

# Senate Bill 647

Sponsored by COMMITTEE ON JUDICIARY (at the request of Oregon Seed Trade Association)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Replaces portions of existing seed law with seed law patterned on recommended uniform state seed law developed by national association. Makes violation of law subject to maximum \$100 fine for first offense and \$200 for subsequent similar offense.

Appropriates moneys from fees to Dean of the College of Agricultural Sciences of Oregon State University for purpose of carrying out duties of dean under Act.

## A BILL FOR AN ACT

1  
2 Relating to seeds; creating new provisions; amending ORS 62.848, 87.750, 561.144, 561.625, 633.690,  
3 633.720 and 633.992; repealing ORS 633.511, 633.520, 633.531, 633.541, 633.545, 633.550, 633.561,  
4 633.580, 633.600, 633.620, 633.651, 633.655, 633.660, 633.670, 633.680 and 633.996; and appropriat-  
5 ing money.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1. As used in ORS 633.511 to 633.750:**

8 (1) **"Advertisement" means all representations, other than those on the label, dissem-**  
9 **inated in any manner or by any means and relating to seed subject to ORS 633.511 to 633.750.**

10 (2) **"Agricultural seed" includes:**

11 (a) **Grass, forage, cereal, oil, fiber, bulblets or other kinds of crop seeds commonly re-**  
12 **cognized in this state as agricultural seeds or lawn seeds, and combinations of those seeds.**

13 (b) **Noxious weed seeds if the Director of Agriculture determines that the seed is being**  
14 **used as agricultural seed.**

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

17 (4) **"Certified," as applied to bulblets, tubers or horticultural plants or to agricultural,**  
18 **vegetable or cereal grain seed, means inspected and labeled by, and in accordance with the**  
19 **standards, rules and regulations adopted by, the Dean of the College of Agricultural Sciences**  
20 **of Oregon State University or in accordance with similar standards established by some**  
21 **similar regularly constituted authority in another state or country.**

22 (5) **"Complete record" means:**

23 (a) **Any and all information that relates to the origin, treatment, viability, purity, kind**  
24 **and variety of each lot of agricultural seed sold in this state;**

25 (b) **Any and all information that relates to the treatment, viability, kind and variety of**  
26 **each kind of agricultural and vegetable seed sold in this state; and**

27 (c) **Seed samples and records of declarations, labels, purchases, sales, conditioning,**  
28 **bulking, treatment, handling, storage, analyses, tests and examinations of agricultural and**  
29 **vegetable seed.**

30 (6) **"Conditioning" means storing, handling or processing seed by means of drying,**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.  
New sections are in **boldfaced** type.

1 cleaning, scarifying, blending and other operations that could change the purity or viability  
2 of the seed and require the seed lot to be retested to determine the label information.

3 (7) "Dean" means the Dean of the College of Agricultural Sciences of Oregon State Uni-  
4 versity or an agent of the dean.

5 (8) "Director" means the Director of Agriculture or an agent of the director.

6 (9) "Dormant" means viable seed, excluding hard seed, that fails to germinate when  
7 provided the specified germination conditions for that kind of seed.

8 (10) "Genuine grower's declaration" means a statement signed by the grower that gives  
9 for each lot of seed the:

10 (a) Lot number;

11 (b) Kind;

12 (c) Variety if known;

13 (d) Origin;

14 (e) Weight;

15 (f) Year of production;

16 (g) Date of shipment; and

17 (h) Person to whom shipment was made.

18 (11) "Germination" means the emergence and development from the seed embryo of  
19 those essential structures that, for that kind of seed, are indicative of the ability to produce  
20 a normal plant under favorable conditions before the close of a standard germination test.

21 (12) "Hard seeds" means seeds that remain hard at the end of a prescribed test period  
22 because the seeds have not absorbed water due to an impermeable seed coat.

23 (13) "Hybrid":

24 (a) Means the first-generation seed of a cross produced by controlling the pollination and  
25 combining:

26 (A) Two or more inbred lines;

27 (B) One inbred or single cross with an open-pollinated variety; or

28 (C) Two varieties or species, except open-pollinated varieties of the corn species *Zea*  
29 *mays*.

30 (b) Does not mean a second or subsequent generation of seed described in paragraph (a)  
31 of this subsection.

32 (14) "Inert matter" means broken seeds, sterile florets, chaff, fungus bodies, stones or  
33 other foreign matter not recognized as viable seed as determined by methods defined by the  
34 dean by rule.

