

As Introduced

**125th General Assembly
Regular Session
2003-2004**

H. B. No. 143

**Representatives Aslanides, McGregor, Hagan, Collier, Husted, Widener,
Hollister, C. Evans, Widowfield, Carmichael, Barrett**

A B I L L

To amend sections 907.01, 907.02, 907.03, 907.04, 1
907.07, 907.08, 907.081, 907.09, 907.10, 907.12, 2
907.13, 907.15, 907.16, and 907.31, to enact new 3
section 907.14, and to repeal section 907.14 of 4
the Revised Code to revise the law governing the 5
labeling and sale of seed. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 907.01, 907.02, 907.03, 907.04, 7
907.07, 907.08, 907.081, 907.09, 907.10, 907.12, 907.13, 907.15, 8
907.16, and 907.31 be amended and new section 907.14 of the 9
Revised Code be enacted to read as follows: 10

Sec. 907.01. As used in sections 907.01 to 907.17 of the 11
Revised Code: 12

(A) "Advertisement" means any representation, other than that 13
on a label, disseminated in any manner or by any means. 14

(B) "Agricultural seed" means the seed of grass, native 15
grass, forage, cereal, field and fiber crops, any other kinds of 16
seed commonly recognized in this state as agricultural or field 17
seed, lawn seed, and mixtures or blends of such seed. 18

(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. The certifying agency for this state is the seed certifying entity designated by the director of agriculture by rule.

(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 49
varieties of corn (Zea Mays). ~~The~~ 50

The second generation and subsequent generations from such 51
crosses shall not be regarded as hybrids. 52

(H) "In bulk" or "bulk" means loose in vehicles, or bins, ~~or~~ 53
~~other containers, but not in bags, boxes, or packets.~~ 54

(I) "Inert matter" means all matter not seeds, including 55
broken seeds, sterile florets, chaff, fungus bodies, and stones. 56

(J) "Kind," in reference to seed, means one or more related 57
species or subspecies ~~which~~ that, singly or collectively, are 58
known by one common name, for example, soybeans, oats, alfalfa, or 59
timothy. 60

(K) "Label," ~~except as used in "inspection fee label,"~~ means 61
any a tag or other device that is attached to or written, stamped, 62
or printed, or graphic matter upon or attached to a on any 63
container of seed or ~~the invoice pertaining thereto~~ that 64
accompanies any lot of bulk seed and that describes the kind of 65
seed together with any other information required by law. "Label" 66
includes an invoice under which any seed is imported into the 67
state. 68

(L) "Lot of seed" means a definite quantity of seed 69
identified by a lot number ~~or other identification~~, every portion 70
or bag of which is uniform, within permitted tolerances, as to the 71
factors ~~which~~ that appear on the label. 72

(M) "Mixture" means ~~a lot of agricultural~~ seed consisting of 73
more than one kind ~~or variety~~, each of which is present in excess 74
of five per cent of the whole. 75

(N) "Origin" means a state, the District of Columbia, Puerto 76
Rico, a possession of the United States, or a foreign country, or 77
designated portion thereof, where grown. 78

(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. "Pure seed" also includes agricultural seed that contains seeds of other kinds or varieties that comprise five per cent or less of the whole and that are described on the label as components of a mixture or blend that comprises five per cent or less of the whole.

(U) "Records" means the complete data, including representative samples, concerning each lot of agricultural seed

that is sold. "Records" includes information about the seed's 110
source of purchase, and origin; the results of germination, 111
tests; the results of purity, tests regarding the amount of pure 112
seed, inert matter, crop seed, weed seed, and noxious weed seed 113
contained in the lot of seed; and information concerning the 114
processing, and disposition of each lot of agricultural the seed 115
sold. 116

(V) "Screenings" means chaff, sterile florets, immature seed, 117
inert matter, weed seed, or any other matter removed from seed in 118
any kind of processing and ~~which~~ that contains less than 119
twenty-five per cent by weight of live agricultural ~~or,~~ vegetable, 120
or flower seed. 121

(W) "~~Secondary noxious weeds" or "restricted~~ Restricted 122
noxious weeds" means weeds ~~which~~ that are objectionable in fields, 123
lawns, or gardens, but ~~which~~ that can be controlled by good 124
cultural practices. 125

(X) "Sell" ~~means~~ or "sold" includes: 126

(1) Transferring ownership, offering or exposing for sale, 127
exchanging, distributing, giving away, or transporting in this 128
state; 129

(2) Storing, carrying, or handling in aid of traffic in this 130
state, whether in person or through an agent, employee, or others; 131

(3) Receiving, accepting, or holding on consignment for sale. 132

(Y) "~~Standard Germination standard,~~" as applied to vegetable 133
or flower seed, means the minimum percentage of germination 134
established by the director of agriculture for any kind or variety 135
of seed. 136

