

HOUSE BILL NO. 109

INTRODUCED BY D. SALOMON

BY REQUEST OF THE DEPARTMENT OF AGRICULTURE

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING THE DEPARTMENT OF AGRICULTURE TO PROVIDE SAMPLING SERVICES IN CROP-RELATED DISPUTES; PROVIDING FOR FEES; AND GRANTING RULEMAKING AUTHORITY."

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

NEW SECTION. **Section 1. Legislative findings -- purpose.** (1) The legislature finds that:

(a) the production of diverse agricultural crops is critical to the economic stability of Montana;

(b) large-scale business disputes on various matters will occur, and when they do, an orderly and timely solution is in the best interest of the state;

(c) in some of these disputes there may be a need for a sample of plant material; and

(d) the department of agriculture is a neutral party with the training to take samples of plant material.

(2) The purpose of this part is to provide an orderly, neutral process to obtain samples of plant material when disputes arise.

NEW SECTION. **Section 2. Definitions.** As used in this part, the following definitions apply:

(1) "Claimant" means a person involved in a dispute with a grower or grower's agent.

(2) "Grower" means the person responsible for the land on which a crop is grown or the person who caused the crop in question to be planted.

(3) "Person" means an individual, firm, association, corporation, or partnership, the state, a subdivision of the state, or any other form of business enterprise.

NEW SECTION. **Section 3. Request for sampling -- fees.** (1) In a dispute between a claimant and

a grower in which a plant sample would serve a useful purpose to clarify, quantify, or settle the dispute, either a claimant or a grower may file with the department a request that the department provide sampling services.

(2) If the person seeking sampling services is the claimant, the person shall provide documentation to



1 the department that a request was made to the grower for permission to enter the grower's land for sampling and,
2 if applicable, provide documentation showing a granting of access.

3 (3) If the grower withholds permission to enter the grower's land or refuses to be present for sampling
4 at a reasonable time and place, the claimant may petition a court for permission to enter the grower's land.

5 (4) (a) A court may grant an order allowing a claimant to enter the property if the court determines the
6 sampling effort to be:

7 (i) minimally invasive;

8 (ii) minimally disruptive; and

9 (iii) reasonably based on information sufficient to support a sample being taken.

10 (b) The court may order the claimant to pay for physical damages caused during the process of
11 sampling.

12 (5) (a) When sampling is conducted, both the grower and the claimant have the right to be present if both
13 have made a good faith effort to be present at a reasonable time and place.

14 (b) The department shall charge a fee that covers the costs of providing the sampling service.

15 (6) Costs associated with sampling must be paid by the person who requested the sampling unless:

16 (a) both parties agree to a different assignment of costs through a contractual or settlement agreement;

17 or

18 (b) a different allocation has been ordered through mediation or court order.

19 (7) The department shall send the results of sampling and laboratory services conducted pursuant to this
20 section to the grower and the claimant by certified mail within 30 days of receiving them.

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22 **NEW SECTION. Section 4. Rulemaking authority.** The department shall adopt rules for the purposes

23 of implementing [sections 1 through 4]. The rules must include but are not limited to:

24 (1) the procedure for requesting the department's presence during sampling;

25 (2) the fees to be charged for the department's attendance and sampling services; and

26 (3) a sampling protocol that provides that:

27 (a) the standards used for the field sampling and laboratory tests must meet minimum standards as
28 requested by the claimant; and

29 (b) samples must be submitted for testing within 10 days of the date of sampling.

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