35 (15) "Kind" means one or more related species or subspecies that singly or collectively  
36 are known by one common name, such as corn, oats, alfalfa and timothy.

37 (16) "Labeling" includes:

38 (a) A tag or other device attached to, or written, stamped or printed on, any container,  
39 or accompanying any lot of bulk seeds, purporting to set forth the information required on  
40 the seed label under sections 2 to 11 and 13 to 15 of this 2007 Act; and

41 (b) Any other information relating to the labeled seed.

42 (17) "Lot" means a definite quantity of seed, identified by a unique number or other  
43 mark, every portion or bag of which is uniform within recognized tolerances for the factors  
44 that appear on the labeling.

45 (18) "Mixture" means seed consisting of more than one kind, each in excess of five per-

1 cent by weight of the whole.

2 (19) "Mulch" means a protective covering, of any suitable substance, placed with seed  
3 that acts to retain sufficient moisture to support seed germination and sustain early seedling  
4 growth and to aid in the prevention of the evaporation of soil moisture, the controlling of  
5 weeds and the prevention of erosion.

6 (20) "Noxious weeds" means prohibited noxious weeds and restricted noxious weeds.

7 (21) "Off-type" means any seed or plant that is not part of a variety in that the seed or  
8 plant deviates in one or more characteristics from the variety as described, such as:

9 (a) A seed or plant of another variety;

10 (b) A seed or plant that is not of any variety;

11 (c) A seed or plant resulting from cross-pollination by another kind or variety;

12 (d) A seed or plant resulting from uncontrolled self-pollination during the production of  
13 hybrid seed; and

14 (e) Segregates of a seed or plant described in paragraphs (a) to (d) of this subsection.

15 (22) "Origin" means the country or state where seed is grown.

16 (23) "Other crop seed" means seeds of plants grown as crops, other than the kind or  
17 variety included in the pure seed, as determined by methods defined by the dean by rule.

18 (24) "Percentage of germination" means the percentage of pure seed in a lot or sample  
19 that is viable.

20 (25) "Percentage of hard seed" means the percentage of pure seed in any lot or sample  
21 that remains in its normal hard condition at the close of a standard viability test.

22 (26) "Person" means an individual, partnership, corporation, company, association, re-  
23 ceiver, firm, trustee or agent.

24 (27) "Prohibited noxious weed seeds" means weed seeds that:

25 (a) Are prohibited from being present in agricultural, vegetable or tree and shrub seed  
26 in this state; and

27 (b) Are of weeds that are highly destructive and difficult to control through good cultural  
28 practices and the use of herbicides.

29 (28) "Pure live seed" means the product of the percentage of germination plus hard or  
30 dormant seed multiplied by the percentage of pure seed divided by 100, expressed as a whole  
31 number.

32 (29) "Pure seed" means seed exclusive of inert matter and of all other seeds not of the  
33 seed being considered, as determined by methods defined by the dean by rule.

34 (30) "Restricted noxious weed seeds" means weed seeds that:

35 (a) Are objectionable in agricultural crops, lawns and gardens of this state; and

36 (b) Can be controlled through good cultural practices or the use of herbicides.

37 (31) "Retailer" means any person who sells or who offers or holds for sale agricultural  
38 or vegetable seed to ultimate consumers or users for planting purposes.

39 (32) "Seizure" means the act of taking possession of any container of agricultural seed  
40 or vegetable seed by legal process.

41 (33) "Stop sale" means an administrative order, provided by law, restraining the sale, use,  
42 disposition and movement of a definite amount of seed.

43 (34) "Treated" means injected, coated, sprayed or otherwise intentionally exposed to a  
44 pesticide as defined in ORS 634.006.

45 (35) "Tree and shrub seed" includes the seeds of woody plants commonly known and sold

1 as tree and shrub seeds in this state.

2 (36) "Tree seed collector's declaration" means a statement signed by a grower or person  
3 having knowledge of the place of collection, giving for a lot of seed the:

4 (a) Lot number;

5 (b) Common or scientific name of the species and, if appropriate, the subspecies;

6 (c) Origin;

7 (d) Elevation; and

8 (e) Quantity of tree and shrub seed.

9 (37) "Type" means a group of varieties so nearly similar that the individual varieties  
10 cannot be clearly differentiated except under special conditions.

