

the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 3, 1955.

Passed the Senate March 8, 1955.

Approved by the Governor March 17, 1955.

CHAPTER 233.

[H. B. 215.]

WASHINGTON STATE SEED LAW.

AN ACT relating to agricultural seeds, vegetable seeds, weeds and weed seeds; to be known as the Washington State Seed Law; prescribing penalties; and repealing sections 1, 2, 5 through 38, chapter 56, Laws of 1941, chapter 248, Laws of 1943, chapter 64, Laws of 1943 and chapter 15.48 RCW.

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

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

SEC. 2. For the purpose of this chapter:

(1) "Director" means the director of agriculture of the state of Washington and his authorized deputies or agents;

(2) "Agricultural seeds" include the seeds of grass, forage, cereal and fiber crops, and any other kind of seeds commonly recognized within this state as agricultural, field, or turf seeds, and mixtures of such seeds;

(3) "Vegetable seeds" include seeds of those crops grown in gardens or truck farms and generally known and sold in the state as vegetable seeds;

(4) "Certified seeds" 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 hereunder;

(5) "Weed seeds" include the seeds of all plants

"Washington State Seed Law."

"Director" defined.

"Agricultural seeds" defined.

"Vegetable seeds" defined.

"Certified seeds" defined.

"Weed seeds" defined.

generally recognized as weeds within this state and shall include primary and secondary noxious seeds;

(6) "Primary (prohibited) noxious weed seeds" are seeds of weeds which reproduce by seed or underground roots or stems, and which are highly destructive and difficult to control by ordinary good cultural practices, including, but subject to additions or subtractions by the director as herein provided, the seeds of: bindweed (wild morning glory), (*Convolvulus arvensis* and *C. sepium*), quack grass (*Agropyron repens*), Canada thistle (*Cirsium arvense*), perennial sow thistle (*Sonchus arvensis*), white-top (hoary cress) (*Cardaria* spp.), perennial peppergrass (*Lepidium latifolium*), Russian knapweed (*Centaurea repens*, *C. picris*), leafy spurge (*Euphorbia esula*), white horse nettle (silver-leaf nightshade) (*Solanum elaeagnifolium*), camel-thorn (*Alhagi camelorum*), Austrian field cress (*Rorippa austriaca*), blue lettuce (*Lactuca pulchella*), common barberry bushes (rust-susceptible species of barberry and Mahonia) (*Berberis* spp., *Mahonia* spp.), yellow toadflax (butter and eggs) (*Linaria vulgaris*) and Johnson grass (*Sorghum Halepense*);

"Primary noxious weed seeds" defined.

(7) "Secondary (restricted), noxious weed seeds" are seeds of weeds which are very objectionable in fields, lawns, or gardens but which can be controlled by good cultural practices including, but subject to additions or subtractions by the director as herein prescribed, the seeds of: Dodder (*Cuscuta* spp.), perennial rag weed (*Ambrosia psilostachya*), poverty weed (deathweed) (*Iva axillaris*), alkali mallow (*Sida hederacea*), corn cockle (*Agrostemma githago*), docks (*Rumex* spp.), sheep sorrel (red sorrel) (*Rumex acetosella*), charlock (wild mustard) (*Brassica kaber*), plantains (*Plantago* spp.), perennial ground cherry (*Physalis longifolia* and *P. subglabrata*), fanweed (*Thlaspi arvense*), yellow starthistle (*Centaurea solstitialis*) perennial nutgrass

"Secondary noxious weed seeds" defined.

(nut sedge) (*Cyperus rotundus*), puncturevine (*Tribulus terrestris*), wild garlic (wild onion) (*Allium vineale*), and St. Johnswort (*Hypericum perforatum*);

"Advertisement," defined.

(8) "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;

"Label," defined.

(9) "Label" includes labels, tags, invoices and other written, printed or graphic representations in any form whatsoever accompanying and pertaining to seeds whether in bulk or containers;

"Seed grower," defined.

(10) "Seed grower" means one engaged in agricultural or horticultural pursuits who, at the time of signing a petition for a seed control area or at the time of voting on any proposition in connection therewith, is growing vegetable seed crops or has grown them within one year prior thereto;

"Seed contractor," defined.

(11) "Seed contractor" means a person licensed by the state to contract the growing of vegetable seeds;

"Seed families" defined.

(12) "Seed families" means any seed crops which will cross-pollinate; and

"Person," defined.

