

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 91**

Introduced by Brandt, 32.

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 and redefine terms; to change provisions  
5 for seed relating to labeling, germination testing, and tetrazolium  
6 (TZ) 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,~~ habitat restoration or maintenance, and  
10 mixtures of such seeds and any other kinds of seed commonly recognized  
11 within this state as agricultural seeds and may include the seed of any  
12 plant that is being used as an agricultural crop when the Director of  
13 Agriculture establishes in rules and regulations that such seed is being  
14 used as agricultural seed;

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

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

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

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

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

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

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

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

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

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

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

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

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

1 representations on invoices;

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

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

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

12 (19) Native plant species means any of the grasses, sedges, rushes,  
13 or forbs indigenous to North America;

14 (20) Nonnative plant species means any of the grasses, sedges,  
15 rushes, or forbs not indigenous to North America;

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

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

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

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

31 (25) ~~(23)~~ Prohibited noxious weed seeds means the seeds of plants

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

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

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

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

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

1 restricted noxious weed seeds list;

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

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

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

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

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

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

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

30 (37) ~~(35)~~ Variety means a subdivision of a kind which is distinct,  
31 uniform, and stable. For purposes of this subdivision: (a) Distinct means

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

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

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

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

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

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

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

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

31 (c) If the substance used in such treatment in the amount remaining

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

1 ~~the following named grasses~~ when extreme dormancy is encountered in such  
2 species, the result of a tetrazolium (TZ) test may be shown in lieu of  
3 the percentage of germination to indicate the potential viability of the  
4 seed; and ÷

5 ~~Bluestem:~~

6 Big ~~Andropogon gerardii~~

7 Little ~~Schizachyrium scoparium~~

8 Sand ~~Andropogon hallii~~

9 Yellow ~~Bothriochloa ischaemum~~

10 Dropseed, sand ~~Sporobolus cryptandrus~~

11 Buffalograss ~~Buchloe dactyloides~~

12 ~~Grama:~~

13 Sideoats ~~Bouteloua curtipendula~~

14 Blue ~~Bouteloua gracilis~~

15 Indiangrass ~~Sorghastrum nutans~~

16 Lovegrass, sand ~~Eragrostis trichodes~~

17 Needlegrass, green ~~Stipa viridula~~

18 Prairiesandreed ~~Calamovilfa longifolia~~

19 Ricegrass, Indian ~~Oryzopsis hymenoides~~

20 Wheatgrass, western ~~Elymus smithii~~

21 Switchgrass ~~Panicum virgatum;~~ and

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

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

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

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

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

30 (4) For products which claim to be a combination of mulch, seed, and  
31 fertilizer the word combination shall be followed by the words "Mulch -

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

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

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

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

13 (c) Percentage by weight of pure seed of each agricultural seed  
14 named;

15 (d) For each agricultural seed named under subdivision (b) of this  
16 subdivision:

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

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

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

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

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

25 (g) Percentage by weight of inert matter;

26 (h) Lot number or other lot identification;

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

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

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

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

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

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

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

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

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

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

- 1 (a) The name of the kind and variety of seed;
- 2 (b) Lot number or other lot identification;
- 3 (c) The calendar month and year the seeds were tested or the year  
4 for which the seed was packaged for sale as "Packed for (year)";
- 5 (d) For seeds which germinate less than the standard last  
6 established in the rules and regulations:
- 7 (i) Percentage of germination exclusive of hard seed;
- 8 (ii) Percentage of hard seed if present;
- 9 (iii) The calendar month and year the test was completed to  
10 determine such percentages; and
- 11 (iv) The words "Below Standard" in not less than eight-point type;
- 12 (e) For seeds placed in a germination medium, mat, tape, or other  
13 device in such a way as to make it difficult to determine the quantity of  
14 seed without removing the seeds from the medium, mat, tape, or other  
15 device, a statement to indicate the minimum number of seeds in the  
16 container;
- 17 (f) The name and rate of occurrence per pound of each kind of  
18 restricted noxious weed seed present; and
- 19 (g) The name and address of the person who labeled such seed or who  
20 sells such seed within this state;
- 21 (8) For vegetable seeds in containers other than containers prepared  
22 for use in home gardens or household plantings and other than preplanted  
23 containers, mats, tapes, or other planting devices:
- 24 (a) The name of each kind and variety present in excess of five  
25 percent and the percentage by weight of each in order of its  
26 predominance;
- 27 (b) Lot number or other lot identification;
- 28 (c) For each named vegetable seed:
- 29 (i) The percentage of germination exclusive of hard seed;
- 30 (ii) The percentage of hard seed if present; and
- 31 (iii) The calendar month and year the test was completed to

