

THE ILLINOIS SEED LAW

(Ill. Compiled Statutes, Ch. 505, Par. 110/1 et seq.)
(Illinois Revised Statutes, Chapter 5, par. 401 et seq.)

AN ACT to regulate the labeling, sale, offering, exposing or transporting for sale of agricultural, vegetable and other seeds; to prevent misrepresentation thereof; and to repeal an Act therein named. P.A. 77-1332, approved Aug. 27, 1971, eff. July 1, 1972.

110/1. Short title

§ 1. This Act may be cited as the Illinois Seed Law.

Amended by P.A. 86-1475, Article IV, §4-4, eff. Jan. 10, 1991.

110/2. Definitions

§ 2. Definitions. As used in this Act, unless the context otherwise requires, the terms specified in Sections 2.101 through 2.144¹ have the meaning ascribed to them in those Sections.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

¹ No Section 2.144 in enrolled bill. See ¶¶402.101 to 402.143 of this chapter.

110/2.1 to 110/2.37. §§2.1 to 2.37. Repealed by P.A. 85-717, §2, eff. Jan. 1, 1988.

110/2.101. Advertisement

§ 2.101. "Advertisement" means all representations, other than on the label, disseminated in any manner, or by any means relating to seed within the scope of this Act.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.102. Agricultural seeds

§ 2.102. "Agricultural seeds" include the seeds of grass, forage, oil, cereal, and fiber crops and other kinds of seeds commonly recognized within this State as agricultural seeds, lawn seeds and mixtures of such seeds, or as determined by regulations adopted by the Department. The term "agricultural seed" may include noxious weed seeds when the Director of Agriculture determines that such seed is being used as agricultural seed.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.103. Association of Official Seed Analysts

§ 2.103. "Association of Official Seed Analysts (AOSA)" means the organization composed of government seed analysts designated to develop standards for analysis that furnish information relating to the composition of seed samples and the ability of the seed to produce plants.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.104. Association of Official Seed Certifying Agencies

§ 2.104. "Association of Official Seed Certifying Agencies (AOSCA)" means the organization whose members are agencies responsible for seed certification and for establishing minimum standards for genetic purity and identity.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.105. Brand

§ 2.105. "Brand" means a word, name, symbol, number or design used to identify seed of one person or distinguish it from seed of another person.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.106. Certifying agency

§ 2.106. "Certifying agency" means (a) an agency authorized under the laws of a State, Territory or Possession of the United States to officially certify seed, or (b) an agency of a foreign country determined by the U. S. Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.107. Certified Seed

§ 2.107. "Certified Seed" means one of four classes of seed: (1) breeder, (2) foundation, (3) registered and (4) certified, as determined under procedures established by the Association of Official Seed Certifying Agencies and referenced in its official Certification Handbook.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.108. Conditioning

§ 2.108. "Conditioning" means drying, cleaning, scarifying or blending to obtain uniform quality, and other operations which would change the purity or germination of the seed and therefore require retesting to determine the quality of the seed, but does not include operations such as packaging, labeling, blending together of uniform lots of the same kind of variety without cleaning, or the preparation of a mixture without cleaning, and of which would not require retesting to determine the quality of the seed.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.109. Dealer

§ 2.109. "Dealer" means any person who distributes.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.110. Department

§ 2.110. "Department" means the Department of Agriculture of the State of Illinois or its duly authorized representative.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.111. Director

§ 2.111. "Director" means the Director of the Department of Agriculture, of the State of Illinois or his duly authorized representative.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.112. Distribute

§ 2.112. "Distribute" means to import, consign, offer for sale, hold for sale, barter, or otherwise supply seed in this State.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.113. False and mislabeling advertisement

§ 2.113. "False and mislabeling advertisement" means all representation other than those on the label disseminated in any manner or by any means relating to the seed which would be misleading to the consumers as determined within the scope of this Act.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.114. Handling seed

§ 2.114. "Handling seed" includes transportation, warehousing, cleaning, merchandising, labeling, and any other operation connected with the seed business but does not include transportation, warehousing and cleaning by a bailee for hire.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.115. Hybrid

§ 2.115. "Hybrid" means the first generation seed of a cross produced by controlling the combination between (a) 2 or more inbred lines; (b) one inbred or a single cross with an open pollinated variety; or (c) 2 selected clones, seed lines, varieties or species, except open-pollinated varieties of corn (*Zea mays*). The second generation or subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.116. Inoculant

§ 2.116. "Inoculant" means a commercial preparation containing nitrogen fixing bacteria applied to the seed.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.117. Kind

§ 2.117. "Kind" means one or more related species or subspecies which singly or collectively is known by one common name, for example, corn, oats, alfalfa and timothy.

