

## **Article 1 General Provisions.**

### Section 2-26-1

#### Definitions.

When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) PERSON. An individual, partnership, corporation, company, society, association or agency.
- (2) AGRICULTURAL SEED. The seeds of grasses, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural or field seeds and mixtures of such seeds.
- (3) VEGETABLE SEED. The seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this state.
- (4) FLOWER SEED. The seeds of all plants grown for ornamental purposes, either for domestic or commercial purposes, and which are generally known and sold under the name of flower seed in this state.
- (5) TREE AND SHRUB SEED. The seeds of woody plants commonly known and sold as tree or shrub seeds in this state.
- (6) WEED SEEDS. The seeds, bulblets and tubers of all plants generally recognized as weeds within this state, including noxious weed seeds, bulblets and tubers.
- (7) NOXIOUS WEED SEED.
  - a. Prohibited noxious weeds.
  - b. Restricted noxious weeds.

The State Board of Agriculture and Industries by rules and regulations adopted under authority of this article is authorized to designate noxious weeds which shall be prohibited and noxious weeds which shall be restricted after public hearing indicates such prohibitions or restrictions are for the best interest of

Alabama agriculture. Seed containing noxious weeds designated by the State Board of Agriculture and Industries as prohibited shall not be sold or offered for sale, and seed containing noxious weeds designated as restricted may be sold or offered for sale under limitations established by the board.

(8) OTHER CROP SEED. The seed of all kinds or varieties of agricultural or vegetable seeds not of the kind or variety declared on the label or tag.

(9) INERT MATTER. All matter not seeds, including, among others, broken seeds, sterile florets, chaff, fungus bodies and stones, etc.

(10) PURE SEED. The seed of the kind or kind and variety of agricultural, tree, shrub or vegetable seed declared on the label or tag.

(11) KIND. One or more related species or subspecies which singly or collectively are known by one common name, for example, wheat, oat, vetch, sweet clover, cabbage, cauliflower, etc.

(12) VARIETY. A subdivision of a kind which is characterized by growth, plant, fruit, seed, period of maturation or other characters by which it can be differentiated from other sorts of the same kind, for example, Redhart wheat, Flat Dutch cabbage, Oootan soybeans, Chantenay carrot, etc.

(13) GERMINATION. The percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions (not including seeds which produce weak, malformed or obviously abnormal sprouts nor hard seeds).

(14) HARD SEEDS. The percentage of seeds which because of hardness or impermeability do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned.

(15) MIXTURE. Seed consisting of more than one kind or variety, each present in excess of 5 percent of the whole.

(16) DEALER. Any person who buys and sells seed in Alabama. An itinerant trucker who buys seed and sells or delivers them in Alabama shall be deemed to be a dealer and shall be subject to the requirements of this article.

(17) LOT OF SEED. A definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for the factors which appear in the labeling.

(18) CERTIFIED SEED and REGISTERED SEED. Seed that have been produced and labeled in accordance with the procedure and in compliance with the rules and regulations of an officially recognized seed-certifying agency.

(19) HYBRID SEED CORN. The first generation seed of a cross produced by controlling the pollination and by combining two, three or four inbred lines or by combining one inbred line or a single cross with an open-pollinated variety. Hybrid designations shall be treated as variety names. As used in this subdivision, the term inbred means a pure live strain that has been self-pollinated for not less than three generations.

(20) ORIGIN or WHERE GROWN. The state, if grown in the United States, or country or province, if grown outside the continental United States.

(21) LABELING. All labels and other written, printed or graphic representations in any form whatsoever accompanying and pertaining to any seed, whether in bulk or in containers, and such term includes invoices and other bills of shipment.

(22) ADVERTISEMENT. All representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this article.

(23) PROCESSING. The passing of seed through a cleaning machine for the purpose of removing some constituent or through a blending machine or grinding of the seed for other uses.

*(Acts 1943, No. 560, p. 552, &sect;1; Acts 1963, No. 424, p. 931, &sect;1.)*

#### Section 2-26-2

Powers and duties of commissioner generally.

It shall be the duty of the Commissioner of Agriculture and Industries, who may act individually or through his authorized agents to:

(1) Inspect, sample, make analyses of and test agricultural, vegetable, herb, tree, shrub and flower seeds transported, sold, offered or exposed for sale or distributed within this state for sowing or planting purposes, at such time and place and to such extent as he may deem necessary to determine whether said seeds are in compliance with the provisions of this article and notify promptly the person who transported, sold, offered or exposed the seed for sale of any violation;

(2) Enter upon any public or private premises during regular business hours in order to have access to seeds subject to this article and the rules and regulations thereunder;

(3) Issue and enforce a written or printed "stop-sale," "suspension from sale" or "nonuse" order to the owner or custodian of any lot of agricultural, vegetable, flower, tree, shrub or herb seed which is found to be in violation of any of the provisions of this article, which shall prohibit further sale or use of such seed until such officer has evidence that the law has been complied with; provided, that in respect to seeds which have been denied sale, the owner or custodian of such seeds shall have the right to appeal from such order to a court of competent jurisdiction where the seeds are found, requesting a judgment as to the justification of said order and for the discharge of such seed from the order prohibiting this sale in accordance with the findings of the court;

(4) Establish and maintain or make provision for seed testing and sampling facilities, employ qualified persons and incur such expenses as may be necessary to comply with these provisions;

(5) Make or provide for making purity and germination tests of such seeds for farmers and dealers on request, prescribe rules governing such testing and fix and collect charges for such tests. The fees collected for making service tests shall be paid into the Agricultural Fund;

(6) Cooperate with the United States Department of Agriculture in seed law enforcement; and

(7) Publish the result of laboratory and field analyses and tests, information shown on analyses tags or labels by seedsmen and information pertaining to violations of this article.

