

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 91

FINAL READING

Introduced by Brandt, 32; Wayne, 13.

Read first time January 07, 2021

Committee: Agriculture

1 A BILL FOR AN ACT relating to the Nebraska Seed Law; to amend sections
2 81-2,147.02, 81-2,147.03, and 81-2,147.06, Reissue Revised Statutes
3 of Nebraska, and section 81-2,147.01, Revised Statutes Cumulative
4 Supplement, 2020; to define terms; to change provisions for seed
5 relating to labeling, germination testing, and tetrazolium (TZ)
6 testing; to harmonize provisions; and to repeal the original
7 sections.
8 Be it enacted by the people of the State of Nebraska,

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

3 81-2,147.01 As used in the Nebraska Seed Law:

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

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

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

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

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

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

31 (7) Director means the Director of Agriculture or his or her

1 designated employee or representative or authorized agent;

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

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

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

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

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

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

25 (14) Kind means one or more related species or subspecies which
26 singly or collectively are known by one common name, such as corn, oats,
27 alfalfa, and timothy;

28 (15) Labeling includes all labels and other written, printed,
29 stamped, or graphic representations, in any form whatsoever, accompanying
30 or pertaining to any seed, whether in bulk or in containers, and includes
31 representations on invoices;

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

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

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

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

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

15 (21) (19) Origin means a foreign country or designated portion
16 thereof, a state, the District of Columbia, Puerto Rico, or a possession
17 of the United States, where the seed was grown;

18 (22) (20) Other crop seed means seed of plants grown as crops, other
19 than the kind or variety included in the pure seed, as established by
20 rules and regulations;

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

25 (24) (22) Primary noxious weed seeds means the seeds of any plant
26 designated by the director as a noxious weed pursuant to the Noxious Weed
27 Control Act. Pursuant to subdivision (1)(c) of section 81-2,147.06, the
28 director may add to or subtract from this primary noxious weed seeds
29 list;

30 (25) (23) Prohibited noxious weed seeds means the seeds of plants
31 which are highly destructive and difficult to control in this state by

1 ordinary good cultural practice, the use of herbicides, or both and
2 includes field bindweed (*Convolvulus arvensis*), hoary cress (*Cardaria*
3 *draba*), Russian knapweed (*Centaurea repens*), johnsongrass (*Sorghum*
4 *halepense*), Scotch thistle (*Onopordum acanthium*), morning glory (*Ipomoea*
5 *purpurea*) when found in field crop seeds, skeletonleaf bursage (*Ambrosia*
6 *discolor*), woollyleaf bursage (*Ambrosia tomentosa*), serrated tussock
7 (*Nassella trichotoma*), and puncturevine (*Tribulus terrestris*). Pursuant
8 to subdivision (1)(c) of section 81-2,147.06, the director may add to or
9 subtract from this prohibited noxious weed seeds list;

10 ~~(26)~~ ~~(24)~~ Pure live seed means the product of the percent of
11 germination plus percent of hard or dormant seed multiplied by the
12 percent of pure seed divided by one hundred. The result shall be
13 expressed as a whole number;

14 ~~(27)~~ ~~(25)~~ Pure seed means seed exclusive of inert matter and all
15 other seeds not of the seed being considered as established by rules and
16 regulations;

17 ~~(28)~~ ~~(26)~~ Record means any and all information which relates to the
18 origin, treatment, germination, purity, kind, and variety of each lot or
19 definite amount of seed handled in this state. Such information includes
20 seed samples and records of declarations, labels, purchases, sales,
21 conditioning, bulking, treatment, handling, storage, analyses, tests, and
22 examinations;

23 ~~(29)~~ ~~(27)~~ Restricted noxious weed seeds means the seeds of plants
24 which are objectionable in fields, lawns, and gardens of this state but
25 can be controlled by ordinary good cultural practice, the use of
26 herbicides, or both and includes dodder (*Cuscuta* spp.), wild mustard
27 (*Brassica* spp.), dock (*Rumex* spp.), quackgrass (*Elytrigia repens*),
28 pennycress (*Thlaspi arvense*), purple loosetrife (*Lythrum salicaria*), and
29 horsenettle (*Solanum carolinense*). Pursuant to subdivision (1)(c) of
30 section 81-2,147.06, the director may add to or subtract from this
31 restricted noxious weed seeds list;

1 ~~(30)~~ ~~(28)~~ Sale in any of its variant forms means sale, to barter,
2 exchange, offer for sale, expose for sale, move, or transport, in any of
3 their variant forms, or otherwise supplying. Sale does not mean the
4 donation, exchange, or other transfer of seeds to or from a seed library
5 or among members of, or participants in, a seed library;

6 ~~(31)~~ ~~(29)~~ Screenings means the results of the process which removes,
7 in any way, weed seed, inert matter, and other materials from any
8 agricultural, vegetable, or flower seed in any kind of cleaning process;

