

AN ACT

To amend sections 907.01, 907.02, 907.03, 907.04, 907.07, 907.08, 907.081, 907.09, 907.10, 907.12, 907.13, 907.15, 907.16, and 907.31, to enact new section 907.14, and to repeal section 907.14 of the Revised Code to revise the law governing the labeling and sale of seed.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 907.01, 907.02, 907.03, 907.04, 907.07, 907.08, 907.081, 907.09, 907.10, 907.12, 907.13, 907.15, 907.16, and 907.31 be amended and new section 907.14 of the Revised Code be enacted to read as follows:

Sec. 907.01. As used in sections 907.01 to 907.17 of the Revised Code:

(A) "Advertisement" means any representation, other than that on a label, disseminated in any manner or by any means.

(B) "Agricultural seed" means the seed of grass, native grass, forage, cereal, field and fiber crops, any other kinds of seed commonly recognized in this state as agricultural or field seed, lawn seed, and mixtures or blends of such seed.

(C) "Certifying agency" means an agency authorized by the laws of a state or a foreign country to certify officially seed, tubers for seeding purposes, or plants for varietal identification or for other factors and, in the case of seed, an agency determined by the United States secretary of agriculture to follow procedures and standards of seed certification comparable to those generally followed by seed certifying agencies ~~which~~ that are members of the association of official seed certifying agencies.

(D) "Germination" means the emergence and development from seed embryos of those structures ~~which~~ that indicate the capability of producing normal seedlings under ordinarily favorable conditions as determined by methods prescribed by rules of the association of official seed analysts.

(E) "Hard seed" means seed ~~which~~ that, because of impermeability, does not absorb moisture or germinate, but remains hard during the period of germination prescribed for that particular kind of seed.

(F) "Hermetically sealed" means that the container used does not allow

water vapor penetration through any wall, including the seals, greater than five one-hundredths grams of water per twenty-four hours per one hundred square inches of surface at one hundred degrees Fahrenheit with a relative humidity on one side of ninety per cent and on the other side of zero per cent.

(G) "Hybrid" means the first generation seed of a cross produced by controlling the pollination and by combining:

(1) Two or more inbred lines;

(2) One inbred or a single cross with an open-pollinated variety;

(3) Two varieties or species, except open-pollinated varieties of corn (*Zea Mays*). ~~The~~

The second generation and subsequent generations from such crosses shall not be regarded as hybrids.

(H) "In bulk" or "bulk" means loose in vehicles; or bins, ~~or other containers, but not in bags, boxes, or packets.~~

(I) "Inert matter" means all matter not seeds, including broken seeds, sterile florets, chaff, fungus bodies, and stones.

(J) "Kind," in reference to seed, means one or more related species or subspecies ~~which that~~, singly or collectively, are known by one common name, for example, soybeans, oats, alfalfa, or timothy.

(K) "Label;" ~~except as used in "inspection fee label,"~~ means any a tag or other device that is attached to or written, stamped, or printed, or graphic matter upon or attached to a on any container of seed or the invoice pertaining thereto that accompanies any lot of bulk seed and that describes the kind of seed together with any other information required by law. "Label" includes an invoice under which any seed is imported into the state.

(L) "Lot of seed" means a definite quantity of seed identified by a lot number ~~or other identification~~, every portion or bag of which is uniform, within permitted tolerances, as to the factors ~~which that~~ appear on the label.

(M) "Mixture" means ~~a lot of agricultural~~ seed consisting of more than one kind ~~or variety~~, each of which is present in excess of five per cent of the whole.

(N) "Origin" means a state, the District of Columbia, Puerto Rico, a possession of the United States, or a foreign country, or designated portion thereof, where grown.

(O) "Other crop seed" means agricultural seed commingled with the kind, or kind and variety, of seed under consideration, but less than five per cent by weight of the lot.

(P) "Person" means any individual, partnership, corporation, company, society, association, public agency, receiver, trustee, or agent.

(Q) "Place of business" means any location, including any vehicle, where seed is sold, processed, conditioned, or stored.

(R) "~~Primary noxious weeds~~" or "~~prohibited~~ Prohibited noxious weeds" means perennial weeds ~~which~~ that reproduce by seed, spread by roots, underground stems, or other reproductive parts, and, when established, are highly destructive and difficult to control.

(S) "Processing" or "conditioning" means cleaning to remove chaff, sterile florets, immature seeds, weed seeds, inert matter, and other crop seeds, scarifying, blending to obtain uniform quality, or any other operation ~~which~~ that would change the purity or germination of the seed and therefore require retesting to determine the quality of the seed. "Processing" or "conditioning" does not include such operations as packaging, labeling, blending uniform lots of the same kind or variety without cleaning, or preparing a mixture without cleaning, any of which would not require retesting to determine the quality of the seed.

(T) "Pure seed" means agricultural ~~or~~, vegetable, or flower seed free of inert matter and free of other seed distinguishable by appearance or by test.

(U) "Records" means the complete data, including representative samples, concerning each lot of agricultural, vegetable, or flower seed that is sold. "Records" includes information about the seed's source of purchase; and origin; the results of germination; tests; the results of purity; tests regarding the amount of pure seed, inert matter, crop seed, weed seed, and noxious weed seed contained in the lot of seed; and information concerning the processing; and disposition of each lot of agricultural the seed sold.

