

E AND R AMENDMENTS TO LB 91

Introduced by McKinney, 11, Chairman Enrollment and Review

1 1. Strike the original sections and all amendments thereto and
2 insert the following new sections:

3 Section 1. Section 81-2,147.01, Revised Statutes Cumulative
4 Supplement, 2020, is amended to read:

5 81-2,147.01 As used in the Nebraska Seed Law:

6 (1) Advertisement means all representations, other than those on the
7 label, disseminated in any manner or by any means relating to seed,
8 including farm grain represented as suitable for sowing, within the scope
9 of the Nebraska Seed Law;

10 (2) Agricultural seed includes the seeds of grass, forage, cereal,
11 oil and fiber crops, and lawn and mixtures of such seeds and any other
12 kinds of seed commonly recognized within this state as agricultural seeds
13 and may include the seed of any plant that is being used as an
14 agricultural crop when the Director of Agriculture establishes in rules
15 and regulations that such seed is being used as agricultural seed;

16 (3) Blend means seeds consisting of more than one variety of a kind,
17 each in excess of five percent by weight of the whole;

18 (4) Brand means a word, name, symbol, number, or design to identify
19 seed of one person to distinguish it from seed of another person;

20 (5) Certifying agency means (a) an agency authorized under the laws
21 of a state, territory, or possession of the United States to officially
22 certify seed and which has standards and procedures approved by the
23 United States Secretary of Agriculture to assure genetic purity and
24 identity of the seed certified or (b) an agency of a foreign country
25 which is determined by the United States Secretary of Agriculture to
26 adhere to procedures and standards for seed certification comparable to
27 those adhered to generally by certifying agencies under subdivision (a)

1 of this subdivision;

2 (6) Conditioning means drying, cleaning, scarifying, or other
3 operations which could change the purity or germination of the seed and
4 require the seed lot or any definite amount of seed to be retested to
5 determine the label information;

6 (7) Director means the Director of Agriculture or his or her
7 designated employee or representative or authorized agent;

8 (8) Dormant seed means viable seeds, other than hard seeds, which
9 fail to germinate when provided the specified germination conditions for
10 the kind of seed in question;

11 (9) Flower seed includes seeds of herbaceous plants grown for their
12 blooms, ornamental foliage, or other ornamental parts and commonly known
13 and sold under the name of flower or wildflower seeds in this state;

14 (10) Germination means the emergence and development from the seed
15 embryo of those essential structures which for the kind of seed in
16 question are indicative of the ability to produce a normal plant under
17 favorable conditions;

18 (11) Hard seed means seeds which remain hard at the end of the
19 prescribed test period because they have not absorbed water due to an
20 impermeable seed coat;

21 (12) Hybrid means the first generation seed of a cross produced by
22 controlling the pollination and by combining (a) two or more inbred
23 lines, (b) one inbred or a single cross with an open-pollinated variety,
24 or (c) two varieties or species except open-pollinated varieties of corn
25 (*Zea mays*). The second generation and subsequent generations from such
26 crosses shall not be regarded as hybrids. Hybrid designations shall be
27 treated as variety names;

28 (13) Inert matter means all matter not seed which includes broken
29 seeds, sterile florets, chaff, fungus bodies, and stones as established
30 by rules and regulations;

31 (14) Kind means one or more related species or subspecies which

1 singly or collectively are known by one common name, such as corn, oats,
2 alfalfa, and timothy;

3 (15) Labeling includes all labels and other written, printed,
4 stamped, or graphic representations, in any form whatsoever, accompanying
5 or pertaining to any seed, whether in bulk or in containers, and includes
6 representations on invoices;

7 (16) Lot means a definite quantity of seed in containers or bulk
8 identified by a lot number or other mark, every portion of which is
9 uniform within recognized tolerances for the factors that appear in the
10 labeling;

11 (17) Mixture, mix, or mixed means seeds consisting of more than one
12 kind, each present in excess of five percent by weight of the whole;

13 (18) Mulch means a protective covering of any suitable material
14 placed with seed which acts to retain sufficient moisture to support seed
15 germination and sustain early seedling growth and aids in preventing the
16 evaporation of soil moisture, controlling weeds, and preventing erosion;

17 (19) Native plant species means any grass, sedge, rush, or forb
18 indigenous to North America prior to European settlement;

19 (20) Nonnative plant species means any grass, sedge, rush, or forb
20 not indigenous to North America prior to European settlement;

