

LEGISLATURE OF NEBRASKA  
ONE HUNDRED THIRD LEGISLATURE  
FIRST SESSION  
**LEGISLATIVE BILL 166**  
Final Reading

Introduced by Schilz, 47.

Read first time January 14, 2013

Committee: Agriculture

A BILL

1 FOR AN ACT relating to agriculture; to amend section 81-2,147.02,  
2 Reissue Revised Statutes of Nebraska; to change labeling  
3 requirements of seed containers; to repeal the original  
4 section; and to declare an emergency.  
5 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 81-2,147.02, Reissue Revised Statutes  
2 of Nebraska, is amended to read:

3           81-2,147.02 Each container of agricultural, vegetable, or  
4 flower seeds which is sold within this state for sowing purposes  
5 shall bear thereon or have attached thereto in a conspicuous place a  
6 plainly written or printed label or tag in the English language  
7 giving the following information, which statement shall not be  
8 modified or denied in the labeling or on another label attached to  
9 the container:

10           (1) For any agricultural seeds or any mixture thereof,  
11 any vegetable seeds or any mixture thereof, or any flower seeds or  
12 any mixture thereof for sowing purposes that have been treated,  
13 unless each seed container bears a label giving the following  
14 information and statements as established in the rules and  
15 regulations:

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

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

20           (c) If the substance used in such treatment in the amount  
21 remaining with the seeds is harmful to humans or other vertebrate  
22 animals, an appropriate caution statement approved by the director as  
23 adequate for the protection of the public such as, "Do Not Use For  
24 Food Or Feed Or Oil Purposes", except that the caution statement for  
25 mercurials and similarly toxic substances, as established in the

1 rules and regulations, shall be a representation of a skull and  
2 crossbones and a statement such as, "This Seed Has Been Treated With  
3 POISON", in red letters on a background of distinctly contrasting  
4 color;

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

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

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

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

- 1                   (b) The lot number or other lot identification;
- 2                   (c) Origin, if known. If the origin is unknown, the fact  
3 shall be stated;
- 4                   (d) The percentage by weight of all weed seed;
- 5                   (e) The name and rate of occurrence per pound of each  
6 kind of restricted noxious weed seed:
- 7                   (i) For *Agrostis* spp., bluegrass, timothy, orchardgrass,  
8 fescue, alsike clover, white clover, reed canarygrass, ryegrass,  
9 foxtail millet, alfalfa, red clover, sweetclover, lespedeza, smooth  
10 brome, crimson clover, *Brassica* spp., flax, wheatgrass, and other  
11 agricultural seed of similar size and weight, or mixtures within such  
12 group, when present singly or collectively in excess of eighteen  
13 seeds per pound; and
- 14                   (ii) For all other agricultural seed or agricultural seed  
15 mixtures not included in subdivision (i) of this subdivision, when  
16 present, label as found;
- 17                   (f) Percentage by weight of agricultural seeds which may  
18 be designated as other crop seed other than those required to be  
19 named on the label;
- 20                   (g) The percentage by weight of inert matter;
- 21                   (h) For each named agricultural seed, the percentage of  
22 germination exclusive of hard seed and the percentage of hard seed if  
23 present. Following the percentage of germination exclusive of hard  
24 seed and the percentage of hard seed, if present, the total  
25 germination and hard seed percentage may be stated if desired. The

1 calendar month and year the test was completed to determine such  
 2 percentages or an expiration date for those seeds labeled for lawn  
 3 and turf purposes shall also be stated;

4 (i) For each of the following named grasses the  
 5 percentage of germination exclusive of dormant seed, the percentage  
 6 of dormant seed if present, or the percentage of viability as  
 7 indicated by a tetrazolium (TZ) test and the calendar month and year  
 8 the test was completed to determine such percentages. Following the  
 9 percentage of germination, exclusive of dormant seed and the  
 10 percentage of dormant seed, if present, the total germination and  
 11 dormant seed may be stated if desired. Also, for each of the  
 12 following named grasses when extreme dormancy is encountered, the  
 13 result of a tetrazolium (TZ) test may be shown in lieu of the  
 14 percentage of germination to indicate the potential viability of the  
 15 seed:

