

TITLE 2

Agriculture and Forestry

CHAPTER 2-6

Rhode Island Seed Act

§ 2-6-1 Short title. – This chapter shall be known and cited as "The Rhode Island Seed Act".

§ 2-6-2 Definitions. – When used in this chapter:

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this chapter.

(2) "Agricultural seed" means the seeds of grass, forage, cereal, and fiber crops and other kinds of seeds commonly recognized within this state as agricultural seeds, lawn seeds and mixtures of those seeds, and may include noxious weed seeds when the director determines that the seed is being used as agricultural seed.

(3) "Certifying agency" means:

(i) an agency authorized under the laws of a state, territory or possession to officially certify seed; or

(ii) 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 under (i).

(4) "Director" means the director of the department of environmental management of the state of Rhode Island and/or his or her authorized deputies or agents.

(5) The terms "Fine-textured grasses" and "Coarse kinds" are defined in rules and regulations under this chapter.

(6) "Hybrid" means the first generation seed of a cross produced by controlling the pollination and by combining: (1) two (2) or more inbred lines; (2) one inbred or a single cross with an open pollination variety; or (3) two (2) varieties or species, except open-pollinated varieties of corn (*Zea mays*). The second generation of subsequent generations from those crosses are not regarded as hybrids. Hybrid designations are treated as variety names.

(7) "Kind" means one or more related species or sub-species which, singly or collectively, is known by one common name, for example, corn, oats, alfalfa, and timothy.

(8) "Labeling" means all labels, and 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.

(9) "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.

(10) "Person" means any individual, partnership, corporation, company, society, or association.

(11) "Private hearing" may consist of a discussion of facts between the person charged and the director.

(12) "Prohibited noxious weed seeds" means the seeds of perennial weeds that not only reproduce by seed but also spread by underground roots, stems and other reproductive parts, and which, when well established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

(13) "Pure Seed", "Germination", and other 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.

(14) "Record" means all information relating to the shipment or shipments involved and includes a file sample of each lot of seed.

(15) "Restricted noxious weed seeds" means the seeds of weeds that are objectionable in fields, lawns, and gardens of this state, but can be controlled by good cultural practices.

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

(17) "Stop sale" means an administrative order, provided by law, restraining the sale, use, disposition, and movement of a definite amount of seed.

(18) "Treated" means given an application of a substance or subjected to a process designed to reduce, control, or repel disease organisms, insects, or other pests which attack seeds or seedlings growing therefrom.

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

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

(21) "Vegetable seeds" means 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.

(22) "Weed seeds" means the seeds of all plants generally recognized as weeds within this state and includes noxious weed seeds.

§ 2-6-3 Label requirements. – Each container of agricultural and vegetable seeds sold, offered for sale, exposed for sale, or transported within this state for sowing purposes shall have placed on or affixed to it in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container:

(1) For all seeds named and treated as defined in this chapter (for which a separate label may be used):

(i) A word or statement indicating that the seed has been treated;

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

(iii) 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, or oil purposes." The caution for mercurials and similarly toxic substances is a poison statement or symbol;

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

(2) For agricultural seeds, except for grass seed mixtures as provided in subdivision (3):

(i) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. 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;

(ii) Lot number or other lot identification;

(iii) 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;

(iv) Percentage by weight of all weed seeds;

(v) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;

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

(vii) Percentage by weight of inert matter;

(viii) For each named agricultural seed:

(A) Percentage of germination, exclusive of hard seed;

(B) Percentage of hard seeds, if present;

(C) The calendar month and year the test was completed to determine those percentages;

Following (A) and (B) the "total germination and hard seed" may be stated as this, if desired;

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

(3) For seed mixtures for lawn and/or turf purposes in containers of fifty (50) pounds or less:

(i) The word "Mixed" or "Mixture";

(ii) The headings "Fine-textured grasses" and "Coarse kinds" and under these headings in tabular form in type no larger than the heading:

(A) Commonly accepted name, in order of its predominance of the kind, or kind and variety of each agricultural seed present in excess of five percent (5%) of the whole and determined to be a "Fine-textured grass" or a "Coarse kind" in accordance with the rules and regulations under this chapter;

(B) Percentage by weight of pure seed of each agricultural seed named;

(C) For each agricultural seed named under (A) above:

(I) Percentage of germination, exclusive of hard seed;

(II) Percentage of hard seed, if present;

(III) Calendar month and year the test was completed to determine those percentages;