21 (21) (19) Origin means a foreign country or designated portion
22 thereof, a state, the District of Columbia, Puerto Rico, or a possession
23 of the United States, where the seed was grown;

24 (22) (20) Other crop seed means seed of plants grown as crops, other
25 than the kind or variety included in the pure seed, as established by
26 rules and regulations;

27 (23) (21) Person includes any corporation, company, society,
28 association, body politic and corporate, community, individual,
29 partnership, limited liability company, or joint-stock company or the
30 public generally;

31 (24) (22) Primary noxious weed seeds means the seeds of any plant

1 designated by the director as a noxious weed pursuant to the Noxious Weed
2 Control Act. Pursuant to subdivision (1)(c) of section 81-2,147.06, the
3 director may add to or subtract from this primary noxious weed seeds
4 list;

5 (25) ~~(23)~~ Prohibited noxious weed seeds means the seeds of plants
6 which are highly destructive and difficult to control in this state by
7 ordinary good cultural practice, the use of herbicides, or both and
8 includes field bindweed (*Convolvulus arvensis*), hoary cress (*Cardaria*
9 *draba*), Russian knapweed (*Centaurea repens*), johnsongrass (*Sorghum*
10 *halepense*), Scotch thistle (*Onopordum acanthium*), morning glory (*Ipomoea*
11 *purpurea*) when found in field crop seeds, skeletonleaf bursage (*Ambrosia*
12 *discolor*), woollyleaf bursage (*Ambrosia tomentosa*), serrated tussock
13 (*Nassella trichotoma*), and puncturevine (*Tribulus terrestris*). Pursuant
14 to subdivision (1)(c) of section 81-2,147.06, the director may add to or
15 subtract from this prohibited noxious weed seeds list;

16 (26) ~~(24)~~ Pure live seed means the product of the percent of
17 germination plus percent of hard or dormant seed multiplied by the
18 percent of pure seed divided by one hundred. The result shall be
19 expressed as a whole number;

20 (27) ~~(25)~~ Pure seed means seed exclusive of inert matter and all
21 other seeds not of the seed being considered as established by rules and
22 regulations;

23 (28) ~~(26)~~ Record means any and all information which relates to the
24 origin, treatment, germination, purity, kind, and variety of each lot or
25 definite amount of seed handled in this state. Such information includes
26 seed samples and records of declarations, labels, purchases, sales,
27 conditioning, bulking, treatment, handling, storage, analyses, tests, and
28 examinations;

29 (29) ~~(27)~~ Restricted noxious weed seeds means the seeds of plants
30 which are objectionable in fields, lawns, and gardens of this state but
31 can be controlled by ordinary good cultural practice, the use of

1 herbicides, or both and includes dodder (*Cuscuta* spp.), wild mustard
2 (*Brassica* spp.), dock (*Rumex* spp.), quackgrass (*Elytrigia repens*),
3 pennycress (*Thlaspi arvense*), purple loosetrife (*Lythrum salicaria*), and
4 horsenettle (*Solanum carolinense*). Pursuant to subdivision (1)(c) of
5 section 81-2,147.06, the director may add to or subtract from this
6 restricted noxious weed seeds list;

7 (30) ~~(28)~~ Sale in any of its variant forms means sale, to barter,
8 exchange, offer for sale, expose for sale, move, or transport, in any of
9 their variant forms, or otherwise supplying. Sale does not mean the
10 donation, exchange, or other transfer of seeds to or from a seed library
11 or among members of, or participants in, a seed library;

12 (31) ~~(29)~~ Screenings means the results of the process which removes,
13 in any way, weed seed, inert matter, and other materials from any
14 agricultural, vegetable, or flower seed in any kind of cleaning process;

15 (32) ~~(30)~~ Seed library means a nonprofit, governmental, or
16 cooperative organization, association, or activity for the purpose of
17 facilitating the donation, exchange, preservation, and dissemination of
18 seeds of open pollinated, public domain plant varieties by or among its
19 members or members of the public when the use, exchange, transfer, or
20 possession of seeds acquired by or from the seed library is free of any
21 charge or consideration;

22 (33) ~~(31)~~ Seizure means a legal process carried out by court order
23 against a definite amount or lot of seed;

24 (34) ~~(32)~~ Stop-sale order means an administrative order provided by
25 law restraining the sale, use, disposition, and movement of a definite
26 amount or lot of seed;

