

As Passed by the House

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

Sub. H. B. No. 143

**Representatives Aslanides, McGregor, Hagan, Collier, Husted, Widener,
Hollister, C. Evans, Widowfield, Carmichael, Barrett, Setzer, Seaver,
Domenick, Niehaus, Faber, Walcher, Cates, Chandler, Cirelli, Daniels,
DeWine, Distel, Flowers, Gibbs, Harwood, Kearns, Otterman, T. Patton,
Peterson, Redfern, Schmidt, Seitz, J. Stewart, Wolpert**

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 19
laws of a state or a foreign country to certify officially seed, 20
tubers for seeding purposes, or plants for varietal identification 21
or for other factors and, in the case of seed, an agency 22
determined by the United States secretary of agriculture to follow 23
procedures and standards of seed certification comparable to those 24
generally followed by seed certifying agencies ~~which~~ that are 25
members of the association of official seed certifying agencies. 26

(D) "Germination" means the emergence and development from 27
seed embryos of those structures ~~which~~ that indicate the 28
capability of producing normal seedlings under ordinarily 29
favorable conditions as determined by methods prescribed by rules 30
of the association of official seed analysts. 31

(E) "Hard seed" means seed ~~which~~ that, because of 32
impermeability, does not absorb moisture or germinate, but remains 33
hard during the period of germination prescribed for that 34
particular kind of seed. 35

(F) "Hermetically sealed" means that the container used does 36
not allow water vapor penetration through any wall, including the 37
seals, greater than five one-hundredths grams of water per 38
twenty-four hours per one hundred square inches of surface at one 39
hundred degrees Fahrenheit with a relative humidity on one side of 40
ninety per cent and on the other side of zero per cent. 41

(G) "Hybrid" means the first generation seed of a cross 42
produced by controlling the pollination and by combining: 43

(1) Two or more inbred lines; 44

(2) One inbred or a single cross with an open-pollinated 45
variety; 46

(3) Two varieties or species, except open-pollinated 47
varieties of corn (Zea Mays). ~~The~~ 48

The second generation and subsequent generations from such 49
crosses shall not be regarded as hybrids. 50

(H) "In bulk" or "bulk" means loose in vehicles, or bins, ~~or~~ 51
~~other containers, but not in bags, boxes, or packets.~~ 52

(I) "Inert matter" means all matter not seeds, including 53
broken seeds, sterile florets, chaff, fungus bodies, and stones. 54

(J) "Kind," in reference to seed, means one or more related 55
species or subspecies ~~which~~ that, singly or collectively, are 56
known by one common name, for example, soybeans, oats, alfalfa, or 57
timothy. 58

(K) "Label," ~~except as used in "inspection fee label,"~~ means 59
any a tag or other device that is attached to or written, stamped, 60
or printed, or graphic matter upon or attached to a on any 61
container of seed or ~~the invoice pertaining thereto~~ that 62
accompanies any lot of bulk seed and that describes the kind of 63
seed together with any other information required by law. "Label" 64
includes an invoice under which any seed is imported into the 65
state. 66

(L) "Lot of seed" means a definite quantity of seed 67
identified by a lot number ~~or other identification~~, every portion 68
or bag of which is uniform, within permitted tolerances, as to the 69
factors ~~which~~ that appear on the label. 70

(M) "Mixture" means ~~a lot of agricultural~~ seed consisting of 71
more than one kind ~~or variety~~, each of which is present in excess 72
of five per cent of the whole. 73

(N) "Origin" means a state, the District of Columbia, Puerto 74
Rico, a possession of the United States, or a foreign country, or 75
designated portion thereof, where grown. 76

(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 108
information concerning the processing, and disposition of each lot 109
of agricultural the seed sold. 110

(V) "Screenings" means chaff, sterile florets, immature seed, 111
inert matter, weed seed, or any other matter removed from seed in 112
any kind of processing and ~~which~~ that contains less than 113
twenty-five per cent by weight of live agricultural ~~or,~~ vegetable, 114
or flower seed. 115

(W) "~~Secondary noxious weeds~~" or "~~restricted~~ Restricted 116
noxious weeds" means weeds ~~which~~ that are objectionable in fields, 117
lawns, or gardens, but ~~which~~ that can be controlled by good 118
cultural practices. 119

(X) "Sell" ~~means~~ or "sold" includes: 120

(1) Transferring ownership, offering or exposing for sale, 121
exchanging, distributing, giving away, or transporting in this 122
state; 123

(2) Storing, carrying, or handling in aid of traffic in this 124
state, whether in person or through an agent, employee, or others; 125

