

Act No. 166
Public Acts of 2016
Approved by the Governor
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senator Hune

ENROLLED SENATE BILL No. 637

AN ACT to amend 1965 PA 329, entitled "An act to regulate the labeling, coloration, advertising, sale, offering, exposing, or transporting for sale of agricultural, vegetable, lawn, flower, and forest tree seeds; to authorize the director of agriculture to adopt rules for the enforcement of this act; to provide for the inspection and testing of seed; to prescribe license fees; to preempt ordinances prohibiting or regulating certain activities with respect to seeds; and to prescribe penalties for violation of this act," by amending sections 2, 4, 7, and 9 (MCL 286.702, 286.704, 286.707, and 286.709), sections 2, 4, and 9 as amended by 1996 PA 86 and section 7 as amended by 1988 PA 455.

The People of the State of Michigan enact:

Sec. 2. As used in this act:

- (1) "Person" means any individual, partnership, company, corporation, society, cooperative, union, or association.
- (2) "Sale or sell" means the act of transferring property for any consideration and includes the acts of offering, advertising, exposing, holding, or transporting for sale.
- (3) "Label" includes all labels, and other written, printed, or graphic representation in any form, accompanying or pertaining to any seed in bulk or in containers and includes representation on invoices, bills, and letterheads.
- (4) "Agricultural seed" means the seed of grass, forage, cereal, fiber, oil plants, and any other seed commonly recognized within this state as agricultural or field seed, lawn seed, or mixtures of those seeds.
- (5) "Director" means director of the department of agriculture and rural development or his or her authorized representative.
- (6) "Screenings" means chaff, florets, immature seed, weed seed, or inert and other foreign matter removed in any way in cleaning or conditioning of seed, or obtained from weedy fields or any source, and contains less than 50% agricultural seed.
- (7) "Vegetable seed" means the seed of those crops that are grown in gardens or on truck farms and that generally are known and sold under the name of vegetable or herb seed in this state.
- (8) "Flower seed" means the seed of those plants usually grown for their blooms, ornamental foliage, or other ornamental parts and commonly are known and sold under the name of flower seed in this state.
- (9) "Forest tree seed" means the seeds of those forest trees that are usually grown in nurseries and forests in this state, and that are listed in the rules promulgated under this act.
- (10) "Pure seed" means seed exclusive of inert matter and all other seeds not of the seed being considered, as determined by methods defined by rule promulgated under this act.
- (11) "Inert matter" means broken seed 1/2 or less the original size, seeds of legumes or crucifers with seed coats removed, undeveloped or badly injured weed seed, the empty glumes or attached sterile glumes of grasses, stems,

leaves, stones, chaff, soil, insects, fungal bodies, material added in coating or pelleting, and all other matter other than pure seed, weed, or crop seed, as determined by methods defined by rule promulgated under this act.

(12) "Weed seed" means the seeds of all plants generally recognized as weeds within the state, as determined by methods defined by rule promulgated under this act, and includes prohibited and restricted noxious weed seeds.

(13) "Crop seed" means the seed of plants grown as crops, other than the kind or variety included in the pure seed, as determined by methods defined by rule promulgated under this act.

(14) "Germination percent" means the percent of seeds capable of producing normal seedlings under favorable growing conditions. Broken, weak, diseased, malformed, or abnormal seedlings, as determined by methods defined by rule promulgated under this act, shall not be considered as having germinated.

(15) "Hard seed percent" means the seed which, due to hardness or impermeability, does not absorb moisture and start growth under favorable conditions during a prescribed germination period but remains hard.

(16) "Prohibited noxious weed seed" means the seed of plants that are highly destructive and difficult to control in this state by ordinary good cultural practices, and that are listed in the rules promulgated under this act.

(17) "Restricted noxious weed seed" means the seeds of the plants that are objectionable in the fields, lawns, and gardens of this state but can be controlled by ordinary good cultural practices, and that are listed in the rules promulgated under this act.

(18) "Lot" means a definite quantity of seed identified by a number or other mark, every portion of which is uniform within recognized tolerances for the factors that appear in the labeling.

(19) "Kind" means 1 or more related species or subspecies that singly or collectively is known by 1 common name, including, but not limited to, oats, wheat, soybeans, and corn.

(20) "Variety" means a subdivision of a kind that is distinct, uniform, and stable; distinct in the sense that the variety can be differentiated by 1 or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; uniform in the sense that variations in essential and distinctive characteristics are describable, and stable in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted as required by the different categories of varieties; for example, heritage oats, augusta wheat, corsoy soybeans.