27 (35) ~~(33)~~ Tetrazolium (TZ) test means a type of test in which
28 chemicals are used to produce differential staining of strong, weak, and
29 dead tissues, which is indicative of the potential viability of seeds;

30 (36) ~~(34)~~ Treated means that the seed has been given an application
31 of a substance or subjected to a process or coating for which a claim is

1 made or which is designed to reduce, control, or repel disease organisms,
2 insects, or other pests which attack seeds or seedlings growing
3 therefrom;

4 (37) ~~(35)~~ Variety means a subdivision of a kind which is distinct,
5 uniform, and stable. For purposes of this subdivision: (a) Distinct means
6 that the variety can be differentiated by one or more identifiable
7 morphological, physiological, or other characteristics from all other
8 varieties of public knowledge; (b) uniform means that variations in
9 essential and distinctive characteristics are describable; and (c) stable
10 means that the variety will remain unchanged in its essential and
11 distinctive characteristics and its uniformity when reproduced or
12 reconstituted as required by the different categories of varieties;

13 (38) ~~(36)~~ Vegetable seed includes the seeds of those crops which are
14 grown in gardens and on truck farms and are generally known and sold
15 under the name of vegetable or herb seeds in this state; and

16 (39) ~~(37)~~ Weed seed includes the seeds of any plant generally
17 recognized as a weed within this state as established in rules and
18 regulations and includes the primary noxious weed seeds, prohibited
19 noxious weed seeds, and restricted noxious weed seeds.

20 Sec. 2. Section 81-2,147.02, Reissue Revised Statutes of Nebraska,
21 is amended to read:

22 81-2,147.02 Each container of agricultural, vegetable, or flower
23 seeds which is sold within this state for sowing purposes shall bear
24 thereon or have attached thereto in a conspicuous place a plainly written
25 or printed label or tag in the English language giving the following
26 information, which statement shall not be modified or denied in the
27 labeling or on another label attached to the container:

28 (1) For any agricultural seeds or any mixture thereof, any vegetable
29 seeds or any mixture thereof, or any flower seeds or any mixture thereof
30 for sowing purposes that have been treated, unless each seed container
31 bears a label giving the following information and statements as

1 established in the rules and regulations:

2 (a) A word or statement indicating that the seeds have been treated;

3 (b) The commonly accepted coined, chemical (generic), or abbreviated
4 chemical name of any substance used in such treatment;

5 (c) If the substance used in such treatment in the amount remaining
6 with the seeds is harmful to humans or other vertebrate animals, an
7 appropriate caution statement approved by the director as adequate for
8 the protection of the public such as, "Do Not Use For Food Or Feed Or Oil
9 Purposes", except that the caution statement for mercurials and similarly
10 toxic substances, as established in the rules and regulations, shall be a
11 representation of a skull and crossbones and a statement such as, "This
12 Seed Has Been Treated With POISON", in red letters on a background of
13 distinctly contrasting color;

14 (d) A description approved by the director for the protection of the
15 public of any process used in such treatment; and

16 (e) If the seed is treated with an inoculant, the year and month
17 beyond which the inoculant, if shown in the labeling, is no longer
18 claimed to be effective (Date of expiration);

19 (2) For agricultural seeds except for grass seed mixtures as
20 provided in subdivision (5) of this section:

21 (a) The commonly accepted name of the kind and variety of each
22 agricultural seed component, in excess of five percent of the whole, and
23 the percentage by weight of each in the order of its predominance, except
24 that if the variety of the kinds which are generally labeled as to their
25 variety as established in the rules and regulations is not stated, the
26 label shall show the name of the kind and the words, "Variety Not
27 Stated". When more than one component is required to be named, the word
28 mixture, mix, mixed, or blend shall be shown conspicuously on the label.
29 Hybrids shall be labeled as hybrids except when the pure seed contains
30 less than seventy-five percent hybrid seed. If the percentage of the
31 hybrid seed is equal to or greater than seventy-five percent but less

1 than ninety-five percent, the percentage of hybrid shall be labeled
2 parenthetically following the variety;

3 (b) The lot number or other lot identification;

4 (c) Origin, if known. If the origin is unknown, the fact shall be
5 stated;

6 (d) The percentage by weight of all weed seed;

7 (e) The name and rate of occurrence per pound of each kind of
8 restricted noxious weed seed:

9 (i) For *Agrostis* spp., bluegrass, timothy, orchardgrass, fescue,
10 alsike clover, white clover, reed canarygrass, ryegrass, foxtail millet,
11 alfalfa, red clover, sweetclover, lespedeza, smooth brome, crimson
12 clover, *Brassica* spp., flax, wheatgrass, and other agricultural seed of
13 similar size and weight, or mixtures within such group, when present
14 singly or collectively in excess of eighteen seeds per pound; and

15 (ii) For all other agricultural seed or agricultural seed mixtures
16 not included in subdivision (i) of this subdivision, when present, label
17 as found;

18 (f) Percentage by weight of agricultural seeds which may be
19 designated as other crop seed other than those required to be named on
20 the label;

21 (g) The percentage by weight of inert matter;

22 (h) For each named agricultural seed, the percentage of germination
23 exclusive of hard seed and the percentage of hard seed if present.
24 Following the percentage of germination exclusive of hard seed and the
25 percentage of hard seed, if present, the total germination and hard seed
26 percentage may be stated if desired. The calendar month and year the test
27 was completed to determine such percentages or an expiration date for
28 those seeds labeled for lawn and turf purposes shall also be stated;

29 (i) For each native plant species, ~~of the following named grasses~~
30 the percentage of germination exclusive of dormant seed, the percentage
31 of dormant seed if present, or the percentage of viability as indicated

1 by a tetrazolium (TZ) test and the calendar month and year the test was
2 completed to determine such percentages. Following the percentage of
3 germination, exclusive of dormant seed and the percentage of dormant
4 seed, if present, the total germination and dormant seed may be stated if
5 desired. Also, ~~for each of the following named grasses~~ when extreme
6 dormancy is encountered in such species, the result of a tetrazolium (TZ)
7 test may be shown in lieu of the percentage of germination to indicate
8 the potential viability of the seed; and ÷

9 ~~Bluestem:~~

10 Big	Andropogon gerardii
11 Little	Schizachyrium scoparium
12 Sand	Andropogon hallii
13 Yellow	Bothriochloa ischaemum
14 Dropseed, sand	Sporobolus cryptandrus
15 Buffalograss	Buchloe dactyloides
16 Grama:	
17 Sideoats	Bouteloua curtipendula
18 Blue	Bouteloua gracilis
19 Indiangrass	Sorghastrum nutans
20 Lovegrass, sand	Eragrostis trichodes
21 Needlegrass, green	Stipa viridula
22 Prairiesandreed	Calamovilfa longifolia
23 Ricegrass, Indian	Oryzopsis hymenoides
24 Wheatgrass, western	Elymus smithii
25 Switchgrass	Panicum virgatum; and

26 (j) The name and address of the person who labeled such seed or who
27 sells such seed within this state;

28 (3) For agricultural, vegetable, and flower seeds that are coated:

29 (a) The percentage of pure seeds with coating material removed;

30 (b) The percentage of coating material should be shown as a separate

1 item in close association with the percentage of inert matter; and

2 (c) The percentage of germination should be determined on four
3 hundred pellets with or without seeds;

4 (4) For products which claim to be a combination of mulch, seed, and
5 fertilizer the word combination shall be followed by the words "Mulch -
6 Seed - Fertilizer". The word combination must appear on the upper thirty
7 percent of the principal display panel and must be the largest and most
8 conspicuous type on the container, equal to or larger than the product
9 name. The words "Mulch - Seed - Fertilizer" shall be no smaller than one-
10 half the size of, and in close proximity to, the word combination. Such
11 product shall contain a minimum of seventy percent mulch;

12 (5) For seed mixtures for lawns and turf purposes in containers of
13 fifty pounds or less:

14 (a) The word mixed, mixture, mix, or blend;

15 (b) Commonly accepted name, in order of its predominance of the kind
16 and variety, or kind of each agricultural seed present in excess of five
17 percent of the whole;

18 (c) Percentage by weight of pure seed of each agricultural seed
19 named;

20 (d) For each agricultural seed named under subdivision (b) of this
21 subdivision:

22 (i) Percentage of germination exclusive of hard seed;

23 (ii) Percentage of hard seed if present; and

24 (iii) Calendar month and year the test was completed to determine
25 such percentages or an expiration date;

26 (e) Percentage by weight of all weed seed;

27 (f) Percentage by weight of all agricultural seeds, which may be
28 designated as crop seed, other than those stated under subdivision (b) of
29 this subdivision;

