

SECOND REGULAR SESSION

SENATE BILL NO. 1075

91ST GENERAL ASSEMBLY

INTRODUCED BY SENATORS CASKEY AND CHILDERS.

Read 1st time January 30, 2002, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

3127S.021

AN ACT

To repeal section 281.260, RSMo, relating to Breimyer Center for Sustainable Food and Farming Systems, and to enact in lieu thereof nine new sections relating to the same subject.

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

Section A. Section 281.260, RSMo, is repealed and nine new sections enacted in lieu thereof, to be known as sections 262.750, 262.753, 262.756, 262.759, 262.762, 262.764, 262.765, 281.215 and 281.260 to read as follows:

262.750. As used in sections 262.750 to 262.762 the following terms shall mean:

(1) "Breimyer center", the Breimyer center for sustainable food and farming systems established by section 262.753;

(2) "Community Food Systems", community-built institutions to ensure production, processing, access and availability of food for community residents, including but not limited to farmers markets, direct marketing arrangements between retailers and farmers, community gardens, value-added processing of farm products and other initiatives designed to enhance the income of farmers while providing fresh, locally grown food to consumers;

(3) "Family farms and family farmers", those farms defined in subdivisions (4) and (5) of section 350.010, RSMo;

(4) "Food security", all persons having access at all times to culturally acceptable, nutritionally adequate food through local nonemergency sources;

(5) "Sustainable family farm agriculture", a system of agriculture based on family owned and operated farms that can be sustained from one generation to the

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

next by respecting the natural resource base of farming utilizing renewable energy sources when feasible, encouraging the social and economic vitality of local rural communities, providing family farmers with an economic livelihood and ensuring consumers with safe, nutritious food, including food produced for local and regional markets.

262.753. 1. The "Breimyer Center for Sustainable Food and Farming Systems" is hereby created as a type II entity, as defined in the Reorganization Act of 1974, within the Missouri department of agriculture. It shall be the purpose of the Breimyer center to assist family farms by promoting sustainable family farm agriculture, community food systems and food security in Missouri. The Breimyer center will provide assistance, including but not limited to, the following:

(1) To promote an understanding of sustainable family farm agriculture and community food systems, including public policies, research, technologies, market opportunities and community resources required for such agriculture and community food systems, among farmers, food retailers, governmental agencies, universities and colleges, businesses, not-for-profit organizations and the general public through education and extension programs, public outreach and other means;

(2) To review, act as a liaison and advocate the interests of family farmers and sustainable family farm agriculture, community food systems and food security in federal, state and local laws, regulations and ordinances related to food quality and safety, agriculture, environmental protection and community economic development;

(3) To support, sponsor and advocate research in the public interest relating to sustainable family farm agriculture, community food systems and food security, including but not limited to, the provision of sustainable agriculture demonstration grants to family farms, educational institutions and related not-for-profit sustainable agricultural organizations which adopt sustainable farming practices and technologies for demonstration to others;

(4) To promote, provide technical assistance and cooperate in rural economic development, natural resource conservation policies, and agricultural programs that will enhance sustainable family farm agriculture, community food systems, and food security in Missouri; and to review, and comment upon economic development programs initiated by the Missouri department of economic development; the applicability of environmental regulations proposed by the federal Environmental Protection Agency, the Missouri department of natural resources or others; and the applicability of regulations and programs proposed by the United States Department of Agriculture and the Missouri department of agriculture;

(5) To develop programs, policies, initiatives and projects that enhance

sustainable family agriculture, community food systems and food security in Missouri and to assist in any other legitimate purpose deemed necessary by the governing board to protect, sustain, enhance or expand sustainable family farm agriculture and community food systems in Missouri;

(6) To keep farmers, consumers and others apprised of all proposed statutes, rules and regulations at the state and federal levels, assess their potential economic, ecological and social impacts on Missouri's farms, rural communities and on the viability of local and regional food systems;

(7) To provide necessary legal information for individuals or groups to challenge existing or proposed statutes, rules and regulations:

(a) Which unnecessarily restrict the economic viability of family farms while providing negligible environmental or social benefits; and

(b) Which fail to promote sustainable family farm agriculture and community food systems.

2. When the governing board determines that it is necessary to challenge original actions at the federal or state level, the Breimyer center shall adhere to the following procedure:

(1) Attempt to resolve the action or dispute through informal negotiations;

(2) Utilize informal or formal dispute resolution procedures; and

(3) Exhaust administrative remedies including testifying before the joint committee on administrative rules.