9 ~~(32)~~ ~~(30)~~ Seed library means a nonprofit, governmental, or
10 cooperative organization, association, or activity for the purpose of
11 facilitating the donation, exchange, preservation, and dissemination of
12 seeds of open pollinated, public domain plant varieties by or among its
13 members or members of the public when the use, exchange, transfer, or
14 possession of seeds acquired by or from the seed library is free of any
15 charge or consideration;

16 ~~(33)~~ ~~(31)~~ Seizure means a legal process carried out by court order
17 against a definite amount or lot of seed;

18 ~~(34)~~ ~~(32)~~ Stop-sale order means an administrative order provided by
19 law restraining the sale, use, disposition, and movement of a definite
20 amount or lot of seed;

21 ~~(35)~~ ~~(33)~~ Tetrazolium (TZ) test means a type of test in which
22 chemicals are used to produce differential staining of strong, weak, and
23 dead tissues, which is indicative of the potential viability of seeds;

24 ~~(36)~~ ~~(34)~~ Treated means that the seed has been given an application
25 of a substance or subjected to a process or coating for which a claim is
26 made or which is designed to reduce, control, or repel disease organisms,
27 insects, or other pests which attack seeds or seedlings growing
28 therefrom;

29 ~~(37)~~ ~~(35)~~ Variety means a subdivision of a kind which is distinct,
30 uniform, and stable. For purposes of this subdivision: (a) Distinct means
31 that the variety can be differentiated by one or more identifiable

1 morphological, physiological, or other characteristics from all other
2 varieties of public knowledge; (b) uniform means that variations in
3 essential and distinctive characteristics are describable; and (c) stable
4 means that the variety will remain unchanged in its essential and
5 distinctive characteristics and its uniformity when reproduced or
6 reconstituted as required by the different categories of varieties;

7 (38) ~~(36)~~ Vegetable seed includes the seeds of those crops which are
8 grown in gardens and on truck farms and are generally known and sold
9 under the name of vegetable or herb seeds in this state; and

10 (39) ~~(37)~~ Weed seed includes the seeds of any plant generally
11 recognized as a weed within this state as established in rules and
12 regulations and includes the primary noxious weed seeds, prohibited
13 noxious weed seeds, and restricted noxious weed seeds.

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

16 81-2,147.02 Each container of agricultural, vegetable, or flower
17 seeds which is sold within this state for sowing purposes shall bear
18 thereon or have attached thereto in a conspicuous place a plainly written
19 or printed label or tag in the English language giving the following
20 information, which statement shall not be modified or denied in the
21 labeling or on another label attached to the container:

22 (1) For any agricultural seeds or any mixture thereof, any vegetable
23 seeds or any mixture thereof, or any flower seeds or any mixture thereof
24 for sowing purposes that have been treated, unless each seed container
25 bears a label giving the following information and statements as
26 established in the rules and regulations:

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

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

30 (c) If the substance used in such treatment in the amount remaining
31 with the seeds is harmful to humans or other vertebrate animals, an

1 appropriate caution statement approved by the director as adequate for
2 the protection of the public such as, "Do Not Use For Food Or Feed Or Oil
3 Purposes", except that the caution statement for mercurials and similarly
4 toxic substances, as established in the rules and regulations, shall be a
5 representation of a skull and crossbones and a statement such as, "This
6 Seed Has Been Treated With POISON", in red letters on a background of
7 distinctly contrasting color;

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (i) For each native plant species, ~~of the following named grasses~~
24 the percentage of germination exclusive of dormant seed, the percentage
25 of dormant seed if present, or the percentage of viability as indicated
26 by a tetrazolium (TZ) test and the calendar month and year the test was
27 completed to determine such percentages. Following the percentage of
28 germination, exclusive of dormant seed and the percentage of dormant
29 seed, if present, the total germination and dormant seed may be stated if
30 desired. Also, ~~for each of the following named grasses~~ when extreme
31 dormancy is encountered in such species, the result of a tetrazolium (TZ)

1 test may be shown in lieu of the percentage of germination to indicate
2 the potential viability of the seed; and ÷

3 ~~Bluestem:~~

4 ~~Big~~ ~~Andropogon gerardii~~

5 ~~Little~~ ~~Schizachyrium scoparium~~

6 ~~Sand~~ ~~Andropogon hallii~~

7 ~~Yellow~~ ~~Bothriochloa ischaemum~~

8 ~~Dropseed, sand~~ ~~Sporobolus cryptandrus~~

9 ~~Buffalograss~~ ~~Buchloe dactyloides~~

10 ~~Grass:~~

11 ~~Sideoats~~ ~~Bouteloua curtipendula~~

12 ~~Blue~~ ~~Bouteloua gracilis~~

13 ~~Indiangrass~~ ~~Sorghastrum nutans~~

14 ~~Lovegrass, sand~~ ~~Eragrostis trichodes~~

15 ~~Needlegrass, green~~ ~~Stipa viridula~~

16 ~~Prairiesandreed~~ ~~Calamovilfa longifolia~~

17 ~~Ricegrass, Indian~~ ~~Oryzopsis hymenoides~~

18 ~~Wheatgrass, western~~ ~~Elymus smithii~~

19 ~~Switchgrass~~ ~~Panicum virgatum; and~~

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

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

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

24 (b) The percentage of coating material should be shown as a separate
25 item in close association with the percentage of inert matter; and

