

Title 46 - Agriculture
CHAPTER 21.
SEEDS; PLANTS; SEED AND PLANT CERTIFICATION
ARTICLE 1.
GENERAL PROVISIONS

SECTION 46-21-10. Definitions.

As used in Articles 1, 3, 5 and 7 of this chapter:

(1) The term "agricultural seed" shall include the seeds of all domesticated grasses, cereals, clovers, vetches, alfalfas, peas (except garden peas) and beans (except garden beans) and the seeds of all other crops that are or may be successfully grown in this State on field scale;

(2) The term "vegetable seed" shall include the seeds of those crops that are generally grown in South Carolina on garden scale and generally known and sold under the name of vegetable seeds, including seed potatoes, onion sets, bulbs and plants;

(3) The term "flower seed" shall include the seeds of those plants grown in flower gardens for both ornamental and commercial purposes and generally known by the name of flower seed;

(4) The term "inert matter" shall be understood to include sand, dirt, chaff and other foreign substances and broken seed incapable of germinating;

(5) The term "other agricultural seeds" shall include all agricultural seeds not of the kind or species named on the package;

(6) The term "common weed seeds" shall include seeds of the plants commonly known as wild carrot, curled dock, sheep sorrel, common plantain, bracted plantain, buckhorn, henbit, chickweed and crab grass and seeds of all other plants which commonly occur in a wild state; and

(7) The term "noxious weed seeds" shall mean seeds of wild onion or wild garlic, all dodders, corn cockle, cheat or chess, wild oats, Johnson grass, wild mustard, Canada thistle, black mustard and seeds of other similar plants.

SECTION 46-21-20. Enforcement; rules and regulations.

The Commissioner of Agriculture shall enforce this chapter and carry out its provisions and requirements. The Department of Agriculture shall adopt such rules and regulations, after conference with the seed dealers and farmers of South Carolina, as may be necessary to secure the efficient enforcement of such provisions.

SECTION 46-21-30. Seed laboratory.

The Department of Agriculture shall maintain a seed laboratory with necessary equipment for carrying out the provisions of this chapter, other than Article 11 hereof.

SECTION 46-21-40. License to handle seeds; tax.

For the purpose of providing a fund to defray the expenses of the examinations and analyses prescribed in this chapter, other than Article 11 hereof, each person selling or offering or ordering for sale or distribution in, or for export from, this State any seed mentioned in this chapter, other than Article 11 hereof, shall register his name with the Department of Agriculture and shall pay a license tax annually on January first of each year of one dollar when only boxed package vegetable or flower seed are handled and, when other seed with or without boxed package vegetable or flower seed is handled, of two and one-half dollars when the gross business is less than two hundred dollars, five dollars when the gross business is over two hundred dollars but less than five hundred dollars, ten dollars when the gross business is over five hundred dollars but less than one thousand dollars and twenty-five dollars when the gross business is one

thousand dollars or more. The Commissioner's receipt for such license tax shall be a license to conduct the business.

SECTION 46-21-50. Exemption of farmers.

No farmer, with the exception of seed breeders and seed farmers, residing in South Carolina shall be required to procure a State seed license as provided in Section 46-21-40 to sell seeds raised on his farm.

SECTION 46-21-60. Foundation seed program; purpose.

Clemson University is responsible for cooperating with the South Carolina Crop Improvement Association in a foundation seed program which has as its responsibility the fostering of the production, processing, and distribution of pure varieties of crop seeds and plants as Clemson University recommends for increase in this State.

SECTION 46-21-70. Cooperation of State Department of Agriculture.

To the extent that the State Department of Agriculture has to do with the publicity, breeding, testing, supervision, production, and distribution of pure varieties of crop seeds and plants, it shall actively cooperate with the South Carolina Crop Improvement Association and Clemson University in carrying out the purposes of Section 46-21-60.

ARTICLE 3.
LABELS AND TAGS

SECTION 46-21-210. Agricultural seeds shall be labeled; contents of labels.