(3) Receiving, accepting, or holding on consignment for sale. 126

(Y) "~~Standard~~ Germination standard," as applied to vegetable 127
or flower seed, means the minimum percentage of germination 128
established by the director of agriculture for any kind or variety 129
of seed. 130

(Z) "Tolerance" means the allowable deviation from any 131
percentage, fraction, or rate of occurrence stated on the label of 132
a lot of seed. Tolerance is based on the law of normal variation 133
from a mean. 134

(AA) "Type" means either a group of varieties so nearly 135
similar that the individual varieties cannot be clearly 136
differentiated except under special conditions or, when used with 137

a variety name, seed of that variety ~~which~~ that may be mixed with 138
seed of other varieties of the same kind and of similar character. 139
In either case, ninety per cent of the pure seed shall be of the 140
variety or group of varieties named or, upon growth, shall produce 141
plants having characteristics similar to the variety or group of 142
~~varities~~ varieties named. 143

(BB) "Variety" means a subdivision of a kind ~~which~~ that is 144
characterized by growth, plant, fruit, seed, or other 145
characteristics by which it can be differentiated from other sorts 146
of the same kind. 147

(CC) "Vegetable seed" means the seed of any crop ~~which~~ that 148
is grown in gardens or on truck farms and is generally known and 149
sold in this state under the name of vegetable seed or herb seed. 150

(DD) "Weed seed" means the seed and bulblets of all plants 151
generally recognized in this state as weeds, including prohibited 152
noxious weeds and restricted noxious weeds. 153

(EE) "Coated agricultural seed" means an agricultural seed 154
with a film or layer applied to the seed, ~~which~~ that is greater 155
than one per cent of the net weight, for purposes of, including, 156
but not limited to, accurate seeding, nitrogen fixation, nutrient 157
improvement, or protection from insects and pathogens. "Coated 158
agricultural seed" does not include seeds treated with dusts or 159
liquids, ~~which~~ that are virtually unmeasurable using association 160
of official seed analysts rules. 161

(FF) "Combination seed-mulch product" means any product 162
containing both seeds and a natural or artificial substance that 163
is applied to the soil surface for the purpose of promoting seed 164
germination through moisture retention, maintaining soil 165
temperature, or preventing erosion, and may contain fertilizer. 166

(GG) "Blend" means seed that consists of more than one 167
variety of a kind, with each variety representing more than five 168

per cent by weight of the whole.

169

(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.

170

171

172

(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.

173

174

175

176

177

178

179

180

(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.

181

182

183

184

185

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

186

187

(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.

188

189

190

191

192

(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.

193

194

195

196

(NN) "Dormant seed" means viable seed, excluding hard seed, that fails to germinate when provided with the specified

197

198

germination conditions for that kind of seed.

199

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

200

201

202

203

(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.

204

205

206

207

208

209

210

211

212

213

(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":

214

215

216

217

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

218

(2) The name of the Ohio seed improvement association as the certifying agency;

219

220

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

221

222

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

223

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

224

225

226

(D) The Ohio seed improvement association shall establish

227

standards and procedures for seed certification that are no less 228
stringent than those prescribed by the association of official 229
seed certifying agencies and that do not conflict with sections 230
907.01 to 907.17 of the Revised Code and rules adopted under them. 231
The Ohio seed improvement association shall designate intervals at 232
which it shall conduct a review of the certification standards and 233
procedures. No proposed change to the standards and procedures may 234
take effect unless the change first is approved by an affirmative 235
vote of at least two-thirds of the members of the association's 236
governing body. 237

Sec. 907.03. (A) Each container of agricultural ~~ex,~~ 238
vegetable, or flower seed ~~which that~~ is sold for sowing purposes 239
shall bear ~~thereon~~ on it or have attached ~~thereto~~ to it in a 240
conspicuous place a label plainly written or printed in the 241
English language giving the following information: 242

(1) For agricultural seed that is sold on a pure live seed 243
basis or any other basis: 244

(a) The commonly accepted name of the kind, or kind and 245
variety, of each agricultural seed component in excess of five per 246
cent by weight of the whole and the percentage by weight of each 247
in the order of its predominance. If the director of agriculture 248
has determined in rules ~~prescribed~~ adopted under section 907.10 of 249
the Revised Code that any ~~such~~ component of agricultural seed is 250
generally labeled as to variety, the label shall bear, in addition 251
to the name of the kind, the name of the variety, or the statement 252
"variety not stated." If any such component is a hybrid, the label 253
shall also bear the name of the hybrid. If more than one ~~component~~ 254
seed kind is ~~required to be named~~ listed on the label, the word 255
"mixture," or "mixed," or "mix" shall ~~be stated~~ appear 256
conspicuously on the label. If more than one variety is listed on 257
the label of seed consisting of a single kind, the word "blend" 258