Amended by P.A. 86-1475, Article III, §3-2, eff. Jan. 10, 1991.

110/2.118. Label

§ 2.118. "Label" means the display or displays of written printed or graphic matter upon or attached to the container of seed or shipping documents.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.119. Labeling

§ 2.119. "Labeling" includes labels, and all other written, printed, or graphic representations, in any form whatsoever,

accompanying or pertaining to any seed whether in bulk or in containers, and includes representations on invoices.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.120. Lot

§ 2.120. "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear in the labeling.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.121. Mixture or blend

§ 2.121. "Mixture or blend" means seed consisting of more than one kind or variety each present in excess of 5% of the whole.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.122. Official sample

§ 2.122. "Official sample" means any sample of seed taken and designated as official by the Department.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.123. Operator of a public auction sale or similar type consignment sale

§ 2.123. "Operator of a public auction sale or similar type consignment sale" is one who owns and/or directs the operation of a livestock auction market or public auction sale conducted regularly on the same premises. A public auction sale or livestock auction market location or establishment includes parking lots, entrances, and other areas used in conjunction with the auction sale.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.124. Origin

§ 2.124. "Origin" means the State, District of Columbia, Puerto Rico, or possession of the United States or foreign country, or designated portion thereof, where the seed was grown.

Added by P.A. 85-717, eff. Jan. 1, 1988.

110/2.125. Packet

§ 2.125. "Packet" means a retail or wholesale commodity of vegetable seed packaged in any manner in advance of sale, not to exceed a labeled net weight of 3 ounces.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.126. Person

§ 2.126. "Person" includes any individual, partnership, corporation, company, society, or association.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.127. Prohibited (primary) noxious weed seeds

§ 2.127. "Prohibited (primary) noxious weed seeds" are the seeds of weeds which when established are highly destructive, competitive and/or difficult to control by cultural or chemical practices.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.128. Record

§ 2.128. "Record" includes all information relating to each lot of seed including propagation, condition and merchandising.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.129. Restricted (secondary) noxious weed seeds

§ 2.129. "Restricted (secondary) noxious weed seeds" are the seeds of weeds which are objectionable in fields, lawns and gardens of this State, but which can be controlled by cultural or chemical practices.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.130. Retail seed dealer

§ 2.130. "Retail seed dealer" is one who sells agricultural, vegetable or lawn seed to consumers.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.131. Screenings

§ 2.131. "Screenings" means chaff, florets, immature seed,

weed seeds, inert matter and other foreign material removed in any way from any seed or grains in any kind of cleaning or conditioning, or obtained from weedy fields or from any other source, which contains less than 50% agricultural seeds or grains.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.132. Seed broker

§ 2.132. "Seed broker" is one who for a commission or other compensation is engaged in selling or negotiating the sale of agricultural, vegetable or lawn seed belonging to others for resale.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.133. Seed merchants

§ 2.133. "Seed merchants" are those engaged in both wholesale and retail operations. Seed merchants shall secure both a wholesale and a retail permit.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.134. Seeds

§ 2.134. "Seeds" mean agricultural or vegetable seeds or other seeds as determined by regulations adopted by the Department. A mature ovule, consisting of an embryonic plant together with a store of food, all surrounded by a protective coat.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.135. Seizure

§ 2.135. "Seizure" means a legal process carried out by court order against a definite amount of seed.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.136. Sell

§ 2.136. "Sell" when applied to agricultural seed, vegetable seed, lawn seed, or screenings, includes the act of transferring ownership, offering or exposing for sale, exchange, distribution, giving away, or transportation in this State, storing, carrying or handling in aid of traffic therein, whether done in person or through an agent, employee, or others, and receiving, accepting, or holding on consignment for sale.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.137. Stop sale, use or removal order