30 (g) Percentage by weight of inert matter;

31 (h) Lot number or other lot identification;

1 (i) The name and rate of occurrence of each kind of restricted
2 noxious weed seed per pound when present singly or collectively in excess
3 of the numbers shown in subdivision (2)(e)(i) of this section;

4 (j) Name and address of the person who labeled such seed or who
5 sells such seed within this state;

6 (k) Origin, if known. If the origin is unknown, the fact shall be
7 stated; and

8 (l) For cool season lawn and turf grass seed and mixtures, including
9 kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall
10 fescue, perennial rye grass, intermediate rye grass, annual rye grass,
11 colonial bentgrass, and creeping bentgrass:

12 (i) The calendar month and year the germination test was completed
13 to determine the percentage required under subdivision (5)(d)(i) of this
14 section and the germination test date for each component or, if each
15 component does not show a germination test date, the oldest germination
16 test date shall be used for the mixture; or

17 (ii) In place of the test date, the statement "sell by (date)",
18 which date shall not be more than fifteen months after the date of the
19 germination test exclusive of the month of the germination test;

20 (6) For grass seed for which claims are made regarding the
21 beneficial presence of Acremonium species:

22 (a) The seed shall have on the analysis label or on a separate label
23 which is in close proximity to the analysis label the actual percentage
24 of viable endophyte present in each component and the month and year that
25 a viable endophyte test was performed to establish the percentage of
26 endophyte present. For mixtures, the oldest test date shall be used. The
27 test date shall be stated as "Endophyte Test Date". Freshly harvested
28 seed may be labeled and shipped based on a seed endophyte test until
29 October 1 of the harvest year; and

30 (b) The viable endophyte test must have been conducted within the
31 last nine months, not including the month of the test. If the test date

1 exceeds nine months the seed lot must be retested and relabeled or all
2 references to endophyte must be removed from the label;

3 (7) For vegetable seeds in containers prepared for use in home
4 gardens or household plantings or vegetable seeds in preplanted
5 containers, mats, tapes, or other planting devices:

6 (a) The name of the kind and variety of seed;

7 (b) Lot number or other lot identification;

8 (c) The calendar month and year the seeds were tested or the year
9 for which the seed was packaged for sale as "Packed for (year)";

10 (d) For seeds which germinate less than the standard last
11 established in the rules and regulations:

12 (i) Percentage of germination exclusive of hard seed;

13 (ii) Percentage of hard seed if present;

14 (iii) The calendar month and year the test was completed to
15 determine such percentages; and

16 (iv) The words "Below Standard" in not less than eight-point type;

17 (e) For seeds placed in a germination medium, mat, tape, or other
18 device in such a way as to make it difficult to determine the quantity of
19 seed without removing the seeds from the medium, mat, tape, or other
20 device, a statement to indicate the minimum number of seeds in the
21 container;

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

24 (g) The name and address of the person who labeled such seed or who
25 sells such seed within this state;

26 (8) For vegetable seeds in containers other than containers prepared
27 for use in home gardens or household plantings and other than preplanted
28 containers, mats, tapes, or other planting devices:

29 (a) The name of each kind and variety present in excess of five
30 percent and the percentage by weight of each in order of its
31 predominance;

1 (b) Lot number or other lot identification;

2 (c) For each named vegetable seed:

3 (i) The percentage of germination exclusive of hard seed;

4 (ii) The percentage of hard seed if present; and

5 (iii) The calendar month and year the test was completed to
6 determine such percentages. Following the information prescribed in
7 subdivisions (i) and (ii) of this subdivision, the total germination and
8 hard seed percentage may be stated as such, if desired;

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

11 (e) Name and address of the person who labeled the seed or who sells
12 such seed within this state;

13 (9) For flower seeds in containers prepared for use in home gardens
14 or household plantings or flower seeds in preplanted containers, mats,
15 tapes, or other planting devices:

16 (a) For all kinds of flower seeds:

17 (i) The name of the kind and variety or a statement of type and
18 performance characteristics as established in rules and regulations.
19 Mixtures shall be listed on the label as mixture, mix, or mixed. Seeds
20 described as native wildflower seeds shall only be seeds from flowers
21 that are indigenous to North America. Seeds described as introduced
22 wildflower seeds shall only be seeds from flowers that are not indigenous
23 to North America;