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

28 (4) For products which claim to be a combination of mulch, seed, and
29 fertilizer the word combination shall be followed by the words "Mulch -
30 Seed - Fertilizer". The word combination must appear on the upper thirty
31 percent of the principal display panel and must be the largest and most

1 conspicuous type on the container, equal to or larger than the product
2 name. The words "Mulch - Seed - Fertilizer" shall be no smaller than one-
3 half the size of, and in close proximity to, the word combination. Such
4 product shall contain a minimum of seventy percent mulch;

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

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

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

11 (c) Percentage by weight of pure seed of each agricultural seed
12 named;

13 (d) For each agricultural seed named under subdivision (b) of this
14 subdivision:

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

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

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

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

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

23 (g) Percentage by weight of inert matter;

24 (h) Lot number or other lot identification;

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

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

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

1 (1) For cool season lawn and turf grass seed and mixtures, including
2 kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall
3 fescue, perennial rye grass, intermediate rye grass, annual rye grass,
4 colonial bentgrass, and creeping bentgrass:

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

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

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

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

23 (b) The viable endophyte test must have been conducted within the
24 last nine months, not including the month of the test. If the test date
25 exceeds nine months the seed lot must be retested and relabeled or all
26 references to endophyte must be removed from the label;

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

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

31 (b) Lot number or other lot identification;

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

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

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

6 (ii) Percentage of hard seed if present;

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

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

10 (e) For seeds placed in a germination medium, mat, tape, or other
11 device in such a way as to make it difficult to determine the quantity of
12 seed without removing the seeds from the medium, mat, tape, or other
13 device, a statement to indicate the minimum number of seeds in the
14 container;

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

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

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

22 (a) The name of each kind and variety present in excess of five
23 percent and the percentage by weight of each in order of its
24 predominance;

25 (b) Lot number or other lot identification;

26 (c) For each named vegetable seed:

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

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

29 (iii) The calendar month and year the test was completed to
30 determine such percentages. Following the information prescribed in
31 subdivisions (i) and (ii) of this subdivision, the total germination and

1 hard seed percentage may be stated as such, if desired;

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

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

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

9 (a) For all kinds of flower seeds:

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

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

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

21 (b) For seeds of those kinds for which standard testing procedures
22 are prescribed, such as methods published by the Association of Official
23 Seed Analysts or other generally recognized methods, and which germinate
24 less than the germination standard or show viability from a tetrazolium
25 (TZ) test less than the viability standard last established in the rules
26 and regulations:

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

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

30 (c) For seeds placed in a germination medium, mat, tape, or other
31 device in such a way as to make it difficult to determine the quantity of

1 seed without removing the seeds from the medium, mat, tape, or device, a
2 statement to indicate the minimum number of seeds in the container;

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

6 (a) The name of the kind and variety or a statement of type and
7 performance characteristics as established in rules and regulations.
8 Mixtures shall be listed on the label as mixture, mixed, or mix. Seeds
9 described as native wildflower seeds shall only be seeds from flowers
10 that are indigenous to North America. Seeds described as introduced
11 wildflower seeds shall only be seeds from flowers that are not indigenous
12 to North America;

13 (b) The percentage by weight of pure seed for each flower seed
14 named;

15 (c) Lot number or other lot identification;

16 (d) Percentage by weight of all weed seed when present in flower
17 seed;

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

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

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

24 (h) For those kinds of seed for which standard testing procedures
25 are prescribed in generally recognized official methods:

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

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

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

1 (a) The label need not show:

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

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

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

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

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

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

15 81-2,147.03 (1) It shall be unlawful for any person to sell any
16 agricultural, vegetable, or flower seed within this state:

17 (a)(i) Of a native plant species unless a test required by section
18 81-2,147.02 to determine the percentage of germination or a test to
19 determine the percentage of viability as indicated by a tetrazolium (TZ)
20 test has been completed within a twelve-month period, exclusive of the
21 calendar month in which the test was completed, immediately prior to
22 sale. Seeds packaged in hermetically sealed containers under the
23 conditions established in rules and regulations may be sold for a period
24 of thirty-six months after the last day of the month that the seeds were
25 tested prior to packaging. If the seeds in hermetically sealed containers
26 are sold more than thirty-six months after the last day of the month in
27 which they were tested prior to packaging, they shall have been retested
28 for germination or retested for viability as indicated by a tetrazolium
29 (TZ) test within a nine-month period, exclusive of the calendar month in
30 which the retest was completed, immediately prior to their sale; and (a)
31 ~~Unless the test to determine the percentage of germination required in~~