§ 2.137. "Stop Sale, Use or Removal Order" means an administrative order provided by law, restraining the sale, use, disposition, and movement of a definite amount of seed.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.138. Treated

§ 2.138. "Treated" means that the seed has received an application of a substance, or that it has been subjected to a process to reduce, control, or repel disease organisms, insects or other pests which attack seed or seedlings and for which a claim is made.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.139. Type

§ 2.139. "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.140. Variety

§ 2.140. "Variety" means a subdivision of a kind which is distinct, uniform and stable; "distinct" in the sense that the variety can be differentiated by one or more identifiable morphological, physiological or other characteristics from all other varieties; "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.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.141. Vegetable seeds

§ 2.141. "Vegetable seeds" includes the seeds of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable seeds in this State.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.142. Weed seeds

§ 2.142. "Weed seeds" includes the seeds of all plants generally recognized as weeds within this State, and includes the seeds of restricted noxious weeds as determined by regulations adopted by the Department.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/2.143. Wholesale seed dealers

§ 2.143. "Wholesale seed dealers" are those selling agricultural, vegetable or lawn seed for resale.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/3. Department to administer Act--Rules and Regulations--Guidance of Federal Seed Act

§ 3. Department to administer Act--Rules and regulations--Guidance of Federal Seed Act. The Department shall promulgate rules and regulations governing the method of labeling, sampling, inspecting, analyzing, testing, and examining of agricultural, vegetable, and other seeds, establish tolerances for purity and germination and other factors, set and collect reasonable charges for tests, sampling, and annual permit fees and adopt, after a public hearing, such reasonable rules and regulations necessary to secure effective enforcement of the Act, including the promulgation of definitions of terms relating to the enforcement of this Act.

All fees collected under the provisions of this Act shall be paid to the General Revenue Fund, State Treasury.

When seed labeling, terms, methods of sampling and analysis, and tolerances are not specifically stated in this Act or otherwise designated by the Department, the Department shall, in order to promote uniformity, be guided by officially recognized associations, or regulations under The Federal Seed Act.¹

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

¹7 U.S.C.A. § 1551 et seq.

110/4. Label requirements

§ 4. Label requirements. Each container of agricultural, vegetable or other seeds designated by the Department of Agriculture which is sold, offered for sale, or exposed for sale, or transported within this State for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly

written or printed label or tag in the English language, giving information, set out in Sections 4.1 through 4.5,¹ which statement shall not be modified or denied in the labeling or on another label attached to the container. Seed labeling and testing terms in common usage shall be defined as in the "Rules for Testing Seeds", published by the Association of Official Seed Analysts, effective July 1, 1955, and as subsequently amended.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

¹Paragraphs 404.1 through 404.5 of this chapter.

110/4.1. Seeds--Labeling

§ 4.1. All seeds named and treated as defined in this Act (for which a separate label may be used) must be labeled with:

(1) A word or statement indicating that the seed has been treated.

(2) The commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance or description of the process used.

(3) If the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do not use for food, feed, oil purposes" or otherwise as required by the Uniform Hazardous Substance Act.¹ The caution for toxic substances shall be a poison statement or symbol.

(4) If the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).

(5) Require symbol statement and the appropriate Environmental Protection Agency signal word -- DANGER, CAUTION OR WARNING.

(6) All treated seeds are required to be stained so that they are easily distinguished by the ordinary observer when examined regardless of the proportion of treated to untreated seeds. The color used on treated seed shall persist as long as the seed bear pesticide residue.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

¹Chapter 111 1/2, ¶ 251 et seq.

110/4.2. Agricultural seeds--Labeling

§ 4.2. All agricultural seeds must be labeled with:

(1) The name of the kind or kinds and variety for each agricultural seed component present in excess of 5% of the whole and the percentage by weight of each except as provided by regulation: provided, that if the variety of those kinds generally labeled as to variety as designated in the regulations is not stated, the label shall show the name of the kind and the words, "Variety Not Stated". Hybrids shall be labeled as

hybrids.

(2) Lot number or other lot identification.

(3) Origin (State or foreign country), if known, of alfalfa, red clover and field corn (except hybrid corn). If the origin is unknown, the fact shall be stated.

(4) Percentage by weight of all weed seeds except as provided by regulation.