(Z) "Tolerance" means the allowable deviation from any 137
percentage, fraction, or rate of occurrence stated on the label of 138
a lot of seed. Tolerance is based on the law of normal variation 139

from a mean. 140

(AA) "Type" means either a group of varieties so nearly 141
similar that the individual varieties cannot be clearly 142
differentiated except under special conditions or, when used with 143
a variety name, seed of that variety ~~which~~ that may be mixed with 144
seed of other varieties of the same kind and of similar character. 145
In either case, ninety per cent of the pure seed shall be of the 146
variety or group of varieties named or, upon growth, shall produce 147
plants having characteristics similar to the variety or group of 148
~~varities~~ varieties named. 149

(BB) "Variety" means a subdivision of a kind ~~which~~ that is 150
characterized by growth, plant, fruit, seed, or other 151
characteristics by which it can be differentiated from other sorts 152
of the same kind. 153

(CC) "Vegetable seed" means the seed of any crop ~~which~~ that 154
is grown in gardens or on truck farms and is generally known and 155
sold in this state under the name of vegetable seed or herb seed. 156

(DD) "Weed seed" means the seed and bulblets of all plants 157
generally recognized in this state as weeds, including prohibited 158
noxious weeds and restricted noxious weeds. 159

(EE) "Coated agricultural seed" means an agricultural seed 160
with a film or layer applied to the seed, ~~which~~ that is greater 161
than one per cent of the net weight, for purposes of, including, 162
but not limited to, accurate seeding, nitrogen fixation, nutrient 163
improvement, or protection from insects and pathogens. "Coated 164
agricultural seed" does not include seeds treated with dusts or 165
liquids, ~~which~~ that are virtually unmeasurable using association 166
of official seed analysts rules. 167

(FF) "Combination seed-mulch product" means any product 168
containing both seeds and a natural or artificial substance that 169
is applied to the soil surface for the purpose of promoting seed 170

germination through moisture retention, maintaining soil 171
temperature, or preventing erosion, and may contain fertilizer. 172

(GG) "Blend" means seed that consists of more than one 173
variety of a kind, with each variety representing more than five 174
per cent by weight of the whole. 175

(HH) "Flower seed" means the seed of herbaceous plants grown 176
for their blooms, ornamental foliage, or other ornamental parts 177
and commonly known as and sold under the name of flower seed. 178

(II) "Pure live seed" means the sum of seed's percentage of 179
germination plus the percentage of hard seed or dormant seed, 180
multiplied by the percentage of pure seed, the product of which is 181
divided by one hundred. The result is expressed as a whole number. 182
Expressed as an equation, the definition of "pure live seed" is as 183
follows: (percentage of germination plus percentage of hard seed 184
or dormant seed) multiplied by the percentage of pure seed equals 185
(product)divided by one hundred equals pure live seed. 186

(JJ) "Cool season grass seed" means the agricultural seed of 187
Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall 188
fescue, perennial ryegrass, intermediate ryegrass, annual 189
ryegrass, colonial bentgrass, creeping bentgrass, and mixtures or 190
blends containing only those grass seeds. 191

(KK) "Native grass" has the meaning established in rules 192
adopted under section 907.10 of the Revised Code. 193

(LL) "Class of seed" means a classification of seed that is 194
established using the standards and procedures established by the 195
association of official seed certifying agencies and that 196
designates seed as breeder, foundation, registered, or certified 197
seed. 198

(MM) "Container" means a packet, bag, box, tape, tube, 199
envelope, pre-planted device, mat, or other device used to contain 200
seed, except that "container" does not include a vehicle or bin 201

used to contain bulk seed.

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Sec. 907.02. (A) ~~The Ohio seed improvement association~~ entity
that is designated by the director of agriculture in rules adopted
under section 907.10 of the Revised Code as having the authority
to certify seed in this state shall certify for Ohio, agricultural
~~or,~~ vegetable, or flower seed, tubers for seeding purposes, or
plants for varietal identification or for other factors.

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(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~~ certifying entity designated by rule
to do so.

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(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":

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(1) The grower's name and address or producer number;

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(2) The name of the ~~Ohio~~ entity that certified the seed
~~improvement association as the certifying agency;~~

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(3) The origin of the seed, tubers for seeding purposes, or
plants;

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(4) The class, kind, variety, and germ plasm of the seed;

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

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(D) The seed certifying entity described in division (A) of

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this section 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 seed certifying entity 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 seed certifying entity's governing body.