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

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

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

8 (9) For flower seeds in containers prepared for use in home gardens  
9 or household plantings or flower seeds in preplanted containers, mats,  
10 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 type and  
13 performance characteristics as established in rules and regulations.  
14 Mixtures shall be listed on the label as mixture, mix, or mixed. Seeds  
15 described as native wildflower seeds shall only be seeds from flowers  
16 that are indigenous to North America. Seeds described as introduced  
17 wildflower seeds shall only be seeds from flowers that are not indigenous  
18 to North America;

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

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

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

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

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

31 and

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

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

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

15 (b) The percentage by weight of pure seed for each flower seed  
16 named;

17 (c) Lot number or other lot identification;

18 (d) Percentage by weight of all weed seed when present in flower  
19 seed;

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

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

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

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

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

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

30 (11) For agricultural seeds sold on a pure live seed basis, as  
31 established in the rules and regulations, the information required by

1 subdivision (2)(a) of this section, except as modified in this  
2 subdivision:

3 (a) The label need not show:

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

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

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

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

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

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

17 81-2,147.03 (1) It shall be unlawful for any person to sell any  
18 agricultural, vegetable, or flower seed within this state:

19 (a) Unless the test to determine the percentage of germination or  
20 the test to determine the percentage of viability as indicated by a  
21 tetrazolium (TZ) test required in section 81-2,147.02 has been completed:

22 (i) For native plant species, within a fifteen-month period,  
23 exclusive of the calendar month in which the test was completed,  
24 immediately prior to sale. Seeds packaged in hermetically sealed  
25 containers under the conditions established in rules and regulations may  
26 be sold for a period of thirty-six months after the last day of the month  
27 that the seeds were tested prior to packaging. If the seeds in  
28 hermetically sealed containers are sold more than thirty-six months after  
29 the last day of the month in which they were tested prior to packaging,  
30 they shall have been retested for germination or tested for viability as  
31 indicated by a tetrazolium (TZ) test within a nine-month period,



1 exclusive of the calendar month in which the retest was completed,  
2 immediately prior to their sale; and

3 (ii) For nonnative plant species, within a nine-month period,  
4 exclusive of the calendar month in which the test was completed,  
5 immediately prior to sale, except that for those seeds as established in  
6 rules and regulations, the test to determine the percentage of  
7 germination shall have been completed within a twelve-month period,  
8 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 or tested for viability as  
16 indicated by a tetrazolium (TZ) test within a nine-month period,  
17 exclusive of the calendar month in which the retest was completed,  
18 immediately prior to their sale;

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

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

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

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

29 (f) Consisting of or containing restricted noxious weed seeds per  
30 pound in excess of the number declared on the label attached to the  
31 container of the seed or associated with the seed, subject to recognized

1 tolerances. The recognized tolerances shall not exceed one-half of one  
2 percent by weight;

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

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

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

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

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

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

31 (c) To hinder or obstruct in any way any authorized person in the

1 performance of his or her duties under the Nebraska Seed Law;

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

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

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

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

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

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

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

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

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

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

1 determine whether such agricultural, vegetable, or flower seed is in  
2 compliance with the Nebraska Seed Law and to notify promptly the persons  
3 who sold the seed of any violation;

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

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

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

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

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

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

1 and promulgated under such law and enter any truck or other conveyer by  
2 land, water, or air at any time when the conveyer is accessible for the  
3 same purpose;

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

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

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

1 Nebraska Seed Administrative Cash Fund;

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

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

6 Sec. 5. Original sections 81-2,147.02, 81-2,147.03, and  
7 81-2,147.06, Reissue Revised Statutes of Nebraska, and section  
8 81-2,147.01, Revised Statutes Cumulative Supplement, 2020, are repealed.