*(Acts 1943, No. 560, p. 552, &sect;7; Acts 1963, No. 424, p. 931, &sect;8.)*

Section 2-26-3

Promulgation of rules and regulations by state board.

(a) The State Board of Agriculture and Industries shall have power to prescribe and, after public hearing following due public notice, to adopt rules and regulations governing the method of sampling, inspecting, analyzing, testing and examining agricultural, vegetable, flower, tree, shrub and herb seed and the tolerances and limitations to be followed in the administration of this article, to add to or subtract from the list of noxious weeds, to adopt or amend standards for vegetable, flower, tree, shrub and herb seed, to increase or lower the standards for seeds when found to be in the best interest of users of seed and to meet emergencies, to adopt sizes of containers for seed sold, offered for sale or distributed in Alabama, to establish reasonable limitations as to the number of bags or other containers of seed in any one lot of seed sold, offered for sale or distributed in Alabama and such other rules and regulations as may be reasonably necessary to carry out the evident intent and purposes of this article and to secure its efficient administration and enforcement.

(b) The board shall also be authorized to adopt rules and regulations to govern and control the sale or offering for sale of any seed which may be labeled and sold as feed or feed grain where such feed or grain is or may be used for planting purposes. The board is authorized to adopt rules, regulations and recommendations of the Association of Seed Control Officials of the Southern States; provided, that such recommendations are not in conflict with the provisions of this article.

(c) The board shall also be authorized to adopt rules and regulations which will prohibit any false or misleading labeling, false or misleading advertising or other false or misleading representations with respect to sale, handling, labeling or distribution of any agricultural, vegetable, flower, tree or herb seed sold, offered for sale or distributed in Alabama where the sale of such seed is subject to any of the provisions and requirements of the Plant Variety Protection Act of the Congress of the United States.

*(Acts 1943, No. 560, p. 552, &sect;6; Acts 1963, No. 424, p. 931, &sect;7; Acts 1975, No. 741, &sect;3.)*

Section 2-26-4

Establishment of seed division and testing laboratory; powers and duties thereof; enforcement of rules and regulations as to sale or distribution of tree or shrub seed.

(a) There shall be established within the Department of Agriculture and Industries a seed division which shall maintain facilities, equipment and qualified personnel to perform the seed testing, sampling and analysis work required to execute the provisions and requirements of this article. The seed division established and created under this section shall also perform the administrative, clerical and other work incident to the administration and enforcement of the provisions and requirements of this article and such seed testing and administrative duties shall not be performed by any other division of the Department of Agriculture and Industries; except, that the State Board of Agriculture and Industries shall have the authority to enter into an agreement delegating the responsibility for the testing of tree and shrub seed to the United States Forest Service or any other seed laboratory designated and approved by the State Board of Agriculture and Industries.

(b) The responsibility for the enforcement of the rules and regulations governing the sale or distribution of tree or shrub seed within the state shall be the sole responsibility of the state Department of Agriculture and Industries.

*(Acts 1963, No. 424, p. 931, &sect;9.)*

Section 2-26-5

Annual permit fees.

(a) Every person who sells, offers for sale, exposes for sale, distributes or solicits orders for the sale of any agricultural, vegetable, herb, tree, shrub or flower seed to retail seed dealers, farmers or to others who use or plant such seed in the State of Alabama shall, before selling or offering such seed for sale or distributing or soliciting orders for the sale of such seed and on or before January 1 of each year secure an annual permit from the Commissioner of Agriculture and Industries to engage in such business. Seed dealers and other sellers of seed shall apply for an annual permit upon forms prescribed by the commissioner, and such permit shall be issued upon the payment of the following permit fees when the application is in proper form:

- (1) For each person engaged in selling seed at retail in closed containers or packets of eight ounces or less displayed on a supplemental container display, a permit fee established by the Board of Agriculture and Industries, not to exceed seven dollars fifty cents (\$7.50) for each such display, the fee to be deposited to the benefit of the Agricultural Fund in the State Treasury;
- (2) For each person selling seed to retail seed dealers, farmers or others who use or plant the seed, not displayed on a supplemental container display, a permit fee for each place of business, or each representative or representatives, where such person does not maintain an established place of business in Alabama, shall be based on gross receipts from the sale of such seed for the last preceding year in Alabama established by the Board of Agriculture and Industries within the range of the schedule set out below as follows:

Gross Receipts	Permit Fee
1. Receipts of \$2,500.00 or less	\$ 5.00 - \$15.00
2. Receipts of \$2,500.01 through \$25,000.00	\$ 25.00 - \$50.00
3. Receipts of \$25,000.01 through \$50,000.00	\$ 50.00 - \$75.00
4. Receipts of \$50,000.01 through \$100,000.00	\$100.00 - \$150.00
5. Receipts of \$100,000.01 through \$200,000.00	\$200.00 - \$300.00
6. Receipts of \$200,000.01 through \$300,000.00	\$300.00 - \$400.00
7. Receipts of \$300,000.01 through \$400,000.00	\$400.00 - \$500.00
8. Receipts of \$400,000.01 through \$500,000.00	\$500.00 - \$600.00
9. Receipts of more than \$500,000.00	\$600.00 - \$700.00

(3) For places of business not previously in operation, the fee shall be based on anticipated gross receipts for the first year of business. Out-of-state seed sellers not previously selling seed in Alabama which sell or distribute seed through a representative soliciting orders in Alabama shall not be required to pay the required permit fee for their first year of operation in the State of Alabama.

