

**As Reported by the House Agriculture and Natural Resources  
Committee**

**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**

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**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 77

the kind, or kind and variety, of seed under consideration, but 78  
less than five per cent by weight of the lot. 79

(P) "Person" means any individual, partnership, corporation, 80  
company, society, association, public agency, receiver, trustee, 81  
or agent. 82

(Q) "Place of business" means any location, including any 83  
vehicle, where seed is sold, processed, conditioned, or stored. 84

(R) "~~Primary noxious weeds~~ or "prohibited Prohibited noxious 85  
weeds" means perennial weeds ~~which~~ that reproduce by seed, spread 86  
by roots, underground stems, or other reproductive parts, and, 87  
when established, are highly destructive and difficult to control. 88

(S) "Processing" or "conditioning" means cleaning to remove 89  
chaff, sterile florets, immature seeds, weed seeds, inert matter, 90  
and other crop seeds, scarifying, blending to obtain uniform 91  
quality, or any other operation ~~which~~ that would change the purity 92  
or germination of the seed and therefore require retesting to 93  
determine the quality of the seed. "Processing" or "conditioning" 94  
does not include such operations as packaging, labeling, blending 95  
uniform lots of the same kind or variety without cleaning, or 96  
preparing a mixture without cleaning, any of which would not 97  
require retesting to determine the quality of the seed. 98

(T) "Pure seed" means agricultural ~~or~~, vegetable, or flower 99  
seed free of inert matter and free of other seed distinguishable 100  
by appearance or by test. 101

(U) "Records" means the complete data, including 102  
representative samples, concerning each lot of agricultural, 103  
vegetable, or flower seed that is sold. "Records" includes 104  
information about the seed's source of purchase, and origin; the 105  
results of germination, tests; the results of purity, tests 106  
regarding the amount of pure seed, inert matter, crop seed, weed 107  
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.

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

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

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

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

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

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

Sec. 907.02. (A) The Ohio seed improvement association shall 200  
certify for Ohio, agricultural ~~or~~, vegetable, or flower seed, 201  
tubers for seeding purposes, or plants for varietal identification 202  
or for other factors. 203

(B) No person shall use, orally or in writing, alone or with 204  
other words, "certified," "registered," "foundation," or any other 205  
term ~~which~~ that suggests that the seed, tubers for seeding 206  
purposes, or plants have been certified unless the seed, tubers 207  
for seeding purposes, or plants have been certified by the Ohio 208  
seed improvement association. The prohibition established in this 209  
division does not apply to use of the word "certified" for the 210  
purpose of describing seed, tubers for seeding purposes, or plants 211  
that have been certified as organic in accordance with 7 U.S.C. 212  
6501 et seq. 213

(C) The following information shall appear on the 214  
certification label attached to each container of each lot of 215  
seed, tubers for seeding purposes, or plants sold as "certified," 216  
"registered," or "foundation": 217

(1) The grower's name and address or producer number; 218

(2) The name of the Ohio seed improvement association as the 219  
certifying agency; 220

(3) The origin of the seed, tubers for seeding purposes, or 221  
plants; 222

(4) The class, kind, variety, or germ plasm of the seed; 223

(5) Any other information the director of agriculture may 224  
require by rule concerning health, vigor, purity, type, and other 225  
matters pertaining to certification. 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 ~~or,~~ 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  
shall appear on the label. 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, <del>the</del> <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 <del>secondary</del> <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 <del>agricultural</del> <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 <del>secondary</del> <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, if present; and the calendar month and year the test was completed to determine these percentages;	287 288 289 290

(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 <del>which</del> <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
<del>(c) The name and address of the person who labels or sells</del>	314
<del>the seed;</del>	315
<del>(d) The percentage of germination of any vegetable seed sold</del>	316
<del>in packets weighing less than four ounces shall be equal to or</del>	317
<del>above the standard.</del>	318
<del>(e) The percentage of germination of any vegetable seed</del>	319

determined to be equal to or above the standard may be, but is not 320  
required to be, stated on the label, or container, or packet. 321

