

ONE HUNDRED SEVENTH LEGISLATURE - FIRST SESSION - 2021
COMMITTEE STATEMENT
LB91

Hearing Date: Tuesday January 26, 2021
Committee On: Agriculture
Introducer: Brandt
One Liner: Change germination seed testing provisions under the Nebraska Seed Law

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 8 Senators Brandt, Brewer, Cavanaugh, J., Gragert, Groene, Halloran, Hansen, B., Lathrop
Nay:
Absent:
Present Not Voting:

Oral Testimony:

Proponents:
Senator Tom Brandt
Dr. Kay Kottas

Representing:
Introducer
Self

Opponents:
Scott Merritt

Representing:
Nebraska Agri-Business Association

Neutral:

Representing:

Summary of purpose and/or changes:

LB 91 expands the date after germination or viability testing that native flower and grass seeds may continue to be sold or offered for sale without retesting and to allow a seed viability test in lieu of germination rate testing for certain seeds.

Section-by-section description:

Section 1: Amends Section 81-2,147.01 of the Nebraska Seed Law by expanding the definition of "agricultural seed" to include seeds of habitat restoration or maintenance species and by inserting new defined terms, "native plant species" and "nonnative plant species".

Section 2: Amends Section 81-2,147.02 which prescribes labeling requirements to appear on or with packaging or containers of various categories of commercial seeds. Subsection (2) enumerates required labeling disclosures for agricultural seed including subdivision (2)(i) which currently prescribes disclosures for germination, seed viability or dormant seed percentage required for an enumerated list of grass species. LB 91 revises this subdivision to apply to the defined term native plant species and yellow bluestem.

Subsection (9) enumerates required disclosures for certain types of flower seeds for home gardens or household use. Subdivision (b) prescribes a "below standard" disclosure when flower seeds for which germination testing procedures exist if the germination falls below the germination standards for that seed established in rules and regulations. LB 91 adds that the "below standard" disclosure is required if a viability test in lieu of germination test indicates viability rate less than a standard.

Section 3: Amends Section 81-2,147.03 which enumerates unlawful acts, including to sell commercial seed not labeled in accordance with the Act. For agricultural, vegetable or flower seed germination disclosures, subdivision (1)(a) currently prescribes germination testing be completed within 9 months prior to the sale, except for a) seeds which by rule and regulation the Department permits to be sold within 12 months of the testing date, or b) seeds sold in hermetically sealed packaging if sold within 36 months of the test date.

LB 91 revises this section by a) inserting seed viability testing date in lieu of germination rate where applicable and b) inserting new subdivision (1)(a)(i) prescribing the period after testing native plant species may be sold. For such species, it would be lawful to sell within 15 months of the germination test date or the seed viability test date, except hermetically sealed native plant species may be sold up to 36 months without retesting. Existing requirements that currently apply to all agricultural, vegetable or flower seeds are set forth as subdivision (1)(a)(ii) and apply to non-native plant species. This subdivision is further amended to add viability testing in lieu of germination testing for retesting of hermetically sealed seeds sold more than 36 months after initial test.

Section 4: Amends Section 81-2,147.06, subdivision (1)(c). LB 91 inserts a harmonizing revision to terminology utilized in this provision to conform to the changes made by Section 2 of the bill.

Section 5: Repealers

Explanation of amendments:

The committee amendment (AM96) makes the following changes:

- strikes the proposed revision to the definition of "agricultural seed" and revises the definitions of native and non-native plant species to include plant species indigenous to North America prior to European settlement.
- strikes the inclusion of yellow bluestem in Section 2 of the bill.
- in Section 3, replaces introduced new subdivision 1(a)(i). The substitute text reduces the allowable period after germination or viability (TZ) testing native seeds may be offered for sale without being mislabeled from 15 months to 12 months and removes the option for viability (TZ) testing of hermetically sealed seeds of non-native seeds.
- revises the harmonization made in Section 4 of the bill to be consistent with changes elsewhere in the amendment.

Steve Halloran, Chairperson