(b) Any person selling seed who also sells seed in closed containers or packets of eight ounces or less from a rack display shall be required to pay only the permit fee required by subdivision (2) of subsection (a) of this section.

(c) Persons engaged in the operation of seed cleaning or processing plants, including peanut shellers, seed treaters and corn processors, and persons who purchase seed and process such seed for resale shall be required to obtain a permit as required under this section if such persons clean and/or process or treat seed at their plant, and the annual fee to be paid therefor shall be established by the Board of Agriculture and Industries not to exceed one hundred dollars (\$100); provided, that if such persons shall sell seed to retail seed dealers, farmers or to others who use or plant such seed they shall also be required to pay the annual permit fee required under subdivision (2) of subsection (a) of this section in addition to the annual permit fee.

(d) A broker, as defined in this subsection, shall obtain an annual permit as required by this section and pay the fee required under subdivision (2) of subsection (a) for a person selling seed. The term "broker" as used in this subsection means a person domiciled in Alabama or who solicits business in Alabama who acts as agent for or otherwise represents another person for compensation in negotiating the sale or purchase of agricultural, vegetable, flower, tree, shrub or herb seed.

(e) Any permit issued under this section shall be valid and effective until January 1 next succeeding the date of issuance. The permit fee levied under this section shall be in addition to all other fees, licenses, taxes and other similar charges or fees now levied by law for the sale of seed in Alabama. All fees collected under this section and all amounts collected as fines imposed under the penalty provisions of this article shall be paid into the Agricultural Fund of the State Treasury for use in the administration and enforcement of the provisions of this article. Amounts collected under this section as an improper or illegal collection or overpayment may be refunded to the person entitled thereto in accordance with Section 2-1-6.

(f) A permit as required under this section shall be obtained by a person for each place of business at which such person is engaged in the sale of seed and for each separate operation where seed are cleaned, treated or otherwise processed unless such place of business is an integral part of one business or operation. All permit fees due under this section shall be delinquent if not paid within 30 days from the date on which the permit fee is due, and the commissioner is authorized to add a delinquent penalty of 10 percent to the amount of the permit fee due under this section. The permit fee levied under this section shall be paid by all agricultural cooperative marketing and purchasing associations, and the exemption allowed such organizations pursuant to Section 2-10-105 or any other exemption statute shall not relieve such cooperative organizations from the payment of the permit fee levied under the provisions of this section.

(g) Farmers or producers of agricultural, vegetable, flower, tree, shrub or herb seed who sell uncleaned, unprocessed, unpackaged and unlabeled seed of their own production only and do not sell seed received or purchased from other sources shall not be required to obtain a permit or pay any fee required under this section; provided, that any farmer who sells cleaned, processed, packaged and labeled seed to retail seed dealers, farmers or to others who use or plant such seed where the total amount of the sale price thereof is in excess of \$3,000.00 in any one year shall be required to obtain a permit and pay the fee required by subdivision (2) of subsection (a) of this section; provided, that the first \$3,000.00 worth of cleaned, processed, packaged and labeled seed of any farmer shall be exempted from the computation of gross receipts in determining the amount of the permit fee.

*(Acts 1963, No. 424, p. 931, §10; Acts 1965, 2nd Ex. Sess., No. 118, p. 163; Acts 1971, No. 1951, p. 3168; Act 2004-516, §1.)*

#### Section 2-26-6

Injunctive proceedings to restrain persons selling, processing, cleaning, etc., seed without permit.

Any person required to secure a permit as provided under Section 2-26-5 who fails or refuses to apply for and obtain such a permit and pay the fee therefor may be restrained from engaging in the sale of agricultural, vegetable, flower, tree, shrub or herb seed or from operating a seed cleaning, shelling, delinting or processing plant. In addition to the penalty provided in this article, the Commissioner of Agriculture and Industries may file a petition in the circuit court for a temporary restraining order or permanent injunction or both; and, for cause shown, the court shall have jurisdiction to restrain or enjoin any person from engaging in the sale of seed without securing the permit as required under this article. Such temporary restraining order or permanent injunction shall be issued without bond.

*(Acts 1963, No. 424, p. 931, &sect;11.)*

Section 2-26-7

Requirements as to labeling of containers in which seed sold, distributed, etc.

(a) Agricultural seed.