<u>shall appear on the label.</u>	259
(b) The lot number or other lot identification ;	260
(c) The origin, if known, of alfalfa and red clover. If the origin is unknown, the <u>that</u> fact shall be stated.	261 262
(d) The percentage by weight of all weed seed;	263
(e) The name and number of each kind of secondary <u>restricted</u> noxious-weed seed per ounce, when present singly or in combination:	264 265 266
(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;	267 268 269 270 271 272 273
(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.	274 275 276 277
(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;	278 279 280 281 282
(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;	283 284 285
(h) The percentage by weight of inert matter;	286
(i) For each named agricultural seed: the percentage of germination, exclusive of hard seed; the percentage of hard seed,	287 288

if present; and the calendar month and year the test was completed	289
to determine these percentages;	290
(j) The name and address of the person who labels the seed.	291
(2) <u>For coated agricultural seed, in addition to the</u>	292
<u>information required under division (A)(1) of this section:</u>	293
(a) <u>The percentage by weight of pure seed with coating</u>	294
<u>material removed;</u>	295
(b) <u>The percentage by weight of coating material;</u>	296
(c) <u>The percentage by weight of inert matter exclusive of</u>	297
<u>coating material;</u>	298
(d) <u>The percentage of germination determined on four hundred</u>	299
<u>coated pellets.</u>	300
(3) <u>For vegetable seed that is sold in containers weighing</u>	301
<u>eight ounces or less:</u>	302
(a) The name of the kind and variety of the seed;	303
(b) For seed which <u>that</u> germinates less than the <u>germination</u>	304
standard established by the director under division (B)(3) of	305
section 907.10 of the Revised Code:	306
(i) The percentage of germination, exclusive of hard seed;	307
the percentage of hard seed, if present; and the calendar month	308
and year the test was completed to determine these percentages;	309
(ii) "Below standard" in not less than 8-point type in a	310
conspicuous place on the same side of the label as that which	311
states the percentage of germination or on the face of the	312
container.	313
(c) The name and address of the person who labels or sells	314
the seed;	315
(d) The percentage of germination of any vegetable seed sold	316
in packets weighing less than four ounces shall be equal to or	317

above the standard.	318
(e) The percentage of germination of any vegetable seed determined to be <u>equal to or above the standard may be, but is not required to be,</u> stated on the label, <u>or container, or packet.</u>	319 320 321
(3) For coated agricultural seed, in addition to the information required under division (A)(1) of this section:	322 323
(a) The percentage by weight of pure seeds with coating material removed;	324 325
(b) The percentage by weight of coating material;	326
(c) The percentage by weight of inert matter exclusive of coating material;	327 328
(d) The percentage of germination determined on four hundred coated pellets.	329 330
(c) <u>The name and address of the person who labels the seed;</u>	331
(d) <u>The year in which the packed seed is intended for sale;</u>	332
(e) <u>The lot number.</u>	333
(4) <u>For vegetable seed that is sold in containers weighing more than eight ounces:</u>	334 335
(a) <u>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;</u>	336 337 338
(b) <u>The lot number;</u>	339
(c) <u>The following information for each vegetable seed named on the label:</u>	340 341
(i) <u>The percentage of germination exclusive of hard seed;</u>	342
(ii) <u>The percentage of hard seed, if present.</u>	343
<u>Germination and hard seed may be stated as a total percentage if desired.</u>	344 345

<u>(iii) The calendar month and year that the test used to</u>	346
<u>determine each percentage was completed.</u>	347
<u>(d) The name and address of the person who labels the seed.</u>	348
<u>(5) For flower seed that is sold in containers weighing eight</u>	349
<u>ounces or less:</u>	350
<u>(a) The common name of the kind and variety of flower seed</u>	351
<u>or, if commonly used, the scientific name of the kind and variety</u>	352
<u>of flower seed;</u>	353
<u>(b) The following information for flower seed that germinates</u>	354
<u>less than the germination standard established by the director</u>	355
<u>under division (B)(3) of section 907.10 of the Revised Code:</u>	356
<u>(i) The percentage of germination, exclusive of hard seed;</u>	357
<u>(ii) The percentage of hard seed, if present;</u>	358
<u>(iii) The calendar month and year that the test used to</u>	359
<u>determine the percentages was completed;</u>	360
<u>(iv) The words "below standard" in not less than eight-point</u>	361
<u>type in a conspicuous place on the same side of the label as that</u>	362
<u>which states the percentage of germination or on the face of the</u>	363
<u>container.</u>	364
<u>The percentage of germination of any flower seed determined</u>	365
<u>to be equal to or above the standard may be, but is not required</u>	366
<u>to be, stated on the label or container.</u>	367
<u>(c) The name and address of the person who labels the seed;</u>	368
<u>(d) The year in which the packed seed is intended for sale;</u>	369
<u>(e) The lot number.</u>	370
<u>(6) For flower seed in containers weighing more than eight</u>	371
<u>ounces:</u>	372
<u>(a) The name of each kind and variety of flower seed present</u>	373