(V) "Screenings" means chaff, sterile florets, immature seed, inert matter, weed seed, or any other matter removed from seed in any kind of processing and ~~which~~ that contains less than twenty-five per cent by weight of live agricultural ~~or~~, vegetable, or flower seed.

(W) "~~Secondary noxious weeds~~" or "~~restricted~~ Restricted noxious weeds" means weeds ~~which~~ that are objectionable in fields, lawns, or gardens, but ~~which~~ that can be controlled by good cultural practices.

(X) "Sell" ~~means~~ or "sold" includes:

(1) Transferring ownership, offering or exposing for sale, exchanging, distributing, giving away, or transporting in this state;

(2) Storing, carrying, or handling in aid of traffic in this state, whether in person or through an agent, employee, or others;

(3) Receiving, accepting, or holding on consignment for sale.

(Y) "~~Standard~~ Germination standard," as applied to vegetable or flower seed, means the minimum percentage of germination established by the director of agriculture for any kind or variety of seed.

(Z) "Tolerance" means the allowable deviation from any percentage, fraction, or rate of occurrence stated on the label of a lot of seed. Tolerance is based on the law of normal variation from a mean.

(AA) "Type" means either a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions or, when used with a variety name, seed of that variety ~~which that~~ may be mixed with seed of other varieties of the same kind and of similar character. In either case, ninety per cent of the pure seed shall be of the variety or group of varieties named or, upon growth, shall produce plants having characteristics similar to the variety or group of ~~varities~~ varieties named.

(BB) "Variety" means a subdivision of a kind ~~which that~~ is characterized by growth, plant, fruit, seed, or other characteristics by which it can be differentiated from other sorts of the same kind.

(CC) "Vegetable seed" means the seed of any crop ~~which that~~ is grown in gardens or on truck farms and is generally known and sold in this state under the name of vegetable seed or herb seed.

(DD) "Weed seed" means the seed and bulblets of all plants generally recognized in this state as weeds, including prohibited noxious weeds and restricted noxious weeds.

(EE) "Coated agricultural seed" means an agricultural seed with a film or layer applied to the seed, ~~which that~~ is greater than one per cent of the net weight, for purposes of, including, but not limited to, accurate seeding, nitrogen fixation, nutrient improvement, or protection from insects and pathogens. "Coated agricultural seed" does not include seeds treated with dusts or liquids, ~~which that~~ are virtually unmeasurable using association of official seed analysts rules.

(FF) "Combination seed-mulch product" means any product containing both seeds and a natural or artificial substance that is applied to the soil surface for the purpose of promoting seed germination through moisture retention, maintaining soil temperature, or preventing erosion, and may contain fertilizer.

(GG) "Blend" means seed that consists of more than one variety of a kind, with each variety representing more than five per cent by weight of the whole.

(HH) "Flower seed" means the seed of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known as and sold under the name of flower seed.

(II) "Pure live seed" means the sum of seed's percentage of germination plus the percentage of hard seed or dormant seed, multiplied by the

percentage of pure seed, the product of which is divided by one hundred. The result is expressed as a whole number. Expressed as an equation, the definition of "pure live seed" is as follows: (percentage of germination plus percentage of hard seed or dormant seed) multiplied by the percentage of pure seed equals (product) divided by one hundred equals pure live seed.

(JJ) "Cool season grass seed" means the agricultural seed of Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass, creeping bentgrass, and mixtures or blends containing only those grass seeds.

(KK) "Native grass" has the meaning established in rules adopted under section 907.10 of the Revised Code.

(LL) "Class of seed" means a classification of seed that is established using the standards and procedures established by the association of official seed certifying agencies and that designates seed as breeder, foundation, registered, or certified seed.

(MM) "Container" means a packet, bag, box, tape, tube, envelope, pre-planted device, mat, or other device used to contain seed, except that "container" does not include a vehicle or bin used to contain bulk seed.

(NN) "Dormant seed" means viable seed, excluding hard seed, that fails to germinate when provided with the specified germination conditions for that kind of seed.

Sec. 907.02. (A) The Ohio seed improvement association shall certify for Ohio; agricultural ~~or~~, vegetable, or flower seed, tubers for seeding purposes, or plants for varietal identification or for other factors.

(B) No person shall use, orally or in writing, alone or with other words, "certified," "registered," "foundation," or any other term ~~which that~~ suggests that the seed, tubers for seeding purposes, or plants have been certified unless the seed, tubers for seeding purposes, or plants have been certified by the Ohio seed improvement association. The prohibition established in this division does not apply to use of the word "certified" for the purpose of describing seed, tubers for seeding purposes, or plants that have been certified as organic in accordance with 7 U.S.C. 6501 et seq.

(C) The following information shall appear on the certification label attached to each container of each lot of seed, tubers for seeding purposes, or plants sold as "certified," "registered," or "foundation":

- (1) The grower's name and address or producer number;
- (2) The name of the Ohio seed improvement association as the certifying agency;
- (3) The origin of the seed, tubers for seeding purposes, or plants;

(4) The class, kind, variety, or germ plasm of the seed:

(5) Any other information the director of agriculture may require by rule concerning health, vigor, purity, type, and other matters pertaining to certification.