(1) Each container of agricultural seed in excess of two pounds which is sold, offered for sale, exposed for sale or distributed within this state for planting or sowing purposes shall have attached thereto in a conspicuous place a plainly written in ink or printed label of a size not less than 2 3/8 x 4 3/4 inches in the English language, giving information for the following items:

- a. Commonly accepted name, kind and variety (of those crops for which commercial varieties have been developed) of each agricultural seed component in excess of five percent of the whole, subject to tolerances as provided in Section 2-26-3, and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously near the top of the label or tag in type of not less than 8 point;
- b. Lot number or other lot identification;
- c. Origin or place where grown;
- d. Percentage by weight of all weed seeds; provided, that not more than two percent weed seeds may occur in any lot of seed; provided further, that the State Board of Agriculture and Industries is authorized to reduce this percentage and the State Board of Agriculture and Industries is also authorized to exempt certain seeds from this requirement; and provided further, that such seed that may be exempted shall not exceed five percent weed seed;
- e. Percentage by weight of agricultural seeds other than those required to be named on the label;
- f. Percentage by weight of inert matter;
- g. The name and rate of occurrence per pound of the whole for each kind of noxious weed seed provided that the limits under Section 2-26-11 are not

exceeded. All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this article;

h. Percentage of germination, exclusive of hard seed, percentage of hard seed, when present, and the calendar month and year the test was completed to determine such percentages; provided, that such seed shall not germinate below the minimum standards to be found under Section 2-26-11;

i. Net weight;

j. Name and address of the person who labeled said seed or who sells, offers or exposes it for sale or distribution within this state; and

k. The name and address, for hybrid seed corn, of the person who grew the seed or is responsible for its distribution and the name or designation under which each lot of seed will be sold.

(2) All information required on the analysis tag or label shall be placed on one side of the tag without intervening matter which obliterates, defaces or contradicts the analysis. Information required under subsection (e) of this section hereof for treated seed may be shown on the face of the analysis tag. The State Board of Agriculture and Industries pursuant to rules and regulations is authorized to permit the required labeling information to be placed on the bag or container if found to be in the best interest of Alabama agriculture.

(b) Vegetable seed.

(1) All vegetable seed, including beans, peas, edible soybeans, edible cowpeas and corn, shall be labeled to show:

a. Name of kind and variety,

b. Net weight,

c. Lot identification,

d. Percentage of germination, exclusive of hard seed,

e. Date of germination test, and

f. Name and address of person responsible for the information.

(2) For seed which germinate less than the standard last established by the State Board of Agriculture and Industries, the packet or container shall be labeled to also contain the words "below standard" in not less than 12 point type; provided, that the State Board of Agriculture and Industries shall also fix a minimum germination below which vegetable seed cannot be sold or offered for sale.

(3) If such seed contain weed seeds in excess of one half of one percent of the total or inert matter in excess of one percent or other crop seed in excess of one percent or any noxious weed seeds, a complete analysis must be given, showing information for all the items required under the labeling requirements for agricultural seed in subdivision (1) of subsection (a) of this section.

(c) Flower and herb seed. Every separate package of flower or herb seed sold, offered for sale or exposed for sale in this state for seeding purposes shall be labeled to show:

(1) Name of kind and variety,

(2) Year for which seed were packed for sale, and

(3) Name and address of the person responsible for the information given.

(d) Tree and shrub seed. Each bag or container must be labeled to comply with the rules and regulations promulgated by the State Board of Agriculture and Industries.

(e) Treated seed. Any seed or any mixture thereof for seeding purposes that has been treated shall have shown on a label or tag in type no smaller than one-fourth inch bold face type to indicate that the seed has been treated and such label shall also state the commonly accepted, coined, chemical or abbreviated chemical (generic) name of any substance or a description of any process (other than application of a substance) used in such treatment in accordance with this section. Seed treated with mercurials or similar toxic substances shall be labeled to show "treated with poison" or "poison treated," and such statement shall appear in bold face type of not less than one-fourth inch. These words shall be printed in heavy red type. The label shall also show a representation of a skull and crossbones which may be shown on the tag bearing the analysis information

or on a separate tag or on the container. If the substance used in such treatment in the amount remaining with the seed is harmful to humans or other vertebrate animals, the label shall also contain additional information as required under regulations of the State Board of Agriculture and Industries.

*(Acts 1943, No. 560, p. 552, &sect;2; Acts 1953, No. 736, p. 997, &sect;1; Acts 1963, No. 424, p. 931, &sect;2.)*

#### Section 2-26-8

Analyses and interpretations of seeds.

Analyses and interpretations shall be in accordance with the rules and regulations prescribed by the Association of Official Seed Analysts.

*(Acts 1943, No. 560, p. 552, §1; Acts 1963, No. 424, p. 931, §1.)*

#### Section 2-26-9

Requirements as to certification, etc., of hybrid seed corn sold or offered for sale.

No hybrid seed corn shall be sold or offered for sale unless it is certified by a recognized seed certifying agency or produced by a person having a bona fide corn breeding program. The State Board of Agriculture and Industries shall be authorized to determine whether certain corn breeding programs constitute a bona fide program to comply with this requirement.

*(Acts 1963, No. 424, p. 931, &sect;4.)*

#### Section 2-26-10

Maintenance, inspection, etc., of records as to receipt, sale and delivery of seeds generally; maintenance of sales records by retail sellers; maintenance of bills of lading, waybills, etc., by trucks, etc., transporting seed for sale, etc.; auditing of records of receipts, sales and deliveries of seeds.