(5) The name and approximate number of each kind of restricted noxious weed seed, per pound in groups (a), (b), (c) and (d), when present singly or collectively in excess of (a) Eighty seeds or bulblets per pound of *Agrostis* spp., *Poa* spp., Rhodesgrass, Bermudagrass, timothy, orchardgrass, fine textured fescues, alsike and white clover, reed canarygrass, dallisgrass, and other agricultural seeds of similar size and weight, or mixtures within this group;

(b) Thirty-two seeds or bulblets per pound of ryegrass, meadow and tall fescues, foxtail millet, crownvetch, alfalfa, red clover, sweetclovers, lespedezas, smooth brome grass, crimson clover, flax, *Agropyron* spp., and other agricultural seeds of similar size and weight, or mixtures within this group, or of this group with (a);

(c) Sixteen seeds or bulblets per pound of proso, Sudangrass and other agricultural seeds of similar size and weight, or mixtures not specified in (a), (b), or (d);

(d) Four seeds or bulblets per pound of wheat, oats, rye, barley, buckwheat, sorghums (except Sudangrass), vetches and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group.

(6) Percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed:

(a) Percentage of germination, exclusive of hard or dormant seed.

(b) Percentage of hard or dormant seeds, if present.

(c) The calendar month and year the test was completed to determine such percentages.

Following (a) and (b) the "total germination and hard or dormant seed" may be stated as such, if desired.

(9) Name and address of the person who labeled said seed, or who

sells, offers or exposes said seed for sale within this State.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/4.2a. Coated agricultural seeds--Labeling

§ 4.2a. Agricultural seeds that are coated shall be labeled

with:

- (1) Percentage of pure seeds with coating material removed.
- (2) Percentage of coating material shall be shown as a separate item in close association with the percentage of inert matter.
- (3) In addition to the provisions of this Section, labeling of coated seed shall comply with the requirements of Section 4.2.¹

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

¹Paragraph 404.2 of this chapter.

110/4.2b. Lawn or turf--Labeling

§ 4.2b. Labeling for seed mixtures for lawn or turf purposes shall include:

- (1) The word "Mixed" or "Mixture" shall be stated with the name of the mixture.
- (2) The heading "Pure Seed" and "Germination" shall be used in the proper places.
- (3) Commonly accepted name of kind or kind and variety of each agricultural seed component in excess of 5% of the whole, and the percentage by weight of pure seed in order of its predominance and in columnar form.
- (4) Lot number or other lot identification.
- (5) Percentage by weight of agricultural seed other than those required to be named on the label.
- (6) Percentage by weight of inert matter.
- (7) Percentage by weight of all weed seeds.
- (8) For each agricultural seed named under (3) above:
 - (a) Percentage of germination, exclusive of hard or dormant seed;
 - (b) Percentage of hard or dormant seed, if present;
 - (c) Calendar month and year the test was completed to determine such percentages. Oldest test date shall be used.
- (9) Name and address of the person who labeled that seed, or who sells, offers or exposes that seed for sale within the State.

Added by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/4.3. § 4.3. Repealed by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/4.4. Vegetable seeds in packets--Labeling

§ 4.4. Labeling for vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in preplanted containers, mats, tapes, or other planting devices shall include:

- (1) Name of kind and variety of seed.
- (2) For seeds which germinate less than the standard last established by the Director under this Act:
 - (a) Percentage of germination, exclusive of hard seed,
 - (b) Percentage of hard seed, if present,
 - (c) The calendar month and year the test was completed to determine such percentages,
 - (d) The words "Below Standard" in not less than 8-point type, and
- (3) Name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this State.
- (4) Lot identification, such as by lot number or other means.
- (5) The year for which the seed was packed for sale as "Packed for" or the percentage germination and the calendar month and year the test was completed to determine such percentage.
- (6) For seeds placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/4.5. Vegetable seeds in containers other than packets-- Labeling

§ 4.5. Labeling for vegetable seeds in containers other than packets prepared for use in home gardens or household plantings and other than preplanted containers, mats, tapes, or other planting devices shall include:

- (1) The name of each kind and variety present in excess of 5% and the percentage by weight of each in order of its predominance.
- (2) Lot number or other lot identification.
- (3) For each named vegetable seed:
 - (a) Percentage germination exclusive of hard or dormant seed,
 - (b) Percentage of hard seed, if present,
 - (c) The calendar month and year the test was completed to determine such percentages.