11 (38) "Variety" means:

12 (a) A subdivision of a kind that is:

13 (A) Distinct in the sense that the variety can be differentiated by one or more identifiable  
14 morphological, physiological or other characteristics from all other varieties of public  
15 knowledge;

16 (B) Uniform in the sense that the variations in essential and distinctive characteristics  
17 are describable; and

18 (C) Stable in the sense that the variety will remain unchanged in its essential and dis-  
19 tinctive characteristics and its uniformity when reproduced or reconstituted as required by  
20 the different categories of varieties.

21 (b) The designation given to a hybrid.

22 (39) "Vegetable seeds" includes the seeds of those crops that are grown in gardens and  
23 on truck farms and that are generally known and sold under the name of vegetable or herb  
24 seeds in this state.

25 (40) "Viability" means the property of the seed that enables it to germinate under con-  
26 ditions favorable for germination:

27 (a) Quantitatively measured for a lot by the percentage of germination in a standard  
28 germination test for a particular material, conducted on seed from which any dormancy has  
29 been removed before the germination test.

30 (b) Quantitatively estimated for a deeply dormant seed lot by the percentage of seeds  
31 showing proper positive response to the tetrazolium test.

32 (41) "Weed seed" means prohibited and restricted noxious weed seeds and the seeds or  
33 bulblets of all plants generally recognized as weeds in this state, as determined by methods  
34 defined by the dean by rule.

35 (42) "Wholesaler" means any person who sells or who offers or holds for sale agricultural  
36 or vegetable seed to retailers, distributors, brokers or other wholesalers for resale.

37 **SECTION 2.** Each container of agricultural or vegetable seed offered for sale, exposed for  
38 sale or transported within this state for sowing purposes shall bear or have attached in a  
39 conspicuous place a plainly written or printed label or tag in the English language, giving  
40 information as required under sections 2 to 11 of this 2007 Act. The statement may not be  
41 modified or denied in the labeling or on another label attached to the container.

42 **SECTION 3.** (1) For all agricultural or vegetable seeds that are treated, the label or tag  
43 must give the following information:

44 (a) A word or statement indicating that the seed has been treated.

45 (b) The commonly accepted coined, chemical or abbreviated chemical generic name of the

1 applied substance or a description of the process used.

2 (c) If the substance in the amount present with the seed is harmful to humans or other  
 3 vertebrate animals, a cautionary statement such as “Do not use for food, feed or oil pur-  
 4 poses.”

5 (d) If the substance is a mercurial or similarly toxic substances a cautionary poison  
 6 statement or symbol.

7 (e) If the seed is treated with inoculants, the date of expiration beyond which the  
 8 inoculants are not to be considered effective.

9 (2) A separate label may be used for the information described in subsection (1) of this  
 10 section.

11 **SECTION 4.** (1) For agricultural seeds, the label or tag must give the following informa-  
 12 tion, except as provided for cool season lawn and turf grass seed and mixtures in section 5  
 13 of this 2007 Act, for seed sold on a pure live seed basis in section 9 of this 2007 Act and for  
 14 hybrids that contain less than 95 percent hybrid seed in section 10 of this 2007 Act:

15 (a) For each agricultural seed component present in excess of five percent of the whole:

16 (A) The name of the kind and variety;

17 (B) The percentage of the whole by weight;

18 (C) If the variety of those kinds generally labeled as to variety as designated in the rules  
 19 of the Director of Agriculture is not stated, the name of the kind and the words “Variety  
 20 Not Stated”; and

21 (D) If a hybrid, the word “hybrid.”

22 (b) The lot number or other lot identification.

23 (c) The origin or, if unknown, a statement that the origin is unknown.

24 (d) The percentage by weight of all weed seeds.

25 (e)(A) The name and number per pound of each seed that is a restricted noxious weed  
 26 seed in Oregon; or

27 (B) The statement “No noxious found” or a similar statement, if the sample is free of  
 28 all noxious weed seeds listed in the rules of the director.

29 (f) The percentage by weight of agricultural seeds other than those required to be named  
 30 on the label.

31 (g) The percentage by weight of inert matter.

32 (h) For each named agricultural seed:

33 (A) The percentage of viability, expressed as “germination,” exclusive of hard seed;

34 (B) The percentage of hard seeds, if present; and

35 (C) The calendar month and year the test was completed to determine the percentages  
 36 described in subparagraphs (A) and (B) of this paragraph.