(D) The Ohio seed improvement association shall establish standards and procedures for seed certification that are no less stringent than those prescribed by the association of official seed certifying agencies and that do not conflict with sections 907.01 to 907.17 of the Revised Code and rules adopted under them. The Ohio seed improvement association shall designate intervals at which it shall conduct a review of the certification standards and procedures. No proposed change to the standards and procedures may take effect unless the change first is approved by an affirmative vote of at least two-thirds of the members of the association's governing body.

Sec. 907.03. (A) Each container of agricultural ~~or~~ vegetable, or flower seed ~~which~~ that is sold for sowing purposes shall bear ~~thereon~~ on it or have attached ~~thereto~~ to it in a conspicuous place a label plainly written or printed in the English language giving the following information:

(1) For agricultural seed that is sold on a pure live seed basis or any other basis:

(a) The commonly accepted name of the kind, or kind and variety, of each agricultural seed component in excess of five per cent by weight of the whole and the percentage by weight of each in the order of its predominance. If the director of agriculture has determined in rules ~~prescribed~~ adopted under section 907.10 of the Revised Code that any ~~such~~ component of agricultural seed is generally labeled as to variety, the label shall bear, in addition to the name of the kind, the name of the variety, or the statement "variety not stated." If any such component is a hybrid, the label shall also bear the name of the hybrid. If more than one ~~component~~ seed kind is ~~required to be named~~ listed on the label, the word "mixture," or "mixed," or "mix" shall be stated appear conspicuously on the label. If more than one variety is listed on the label of seed consisting of a single kind, the word "blend" shall appear on the label.

(b) The lot number ~~or other lot identification;~~

(c) The origin, if known, of alfalfa and red clover. If the origin is unknown, ~~the~~ that fact shall be stated.

(d) The percentage by weight of all weed seed;

(e) The name and number of each kind of ~~secondary~~ restricted noxious-weed seed per ounce, when present singly or in combination:

(i) In excess of one seed in each ten grams of timothy, red top, tall meadow oatgrass, orchardgrass, crested dog's-tail, Kentucky bluegrass,

Canada bluegrass, fescue, bromegrass, perennial and Italian ryegrass, crimson clover, red clover, white clover, alsike clover, sweet clover, alfalfa, or any other ~~agricultural~~ agricultural seed of similar size, other grasses and clovers not otherwise classified, or any combination thereof;

(ii) In excess of one seed in each fifty grams of millet, rape, flax, sudangrass, or other seed not specified in division (A)(1)(e)(i) or division (A)(1)(f) of this section, or any combination thereof.

(f) The name and number of each kind of ~~secondary~~ restricted noxious-weed seed per pound when present, singly or in combination, in excess of one seed in each two hundred grams of wheat, oats, rye, barley, buckwheat, vetches, or any other seed as large as or larger than wheat, or any combination thereof;

(g) The percentage by weight of agricultural seed, which may be designated as "crop seed," other than that required to be named on the label;

(h) The percentage by weight of inert matter;

(i) For each named agricultural seed: the percentage of germination, exclusive of hard seed; the percentage of hard seed, if present; and the calendar month and year the test was completed to determine these percentages;

(j) The name and address of the person who labels the seed.

(2) For coated agricultural seed, in addition to the information required under division (A)(1) of this section:

(a) The percentage by weight of pure seed with coating material removed;

(b) The percentage by weight of coating material;

(c) The percentage by weight of inert matter exclusive of coating material;

(d) The percentage of germination determined on four hundred coated pellets.

(3) For vegetable seed that is sold in containers weighing eight ounces or less:

(a) The name of the kind and variety of the seed;

(b) For seed ~~which~~ that germinates less than the germination standard established by the director under division (B)(3) of section 907.10 of the Revised Code:

(i) The percentage of germination, exclusive of hard seed; the percentage of hard seed, if present; and the calendar month and year the test was completed to determine these percentages;

(ii) "Below standard" in not less than 8-point type in a conspicuous place on the same side of the label as that which states the percentage of

germination or on the face of the container.

~~(c) The name and address of the person who labels or sells the seed;~~

~~(d) The percentage of germination of any vegetable seed sold in packets weighing less than four ounces shall be equal to or above the standard.~~

~~(e) The percentage of germination of any vegetable seed determined to be equal to or above the standard may be, but is not required to be, stated on the label, or container, or packet.~~

~~(3) For coated agricultural seed, in addition to the information required under division (A)(1) of this section:~~

~~(a) The percentage by weight of pure seeds with coating material removed;~~

~~(b) The percentage by weight of coating material;~~

~~(c) The percentage by weight of inert matter exclusive of coating material;~~

~~(d) The percentage of germination determined on four hundred coated pellets.~~

~~(c) The name and address of the person who labels the seed;~~

~~(d) The year in which the packed seed is intended for sale;~~

~~(e) The lot number.~~

~~(4) For vegetable seed that is sold in containers weighing more than eight ounces:~~

~~(a) The name of each kind and variety of vegetable seed present in excess of five per cent and the percentage by weight of each in order of its predominance;~~

~~(b) The lot number;~~

~~(c) The following information for each vegetable seed named on the label:~~

~~(i) The percentage of germination exclusive of hard seed;~~

~~(ii) The percentage of hard seed, if present.~~

~~Germination and hard seed may be stated as a total percentage if desired.~~

~~(iii) The calendar month and year that the test used to determine each percentage was completed.~~

~~(d) The name and address of the person who labels the seed.~~

~~(5) For flower seed that is sold in containers weighing eight ounces or less:~~

~~(a) The common name of the kind and variety of flower seed or, if commonly used, the scientific name of the kind and variety of flower seed;~~

~~(b) The following information for flower seed that germinates less than the germination standard established by the director under division (B)(3) of section 907.10 of the Revised Code:~~

(i) The percentage of germination, exclusive of hard seed;

(ii) The percentage of hard seed, if present;

(iii) The calendar month and year that the test used to determine the percentages was completed;

(iv) The words "below standard" in not less than eight-point type in a conspicuous place on the same side of the label as that which states the percentage of germination or on the face of the container.

