

# AN ACT

To amend sections 907.01, 907.03, 907.14, and 907.28 of the Revised Code to make changes to the Agricultural Seed Law.

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

SECTION 1. That sections 907.01, 907.03, 907.14, and 907.28 of the Revised Code be amended to read as follows:

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

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

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

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

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

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

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

cent.

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

- (1) Two or more inbred lines;
- (2) One inbred or a single cross with an open-pollinated variety;
- (3) Two varieties or species, except open-pollinated varieties of corn (Zea Mays).

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

(H) "In bulk" or "bulk" means loose in vehicles or bins.

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

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

(K) "Label" means a tag or other device that is attached to or written, stamped, or printed on any container of seed or that accompanies any lot of bulk seed and that describes the kind of seed together with any other information required by law. "Label" includes an invoice under which any seed is imported into the state.

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

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

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

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

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

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

(R) "Prohibited noxious weeds" means ~~perennial~~ weeds 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 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, vegetable, or flower seed free of inert matter and free of other seed distinguishable by appearance or by test.

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

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

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

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

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

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

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

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

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

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

variety or group of varieties named or, upon growth, shall produce plants having characteristics similar to the variety or group of varieties named.

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

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

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

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

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

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

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

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

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

seeds.

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

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

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

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

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

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

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

(b) The lot number;

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

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

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

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

crimson clover, red clover, white clover, alsike clover, sweet clover, alfalfa, or any other agricultural seed of similar size, other grasses and clovers not otherwise classified, or any combination thereof;

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

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

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

(h) The percentage by weight of inert matter;

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

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

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

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

(b) The percentage by weight of coating material;

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

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

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

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

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

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

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

The percentage of germination of seed determined to be equal to or

above the standard may be, but is not required to be, stated on the label or container.

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

(d) The year in which the packed seed is intended for sale or, if the seed is packed in hermetically sealed containers, the years in which the packed seed is intended for sale;

(e) The lot number.

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

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

(b) The lot number;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The year in which the packed seed is intended for sale or, if the seed

is packed in hermetically sealed containers, the years in which the packed seed is intended for sale;

(e) The lot number.

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

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

(b) The lot number;

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

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

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

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

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

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

(7) For combination seed-mulch products:

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

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

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

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

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

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

(B) When dormant seed is encountered with respect to any of the following named grasses, the result of a tetrazolium test also may be shown on the label of the grass seed to indicate the potential germination and viability of the seed:

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

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

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

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

(5) Indiangrass (*Sorghastrum nutans*);

(6) Needlegrass (*Stipa viridula*);

(7) Switchgrass (*Panicum virgatum*).

(C) Bulk agricultural, vegetable, or flower seed that is offered for sale or sold shall comply with the labeling requirements established in division (A) of this section, except that the label shall be provided in the following manner rather than being attached to a container:

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

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

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

Sec. 907.14. (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)(a) For ~~vegetable and flower~~ any of the following 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;

(i) Vegetable and flower seed sold in containers, other than hermetically sealed containers, of eight ounces or less;

(ii) Flower seed sold in hermetically sealed containers that contain fewer than three hundred seeds;

(iii) Vegetable seed sold in hermetically sealed containers that contain fewer than one thousand seeds.

(b) The fees established pursuant to divisions (B)(3)(a)(ii) and (iii) of this section apply to both of the following:

(i) Seed sold in hermetically sealed containers that contain the amount of seeds specified in division (B)(3)(a)(ii) or (iii) of this section, as applicable:

(ii) Seed sold in hermetically sealed containers that do not clearly state the number of seeds that they contain.

(c) Except as otherwise provided in division (B)(3)(b)(ii) of this section, if the weight of seed in a container, or the quantity of seed in a container, exceeds the applicable weight or quantity specified in division (B)(3)(a)(i), (ii), or (iii) of this section, the fee established in division (B)(4) of this section applies.

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

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

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

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

Sec. 907.28. No person shall manufacture or distribute any type of legume inoculant or pre-inoculated seeds in this state until ~~he~~ the person has registered the brand of the legume inoculant with the director of agriculture. Applications for registration shall be made on forms obtainable from the director and shall be accompanied by the fee prescribed in section 907.31 of the Revised Code. A copy of each label used with each brand shall be attached to the application form at the time of filing.

(A) Each application for registration of a brand of legume inoculant shall state:

(1) The name and address of the person responsible for distribution of the legume inoculant culture;

(2) The name of the group or groups of plants for which the brand is

represented to be effective;

(3) The name or nature of medium or substrata upon which marketed;

(4) The name of the brand of the pure or mixed culture of legume inoculant being registered.

(B) All registrations shall expire each year on the thirty-first day of ~~July~~ December and shall be renewed according to the standard renewal procedure of sections 4745.01 to 4745.03, ~~inclusive~~, of the Revised Code.

(C) No other person shall be required to register a brand of legume inoculant if the manufacturer has already registered the brand.

SECTION 2. That existing sections 907.01, 907.03, 907.14, and 907.28 of the Revised Code are hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Sub. S. B. No. 189

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

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*Director, Legislative Service Commission.*

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

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_