37 (i) The name and address of the person who labeled the seed or who sells the seed, or  
 38 offers or exposes the seed for sale, within this state.

39 (2) Seed described in subsection (1)(f) of this section may be designated as “crop seed.”

40 (3) Following the information described in subsection (1)(h)(A) and (B) of this section, the  
 41 total of that information may be stated as “total germination and hard seed.”

42 **SECTION 5.** (1) For Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall  
 43 fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass,  
 44 creeping bentgrass and other cool season lawn and turf grasses, or mixtures of those  
 45 grasses, the label or tag must give the following information:

- 1 (a) For single kinds, the name of the kind or the kind and variety.  
 2 (b) For a mixture:  
 3 (A) The word “mix,” “mixed,” “mixture” or “blend” stated with the name of the mixture;  
 4 (B) The heading “Pure Seed,” “Germination” or “Germ,” used in the proper places.  
 5 (C)(i) The commonly accepted name of the kind, or kind and variety, of each agricultural  
 6 seed component in excess of five percent of the whole; and  
 7 (ii) The percentage by weight of pure seed in order of its predominance and in columnar  
 8 form.  
 9 (c) The percentage by weight of agricultural seed other than those required to be named  
 10 on the label, designated as “crop seed.”  
 11 (d) The percentage by weight of inert matter, not to exceed:  
 12 (A) 15 percent in Kentucky bluegrass; or  
 13 (B) 10 percent in all other lawn and turf grasses.  
 14 (e) The percentage by weight of all weed seeds.  
 15 (f) For noxious weeds that are required to be labeled, a listing under the heading  
 16 “Noxious Weed Seeds.”  
 17 (g) For each agricultural seed named under paragraph (a) or (b) of this subsection:  
 18 (A) The percentage of viability, expressed as “germination,” exclusive of hard seed;  
 19 (B) The percentage of hard seed, if present; and  
 20 (C) The calendar month and year the test was completed to determine the percentages  
 21 described in subparagraphs (A) and (B) of this paragraph.  
 22 (h) The name and address of the person who labeled the seed or the person who sells the  
 23 seed or offers or exposes the seed for sale in this state.  
 24 (2) For seed described in subsection (1) of this section, foreign material, other than ma-  
 25 terial used for coating or pelleting as described in section 6 of this 2007 Act or combination  
 26 products as described in section 11 of this 2007 Act to enhance the planting value or common  
 27 to grass seed, may not be added.  
 28 (3) The total of the percentages listed under subsection (1) of this section must equal 100  
 29 percent.  
 30 (4) If a single test date is used for viability expressed as “germination” on the labeling  
 31 of mixtures and blends under subsection (1)(g) of this section, the oldest test date shall be  
 32 used. If a “sell by” statement is used for seed described in subsection (1)(g) of this section,  
 33 the date listed in the “sell by” statement may be no more than 15 months from the date of  
 34 test, exclusive of the month of test.  
 35 **SECTION 6.** (1) For agricultural seeds that are coated, the label or tag must give the  
 36 following information:  
 37 (a) The percentage by weight of pure seeds with coating material removed.  
 38 (b) The percentage by weight of coating material.  
 39 (c) The percentage by weight of inert material, exclusive of coating material.  
 40 (2) The percentage of viability for seeds described in this section, expressed as  
 41 “germination,” is to be determined on 400 pellets with or without seeds.  
 42 (3) In addition to the provisions of this section, labeling of coated seed shall comply with  
 43 the requirements of sections 3 to 5 of this 2007 Act.  
 44 **SECTION 7.** For vegetable seeds in packets as prepared for use in home gardens or  
 45 household plantings or vegetable seeds in preplanted containers, mats, tapes or other plant-

ing devices, the label or tag must give the following information:

(1) The name of the kind and variety of seed.

(2) The lot identification, such as by lot number or other means.

(3)(a) The calendar month and year the viability test was completed and the statement “sell by” followed by a date that is no more than 15 months from the date of the test exclusive of the month of test;

(b) The year for which the seed was packaged for sale, indicated by the words “packed for” followed by the year and the statement “sell by” followed by a calendar year; or

(c) The percentage of viability expressed as “germination” and the calendar month and year the test was completed to determine that percentage, provided that the germination test was completed within 15 months, exclusive of the month of test, prior to the last date the product is offered for sale to ultimate consumers or users for planting purposes.