(a) Records of receipts, sale and delivery of all seed, other than retail sales and deliveries by a dealer, except as provided in subsection (b) of this section, shall be kept readily accessible for examination by an authorized agent of the Department of Agriculture and Industries. These records shall include invoices, bills of lading or transportation records and a copy of the labeling information, and these records must show the lot numbers. Such records must be made available to the inspectors within 10 days after receipt of seeds which said records cover. Such records as are surrendered shall be duplicated and a copy left with the owner or party in question. Records shall be kept by the dealer for a period of three years; except, that a file sample of each lot of seed shall be kept for one year after final disposition of the lot in order to carry out the purpose of effective administration of this article.

(b) All retail seed sales having a value in excess of an amount to be fixed by the State Board of Agriculture and Industries shall be accompanied by an invoice or a sales ticket issued by the seller bearing the name and address of the seller and purchaser, the kind and variety of seed sold, the quantity of seed in each lot and the lot number or numbers for each kind and variety of seed sold or delivered. Such sales records shall be kept by the retail seller for a period of one year following sales, and such records shall be made available for inspection and examination by the Commissioner of Agriculture and Industries or his authorized agent upon request. Such records shall also be made available to any committee created by law for investigation and arbitration purposes for its examination and review.

(c) Trucks and other motor conveyors transporting seed for sale, to be sold to consumers or distributed, and using the Alabama public highways shall have available for examination at any time by an authorized agent of the Department of Agriculture and Industries a bill of lading, waybill or a delivery receipt showing the name of shipper or party from whom purchased, the name and address of the party to whom the seed is to be delivered, the kind and amount of each separate kind of seed, except that all vegetable seed can be grouped as "garden seed,"

and the name of the truck line or other carrier making delivery of the seed. A copy of the bill of lading, invoice or delivery receipt shall be left with the consignee.

(d) Records of receipts, sales and deliveries of all seed sold in Alabama shall be kept readily accessible for auditing by an authorized agent of the Department of Agriculture and Industries at reasonable times during business hours to determine whether sellers of seed comply with Section 2-26-5 with respect to payment of the permit fee required thereunder, and such information as obtained shall be treated as confidential, and no employee shall divulge the information obtained from such an audit, but nothing in this subsection shall be construed to prevent the commissioner, his authorized agents or employees or a committee created by law for investigation and arbitration purposes from having access to records for examination and review as authorized by subsection (a) of this section.

*(Acts 1943, No. 560, p. 552, &sect;5; Acts 1963, No. 424, p. 931, &sect;6; Acts 1975, No. 741, &sect;2.)*

#### Section 2-26-11

Prohibited acts.

(a) It shall be unlawful for any person to sell, offer for sale, expose for sale or distribute within this state:

(1) Any agricultural or vegetable seed unless the test to determine the percentage of germination required by Section 2-26-7 shall have been completed within a nine-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale or offering for sale, transportation or distribution; provided, however, that the State Board of Agriculture and Industries shall have authority under rules and regulations adopted under this article to prescribe a shorter required test period when deemed necessary to meet seasonal conditions with respect to certain seed; provided further, that the State

Board of Agriculture and Industries shall also have authority pursuant to rules and regulations to prescribe a longer period of time for the test required to determine the percentage of germination for agricultural and vegetable seed labeled and packed in hermetically sealed containers, which shall not exceed 36 months after the month of test, and to prescribe the conditions and labeling requirements for the sale of such seed in hermetically sealed containers;

(2) Any agricultural, vegetable, herb, tree, shrub or flower seed not labeled in accordance with the provisions of this article, or having a false or misleading labeling;

(3) Any agricultural, vegetable, herb, tree, shrub or flower seed pertaining to which there has been a false or misleading advertisement;

(4) Any agricultural or vegetable seed containing prohibited noxious weed seeds or restricted noxious weed seeds in excess of limitations prescribed by the State Board of Agriculture and Industries;

(5) Any agricultural or vegetable seed containing weed seed in excess of two percent of the whole by weight, except as provided by the State Board of Agriculture and Industries pursuant to rules and regulations adopted for the occurrence of weed seeds;

(6) Any agricultural seed having a total percentage of germination and hard seed of less than 60, except Dallisgrass, Johnsongrass and seed released by the U.S.A. Customs, unless such percentage of germination is lowered or increased by the State Board of Agriculture and Industries as authorized under Section 2-26-2;

(7) Any agricultural, vegetable, flower, tree, shrub or herb seed unless the person selling, offering for sale or distributing such seed for sale has obtained an annual permit as required under Section 2-26-5;

(8) Oat or sorghum seed not complying with the regulations promulgated by the State Board of Agriculture and Industries controlling the sale and distribution of same;

(9) Any hybrid seed corn unless it is certified or produced as required under Section 2-26-9; and

(10) Any tree or shrub seed not in compliance with the rules and regulations promulgated by the State Board of Agriculture and Industries.

(b) It shall be unlawful for any person within this state:

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

(2) To disseminate any false or misleading advertisement concerning agricultural, vegetable, herb, tree, shrub or flower seed 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 article;

(4) To fail to comply with a "stop-sale," "suspension from sale" or "nonuse" order;

(5) To use a nonwarranty or disclaimer clause or limited warranty clause in any invoice, labeling or advertising which shall directly or indirectly deny or modify any information required by this article or regulations promulgated hereunder, nor shall any such clause relieve or exempt any person from any of the requirements of this article or regulations promulgated hereunder; or

(6) To violate or fail to comply with any rule or regulation promulgated and adopted by the State Board of Agriculture and Industries under authority of this article.

