



The Legislature
of the
State of New Mexico

50th Legislature, 1st Session

LAWS 2011

CHAPTER 29

HOUSE BILL 87, as amended

Introduced by

REPRESENTATIVE PAUL C. BANDY

REPRESENTATIVE PATRICIA A. LUNDSTROM
REPRESENTATIVE RICK MIERA
REPRESENTATIVE RAY BEGAYE
REPRESENTATIVE LUCIANO "LUCKY" VARELA

FOR THE GOVERNMENT RESTRUCTURING TASK FORCE



CHAPTER 29

AN ACT

1
2 RELATING TO GOVERNMENT ORGANIZATION; ENACTING THE ORGANIC
3 PRODUCTION ACT; PROVIDING POWERS AND DUTIES FOR THE BOARD OF
4 REGENTS OF NEW MEXICO STATE UNIVERSITY AND THE NEW MEXICO
5 DEPARTMENT OF AGRICULTURE FOR ORGANIC AGRICULTURAL PRODUCT
6 PROGRAMS; TRANSFERRING FUNCTIONS, APPROPRIATIONS, MONEY,
7 RECORDS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY
8 REFERENCES OF THE ORGANIC COMMODITY COMMISSION TO THE NEW
9 MEXICO DEPARTMENT OF AGRICULTURE.

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

12 SECTION 1. SHORT TITLE.--This act may be cited as the
13 "Organic Production Act".

14 SECTION 2. NEW MEXICO DEPARTMENT OF AGRICULTURE--
15 POWERS.--

16 A. The Organic Production Act shall be
17 administered and enforced by the New Mexico department of
18 agriculture, under the direction of the board of regents of
19 New Mexico state university. The New Mexico department of
20 agriculture is authorized to regulate the production, handling
21 and certification of organic agricultural products pursuant to
22 rules adopted by the board of regents of New Mexico state
23 university. In promulgating the rules, the board shall
24 consider the requirements of the federal Organic Foods
25 Production Act of 1990 and the national organic program rules.

1 B. The department may:

2 (1) charge fees and assessments to fund its
3 organic certification program; and

4 (2) implement education and marketing
5 programs to assist organic producers and handlers and those
6 considering certification as organic producers or handlers.

7 **SECTION 3. FEES AND ASSESSMENTS.--**

8 A. Pursuant to rules adopted by the board of
9 regents of New Mexico state university, the New Mexico
10 department of agriculture may impose and collect fees for
11 certification and registration as follows:

12 (1) producers and handlers shall pay a fee
13 not to exceed three hundred fifty dollars (\$350) for a new
14 application and a fee not to exceed three hundred dollars
15 (\$300) for annual renewal applications; and

16 (2) producers and handlers may be subject to
17 late fees not to exceed five hundred dollars (\$500).

18 B. Pursuant to rules adopted by the board of
19 regents of New Mexico state university, the New Mexico
20 department of agriculture may impose and collect assessments
21 for the basic certification process of certified organic
22 producers and handlers at an annual rate not to exceed one
23 percent of the total gross sales of the organically produced
24 agricultural products based on the previous year's sales,
25 provided that:

1 (1) assessments on total gross sales of over
2 one million dollars (\$1,000,000) shall be assessed at a rate
3 not to exceed nine thousand five hundred dollars (\$9,500) plus
4 ninety-five thousandths percent of any amount over one million
5 dollars (\$1,000,000) of total gross sales of organically
6 produced agricultural products based on the previous year's
7 sales; and

8 (2) after July 1, 2015, the amounts provided
9 for in Paragraph (1) of this subsection may be increased to no
10 more than one percent of the total gross sales of the
11 organically produced agricultural products based on the
12 previous year's sales.

13 C. The New Mexico department of agriculture shall
14 provide a payment schedule for all assessments due to the
15 department.

16 D. The board of regents of New Mexico state
17 university may authorize an organic production inspector to
18 charge reasonable fees not to exceed the actual costs of
19 performing additional inspections due to noncompliance or at
20 the request of a producer or handler.

21 **SECTION 4. DISPOSITION OF FUNDS.**--All money received by
22 the New Mexico department of agriculture pursuant to the
23 provisions of the Organic Production Act, including
24 assessments, fees, appropriations, gifts, grants and
25 donations, shall be expended only for the purpose of carrying

1 out the provisions of that act.

2 SECTION 5. APPLICABILITY TO OTHER LAWS.--

3 A. Any transactions involving agricultural
4 products that bear labels stating that the agricultural
5 products are organically produced are subject to Sections
6 57-15-1 through 57-15-10 NMSA 1978.

7 B. Any transactions involving agricultural
8 products that are food and that bear labels stating that the
9 agricultural products are organically produced are subject to
10 the New Mexico Food Act.

11 SECTION 6. TEMPORARY PROVISIONS--TRANSFERS.--

12 A. On July 1, 2011, all functions, appropriations,
13 money, records, furniture, equipment and other property of the
14 organic commodity commission are transferred to the New Mexico
15 department of agriculture.

16 B. On July 1, 2011, all contractual obligations of
17 the organic commodity commission are binding on the New Mexico
18 department of agriculture.

19 C. On July 1, 2011, all money in the organic
20 market development fund shall be transferred to the New Mexico
21 department of agriculture.

22 D. On July 1, 2011, all references in the law or
23 rule to the organic commodity commission are deemed to be
24 references to the New Mexico department of agriculture.

25 E. The rules of the organic commodity commission

1 are deemed to be the rules of the board of regents of New
2 Mexico state university for the New Mexico department of
3 agriculture until amended or repealed by the board of regents
4 of New Mexico state university.

5 SECTION 7. REPEAL.--Sections 76-22-1 through 76-22-28
6 NMSA 1978 (being Laws 1990, Chapter 122, Sections 1 through 9
7 and 11 through 14, Laws 2001, Chapter 157, Section 5, Laws
8 1990, Chapter 122, Sections 16 and 17, Laws 1993, Chapter 330,
9 Section 12 and Laws 1990, Chapter 122, Sections 19 through 28,
10 as amended) are repealed.

11 SECTION 8. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2011. _____

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Ben Lujan

BEN LUJAN, SPEAKER
HOUSE OF REPRESENTATIVES

Stephen R. Arias

STEPHEN R. ARIAS, CHIEF CLERK
HOUSE OF REPRESENTATIVES

John A. Sanchez

JOHN A. SANCHEZ, PRESIDENT
SENATE

Lenore M. Naranjo

LENORE M. NARANJO, CHIEF CLERK
SENATE

Approved by me this 2nd day of April, 2011

Susana Martinez

SUSANA MARTINEZ, GOVERNOR
STATE OF NEW MEXICO

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