The governing board shall have discretion to review, challenge or refrain from reviewing or challenging the sustainable or family farm interests, community food systems interests and food security interests in any proceeding. The board shall consider, in exercising its discretion, the importance and the extent of the sustainable or family farm, community food systems and food security interests involved and whether that interest would be adequately represented without the action of its office.

262.756. There shall be an executive director of the Breimyer center, within the limits of the appropriations and other funding sources, to carry out the mission and purpose of the Breimyer center. At least one of the staff shall be an attorney licensed to practice in Missouri and other jurisdictions deemed necessary by the governing board. The executive director and staff will be employed to effect the purposes of section 262.753. The Breimyer center may be housed primarily at the University of Missouri-Columbia.

262.759. 1. The "Breimyer Center for Sustainable Food and Farming Systems Governing Board" is created and shall consist of six persons actively engaged in sustainable family farm agriculture and three persons actively engaged in the

development of community food systems who shall be appointed by the governor with the advice and consent of the senate.

2. The initial terms of appointment for the members of the governing board appointed by the governor shall be as follows: two members actively engaged in sustainable family farm agriculture and one person actively engaged in the development of community food systems shall be appointed for a term of one year, two members actively engaged in sustainable family farm agriculture and one person actively engaged in the development of community food systems shall be appointed to terms of two years and two members actively engaged in sustainable family farm agriculture and one person actively engaged in the development of community food systems shall be appointed for terms of three years. After the expiration of the initial members' terms, all appointments shall be for a term of six years, except that any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of such term. Not more than one-half of the governing board members appointed by the governor shall be from the same political party.

3. The governing board officers shall consist of the president, vice-president, secretary and treasurer.

262.762. 1. The governing board shall establish its own procedures and requirements with respect to quorum, place and conduct of its meetings and other matters. The governing board shall meet at least four times each year and shall hold meetings when called by the president, or, in the absence of the president, by the vice-president, or upon the written request of five members of the governing board. The governing board with the assistance of the advisory council shall inform the public about sustainable food and farming innovations, methods, procedures and information; local, state, and federal statutes, laws, rules, regulations, ordinances, case law, executive orders and all other sources of law which are relevant to sustainable food and farming; and all other information the governing board perceives as pertinent to sustainable food and farming, community food systems and food security. The governing board with the assistance of the advisory council shall act to develop, present and implement through the staff of the Breimyer center the duties and responsibilities listed in section 262.753. The members of the governing board shall serve without compensation but shall be entitled to their actual expenses incurred in attending meetings and in the performance of their duties.

2. The governing board shall elect the officers by majority vote of the governing board and appoint the executive director of the Breimyer center, fix the conditions of his or her employment and tenure in office, in accordance with the laws of the state of Missouri, and shall be responsible for the efficient discharge of his or

her duties. The executive director, with the advice and consent of the governing board, shall employ the persons needed to carry out the duties of the office and shall fix their compensation within the total sum of money available from appropriations, and from all other available sources, including but not limited to, federal, state, local and private grants, gifts, contributions and fees.

262.764. 1. The "Breimyer Center for Sustainable Food and Farming Systems Non-voting Advisory Council" is hereby created and shall consist of the governor or his or her designee; the director of the department of economic development, or his or her designee; the director of the department of natural resources, or his or her designee; the dean of the University of Missouri-Columbia College of Agriculture, Food and Natural Resources, or his or her designee; the chairperson of the University of Missouri-Columbia Department of Rural Sociology and the director of sustainable farm and food systems governing board, or his or her designee.

2. The non-voting advisory council shall meet at times prescribed by the governing board and shall support the mission and purposes of the Breimyer center for sustainable food and farming systems.

262.765. 1. There is hereby established in the state treasury the "Breimyer Center for Sustainable Food and Farming Systems Fund".

2. Any moneys received from sources other than appropriation by the general assembly, including from private sources, gifts, donations and grants, shall be credited to the Breimyer center sustainable food and farming institute fund and shall be appropriated by the general assembly.

3. The provisions of section 33.080, RSMo, to the contrary notwithstanding, moneys in the Breimyer center for sustainable food and farming institute fund shall not be transferred and placed to the credit of the general revenue fund.

281.215. 1. There is hereby created in the state treasury the "Pesticide Project Fund". The moneys in the fund shall be used for the funding of pest-related issues as determined by the director.

2. The provisions of section 33.080, RSMo, to the contrary notwithstanding, monies in the pesticide project fund shall not be transferred and placed to the credit of the general revenue fund.