*(Acts 1943, No. 560, p. 552, &sect;3; Acts 1953, No. 736, p. 997, &sect;2; Acts 1963, No. 424, p. 931, &sect;3; Acts 1975, No. 741, &sect;1.)*

#### Section 2-26-12

Suspension from sale, seizure and condemnation of articles not in compliance with provisions of article.

Any lot of agricultural, vegetable, herb, tree, shrub or flower seed not in compliance with the provisions of this article shall be subject to suspension from

sale, seizure and condemnation. The issuance of a "suspension from sale or use" or "stop-sale" order and seizure and condemnation of seed sold or offered for sale in violation of the provisions of this article shall be in accordance with Article 2 of Chapter 2 of this title.

*(Acts 1943, No. 560, p. 552, &sect;8; Acts 1963, No. 424, p. 931, &sect;12.)*

Section 2-26-13

Violation of provisions of article or rules or regulations promulgated hereunder deemed misdemeanor.

Any person who shall perform any of the acts which are declared to be unlawful by this article or who fails to perform any duty or requirements imposed by the provisions of this article or who violates any rule or regulation duly promulgated hereunder or who shall sell, offer for sale, distribute or solicit orders for agricultural, vegetable, herb, tree, shrub or flower seed without having a permit as required by this article shall be guilty of a misdemeanor and shall be punished as now prescribed by law for such offense.

*(Acts 1943, No. 560, p. 552, §8; Acts 1963, No. 424, p. 931, §13.)*

**Article 2 Elimination of Fungi and Noxious Weeds From Seed.**

Section 2-26-30

Promulgation of rules and regulations for removal, etc., of fungi and noxious weeds from seeds and small grains by commissioner.

The Commissioner of Agriculture and Industries, with the approval of the State Board of Agriculture and Industries, is hereby authorized to promulgate and adopt rules and regulations for the purpose of eradicating and preventing the spread of fungus growths and diseases from seed and small grains used for planting purposes and the removal of noxious weeds from agricultural and

vegetable seed and small grain used for planting purposes by requiring that persons, firms, partnerships, corporations and associations engaged in cleaning or otherwise processing seed shall process, clean or treat such seed and small grains in a manner whereby fungi, diseases and noxious weeds will be eradicated or removed from such seed and small grain prior to the packaging, shipping or sale thereof to growers. Rules and regulations adopted under this section may require seed cleaners or processors to clean or process seed and small grain used for planting purposes by applying fungicides or other chemicals and to process or treat such seed and grain in any other manner reasonably necessary to carry out the purposes of this article. Rules and regulations adopted under this section shall be adopted in accordance with the procedure prescribed under the provisions of Sections 2-2-16 and 2-2-17.

*(Acts 1953, No. 739, p. 1003, &sect;1.)*

Section 2-26-31

Suspension from sale, seizure and condemnation of seeds and small grains sold, transported, etc., in violation of rules and regulations; right of commissioner to inspect and secure samples.

Any agricultural or vegetable seed or small grain used for planting purposes which is sold, offered for sale, exposed for sale or transported in violation of any rules and regulations promulgated and adopted in accordance with the provisions of this article shall be subject to suspension from sale, seizure and condemnation in accordance with the provisions of Article 2 of Chapter 2 of this title. The Commissioner of Agriculture and Industries shall have the right of inspection and the right to secure samples as provided in said Article 2.

*(Acts 1953, No. 739, p. 1003, &sect;2.)*

Section 2-26-32

Failure to process, clean, etc., seeds or small grains or sale, distribution, etc., of seeds or small grains not cleaned, processed, etc., in accordance with rules and regulations promulgated under article.

It shall be unlawful for anyone to fail or refuse to clean, process or treat agricultural or vegetable seed or small grain used for planting purposes in violation of any rules or regulations promulgated under the provisions of this article, and it shall also be unlawful for anyone to sell, offer for sale, expose for sale or distribute any agricultural or vegetable seed or small grain used for planting purposes unless such seed and grains have been cleaned, processed or treated in accordance with requirements of rules and regulations adopted and promulgated under the provisions of this article. Whoever shall violate any rules and regulations or other requirements of this article shall be guilty of a misdemeanor and shall be punished as prescribed by law.

*(Acts 1953, No. 739, p. 1003, §3.)*

### **Article 3 Registration of Symbol of Seeds or Plant Parts.**

#### Section 2-26-50

Adoption and registration of symbols of identification or certification of foundation seed, seeds or plant parts.

An association or associations of farmers engaged in multiplying and certifying seed or plant parts of a superior variety or strain of plants or crops, such as those bred and tested or tested only by the Agricultural Experiment Station of Auburn University, and in increasing breeder seed by producing, processing and distributing foundation seed may adopt a symbol or symbols of identification or certification of such seed or plant parts and such foundation seed and, upon approval of the director of such experiment station and of the Director of the Extension Service of Auburn University, register same with the state

Commissioner of Agriculture and Industries. Only one such association may so register such a symbol or symbols for any one specified crop.

