

**As Reported by the Senate Agriculture Committee**

**126th General Assembly**

**Regular Session**

**2005-2006**

**Sub. S. B. No. 189**

**Senators Grendell, Mumper, Dann**

—

**A B I L L**

To amend sections 907.01, 907.03, 907.14, and 907.28 1  
of the Revised Code to make changes to the 2  
Agricultural Seed Law. 3

**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 4  
of the Revised Code be amended to read as follows: 5

**Sec. 907.01.** As used in sections 907.01 to 907.17 of the 6  
Revised Code: 7

(A) "Advertisement" means any representation, other than that 8  
on a label, disseminated in any manner or by any means. 9

(B) "Agricultural seed" means the seed of grass, native 10  
grass, forage, cereal, field and fiber crops, any other kinds of 11  
seed commonly recognized in this state as agricultural or field 12  
seed, lawn seed, and mixtures or blends of such seed. 13

(C) "Certifying agency" means an agency authorized by the 14  
laws of a state or a foreign country to certify officially seed, 15  
tubers for seeding purposes, or plants for varietal identification 16  
or for other factors and, in the case of seed, an agency 17  
determined by the United States secretary of agriculture to follow 18  
procedures and standards of seed certification comparable to those 19

generally followed by seed certifying agencies that are members of  
the association of official seed certifying agencies.

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(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.

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(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.

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(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.

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

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(1) Two or more inbred lines;

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

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

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

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

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

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(J) "Kind," in reference to seed, means one or more related

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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, 79  
and other crop seeds, scarifying, blending to obtain uniform 80  
quality, or any other operation that would change the purity or 81  
germination of the seed and therefore require retesting to 82  
determine the quality of the seed. "Processing" or "conditioning" 83  
does not include such operations as packaging, labeling, blending 84  
uniform lots of the same kind or variety without cleaning, or 85  
preparing a mixture without cleaning, any of which would not 86  
require retesting to determine the quality of the seed. 87

(T) "Pure seed" means agricultural, vegetable, or flower seed 88  
free of inert matter and free of other seed distinguishable by 89  
appearance or by test. 90

(U) "Records" means the complete data, including 91  
representative samples, concerning each lot of agricultural, 92  
vegetable, or flower seed that is sold. "Records" includes 93  
information about the seed's source of purchase and origin; the 94  
results of germination tests; the results of purity tests 95  
regarding the amount of pure seed, inert matter, crop seed, weed 96  
seed, and noxious weed seed contained in the lot of seed; and 97  
information concerning the processing and disposition of the seed. 98

(V) "Screenings" means chaff, sterile florets, immature seed, 99  
inert matter, weed seed, or any other matter removed from seed in 100  
any kind of processing and that contains less than twenty-five per 101  
cent by weight of live agricultural, vegetable, or flower seed. 102

(W) "Restricted noxious weeds" means weeds that are 103  
objectionable in fields, lawns, or gardens, but that can be 104  
controlled by good cultural practices. 105

(X) "Sell" or "sold" includes: 106

(1) Transferring ownership, offering or exposing for sale, 107  
exchanging, distributing, giving away, or transporting in this 108  
state; 109

(2) Storing, carrying, or handling in aid of traffic in this	110
state, whether in person or through an agent, employee, or others;	111
(3) Receiving, accepting, or holding on consignment for sale.	112
(Y) "Germination standard," as applied to vegetable or flower	113
seed, means the minimum percentage of germination established by	114
the director of agriculture for any kind or variety of seed.	115
(Z) "Tolerance" means the allowable deviation from any	116
percentage, fraction, or rate of occurrence stated on the label of	117
a lot of seed. Tolerance is based on the law of normal variation	118
from a mean.	119
(AA) "Type" means either a group of varieties so nearly	120
similar that the individual varieties cannot be clearly	121
differentiated except under special conditions or, when used with	122
a variety name, seed of that variety that may be mixed with seed	123
of other varieties of the same kind and of similar character. In	124
either case, ninety per cent of the pure seed shall be of the	125
variety or group of varieties named or, upon growth, shall produce	126
plants having characteristics similar to the variety or group of	127
varieties named.	128
(BB) "Variety" means a subdivision of a kind that is	129
characterized by growth, plant, fruit, seed, or other	130
characteristics by which it can be differentiated from other sorts	131
of the same kind.	132
(CC) "Vegetable seed" means the seed of any crop that is	133
grown in gardens or on truck farms and is generally known and sold	134
in this state under the name of vegetable seed or herb seed.	135
(DD) "Weed seed" means the seed and bulblets of all plants	136
generally recognized in this state as weeds, including prohibited	137
noxious weeds and restricted noxious weeds.	138
(EE) "Coated agricultural seed" means an agricultural seed	139