~~(3) For coated agricultural seed, in addition to the~~ 322  
~~information required under division (A)(1) of this section:~~ 323

~~(a) The percentage by weight of pure seeds with coating~~ 324  
~~material removed;~~ 325

~~(b) The percentage by weight of coating material;~~ 326

~~(c) The percentage by weight of inert matter exclusive of~~ 327  
~~coating material;~~ 328

~~(d) The percentage of germination determined on four hundred~~ 329  
~~coated pellets.~~ 330

(c) The name and address of the person who labels the seed; 331

(d) The year in which the packed seed is intended for sale; 332

(e) The lot number. 333

(4) For vegetable seed that is sold in containers weighing 334  
more than eight ounces: 335

(a) The name of each kind and variety of vegetable seed 336  
present in excess of five per cent and the percentage by weight of 337  
each in order of its predominance; 338

(b) The lot number; 339

(c) The following information for each vegetable seed named 340  
on the label: 341

(i) The percentage of germination exclusive of hard seed; 342

(ii) The percentage of hard seed, if present. 343

Germination and hard seed may be stated as a total percentage if 344  
desired. 345

(iii) The calendar month and year that the test used to 346  
determine each percentage was completed. 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 ounces or less:</u>	349
<u>(a) The common name of the kind and variety of flower seed or, if commonly used, the scientific name of the kind and variety of flower seed;</u>	351
<u>(b) The following information for flower seed that germinates less than the germination standard established by the director under division (B)(3) of section 907.10 of the Revised Code:</u>	354
<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 determine the percentages was completed;</u>	359
<u>(iv) The words "below standard" in not less than eight-point type in a conspicuous place on the same side of the label as that which states the percentage of germination or on the face of the container.</u>	361
<u>The percentage of germination of any flower seed determined to be equal to or above the standard may be, but is not required to be, stated on the label or container.</u>	362
<u>(c) The name and address of the person who labels the seed;</u>	363
<u>(d) The year in which the packed seed is intended for sale;</u>	364
<u>(e) The lot number.</u>	365
<u>(6) For flower seed in containers weighing more than eight ounces:</u>	366
<u>(a) The name of each kind and variety of flower seed present in excess of five per cent and the percentage by weight of each in order of its predominance;</u>	367
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<u>(b) The lot number;</u>	376
<u>(c) The following information for each flower seed named on the label:</u>	377
<u>(i) The percentage of germination exclusive of hard seed;</u>	378
<u>(ii) The percentage of hard seed, if present.</u>	379
<u>Germination and hard seed may be stated as a total percentage if desired.</u>	380
<u>(iii) The calendar month and year that the test used to determine each percentage was completed.</u>	381
<u>(d) The name and address of the person who labels the seed.</u>	382
<u>(7) For combination seed-mulch products:</u>	383
(a) The word "combination," which shall be printed on the upper third of the principal display panel in the largest and most conspicuous type in relation to other words and designs on the label;	384
(b) Following the word "combination" on the upper third of the principal display panel, the words "seed, mulch, and fertilizer," as applicable and not necessarily in that order, printed in type smaller than, but no less than one-half the size of, the type used to print the word "combination-";	385
(c) In addition to the information required under division (A)(1) of this section, the product's analysis label shall contain all of the following:	386
(i) The seed origin, if known, for each kind or variety, or both;	387
(ii) The percentages by weight of mulch and, if applicable, of fertilizer;	388
(iii) Any noxious weeds. If no noxious weeds are present, "noxious weeds--none found" shall be stated.	389
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~~(B) The total of the percentages required by divisions (A)(1)(i) and (A)(2)(b)(i) of this section may be stated on the label. Such total shall be used when applying the rules of tolerance~~ When dormant seed is encountered with respect to any of the following named grasses, the result of a tetrazolium test also may be shown on the label of the grass seed to indicate the potential germination and viability of the seed:

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

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

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

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

(1) The label shall be posted next to the bulk seed so that it is easily read by the purchaser. 432  
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(2) In the case of bulk seed purchased in excess of twenty 434

pounds, the seller shall provide a copy of the label to the  
consumer in conjunction with the bill of sale.