The percentage of germination of any flower seed determined to be equal to or above the standard may be, but is not required to be, stated on the label or container.

(c) The name and address of the person who labels the seed;

(d) The year in which the packed seed is intended for sale;

(e) The lot number.

(6) For flower seed in containers weighing more than eight ounces:

(a) The name of each kind and variety of flower seed present in excess of five per cent and the percentage by weight of each in order of its predominance;

(b) The lot number;

(c) The following information for each flower seed named on the label:

(i) The percentage of germination exclusive of hard seed;

(ii) The percentage of hard seed, if present.

Germination and hard seed may be stated as a total percentage if desired.

(iii) The calendar month and year that the test used to determine each percentage was completed.

(d) The name and address of the person who labels the seed.

(7) For combination seed-mulch products:

(a) The word "combination," which shall be printed on the upper third of the principal display panel in the largest and most conspicuous type in relation to other words and designs on the label;

(b) Following the word "combination" on the upper third of the principal display panel, the words "seed, mulch, and fertilizer," as applicable and not necessarily in that order, printed in type smaller than, but no less than one-half the size of, the type used to print the word "combination-";

(c) In addition to the information required under division (A)(1) of this section, the product's analysis label shall contain all of the following:

(i) The seed origin, if known, for each kind or variety, or both;

(ii) The percentages by weight of mulch and, if applicable, of fertilizer;

(iii) Any noxious weeds. If no noxious weeds are present, "noxious weeds--none found" shall be stated.

(B) ~~The total of the percentages required by divisions (A)(1)(i) and~~

(A)(2)(b)(i) of this section may be stated on the label. Such total shall be used when applying the rules of tolerance. When dormant seed is encountered with respect to any of the following named grasses, the result of a tetrazolium test also may be shown on the label of the grass seed to indicate the potential germination and viability of the seed:

- (1) Bluestem, big (Andropogon gerardii);
- (2) Bluestem, little (Schizachyrium scoparium);
- (3) Dropseed, sand (Sporobolus cryptandrus);
- (4) Grama, sideoats (Bouteloua curtipendula);
- (5) Indiangrass (Sorghastrum nutans);
- (6) Needlegrass (Stipa viridula);
- (7) Switchgrass (Panicum virgatum).

(C) In the case of agricultural or vegetable seed sold from vehicles, bins, or other bulk containers to which the purchaser has access before buying, the seller shall attach a complete label to the bulk container or display adjacent thereto a placard bearing a complete label stating the information required by this section. The label shall be conspicuous to the buyer. If the buyer purchases more than ten pounds of the bulk seed, the seller shall attach a label to the container of seed being purchased stating the information required by this section. Bulk agricultural, vegetable, or flower seed that is offered for sale or sold shall comply with the labeling requirements established in division (A) of this section, except that the label shall be provided in the following manner rather than being attached to a container:

(1) The label shall be posted next to the bulk seed so that it is easily read by the purchaser.

(2) In the case of bulk seed purchased in excess of twenty pounds, the seller shall provide a copy of the label to the consumer in conjunction with the bill of sale.

(D) No information concerning a test date, pure seed, inert matter, crop seed, weed seed, germination, hard seed, or noxious weed seed shall be included on a label for agricultural, vegetable, or flower seed unless a test has been conducted on that lot of seed prior to its being sold to determine the accuracy of the information.

Sec. 907.04. (A) Any person selling who holds a valid seed labeler permit issued under section 907.13 of the Revised Code and who sells agricultural or, vegetable, or flower seed shall, for a period of eighteen months from the date of the final sale or other final disposition he makes made, keep complete records of each lot of agricultural or, vegetable, or flower seed that he the person sells; provided, that if. If purchases are made

from persons who keep records available for inspection as required under this division, the keeping for eighteen months of an invoice of each purchase and sale stating the kind of seed and the lot number meets the requirement as to records. The invoices and other records that are required to be kept under this division shall be maintained at a location in this state.

