

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 166

Introduced by Schilz, 47.

Read first time January 14, 2013

Committee:

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; and to repeal the
4 original section.
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 eighteen 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.