(13) "Person" includes any individual, firm, corporation, trust, association, co-operative, copartnership, society or other organization of individuals, in any other business unit, device, or arrangement.

Changes in primary and secondary weed seed lists.

SEC. 3. The director may from time to time add to or subtract from said lists of primary and secondary noxious weed seeds whenever he finds any weed seeds do or do not fall within the respective definitions as herein set out. He shall notify all licensed seed dealers of all changes in such lists thirty days before they become effective.

Notification.

Container of seeds offered for sale to bear label.

SEC. 4. Each container of agricultural or vegetable seeds sold, offered for sale or exposed for sale within this state for sowing purposes shall have at-

tached thereto or bear thereon in a conspicuous place a plainly written or printed label in the English language, giving the information hereinafter required. Information required.

SEC. 5. Labels for agricultural seeds shall give: Agricultural seed label.

(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 percent 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; Kind, variety or type.

(2) Lot number or other lot identification; Lot number. Origin.

(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. Rye shall be considered a weed when found in other cereal crop seeds; Percentage by weight of weed seeds.

(5) The name and approximate number of each kind of secondary (restricted) noxious weed seed, per pound, in groups (a), (b) and (c) of this subsection, when present singly or collectively in excess of: Secondary noxious weed seed.

(a) One seed or bulblet in each ten grams of *Argrostis* spp., *Poa* spp., Bermuda grass, timothy, orchard grass, fescues (except tall fescue), alsike and white clover, reed canary grass, and other agricultural seeds of similar size and weight, or mixtures within this group;

(b) One seed or bulblet in each twenty-five grams of rye-grass, tall fescue, millet, alfalfa, red clover, sweet clover, 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); or

(c) One seed or bulblet in each one hundred 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 chapter.

Percentage by weight of agricultural seeds.

(6) Percentage by weight of agricultural seeds other than those required to be named on the label;

Inert matter.

(7) Percentage by weight of inert matter;

Agricultural seeds.

(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; and

Name and address.

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

Vegetable seed label.

SEC. 6. Labels for vegetable seeds shall give:

Kind and variety.

(1) The name of the kind and variety of the seed;

Germination below standard.

(2) For seeds which germinate less than the standard last established by the director, (a) percentage of germination, exclusive of hard seed, (b) the percentage of hard seed, if present, (c) the month and year the test to determine percentages was completed, and (d) the words "below standard";

Secondary noxious weed seeds.

(3) The name and number per pound of secondary (restricted) noxious weed seeds; and

Name and address.

(4) The name and address of the person who labeled said seed, or who sells, offers or exposes the same for sale within this state.

- SEC. 7. It shall be unlawful to sell, offer or expose for sale any agricultural or vegetable seed for seeding purposes within this state:
- (1) Unless the test to determine the percentage of germination shall have been completed within nine months, exclusive of the calendar month in which the test was completed, prior to the sale, offering for sale or exposure for sale; Unlawful to sell seeds.
Test determining percentage of germination.
- (2) Not labeled as required herein, or having a false or misleading label; No label.
- (3) Pertaining to which there has been a false or misleading advertisement; False advertising.
- (4) Containing primary (prohibited) noxious weed seeds in excess of the tolerance permitted under the rules and regulations; or Primary noxious weed seeds.
- (5) Containing a total of all weed seeds in excess of two percent of the whole by weight: *Provided*, That three percent of cheat, chess or downy brome shall be allowed in grass seed in which these weeds are found. All weed seeds.
Proviso.
- SEC. 8. It shall be unlawful to detach, alter, deface, or destroy any label required herein or by the rules and regulations made hereunder; to alter or substitute seed in a manner that may defeat the purpose of this chapter; to disseminate any false or misleading advertisement concerning agricultural or vegetable seed; to hinder or obstruct any authorized person in the performance of his duties hereunder; or to fail to comply with a stop sale order. Unlawful to alter label or substitute seed.
False advertisement.
Performance of duties hindered.
- SEC. 9. The provisions of sections 4, 5, 6, 7 and 8 of this chapter shall not apply to seed or grain not intended for sowing purposes or to seed stored in or consigned to an establishment for cleaning or processing: *Provided*, That any labeling or advertisement with respect to unclean seed shall be subject to this chapter. Sections no application.
Proviso.
- SEC. 10. All screenings and other materials removed in the cleaning or processing of agricultural Screenings.

seeds and vegetable seeds which contain primary (prohibited) noxious weed seeds or secondary (restricted) noxious weed seeds are hereby declared to be a menace to agriculture, and unless they are removed from the processing plant under permit as hereinafter provided within twenty days after notice to the owner that they are ready for his disposition, they shall be destroyed by the processor. 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*, That they may be sold or used for feeding purposes after they have been ground or treated by a method approved by the director which will destroy the viability of the noxious weed seeds to such an extent that farm lands cannot be reinfested by feeding the same to farm animals.