~~(B) Any person located outside this state who distributes agricultural or vegetable seed within or into this state shall maintain the records required under division (A) of this section at a location in this state.~~ If the director of agriculture or ~~his~~ the director's designated representative determines that an audit of ~~such~~ a person who is required to keep records under division (A) of this section is necessary in order to determine the sales of seed made within or into this state by that person and the amount of the fee that the person owes this state under section ~~907.13~~ 907.14 of the Revised Code, the director ~~or the director's authorized agent~~ may request the auditor of state to audit the person. ~~Upon receiving a request from the director under this division, the auditor of state shall conduct such an audit. If the audit occurs at a location outside this state, the person being audited shall pay the director all the costs incurred by the auditor of state in conducting the audit. The costs of any audit under this division shall be charged to the department of agriculture in the same manner as costs of an audit of the department.~~

Sec. 907.07. No person shall sell any agricultural ~~or~~ vegetable, or flower seed:

(A) Unless the test used to determine the information concerning the seed's percentage of germination that is required by section 907.03 of the Revised Code to appear on the label of the seed has been completed within:

(1) A ~~nine-month~~ twelve-month period ~~immediately~~ prior to sale, exclusive of the calendar month in which the test was completed, if the seed is not in hermetically sealed ~~packages or containers~~ or if the seed is agricultural seed other than cool season grass seed;

(2) A fifteen-month period prior to sale, exclusive of the calendar month in which the test was completed, if the seed is a cool season grass seed or a mixture of or blend of only cool season grass seeds and if the seed is not in hermetically sealed containers;

(3) A thirty-six-month period ~~immediately~~ prior to sale, exclusive of the calendar month in which the test was completed, if the seed is in hermetically sealed ~~packages or containers; provided, that any.~~ Any such seed may be sold ~~more than thirty-six months after the month in which it has been tested at any time after the thirty-six-month period has expired if it is retested within a nine-month period immediately prior to sale.~~ Seed that has been retested may be sold for an additional time period if it is accompanied

by a new label that complies with the labeling requirements established in sections 907.01 to 907.17 of the Revised Code. The time period shall consist of twelve consecutive months, not including the month in which the retest was performed. After the twelve-month period has expired, the cycle of retesting and relabeling followed by a twelve-month saleable period may be repeated one or more times.

(B) If the seed is not labeled in accordance with sections 907.01 to 907.17 of the Revised Code or has a false or misleading label;

(C) Pertaining to which there has been a false or misleading advertisement;

~~(D) If the seed contains, singly or collectively, primary prohibited noxious-weed seeds, subject to a tolerance of not to exceed nine primary noxious weed seeds per pound in seed of redtop, timothy, orchardgrass, bluegrass, fescue, bromegrass, red clover, white clover, alsike clover, sweet clover, or any other seed of similar size; seed. In addition, no person shall sell any tree or shrub seed that contains prohibited noxious-weed seed.~~

~~(E) If the seed contains, singly or collectively, primary noxious weed seeds, subject to a tolerance of not to exceed five primary noxious weed seeds per pound in seed of millet, rape, flax, sudangrass, wheat, oats, rye, barley, buckwheat, vetches, or any other seed as large as or larger than wheat;~~

~~(F) If the seed has been treated with poisonous material, unless the seed and the label on the package of seed comply with sections 907.44 and 907.45 of the Revised Code;~~

~~(G)(F) If the seed is in containers bearing labels which that state a liability or nonwarranty clause disclaiming responsibility for any information on the label required by section 907.03 of the Revised Code;~~

~~(H)(G) If the seed contains more than one-fourth of one per cent by weight of secondary restricted noxious-weed seed or more than two and one-half per cent of all weed seed;~~

~~(I)(H) If the seed contains more than fifteen per cent by weight of inert matter unless the product is one of the following:~~

~~(1) A coated agricultural seed;~~

~~(2) A combination seed-mulch product containing not less than five per cent by weight of pure seed;~~

~~(3) Native grass seed that is designated by rules adopted by the director of agriculture as characteristically exhibiting high inert matter.~~

~~(J)(I) At public auction unless the seed is labeled in accordance with sections 907.01 to 907.17 of the Revised Code and bears seed inspection fee tags the person who labeled the seed obtained a permit to do so as provided~~

in section 907.13 of the Revised Code;

~~(K)~~(J) By variety name if the seed is not certified by a certifying agency if the seed is a variety for which a certificate of plant variety protection has been applied for or granted under the federal "Plant Variety Protection Act," ~~public law 91-577~~ 84 Stat. 1542 (1970), 7 U.S.C. 2321 et seq., as amended, which application or granted certificate specifies sale as a class of certified seed only; provided, that seed from a certified lot may be labeled by variety name when used in a mixture by, or with approval of, the owner of the variety;

(K) If the seed is out of compliance with the tolerance established for it under rules adopted by the director.

Sec. 907.08. No person shall do any of the following:

(A) Detach, alter, deface, conceal, or destroy any label required by sections 907.01 to 907.17 of the Revised Code or the rules adopted ~~thereunder~~ under them, or alter or substitute seed in a manner that may defeat the purposes of ~~such~~ those sections;

(B) Disseminate, with the intention of inducing a sale, any false or misleading claim or advertisement concerning the vigor, vitality, growth, yield capability, or any other quality or performance characteristic of any agricultural ~~or~~ vegetable, or flower seed; disseminate any advertisement concerning the vigor, vitality, growth, yield capability, or any other quality or performance characteristic of any agricultural ~~or~~ vegetable, or flower seed for which ~~he~~ the person does not maintain complete and accurate records of the tests used to determine the characteristic and of the results of the tests and submit ~~such~~ the records to the director of agriculture pursuant to section 907.081 of the Revised Code; or make any claim in ~~such~~ an advertisement that cannot be substantiated by an official seed laboratory as defined by rules adopted pursuant to Chapter 119. of the Revised Code by the director or a state experiment station; or by regulations adopted by a federal experiment station;

(C) Fail to comply with a stop-sale order, or to move or otherwise handle or dispose of any lot of seed held under a stop-sale order, or to alter, detach, or dispose of any label attached to the lot;

(D) Use "trace" as a substitute for any statement required by sections 907.01 to 907.17 of the Revised Code;

(E) Sell any seed labeled "certified," "registered," or "foundation" unless it has been produced and labeled in compliance with the rules of a seed certifying agency; The prohibition established in this division does not apply to seed labeled "certified" for the purpose of describing seed that has been certified as organic in accordance with 7 U.S.C. 6501 et seq.

