SECOND REGULAR SESSION

[TRULY AGREED TO AND FINALLY PASSED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1840

95TH GENERAL ASSEMBLY

3935L.03T 2010

AN ACT

To repeal section 265.525, RSMo, and to enact in lieu thereof one new section relating to the Missouri rice certification act.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 265.525, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 265.525, to read as follows:

265.525. 1. This section shall be known as the "Missouri Rice Certification Act".

2. As used in this section, the following terms shall mean:

(1) "Characteristics of commercial impact", characteristics determined by the rice advisory council under subsection 7 of this section that may adversely affect the marketability of rice in the event of commingling with other rice and may include, but are not limited to, those characteristics that cannot be visually identified without the aid of specialized equipment or testing, those characteristics that create a significant economic impact in their removal from commingled rice, and those characteristics whose removal from commingled rice is infeasible;

(2) "Council", the rice advisory council established in this section;

(3) "Department", the department of agriculture;

(4) "Director", the director of the department of agriculture;

(5) "End user", any company or corporation**, not to include a producer,** that **[**uses rice as a major ingredient in industrial**] is a major industrial user of rice in** food processing;

EXPLANATION — Matter enclosed in bold-faced brackets **[**thus**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(6) "Handler", any person**, not to include a producer,** engaged in this state in the business of **buying,** marketing**, drying, milling, or warehousing** rice**[**, including persons engaged in the drying, milling, or storing of rice**]**;

(7) "Person", any individual, partnership, limited liability company, limited liability partnership, corporation, firm, company, or any other entity doing business in Missouri;

(8) "Producer", any person who produces, or causes to be produced, rice;

(9) "Rice", all rough or paddy rice or brown rice (Oryza species) produced in or shipped in Missouri, including rice produced for seed. It does not include wild rice (Zinzania aquatic or Zinzania palustris).

3. Except as provided by rules promulgated by the department, it shall be unlawful for any person to introduce, sell, plant, produce, harvest, transport, store, process, or otherwise handle rice identified as having characteristics of commercial impact.

4. There is hereby created within the department of agriculture the "Rice Advisory Council". The council shall be made up of the following ten members:

(1) The director, or his or her designee;

(2) Three members appointed by the director to include:

(a) An individual **[**representing handlers**] employed as or by a handler** in Missouri;

(b) An individual **[**representing end users**] employed as or by an end user**;

(c) An individual representing the biotechnology industry who is familiar with rice genetics;

(3) Six members appointed by the director as recommended by the Missouri Rice Research and Merchandising Council to include:

(a) Two producers, neither of whom shall be employed by or serve on the board of any rice mill or rice merchandiser;

(b) Two scientists employed by institutes of higher education in Missouri;

(c) A representative of rice mills operating in Missouri; and

(d) A representative of rice seed dealers.

5. Members of the council shall serve terms of three years in length except that the director shall be a permanent member of the council and the director shall stagger the terms of the initial appointments so that three members serve terms of two years, three members serve terms of three years, and three members serve terms of four years. There is no limit to the number of terms a member may serve. Vacancies shall be filled in the same manner of representation as the original appointments.

6. The rice advisory council shall meet no less than twice annually as determined by the chairperson of the council, who shall be elected by the council at its first meeting and once every

calendar year thereafter. Members of the council shall serve without compensation but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

7. The powers and duties of the rice advisory council shall include, but not be limited to, all of the following:

(1) Identifying rice varieties that have characteristics of commercial impact;

(2) Reviewing the efficacy of terms and conditions of identity preservation programs imposed on the planting, producing, harvesting, transporting, drying, storing, testing, or otherwise handling of rice identified using the most current industry standards and generally accepted scientific principles;

(3) Reviewing each rice variety identified as having characteristics of commercial impact not less often than every two years, or upon receipt of a petition from the purveyor of the rice;

(4) Making recommendations to the director on all matters pertaining to this section, including, but not limited to, enforcement of this section.

8. The department shall have the power to:

(1) Maintain the integrity and prevent the contamination of rice which has not been identified as having characteristics of commercial impact;

(2) Prevent the introduction of disease, weeds, or other pests that would adversely affect rice which has not been identified as having characteristics of commercial impact;

(3) Require that persons selling, offering for sale, or otherwise distributing seed for the production of rice identified as having characteristics of commercial impact, or that persons bringing rice identified as having characteristics of commercial impact into the state for processing, notify the department of the location of planting sites and the dates and procedures for planting, producing, harvesting, transporting, drying, storing, testing, or otherwise handling of rice identified as having characteristics of commercial impact;

(4) Require that persons receiving rice having been identified as having characteristics of commercial impact produced outside the state for processing notify the department of the location of the receipt and the procedures for processing, transporting, drying, storing, testing, or otherwise handling the rice to prevent commercial impact to other rice and the spread of weeds, disease, or other pests;

(5) Enforce restrictions and prohibitions imposed by the department on the selling, planting, producing, harvesting, transporting, drying, storing, testing, processing, or otherwise handling of rice identified as having characteristics of commercial impact; and

(6) Investigate alleged violations of this section, issue notices of violation, provide for an appeals process for persons aggrieved by the provisions of this section, and impose penalties for violation of this section.

9. The department may establish and collect reasonable fees for any sampling and testing of rice that the department determines is necessary to implement the provisions of this section. Any such fees shall be reviewed by the rice advisory council.

10. The department shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

11. The department shall regularly report to the rice advisory council any findings of rice varieties that could potentially have characteristics of commercial impact.

12. If the rice advisory council determines that any rice variety with characteristics of commercial impact is documented as causing unreasonable adverse effects on the environment or public health, the council may issue recommendations to the department. Within sixty days of receiving any such recommendations from the council, the department shall hold a public hearing for the purpose of determining the nature and extent of commercial impact. Within thirty days of holding any such public hearing, the department shall issue a detailed opinion in response to the council recommendations.

13. The penalty for violating a provision of this section shall be no less than ten thousand dollars nor more than one hundred thousand dollars per day per violation.

14. If the department determines a person has violated any provision of this section, the department shall provide written notice to such person informing the person of the violation. The notice shall inform the person of the right to request an appeal. Nothing in this section shall prevent a person from seeking judicial relief in a court of competent jurisdiction.

15. **[**The provisions of this section shall become effective one hundred eighty days from August 28, 2007.**] (1) There is hereby created in the state treasury the "Missouri Rice Certification Fund", which shall consist of fees collected under this section. The fund shall be administered by the department of agriculture and all moneys in the fund shall be distributed by the department of agriculture in accordance with this section. The state treasurer shall be custodian of the fund and may approve disbursements from the fund in accordance with sections 30.170 and 30.180.**

(2) Notwithstanding the provisions of section 33.080 to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund.

(3) The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund.

16. The provisions of this section shall not be subject to the provisions of sections 610.010 to 610.200, RSMo.

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