*(Acts 1945, No. 404, p. 643, &sect;&sect;1, 2; Acts 1975, No. 745, &sect;1.)*

Section 2-26-51

Use of symbols by persons, associations, etc., other than associations registering same; violations of provisions of article deemed misdemeanors.

(a) It shall be unlawful for any person, firm, association or corporation, other than the association which so registered such symbol or symbols, to use such symbol or symbols in any manner for identifying or certifying seeds or plant parts or for any person, firm, association or corporation to sell, offer for sale or otherwise market or distribute foundation seed for any specified crop, other than the association which registered the symbol or symbols of such foundation seed for such crop with the Commissioner of Agriculture and Industries.

(b) Any person, firm, association or corporation who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor.

*(Acts 1945, No. 404, p. 643, &sect;3; Acts 1975, No. 745, &sect;2.)*

Section 2-26-52

Cooperation of Department of Agriculture and Industries and Agricultural Extension Service and Experiment Station of Auburn University.

The Department of Agriculture and Industries, the Agricultural Extension Service and the Agricultural Experiment Station of Auburn University are hereby authorized and directed to cooperate and work with such associations of farmers to accomplish the following purposes:

(1) To implement an Alabama seed improvement program encompassing activities of foundation seed production, seed certification and labeling and

quality control in the production of seed in order to make available for agriculture in this state high quality seed;

(2) To conduct educational programs stressing the benefits of the use of seed of superior varieties and strains; and

(3) To otherwise formulate and implement such programs as will insure that quality seed is properly produced, processed, certified and distributed in the state.

*(Acts 1945, No. 404, p. 643, &sect;4; Acts 1975, No. 745, &sect;3.)*

#### **Article 4 Investigation and Settlement of Complaints as to Quality of Seeds.**

##### Section 2-26-70

Purpose of article.

The intent and purpose of this article is to provide a method for assisting farmers and other seed purchasers and seed dealers to determine the validity of complaints of such seed purchasers against seed dealers relating to the quality of the seed by establishing a committee to investigate and make findings and recommendations in the nature of arbitration proceedings where damages are suffered by such seed purchasers caused by the failure of any agricultural, vegetable, flower, tree, shrub and herb seeds to perform as represented, or to conform to the description on the labeling thereof as required by Sections 2-26-1 through 2-26-14. The meaning of words and terms as used in this article shall, where applicable, be construed to conform to the meaning of such words and terms as same are defined in Section 2-26-1.

*(Acts 1979, No. 79-424, p. 661, &sect;1.)*

##### Section 2-26-71

Creation of Seed Investigation and Arbitration Committee; composition; qualifications, appointment and terms of office of members; officers; meetings generally.

There is hereby created and established a Seed Investigation and Arbitration Committee to be appointed by the Commissioner of Agriculture and Industries to consist of five members. The members shall be appointed by the Commissioner of Agriculture and Industries upon the recommendation of each of the following: Dean and Director, School of Agriculture and Agricultural Experiment Station of Auburn University; Executive Committee of the Alabama Seedsmen's Association; President of the Alabama Farmers Federation; State Board of Agriculture and Industries, and one member shall be appointed by the Commissioner of Agriculture and Industries. Each of these members may be represented by an alternate appointed by the Commissioner of Agriculture and Industries, upon the recommendation of the recommending authority or on recommendation of the committee member when such authority has been vested in the committee member by the recommending authority. Each member shall continue to serve on the committee until a replacement has been recommended by one of the above named organizations, agencies, or officials authorized to make such recommendations or appointments, at which time the Commissioner of Agriculture and Industries shall appoint a new member from those recommended. Each alternate shall serve only for the case in which he has been appointed and only one member shall represent each of the above organizations, agencies, or officials authorized to make recommendations for appointment to the committee. The committee shall elect a chairman and a secretary from its membership. The committee chairman shall conduct all meetings and deliberations held by the committee and direct the other activities of the committee. The secretary shall keep accurate and correct records on all meetings and deliberations and perform any other duties for the committee as directed by the chairman. The committee shall be known as the Seed Investigation and Arbitration Committee.

*(Acts 1979, No. 79-424, p. 661, §3 (1); Acts 1992, No. 92-108, p. 178, §3.)*

Section 2-26-72

Compensation and expenses of members of committee.

The members of the committee shall receive no compensation for the performance of their duties, but shall be reimbursed for travel expenses incurred in the performance of their duties in the same manner and at the same rate paid to state employees for travel expenses when such members attend meetings or perform other required duties which shall be paid from funds appropriated or available to the Department of Agriculture and Industries upon approval of the commissioner.

*(Acts 1979, No. 79-424, p. 661, &sect;3 (4).)*

Section 2-26-73

Duties of committee; calling of meetings of committee.

The duties of the Seed Investigation and Arbitration Committee shall be to assist farmers and other purchasers of agricultural, vegetable, flower, tree, shrub and herb seeds and seed dealers to ascertain and determine the validity of complaints made by seed purchasers against seed dealers and recommend the settlement and payment of monetary damages by seed dealers where such damages result from the failure of the seed to perform as represented or to conform to the description of the labeling on or accompanying the seed or seed containers. The committee may be called into session by the Commissioner of Agriculture and Industries at his discretion or upon the direction of the chairman or a majority of the committee members to consider complaints and other matters referred to it by the Commissioner of Agriculture and Industries.

