

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 634

Introduced by Cavanaugh, J., 9.

Read first time January 20, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Nebraska Seed Law; to amend section
2 81-2,147, Reissue Revised Statutes of Nebraska, and section
3 81-2,147.01, Revised Statutes Cumulative Supplement, 2020; to
4 provide a civil cause of action relating to unsafe disposal of
5 treated seed; to harmonize provisions; and to repeal the original
6 sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-2,147, Reissue Revised Statutes of Nebraska,
2 is amended to read:

3 81-2,147 Sections 81-2,147 to 81-2,147.12 and section 3 of this act
4 shall be known and cited as the Nebraska Seed Law.

5 Sec. 2. Section 81-2,147.01, Revised Statutes Cumulative Supplement,
6 2020, is amended to read:

7 81-2,147.01 As used in the Nebraska Seed Law:

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

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

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

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

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

31 (6) Commercial channels means the sale or delivery of seed (a) for

1 any use to any commercial buyer, dealer, processor, or cooperative or (b)
2 to any person, public or private, who (i) intends to sow such seed or
3 (ii) resells any seed or seed product;

4 (7) Commercial seller means any person who offers for sale or has
5 sold seed through commercial channels;

6 (8) (6) Conditioning means drying, cleaning, scarifying, or other
7 operations which could change the purity or germination of the seed and
8 require the seed lot or any definite amount of seed to be retested to
9 determine the label information;

10 (9) (7) Director means the Director of Agriculture or his or her
11 designated employee or representative or authorized agent;

12 (10) (8) Dormant seed means viable seeds, other than hard seeds,
13 which fail to germinate when provided the specified germination
14 conditions for the kind of seed in question;

15 (11) (9) Flower seed includes seeds of herbaceous plants grown for
16 their blooms, ornamental foliage, or other ornamental parts and commonly
17 known and sold under the name of flower or wildflower seeds in this
18 state;

19 (12) (10) Germination means the emergence and development from the
20 seed embryo of those essential structures which for the kind of seed in
21 question are indicative of the ability to produce a normal plant under
22 favorable conditions;

23 (13) (11) Hard seed means seeds which remain hard at the end of the
24 prescribed test period because they have not absorbed water due to an
25 impermeable seed coat;

26 (14) (12) Hybrid means the first generation seed of a cross produced
27 by controlling the pollination and by combining (a) two or more inbred
28 lines, (b) one inbred or a single cross with an open-pollinated variety,
29 or (c) two varieties or species except open-pollinated varieties of corn
30 (Zea mays). The second generation and subsequent generations from such
31 crosses shall not be regarded as hybrids. Hybrid designations shall be

1 treated as variety names;

2 (15) ~~(13)~~ Inert matter means all matter not seed which includes
3 broken seeds, sterile florets, chaff, fungus bodies, and stones as
4 established by rules and regulations;

5 (16) ~~(14)~~ Kind means one or more related species or subspecies which
6 singly or collectively are known by one common name, such as corn, oats,
7 alfalfa, and timothy;

8 (17) ~~(15)~~ Labeling includes all labels and other written, printed,
9 stamped, or graphic representations, in any form whatsoever, accompanying
10 or pertaining to any seed, whether in bulk or in containers, and includes
11 representations on invoices;

12 (18) ~~(16)~~ Lot means a definite quantity of seed in containers or
13 bulk identified by a lot number or other mark, every portion of which is
14 uniform within recognized tolerances for the factors that appear in the
15 labeling;

16 (19) ~~(17)~~ Mixture, mix, or mixed means seeds consisting of more than
17 one kind, each present in excess of five percent by weight of the whole;

18 (20) ~~(18)~~ Mulch means a protective covering of any suitable material
19 placed with seed which acts to retain sufficient moisture to support seed
20 germination and sustain early seedling growth and aids in preventing the
21 evaporation of soil moisture, controlling weeds, and preventing erosion;

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

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

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

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

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

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

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

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

30 ~~(27)~~ (29) Restricted noxious weed seeds means the seeds of plants
31 which are objectionable in fields, lawns, and gardens of this state but

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

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

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

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

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

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

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

31 (36) ~~(34)~~ Treated means that the seed has been given an application

1 of a substance or subjected to a process or coating for which a claim is
2 made or which is designed to reduce, control, or repel disease organisms,
3 insects, or other pests which attack seeds or seedlings growing
4 therefrom;

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

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

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

21 Sec. 3. If any commercial seller disposes of treated seed in an
22 unsafe manner, such commercial seller shall be liable in a civil action
23 for damages proximately caused by such unsafe disposal.

24 Sec. 4. Original section 81-2,147, Reissue Revised Statutes of
25 Nebraska, and section 81-2,147.01, Revised Statutes Cumulative
26 Supplement, 2020, are repealed.