Every parcel, package or lot of agricultural seeds sold and delivered to any person for seeding purposes, weighing ten pounds or more, shall, whether the seller's place of business be inside or outside of this State, have affixed thereto,

in a conspicuous place on the outside thereof, a distinct label or tag in the English language in legible type certifying:

- (1) The commonly accepted name of such agricultural seeds;
- (2) The approximate per cent by weight of purity, meaning the freedom of such agricultural seeds from inert matter and from other seeds distinguishable by their appearance;
- (3) The approximate per cent by weight of inert matter, common weed seeds, noxious weed seeds and other agricultural seeds as defined in Section 46-21-10;
- (4) The per cent of germination together with the month and year the seeds were tested for germination;
- (5) In the case of seeds produced within the United States, the state in which the seeds were grown, when known;
- (6) The full name and address of the seedsman, importer, dealer, agent or other person selling or offering or exposing for sale or for distribution such agricultural seeds in the State for seeding purposes; and
- (7) The name and number of noxious weed seeds per ounce.

The provisions of this section shall not apply to any such seed sold across the counter from a bin or container when such bin or container is labeled as required by this section.

SECTION 46-21-220. Mixtures for seeding purposes shall be labeled; contents of labels.

Mixtures, when in bulk, packages or other containers offered or exposed for sale within the State for seeding purposes containing two or more kinds of agricultural seed shall have affixed thereto in a conspicuous place on the exterior of the

container of such a mixture a plainly written or printed tag or label in the English language stating:

- (1) That such seed is a mixture;
- (2) The name and kind of each seed entering into the mixture;
- (3) The approximate percentage by weight of inert matter in the mixture;
- (4) The approximate percentage by weight of weed seeds and other agricultural seeds in the mixture; and
- (5) The full name and address of the seedsman, importer, dealer and agent or other person selling or offering or exposing for sale or distribution such mixture in this State for seeding purposes.

SECTION 46-21-230. Inconsistent labels forbidden.

No statements regarding the quality of such agricultural seeds or mixtures, if inconsistent with the requirements of this chapter, shall be written or printed on the tag or label or placed inside or affixed to any container or bulk of agricultural seed or mixture sold or offered or exposed for sale or distribution within the State for seeding purposes.

SECTION 46-21-240. Vegetable and flower seeds shall be labeled; contents of labels.

No standard of purity shall be maintained for vegetable and flower seeds, but each package weighing ten pounds or more must show on the tag or label the percentage of purity and the percentage of germination and the variety; but this requirement shall not apply to seed sold across the counter from a bin or container which is labeled as herein required.

SECTION 46-21-250. Compliance required; false labeling; tolerances.

It shall be unlawful for any person to sell, offer or expose for sale or distribute within the State any agricultural, vegetable or flower seeds, or mixtures of agricultural, vegetable or flower seeds, for seeding purposes without complying with the requirements of this chapter or falsely to mark or label as to variety or kind any agricultural, vegetable or flower seeds or to interfere in any way with the inspectors or assistants in the discharge of their duties named in this chapter; but in the labeling of the per cent of germination together with the month and year the seeds were treated for germination, pursuant to Section 46-21-210, a tolerance will be allowed in accordance with rules and regulations issued by the Commissioner of Agriculture.

SECTION 46-21-260. Complaint by farmer against seed dealer; answer; request for investigation; referral to arbitration committee.