*(Acts 1979, No. 79-424, p. 661, &sect;3 (2).)*

Section 2-26-74

Filing of complaint as to performance or labeling of seed by purchaser; forwarding of complaint and answer thereto to committee for investigation, findings and recommendations.

Any farmer, or other purchaser of agricultural, vegetable, flower, tree and shrub or herb seeds purchased for planting purposes who believes that he has been damaged by the failure of the seed to perform as represented, or to conform to the description on the labeling attached thereto or accompanying such seed as required by Sections 2-26-1 through 2-26-14, and rules and regulations promulgated thereunder, may make a sworn complaint against the seed dealer from whom such seeds were purchased. The complaint shall allege the failure of the seed to perform or to conform to legal requirements and the damages sustained or to be sustained by him. The complaint shall be filed with the Commissioner of Agriculture and Industries within 10 days after the alleged defect or violation becomes apparent. The seed purchaser shall also mail a copy of said complaint to the dealer from which the seeds were purchased by United States registered or certified mail. A filing fee of \$10.00 shall be paid to the Commissioner of Agriculture and Industries with each complaint filed which shall be deposited to the credit of the Agricultural Fund of the State Treasury. Within 10 days after receipt of a copy of the complaint, the seed dealer shall file with the Commissioner of Agriculture and Industries an answer thereto and forward a copy of same to the purchaser of the seed by United States registered or certified mail. Any seed dealer against whom a complaint is filed hereunder or any seed purchaser filing a complaint may request an investigation and other action by the committee for the investigation and arbitration created by Section 2-26-71. The Commissioner of Agriculture and Industries shall forthwith refer the complaint and the answer to said committee for its investigation, findings and recommendation of the allegations of the complaint. Where seed which are the basis of a complaint are labeled by a person other than a seed dealer who sells

directly to the farmer or other purchaser of seed, a copy of the complaint shall also be mailed by the commissioner to the person responsible for the labeling of such seed in order that he may be entitled to file an answer. Upon receipt of such findings and recommendation, the Commissioner of Agriculture and Industries shall transmit the findings and recommendations of the committee to the farmer or other purchaser of the seed and to the seed dealer by United States registered or certified mail together with a copy thereof to any person responsible for the labeling of the seed.

*(Acts 1979, No. 79-424, p. 661, &sect;2.)*

Section 2-26-75

Conduct of investigation as to complaint by committee; hindering, obstructing, etc., access to premises, review of records, etc., by committee; report of findings and recommendations.

When the Commissioner of Agriculture and Industries refers a complaint by a farmer or other seed purchaser to the Seed Investigation and Arbitration Committee, said committee shall make a full and complete investigation of the matters complained of and at the conclusion of said investigation report its findings with its recommendations and file same with the Commissioner of Agriculture and Industries. The purchaser of the seed and the seed dealer shall upon request of either party be entitled to a hearing before the committee before any findings and recommendations are made. Notice of the date, time and place of the hearing shall be given to both parties. In conducting its investigation the committee or any member or members thereof is authorized to investigate the farmer or other purchaser's complaint and the farming or growing operation involved in the complaint and the seed dealer's sales, packaging, labeling, storage or processing operation relating to the seed alleged to be faulty. The investigation shall be conducted in a manner prescribed by the committee. The committee, or any member thereof, in the performance of its duties is authorized

to enter upon any public or private premises during regular business hours in order to have access to seed and records of the sale and purchase thereof for examination and review as authorized under the provisions of Section 2-26-10(b) and (d), when necessary to perform its duties required under this article. Any person who hinders, obstructs or refuses entry, access or review of such records shall be guilty of a violation of Sections 2-26-11(b)(3) and 2-26-13. The committee shall be authorized to grow to production a representative sample of the alleged faulty seed through the facilities of the state, or Auburn University, under the supervision of the Commissioner of Agriculture and Industries or his authorized agent when such action is deemed necessary; also, to hold hearings at a time and place directed by the chairman of the committee upon reasonable notice to the farmer or other purchaser of seed and the seed dealer and to prescribe and promulgate rules of procedure to carry out the evident intent and purpose of this article. Any investigation made by less than the whole membership of the committee shall be conducted by authority of a written directive by the chairman or by rules of procedure adopted by the committee. Investigations shall be summarized in writing and considered by the committee in a report of its findings and recommendations.

*(Acts 1979, No. 79-424, p. 661, &sect;3(3).)*

Section 2-26-76

Effect and admissibility as evidence of findings and recommendations of committee; effect of provisions of article upon legal and equitable rights of persons.

The findings or recommendations of the committee shall be in the nature of arbitration or settlement, but its findings and recommendations shall not affect the rights of parties to resort to any arbitration proceedings available under authority of Sections 6-6-1 through 6-6-16 or as may be otherwise provided by law, nor shall any of the provisions of this article affect any legal or equitable

rights that any person may have in a court having jurisdiction of such matters nor shall the findings or recommendations of the committee be admissible as evidence in any court of law. It is the intent and purpose of this article to provide a simplified procedure for investigations and recommendations for monetary settlements as declared in Section 2-26-70.

*(Acts 1979, No. 79-424, p. 661, &sect;4.)*