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(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.

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**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.

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(B) ~~Any person located outside this state who distributes~~  
agricultural or vegetable seed within or into this state shall  
maintain the records required under division (A) of this section  
at a location in this state. If the director of agriculture or ~~his~~  
the director's designated representative determines that an audit  
of ~~such~~ a person who is required to keep records under division  
(A) of this section is necessary in order to determine the sales  
of seed made within or into this state by that person and the  
amount of the fee that the person owes this state under section  
~~907.13~~ 907.14 of the Revised Code, the director or the director's

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~~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 Revised Code;

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

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

(1) A coated agricultural seed;

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

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

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

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

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

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

(A) Detach, alter, deface, conceal, or destroy any label 558  
required by sections 907.01 to 907.17 of the Revised Code or the 559  
rules adopted ~~thereunder~~ under them, or alter or substitute seed 560  
in a manner that may defeat the purposes of ~~such~~ those sections; 561

(B) Disseminate, with the intention of inducing a sale, any 562  
false or misleading claim or advertisement concerning the vigor, 563  
vitality, growth, yield capability, or any other quality or 564  
performance characteristic of any agricultural ~~or~~, vegetable, or 565  
flower seed; ~~i~~ disseminate any advertisement concerning the vigor, 566  
vitality, growth, yield capability, or any other quality or 567  
performance characteristic of any agricultural ~~or~~, vegetable, or 568  
flower seed for which ~~he~~ the person does not maintain complete and 569  
accurate records of the tests used to determine the characteristic 570  
and of the results of the tests and submit ~~such~~ the records to the 571  
director of agriculture pursuant to section 907.081 of the Revised 572  
Code; ~~i~~ or make any claim in ~~such an~~ advertisement that cannot be 573  
substantiated by an official seed laboratory as defined by rules 574  
adopted pursuant to Chapter 119. of the Revised Code by the 575  
director or a state experiment station, or by regulations adopted 576  
by a federal experiment station; 577

(C) Fail to comply with a stop-sale order, or to move or 578  
otherwise handle or dispose of any lot of seed held under a 579  
stop-sale order, or to alter, detach, or dispose of any label 580  
attached to the lot; 581

(D) Use "trace" as a substitute for any statement required by 582  
sections 907.01 to 907.17 of the Revised Code; 583

(E) Sell any seed labeled "certified," "registered," or 584  
"foundation" unless it has been produced and labeled in compliance 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~~ 646  
~~Revised Code for selling any agricultural or vegetable seed which~~ 647  
~~is incorrectly labeled or represented as to kind, variety, type,~~ 648

~~or origin if the seed cannot be identified by examination unless~~ 649  
~~he has failed to obtain an invoice or grower's declaration~~ 650  
~~stating, if required, the kind, or kind and variety, or kind and~~ 651  
~~type, and origin and to take other reasonable precautions to~~ 652  
~~ensure that the seed is correctly identified~~ In the case of 653  
agricultural, vegetable, or flower seed that is being exported in 654  
bulk or containers directly to a foreign country and that is in 655  
quantities of twenty thousand pounds or more regardless of the 656  
number of lots included, the labeling requirements established 657  
under section 907.03 of the Revised Code do not apply, provided 658  
that all of the following requirements are satisfied: 659

(1) The omission, from each container or bulk unit, of a 660  
label with the required information is done with the knowledge and 661  
consent of the buyer of the seed prior to the transportation or 662  
delivery for transportation of the seed in international commerce. 663

(2) Each container has stenciled on it or bears a label 664  
containing a lot designation, variety identification, and kind 665  
identification. 666