(1) When any farmer alleges that agricultural, vegetable, or flower seeds fail to conform to the label attached to the seeds, as required by Sections 46-21-210 and 46-21-240, as a prerequisite to his right to maintain a legal action against the dealer from whom the seeds were purchased, the farmer shall make a sworn complaint against the dealer indicating in what respects the seeds appear to be deficient. The complaint must be filed with the Department of Agriculture, and a copy of the complaint must be served on the dealer by certified mail, within such time as to permit inspection of the seeds, crops, or plants by the seed arbitration committee or its representatives and by the dealer from whom the seeds were purchased. The language setting forth the requirements for filing and serving the complaint must be legibly typed or printed on a label attached to or on the package containing the seeds at the time of purchase by the farmer. If language setting forth the requirements is not so placed on a package label or on the package itself the filing and serving of a complaint under this subsection are not required. Any party to a judicial action alleging damages from the failure of seeds purchased from a seed dealer to perform as labeled may request an investigation by the arbitration committee as long as sufficient time remains to permit

inspection of the seeds, crops, or plants. Any investigation, findings, reports, and recommendations of the committee may be considered by the court in such a judicial action. Within ten days after receipt of a copy of the complaint, the dealer shall file with the department his answer to the complaint and serve a copy of the answer on the farmer by registered mail. The Commissioner of Agriculture shall refer the complaint and the answer to the arbitration committee provided in Section 46-21-270 for investigation, findings, and recommendations on the complaints. Upon receipt of the findings, and recommendations of the arbitration committee, the Commissioner shall transmit them to the farmer and to the dealer by registered mail.

(2) The commissioner shall refer the complaint and the answer to the arbitration committee provided in Section 46-21-270 for investigation, findings, and recommendation on the complaints. Upon receipt of the findings and recommendation of the arbitration committee, the commissioner shall transmit them to the farmer and to the dealer by registered mail.

SECTION 46-21-270. Establishment of arbitration committee; members, duties, and sessions; compensation of members.

(A) The commissioner shall appoint an arbitration committee composed of five members and five alternate members. One member and one alternate must be appointed upon the recommendation of each of the following: the Dean of Extension, Clemson University; the Dean of Agricultural Research, Clemson University; and the President of the South Carolina Seedsmen's Association. Two members and two alternates must be appointed by the commissioner in his sole discretion. One of the members and one of the alternates appointed must be a farmer who is not connected in any way in selling seeds at retail or wholesale. Each member and each alternate shall serve for a period of one year and until his successor is appointed and qualifies. The committee shall elect a chairman and a secretary from its membership. The chairman shall conduct all meetings

and deliberations held by the committee and direct all other activities of the council. The secretary shall keep accurate and correct records of all meetings and deliberations and perform other duties for the committee as directed by the chairman.

(B) The committee shall assist farmers and seed dealers in determining the validity of complaints made by farmers against dealers and recommend cost damages resulting from alleged failure of seed to produce as represented by the labels on the seed packages.

(C) The committee may be called into session by the commissioner or the chairman to consider matters referred to it by the commissioner.

(D) When the commissioner refers to the committee any complaint made by a farmer against a dealer, the committee shall make a full and complete investigation of the matters complained of and at the conclusion of the investigation report its findings and recommendation of cost damages and file them with the commissioner.

(E) In conducting its investigation, the committee or any member may examine the farmer on the farming operation of which he complains and the dealer on his packaging, labeling, and selling operation of the seed alleged to be faulty, grow to production a representative sample of the alleged faulty seed through the facilities of the State under the supervision of the commissioner and Clemson University when the action is considered necessary, hold informal hearings at a time and place directed by the chairman upon reasonable notice to the farmer and the dealer, and seek evaluations from authorities in allied or any other agricultural disciplines, when considered necessary.

(F) Any investigation made by less than the whole membership of the committee must be by authority of a written directive by the chairman and the investigation

must be summarized in writing and considered by the committee in reporting its findings and making its recommendation.

(G) The members of the committee shall receive no compensation for the performance of their duties but must be reimbursed for actual travel expenses when they attend a meeting or perform a service required by this section.

ARTICLE 5. ANALYSES AND TESTS

SECTION 46-21-310. Commissioner shall analyze and test seeds.

The Commissioner of Agriculture, either by himself or his duly authorized agent, shall inspect, examine and make analyses of and test any agricultural, vegetable or flower seeds sold, offered or exposed for sale or distribution within the State for seeding purposes, at such time and place and to such extent as he may determine. The rules for analyses shall conform to the best known methods of examining and testing agricultural, vegetable and flower seeds.