(iii) The heading "Other ingredients" and under this heading in type no larger than the heading:

(A) Percentage by weight of all weed seeds;

(B) Percentage by weight of all agricultural seeds other than those stated under subdivision (a) of this section;

(C) Percentage by weight of inert matter;

(iv) Lot number or other lot identification;

(v) Name and rate of occurrence per pound of each kind of restricted noxious weed seed present;

(vi) Name and address of the person who labeled the seed or who sells, offers or exposes the seed for sale within this state;

(vii) Net weight;

(viii) In addition to the provisions of this section, labeling of lawn or turf grass mixtures shall comply with the requirements of § 201 of the federal seed act, 7 U.S.C. § 1571.

(4) For vegetable seeds in containers of one pound or less:

(i) Name of kind and variety of seed;

(ii) The calendar month and year the seed was tested or the year for which the seed was packaged;

(iii) Name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state;

(iv) For seeds which germinate less than the standard last established by the director under this chapter:

(A) Percentage of germination, exclusive of hard seed;

(B) The words "Below standard" in not less than eight (8)-point type;

(C) Percentage of hard seed, if present;

(5) For vegetable seeds in containers of more than one pound;

(i) The name of each kind and variety present in excess of five percent (5%) and the percentage by weight of each in order of its predominance;

(ii) Lot number or other lot identification;

(iii) For each named vegetable seed:

(A) Percentage germination exclusive of hard seed;

(B) Percentage of hard seed, if present;

(C) The calendar month and year the test was completed to determine those percentages;

Following (A) and (B) the "total germination and hard seed" may be stated as this if desired;

(iv) Name and address of the person who labeled the seed, or who sells, offers or exposes the seed for sale within this state;

(v) The labeling requirements for vegetable seeds in containers of more than one pound are deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser.

§ 2-6-4 Prohibitions. – (a) It is unlawful for any person to sell, offer for sale, expose for sale, or transport for sale any agricultural or vegetable seed within this state:

(1) Unless the test to determine the percentage of germination required by § 2-6-3 has been completed within a nine (9) 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, except that seeds packaged in

hermetically-sealed containers under the conditions defined in rules and regulations promulgated under the provisions of this chapter may be sold, exposed for sale or offered for sale or transportation for a period of thirty-six (36) months after the last day of the month that the seeds were tested for germination prior to packaging. If seeds in hermetically-sealed containers are sold, exposed for sale, or offered for sale or transportation more than thirty-six (36) months after the last day of the month in which they were tested prior to packaging, they must have been retested for germination within the nine (9)-month period, exclusive of the calendar month in which the retest was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation;

(2) Not labeled in accordance with the provisions of this chapter or having a false or misleading labeling;

(3) Pertaining to which there has been false or misleading advertisement;

(4) Consisting of or containing prohibited noxious weed seeds, subject to recognized tolerances;

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

(6) Containing more than two and one-half percent (2 1/2%) by weight of all weed seeds;

(7) If any labeling, advertising, or other representations subject to this chapter represents the seed to be certified or registered seed unless:

(i) It has been determined by a seed certifying agency that the seed was produced, processed, and packaged, and conforms to standards of purity as to

kind or variety, in compliance with rules and regulations of the agency pertaining to the seed; and

(ii) The seed bears an official label issued for the seed by a seed certifying agency stating that the seed is certified or registered.

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

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

(2) To disseminate any false or misleading advertisements concerning agricultural or vegetable seeds in any manner or by any means;

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

(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 to the lot of seed, except with the express permission of the director and for the purpose specified by the director.

(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.

§ 2-6-5 Records. – Each person whose name appears on the label as handling agricultural or vegetable seeds subject to this chapter shall keep for a period of two (2) years complete records of each lot of agricultural or vegetable seed handled and keep for one year a file sample of each lot of seed after final disposition of the lot. All records and samples pertaining to the shipment or

shipments involved are accessible for inspection by the director or his or her agent during customary business hours. § 2-6-6 Exemptions – Good faith sellers. – (a) The provisions of §§ 2-6-3 and 2-6-4 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 processing establishment for cleaning or processing; provided, that the invoice or labeling accompanying any shipment of the seed bears the statement "seed for processing" and any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed is subject to this chapter; or

(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 the carrier is not engaged in producing, processing, or marketing agricultural or vegetable seeds subject to the provisions of this chapter.