Removal under permit.

Unlawful.

Sold for feeding purposes.

Cleaning establishment required to submit evidence of method.

Certificate of authorization.

Conspicuously placed.

Screenings moved under permit.

Labeled.

Every processing or cleaning establishment desiring to grind or treat screenings to destroy the viability of weed seeds as required herein shall submit evidence satisfactory to the director of the ability of the method selected so to do. After investigation of the adequacy of the method submitted, the director shall issue a certificate of authorization to such processing or cleaning plant to which shall be attached such conditions governing the destruction of weed seeds necessary to protect the agriculture of this state. Such certificate of authorization shall be conspicuously displayed in the place of business for which it is issued.

SEC. 11. 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 made by him, to the farm of the owner or to another cleaning or processing plant for further cleaning or processing, when each container thereof is labeled: "Screenings

containing noxious weed seeds. Unfit for planting or feeding in Washington”.

SEC. 12. The director shall adopt, publish and enforce rules and regulations governing the sampling, inspecting, analyzing and testing of agricultural and vegetable seeds and the tolerance to be allowed, which shall, when local conditions permit, be in general accord with official interstate commerce practice; and shall sample, inspect, analyze and test such seeds as are offered or exposed for sale, sold or transported for sowing purposes whenever he deems it necessary in the performance of his duties. He shall promptly notify the person who offered, sold or transported the same of any violations of law or of said rules and regulations.

Director's duties.
Rules and regulations.

Sample and test.

Notification of violations.

SEC. 13. The director may enter upon any public or private premises during regular business hours to have access to seeds subject hereto and the rules and regulations hereunder; and may issue and enforce a written or printed stop sale order to the owner or custodian of any lot of agricultural or vegetable seed which he finds or has reason to suspect is in violation of any provision of this chapter or any of the prescribed rules and regulations promulgated under this chapter, which stop sale order shall prohibit further sale of such seed until written permission is given by the director or the superior court. The director shall release the seed subject to the stop sale order when he has evidence that the provisions of the law and rules and regulations promulgated thereunder have been complied with, and all costs and expenses incurred in the stop sale order have been paid. If compliance is not obtained within thirty days, the director shall begin proceedings for condemnation: *Provided, however,* That if after the issuance of the stop sale order, the director finds that such seed does not involve a violation of this chapter, such order shall be forth-

Enter upon premises.

Stop sale order.

Release seed.

Proceedings for condemnation.

Removal of stop sale order.

Appeal from stop sale order.

with removed. Appeal from such order may be taken to a court of competent jurisdiction by the owner or custodian of such seed.

Seed subject to seizure on complaint of director to court.

SEC. 14. Any lot of agricultural or vegetable seed not in compliance with the provisions of this chapter shall be subject to seizure on complaint of the director to a court of competent jurisdiction in the area in which said seed is located. In the event that the court finds said seed to be in violation of this chapter and orders the condemnation of said seed, it shall be disposed of in any manner consistent with the quality of the seed and the laws of this state: *Provided*, That in no instance shall the disposition of said seed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said seed or for permission to process or relabel said seed to bring it into compliance with this chapter.

Application to court for release of seed.

Temporary or permanent injunction.

SEC. 15. The director is hereby authorized to apply for, and a court is authorized to grant, a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of this chapter or any rule or regulation promulgated under the chapter notwithstanding the existence of other remedies at law.

Minor violations.

SEC. 16. Nothing in this chapter shall be construed as requiring the director or his representative to report for prosecution or for the institution of seizure proceedings as a result of minor violations of the chapter when he believes that the public interest will be best served by suitable notice of warning in writing.

Limitation on damages from administrative action.

SEC. 17. No state court shall allow the recovery of damages from administrative action or for a stop sale order under section 13 if the court finds that there was probable cause for such action.

SEC. 18. In all prosecutions under this chapter involving the composition of a lot of agricultural or vegetable seed, a certified copy of the official analysis signed by the official state seed analyst who made the analysis shall be accepted as prima facie evidence of the composition.