Before being offered for sale or distribution all seeds sold in this State shall first be examined and tested according to the provisions of this section.

SECTION 46-21-320. Access to premises; taking samples.

The Commissioner of Agriculture and his agents shall have free access, at all reasonable hours, upon and into any premises or structures to make examination of any agricultural, vegetable or flower seeds, whether such seeds are upon the premises of the owner or consignee of such seeds or on the premises or in the possession of any warehouse, elevator, railroad or steamship company. The Commissioner may, in person, or by his analysis inspectors or assistants, upon notice to the dealer or his agent or the representative of any warehouse, elevator, railroad or steamship company, if present, take for analysis a composite

sample of any agricultural or vegetable seeds from a parcel, package, lot or other container or a number of parcels, packages, lots or other containers.

SECTION 46-21-330. Publication of results of examinations and tests.

The Commissioner of Agriculture may publish or cause to be published, at his discretion, the results of the examinations and tests made of any samples of agricultural, vegetable or flower seeds or mixtures of agricultural seeds drawn as provided for in Section 46-21-320, together with any other information he may deem advisable.

SECTION 46-21-340. Free seed test for residents; charge to nonresidents.

Any citizen, firm, or corporation of this State may have samples of seeds tested for germination and purity free of charge in the State Seed Laboratory.

Individuals, firms, and corporations outside the State shall have a like privilege on payment of a fee comparable to private laboratories.

Charges for special tests performed by the State Seed Laboratory for which the Association of Official Seed Analysts' directions are given may be established by the Commissioner of Agriculture.

The fees charged for these seed tests must be remitted to the General Fund.

ARTICLE 7.

WITHDRAWAL, CONFISCATION AND SALE OF SEEDS; PENALTIES

SECTION 46-21-410. Withdrawal of impure seed from sale.

Seed not having a reasonable germination or that are extremely impure, notwithstanding they may be properly labeled, shall be withdrawn from sale, on reasonable notice being given by the Commissioner of Agriculture to the seed

dealer, when, in the opinion of the Commissioner, such withdrawal is in the interest of normal crop production.

SECTION 46-21-420. Confiscation and sale of non-complying seed.

Any person who shall sell or offer or expose for sale or distribution in this State any agricultural, vegetable or flower seed without complying with the requirements of Articles 1, 3, 5 and 7 of this chapter shall be guilty of a violation of said articles, and the lot of seed in question shall be seized and condemned and sold or destroyed by the Commissioner of Agriculture, or his duly authorized representative, and the proceeds from any such sale shall be converted into the State Treasury for the use of the Department of Agriculture. The Commissioner, however, may in his discretion release the seed so withdrawn when the requirements of this chapter have been complied with and upon payment of all the costs or expenses incurred in any proceeding connected with such seizure and withdrawal.

SECTION 46-21-430. How seizure and sale shall be made.

Such seizure and sale shall be made by the Commissioner of Agriculture or under the direction of an officer of his appointment. The sale shall be made at the courthouse door in the county in which the seizure is made; provided, that whenever for sufficient reason appearing to the Commissioner or his representative another place of sale is more convenient and more desirable, such place of sale may be selected. The sale shall be advertised for thirty days in a newspaper published in the county in which seizure is made or, if no newspaper be published in such county, then it shall be advertised in a newspaper published in the nearest county thereto having a newspaper. The advertisement shall state the name and the variety of the seed, the quantity, why seized and offered for sale and the time and place of sale.

SECTION 46-21-440. Penalty.

Every violation of the provisions of this chapter, other than Articles 9 and 11 hereof, shall be deemed a misdemeanor and punishable by a fine not to exceed one hundred dollars.

SECTION 46-21-450. Prosecution by Commissioner or through Attorney General.

If the Commissioner of Agriculture shall find, upon examination, analysis or test, that any person has violated any of the provisions of this chapter, other than Articles 9 or 11 hereof, he or his duly authorized agent may institute proceedings in a court of competent jurisdiction to have such person convicted thereof. Or the Commissioner, in his discretion, may report the results of such examination to the Attorney General, together with sworn statement of the analyst, duly acknowledged, and such other evidence of such violation as he shall deem necessary. Such sworn statement shall be submitted as evidence in any court of this State in any proceeding instituted under this chapter, other than Articles 9 or 11 hereof; but, upon a motion of the accused, such analyst shall be required to appear as a witness and be subject to cross-examination. The Attorney General or, in his discretion and at his direction, the attorney of the county or city in which the alleged violation has occurred, shall institute proceedings at once against the person charged with such violation. Such proceedings for violations shall be instituted according to the laws of this State.

SECTION 46-21-460. Preliminary hearing required in certain cases.

Anything in Section 46-21-450 contained to the contrary notwithstanding, no prosecution for violation of Articles 1, 3, 5 or 7 of this chapter, if the evidence of such violations is based on tests or analyses, shall be instituted except in the manner following: When the Commissioner of Agriculture finds that said articles have been violated, as shown by test examination or analysis, he shall give notice to the person in whose hands the seeds were found, designating a time and place for a hearing. This hearing shall be private, and the person involved

shall have the right to introduce evidence, either in person, by agent or attorney. If, after the hearing, or without the hearing in case the person fails or refuses to appear, the Commissioner decides that the evidence warrants prosecution, he shall proceed as provided in Section 46-21-450.

ARTICLE 9.
SEED AND PLANT CERTIFICATION

SECTION 46-21-610. Clemson program for seed and plant certification.

Clemson University may inaugurate a program of seed and plant certification which shall have as its aim the fostering of the production and distribution of pure varieties of seeds and plants in South Carolina.

SECTION 46-21-620. Personnel; rules and regulations; facilities.

In order to carry out such program the University may employ the necessary personnel, establish and promulgate rules and regulations and provide other facilities necessary for the certification of seeds and plants and for aiding in the distribution and promotion of the use of such certified seeds and plants.

SECTION 46-21-630. Agencies shall cooperate.

In so far as the State Department of Agriculture, the South Carolina extension service, the South Carolina experiment station, the State Crop Pest Commission and the State Department of Vocational Education have to do with the sampling, testing, breeding, production, certification and distribution of seeds and plants these agencies shall actively cooperate with the University in carrying out the purposes of this article.

SECTION 46-21-640. Germination and mechanical purity of seed.

Certification of seeds and plants in so far as it concerns germination and mechanical purity of the seed shall depend upon the reports of the seed

laboratory of the State Department of Agriculture. Seeds may not be certified by the University unless the germination and purity test reports of the seed laboratory of the Department indicate that such seeds comply with the agricultural seed law of this State.

SECTION 46-21-650. Misdemeanor to use evidence of certification of seeds or plants not certified.

It shall be a misdemeanor, punishable by fine or imprisonment, in the discretion of the court, for any person selling seeds or plants in this State to use any evidence of certification, such as a blue tag or the word "certified," or both, on any package of seeds or plants unless such seeds or plants shall have been duly inspected and certified as provided for in this article or by a similar legally constituted agency of another state or foreign country. The duty of enforcing the provisions of this article shall be vested in the Commissioner of Agriculture.

SECTION 46-21-660. Definitions.

(1) The terms "certification" and "certified" as applied to seeds and plants under this article are defined as a guarantee that all necessary precautions have been taken to see that the seeds and plants conform to commonly recognized standards of quality for such seeds and plants as established by Clemson University;

(2) The term "seed" as used in this article refers to the true seeds of all field crops, vegetables, flowers or other plants;

(3) The term "plant" is meant to include seedlings, nursery stock, roots, tubers, bulbs, cuttings and other plant parts used in the propagation of field crops, vegetables, fruits, flowers or other plants; and

(4) The term "variety" carries its original meaning and includes strains of varieties which are sufficiently different from the parent variety to justify special designation.