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 171  
adopted under section 907.10 of the Revised Code. 172

(LL) "Class of seed" means a classification of seed that is 173  
established using the standards and procedures established by the 174  
association of official seed certifying agencies and that 175  
designates seed as breeder, foundation, registered, or certified 176  
seed. 177

(MM) "Container" means a packet, bag, box, tape, tube, 178  
envelope, pre-planted device, mat, or other device used to contain 179  
seed, except that "container" does not include a vehicle or bin 180  
used to contain bulk seed. 181

(NN) "Dormant seed" means viable seed, excluding hard seed, 182  
that fails to germinate when provided with the specified 183  
germination conditions for that kind of seed. 184

**Sec. 907.03.** (A) Each container of agricultural, vegetable, 185  
or flower seed that is sold for sowing purposes shall bear on it 186  
or have attached to it in a conspicuous place a label plainly 187  
written or printed in the English language giving the following 188  
information: 189

(1) For agricultural seed that is sold on a pure live seed 190  
basis or any other basis: 191

(a) The commonly accepted name of the kind, or kind and 192  
variety, of each agricultural seed component in excess of five per 193  
cent by weight of the whole and the percentage by weight of each 194  
in the order of its predominance. If the director of agriculture 195  
has determined in rules adopted under section 907.10 of the 196  
Revised Code that any component of agricultural seed is generally 197  
labeled as to variety, the label shall bear, in addition to the 198  
name of the kind, the name of the variety, or the statement 199  
"variety not stated." If any such component is a hybrid, the label 200

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;	231
(h) The percentage by weight of inert matter;	232
(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;	233 234 235 236
(j) The name and address of the person who labels the seed.	237
(2) For coated agricultural seed, in addition to the information required under division (A)(1) of this section:	238 239
(a) The percentage by weight of pure seed with coating material removed;	240 241
(b) The percentage by weight of coating material;	242
(c) The percentage by weight of inert matter exclusive of coating material;	243 244
(d) The percentage of germination determined on four hundred coated pellets.	245 246
(3) For vegetable seed that is sold in containers weighing eight ounces or less:	247 248
(a) The name of the kind and variety of the seed;	249
(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:	250 251 252
(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;	253 254 255
(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.	256 257 258 259

The percentage of germination of seed determined to be equal 260  
to or above the standard may be, but is not required to be, stated 261  
on the label or container. 262

(c) The name and address of the person who labels the seed; 263

(d) The year in which the packed seed is intended for sale 264  
or, if the seed is packed in hermetically sealed containers, the 265  
years in which the packed seed is intended for sale; 266

(e) The lot number. 267

(4) For vegetable seed that is sold in containers weighing 268  
more than eight ounces: 269

(a) The name of each kind and variety of vegetable seed 270  
present in excess of five per cent and the percentage by weight of 271  
each in order of its predominance; 272

(b) The lot number; 273

(c) The following information for each vegetable seed named 274  
on the label: 275

(i) The percentage of germination exclusive of hard seed; 276

(ii) The percentage of hard seed, if present. 277

Germination and hard seed may be stated as a total percentage if 278  
desired. 279

(iii) The calendar month and year that the test used to 280  
determine each percentage was completed. 281

(d) The name and address of the person who labels the seed. 282

(5) For flower seed that is sold in containers weighing eight 283  
ounces or less: 284

(a) The common name of the kind and variety of flower seed 285  
or, if commonly used, the scientific name of the kind and variety 286  
of flower seed; 287

(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:	288 289 290
(i) The percentage of germination, exclusive of hard seed;	291
(ii) The percentage of hard seed, if present;	292
(iii) The calendar month and year that the test used to determine the percentages was completed;	293 294
(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.	295 296 297 298
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.	299 300 301
(c) The name and address of the person who labels the seed;	302
(d) The year in which the packed seed is intended for sale <u>or, if the seed is packed in hermetically sealed containers, the years in which the packed seed is intended for sale;</u>	303 304 305
(e) The lot number.	306
(6) For flower seed in containers weighing more than eight ounces:	307 308
(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;	309 310 311
(b) The lot number;	312
(c) The following information for each flower seed named on the label:	313 314
(i) The percentage of germination exclusive of hard seed;	315