281.260. 1. Every pesticide which is distributed, sold, offered for sale or held for sale within this state, or which is delivered for transportation or transported in intrastate commerce or between points within this state through any point outside of this state, shall be registered in the office of the director, and the registration shall be renewed annually.

2. The registrant shall file with the director a statement including:

(1) The name and address of the registrant and the name and address of the person

whose name will appear on the label, if other than the registrant;

(2) The name of the pesticide;

(3) Classification of the pesticide; and

(4) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including directions for use.

3. The registrant shall pay an annual fee of [fifteen] **one hundred fifty** dollars for each product registered in any calendar year or part thereof. [The fee] **All pesticide registration fees** shall be deposited in the state treasury [to the credit of the general revenue] **and shall be credited as follows:**

(1) One third to the pesticide project fund established pursuant to section 281.215; and

(2) Two thirds to the Breimyer center for sustainable food and farming systems fund established pursuant to section 262.765, RSMo.

All such registrations shall expire on December thirty-first of any one year, unless sooner canceled. A registration for a special local need pursuant to subsection 6 of this section, which is disapproved by the federal government, shall expire on the effective date of the disapproval.

4. Any registration approved by the director and in effect on the thirty-first day of December for which a renewal application has been made and the proper fee paid shall continue in full force and effect until such time as the director notifies the applicant that the registration has been renewed, or otherwise denied, in accord with the provisions of subsection 8 of this section. Forms for reregistration shall be mailed to registrants at least ninety days prior to the expiration date.

5. If the renewal of a pesticide registration is not filed prior to January first of any one year, an additional fee of [five] **twenty-five** dollars shall be assessed and added to the original fee and shall be paid by the applicant before the registration renewal for that pesticide shall be issued; provided, that, such additional fee shall not apply if the applicant furnishes an affidavit certifying that he **or she** did not distribute such unregistered pesticide during the period of nonregistration. The payment of such additional fee is not a bar to any prosecution for doing business without proper registry.

6. Provided the state complies with requirements of the federal government to register pesticides to meet special local needs, the director shall require that registrants comply with sections 281.210 to 281.310 and pertinent federal laws and regulations. Where two or more pesticides meet the requirements of this subsection, one shall not be registered in preference to the other.

7. The director may require the submission of the complete formula of any pesticide to approve or deny product registration. If it appears to the director that the composition and efficacy of the pesticide is such as to warrant the proposed claims for it and if the pesticide and

its labeling and other material required to be submitted comply with the requirements of sections 281.210 to 281.310, [he] **the director** shall register the pesticide.

8. The director, after opportunity for hearing, may deny, cancel, suspend or revoke a pesticide registration if, after consideration to pertinent research findings and recommendations of other agencies of this state, the federal government or other reliable sources, the pesticide may cause damage or injury, or is considered dangerous or harmful to persons or the environment.

9. Provided the state is authorized to issue experimental use permits, the director may:

(1) Issue an experimental use permit to any person applying for an experimental use permit if [he] **the director** determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide [under] **pursuant to** sections 263.269 to 263.380. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed;

(2) Prescribe terms, conditions, and period of time for the experimental permit which shall be under the supervision of the director;

(3) Revoke any experimental permit, at any time, if [he] **the director** finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

[9.] **10.** If it does not appear to the director that the pesticide is such as to warrant the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of sections 281.210 to 281.310 or with federal laws, [he] **the director** shall notify the registrant of the manner in which the pesticide, labeling, or other material required to be submitted fail to comply with sections 281.210 to 281.310 or with federal laws so as to afford the registrant an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the pesticide be registered or, in the case of a pesticide that is already registered, that it not be canceled, the director, within ninety days, shall hold a public hearing to determine if the pesticide in question should be registered or canceled. If, after such hearing, it is determined that the pesticide should not be registered or that its registration should be canceled, the director may refuse registration or cancel an existing registration until the required label changes are accomplished. If the pesticide is shown to be in compliance with sections 281.210 to 281.310 and federal laws, the pesticide will be registered. Any appeals resulting from administrative decisions by the director will be taken in accordance with sections 536.100 to 536.140, RSMo.

[10.] **11.** Notwithstanding any other provision of sections 281.210 to 281.310, registration is not required in the case of a pesticide shipped from one plant or warehouse within this state to another plant or warehouse within this state when such plants are operated by the same

persons.

[11.] **12.** The director shall not make any lack of essentiality a criterion for denying registration of a pesticide except where none of the labeled uses are present in the state. Where two or more pesticides meet the requirements of sections 281.210 to 281.310, one shall not be registered in preference to the other.

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