<u>in excess of five per cent and the percentage by weight of each in</u>	374
<u>order of its predominance;</u>	375
<u>(b) The lot number;</u>	376
<u>(c) The following information for each flower seed named on</u>	377
<u>the label:</u>	378
<u>(i) The percentage of germination exclusive of hard seed;</u>	379
<u>(ii) The percentage of hard seed, if present.</u>	380
<u>Germination and hard seed may be stated as a total percentage if</u>	381
<u>desired.</u>	382
<u>(iii) The calendar month and year that the test used to</u>	383
<u>determine each percentage was completed.</u>	384
<u>(d) The name and address of the person who labels the seed.</u>	385
<u>(7) For combination seed-mulch products:</u>	386
(a) The word "combination," which shall be printed on the	387
upper third of the principal display panel in the largest and most	388
conspicuous type in relation to other words and designs on the	389
label;	390
(b) Following the word "combination" on the upper third of	391
the principal display panel, the words "seed, mulch, and	392
fertilizer," as applicable and not necessarily in that order,	393
printed in type smaller than, but no less than one-half the size	394
of, the type used to print the word "combination-";	395
(c) In addition to the information required under division	396
(A)(1) of this section, the product's analysis label shall contain	397
all of the following:	398
(i) The seed origin, if known, for each kind or variety, or	399
both;	400
(ii) The percentages by weight of mulch and, if applicable,	401
of fertilizer;	402

(iii) Any noxious weeds. If no noxious weeds are present, 403
"noxious weeds--none found" shall be stated. 404

~~(B) The total of the percentages required by divisions 405
(A)(1)(i) and (A)(2)(b)(i) of this section may be stated on the 406
label. Such total shall be used when applying the rules of 407
tolerance When dormant seed is encountered with respect to any of 408
the following named grasses, the result of a tetrazolium test also 409
may be shown on the label of the grass seed to indicate the 410
potential germination and viability of the seed: 411~~

~~(1) Bluestem, big (Andropogon gerardii); 412~~

~~(2) Bluestem, little (Schizachyrium scoparium); 413~~

~~(3) Dropseed, sand (Sporobolus cryptandrus); 414~~

~~(4) Gramma, sideoats (Bouteloua curtipendula); 415~~

~~(5) Indiangrass (Sorghastrum nutans); 416~~

~~(6) Needlegrass (Stipa viridula); 417~~

~~(7) Switchgrass (Panicum virgatum). 418~~

~~(C) In the case of agricultural or vegetable seed sold from 419
vehicles, bins, or other bulk containers to which the purchaser 420
has access before buying, the seller shall attach a complete label 421
to the bulk container or display adjacent thereto a placard 422
bearing a complete label stating the information required by this 423
section. The label shall be conspicuous to the buyer. If the buyer 424
purchases more than ten pounds of the bulk seed, the seller shall 425
attach a label to the container of seed being purchased stating 426
the information required by this section Bulk agricultural, 427
vegetable, or flower seed that is offered for sale or sold shall 428
comply with the labeling requirements established in division (A) 429
of this section, except that the label shall be provided in the 430
following manner rather than being attached to a container: 431~~

~~(1) The label shall be posted next to the bulk seed so that 432~~

it is easily read by the purchaser.

433

(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.

434

435

436

(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.

437

438

439

440

441

442

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.

443

444

445

446

447

448

449

450

451

452

453

454

455

(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

456

457

458

459

460

461

462

463

amount of the fee that the person owes this state under section 464
907.13 907.14 of the Revised Code, the director or the director's 465
authorized agent may ~~request the auditor of state to~~ audit the 466
person. ~~Upon receiving a request from the director under this~~ 467
~~division, the auditor of state shall conduct such an audit. If the~~ 468
~~audit occurs at a location outside this state, the person being~~ 469
~~audited shall pay the director all the costs incurred by the~~ 470
~~auditor of state in conducting the audit. The costs of any audit~~ 471
~~under this division shall be charged to the department of~~ 472
~~agriculture in the same manner as costs of an audit of the~~ 473
~~department.~~ 474

Sec. 907.07. No person shall sell any agricultural ~~or,~~ 475
vegetable, or flower seed: 476

(A) Unless the test used to determine the information 477
concerning the seed's percentage of germination that is required 478
by section 907.03 of the Revised Code to appear on the label of 479
the seed has been completed within: 480