Following (a) and (b) the "total germination and hard or dormant seed" may be stated as such if desired.

(4) Name and address of the person who labeled said seed, or who sells, offers or exposes said seed for sale within this State.

(5) The labeling requirements for vegetable seeds in containers of more than one pound shall be deemed to have been met if the seed is weighed from a properly labeled container in

the presence of the purchaser.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/5. Prohibitions

§ 5. Prohibitions. It is unlawful for any person to sell, offer for sale, expose for sale or transport for sale any agricultural, vegetable or other seeds designated by the Department of Agriculture within this State:

(1) Without an annual permit from the Department of Agriculture of the State of Illinois to engage in such business. All permits shall expire annually as set by regulation.

(2) Unless the test to determine the percentage of germination required by Sections 4.2 through 4.5¹ shall have been completed within a 12-month period exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation unless the seed is in hermetically sealed packages or containers.

(3) Within a 36 month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation, if the seed is in hermetically sealed packages or containers.

(4) If such agricultural, vegetable or other seeds designated by the Department are not labeled in accordance with this Act or having a false or misleading labeling.

(5) Pertaining to which there has been false or misleading advertising.

(6) Consisting of or containing prohibited noxious weed seeds. If prohibited noxious weed seed is found in a sample of seed, a stop sale order shall be issued. Within 10 days following the issuance of the stop sale order, the Department shall take another sample of the seed, and if no prohibited noxious weed seed is found, the stop sale order shall be removed.

(7) Consisting of or containing restricted noxious weed seeds per pound in excess of the number prescribed by rules and regulations promulgated under this Act, or in excess of the number declared on the label attached to the container of the seed or associated with the seed.

(8) Containing more than 1.5% by weight of all weed seeds in chaffy seeds and native grasses or 1% by weight of weed seed in all other agricultural seed. Chaffy grasses shall be those that are recognized by the Association of Official Seed Analysts and native grasses shall be designated by regulation.

(9) If any labeling, advertising, or other representations subject to this Act represents the seed to be certified or registered seed unless (a) it has been determined by a seed certifying agency that such seed was produced, processed, and packaged, and conforms to standards of purity as to kind or variety, in compliance with rules and regulations of such agency

pertaining to such seed; and (b) the seed bears an official label issued for such seed by a seed certifying agency stating that the seed is certified or registered.

(10) Labeled with a brand, trademark or term taken from a brand or trademark unless such is clearly identified with the word brand and as being other than part of the variety name.

(11) If the same brand designation is assigned to more than one variety or blend of soybean, wheat, oats, or barley.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

¹Paragraphs 404.2 to 404.5 of this chapter.

110/5.1. Additional prohibitions

§ 5.1. It is unlawful for any person within this State:

(1) To detach, alter, deface or destroy any label provided for in this Act or the rules and regulations made and promulgated thereunder, or to alter or substitute seed in a manner that may defeat the purpose of this Act.

(2) To disseminate any false or misleading advertisement concerning agricultural, vegetable or other seeds designated by the Department of Agriculture in any manner or by any means.

(3) To hinder or obstruct in any way, any authorized person in the performance of his duties under this Act.

(4) To fail to comply with a "stop sale" order or to move or otherwise handle or dispose of any lot of seed held under a "stop sale" order or tags attached thereto, except with express permission of the enforcing officer, and for the purpose specified thereby.

(5) To use the word "trace" as a substitute for any statement which is required.

(6) To use the word "type" in any labeling in connection with the name of any agricultural seed variety.

110/6. Records

§ 6. Records. Each person whose name appears on the label as handling agricultural, vegetable or other seeds subject to this Act shall keep for a period of 2 years complete records of each lot of agricultural, vegetable or other seeds designated by the Department of Agriculture. A file sample of each lot of seed must be kept for one year after final disposition of that lot. All such records and samples pertaining to the shipment or shipments involved shall be accessible for inspection by the Director of the Department of Agriculture, or his agents, during customary business hours.

110/7. Exemptions

§ 7. Exemptions. The provisions of Sections 4 through 4.5 and Sections 5 and 5.1¹ do not apply:

(1) To seed or grain not intended for sowing purposes.