Certified copy of official analysis of seed lot, prima facie evidence.

SEC. 19. It shall be unlawful to represent agricultural or vegetable seed as "certified" unless it has been inspected, graded, and certified by the director or his duly authorized agent, or to sell, offer for sale, or expose for sale, such seed with a blue tag similar in size to the official state certification tag which could be mistaken for an official tag: *Provided*, That imported seed which has been inspected and certified by the proper authorities of the state of its origin, may be designated by the official certification tag of that state, as certified seed, when the seed complies with the rules and regulations of the director.

Unlawful to represent as "certified."

Imported seed.

SEC. 20. The director shall have the authority to:

Director's authority.

(1) Appoint as agents for the purpose of certifying agricultural or vegetable seeds, persons, organizations and associations to assist in said certification;

Appoint agents to assist in certification.

(2) Maintain seed testing facilities, employ qualified persons and incur expenses necessary to operate the same;

Maintain seed testing facilities.

(3) Provide purity analyses and germination tests on samples of seeds, which may be submitted by any interested person;

Provide purity analyses and germination tests.

(4) Adopt rules and regulations governing the performance of said service, fixing the fees to be charged therefor, and determining the number of samples that may be tested for any one person free of charge.

Adopt rules for performance of service; fix fees.

SEC. 21. The director shall adopt and enforce rules and regulations for inspecting, grading, and

Director's duties.

certifying growing crops of agricultural and vegetable seeds, shall inspect, grade and certify them at the request of the grower, and shall fix and collect fees for such service. The methods of making seed analyses and germination tests, shall be designated by the director, such as, but not limited to the "Rules and Methods of Testing" adopted and approved by the association of official seed analysts of North America.

"Rules and Methods of Testing."

Prohibition of use of department name for advertising purposes.

SEC. 22. No person shall, in any manner, use for advertising purposes the name of the Washington state department of agriculture in connection with the sale or distribution of any agricultural or vegetable seeds.

License requirement.

SEC. 23. No person shall engage in selling, dealing in, or importing for sale or distribution, agricultural, or vegetable seeds without having a license to do so for each regular place of business; except that no license shall be required of merchants who sell seeds only in sealed packages of eight ounces or less, packed by licensed seedsmen and bearing the name and address of the licensee nor shall a license be required of any grower selling seeds of his own production exclusively: *Provided*, That such seed sold by such grower must be properly labeled as provided in this chapter. All licenses shall cost ten dollars, shall be issued by the director, shall bear the date of issue, shall expire on December 31st of each year and shall be prominently displayed in each place of business. The director may publish lists of such licenses.

Exception.

License fee.

License expiration.

Written permit to clean seeds.

SEC. 24. It is unlawful for any person to engage in the cleaning of agricultural or vegetable seeds entered by growers for certification under the provisions of this chapter without first having obtained a written permit to do so from the director. Upon application for such a permit, it shall be the duty

of the director to inspect the seed processing facilities of the applicant to determine that the genetic purity and identity of seeds processed in the applicant's plant can be adequately maintained throughout processing operations in order that the seed owner's interests and investment may be adequately protected. Upon finding that the processing facilities are adequate to maintain the genetic purity and identity of seeds, the permit shall be granted and it shall remain in effect as long as the facilities are maintained in the manner required to obtain the permit. Separate permits shall be issued for each regular place of business and shall be conspicuously displayed in the office of such business.

Inspection of processing facilities of applicant.

Permit duration.

Separate permits.

SEC. 25. The director may, through the procedure hereafter set forth, establish seed control areas for the purpose of preventing cross-pollination of vegetable seed plants which threaten to be destructive to agricultural or horticultural pursuits. He may apply such measures and methods as may be necessary to accomplish that purpose and may cooperate with county, state and federal agencies to that end.

Seed control areas.

SEC. 26. Not less than twenty-five vegetable seed growers producing a seed crop of the same family, and not less than three seed contractors within a county, may petition the director to establish a seed control area, describing its boundaries and giving the reasons therefor, and if such action appears to be in the public interest, the director may order a notice of public hearing to be published in one or more newspapers local to the area, at least once each week for three consecutive weeks prior to the hearing. Upon the hearing, at which all pertinent evidence shall be heard, the director may order any area within the county declared to be a seed control area and it shall remain such until the order is canceled by the director when he deems it in the best interest of the public.