(1) A ~~nine-month~~ twelve-month period ~~immediately~~ prior to 481
sale, exclusive of the calendar month in which the test was 482
completed, if the seed is not in hermetically sealed ~~packages or~~ 483
containers or if the seed is agricultural seed other than cool 484
season grass seed; 485

(2) A fifteen-month period prior to sale, exclusive of the 486
calendar month in which the test was completed, if the seed is a 487
cool season grass seed or a mixture of or blend of only cool 488
season grass seeds and if the seed is not in hermetically sealed 489
containers; 490

(3) A thirty-six-month period ~~immediately~~ prior to sale, 491
exclusive of the calendar month in which the test was completed, 492
if the seed is in hermetically sealed ~~packages or~~ containers; 493
~~provided, that any. Any~~ such seed may be sold ~~more than thirty-six~~ 494

~~months after the month in which it has been tested at any time~~ 495
~~after the thirty-six-month period has expired~~ if it is retested 496
~~within a nine-month period immediately~~ prior to sale. Seed that 497
has been retested may be sold for an additional time period if it 498
is accompanied by a new label that complies with the labeling 499
requirements established in sections 907.01 to 907.17 of the 500
Revised Code. The time period shall consist of twelve consecutive 501
months, not including the month in which the retest was performed. 502
After the twelve-month period has expired, the cycle of retesting 503
and relabeling followed by a twelve-month saleable period may be 504
repeated one or more times. 505

(B) If the seed is not labeled in accordance with sections 506
907.01 to 907.17 of the Revised Code or has a false or misleading 507
label; 508

(C) Pertaining to which there has been a false or misleading 509
advertisement; 510

(D) If the seed contains, ~~singly or collectively, primary~~ 511
~~prohibited~~ noxious-weed seeds, ~~subject to a tolerance of not to~~ 512
~~exceed nine primary noxious weed seeds per pound in seed of~~ 513
~~redtop, timothy, orchardgrass, bluegrass, fescue, bromegrass, red~~ 514
~~clover, white clover, alsike clover, sweet clover, or any other~~ 515
~~seed of similar size;~~ seed. In addition, no person shall sell any 516
tree or shrub seed that contains prohibited noxious-weed seed. 517

(E) ~~If the seed contains, singly or collectively, primary~~ 518
~~noxious weed seeds, subject to a tolerance of not to exceed five~~ 519
~~primary noxious weed seeds per pound in seed of millet, rape,~~ 520
~~flax, sudangrass, wheat, oats, rye, barley, buckwheat, vetches, or~~ 521
~~any other seed as large as or larger than wheat;~~ 522

~~(F)~~ If the seed has been treated with poisonous material, 523
unless the seed and the label on the package of seed comply with 524
sections 907.44 and 907.45 of the Revised Code; 525

~~(G)~~(F) If the seed is in containers bearing labels ~~which~~ that 526
state a liability or nonwarranty clause disclaiming responsibility 527
for any information on the label required by section 907.03 of the 528
Revised Code; 529

~~(H)~~(G) If the seed contains more than one-fourth of one per 530
cent by weight of ~~secondary~~ restricted noxious-weed seed or more 531
than two and one-half per cent of all weed seed; 532

~~(I)~~(H) If the seed contains more than fifteen per cent by 533
weight of inert matter unless the product is one of the following: 534

(1) A coated agricultural seed; 535

(2) A combination seed-mulch product containing not less than 536
five per cent by weight of pure seed; 537

(3) Native grass seed that is designated by rules adopted by 538
the director of agriculture as characteristically exhibiting high 539
inert matter. 540

~~(J)~~(I) At public auction unless the seed is labeled in 541
accordance with sections 907.01 to 907.17 of the Revised Code and 542
~~bears seed inspection fee tags~~ the person who labeled the seed 543
obtained a permit to do so as provided in section 907.13 of the 544
Revised Code; 545

~~(K)~~(J) By variety name if the seed is not certified by a 546
certifying agency if the seed is a variety for which a certificate 547
of plant variety protection has been applied for or granted under 548
the federal "Plant Variety Protection Act," ~~public law 91-577~~ 84 549
Stat. 1542 (1970), 7 U.S.C. 2321 et seq., as amended, which 550
application or granted certificate specifies sale as a class of 551
certified seed only~~±~~ provided, that seed from a certified lot may 552
be labeled by variety name when used in a mixture by, or with 553
approval of, the owner of the variety; 554

(K) If the seed is out of compliance with the tolerance 555

established for it under rules adopted by the director.