(F) Sell vegetable or flower seed in ~~packets~~ containers of ~~four~~ eight ounces or less, the percentage of germination of which is below the germination standard established by the director under division (B)(3) of section 907.10 of the Revised Code unless the label of the seed clearly indicates, in accordance with section 907.03 of the Revised Code, that the germination is below standard;

(G) Dispose of screenings from the premises where seed is processed in any manner contrary to ~~regulations promulgated~~ rules adopted by the director ~~of agriculture;~~

(H) Sell agricultural ~~or~~, vegetable, or flower seed unless it is labeled in accordance with sections 907.01 to 907.17 of the Revised Code;

(I) Sell seed for use as bird feed if it contains viable prohibited noxious-weed seed or viable restricted noxious-weed seed;

(J) Sell prohibited noxious-weed seed or restricted noxious-weed seed for the purpose of sowing, except sowing for research purposes;

(K) Sell seed that contains prohibited noxious-weed seed or restricted noxious-weed seed that is designated under 7 C.F.R. 201.16 as having no tolerance or that is out of compliance with its tolerance.

Sec. 907.081. Any person who disseminates, with the intention of inducing a sale, any advertisement or makes any claim concerning the vigor, vitality, growth, yield capability, or any other quality or performance characteristic of any agricultural ~~or~~, vegetable, or flower seed shall maintain complete and accurate records of the tests used to determine the characteristic and of the results of the tests and shall submit ~~such~~ the records to the director of agriculture ~~as requested by him upon request.~~ Any person who uses an agricultural ~~or~~, vegetable, or flower seed may request the director to require the person who disseminated any advertisement concerning any of the above characteristics to submit ~~his~~ the person's records to the director.

In accordance with division (A) of section 907.10 of the Revised Code, the director may conduct such tests as ~~he~~ the director determines necessary to verify the information in such records. If ~~his~~ the director's tests indicate that the information in ~~such~~ the records is invalid or unreliable, the director may issue a stop-sale order pursuant to division (C) of section 907.11 of the Revised Code.

Sec. 907.09. (A) Sections 907.03, 907.07, and 907.08 of the Revised Code do not apply to:

(1) Agricultural ~~or~~, vegetable, or flower seed not intended for sowing purposes;

(2) ~~Agricultural or~~ Unprocessed agricultural, vegetable, or flower seed

in storage ~~in~~, or being transported to, or consigned to a seed processing establishment; provided, that the label accompanying a shipment of the seed shall bear the statement "seed for processing"; and provided further, that any label or other representation ~~which~~ that is made with respect to the unprocessed seed shall be subject to ~~section~~ sections 907.01 to 907.17 of the Revised Code;

(3) Agricultural, vegetable, or flower seed that is in interstate transport and that is governed by 7 C.F.R. 201.33.

~~(B) No person shall be subject to section 907.99 of the Revised Code for selling any agricultural or vegetable seed which is incorrectly labeled or represented as to kind, variety, type, or origin if the seed cannot be identified by examination unless he has failed to obtain an invoice or grower's declaration stating, if required, the kind, or kind and variety, or kind and type, and origin and to take other reasonable precautions to ensure that the seed is correctly identified~~ In the case of agricultural, vegetable, or flower seed that is being exported in bulk or containers directly to a foreign country and that is in quantities of twenty thousand pounds or more regardless of the number of lots included, the labeling requirements established under section 907.03 of the Revised Code do not apply, provided that all of the following requirements are satisfied:

(1) The omission, from each container or bulk unit, of a label with the required information is done with the knowledge and consent of the buyer of the seed prior to the transportation or delivery for transportation of the seed in international commerce.

(2) Each container has stenciled on it or bears a label containing a lot designation, variety identification, and kind identification.

(3) The invoice or other records accompanying and pertaining to the seed bear the information concerning the respective seeds that is required under section 907.03 of the Revised Code.

(4) Records are kept available to be provided to the department of agriculture upon request in order to show proof that the seed is being exported to a foreign country for distribution.

Sec. 907.10. The director of agriculture shall do all of the following:

(A) Sample, inspect, analyze, and test agricultural ~~and~~, vegetable, ~~and~~ flower seed sold for sowing purposes, at such times and places and to such extent as ~~he~~ the director regards necessary to determine whether the seed complies with ~~section~~ sections 907.01 to 907.17 of the Revised Code and notify promptly the person who sold the seed of any violation;

(B) ~~In~~ Adopt rules in accordance with Chapter 119. of the Revised Code that do all of the following:

(1) ~~Adopt rules and regulations governing~~ Govern the methods of sampling, inspecting, analyzing, testing, and examining agricultural ~~and~~ vegetable, ~~and~~ flower seed and the tolerances to be followed. The rules ~~and~~ ~~regulations~~ shall be in general accord with officially prescribed practice in interstate commerce applied in analyzing and testing the seed;