(2) To seed in storage in, or being transported or consigned to a cleaning or conditioning establishment for cleaning or conditioning, provided, that the invoice or labeling accompanying any shipment of said seed bears the statement "seed for conditioning"; and provided that any labeling or other representation which may be made with respect to the uncleaned or unconditioned seed shall be subject to this Act.

(3) To any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier; provided, that such carrier is not engaged in producing, processing, or marketing agricultural, vegetable or other seeds designated by the Department of Agriculture subject to the provisions of this Act.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

¹Paragraphs 404 through 404.5, 405 and 405.1 of this chapter.

110/7.1. Sales of seed where seeds cannot be identified by examination--Failure to obtain invoice, etc.

§ 7.1. No person shall be subject to the penalties of this Act for having sold or exposed for sale agricultural, vegetable or other seeds designated by the Department of Agriculture which were incorrectly labeled or represented as to kind, variety, type or origin (if required) which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice, records or other labeling information and to take such other precautions as may be reasonable to insure the identity to be that stated.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/8. Duties and authority of State Seed Law enforcement officer

§ 8. Duties and authority of state seed law enforcement officer. The duty of enforcing this Act and carrying out its provisions and requirements is vested in the Illinois Department of Agriculture. It is the duty of the Director who may act through his authorized agents to sample, inspect, make analysis of, and test agricultural, vegetable or other seeds designated by the Department of Agriculture transported, sold, or offered or exposed for sale within the State for sowing purposes at such time and place and to such an extent as he may deem necessary to determine whether said agricultural, vegetable or other seeds designated by the Department of Agriculture are in compliance with the provisions of this Act and to notify promptly the person

who transported, sold, offered, or exposed the seed for sale, of any violation.

110/8.1. Entry upon public or private premises--Stop sale orders-- Testing facilities--Cooperation with U.S.D.A.

§ 8.1. For the purpose of carrying out the provisions of this Act, the Director of the Department of Agriculture, individually or through his authorized agents, is authorized:

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds and the records connected therewith subject to the Act and rules and regulations thereunder, and any truck or other conveyer by land, water, or air at any time when the conveyer is accessible, for the same purpose.

(2) To issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of agricultural, vegetable or other seeds designated by the Department of Agriculture which the Director of the Department of Agriculture finds is in violation of any of the provisions of this Act or rules and regulations promulgated thereunder, which order shall prohibit further sale, processing and movement of such seed, except on approval of the enforcing officer, until such officer has evidence that the law has been complied with, and he has issued a release from the "stop sale" order of such seed, provided that in respect to seed which has been denied sale, processing and movement as provided in this paragraph, the owner or custodian of such seed shall have the right to appeal from said order to a court of competent jurisdiction in the locality in which the seeds are found, praying for a judgment as to the justification of such order and for the discharge of such seeds from the order prohibiting the sale, processing and movement in accordance with the findings of the court: and provided further, that the provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other Sections of this Act.

(3) To establish and maintain or make provisions for seed testing facilities, to employ qualified persons, and to incur such expenses as may be necessary to comply with these provisions.

(4) To cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.

110/9. University of Illinois Agricultural Experiment Station as official certifying agency

§ 9. University of Illinois Agricultural Experiment Station as official certifying agency. The University of Illinois Agricultural Experiment Station is designated as the official certifying agency for certifying seed for the State of Illinois.

The certifying agent is authorized and empowered to establish standards for maintaining genetic purity and quality as it may deem necessary for the production, handling and conditioning of seed in determining eligibility for certification. The University of Illinois Agricultural Experiment Station may appoint an appropriate agent or agents to do the work necessary for the certification in compliance with the standards established by the University of Illinois Agricultural Experiment Station and the Association of Official Seed Certifying Agencies. The University of Illinois Agricultural Experiment Station shall not be financially responsible for debts incurred by, damages inflicted by, contracts broken by, or claims against any certifying agency designated by it.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/10. Permits--Fees

§ 10. Permits. (1) A permit from the Department of Agriculture of the State of Illinois is required of every person:

(a) Whose name and address are required on the label or invoice of any seed distributed or

(b) Who opens any bag or container of seed and sells any part of its contents. This includes persons who either label or package seed or relabel and repackage seed. A separate permit shall be required for each store or place of business where such seed is sold or offered for sale or

(c) Who operates a livestock auction market or public auction sale or similar type of consignment sale or who for a commission or other compensation sells, offers for sale, exposes for sale or negotiates the sale of either or both agricultural or lawn seed belonging to others.

