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Wayne
4/24/17

CS FOR HOUSE BILL NO. 197()

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES JOHNSTON, Johnson, Sullivan-Leonard, Wilson

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the duties of the commissioner of natural resources; relating to**
2 **agriculture; and relating to the personal noncommercial transfer of seed and to**
3 **community seed libraries."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 03.05.010(a) is amended to read:

6 (a) The commissioner of natural resources shall

7 (1) direct, administer, and supervise promotional and experimental
8 work, extension services, and agricultural projects for the purpose of promoting and
9 developing **commercial and noncommercial** [THE] agricultural industry **and**
10 **production in** [WITHIN] the state, including **community seed libraries under**
11 **AS 03.20.120 and** [SUCH FIELDS AS] horticulture, dairying, cattle raising, fur
12 farming, grain production, vegetable production, and [DEVELOPMENT OF OTHER]
13 agricultural products;

14 (2) procure and preserve all information pertaining to **developing** the

1 [DEVELOPMENT OF THE] agricultural industry in the state and disseminate that
2 information to the public;

3 (3) assist prospective settlers and others [DESIRING] to engage in the
4 agricultural industry in the state by providing [WITH] information about
5 [CONCERNING AREAS SUITABLE FOR AGRICULTURE AND OTHER]
6 activities and programs essential to developing the [DEVELOPMENT OF THE]
7 agricultural industry and areas in the state that are suitable for agriculture;

8 (4) review the marketing, financing, transportation, and development
9 of agricultural products in [INSIDE] the state [INCLUDING TRANSPORTATION],
10 with special emphasis upon local production, and negotiate for the marketing of
11 agricultural products of the state with federal and state agencies operating in the state;

12 (5) regulate and control the entry in [INTO] the state and the
13 transportation, sale, or use in [INSIDE] the state of plants, seeds, vegetables, shell
14 eggs, fruits and berries, nursery stock, animal feeds, remedies and mineral
15 supplements, fertilizers, and agricultural chemicals [IN ORDER] to prevent the spread
16 of pests, diseases, or toxic substances injurious to the public interest [,] and [TO]
17 protect the agricultural industry against fraud, deception, and misrepresentation; for
18 purposes of this paragraph, [IN THIS CONNECTION] the commissioner may
19 require registration, inspection, and testing, and may establish procedures and fees;

20 (6) regulate the farming of elk in a manner similar to the manner in
21 which the commissioner regulates domestic animals and livestock, to the extent that is
22 appropriate;

23 (7) subject to AS 03.20.120, regulate community seed libraries
24 [REPEALED].

25 * **Sec. 2.** AS 03.05.030 is amended to read:

26 **Sec. 03.05.030. Rules for grading and classification of agricultural**
27 **products. Subject to (b) of this section, the** [THE] commissioner may adopt rules,
28 regulations, and procedures requiring the classification, grading, and inspection of
29 agricultural products before they are sold or offered for sale for general consumption
30 [BEFORE THEY ARE SOLD], and requiring the marking or labeling of a [ANY]
31 sack, box, carton, or other container of an agricultural product [PRODUCTS] to show

the kind, grade, or other prescribed classification of the container's contents.

* **Sec. 3.** AS 03.05.030 is amended by adding a new subsection to read:

(b) A rule, regulation, or procedure adopted under (a) of this section does not apply to the personal noncommercial transfer of seed under AS 03.20.110 or the giving or exchanging of seed through a community seed library under AS 03.20.120(a), unless the seed

(1) does not comply with requirements applicable under AS 03.20;

(2) contains seed of a patented, protected, or proprietary variety used without permission of the patent or certificate holder of the intellectual property associated with the variety;

(3) has been misrepresented as seed classified, graded, or inspected under (a) of this section; or

(4) contains prohibited or restricted weed seed or seed from a species the department has determined is noxious.

* **Sec. 4.** AS 03.20 is amended by adding new sections to read:

Article 1A. Personal Noncommercial Transfer of Seed and Community Seed Libraries.

Sec. 03.20.110. Personal noncommercial transfer of seed. An individual may give to or barter with another, for personal noncommercial use in the state, seed that is otherwise legal to possess in the state.

Sec. 03.20.120. Community seed libraries. (a) A person may establish a community seed library for individual giving or exchange of seed that is intended for home, educational, charitable, or personal noncommercial use in the state, harvested from a plant grown

(1) outside the state, and imported into the state in compliance with AS 03.05.010(a)(5); or

(2) in the state, and untreated with a substance toxic to humans, animals, or pollinating insects.

(b) A person in the state may give or exchange seed under (a) of this section to another person in the state through a community seed library.