(ii) The percentage of hard seed, if present.	316
Germination and hard seed may be stated as a total percentage if desired.	317 318
(iii) The calendar month and year that the test used to determine each percentage was completed.	319 320
(d) The name and address of the person who labels the seed.	321
(7) For combination seed-mulch products:	322
(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;	323 324 325 326
(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";	327 328 329 330 331
(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:	332 333 334
(i) The seed origin, if known, for each kind or variety, or both;	335 336
(ii) The percentages by weight of mulch and, if applicable, of fertilizer;	337 338
(iii) Any noxious weeds. If no noxious weeds are present, "noxious weeds--none found" shall be stated.	339 340
(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:	341 342 343 344

(1) Bluestem, big ( <i>Andropogon gerardii</i> );	345
(2) Bluestem, little ( <i>Schizachyrium scoparium</i> );	346
(3) Dropseed, sand ( <i>Sporobolus cryptandrus</i> );	347
(4) Grama, sideoats ( <i>Bouteloua curtipendula</i> );	348
(5) Indiangrass ( <i>Sorghastrum nutans</i> );	349
(6) Needlegrass ( <i>Stipa viridula</i> );	350
(7) Switchgrass ( <i>Panicum virgatum</i> ).	351
(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:	352 353 354 355 356
(1) The label shall be posted next to the bulk seed so that it is easily read by the purchaser.	357 358
(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.	359 360 361
(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.	362 363 364 365 366 367
<b>Sec. 907.14.</b> (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	368 369 370 371 372 373

the first day of February of each year with respect to all sales 374  
that the person made during the period from the first day of July 375  
to the thirty-first day of December of the preceding year. The 376  
second semiannual report shall be filed prior to the first day of 377  
August of each year with respect to all sales that the person made 378  
during the period from the first day of January to the thirtieth 379  
day of June of that year. 380

(B) A person who holds a valid seed labeler permit shall 381  
include with each semiannual report a seed fee based on the amount 382  
of the seed that the person sold during that reporting period as 383  
follows: 384

(1) For soybeans and small grains, including barley, oats, 385  
rye, wheat, triticale, and spelt, four cents per one hundred 386  
pounds; 387

(2) For corn and grain sorghum, five cents per one hundred 388  
pounds; 389

(3)(a) For ~~vegetable and flower~~ any of the following seed 390  
sold at wholesale or retail or on consignment or commission ~~in~~ 391  
~~containers of eight ounces or less~~, two per cent of the wholesale 392  
value of the containers of seed or, if the seed is not sold 393  
wholesale, two per cent of the retail value of the containers of 394  
seed; 395

(i) Vegetable and flower seed sold in containers, other than 396  
hermetically sealed containers, of eight ounces or less; 397

(ii) Flower seed sold in hermetically sealed containers that 398  
contain fewer than three hundred seeds; 399

(iii) Vegetable seed sold in hermetically sealed containers 400  
that contain fewer than one thousand seeds. 401

(b) The fees established pursuant to divisions (B)(3)(a)(ii) 402  
and (iii) of this section apply to both of the following: 403

(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; 404  
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(ii) Seed sold in hermetically sealed containers that do not clearly state the number of seeds that they contain. 407  
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(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. 409  
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(4) For alfalfa, clover, grass, native grass, mixtures containing any of these, and all agricultural, vegetable, and flower seeds not specified in divisions (B)(1) to (3) of this section, ten cents per one hundred pounds. 415  
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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. 419  
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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. 422  
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(D) This section does not apply to governmental entities that donate seed for conservation purposes. 431  
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**Sec. 907.28.** No person shall manufacture or distribute any 433

type of legume inoculant or pre-inoculated seeds in this state 434  
until ~~he~~ the person has registered the brand of the legume 435  
inoculant with the director of agriculture. Applications for 436  
registration shall be made on forms obtainable from the director 437  
and shall be accompanied by the fee prescribed in section 907.31 438  
of the Revised Code. A copy of each label used with each brand 439  
shall be attached to the application form at the time of filing. 440

(A) Each application for registration of a brand of legume 441  
inoculant shall state: 442

(1) The name and address of the person responsible for 443  
distribution of the legume inoculant culture; 444

(2) The name of the group or groups of plants for which the 445  
brand is represented to be effective; 446

(3) The name or nature of medium or substrata upon which 447  
marketed; 448

(4) The name of the brand of the pure or mixed culture of 449  
legume inoculant being registered. 450

(B) All registrations shall expire each year on the 451  
thirty-first day of ~~July~~ December and shall be renewed according 452  
to the standard renewal procedure of sections 4745.01 to 4745.03~~7~~ 453  
~~inclusive~~, of the Revised Code. 454

(C) No other person shall be required to register a brand of 455  
legume inoculant if the manufacturer has already registered the 456  
brand. 457

**Section 2.** That existing sections 907.01, 907.03, 907.14, and 458  
907.28 of the Revised Code are hereby repealed. 459