Petition to establish seed control area.

Notice of public hearing.

Order establishing area.

Permit needed
in seed control
area.

SEC. 27. No person shall plant, cultivate, harvest, or contract for any vegetable seed within a seed control area, except upon permit granted by the county horticulturist. The permit shall be granted when, in the judgment of the horticulturist, no cross-pollination will result.

Director's duty
and power to
carry out
provisions.

SEC. 28. It shall be the duty of the director to enforce and carry out the provisions of this chapter. The director shall be empowered to adopt such reasonable rules and regulations as may be deemed necessary to secure the efficient enforcement of this chapter after public hearing. Notice of such hearing shall be given by publication of notice in a newspaper of general circulation at least ten days prior to the date of the hearing. The notice shall state the date, time and place of the hearing and a brief summary of the regulation the director intends to promulgate.

Notice of
hearing.

Violation, gross
misdemeanor.

SEC. 29. Any person convicted of violating any of the provisions of this chapter or the rules and regulations issued thereunder, or shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the director or his duly authorized agent in the performance of his duty in connection with the provisions of this chapter, shall be adjudged guilty of a gross misdemeanor and shall be fined not less than fifty dollars, nor more than one hundred dollars, for the first violation, and not less than two hundred fifty dollars, nor more than five hundred dollars, for subsequent violations.

Penalty.

Not subject
to penalties.

SEC. 30. No person shall be subject to the penalties of this chapter for having sold, offered for sale or exposed for sale, agricultural or vegetable seeds which were incorrectly labeled or misrepresented as to kind, variety, type, or origin and which cannot be identified by examination, if he possesses 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 necessary to insure the identity to be that stated.

SEC. 31. All moneys collected under this chapter shall be paid into a special fund which is hereby created in the state treasury and designated the "seed fund," which shall be expended for necessary expenses hereunder. Moneys in the seed fund created by RCW 15.48.230 at the time of the effective date of this chapter shall be transferred to and shall constitute a part of the fund herein created.

"Seed fund" created.

Fund transferred.

SEC. 32. No criminal prosecution under this chapter shall be instituted without giving the defendant an opportunity to appear before the director to introduce evidence at a private hearing. If after hearing, or without hearing if the accused fails to appear, the director is of the opinion that the evidence warrants prosecution he shall institute proceedings or file the evidence with the attorney general with the view of prosecution.

Prerequisite to criminal prosecution.

SEC. 33. The prosecuting attorneys within their respective counties or the attorney general shall institute and prosecute actions under this chapter when in their opinion the evidence submitted warrants such action.

Institution of actions.

SEC. 34. After judgment by the court in any case arising under this chapter, the director shall publish in any media he may designate any information pertinent to the issuance of such judgment.

Information published.

SEC. 35. If any clause, sentence, paragraph, or part of this chapter is for any reason judged invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operations to the clause, sentence, paragraph, or part

Invalidity.

thereof directly involved in the controversy in which such judgment shall have been rendered.

Legislative declaration.

SEC. 36. The legislature hereby declares that it intended to pass each section and subsection of this chapter irrespective of every other section or subsection, sentence, clause or phrase thereof, and instructs all courts that such is its intention, and that such intention should be given effect.

SEC. 37. Sections 1, 2, 5 through 38, chapter 56, Laws of 1941, chapter 248, Laws of 1943, chapter 64, Laws of 1943 and chapter 15.48 RCW are repealed.

Passed the House February 23, 1955.

Passed the Senate March 8, 1955.

Approved by the Governor March 17, 1955.

CHAPTER 234.

[H. B. 482.]

RETIREMENT SYSTEMS—TRANSFER FROM STATE TEACHERS' TO STATE EMPLOYEES'.

AN ACT relating to authorization of certain employees to transfer from the state teachers' retirement system to the state employees' retirement system; and amending section 1, chapter 202, Laws of 1953 and RCW 41.32.495.

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

Amendment.

SECTION 1. Section 1, chapter 202, Laws of 1953 and RCW 41.32.495 are each amended to read as follows:

Authorization to transfer from state teachers' retirement system to state employees' retirement system.

Any public employee of an employer within the jurisdiction of the state employees' retirement system who is a member of the Washington state teachers' retirement system and who is not employed by a school district, state school, or a college of education in a teaching capacity in the public schools of the state as a superintendent, principal, teacher, professor, instructor, or a related capacity may transfer