(21) "Hybrid" means, as applied to kinds or varieties of seed, the first generation seed of a cross, produced by controlling the pollination and by combining 2 or more inbred lines, or 1 inbred line or a single cross with an open pollinated variety, or 2 selected clones, seed lines, varieties, or species, except open pollinated varieties of corn such as zea mays. A hybrid designation shall be treated as a variety name.

(22) "Records" means all label information and the source of this information required by this act for the seed being considered, and all information relating to the shipment or shipments involved with seed, such as invoices, vouchers, freight bills, and other records.

(23) "Advertising" means all representations other than those on the label, disseminated in any manner or by any means, and relating to seed within the scope of this act.

(24) "Treated" means that the seed has received an effective application of substance or method designed to reduce, control, or repel certain disease organisms, fungi, insects, or other pests attacking the seed or seedlings or has received some other treatment to improve its planting value.

(25) "Tolerance" means the allowable deviation from any percentage claim used on a label and is based on the law of normal variation from a mean. Tolerance tables used in the enforcement of this act are those prescribed in the rules promulgated under this act.

(26) "Official sample" means the sample taken from a lot of seed by a representative of the director.

(27) "Representative sample" means a sample taken from a seed lot that is of sufficient size to supply an adequate amount of seed for laboratory testing and that is secured and submitted according to the guidelines approved by the director.

(28) "Vendor" means a person engaged in the selling of seed.

(29) "Grower's declaration" means a statement signed by the grower or shipper giving, for any lot of seed, the lot number, the kind, variety, weight, and origin.

(30) "Hermetically sealed seed" means seed packed in a moisture proof container when the container and the seed in the container meet the requirements specified in the rules promulgated under this act.

(31) "Type" means a group of varieties so nearly similar that individual varieties cannot be clearly differentiated except under special conditions.

(32) "Blend" means seed consisting of more than 1 variety of a kind, each in excess of 5% of the whole.

(33) "Mixture" means seed consisting of more than 1 kind, each in excess of 5% of the whole.

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

(35) "Controlling the pollination" means a method of hybridization that will produce pure seed that is at least 75% hybrid seed. The second generation or subsequent generations from these crosses are not hybrids.

(36) "Seizure" means a legal process carried out by a court order against a definite amount of seed.

(37) "Stop sale" means an administrative order restraining the sale, disposition, and movement of a definite amount of seed.

(38) "Conditioning" means drying, cleaning, scarifying, and other operations that change the purity or germination of the seed and require the seed lot to be retested to determine the label information. Conditioning does not include packaging, labeling, combining seed lots to form blends or mixtures, or other operations that would not make necessary the retesting of the seed lot to determine the label information.

(39) "Brand" means a word, name, symbol, number, or design used to identify seed of 1 person to distinguish it from the seed of another person.

(40) "Cool season lawn and turf grass" means grasses including Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass, annual bentgrass, and mixtures of any of these.

(41) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.326.

Sec. 4. For agricultural seed and mixtures of agricultural seed, and for vegetable seed in containers of more than 1 pound, the following information is required:

(a) The commonly accepted name of the kind, or kind and variety, of each agricultural or vegetable seed component in excess of 5% by weight of the whole and the percentage by weight of each in the order of its predominance. If the director has determined in rules promulgated under this act that a component is generally labeled as to variety, the label shall bear, in addition to the name of the kind, the name of the variety or the statement "variety not stated", except for vegetable seed, which shall be labeled as to kind and variety. If any component is a hybrid, the label shall also bear the name of the hybrid and the word "hybrid" in connection with the kind of agricultural or vegetable seed component. If the seed is a blend, the word "blend" shall appear on the label in connection with the name of the kind of agricultural or vegetable seed component. If more than 1 component is required to be named, the word "mixture" or "mix" shall be stated conspicuously on the label.

(b) The lot number or identifying mark.

(c) The percentage by weight of all weed seed present.

(d) The percentage of germination exclusive of dormant or hard seed, and the percentage of dormant or hard seed, if present, and the calendar month and year that these percentages were determined by test for each agricultural seed named.

(e) For cool season lawn and turf seed and mixtures, the statement "Sell by", which shall be not more than 15 months from the date of the germination test exclusive of the month of the test.

(f) For alfalfa, red clover, and white clover, the state or foreign country where originally grown. If the origin is unknown, that fact shall be stated.

(g) The name and the number per pound, if present, of each kind of the restricted noxious weed seed, except buckhorn and yellow rocket, which must be shown on the label only if in excess of 90 seeds per pound.

(h) The name and complete address of the person who labels the seed or sells the seed within this state.

(i) Percentage by weight of crop seed other than those required to be named on the label, and this figure shall be shown under the heading "crop" or "other crop".

(j) Percentage by weight of inert matter. Any coating material shall be included as inert matter, and a statement of percentage of the coating material may be shown immediately following inert matter.