(2) Establish ~~primary prohibited~~ and ~~secondary restricted~~ noxious-weed seed lists and provide for additions ~~thereto~~ to them and deletions ~~therefrom~~ from them;

(3) Establish standards for items including, but not limited to, germination and purity for vegetable ~~seeds~~ seed and flower seed;

(4) Adopt any labeling requirements additional to those of section 907.03 of the Revised Code ~~which~~ that may be necessary to maintain the identification of seed in hermetically sealed packages or containers;

(5) Establish the species of native grass that are to be included in the definition of "native grass" for purposes of sections 907.01 to 907.17 of the Revised Code;

(6) Identify native grass seed that characteristically exhibits high inert matter;

(7) Establish the tolerance for agricultural, vegetable, and flower seed that is sold in this state;

(8) Establish the information that an applicant must provide on an application for a seed labeler permit that is filed under section 907.13 of the Revised Code;

(9) Establish any other provisions that are necessary to clarify or administer the labeling requirements established in sections 907.01 to 907.17 of the Revised Code.

(C) Establish and maintain seed testing facilities or enter into agreements under which other persons are responsible for performing seed testing, employ qualified persons, and incur ~~such~~ expenses ~~as~~ that are necessary to comply with this section and section 907.11 of the Revised Code;

(D) Provide for making purity analyses and germination tests of seeds for any person in ~~Ohio~~ this state;

(E) Regulate the number of samples that may be analyzed or tests that may be made for any person free of charge;

(F) Prescribe the period of time during the year when analyses and tests will be made free of charge;

(G) Establish a schedule of fees for making analyses and tests;

(H) Cooperate with the United States department of agriculture in enforcing federal seed laws.

Sec. 907.12. Any lot of agricultural ~~or~~, vegetable, or flower seed not in compliance with sections 907.01 to 907.17 of the Revised Code shall be subject to seizure on complaint of the director of agriculture to a court of competent jurisdiction in the locality in which the seed is located. If the court orders the condemnation of the seed, the seed shall be denatured, destroyed, or otherwise disposed of in compliance with the laws of this state; ~~provided;~~ that the court shall not order such disposition without giving the claimant an opportunity to apply to the court for the release of the seed or for permission to process or relabel it so as to be in compliance with sections 907.01 to 907.17 of the Revised Code.

Sec. 907.13. ~~(A) No person shall sell label agricultural or, vegetable, or flower seed within or into that is intended for sale in this state, except as provided in division (F) of this section, unless he has attached to the seed container Ohio seed inspection fee tags or labels obtained from the person holds a valid seed labeler permit that has been issued by the director of agriculture in accordance with this section or, in lieu thereof, has obtained from the director a permit pursuant to division (D) of this section.~~

~~(B) The Ohio seed inspection fees are:~~

- ~~(1) For small grains and soybeans, four cents per one hundred pounds;~~
- ~~(2) For corn and grain sorghum, five cents per one hundred pounds;~~
- ~~(3) For vegetable seed sold at wholesale or on consignment or commission in packets of eight ounces or less, two per cent of wholesale value of the seed;~~
- ~~(4) For alfalfa, clover, grass, mixtures containing any of these, and all agricultural and vegetable seeds not specified in divisions (B)(1), (2), and (3) of this section, ten cents per one hundred pounds.~~

~~(C) Each person who attaches an Ohio seed inspection fee tag or label to a seed package shall attach one or more tags or labels of the denominations provided in division (D) of section 907.14 of the Revised Code, which are nearest in value to the rates established by division (B) of this section.~~

~~(D) Upon receipt of a ten dollar annual permit fee and a signed agreement to report sales of seed and to pay the seed inspection fees specified in division (B) of this section, the director may authorize a person to use his own tags or labels. Each person who receives a permit to use his own tags or labels shall:~~

- ~~(1) Apply his tags or labels to all seed which he sells;~~
- ~~(2) Report to the department of agriculture prior to the first day of February of each year all sales which he made during the period from the first day of July to the thirty-first day of December of the preceding year;~~
- ~~(3) Report to the department prior to the first day of August of each year~~

~~all sales which he made during the period from the first day of January to the thirtieth day of June of that year;~~

~~(4) Pay the seed inspection fees for seed sales when the sales are reported. Any seed returned during a reporting period under a consignment contract or a contract of sale or return shall be deducted from the sales report and fee payment of the following reporting period.~~

~~(E) For each failure to report in full the amount of seed sold or to submit the required seed inspection fees in full by the due date, any person who holds a permit to use his own tags or labels shall pay a penalty of ten per cent of the amount due or ten dollars, whichever is greater. Failure to pay either the fee or the penalty within thirty days after the due date is cause for cancellation of the annual permit or refusal to renew the permit without a hearing.~~

~~(F) No person is required to secure a permit, report seed sales, and pay seed inspection fees to the department if he sells only:~~

~~(1) Packages which bear Ohio seed inspection fee tags or labels;~~

~~(2) Packages which bear the tags or labels of a person who holds a permit to use his own tags or labels.~~

(G) A person who wishes to obtain a seed labeler permit shall file an application with the director on a form that the director provides and shall submit a permit fee in the amount of ten dollars. Such a person who labels seed under more than one name or at more than one address shall obtain a separate seed labeler permit and pay a separate permit fee for each name and address.