(3) The invoice or other records accompanying and pertaining 667  
to the seed bear the information concerning the respective seeds 668  
that is required under section 907.03 of the Revised Code. 669

(4) Records are kept available to be provided to the 670  
department of agriculture upon request in order to show proof that 671  
the seed is being exported to a foreign country for distribution. 672

**Sec. 907.10.** The director of agriculture shall do all of the 673  
following: 674

(A) Sample, inspect, analyze, and test agricultural ~~and,~~ 675  
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 clarify or administer the labeling requirements established in sections 907.01 to 907.17 of the Revised Code. 709  
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(C) Establish and maintain seed testing facilities or enter into agreements under which other persons are responsible for performing seed testing, employ qualified persons, and incur ~~such~~ expenses ~~as~~ that are necessary to comply with this section and section 907.11 of the Revised Code; 712  
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(D) Provide for making purity analyses and germination tests of seeds for any person in ~~Ohio~~ this state; 717  
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(E) Regulate the number of samples that may be analyzed or tests that may be made for any person free of charge; 719  
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(F) Prescribe the period of time during the year when analyses and tests will be made free of charge; 721  
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(G) Establish a schedule of fees for making analyses and tests; 723  
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(H) Cooperate with the United States department of agriculture in enforcing federal seed laws. 725  
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**Sec. 907.12.** Any lot of agricultural ~~or~~ vegetable, or flower seed not in compliance with sections 907.01 to 907.17 of the Revised Code shall be subject to seizure on complaint of the director of agriculture to a court of competent jurisdiction in the locality in which the seed is located. If the court orders the condemnation of the seed, the seed shall be denatured, destroyed, or otherwise disposed of in compliance with the laws of this state~~+~~ provided, that the court shall not order such disposition without giving the claimant an opportunity to apply to the court for the release of the seed or for permission to process or relabel it so as to be in compliance with sections 907.01 to 907.17 of the Revised Code. 727  
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~~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~~ 765  
~~signed agreement to report sales of seed and to pay the seed~~ 766  
~~inspection fees specified in division (B) of this section, the~~ 767  
~~director may authorize a person to use his own tags or labels.~~ 768

<del>Each person who receives a permit to use his own tags or labels</del>	769
<del>shall:</del>	770
<del>(1) Apply his tags or labels to all seed which he sells;</del>	771
<del>(2) Report to the department of agriculture prior to the</del>	772
<del>first day of February of each year all sales which he made during</del>	773
<del>the period from the first day of July to the thirty first day of</del>	774
<del>December of the preceding year;</del>	775
<del>(3) Report to the department prior to the first day of August</del>	776
<del>of each year all sales which he made during the period from the</del>	777
<del>first day of January to the thirtieth day of June of that year;</del>	778
<del>(4) Pay the seed inspection fees for seed sales when the</del>	779
<del>sales are reported. Any seed returned during a reporting period</del>	780
<del>under a consignment contract or a contract of sale or return shall</del>	781
<del>be deducted from the sales report and fee payment of the following</del>	782
<del>reporting period.</del>	783
<del>(E) For each failure to report in full the amount of seed</del>	784
<del>sold or to submit the required seed inspection fees in full by the</del>	785
<del>due date, any person who holds a permit to use his own tags or</del>	786
<del>labels shall pay a penalty of ten per cent of the amount due or</del>	787
<del>ten dollars, whichever is greater. Failure to pay either the fee</del>	788
<del>or the penalty within thirty days after the due date is cause for</del>	789
<del>cancellation of the annual permit or refusal to renew the permit</del>	790
<del>without a hearing.</del>	791
<del>(F) No person is required to secure a permit, report seed</del>	792
<del>sales, and pay seed inspection fees to the department if he sells</del>	793
<del>only:</del>	794
<del>(1) Packages which bear Ohio seed inspection fee tags or</del>	795
<del>labels;</del>	796
<del>(2) Packages which bear the tags or labels of a person who</del>	797
<del>holds a permit to use his own tags or labels.</del>	798