(2) No permit shall be required of persons selling only the packaged lines which have been packed and distributed by a person, firm or corporation holding and having a permit in force. No permit shall be required of persons selling, offering or exposing for sale seed of their own production provided that such seed is sold and delivered only on the farm or premises where grown.

(3) All permits shall be conspicuously posted in the place of business to which it applies. The permit year shall be 12 months, or any fraction of 12 months, beginning on July 1 and ending June 30. Application for permits shall be made upon forms approved and furnished by the Department of Agriculture.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/11. Seizure

§ 11. Seizure. Any lot of agricultural, vegetable or other seeds designated by the Department of Agriculture not in

compliance with the provisions of this Act shall be subject to seizure on complaint of the Director of the Department of Agriculture, or his agents, to the circuit court in the locality in which the seed is located. In the event the court finds the seed to be in violation of this Act and orders the condemnation of the seed, it shall be denatured, conditioned, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this State; provided, that in no instance shall the court order such disposition of the seed before the claimant has had an opportunity to apply to the court for the release of the seed or permission to process or relabel it in compliance with this Act.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/11.1. Seed contracts

§ 11.1. Any seed permit holder who acquires agricultural seed for resale and conditioning from Illinois producers thereof shall document all such seed acquisition transactions through the use of a seed contract. Such contracts shall be specifically identified and a complete record of such contracts shall be retained by the seed permit holder. All such contracts shall clearly indicate that the contract consignment is for agricultural seed purposes only, with a clarifying description of the kind of agricultural seed dealt with in each contract.

Added by P.A. 81-751, § 1, eff. Jan. 1, 1980.

110/11.2. Accounting for disposition of seed--Reports

§ 11.2. In all cases wherein compliance with Section 11.1 of this Act¹ is required, there shall be maintained a full accounting of the final disposition of all seed purchased in accordance with Section 11 of this Act,² indicating the total amount of each kind of agricultural seed acquired, the total amount of each kind of agricultural seed conditioned and marketed as seed, and the total amount of each kind of agricultural seed not disposed of, for whatever reasons, as seed.

If, when applying for an annual seed permit renewal, the seed permit holder's records indicate that any portion of the agricultural seed purchased from Illinois producers during his current permit period was disposed of in a form other than seed, the seed permit holder shall supply the Department with a summary disposition report which shall accompany the renewal application.

Added by P.A. 81-751, § 1, eff. Jan. 1, 1980.

¹Paragraph 411.1 of this chapter.

²Paragraph 411 of this chapter.

110/11.3. Disposal of seed through marketing channels--

Licensed dealers

§ 11.3. All seed disposed of by any seed permit holder through grain marketing channels must be marketed through a person licensed under "An Act to license and regulate grain dealers engaged in the business of purchasing grain from the producers thereof and making an appropriation in connection therewith", approved August 21, 1967, as amended.¹

Added by P.A. 81-751, § 1, eff. Jan. 1, 1980.

¹Chapter 111, ¶ 301 et seq.

110/12. Refusal, suspension or revocation of permit--Notice and hearing--Injunction

§ 12. If a seed dealer violates any of the provisions of this Act, his or her permit may be removed from his or her premises by any Department employee charged with the enforcement of this Act and returned to the Department. Such removal shall constitute a suspension of the permit.

The Department may, upon its own motion and shall upon the verified complaint in writing of any person setting forth facts which, if proved, would constitute grounds for refusal, suspension, or revocation of a permit under this Act, investigate the actions of any applicant or any person or persons applying for, holding, or claiming to hold a permit.

The Department, within 10 days after removing and suspending a permit or before refusing to issue or renew or before otherwise suspending or revoking a permit, shall set a date for a hearing thereon and at least 10 days prior to the date set for the hearing shall notify in writing the applicant for or holder of a permit, hereinafter called the respondent, that a hearing will be held on the date designated to determine whether the respondent is privileged to hold such a permit and shall afford the respondent opportunity to be heard in person or by counsel in reference thereto.