(k) For field bean seeds, a statement indicating that the lot has been field inspected and laboratory tested and meets the disease tolerances established by the director in the manner provided for in section 7a and a statement on the label indicating the state or foreign country of origin.

Sec. 7. (1) Seed that has been treated with an irritating or poisonous substance, harmful to human or other vertebrate animals, shall be colored or dyed a color contrasting with the natural color of the seed, and shall be labeled with the following information:

(a) A warning statement in 8-point or larger type that the seed has been treated.

(b) The common, coined, chemical, or abbreviated chemical name of the substance applied to the seed.

(c) A caution statement in 8-point or larger type as follows: "treated seed—do not use for food, feed, or oil purposes".

(2) If the seed is treated, and the treatment is not irritating, poisonous, or harmful to humans or other vertebrate animals, the seed shall be labeled with a statement, in 8-point or larger type, describing the applied substance.

Sec. 9. (1) A person shall not sell, offer for sale, advertise, expose, or transport for sale in this state any of the seed subject to this act if any 1 or more of the following circumstances exist:

(a) The seed is not labeled in accordance with this act, or has a false or misleading label.

(b) The test to determine the percentage of germination required by section 3 was not completed within an 11-month period, or a 15-month period for cool season lawn and turf seed and mixtures, exclusive of the month in which the test was completed immediately prior to sale, exposure, offering, or transporting for sale, except that a longer time shall be permitted for any kind of agricultural or vegetable seed that is packaged in container materials and under conditions prescribed under the rules promulgated under this act that will maintain the viability of the seed under ordinary conditions of handling.

(c) The seed consists of, or contains, prohibited noxious weed seed.

(d) The seed consists of, or contains, restricted noxious weed seed in excess of the limits prescribed by rule promulgated under this act.

(e) The seed has a percentage of germination, including hard seeds, that is below 60%, or, in the case of vegetable seed and flower seed, below the germination standard established in the rules promulgated under this act, unless labeled according to section 5.

(f) The seed has tags or labels on, or attached to, the container of seed including a liability or nonwarranty clause disclaiming responsibility for the information on the label required by this act.

(g) The seed has been the subject of false or misleading advertisement in any manner or by any means.

(h) The seed contains in excess of 1% by weight of all weed seeds.

(i) The seed was not produced and labeled in accordance with the procedures and in compliance with rules as prescribed in section 2 of 1959 PA 221, MCL 286.72.

(j) If seed, under tag or label, has been substituted or altered.

(k) If stop sale orders have been instituted by the director.

(l) The seed is falsely represented to be a hybrid as defined in this act.

(m) A person whose name appears on the label as distributing agricultural, vegetable, or flower seed subject to this act fails to retain, for a period of 2 years, complete records of each lot of agricultural, vegetable, or flower seed distributed, fails to retain, for 1 year, a file sample of each lot of seed that is distributed after final disposition of the lot, and fails to make accessible for inspection by the director during customary business hours, records and samples pertaining to the shipment or shipments involved.

(n) If the name of the department is used in connection with the labeling or advertising or sale of any seed in any manner:

(o) If the word "trace" is used as a substitute for any statement that is required by this act.

(p) If the word "type" is used on any labeling in connection with the name of any agricultural or vegetable seed variety.

(q) There is less than the stated number of seed in the container.

(r) The seed is labeled with a brand or a trademark, or a term taken from a brand or trademark, unless the brand name or trademark is clearly identified with the word "brand" and is other than a part of the variety.

(s) The seed is labeled with a variety name but is not certified by an official seed certifying agency when it is a variety for which a United States certificate of plant variety protection, under the plant variety protection act, 7 USC 2321 to 2582, specifies sale only as a class of certified seed. However, seed from a certified lot may be labeled as to variety name if used in a mixture by, or with the approval of, the owner of the variety.

(t) For field bean seeds, the label does not include a statement indicating that the lot has been field inspected and laboratory tested and meets the disease tolerances established by the director.

(u) For field bean seeds, the lot is found to contain diseases in excess of the tolerances prescribed in section 7a.

(2) A person shall not do any of the following:

(a) Hinder, obstruct, or resist the director in the discharge of his or her duties under this act.

(b) Store, ship, or handle seed under conditions that make it impossible to properly inspect or obtain a sample representative of the seed being sold, offered, exposed, or transported for sale.

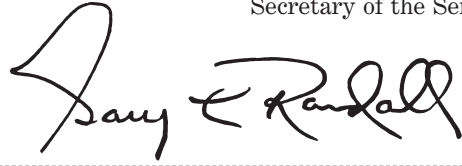
(c) Sell seed that has been treated, as defined in this act, to any person for any purpose unless the seed is colored and clearly labeled as required in section 7.

Enacting section 1. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor