

CHAPTER 56.

[H. B. 30.]

AGRICULTURAL SEED REGULATION.

AN ACT to regulate the labeling, sale and the offering or the exposing for sale, and the inspection, grading and certification of growing crops of agricultural and vegetable seeds; to prevent misrepresentation thereof; to repeal all laws in conflict with this act.

Be it enacted by the Legislature of the State of Washington:

Title.

SECTION 1. This act shall be cited as "The Washington State Seed Law."

SEC. 2. When used in this act, terms shall apply as herein defined.

Definitions.

SEC. 3. "Person" shall include an individual, partnership, corporation, company, society, or association.

SEC. 4. "Director" means the Director of Agriculture of the State of Washington and his authorized deputies or agents.

SEC. 5. "Agricultural seeds" include the seeds of grass, forage, cereal and fibre crops and any other kinds of seeds commonly recognized within this state as agricultural, field, or turf seeds, and mixtures of such seeds.

SEC. 6. "Vegetable seeds" include 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.

SEC. 7. "Certified seed" shall include seeds which have been inspected in the field and after harvest, and have been graded and certified by the Director as complying with the rules and regulations adopted and promulgated under the provisions of this act.

SEC. 8. "Weed seeds" include the seeds of all plants generally recognized as weeds within this state.

SEC. 9. "Noxious-weed seeds" include two classes, Noxious-weed seeds. "primary noxious-weed seeds" and "secondary noxious-weed seeds" as hereinafter defined.

SEC. 10. "Primary noxious-weed seeds" are the Primary. seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in this state by ordinary good cultural practice, and shall include, subject to additions or subtractions, by the Director as herein provided, the seeds of quack grass Named. (*Agropyron repens*), Canada Thistle (*Cirsium arvense*), Bindweed (*Convolvulus arvensis* and *Convolvulus sepium*), perennial sow thistle (*Sonchus arvensis*), Hoary cress or White Top (*Lepidium draba*, *Lepidium repens*, and *Hymenophysa pubescens*), Yellow Toadflax (*Linaria vulgaris*), Russian knapweed (*Centaurea picris*), Blue Flowering lettuce (*Lactuca pulchella*), Leafy spurge (*Euphorbia esula*), Camelthorn (*Alhagi Pseudalhagi*), Austrian field cress (*Radicula austriaca*), and Perennial pepgrass (*Lepidium latifolium*).

SEC. 11. "Secondary noxious-weed seeds" are Secondary. the seeds of such weeds as are very objectionable in fields, lawns, or gardens of this state, but can be controlled by good cultural practice, and shall include, Named. subject to additions or subtractions by the Director as herein prescribed, seeds of Alkali mallow (*Sida hederacea*), Corn cockle (*Agrostemma githago*), Docks (*Rumex species*), St. Johnswort (*Hypericum perforatum*), Dodder (*Cuscuta species*), Fanweed (*Thlaspi arvense*), Poverty weed (*Iva axillaris*), Wild mustard (*Brassica species*), Plantain (*Plantago species*), and Perennial ground cherry (*Physalis subglabrata*).

Director
may add or
subtract
from list.

SEC. 12. The Director may add to or subtract from the list of noxious-weed seeds whenever he finds that such additions or subtractions are within the respective definitions as herein set out. All licensed seed dealers within the state shall be notified of any additions to or subtractions from the lists of weeds at least thirty (30) days before the change becomes effective.

Dealers to be
notified.

Labeling.

SEC. 13. "Labeling" includes 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 includes invoices.

SEC. 14. "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 act.

Each con-
tainer to
contain label.

SEC. 15. Each container of agricultural or vegetable seed which is sold, offered for sale, or exposed for sale, within this state for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the information as hereinafter required.

Label
contents.

SEC. 16. Labels or tags for agricultural seeds shall give—

(1) Commonly accepted name of (a) kind, or (b) kind and variety, or (c) kind and type of each agricultural seed component in excess of five per cent of the whole, 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 on the label.

(2) Lot number or other lot identification.

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

- (4) Percentage by weight of all weed seeds. Weed seeds.
- (5) The name and approximate number of each kind of secondary noxious weed seed, per pound in groups (A), (B) and (C), when present singly or collectively in excess of: Name and ratio of weed seeds.
 - (A) One seed or bulblet in each 10 grams of *Agrostis* spp., *Poa* spp., Bermuda grass, timothy, orchard grass, fescues (except meadow fescue), alsike and white clover, reed canary grass, and other agricultural seeds of similar size and weight, or mixtures within this group. In grass seed.
 - (B) One seed or bulblet in each 25 grams of ryegrass, meadow fescue, millet, alfalfa, red clover, sweet clovers, lespedezas, smooth brome, crimson clover, *Brassica* spp., flax, *Agropyron* spp., and other agricultural seeds of similar size and weight, or mixtures within this group, or of this group with (A). In hay seed.
 - (C) One seed or bulblet in each 100 grams of wheat, oats, rye, barley, buckwheat, sorghums, vetches, and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group. All determinations of noxious-weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations issued under the authority of this act. In cereal grains.
- (6) Percentage by weight of agricultural seeds other than those required to be named on the label. Percentage of other agricultural seeds.
- (7) Percentage by weight of inert matter. Inert matter.
- (8) For each named agricultural seed (a) percentage of germination, exclusive of hard seed, (b) percentage of hard seed, if present, and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement "total germination and hard seed" may be stated as such, if desired. Germination.
Hard seed.
Date of test.

Name of
seller.

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

Labels for
vegetable
seeds.

SEC. 17. The labels or tags for vegetable seeds shall give—

Contents.

- (1) The name of kind and variety of seed.
- (2) For seeds which germinate less than the standard last established by the Director under this act.
 - (A) Percentage of germination, exclusive of hard seed.
 - (B) Percentage of hard seed, if present.
 - (C) The calendar month and year the test was completed to determine such percentages.
 - (D) The words "below standard."
- (3) The name and number per pound of secondary noxious-weed seeds.
- (4) The name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this state.

Unlawful
acts.

SEC. 18. It shall be unlawful for any person to sell, offer for sale or expose for sale any agricultural or vegetable seed within this state—

Test to be
made within
9 months.

(1) Unless the test to determine the percentage of germination required by sections 16 and 17 shall have been completed within a 9-months' 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.

False
labeling.

(2) Not labeled in accordance with the provisions of this act, or having a false or misleading labeling.

Misleading
advertisement.

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

Containing
weed seeds.

(4) Containing primary noxious-weed seeds subject to tolerances and methods of determination prescribed in the rules and regulations under this act.

SEC. 19. It shall be unlawful for any person within this state— Unlawful acts.

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

(2) To disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means. Misleading advertising.

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

(4) To fail to comply with a "stop-sale" order. Stop-sale order.

SEC. 20. (a) The provisions of sections 15 to 19, inclusive, do not apply— Exceptions.

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

(2) To seed in storage, in, or consigned to, a seed cleaning or processing establishment for cleaning or processing: *Provided*, That any labeling or other representation which may be made with respect to the unclean seed shall be subject to this act.

SEC. 21. No person shall be subject to the penalties of this act, for having sold, offered or exposed for sale in this state any agricultural or vegetable seeds, which were incorrectly labeled or misrepresented as to kind, variety, type or origin of seeds which cannot be identified by examination thereof, if he has obtained and does produce for inspection an invoice or a declaration from a seller or grower within the jurisdiction of the courts of this state, giving kind, or kind and variety, or kind and type, and origin, if required, and if he has taken such other precautions as may be necessary to insure the identity to be that stated. Person not liable who takes necessary precautions.

Screenings
may be
destroyed.

SEC. 22. All screenings and other materials removed in the cleaning or processing of agricultural, turf and vegetable seeds which shall contain noxious-weed seeds as defined in sections 10 and 11 of this act are hereby declared to be a menace to agriculture, and by agreement with the owner may be destroyed. If said screenings and other materials containing noxious-weed seeds are not so destroyed, it shall be unlawful to sell, offer or expose for sale, or to give away or use said screenings or other materials for planting or for feeding purposes in Washington: *Provided, however,* That said screenings and other materials may be ground or treated in a manner or by a method, approved by the Director, that will destroy the viability of all noxious-weed seeds contained therein to the fullest extent practicable and to the degree that farm lands cannot be reinfested by feeding said screenings to farm animals, and after such grinding or treatment shall have been done the said ground or treated screenings and other materials may be sold, offered or exposed for sale or may be used for feeding purposes in Washington.

Screenings
not to be fed
or sold.

Screenings
may be used
if treated.

Screenings
may be
moved upon
permit.

SEC. 23. Screenings and other materials containing noxious-weed seeds and not ground or treated may be moved under permit issued by the Director in accordance with rules and regulations established by the Director, to the farm of the owner or to another cleaning or processing plant for further cleaning and/or processing: *Provided, however,* That before any such screenings not so ground or treated may be removed to any place in Washington, every container of such screenings shall be labeled, "Screenings containing noxious-weed seeds. Unfit for planting or feeding purposes in Washington" in accordance with rules and regulations to be established by the Director.

Screenings
in transit
to be labeled
noxious.

SEC. 24. It shall be the duty of the Director to enforce and carry out the provisions of the act and to sample, inspect, make analysis of, and test agricultural and vegetable seeds transported, sold, offered or exposed for sale within this state for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether said agricultural or vegetable seeds are in compliance with the provisions of this act, and to notify promptly the person who transported, sold, offered or exposed the seed for sale, of any violation of this act or the rules and regulations issued under it.

Duties of the Director of Agriculture.

Seed tested.

Notify person of violation.

SEC. 25. The Director shall adopt and publish rules and regulations governing the methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed, and the tolerances to be followed in the administration of this act, which insofar as local conditions permit, shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of this act.

Shall adopt and publish rules.

Methods of testing.

SEC. 26. For the purpose of carrying out the provisions of this act, the Director is authorized—

Authority.

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds subject to the act and the rules and regulations thereunder.

To enter and have access to private premises.

(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 or has reason to suspect is in violation of any of the provisions of this act, which stop-sale order shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. No stop-sale order shall be issued or attached to any lot of seed without first giving the

To issue orders.

Owner to have opportunity to comply.

owner or custodian of such seed an opportunity to comply with the law or to withdraw the seed from sale. In respect to seeds which have been denied sale as provided in this paragraph, the owner or custodian of such seeds shall have the right to appeal from such order to a court of competent jurisdiction, praying for a judgment as to the justification of said order and for the discharge of such seed from the order prohibiting the sale in accordance with the findings of the court. The provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other sections of this act.

Owner may appeal.

Maintain testing facilities.

SEC. 27. The Director is authorized (a) to establish and maintain or make provision for seed testing facilities, to employ qualified persons, and to incur such expenses as may be necessary to comply with these provisions; and

Fix and collect charges for tests.

(b) to make or provide for making purity and germination tests of seeds for farmers and dealers on request; to prescribe rules and regulations governing such testing; and to fix and collect charges for the tests made and pay the same to the Director of Agriculture; and

(c) to cooperate with the United States Department of Agriculture in seed law enforcement.

Any person may submit samples for testing.

SEC. 28. Any citizen or firm of this state shall have the privilege of submitting to the Director of Agriculture, samples of agricultural and vegetable seeds for purity analyses and germination tests subject to such rules and regulations as may be adopted by said Director of Agriculture: *Provided*, That the Director of Agriculture may by such regulations fix the maximum number of samples that may be tested free of charge for any one person in any one period of time and fix charges for testing samples submitted in excess of those tested free of charge.

SEC. 29. Any lot of agricultural or vegetable seed not in compliance with the provisions of this act shall be subject to seizure on complaint of the Director of Agriculture to a court of competent jurisdiction in the area in which the seed is located. In the event that the court finds the seed to be in such violation of the act and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this state: *Provided*, That in no instance shall such disposition of said seed be ordered by the court without first having given the claimant an opportunity to apply to the court for the release of said seed or permission to process or relabel it to bring it into compliance with the act.

Unlawful seed may be seized.

Owner to have opportunity to comply.

SEC. 30. Every violation of the provisions of this act 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.

Penalty for violation.

Subsequent violations.

SEC. 31. When the Director shall find that any person has violated any of the provisions of this act, he or his duly authorized agent or agents may institute proceedings in the court of competent jurisdiction in the area in which the violation occurred, to have such person convicted therefor; or the Director may file with the Attorney General, with the view of prosecution, such evidence as may be deemed necessary. No prosecution under this act shall be instituted without first having given the defendant an opportunity to appear before the Director or his duly authorized agent to introduce evidence either in person or by agent or attorney at a private hearing. If, after such hearing, or without such hearing in case the defendant or his agent or attorney fails or refuses to appear, the

Director may institute action.

Attorney General may represent.

Owner to have opportunity to appear before action.

Director is of the opinion that the evidence warrants prosecution, he shall proceed as herein provided.

Duty of
Prosecuting
Attorney or
Attorney
General.

SEC. 32. It shall be the duty of the Prosecuting Attorney or the Attorney General, as the case may be, to institute proceedings at once against the person charged with a violation of this act if in his judgment the information submitted warrants such action.

Director may
publish
evidence.

SEC. 33. After judgment by the court in any case arising under this act, the Director shall publish any information pertinent to the issuance of the judgment by the court in such media as he may designate from time to time.

Dealers to
obtain
license.

SEC. 34. It shall be unlawful for any person, firm or corporation to engage in, conduct, or carry on the business of selling, dealing in or importing into this state for sale or distribution any agricultural or vegetable seeds, without first having obtained from the Director of Agriculture and having in force a license so to do. A separate license shall be obtained for each regular place of business. The license fee for each place of business shall be ten dollars (\$10).

License fee.

Exception.

SEC. 35. No license shall be required from merchants selling only seeds in sealed packages of eight (8) ounces or less and which have been packed and sealed by seedsmen licensed by the Director when the package bears the name and address of the licensee. All licenses shall bear the date of issue and shall expire on the thirty-first day of December next following the date of issue. The Director may publish from time to time, in bulletins or reports, a list of those licensed under this act.

Director to
make rules.

SEC. 36. The Director of Agriculture shall have the power and it shall be his duty to adopt, promulgate and enforce rules and regulations for the

inspection, grading and certification of growing crops of agricultural or vegetable seed grown in this state, and to inspect, grade and certify the same at the request of the grower, and to fix and collect fees for such inspection, grading and certification, and to pay the same into the state treasury.

SEC. 37. It shall be unlawful for any person, firm or corporation to represent by certificate, advertisement, placard, label or brand, or by any means of description, real or implied, any agricultural or vegetable seed to be "certified" or "certified seed" unless and until such seed shall have been duly inspected, graded and certified by the Director of Agriculture, or his authorized representatives, in accordance with the rules and regulations adopted and promulgated by the Director of Agriculture under the provisions of this act; and it shall be unlawful to offer or expose for sale agricultural or vegetable seed with a tag or tags blue in color and similar in size to the official state certification tag which could in any way be mistaken for an official tag: *Provided, however,* That agricultural or vegetable seed imported into this state which has been inspected and certified by the proper authorities of the state from which such seed is exported under a law of that state providing for the inspection and certification of seed, may be designated by the official certification tag of the state of origin when sold or offered for sale in this state as certified seed, provided such seed complies with the rules and regulations adopted and promulgated by the Director of Agriculture of this state.

Unlawful acts.

Imported seed to comply with regulations.

SEC. 38. All moneys collected under the provisions of this act shall be paid into the state treasury and shall be expended exclusively for necessary expenses under this act.

Moneys collected used for expenses.

SEC. 39. Chapter 145 of the Laws of 1919 (section 6976 Rem. Rev. Stat.; section 113-1 Pierce's Code) and chapter 183 of the Laws of 1919 (sections 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, and 2826 Rem. Rev. Stat.; sections 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 112-a, 112-b and 112-c Pierce's Code), as amended by chapter 153 of the Laws of 1921 (sections 2814, 2816, 2818, 2819, 2822, 2823, 2825, 2827, and 2828 Rem. Rev. Stat.; sections 103, 105, 107, 108, 111, 112, 112-b, 112-d, 112-e Pierce's Code), as amended by chapter 55 of the Laws of 1923 (sections 6977-a, 6977-b and 6977-c Rem. Rev. Stat.; sections 113-3, 113-4, and 113-5 Pierce's Code), as amended by chapter 137 of the Laws of 1923 (sections 2810, 2818, 2819, 2820, 2825, 2827 and 2828 Rem. Rev. Stat.; sections 99, 107, 108, 109, 112-b, 112-d, 112-3 Pierce's Code), as amended by chapter 46 of the Extraordinary Session of 1933 (section 2811-1 Rem. Rev. Stat.; section 100-11 Pierce's Code), as amended by chapter 140 of the Session Laws of 1935 (sections 2818, 2819, 2825, 2827 and 2828-1 Rem. Rev. Stat.; sections 107, 108, 112-b, 112-d and 113-a Pierce's Code), as amended by chapter 49 of the Laws of 1937 (section 6977-b Rem. Rev. Stat.; section 113-4 Pierce's Code), are hereby repealed.

Statutes
repealed.

Effective
date.

SEC. 40. This act is necessary for the support of the state government and its existing institutions and shall take effect April 1, 1941.

Passed the House March 6, 1941.

Passed the Senate March 5, 1941.

Approved by the Governor March 10, 1941.