24 (ii) The calendar month and year the seed was tested or the year for
25 which the seed was packaged for sale as "Packed for (year)"; and

26 (iii) The name and address of the person who labeled the seed for
27 sale within this state;

28 (b) For seeds of those kinds for which standard testing procedures
29 are prescribed, such as methods published by the Association of Official
30 Seed Analysts or other generally recognized methods, and which germinate
31 less than the germination standard or show viability from a tetrazolium

1 (TZ) test less than the viability standard last established in the rules
2 and regulations:

3 (i) Percentage of germination exclusive of hard seeds; and

4 (ii) The words "Below Standard" in not less than eight-point type;
5 and

6 (c) For seeds placed in a germination medium, mat, tape, or other
7 device in such a way as to make it difficult to determine the quantity of
8 seed without removing the seeds from the medium, mat, tape, or device, a
9 statement to indicate the minimum number of seeds in the container;

10 (10) For flower seeds in containers other than packets prepared for
11 use in home flower gardens or household plantings and other than
12 preplanted containers, mats, tapes, or other planting devices:

13 (a) The name of the kind and variety or a statement of type and
14 performance characteristics as established in rules and regulations.
15 Mixtures shall be listed on the label as mixture, mixed, or mix. Seeds
16 described as native wildflower seeds shall only be seeds from flowers
17 that are indigenous to North America. Seeds described as introduced
18 wildflower seeds shall only be seeds from flowers that are not indigenous
19 to North America;

20 (b) The percentage by weight of pure seed for each flower seed
21 named;

22 (c) Lot number or other lot identification;

23 (d) Percentage by weight of all weed seed when present in flower
24 seed;

25 (e) Name and rate of occurrence per pound of each kind of restricted
26 noxious weed seed, if present, listed under the heading noxious weed
27 seeds;

28 (f) The calendar month and year that the seed was tested;

29 (g) The name and address of the person who labeled the seed or who
30 sells the seed within this state; and

31 (h) For those kinds of seed for which standard testing procedures

1 are prescribed in generally recognized official methods:

2 (i) Percentage of germination exclusive of hard seed; and

3 (ii) Percentage of hard seed if present; and

4 (11) For agricultural seeds sold on a pure live seed basis, as
5 established in the rules and regulations, the information required by
6 subdivision (2)(a) of this section, except as modified in this
7 subdivision:

8 (a) The label need not show:

9 (i) The percentage by weight of each agricultural seed component as
10 required by subdivision (2)(a) of this section; or

11 (ii) The percentage by weight of inert matter as required by
12 subdivision (2)(g) of this section; and

13 (b) The label shall, instead of the information required by
14 subdivision (2)(h) of this section or subdivision (2)(i) of this section
15 when appropriate, show for each named agricultural seed:

16 (i) The percentage of pure live seed as established in the rules and
17 regulations; and

18 (ii) The calendar month and year in which the test determining the
19 percentage of pure live seed was completed.

20 Sec. 3. Section 81-2,147.03, Reissue Revised Statutes of Nebraska,
21 is amended to read:

22 81-2,147.03 (1) It shall be unlawful for any person to sell any
23 agricultural, vegetable, or flower seed within this state:

24 (a)(i) Of a native plant species unless a test required by section
25 81-2,147.02 to determine the percentage of germination or a test to
26 determine the percentage of viability as indicated by a tetrazolium (TZ)
27 test has been completed within a twelve-month period, exclusive of the
28 calendar month in which the test was completed, immediately prior to
29 sale. Seeds packaged in hermetically sealed containers under the
30 conditions established in rules and regulations may be sold for a period
31 of thirty-six months after the last day of the month that the seeds were

1 tested prior to packaging. If the seeds in hermetically sealed containers
2 are sold more than thirty-six months after the last day of the month in
3 which they were tested prior to packaging, they shall have been retested
4 for germination or retested for viability as indicated by a tetrazolium
5 (TZ) test within a nine-month period, exclusive of the calendar month in
6 which the retest was completed, immediately prior to their sale; and (a)
7 ~~Unless the test to determine the percentage of germination required in~~
8 ~~section 81-2,147.02 has been completed~~