16 Bluestem:

17 Big Andropogon gerardii

18 Little Schizachyrium scoparium

19 Sand Andropogon hallii

20 Yellow Bothriochia ischaemum

21 Dropseed, sand Sporobolus cryptandrus

22 Buffalograss Buchloe dactyloides

23 Grama:

24 Sideoats Bouteloua curtipendula

1	Blue	<i>Bouteloua gracilis</i>
2	Indiangrass	<i>Sorghastrum nutans</i>
3	Lovegrass, sand	<i>Eragrostis trichodes</i>
4	Needlegrass, green	<i>Stipa viridula</i>
5	Prairie sandreed	<i>Calamovilfa longifolia</i>
6	Ricegrass, Indian	<i>Oryzopsis hymenoides</i>
7	Wheatgrass, western	<i>Elymus smithii</i>
8	Switchgrass	<i>Panicum virgatum</i> ; and

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

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

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

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

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

20                   (4) For products which claim to be a combination of  
21 mulch, seed, and fertilizer the word combination shall be followed by  
22 the words "Mulch - Seed - Fertilizer". The word combination must  
23 appear on the upper thirty percent of the principal display panel and  
24 must be the largest and most conspicuous type on the container, equal

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

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

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

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

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

13 (d) For each agricultural seed named under subdivision  
14 (b) of this 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  
18 determine 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  
21 may be designated as crop seed, other than those stated under  
22 subdivision (b) of 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

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

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

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

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

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

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

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

24 (a) The seed shall have on the analysis label or on a  
25 separate label which is in close proximity to the analysis label the



1 actual percentage of viable endophyte present in each component and  
2 the month and year that a viable endophyte test was performed to  
3 establish the percentage of endophyte present. For mixtures, the  
4 oldest test date shall be used. The test date shall be stated as  
5 "Endophyte Test Date". Freshly harvested seed may be labeled and  
6 shipped based on a seed endophyte test until October 1 of the harvest  
7 year; and

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

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

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

17 (b) Lot number or other lot identification;

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

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

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

24 (ii) Percentage of hard seed if present;

25 (iii) The calendar month and year the test was completed

1 to determine such percentages; and

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

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

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

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

13 (8) For vegetable seeds in containers other than  
14 containers prepared for use in home gardens or household plantings  
15 and other than preplanted containers, mats, tapes, or other planting  
16 devices:

17 (a) The name of each kind and variety present in excess  
18 of five percent and the percentage by weight of each in order of its  
19 predominance;

20 (b) Lot number or other lot identification;

21 (c) For each named vegetable seed:

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

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

24 (iii) The calendar month and year the test was completed  
25 to determine such percentages. Following the information prescribed

1 in subdivisions (i) and (ii) of this subdivision, the total  
2 germination and hard seed percentage may be stated as such, if  
3 desired;

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

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

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

11 (a) For all kinds of flower seeds:

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

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

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

24 (b) For seeds of those kinds for which standard testing  
25 procedures are prescribed, such as methods published by the

1 Association of Official Seed Analysts or other generally recognized  
2 methods, and which germinate less than the germination standard last  
3 established in the rules and regulations:

4 (i) Percentage of germination exclusive of hard seeds;  
5 and

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

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

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

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

24 (b) The percentage by weight of pure seed for each flower  
25 seed named;

- 1                   (c) Lot number or other lot identification;
- 2                   (d) Percentage by weight of all weed seed when present in  
3 flower seed;
- 4                   (e) Name and rate of occurrence per pound of each kind of  
5 restricted noxious weed seed, if present, listed under the heading  
6 noxious weed seeds;
- 7                   (f) The calendar month and year that the seed was tested;
- 8                   (g) The name and address of the person who labeled the  
9 seed or who sells the seed within this state; and
- 10                  (h) For those kinds of seed for which standard testing  
11 procedures are prescribed in generally recognized official methods:
- 12                   (i) Percentage of germination exclusive of hard seed; and  
13                   (ii) Percentage of hard seed if present; and
- 14                   (11) For agricultural seeds sold on a pure live seed  
15 basis, as established in the rules and regulations, the information  
16 required by subdivision (2)(a) of this section, except as modified in  
17 this subdivision:
- 18                   (a) The label need not show:
- 19                   (i) The percentage by weight of each agricultural seed  
20 component as required by subdivision (2)(a) of this section; or
- 21                   (ii) The percentage by weight of inert matter as required  
22 by subdivision (2)(g) of this section; and
- 23                   (b) The label shall, instead of the information required  
24 by subdivision (2)(h) of this section or subdivision (2)(i) of this  
25 section when appropriate, show for each named agricultural seed:

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

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

5                   Sec. 2. Original section 81-2,147.02, Reissue Revised  
6 Statutes of Nebraska, is repealed.

7                   Sec. 3. Since an emergency exists, this act takes effect  
8 when passed and approved according to law.