556

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

557

(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;

558

559

560

561

(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; ~~i~~ 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; ~~i~~ 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;

562

563

564

565

566

567

568

569

570

571

572

573

574

575

576

577

(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;

578

579

580

581

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

582

583

(E) Sell any seed labeled "certified," "registered," or "foundation" unless it has been produced and labeled in compliance

584

585

with the rules of a seed certifying agency~~+~~. The prohibition 586
established in this division does not apply to seed labeled 587
"certified" for the purpose of describing seed that has been 588
certified as organic in accordance with 7 U.S.C. 6501 et seq. 589

(F) Sell vegetable or flower seed in ~~packets~~ containers of 590
~~four~~ eight ounces or less, the percentage of germination of which 591
is below the germination standard established by the director 592
under division (B)(3) of section 907.10 of the Revised Code unless 593
the label of the seed clearly indicates, in accordance with 594
section 907.03 of the Revised Code, that the germination is below 595
standard; 596

(G) Dispose of screenings from the premises where seed is 597
processed in any manner contrary to ~~regulations promulgated~~ rules 598
adopted by the director ~~of agriculture;~~ 599

(H) Sell agricultural ~~or~~, vegetable, or flower seed unless it 600
is labeled in accordance with sections 907.01 to 907.17 of the 601
Revised Code; 602

(I) Sell seed for use as bird feed if it contains viable 603
prohibited noxious-weed seed or viable restricted noxious-weed 604
seed; 605

(J) Sell prohibited noxious-weed seed or restricted 606
noxious-weed seed for the purpose of sowing, except sowing for 607
research purposes; 608

(K) Sell seed that contains prohibited noxious-weed seed or 609
restricted noxious-weed seed that is designated under 7 C.F.R. 610
201.16 as having no tolerance or that is out of compliance with 611
its tolerance. 612

Sec. 907.081. Any person who disseminates, with the intention 613
of inducing a sale, any advertisement or makes any claim 614
concerning the vigor, vitality, growth, yield capability, or any 615

other quality or performance characteristic of any agricultural 616
~~or, vegetable, or flower~~ seed shall maintain complete and accurate 617
records of the tests used to determine the characteristic and of 618
the results of the tests and shall submit ~~such the~~ records to the 619
director of agriculture ~~as requested by him upon request~~. Any 620
person who uses an agricultural ~~or, vegetable, or flower~~ seed may 621
request the director to require the person who disseminated any 622
advertisement concerning any of the above characteristics to 623
submit ~~his~~ the person's records to the director. 624

In accordance with division (A) of section 907.10 of the 625
Revised Code, the director may conduct such tests as ~~he~~ the 626
director determines necessary to verify the information in such 627
records. If ~~his~~ the director's tests indicate that the information 628
in ~~such the~~ records is invalid or unreliable, the director may 629
issue a stop-sale order pursuant to division (C) of section 907.11 630
of the Revised Code. 631

Sec. 907.09. (A) Sections 907.03, 907.07, and 907.08 of the 632
Revised Code do not apply to: 633

(1) Agricultural ~~or, vegetable, or flower~~ seed not intended 634
for sowing purposes; 635

(2) ~~Agricultural or~~ Unprocessed agricultural, vegetable, or 636
flower seed in storage ~~in, or~~ being transported to, or consigned 637
to a seed processing establishment, ~~provided,~~ that the label 638
accompanying a shipment of the seed shall bear the statement "seed 639
for processing" ~~and~~ provided further, ~~that~~ any label or other 640
representation ~~which~~ that is made with respect to the unprocessed 641
seed shall be subject to ~~section~~ sections 907.01 to 907.17 of the 642
Revised Code; 643

(3) Agricultural, vegetable, or flower seed that is in 644
interstate transport and that is governed by 7 C.F.R. 201.33. 645

(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 676
and places and to such extent as ~~he~~ the director regards necessary 677
to determine whether the seed complies with ~~section~~ sections 678
907.01 to 907.17 of the Revised Code and notify promptly the 679
person who sold the seed of any violation; 680

(B) ~~In~~ Adopt rules in accordance with Chapter 119. of the 681
Revised Code that do all of the following: 682

(1) ~~Adopt rules and regulations governing~~ Govern the methods 683
of sampling, inspecting, analyzing, testing, and examining 684
agricultural ~~and,~~ vegetable, and flower seed and the tolerances to 685
be followed. The rules ~~and regulations~~ shall be in general accord 686
with officially prescribed practice in interstate commerce applied 687
in analyzing and testing the seed; 688

(2) Establish ~~primary prohibited~~ and ~~secondary restricted~~ 689
noxious-weed seed lists and provide for additions ~~thereto~~ to them 690
and deletions ~~therefrom~~ from them; 691

(3) Establish standards for items including, but not limited 692
to, germination and purity for vegetable ~~seeds~~ seed and flower 693
seed; 694