Sec. 907.03. (A) Each container of agricultural ~~ex,~~ 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 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" 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 ;	262
(c) The origin, if known, of alfalfa and red clover. If the origin is unknown, the <u>that</u> fact shall be stated.	263 264
(d) The percentage by weight of all weed seed;	265
(e) The name and number of each kind of secondary <u>restricted</u> noxious-weed seed per ounce, when present singly or in combination:	266 267 268
(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 <u>agricultural</u> seed of similar size, other grasses and clovers not otherwise classified, or any combination thereof;	269 270 271 272 273 274 275
(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.	276 277 278 279
(f) The name and number of each kind of secondary <u>restricted</u> 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;	280 281 282 283 284
(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;	285 286 287
(h) The percentage by weight of inert matter;	288
(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	289 290 291

to determine these percentages;	292
(j) The name and address of the person who labels the seed.	293
(2) <u>For coated agricultural seed, in addition to the</u>	294
<u>information required under division (A)(1) of this section:</u>	295
(a) <u>The percentage by weight of pure seed with coating</u>	296
<u>material removed;</u>	297
(b) <u>The percentage by weight of coating material;</u>	298
(c) <u>The percentage by weight of inert matter exclusive of</u>	299
<u>coating material;</u>	300
(d) <u>The percentage of germination determined on four hundred</u>	301
<u>coated pellets.</u>	302
(3) <u>For vegetable seed that is sold in containers weighing</u>	303
<u>eight ounces or less:</u>	304
(a) The name of the kind and variety of the seed;	305
(b) <u>The percentage of germination of the seed, which shall be</u>	306
<u>equal to or above the germination standard unless the label of the</u>	307
<u>seed indicates in accordance with division (A)(3)(c) of this</u>	308
<u>section that the germination is below standard;</u>	309
(c) <u>For seed which that germinates less than the germination</u>	310
<u>standard established by the director under division (B)(3) of</u>	311
<u>section 907.10 of the Revised Code:</u>	312
(i) The percentage of germination, exclusive of hard seed;	313
the percentage of hard seed, if present; and the calendar month	314
and year the test was completed to determine these percentages;	315
(ii) "Below standard" in not less than 8-point type in a	316
conspicuous place on the same side of the label as that which	317
states the percentage of germination or on the face of the	318
container.	319
(e) The name and address of the person who labels or sells	320

the seed;	321
(d) The percentage of germination of any vegetable seed sold	322
in packets weighing less than four ounces shall be equal to or	323
above the standard.	324
(e) The percentage of germination of any vegetable seed	325
determined to be above the standard may be stated on the label, <u>or</u>	326
container, <u>or</u> packet.	327
(3) For coated agricultural seed, in addition to the	328
information required under division (A)(1) of this section:	329
(a) The percentage by weight of pure seeds with coating	330
material removed;	331
(b) The percentage by weight of coating material;	332
(c) The percentage by weight of inert matter exclusive of	333
coating material;	334
(d) The percentage of germination determined on four hundred	335
coated pellets.	336
<u>(d) The name and address of the person who labels the seed;</u>	337
<u>(e) The year in which the packed seed is intended for sale;</u>	338
<u>(f) The lot number.</u>	339
<u>(4) For vegetable seed that is sold in containers weighing</u>	340
<u>more than eight ounces:</u>	341
<u>(a) The name of each kind and variety of vegetable seed</u>	342
<u>present in excess of five per cent and the percentage by weight of</u>	343
<u>each in order of its predominance;</u>	344
<u>(b) The lot number;</u>	345
<u>(c) The following information for each vegetable seed named</u>	346
<u>on the label:</u>	347
<u>(i) The percentage of germination exclusive of hard seed;</u>	348

<u>(ii) The percentage of hard seed, if present.</u>	349
<u>Germination and hard seed may be stated as a total percentage if</u>	350
<u>desired.</u>	351
<u>(iii) The calendar month and year that the test used to</u>	352
<u>determine each percentage was completed.</u>	353
<u>(d) The name and address of the person who labels the seed;</u>	354
<u>(e) The name and amount of each kind of restricted</u>	355
<u>noxious-weed seed that is present in one ounce of the seed.</u>	356
<u>(5) For flower seed that is sold in containers weighing eight</u>	357
<u>ounces or less:</u>	358
<u>(a) The common name or, if commonly used, the scientific name</u>	359
<u>of the kind and variety of flower seed;</u>	360
<u>(b) The percentage of germination of the flower seed, which</u>	361
<u>shall be equal to or above the germination standard established by</u>	362
<u>the director under division (B)(3) of section 907.10 of the</u>	363
<u>Revised Code unless the label of the seed indicates in accordance</u>	364
<u>with division (A)(5)(c) of this section that the germination is</u>	365
<u>below standard;</u>	366
<u>(c) The following information for flower seed that germinates</u>	367
<u>less than the germination standard established by the director</u>	368
<u>under division (B)(3) of section 907.10 of the Revised Code:</u>	369
<u>(i) The percentage of germination, exclusive of hard seed;</u>	370
<u>(ii) The percentage of hard seed, if present;</u>	371
<u>(iii) The calendar month and year that the test used to</u>	372
<u>determine the percentages was completed;</u>	373
<u>(iv) The words "below standard" in not less than eight-point</u>	374
<u>type in a conspicuous place on the same side of the label as that</u>	375
<u>which states the percentage of germination or on the face of the</u>	376
<u>container.</u>	377