9 (ii) Of a nonnative plant species unless a test required by section
10 81-2,147.02 to determine the percentage of germination completed within a
11 nine-month period, exclusive of the calendar month in which the test was
12 completed, immediately prior to sale, except that for those seeds as
13 established in rules and regulations, the test to determine the
14 percentage of germination shall have been completed within a twelve-month
15 period, exclusive of the calendar month in which the test was completed,
16 immediately prior to sale. Seeds packaged in hermetically sealed
17 containers under the conditions established in rules and regulations may
18 be sold for a period of thirty-six months after the last day of the month
19 that the seeds were tested prior to packaging. If the seeds in
20 hermetically sealed containers are sold more than thirty-six months after
21 the last day of the month in which they were tested prior to packaging,
22 they shall have been retested for germination within a nine-month period,
23 exclusive of the calendar month in which the retest was completed,
24 immediately prior to their sale;

25 (b) Not labeled in accordance with the provisions of the Nebraska
26 Seed Law or having a false and misleading labeling. In case agricultural
27 seed is sold in bulk or sold from bulk, the information required under
28 section 81-2,147.02 may be supplied by a printed or written statement to
29 be furnished to any purchaser of such seed;

30 (c) Pertaining to which there has been a false or misleading
31 advertisement, statement, invoice, or declaration;

1 (d) Consisting of or containing primary noxious weed seeds;

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

4 (f) Consisting of or containing restricted noxious weed seeds per
5 pound in excess of the number declared on the label attached to the
6 container of the seed or associated with the seed, subject to recognized
7 tolerances. The recognized tolerances shall not exceed one-half of one
8 percent by weight;

9 (g) Containing more than two percent by weight of all weed seed
10 other than primary noxious weed seed, prohibited noxious weed seed, and
11 restricted noxious weed seed. This subdivision does not apply to
12 agricultural, vegetable, or flower seeds specifically allowed in the
13 rules and regulations to contain four percent or less by weight of weed
14 seed;

15 (h) If any labeling, advertising, or other representation subject to
16 the Nebraska Seed Law represents the seed to be certified or registered
17 seed unless (i) it has been determined by a certifying agency that such
18 seed was produced, conditioned, and packaged and conforms to standards of
19 purity as to kind or kind and variety in compliance with rules and
20 regulations of such agency pertaining to such seed and (ii) the seed
21 bears an official label issued for such seed by a certifying agency
22 stating that the seed is certified or registered; and

23 (i) For reproductive purposes which is not certified by an official
24 certifying agency when it is a variety for which an application has been
25 made or accepted or a certificate of plant variety protection is issued
26 under the federal Plant Variety Protection Act specifying sale only as a
27 class of certified seed, except that seed from a certified lot may be
28 labeled as to variety name when used in a mixture by or with the approval
29 of the owner of the variety.

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

31 (a) To detach, alter, deface, or destroy any label provided for in

1 the Nebraska Seed Law or established in the rules and regulations adopted
2 and promulgated under such law or to alter or substitute seed in a manner
3 that may defeat the purpose of such law;

4 (b) To disseminate any false or misleading advertisements concerning
5 agricultural, vegetable, or flower seeds in any manner or by any means;

6 (c) To hinder or obstruct in any way any authorized person in the
7 performance of his or her duties under the Nebraska Seed Law;

8 (d) To fail to comply with a stop-sale order or to move or otherwise
9 handle or dispose of any lot of seed held under a stop-sale order or tags
10 attached thereto, except with written permission of the enforcing officer
11 and for the purpose specified thereby;

12 (e) To sell screenings if they contain any seed of primary,
13 prohibited, or restricted noxious weeds unless they have been conditioned
14 to destroy the viability of such seed;

15 (f) To use the word trace as a substitute for any statement which is
16 required;

17 (g) To use the word type in any labeling in connection with the name
18 of any agricultural seed variety;

19 (h) To plant seed which the person knows contains a prohibited
20 noxious weed seed in excess of the recognized tolerances utilized in
21 subdivision (1)(e) of this section or contains primary noxious weed seed;
22 or

23 (i) To alter or falsify any seed label, seed test, laboratory
24 report, record, or other document in a manner which creates a false or
25 misleading impression as to kind, variety, history, quality, or origin of
26 the seed.

27 (3) All seed sold shall be labeled on the basis of tests performed
28 by a seed laboratory using Rules for Testing Seeds adopted by the
29 Association of Official Seed Analysts as of January 1, 2012.