(4) Adopt any labeling requirements additional to those of 695
section 907.03 of the Revised Code ~~which~~ that may be necessary to 696
maintain the identification of seed in hermetically sealed 697
packages or containers; 698

(5) Establish the species of native grass that are to be 699
included in the definition of "native grass" for purposes of 700
sections 907.01 to 907.17 of the Revised Code; 701

(6) Identify native grass seed that characteristically 702
exhibits high inert matter; 703

(7) Establish the tolerance for agricultural, vegetable, and 704
flower seed that is sold in this state; 705

(8) Establish the information that an applicant must provide 706
on an application for a seed labeler permit that is filed under 707
section 907.13 of the Revised Code; 708

(9) Establish any other provisions that are necessary to 709
clarify or administer the labeling requirements established in 710
sections 907.01 to 907.17 of the Revised Code. 711

(C) Establish and maintain seed testing facilities or enter 712
into agreements under which other persons are responsible for 713
performing seed testing, employ qualified persons, and incur ~~such~~ 714
expenses ~~as~~ that are necessary to comply with this section and 715
section 907.11 of the Revised Code; 716

(D) Provide for making purity analyses and germination tests 717
of seeds for any person in ~~Ohio~~ this state; 718

(E) Regulate the number of samples that may be analyzed or 719
tests that may be made for any person free of charge; 720

(F) Prescribe the period of time during the year when 721
analyses and tests will be made free of charge; 722

(G) Establish a schedule of fees for making analyses and 723
tests; 724

(H) Cooperate with the United States department of 725
agriculture in enforcing federal seed laws. 726

Sec. 907.12. Any lot of agricultural ~~or~~ vegetable, or flower 727
seed not in compliance with sections 907.01 to 907.17 of the 728
Revised Code shall be subject to seizure on complaint of the 729
director of agriculture to a court of competent jurisdiction in 730
the locality in which the seed is located. If the court orders the 731
condemnation of the seed, the seed shall be denatured, destroyed, 732
or otherwise disposed of in compliance with the laws of this 733
state~~;~~ provided, that the court shall not order such disposition 734
without giving the claimant an opportunity to apply to the court 735

for the release of the seed or for permission to process or 736
relabel it so as to be in compliance with sections 907.01 to 737
907.17 of the Revised Code. 738

Sec. 907.13. ~~(A) No person shall sell label agricultural or,~~ 739
~~vegetable, or flower seed within or into that is intended for sale~~ 740
~~in this state, except as provided in division (F) of this section,~~ 741
~~unless he has attached to the seed container Ohio seed inspection~~ 742
~~fee tags or labels obtained from the person holds a valid seed~~ 743
~~labeler permit that has been issued by the director of agriculture~~ 744
~~in accordance with this section or, in lieu thereof, has obtained~~ 745
~~from the director a permit pursuant to division (D) of this~~ 746
~~section.~~ 747

~~(B) The Ohio seed inspection fees are:~~ 748

~~(1) For small grains and soybeans, four cents per one hundred~~ 749
~~pounds;~~ 750

~~(2) For corn and grain sorghum, five cents per one hundred~~ 751
~~pounds;~~ 752

~~(3) For vegetable seed sold at wholesale or on consignment or~~ 753
~~commission in packets of eight ounces or less, two per cent of~~ 754
~~wholesale value of the seed;~~ 755

~~(4) For alfalfa, clover, grass, mixtures containing any of~~ 756
~~these, and all agricultural and vegetable seeds not specified in~~ 757
~~divisions (B)(1), (2), and (3) of this section, ten cents per one~~ 758
~~hundred pounds.~~ 759

~~(C) Each person who attaches an Ohio seed inspection fee tag~~ 760
~~or label to a seed package shall attach one or more tags or labels~~ 761
~~of the denominations provided in division (D) of section 907.14 of~~ 762
~~the Revised Code, which are nearest in value to the rates~~ 763
~~established by division (B) of this section.~~ 764

~~(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;~~ 795
796

~~(2) Packages which bear the tags or labels of a person who holds a permit to use his own tags or labels.~~ 797
798

(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. 799
800
801
802
803
804

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. 805
806
807
808
809
810
811
812
813
814
815

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. 816
817
818
819
820
821

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 822
823
824
825

permit shall keep the permit posted in a conspicuous place in the 826
principal seed room from which the person sells seed and shall 827
comply with the reporting and fee requirements that are 828
established in section 907.14 of the Revised Code. 829