The applicant shall include the applicant's full name and address on the application together with any additional information that the director requires by rules adopted under section 907.10 of the Revised Code. If the applicant's address is not within this state or it does not represent a location in this state where the director can collect samples of the applicant's seed for analysis, then the applicant shall include on the application an address within this state where samples of the applicant's seed may be collected for those purposes or shall agree to provide the director or the director's authorized representative with seeds for sampling upon request.

Upon receipt of a complete application accompanied by the ten-dollar permit fee, the director shall issue a seed labeler's permit to the applicant. All seed labeler permits that are issued in accordance with division (D) of under this section shall expire on the thirty-first day of December of each year regardless of the date on which a permit was issued during that year.

Each person who obtains a seed labeler permit shall label the seed that the person intends for sale in this state in accordance with the requirements

established in sections 907.01 to 907.17 of the Revised Code. Each person who holds a valid seed labeler permit shall keep the permit posted in a conspicuous place in the principal seed room from which the person sells seed and shall comply with the reporting and fee requirements that are established in section 907.14 of the Revised Code.

Sec. 907.14. (A) A person who holds a valid seed labeler permit issued under section 907.13 of the Revised Code shall report to the director of agriculture concerning the amount of seed that the person sells in this state. The report shall be made semiannually on a form that the director prescribes and provides. One semiannual report shall be filed with the director prior to the first day of February of each year with respect to all sales that the person made during the period from the first day of July to the thirty-first day of December of the preceding year. The second semiannual report shall be filed prior to the first day of August of each year with respect to all sales that the person made during the period from the first day of January to the thirtieth day of June of that year.

(B) A person who holds a valid seed labeler permit shall include with each semiannual report a seed fee based on the amount of the seed that the person sold during that reporting period as follows:

(1) For soybeans and small grains, including barley, oats, rye, wheat, triticale, and spelt, four cents per one hundred pounds;

(2) For corn and grain sorghum, five cents per one hundred pounds;

(3) For vegetable and flower seed sold at wholesale or retail or on consignment or commission in containers of eight ounces or less, two per cent of the wholesale value of the containers of seed or, if the seed is not sold wholesale, two per cent of the retail value of the containers of seed;

(4) For alfalfa, clover, grass, native grass, mixtures containing any of these, and all agricultural, vegetable, and flower seeds not specified in divisions (B)(1) to (3) of this section, ten cents per one hundred pounds.

If the total amount of the seed fee that is due is less than five dollars, the person shall pay the minimum seed fee, which is five dollars.

(C) For each failure to report in full the amount of seed sold or to submit the required seed fees in full by the due date, a person who holds a valid seed labeler permit shall pay a penalty of ten per cent of the amount due or fifty dollars, whichever is greater. Failure to pay either the fee or the penalty within thirty days after the due date is cause for suspension or revocation by the director of the seed labeler permit or refusal, without a hearing, to issue a subsequent seed labeler permit for which the person applies.

(D) This section does not apply to governmental entities that donate seed for conservation purposes.

Sec. 907.15. The director of agriculture may suspend, revoke, or refuse to issue a permit to label seed for any violation of sections 907.01 to 907.17 of the Revised Code. No permit to label seed shall be suspended or revoked except for failure to pay either the fee or penalty provided in section ~~907.13~~ 907.14 of the Revised Code until the permit holder ~~thereof~~ has been given a hearing by the director in regard to the proposed suspension or revocation or unless a hearing is waived by the nonappearance of the permit holder at the time and place designated by the director. Any appeal from any such suspension, revocation, or refusal ~~must~~ shall be made within thirty days after the suspension, revocation, or refusal.

Sec. 907.16. All money ~~received from permit fees, seed inspection fees, packet seed inspection stamps, purity analysis and germination test fees, sales of seized or condemned seed, and fines recovered under sections 907.01 to 907.17 of the Revised Code~~ collected by the director of agriculture under sections 907.01 to 907.17 of the Revised Code shall be ~~paid to the director of agriculture. The director shall deposit the money~~ deposited into the treasury of the state to the credit of the ~~general revenue fund~~ seed fund, which is hereby created in the state treasury. Money credited to the fund shall be used to administer and enforce those sections and rules adopted under them.

Sec. 907.31. Any person who submits an application for the registration of a brand of legume inoculant shall pay annually, prior to the first day of ~~August~~ January, a registration and inspection fee ~~based on his dollar sales volume of that brand in Ohio within the twelve month period ending the last day of June immediately preceding the registration renewal date, in accordance with the following schedule:~~

~~(A) One dollar up to ten thousand dollars volume, the registration fee shall be twenty five dollars.~~

~~(B) Ten thousand one dollars up to twenty thousand dollars volume, the registration fee shall be fifty dollars.~~

~~(C) Twenty thousand one dollars and over volume, the registration fee shall be one hundred dollars.~~

~~(D) Brands not previously registered for sale in Ohio will pay the minimum registration fee of twenty five dollars~~ in the amount of fifty dollars per brand.

~~Such~~ The registration shall be renewed according to the standard renewal procedure of sections ~~4745.01 to 4745.03, inclusive, established in Chapter 4745.~~ of the Revised Code.

SECTION 2. That existing sections 907.01, 907.02, 907.03, 907.04, 907.07, 907.08, 907.081, 907.09, 907.10, 907.12, 907.13, 907.15, 907.16, and 907.31 and section 907.14 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____