(G) A person who wishes to obtain a seed labeler permit shall 799  
file an application with the director on a form that the director 800  
provides and shall submit a permit fee in the amount of ten 801  
dollars. Such a person who labels seed under more than one name or 802  
at more than one address shall obtain a separate seed labeler 803  
permit and pay a separate permit fee for each name and address. 804

The applicant shall include the applicant's full name and 805  
address on the application together with any additional 806  
information that the director requires by rules adopted under 807  
section 907.10 of the Revised Code. If the applicant's address is 808  
not within this state or it does not represent a location in this 809  
state where the director can collect samples of the applicant's 810  
seed for analysis, then the applicant shall include on the 811  
application an address within this state where samples of the 812  
applicant's seed may be collected for those purposes or shall 813  
agree to provide the director or the director's authorized 814  
representative with seeds for sampling upon request. 815

Upon receipt of a complete application accompanied by the 816  
ten-dollar permit fee, the director shall issue a seed labeler's 817  
permit to the applicant. All seed labeler permits that are issued 818  
in accordance with division (D) of under this section shall expire 819  
on the thirty-first day of December of each year regardless of the 820  
date on which a permit was issued during that year. 821

Each person who obtains a seed labeler permit shall label the 822  
seed that the person intends for sale in this state in accordance 823  
with the requirements established in sections 907.01 to 907.17 of 824  
the Revised Code. Each person who holds a valid seed labeler 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 permit issued under section 907.13 of the Revised Code shall report to the director of agriculture concerning the amount of seed that the person sells in this state. The report shall be made semiannually on a form that the director prescribes and provides. One semiannual report shall be filed with the director prior to the first day of February of each year with respect to all sales that the person made during the period from the first day of July to the thirty-first day of December of the preceding year. The second semiannual report shall be filed prior to the first day of August of each year with respect to all sales that the person made during the period from the first day of January to the thirtieth day of June of that year.

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

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

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

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

(4) For alfalfa, clover, grass, native grass, mixtures containing any of these, and all agricultural, vegetable, and flower seeds not specified in divisions (B)(1) to (3) of this

section, ten cents per one hundred pounds.

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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.

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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.

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

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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 seed shall be suspended or revoked except for failure to pay either the fee or penalty provided in section ~~907.13~~ 907.14 of the Revised Code until the permit holder ~~thereof~~ has been given a hearing by the director in regard to the proposed suspension or revocation or unless a hearing is waived by the nonappearance of the permit holder at the time and place designated by the director. Any appeal from any such suspension, revocation, or refusal ~~must~~ shall be made within thirty days after the suspension, revocation, or refusal.

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**Sec. 907.16.** All money ~~received from permit fees, seed inspection fees, packet seed inspection stamps, purity analysis and germination test fees, sales of seized or condemned seed, and~~

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~~finances recovered under sections 907.01 to 907.17 of the Revised Code collected by the director of agriculture under sections 907.01 to 907.17 of the Revised Code shall be paid to the director of agriculture. The director shall deposit the money deposited into the treasury of the state to the credit of the general revenue fund seed fund, which is hereby created in the state treasury. Money credited to the fund shall be used to administer and enforce those sections and rules adopted under them.~~ 890  
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**Sec. 907.31.** Any person who submits an application for the registration of a brand of legume inoculant shall pay annually, prior to the first day of ~~August~~ January, a registration and inspection fee based on his dollar sales volume of that brand in Ohio within the twelve month period ending the last day of June immediately preceding the registration renewal date, in accordance with the following schedule: 898  
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~~(A) One dollar up to ten thousand dollars volume, the registration fee shall be twenty five dollars.~~ 905  
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~~(B) Ten thousand one dollars up to twenty thousand dollars volume, the registration fee shall be fifty dollars.~~ 907  
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~~(C) Twenty thousand one dollars and over volume, the registration fee shall be one hundred dollars.~~ 909  
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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.~~ 911  
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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. 914  
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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 917  
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are hereby repealed.

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