Sec. 907.14. (A) A person who holds a valid seed labeler 830
permit issued under section 907.13 of the Revised Code shall 831
report to the director of agriculture concerning the amount of 832
seed that the person sells in this state. The report shall be made 833
semiannually on a form that the director prescribes and provides. 834
One semiannual report shall be filed with the director prior to 835
the first day of February of each year with respect to all sales 836
that the person made during the period from the first day of July 837
to the thirty-first day of December of the preceding year. The 838
second semiannual report shall be filed prior to the first day of 839
August of each year with respect to all sales that the person made 840
during the period from the first day of January to the thirtieth 841
day of June of that year. 842

(B) A person who holds a valid seed labeler permit shall 843
include with each semiannual report a seed fee based on the amount 844
of the seed that the person sold during that reporting period as 845
follows: 846

(1) For soybeans and small grains, including barley, oats, 847
rye, wheat, triticale, and spelt, four cents per one hundred 848
pounds; 849

(2) For corn and grain sorghum, five cents per one hundred 850
pounds; 851

(3) For vegetable and flower seed sold at wholesale or retail 852
or on consignment or commission in containers of eight ounces or 853
less, two per cent of the wholesale value of the containers of 854
seed or, if the seed is not sold wholesale, two per cent of the 855

retail value of the containers of seed; 856

(4) For alfalfa, clover, grass, native grass, mixtures 857
containing any of these, and all agricultural, vegetable, and 858
flower seeds not specified in divisions (B)(1) to (3) of this 859
section, ten cents per one hundred pounds. 860

If the total amount of the seed fee that is due is less than 861
five dollars, the person shall pay the minimum seed fee, which is 862
five dollars. 863

(C) For each failure to report in full the amount of seed 864
sold or to submit the required seed fees in full by the due date, 865
a person who holds a valid seed labeler permit shall pay a penalty 866
of ten per cent of the amount due or fifty dollars, whichever is 867
greater. Failure to pay either the fee or the penalty within 868
thirty days after the due date is cause for suspension or 869
revocation by the director of the seed labeler permit or refusal, 870
without a hearing, to issue a subsequent seed labeler permit for 871
which the person applies. 872

(D) This section does not apply to governmental entities that 873
donate seed for conservation purposes. 874

Sec. 907.15. The director of agriculture may suspend, revoke, 875
or refuse to issue a permit to label seed for any violation of 876
sections 907.01 to 907.17 of the Revised Code. No permit to label 877
seed shall be suspended or revoked except for failure to pay 878
either the fee or penalty provided in section ~~907.13~~ 907.14 of the 879
Revised Code until the permit holder ~~thereof~~ has been given a 880
hearing by the director in regard to the proposed suspension or 881
revocation or unless a hearing is waived by the nonappearance of 882
the permit holder at the time and place designated by the 883
director. Any appeal from any such suspension, revocation, or 884
refusal ~~must~~ shall be made within thirty days after the 885

suspension, revocation, or refusal. 886

~~Sec. 907.16. All money received from permit fees, seed 887
inspection fees, packet seed inspection stamps, purity analysis 888
and germination test fees, sales of seized or condemned seed, and 889
fines recovered under sections 907.01 to 907.17 of the Revised 890
Code collected by the director of agriculture under sections 891
907.01 to 907.17 of the Revised Code shall be paid to the director 892
of agriculture. The director shall deposit the money deposited 893
into the treasury of the state to the credit of the general 894
revenue fund seed fund, which is hereby created in the state 895
treasury. Money credited to the fund shall be used to administer 896
and enforce those sections and rules adopted under them. 897~~

~~Sec. 907.31. Any person who submits an application for the 898
registration of a brand of legume inoculant shall pay annually, 899
prior to the first day of ~~August~~ January, a registration and 900
inspection fee based on his dollar sales volume of that brand in 901
Ohio within the twelve month period ending the last day of June 902
immediately preceding the registration renewal date, in accordance 903
with the following schedule: 904~~

~~(A) One dollar up to ten thousand dollars volume, the 905
registration fee shall be twenty five dollars. 906~~

~~(B) Ten thousand one dollars up to twenty thousand dollars 907
volume, the registration fee shall be fifty dollars. 908~~

~~(C) Twenty thousand one dollars and over volume, the 909
registration fee shall be one hundred dollars. 910~~

~~(D) Brands not previously registered for sale in Ohio will 911
pay the minimum registration fee of twenty five dollars in the 912
amount of fifty dollars per brand. 913~~

~~Such~~ The registration shall be renewed according to the 914

standard renewal procedure of ~~sections 4745.01 to 4745.03,~~ 915

~~inclusive,~~ established in Chapter 4745. of the Revised Code. 916

Section 2. That existing sections 907.01, 907.02, 907.03, 917

907.04, 907.07, 907.08, 907.081, 907.09, 907.10, 907.12, 907.13, 918

907.15, 907.16, and 907.31 and section 907.14 of the Revised Code 919

are hereby repealed. 920