1 ~~section 81-2,147.02 has been completed~~

2 (ii) Of a nonnative plant species unless a test required by section
3 81-2,147.02 to determine the percentage of germination completed within a
4 nine-month period, exclusive of the calendar month in which the test was
5 completed, immediately prior to sale, except that for those seeds as
6 established in rules and regulations, the test to determine the
7 percentage of germination shall have been completed within a twelve-month
8 period, exclusive of the calendar month in which the test was completed,
9 immediately prior to sale. Seeds packaged in hermetically sealed
10 containers under the conditions established in rules and regulations may
11 be sold for a period of thirty-six months after the last day of the month
12 that the seeds were tested prior to packaging. If the seeds in
13 hermetically sealed containers are sold more than thirty-six months after
14 the last day of the month in which they were tested prior to packaging,
15 they shall have been retested for germination within a nine-month period,
16 exclusive of the calendar month in which the retest was completed,
17 immediately prior to their sale;

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

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

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

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

28 (f) Consisting of or containing restricted noxious weed seeds per
29 pound in excess of the number declared on the label attached to the
30 container of the seed or associated with the seed, subject to recognized
31 tolerances. The recognized tolerances shall not exceed one-half of one

1 percent by weight;

2 (g) Containing more than two percent by weight of all weed seed
3 other than primary noxious weed seed, prohibited noxious weed seed, and
4 restricted noxious weed seed. This subdivision does not apply to
5 agricultural, vegetable, or flower seeds specifically allowed in the
6 rules and regulations to contain four percent or less by weight of weed
7 seed;

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

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

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

24 (a) To detach, alter, deface, or destroy any label provided for in
25 the Nebraska Seed Law or established in the rules and regulations adopted
26 and promulgated under such law or to alter or substitute seed in a manner
27 that may defeat the purpose of such law;

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

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

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

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

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

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

12 (h) To plant seed which the person knows contains a prohibited
13 noxious weed seed in excess of the recognized tolerances utilized in
14 subdivision (1)(e) of this section or contains primary noxious weed seed;
15 or

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

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

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

25 81-2,147.06 (1) The duty of enforcing the Nebraska Seed Law and
26 carrying out such law and requirements shall be vested in the director.
27 It shall be the duty of the director:

28 (a) To sample, inspect, make analysis of, and test agricultural,
29 vegetable, and flower seed sold within this state for sowing purposes at
30 such time and place and to such extent as he or she may deem necessary to
31 determine whether such agricultural, vegetable, or flower seed is in

1 compliance with the Nebraska Seed Law and to notify promptly the persons
2 who sold the seed of any violation;

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

12 (c) To adopt and promulgate rules and regulations in compliance with
13 the Administrative Procedure Act adding to or subtracting from the
14 primary noxious weed seeds list, the prohibited noxious weed seeds list,
15 and the restricted noxious weed seeds list, as defined in section
16 81-2,147.01, whenever the director finds that a noxious weed seed should
17 or should not be within one of these lists;

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

21 (e) To adopt and promulgate rules and regulations in compliance with
22 the Administrative Procedure Act to establish, add to, or subtract from
23 the nonnative plant species for which a seeds listed in subdivision (2)
24 ~~(i) of section 81-2,147.02 and for which the tetrazolium (TZ) test may be~~
25 employed as the official test to indicate the potential viability of the
26 seed.

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

28 (a) Enter upon any public or private premises during regular
29 business hours in order to have access to seeds and the records connected
30 with such seeds subject to the law and the rules and regulations adopted
31 and promulgated under such law and enter any truck or other conveyer by

1 land, water, or air at any time when the conveyor is accessible for the
2 same purpose;

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

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

23 (d) Make or provide for making purity, weed seed, tetrazolium (TZ),
24 germination, and other tests of seed as established in rules and
25 regulations and recommended by rule of the Association of Official Seed
26 Analysts for persons on request, adopt and promulgate rules and
27 regulations in compliance with the Administrative Procedure Act governing
28 such testing, and fix and collect charges for the tests made, which
29 charges shall not exceed the cost of such tests. All fees shall be
30 remitted to the state treasury and by the State Treasurer placed in the
31 Nebraska Seed Administrative Cash Fund;

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

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

5 Sec. 5. Original sections 81-2,147.02, 81-2,147.03, and
6 81-2,147.06, Reissue Revised Statutes of Nebraska, and section
7 81-2,147.01, Revised Statutes Cumulative Supplement, 2020, are repealed.