<u>The percentage of germination of any flower seed determined</u>	378
<u>to be above the standard may be stated on the label or container.</u>	379
<u>(d) The name and address of the person who labels the seed;</u>	380
<u>(e) The year in which the packed seed is intended for sale;</u>	381
<u>(f) The lot number.</u>	382
<u>(6) For flower seed in containers weighing more than eight</u>	383
<u>ounces:</u>	384
<u>(a) The name of each kind and variety of flower seed present</u>	385
<u>in excess of five per cent and the percentage by weight of each in</u>	386
<u>order of its predominance;</u>	387
<u>(b) The lot number;</u>	388
<u>(c) The following information for each flower seed named on</u>	389
<u>the label:</u>	390
<u>(i) The percentage of germination exclusive of hard seed;</u>	391
<u>(ii) The percentage of hard seed, if present.</u>	392
<u>Germination and hard seed may be stated as a total percentage if</u>	393
<u>desired.</u>	394
<u>(iii) The calendar month and year that the test used to</u>	395
<u>determine each percentage was completed.</u>	396
<u>(d) The name and address of the person who labels the seed;</u>	397
<u>(e) The name and amount of each kind of restricted</u>	398
<u>noxious-weed seed that is present in one ounce of the seed.</u>	399
<u>(7) For combination seed-mulch products:</u>	400
<u>(a) The word "combination," which shall be printed on the</u>	401
<u>upper third of the principal display panel in the largest and most</u>	402
<u>conspicuous type in relation to other words and designs on the</u>	403
<u>label;</u>	404
<u>(b) Following the word "combination" on the upper third of</u>	405

the principal display panel, the words "seed, mulch, and 406
fertilizer," as applicable and not necessarily in that order, 407
printed in type smaller than, but no less than one-half the size 408
of, the type used to print the word "combination-"; 409

(c) In addition to the information required under division 410
(A)(1) of this section, the product's analysis label shall contain 411
all of the following: 412

(i) The seed origin, if known, for each kind or variety, or 413
both; 414

(ii) The percentages by weight of mulch and, if applicable, 415
of fertilizer; 416

(iii) Any noxious weeds. If no noxious weeds are present, 417
"noxious weeds--none found" shall be stated. 418

~~(B) The total of the percentages required by divisions 419
(A)(1)(i) and (A)(2)(b)(i) of this section may be stated on the 420
label. Such total shall be used when applying the rules of 421
tolerance When extreme dormancy is encountered with respect to any 422
of the following named grasses, the result of a tetrazolium test 423
also may be shown on the label of the grass seed to indicate the 424
potential germination and viability of the seed: 425~~

(1) Bluestem, big (Andropogon gerardii); 426

(2) Bluestem, little (Schizachyrium scoparium); 427

(3) Dropseed, sand (Sporobolus cryptandrus); 428

(4) Grama, sideoats (Bouteloua curtipendula); 429

(5) Indiangrass (Sorghastrum nutans); 430

(6) Needlegrass (Stipa viridula); 431

(7) Switchgrass (Panicum virgatum). 432

~~(C) In the case of agricultural or vegetable seed sold from 433
vehicles, bins, or other bulk containers to which the purchaser 434~~

~~has access before buying, the seller shall attach a complete label~~ 435
~~to the bulk container or display adjacent thereto a placard~~ 436
~~bearing a complete label stating the information required by this~~ 437
~~section. The label shall be conspicuous to the buyer. If the buyer~~ 438
~~purchases more than ten pounds of the bulk seed, the seller shall~~ 439
~~attach a label to the container of seed being purchased stating~~ 440
~~the information required by this section Bulk agricultural,~~ 441
~~vegetable, or flower seed that is offered for sale or sold shall~~ 442
~~comply with the labeling requirements established in division (A)~~ 443
~~of this section, except that the label shall be provided in the~~ 444
~~following manner rather than being attached to a container:~~ 445

(1) The label shall be posted next to the bulk seed so that 446
it is easily read by the purchaser. 447

(2) In the case of bulk seed purchased in excess of twenty 448
pounds, the seller shall provide a copy of the label to the 449
consumer in conjunction with the bill of sale. 450

(D) No information concerning a test date, pure seed, inert 451
matter, crop seed, weed seed, germination, hard seed, or noxious 452
weed seed shall be included on a label for agricultural, 453
vegetable, or flower seed unless a test has been conducted on that 454
lot of seed prior to its labeling to determine the accuracy of the 455
information. 456

Sec. 907.04. (A) Any person ~~selling~~ who holds a valid seed 457
labeler permit issued under section 907.13 of the Revised Code and 458
who sells agricultural ~~or,~~ vegetable, or flower seed shall, for a 459
period of eighteen months from the date of the final sale or other 460
final disposition ~~he makes~~ made, keep complete records of each lot 461
of agricultural ~~or,~~ vegetable, or flower seed that ~~he~~ the person 462
sells; ~~provided, that if.~~ If purchases are made from persons who 463
keep records available for inspection as required under this 464
division, the keeping for eighteen months of an invoice of each 465

purchase and sale stating the kind of seed and the lot number 466
meets the requirement as to records. 467