(c) Seed given, exchanged, or offered for giving or exchange under (b) of this section must be packaged for sale and labeled with

- 1 (1) the seed's species and variety;
- 2 (2) the seller's name and address;
- 3 (3) the year the seed was packaged for sale;
- 4 (4) the weight of the packaged contents; and
- 5 (5) the statement "Not authorized for commercial use and not
- 6 classified, graded, or inspected by the State of Alaska."

7 (d) Under this section, a person may give or exchange seed that is harvested
 8 from a plant grown outside the state only if the seed is in the original packaging in
 9 which it was imported into the state.

10 **Sec. 03.20.130. Limitations.** Notwithstanding AS 03.20.110 and 03.20.120, a
 11 person may not give or exchange seed

- 12 (1) that is harvested from a plant grown outside the state unless the
- 13 seed is in the original packaging in which it was imported into the state;
- 14 (2) in an amount that, for each person who receives the seed, exceeds
- 15 one pound.

16 **Sec. 03.20.140. Online publication of noncommercial giving or exchanging**
 17 **of seed.** A person involved in noncommercial giving or exchanging of seed under
 18 AS 03.20.110 - 03.20.120 may register online with the department under
 19 AS 44.37.030(7) and submit to the department information, including the person's
 20 name, telephone number, and electronic mail address, and the location where the
 21 person gives or exchanges seed, for publication on the department's Internet website.

22 **Sec. 03.20.150. Applicability of other laws.** Nothing in AS 03.20.110 -
 23 03.20.160 authorizes a person to

- 24 (1) violate 7 U.S.C. 57 (Plant Variety Protection Act of 1970);
- 25 (2) exchange, distribute, or receive a seed
 - 26 (A) from a plant that is regulated as
 - 27 (i) a controlled substance under AS 11.71 or a drug
 - 28 under AS 17.20; or
 - 29 (ii) marijuana under AS 17.38; or
 - 30 (B) patented under 35 U.S.C. 15 (Plant Patent Act of 1930);
- 31 (3) possess, give, or exchange seed that is considered to be noxious,

1 invasive, or toxic under AS 03 or AS 44.37 or a regulation adopted under those
2 chapters.

3 **Sec. 03.20.160. Definition.** In AS 03.20.110 - 03.20.160, "exchange" means
4 buy, sell, or barter.

5 * **Sec. 5.** AS 03.22.020 is amended to read:

6 **Sec. 03.22.020. Purpose of center.** The objectives of the plant materials
7 center, in cooperation with the college or department of the University of Alaska
8 responsible for the Agricultural and Forestry Experiment Station, are to

9 (1) assemble, evaluate, select, and increase plant materials needed in
10 soil and water conservation, agriculture, and industry, and maintain genetic purity of
11 these materials;

12 (2) increase promising plant materials for field scale testing;

13 (3) test the promising materials in field plantings on sites that represent
14 soil and climatic conditions not found at the center;

15 (4) maintain and provide for increase of basic seed stocks of plant
16 materials for agricultural and conservation interests;

17 (5) make seed and plant materials available, for a fee if necessary, in
18 such a manner as to avoid monopolistic control of basic stocks of these materials and
19 encourage the development of a seed industry **and community seed libraries under**
20 **AS 03.20.120;**

21 (6) support but not duplicate activities carried on by state or federally
22 funded research programs in the state;

23 (7) prepare, publish, and disseminate a summary report on all studies
24 as they are completed.

25 * **Sec. 6.** AS 44.37.030 is amended to read:

26 **Sec. 44.37.030. Duties of department with respect to agriculture.** The
27 Department of Natural Resources shall

28 (1) **obtain and publish** [GET AND DISTRIBUTE] information
29 **electronically and in print** on subjects connected with agriculture, **including**
30 **community seed libraries under AS 03.20.120;**

31 (2) control and regulate the entry and transportation of seeds, plants,

1 and other horticultural products;

2 (3) control and eradicate the spread of pests injurious to plants, trees,
3 vegetables, livestock, poultry;

4 (4) aid in developing used and unused agricultural resources; and

5 (5) experiment and determine practical methods of growing,
6 processing, soil analysis, eradication of obnoxious weeds, control of insects, and
7 cheaper and more satisfactory methods of land clearing.

8 * **Sec. 7.** AS 44.37.030 is amended by adding a new subsection to read:

9 (b) The Department of Natural Resources may

10 (1) advise persons who establish or operate a community seed library
11 under AS 03.20.120; and

12 (2) post on the department's Internet website and annually update the
13 following:

14 (A) information about noncommercial giving or exchanging of
15 seed, including information about community seed libraries under
16 AS 03.20.120, seed library locations, seed library facilitators, and best
17 practices for noncommercial giving or exchanging of seed;

18 (B) an online registration form for a person involved in
19 noncommercial giving or exchanging of seed to submit to the department for
20 publication, without a fee, information under AS 03.20.140;

21 (C) information provided for publication under (B) of this
22 paragraph.