(b) No person is subject to the penalties of this chapter for having sold or offered or exposed for sale agricultural or vegetable seeds which were incorrectly labeled or represented as to kind, variety, type or origin (if required) which seeds cannot be identified by examination, unless the person has failed to obtain an invoice, genuine grower's declaration or other labeling information and to take any other precautions that may be reasonable to insure the identity to be that stated.

§ 2-6-7 Duties and authority of the director of the department of environmental management – Appeal of stop sale order. – (a) The duty of enforcing this chapter and carrying out its provisions and requirements is vested in the director of the department of environmental management. It is the duty of that officer, who may act through his or her authorized agents:

(1) To sample, inspect, make analysis of, and test agricultural and vegetable seeds transported, sold, or offered or exposed for sale within the state for sowing purposes, at any time and place and to any extent as he or she may deem necessary to determine whether those agricultural or vegetable seeds are in compliance with the provisions of this chapter; to notify promptly the person who transported, sold, offered, or exposed the seed for sale, or any violation;

(2) To prescribe and, after a public hearing following public notice, to adopt rules and regulations governing the method of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed, and the tolerances to be followed in the administration of this chapter which shall be in general accord with officially prescribed practice in interstate commerce, and any other rules and regulations that may be necessary to secure efficient enforcement of this chapter;

(3) To prescribe and, after a public hearing following public notice, establish, add to or subtract from by regulations a prohibited and restricted noxious weed list; and

(4) To prescribe and, after a public hearing following public notice, to adopt rules and regulations establishing reasonable standards of germination for vegetable seeds.

(b) For the purpose of carrying out the provisions of this chapter the director, individually or through his or her 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 with the premises subject to this chapter and rules and regulations under this chapter, and any truck or other conveyor by land, water, or air at any time when the conveyor 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 or vegetable seed which the director finds is in violation of any of the provisions of this chapter or rules and regulations promulgated under this chapter, that order shall prohibit further sale, processing and movement of the seed, except on approval of the director, until the director has evidence that the law has been complied with, and the director has issued a release from the "stop sale" order of the 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 the seed has the right to appeal from the 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 the order and for the discharge of the seeds from the order prohibiting the sale, processing and movement in accordance with the findings of the court. The provisions of this paragraph shall not be construed as limiting the right of the director to proceed as authorized by other sections of this chapter;

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

(4) To make or provide for making purity and germination tests of seed for farmers and dealers on request; to prescribe rules and regulations governing that testing; and to fix and collect charges for the tests made. Fees shall be accounted for in any manner that the state legislature may prescribe;

(5) To cooperate with the United States department of agriculture and other agencies in seed law enforcement.

§ 2-6-8 Seizure – Condemnation. – Any lot of agricultural or vegetable seed not in compliance with the provisions of this chapter are subject to seizure on complaint of the director to a court of competent jurisdiction in the locality in which the seed is located. In the event the court finds the seed to be in violation

of this chapter and orders the condemnation of the seed, it shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this state and in no instance shall the court order the disposition of the seed without first having given the claimant an opportunity to apply to the court for the release of the seed or permission to process or relabel it into compliance with this chapter. § 2-6-9 Injunction. – When in the performance of his or her duties the director applies to any court for a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rules and regulations under this chapter, the injunction is to be issued without bond. § 2-6-10 Violations and prosecutions. – (a) Every violation of the provisions of this chapter shall be deemed a misdemeanor punishable by a fine not exceeding one hundred dollars (\$100) for the first offense and not exceeding two hundred fifty dollars (\$250) for each subsequent similar offense.

(b) When the director finds that any person has violated any of the provisions of this chapter, the director shall file with the attorney general, with a view of prosecution, any evidence that may be deemed necessary. No prosecution under this chapter shall be instituted without the defendant first having been given an opportunity to appear before the director or his or her duly authorized agent, to introduce evidence either in person or by agent or attorney at a private hearing. If, after the hearing, or without the hearing in case the defendant or his or her agent or attorney fails or refuses to appear, the director is of the opinion that the evidence warrants prosecution, the director shall proceed as provided in this section.

(c) It is the duty of the attorney general to institute proceedings at once against any person charged with a violation of this chapter, if, in the judgment of the attorney general, the information submitted warrants that action.

(d) After judgment by the court in any case arising under this chapter, the director shall publish any information pertinent to the issuance of the judgment by the court in any media as the director may designate from time to time.

§ 2-6-11 – 2-6-19. [Repealed]. –