The Department, over the signature of the Director, is authorized to issue subpoenas and to bring before the Department any person or persons in this State and to take testimony, either orally, by deposition or by exhibit, in the same manner as prescribed by law in judicial proceedings and civil cases in the circuit courts of this State. The Director is authorized to issue subpoenas duces tecum on any or all records relating to a seed dealer's business.

The Department, over the Director's signature, may apply to any court for a temporary restraining order or a preliminary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this Act or any rules and regulations under this Act and said injunction is to be issued without bond.

When an administrative hearing is held, the hearing officer, upon determination of a violation of this Act, shall levy and the Department shall collect administrative penalties on a per-occurrence basis for the following violations.

(1) A penalty of \$500.00 will be imposed for the following violations:

(a) To neglect or refuse, after notice in writing, to comply with provisions of this Act, and the regulations adopted hereunder, or any lawful order of the Director, including the limitations specified in a duly issued permit.

(b) To sell, transport, dispose, or otherwise distribute seeds which have been placed on stop-sale status.

(2) A penalty of \$100.00 will be imposed for the following violations:

(a) To deny such access to the Director in the performance of his or her duties or to thwart or hinder such inspection by misrepresenting or concealing facts or conditions.

(b) To sell, offer or expose for sale, or distribute seed which does not have attached thereto a shipping tag or label as is required by the Act.

(c) To fail to comply with any of the provisions of this Act, or the rules and regulations promulgated hereunder.

(d) To sell, barter, offer for sale, or move, transport, deliver, ship or offer for shipment into or within this State any seed containing noxious weed seed not labeled in accordance with this Act.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/13. Violations and prosecutions

§ 13. Violations and prosecutions. Every person, who by himself, his agents or employees violates any of the provisions of this Act, or any regulations issued hereunder, may for each offense be deemed guilty of a business offense and fined not less than \$1,000.00 and all costs for each and every offense. When the Director of the Department of Agriculture shall find that any person has violated any of the provisions of this Act, he or his duly authorized agent or agents may institute proceedings in the circuit court in the locality in which the violation occurred, to have such person convicted therefor; or the Director of the Department of Agriculture may file with the State's Attorney of the county where such violation is alleged to have taken place, such evidence as may be deemed necessary for prosecution under this Act; provided, that no prosecution under this Act shall be instituted without the defendant first having been given an opportunity to appear before the Director of the Department of Agriculture or his duly authorized agent, to introduce evidence either in person or by agent or attorney at a private hearing. If, after such hearing, or without such hearing in case the

defendant or his agent or attorney fails or refuses to appear, the Director of the Department of Agriculture is of the opinion that the evidence warrants prosecution, he shall proceed as herein provided.

The State's Attorney of the county in which a violation has occurred or the State's Attorney General as the case may be, shall institute proceedings at once against any person charged with a violation of this Act, if, in the judgment of such officer, the information submitted warrants such action. After judgment by the court in any case arising under this Act, the Director of the Department of Agriculture, or his agent, at his discretion, shall publish or cause to be published, any information pertinent to the issuance of the judgment by the court in such media as he may designate from time to time.
Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

110/14. Review under Administrative Review Law

§ 14. Review. Judicial review of final administrative decisions may be had in accordance with the provisions of the Administrative Review Law of the Code of Civil Procedure, and all amendments and modifications thereof¹ and rules and regulations adopted pursuant thereto.

Amended by P.A. 85-717, § 1, eff. Jan. 1, 1988.

¹Chapter 110, ¶ 3-101 et seq.

110/15. Saving clause

§ 15. Saving clause. If any Section, subsection, clause, provision or portion of this Act shall be held to be invalid or unconstitutional by any court of competent jurisdiction or the applicability thereof to any person, substance or product is held invalid, such holding shall not affect any other Section, subsection, clause, provision or portion of this Act, or any other person, substance or product covered by the provisions of this Act.

110/16. Administrative Procedure Act--Application

§ 16. "The Illinois Administrative Procedure Act"¹ and the rules and regulations adopted thereunder shall apply to and govern all administrative actions taken where applicable unless otherwise prescribed by this Act.

Added by P.A. 81-751, Sec. 1, eff. Jan. 1, 1980.

¹Chapter 127, ¶ 1001 et seq.