(B) Any person ~~located outside this state~~ who distributes 468
agricultural ~~or, vegetable, or flower~~ seed within or into this 469
state shall maintain the records required under division (A) of 470
this section at a location in this state. If the director of 471
agriculture or ~~his~~ the director's designated representative 472
determines that an audit of such a person is necessary in order to 473
determine the sales of seed made within or into this state by that 474
person and the amount of the fee that the person owes this state 475
under section ~~907.13~~ 907.14 of the Revised Code, the director or 476
the director's authorized agent may ~~request the auditor of state~~ 477
~~to audit the person. Upon receiving a request from the director~~ 478
~~under this division, the auditor of state shall conduct such an~~ 479
~~audit. If the audit occurs at a location outside this state, the~~ 480
~~person being audited shall pay the director all the costs incurred~~ 481
~~by the auditor of state in conducting the audit. The costs of any~~ 482
~~audit under this division shall be charged to the department of~~ 483
~~agriculture in the same manner as costs of an audit of the~~ 484
~~department.~~ 485

Sec. 907.07. No person shall sell any agricultural ~~or,~~ 486
vegetable, or flower seed: 487

(A) Unless the test used to determine the information 488
concerning the seed's percentage of germination that is required 489
by section 907.03 of the Revised Code to appear on the label of 490
the seed has been completed within: 491

(1) A ~~nine-month~~ twelve-month period ~~immediately~~ prior to 492
sale, exclusive of the calendar month in which the test was 493
completed, if the seed is not in hermetically sealed ~~packages or~~ 494
containers or if the seed is agricultural seed other than cool 495

season grass seed; 496

(2) A fifteen-month period prior to sale, exclusive of the 497
calendar month in which the test was completed, if the seed is a 498
cool season grass seed or a mixture of only cool season grass 499
seeds and if the seed is not in hermetically sealed containers; 500

(3) A thirty-six-month period ~~immediately~~ prior to sale, 501
exclusive of the calendar month in which the test was completed, 502
if the seed is in hermetically sealed ~~packages or containers~~+ 503
~~provided, that any. Any~~ such seed may be sold ~~more than thirty-six~~ 504
~~months after the month in which it has been tested~~ at any time 505
~~after the thirty-six-month period has expired~~ if it is retested 506
~~within a nine-month period immediately~~ prior to sale. Seed that 507
~~has been retested~~ may be sold for an additional time period if it 508
~~is accompanied by a new label that complies with the labeling~~ 509
~~requirements established in sections 907.01 to 907.17 of the~~ 510
~~Revised Code. The time period shall consist of twelve consecutive~~ 511
~~months, not including the month in which the retest was performed.~~ 512
~~After the twelve-month period has expired, the cycle of retesting~~ 513
~~and relabeling followed by a twelve-month saleable period may be~~ 514
~~repeated one or more times.~~ 515

(B) If the seed is not labeled in accordance with sections 516
907.01 to 907.17 of the Revised Code or has a false or misleading 517
label; 518

(C) Pertaining to which there has been a false or misleading 519
advertisement; 520

(D) If the seed contains, ~~singly or collectively, primary~~ 521
~~prohibited~~ noxious-weed seeds, ~~subject to a tolerance of not to~~ 522
~~exceed nine primary noxious weed seeds per pound in seed of~~ 523
~~redtop, timothy, orchardgrass, bluegrass, fescue, bromegrass, red~~ 524
~~clover, white clover, alsike clover, sweet clover, or any other~~ 525
~~seed of similar size;~~ seed. In addition, no person shall sell any 526

<u>tree or shrub seed that contains prohibited noxious-weed seed.</u>	527
(E) If the seed contains, singly or collectively, primary	528
noxious weed seeds, subject to a tolerance of not to exceed five	529
primary noxious weed seeds per pound in seed of millet, rape,	530
flax, sudangrass, wheat, oats, rye, barley, buckwheat, vetches, or	531
any other seed as large as or larger than wheat;	532
(F) If the seed has been treated with poisonous material,	533
unless the seed and the label on the package of seed comply with	534
sections 907.44 and 907.45 of the Revised Code;	535
(G)(F) If the seed is in containers bearing labels which that	536
state a liability or nonwarranty clause disclaiming responsibility	537
for any information on the label required by section 907.03 of the	538
Revised Code;	539
(H)(G) If the seed contains more than one-fourth of one per	540
cent by weight of <u>secondary restricted</u> noxious-weed seed or more	541
than two and one-half per cent of all weed seed;	542
(I)(H) If the seed contains more than fifteen per cent by	543
weight of inert matter unless the product is one of the following:	544
(1) A coated agricultural seed;	545
(2) A combination seed-mulch product containing not less than	546
five per cent by weight of pure seed;	547
<u>(3) Native grass seed that is designated by rules adopted by</u>	548
<u>the director of agriculture as characteristically exhibiting high</u>	549
<u>inert matter.</u>	550
(J)(I) At public auction unless the seed is labeled in	551
accordance with sections 907.01 to 907.17 of the Revised Code and	552
bears seed inspection fee tags <u>the person who labeled the seed</u>	553
<u>obtained a permit to do so</u> as provided in section 907.13 of the	554
Revised Code;	555
(K)(J) By variety name if the seed is not certified by a	556

certifying agency or by the seed certifying entity designated by 557
the director by rule if the seed is a variety for which a 558
certificate of plant variety protection has been applied for or 559
granted under the federal "Plant Variety Protection Act," ~~public~~ 560
~~law 91-577~~ 84 Stat. 1542 (1970), 7 U.S.C. 2321 et seq., as 561
amended, which application or granted certificate specifies sale 562
as a class of certified seed only~~+~~, provided~~7~~ that seed from a 563
certified lot may be labeled by variety name when used in a 564
mixture by, or with approval of, the owner of the variety; 565

(K) If the seed is out of compliance with the tolerance 566
established for it under rules adopted by the director. 567

Sec. 907.08. No person shall do any of the following: 568

(A) Detach, alter, deface, conceal, or destroy any label 569
required by sections 907.01 to 907.17 of the Revised Code or the 570
rules adopted ~~thereunder~~ under them, or alter or substitute seed 571
in a manner that may defeat the purposes of ~~such~~ those sections; 572

(B) Disseminate, with the intention of inducing a sale, any 573
false or misleading claim or advertisement concerning the vigor, 574
vitality, growth, yield capability, or any other quality or 575
performance characteristic of any agricultural ~~or~~, vegetable, or 576
flower seed~~7~~; disseminate any advertisement concerning the vigor, 577
vitality, growth, yield capability, or any other quality or 578
performance characteristic of any agricultural ~~or~~, vegetable, or 579
flower seed for which ~~he~~ the person does not maintain complete and 580
accurate records of the tests used to determine the characteristic 581
and of the results of the tests and submit ~~such~~ the records to the 582
director of agriculture pursuant to section 907.081 of the Revised 583
Code~~7~~; or make any claim in ~~such~~ an advertisement that cannot be 584
substantiated by an official seed laboratory as defined by rules 585
adopted pursuant to Chapter 119. of the Revised Code by the 586
director or a state experiment station~~7~~, or by regulations adopted 587

by a federal experiment station; 588

(C) Fail to comply with a stop-sale order, or to move or 589
otherwise handle or dispose of any lot of seed held under a 590
stop-sale order, or to alter, detach, or dispose of any label 591
attached to the lot; 592

(D) Use "trace" as a substitute for any statement required by 593
sections 907.01 to 907.17 of the Revised Code; 594

(E) Sell any seed labeled "certified," "registered," or 595
"foundation" unless it has been produced and labeled in compliance 596
with the rules of a seed certifying agency or of the seed 597
certifying entity designated by the director by rule; 598

(F) Sell vegetable or flower seed in ~~packets~~ containers of 599
~~four~~ eight ounces or less, the percentage of germination of which 600
is below the germination standard established by the director 601
under division (B)(3) of section 907.10 of the Revised Code unless 602
the label of the seed clearly indicates, in accordance with 603
section 907.03 of the Revised Code, that the germination is below 604
standard; 605

(G) Dispose of screenings from the premises where seed is 606
processed in any manner contrary to ~~regulations promulgated~~ rules 607
adopted by the director ~~of agriculture;~~ 608

(H) Sell agricultural ~~or~~, vegetable, or flower seed unless it 609
is labeled in accordance with sections 907.01 to 907.17 of the 610
Revised Code; 611

(I) Sell seed for use as bird feed if it contains viable 612
prohibited noxious-weed seed or viable restricted noxious-weed 613
seed; 614

(J) Sell prohibited noxious-weed seed or restricted 615
noxious-weed seed for the purpose of sowing, except sowing for 616
research purposes; 617

(K) Sell seed that contains prohibited noxious-weed seed or 618
restricted noxious-weed seed that is designated under 7 C.F.R. 619
201.16 as having no tolerance or that is out of compliance with 620
its tolerance. 621

Sec. 907.081. Any person who disseminates, with the intention 622
of inducing a sale, any advertisement or makes any claim 623
concerning the vigor, vitality, growth, yield capability, or any 624
other quality or performance characteristic of any agricultural 625
~~or,~~ vegetable, or flower seed shall maintain complete and accurate 626
records of the tests used to determine the characteristic and of 627
the results of the tests and shall submit ~~such the~~ records to the 628
director of agriculture ~~as requested by him~~ upon request. Any 629
person who uses an agricultural ~~or,~~ vegetable, or flower seed may 630
request the director to require the person who disseminated any 631
advertisement concerning any of the above characteristics to 632
submit ~~his~~ the person's records to the director. 633

In accordance with division (A) of section 907.10 of the 634
Revised Code, the director may conduct such tests as ~~he~~ the 635
director determines necessary to verify the information in such 636
records. If ~~his~~ the director's tests indicate that the information 637
in ~~such the~~ records is invalid or unreliable, the director may 638
issue a stop-sale order pursuant to division (C) of section 907.11 639
of the Revised Code. 640

Sec. 907.09. (A) Sections 907.03, 907.07, and 907.08 of the 641
Revised Code do not apply to: 642

(1) Agricultural ~~or,~~ vegetable, or flower seed not intended 643
for sowing purposes; 644

(2) Agricultural ~~or,~~ vegetable, or flower seed in storage in, 645
being transported to, or consigned to a seed processing 646
establishment~~+,~~ provided~~7,~~ that the label accompanying a shipment 647

of the seed shall bear the statement "seed for processing" and 648
provided further, that any label or other representation which 649
that is made with respect to the unprocessed seed shall be subject 650
to ~~section~~ sections 907.01 to 907.17 of the Revised Code; 651

(3) Agricultural, vegetable, or flower seed that is in 652
interstate transport and that is governed by 7 C.F.R. 201.33. 653

~~(B) No person shall be subject to section 907.99 of the 654~~
~~Revised Code for selling any agricultural or vegetable seed which 655~~
~~is incorrectly labeled or represented as to kind, variety, type, 656~~
~~or origin if the seed cannot be identified by examination unless 657~~
~~he has failed to obtain an invoice or grower's declaration 658~~
~~stating, if required, the kind, or kind and variety, or kind and 659~~
~~type, and origin and to take other reasonable precautions to 660~~
~~ensure that the seed is correctly identified In the case of 661~~
~~agricultural, vegetable, or flower seed that is being exported in 662~~
~~bulk or containers directly to a foreign country and that is in 663~~
~~quantities of twenty thousand pounds or more regardless of the 664~~
~~number of lots included, the labeling requirements established 665~~
~~under section 907.03 of the Revised Code do not apply, provided 666~~
~~that all of the following requirements are satisfied: 667~~

(1) The omission, from each container or bulk unit, of a 668
label with the required information is done with the knowledge and 669
consent of the buyer of the seed prior to the transportation or 670
delivery for transportation of the seed in international commerce. 671

(2) Each container has stenciled on it or bears a label 672
containing a lot designation, variety identification, and kind 673
identification. 674

(3) The invoice or other records accompanying and pertaining 675
to the seed bear the information concerning the respective seeds 676
that is required under section 907.03 of the Revised Code. 677

(4) Records are kept available to be provided to the 678

department of agriculture upon request in order to show proof that 679
the seed is being exported to a foreign country for distribution. 680

Sec. 907.10. The director of agriculture shall do all of the 681
following: 682

(A) Sample, inspect, analyze, and test agricultural ~~and,~~ 683
vegetable, and flower seed sold for sowing purposes, at such times 684
and places and to such extent as ~~he~~ the director regards necessary 685
to determine whether the seed complies with ~~section~~ sections 686
907.01 to 907.17 of the Revised Code and notify promptly the 687
person who sold the seed of any violation; 688

(B) ~~In~~ Adopt rules in accordance with Chapter 119. of the 689
Revised Code that do all of the following: 690

(1) ~~Adopt rules and regulations governing~~ Govern the methods 691
of sampling, inspecting, analyzing, testing, and examining 692
agricultural ~~and,~~ vegetable, and flower seed and the tolerances to 693
be followed. The rules ~~and regulations~~ shall be in general accord 694
with officially prescribed practice in interstate commerce applied 695
in analyzing and testing the seed; 696

(2) Establish ~~primary prohibited~~ and ~~secondary restricted~~ 697
noxious-weed seed lists and provide for additions ~~thereto~~ to them 698
and deletions ~~therefrom~~ from them; 699

(3) Establish standards for items including, but not limited 700
to, germination and purity for vegetable ~~seeds~~ seed and flower 701
seed; 702

(4) Adopt any labeling requirements additional to those of 703
section 907.03 of the Revised Code ~~which~~ that may be necessary to 704
maintain the identification of seed in hermetically sealed 705
packages or containers; 706

(5) Establish the species of native grass that are to be 707
included in the definition of "native grass" for purposes of 708

<u>sections 907.01 to 907.17 of the Revised Code;</u>	709
<u>(6) Identify native grass seed that characteristically exhibits high inert matter;</u>	710
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<u>(7) Establish the tolerance for agricultural, vegetable, and flower seed that is sold in this state;</u>	712
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<u>(8) Designate a seed certifying entity for purposes of sections 907.01 to 907.17 of the Revised Code;</u>	714
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<u>(9) 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;</u>	716
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<u>(10) 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.</u>	719
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(C) <u>Establish and maintain seed testing facilities, employ qualified persons, and incur such expenses as that are necessary to comply with this section and section 907.11 of the Revised Code, and otherwise do what is necessary for the administration and enforcement of sections 907.01 to 907.17 of the Revised Code or enter into agreements under which other persons are responsible for doing so;</u>	722
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(D) <u>Provide for making purity analyses and germination tests of seeds for any person in Ohio this state;</u>	729
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(E) <u>Regulate the number of samples that may be analyzed or tests that may be made for any person free of charge;</u>	731
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(F) <u>Prescribe the period of time during the year when analyses and tests will be made free of charge;</u>	733
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(G) <u>Establish a schedule of fees for making analyses and tests;</u>	735
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(H) <u>Cooperate with the United States department of</u>	737

agriculture in enforcing federal seed laws. 738

Sec. 907.12. Any lot of agricultural ~~ex,~~ vegetable, or flower 739
seed not in compliance with sections 907.01 to 907.17 of the 740
Revised Code shall be subject to seizure on complaint of the 741
director of agriculture to a court of competent jurisdiction in 742
the locality in which the seed is located. If the court orders the 743
condemnation of the seed, the seed shall be denatured, destroyed, 744
or otherwise disposed of in compliance with the laws of this 745
state~~+~~, provided~~7~~, that the court shall not order such disposition 746
without giving the claimant an opportunity to apply to the court 747
for the release of the seed or for permission to process or 748
relabel it so as to be in compliance with sections 907.01 to 749
907.17 of the Revised Code. 750

Sec. 907.13. ~~(A)~~ No person shall ~~sell~~ label agricultural ~~ex,~~ 751
vegetable, or flower seed ~~within or into~~ that is intended for sale 752
in this state, ~~except as provided in division (F) of this section,~~ 753
~~unless he has attached to the seed container Ohio seed inspection~~ 754
~~fee tags or labels obtained from~~ the person holds a valid seed 755
labeler permit that has been issued by the director of agriculture 756
in accordance with this section ~~or, in lieu thereof, has obtained~~ 757
~~from the director a permit pursuant to division (D) of this~~ 758
~~section.~~ 759

~~(B) The Ohio seed inspection fees are:~~ 760

~~(1) For small grains and soybeans, four cents per one hundred~~ 761
~~pounds;~~ 762

~~(2) For corn and grain sorghum, five cents per one hundred~~ 763
~~pounds;~~ 764

~~(3) For vegetable seed sold at wholesale or on consignment or~~ 765
~~commission in packets of eight ounces or less, two per cent of~~ 766
~~wholesale value of the seed;~~ 767

~~(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.~~ 768
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~~(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.~~ 772
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~~(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:~~ 777
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~~(1) Apply his tags or labels to all seed which he sells;~~ 783

~~(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;~~ 784
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~~(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;~~ 788
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~~(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.~~ 791
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~~(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~~ 796
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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.

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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.

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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.

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(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:

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(1) For soybeans and small grains, including barley, oats,

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rye, wheat, triticale, and spelt, four cents per one hundred pounds; 860
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(2) For corn and grain sorghum, five cents per one hundred pounds; 862
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(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; 864
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(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. 869
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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. 873
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(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. 876
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(D) This section does not apply to governmental entities that donate seed for conservation purposes. 885
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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 887
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seed shall be suspended or revoked except for failure to pay 890
either the fee or penalty provided in section ~~907.13~~ 907.14 of the 891
Revised Code until the permit holder ~~thereof~~ has been given a 892
hearing by the director in regard to the proposed suspension or 893
revocation or unless a hearing is waived by the nonappearance of 894
the permit holder at the time and place designated by the 895
director. Any appeal from any such suspension, revocation, or 896
refusal ~~must~~ shall be made within thirty days after the 897
suspension, revocation, or refusal. 898

Sec. 907.16. All money ~~received from permit fees, seed 899~~
~~inspection fees, packet seed inspection stamps, purity analysis 900~~
~~and germination test fees, sales of seized or condemned seed, and 901~~
~~finer recovered under sections 907.01 to 907.17 of the Revised 902~~
Code collected by the director of agriculture under sections 903
907.01 to 907.17 of the Revised Code shall be paid to the director 904
of agriculture. The director shall deposit the money deposited 905
into the treasury of the state to the credit of the ~~general 906~~
~~revenue fund~~ seed fund, which is hereby created in the state 907
treasury. Money credited to the fund shall be used to administer 908
and enforce those sections and rules adopted under them. 909

Sec. 907.31. Any person who submits an application for the 910
registration of a brand of legume inoculant shall pay annually, 911
prior to the first day of ~~August~~ January, a registration and 912
inspection fee ~~based on his dollar sales volume of that brand in 913~~
~~Ohio within the twelve month period ending the last day of June 914~~
~~immediately preceding the registration renewal date, in accordance 915~~
~~with the following schedule:~~ 916

(A) ~~One dollar up to ten thousand dollars volume, the 917~~
~~registration fee shall be twenty five dollars. 918~~

(B) ~~Ten thousand one dollars up to twenty thousand dollars 919~~

~~volume, the registration fee shall be fifty dollars.~~ 920

~~(C) Twenty thousand one dollars and over volume, the registration fee shall be one hundred dollars.~~ 921
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~~(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.~~ 923
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~~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.~~ 926
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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. 929
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