. Nursery account -- investment of funds.** (1) There is an account in the state special
7 revenue fund. All inspection and license fee revenue authorized under 80-7-105, 80-7-106, 80-7-108,
8 80-7-109, ~~80-7-121~~, 80-7-122, 80-7-135, and this section must be deposited in this account.

9 (2) Revenue received under 80-7-105, 80-7-106, 80-7-108, 80-7-109, ~~80-7-121~~, 80-7-122,
10 80-7-135, and this section not immediately required for the purpose of 80-7-105, 80-7-106, 80-7-108,
11 80-7-109, ~~80-7-121~~, 80-7-122, 80-7-135, and this section must be invested in accordance with the unified
12 investment program established in Title 17, chapter 6, part 2. Income from the investments must be
13 deposited in the account."

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15 **Section 6.** Section 80-7-135, MCA, is amended to read:

16 **"80-7-135. Penalty for violation.** (1) A firm or nursery that purposely, knowingly, or negligently
17 violates or aids in the violation of a provision of this chapter or of the rules, orders, or quarantines of the
18 department adopted under Title 2, chapter 4, and this chapter commits a civil offense and is subject to a
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STATE OF MONTANA - FISCAL NOTE

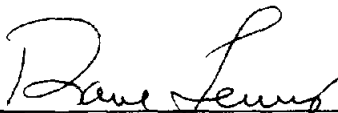
Fiscal Note for SB0053, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:


An act authorizing the Department of Agriculture to establish rules governing quarantines to control injurious plant pests, plants capable of spreading plant pests, noxious weeds, and other exotic plants defined by the Department as plant pests; authorizing the adoption of pest management standards and procedures regarding the introduction of these pests and biological control agents; providing for receipt and deposit of funds; providing a penalty; amending Sections 80-7-123 and 80-7-135, MCA; and repealing Section 80-7-121, MCA"

FISCAL IMPACT:

NONE



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



JOHN HERTEL, PRIMARY SPONSOR DATE
Fiscal Note for SB0053, as introduced

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9 STANDARDS AND PROCEDURES REGARDING THE INTRODUCTION OF THESE PESTS AND BIOLOGICAL
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19 pests and of plants capable of spreading plant pests, noxious weeds, and certain exotic plants that are
20 considered pests;

21 (3) establishment of plant pest standards and procedures for surveying and controlling plant pests
22 in this state;

23 (4) procedures that will allow the introduction of certain plant pests and biological control agents
24 into Montana when necessary to control plant diseases or other plant pests; and

25 (5) procedures that will allow the department to recover costs incurred in implementing quarantines
26 and plant pest management standards and to impose civil fines for violations of these rules, which may
27 include a penalty schedule for initial and subsequent violations.
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8 pests, plants capable of spreading plant pests, plants defined as noxious weeds in 7-22-2101, and other
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14 **NEW SECTION. Section 3. Receipt and deposit of gifts, grants, and other funds.** (1) To fund the
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5 **Section 5.** Section 80-7-123, MCA, is amended to read:

6 **"80-7-123. Nursery account -- investment of funds.** (1) There is an account in the state special
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15 provisions of [section 2], the department may receive funds from any source as gifts, grants, contracts,
16 cost-share funds, and other funds, including civil penalties and recovered expenses.

17 (2) Except for funds received in the form of civil penalties, funds received pursuant to this section
18 must be deposited in the produce account established in 80-3-304. Funds received in the form of civil
19 penalties must be deposited in the general fund.

20
21 **NEW SECTION. Section 4. Penalty.** (1) A person who violates the quarantines, procedures, or
22 rules of the department adopted under [section 2] commits a civil offense and is subject to a civil penalty
23 of not more than \$1,000 for each violation.

24 (2) Assessment of a civil penalty may be made in conjunction with another warning, order, or
25 administrative action authorized by [sections 1 through 4]. A civil penalty collected under this section must
26 be deposited in the general fund.

27 (3) The department shall establish by rule:

28 (a) a penalty schedule that establishes the types of penalties and the amounts, not to exceed
29 \$1,000, for initial and subsequent offenses; and

30 (b) other matters necessary for the enforcement of civil penalties.

1 (4) This section may not be construed as requiring the department or its agents to report violations
2 of [section 2] when the department believes that the public interest will be best served by a suitable notice
3 of warning.

4
5 **Section 5.** Section 80-7-123, MCA, is amended to read:

6 **"80-7-123. Nursery account -- investment of funds.** (1) There is an account in the state special
7 revenue fund. All inspection and license fee revenue authorized under 80-7-105, 80-7-106, 80-7-108,
8 80-7-109, ~~80-7-121~~, 80-7-122, 80-7-135, and this section must be deposited in this account.

9 (2) Revenue received under 80-7-105, 80-7-106, 80-7-108, 80-7-109, ~~80-7-121~~, 80-7-122,
10 80-7-135, and this section not immediately required for the purpose of 80-7-105, 80-7-106, 80-7-108,
11 80-7-109, ~~80-7-121~~, 80-7-122, 80-7-135, and this section must be invested in accordance with the unified
12 investment program established in Title 17, chapter 6, part 2. Income from the investments must be
13 deposited in the account."

14
15 **Section 6.** Section 80-7-135, MCA, is amended to read:

16 **"80-7-135. Penalty for violation.** (1) A firm or nursery that purposely, knowingly, or negligently
17 violates or aids in the violation of a provision of this chapter or of the rules, orders, or quarantines of the
18 department adopted under Title 2, chapter 4, and this chapter commits a civil offense and is subject to a
19 civil penalty of not more than \$1,000 for each violation.

20 (2) Assessment of a civil penalty may be made in conjunction with another warning, order, or
21 administrative action authorized by this chapter. A civil penalty collected under this section must be
22 deposited in the general fund.

23 (3) The department shall establish by rule:

24 (a) a penalty schedule that establishes the types of penalties and the amounts, not to exceed
25 \$1,000, for initial and subsequent offenses; and

26 (b) other matters necessary for the administration of civil penalties.

27 (4) Sections 80-7-105, 80-7-106, 80-7-108, 80-7-109, ~~80-7-121 through 80-7-122~~, 80-7-123,
28 and this section may not be construed as requiring the department or its agents to report violations of this
29 chapter when the department believes that the public interest will be best served by a suitable notice of
30 warning."