30 Sec. 4. Section 81-2,147.06, Reissue Revised Statutes of Nebraska,
31 is amended to read:

1 81-2,147.06 (1) The duty of enforcing the Nebraska Seed Law and
2 carrying out such law and requirements shall be vested in the director.
3 It shall be the duty of the director:

4 (a) To sample, inspect, make analysis of, and test agricultural,
5 vegetable, and flower seed sold within this state for sowing purposes at
6 such time and place and to such extent as he or she may deem necessary to
7 determine whether such agricultural, vegetable, or flower seed is in
8 compliance with the Nebraska Seed Law and to notify promptly the persons
9 who sold the seed of any violation;

10 (b) To adopt and promulgate rules and regulations in compliance with
11 the Administrative Procedure Act as are specifically authorized in the
12 Nebraska Seed Law governing the method of sampling, inspecting,
13 analyzing, testing, and examining agricultural, vegetable, and flower
14 seed and the tolerances to be followed in the administration of the law,
15 which shall be in general accord with officially prescribed practice in
16 interstate commerce, and such other rules and regulations as may be
17 necessary to secure the efficient enforcement and full intent of such
18 law;

19 (c) To adopt and promulgate rules and regulations in compliance with
20 the Administrative Procedure Act adding to or subtracting from the
21 primary noxious weed seeds list, the prohibited noxious weed seeds list,
22 and the restricted noxious weed seeds list, as defined in section
23 81-2,147.01, whenever the director finds that a noxious weed seed should
24 or should not be within one of these lists;

25 (d) To adopt and promulgate rules and regulations in compliance with
26 the Administrative Procedure Act establishing reasonable standards of
27 germination for agricultural, vegetable, and flower seed; and

28 (e) To adopt and promulgate rules and regulations in compliance with
29 the Administrative Procedure Act to establish, add to, or subtract from
30 the nonnative plant species for which a seeds listed in subdivision (2)
31 ~~(i) of section 81-2,147.02 and for which the tetrazolium (TZ) test may be~~

1 employed as the official test to indicate the potential viability of the
2 seed.

3 (2) For the purpose of carrying out the law, the director may:

4 (a) Enter upon any public or private premises during regular
5 business hours in order to have access to seeds and the records connected
6 with such seeds subject to the law and the rules and regulations adopted
7 and promulgated under such law and enter any truck or other conveyer by
8 land, water, or air at any time when the conveyer is accessible for the
9 same purpose;

10 (b) Issue and enforce a written or printed stop-sale order to the
11 owner or custodian of any lot of agricultural, vegetable, or flower seed
12 which the director finds is in violation of any of the provisions of the
13 law or rules and regulations adopted and promulgated under such law,
14 which order shall prohibit further sale, conditioning, and movement of
15 such seed, except on approval of the enforcing officer, until such
16 officer has evidence that the law has been complied with and he or she
17 has issued a release from the stop-sale order of such seed. With respect
18 to seed which has been denied sale, conditioning, or movement as provided
19 in this subdivision, the owner or custodian of such seed shall have the
20 right to appeal from such order in accordance with the Administrative
21 Procedure Act, praying for a judgment as to the justification of such
22 order and for the discharge of such seed from the order prohibiting the
23 sale, conditioning, or movement in accordance with the findings of the
24 court. This subdivision shall not be construed as limiting the right of
25 the director to proceed as authorized by other sections of the law;

26 (c) Establish and maintain or make provision for seed-testing
27 facilities, employ qualified persons, and incur such expenses as may be
28 necessary to comply with the law or rules and regulations adopted and
29 promulgated under the law;

30 (d) Make or provide for making purity, weed seed, tetrazolium (TZ),
31 germination, and other tests of seed as established in rules and

1 regulations and recommended by rule of the Association of Official Seed
2 Analysts for persons on request, adopt and promulgate rules and
3 regulations in compliance with the Administrative Procedure Act governing
4 such testing, and fix and collect charges for the tests made, which
5 charges shall not exceed the cost of such tests. All fees shall be
6 remitted to the state treasury and by the State Treasurer placed in the
7 Nebraska Seed Administrative Cash Fund;

8 (e) Cooperate with the United States Department of Agriculture and
9 other agencies in seed law enforcement; and

10 (f) Cooperate and enter into agreements with any person necessary to
11 carry out the purpose of the law.

12 Sec. 5. Original sections 81-2,147.02, 81-2,147.03, and
13 81-2,147.06, Reissue Revised Statutes of Nebraska, and section
14 81-2,147.01, Revised Statutes Cumulative Supplement, 2020, are repealed.

15 2. On page 1, line 4, strike "and redefine".