(4) The name and address of the person who labeled the seed or who sells the seed, or offers or exposes the seed for sale, within this state.

(5) For seeds that germinate less than the standard last established by the Director of Agriculture under section 20 of this 2007 Act:

(a) The percentage of viability, expressed as germination, exclusive of hard seed;

(b) The percentage of hard seed, if present; and

(c) The words “Below Standard” in not less than 8-point type.

(6) For seeds placed in a viability medium, mat, tape or other device in such a way as to make it difficult to determine the quantity of seed without removing the seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.

**SECTION 8.** (1) For vegetable seeds in containers other than packets prepared for use in home gardens or household plantings and other than preplanted containers, mats, tapes or other planting devices, the label or tag must give the following information:

(a) For each kind and variety of seed present in excess of five percent of the whole:

(A) The name of the kind and variety; and

(B) The percentage by weight in order of predominance.

(b) Lot number or other lot identification.

(c) For each named vegetable seed:

(A) The percentage of germination, exclusive of hard seed;

(B) The percentage of hard seed, if present; and

(C) The calendar month and year the test was completed to determine the percentages described in subparagraphs (A) and (B) of this paragraph.

(d) The name and address of the person who labeled the seed or the person who sells the seed, or offers or exposes the seed for sale, within this state.

(2) Following the information described in subsection (1)(c)(A) and (B) of this section, the total of that information may be stated as “total germination and hard seed” if desired.

(3) The labeling requirements for vegetable seeds in containers of more than one pound are deemed to be met if the seed is weighed from a properly labeled container in the presence of the purchaser.

**SECTION 9.** For agricultural seed sold on a pure live seed basis, the label or tag must give the following information:

(1) If in accordance with the rules adopted by the Director of Agriculture, the informa-

1 tion described in section 4 of this 2007 Act, except that the label or tag need not show the  
2 following:

3 (a) The percentage of the whole by weight for each agricultural seed component as de-  
4 scribed in section 4 (1)(a) of this 2007 Act.

5 (b) The percentage by weight of inert matter as described in section 4 (1)(g) of this 2007  
6 Act.

7 (c) The percentage of viability, percentage of hard seed and test date information as de-  
8 scribed in section 4 (1)(h) of this 2007 Act.

9 (2) For each named agricultural seed:

10 (a) The percentage of pure live seed determined in accordance with rules adopted by the  
11 Dean of the College of Agricultural Sciences of Oregon State University; and

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

14 **SECTION 10.** (1) For agricultural and vegetable hybrid seed that contains less than 95  
15 percent hybrid seed, the label or tag must give the following information:

16 (a) Except as provided in subsection (2) of this section, each named kind or variety la-  
17 beled as “hybrid.”

18 (b) The percentage that is hybrid, labeled parenthetically in direct association following  
19 the named variety, such as “Comet (85% hybrid).”

20 (2) Varieties in which the pure seed contains less than 75 percent hybrid seed may not  
21 be labeled as hybrid.

22 **SECTION 11.** (1) For combination mulch, seed and fertilizer products, the label or tag  
23 must give the following information:

24 (a) The word “combination” followed by the words “mulch,” “seed” and “fertilizer” if  
25 appropriate.

26 (b) For agricultural, lawn and turf seeds placed in a germination medium, mat, tape or  
27 other device or mixed with mulch, the:

28 (A) Product name;

29 (B) Lot number;

30 (C) Percentage by weight of pure seed of each kind and variety named, whether or not  
31 more than five percent of the whole;

32 (D) Percentage by weight of other crop seeds;

33 (E) Percentage by weight of inert matter;

34 (F) Percentage by weight of weed seeds;

35 (G) Name and number per pound of noxious weed seeds, if present;

36 (H) Percentage of germination, percentage of hard seeds if appropriate, and date of test  
37 for each kind or kind and variety of seed named; and

38 (I) Name and address of the labeler.

39 (2) For the information described in subsection (1)(a) of this section:

40 (a) The word “combination,” and the words “mulch,” “seed” and “fertilizer” if appropri-  
41 ate, must appear on the upper 30 percent of the principal display panel.

42 (b) The word “combination” must be in the largest and most conspicuous type on the  
43 container, equal to or larger than the size of the product name.

44 (c) The words “mulch,” “seed” and “fertilizer” shall be no smaller than one-half the size  
45 of the word “combination” and in close proximity to the word “combination.”



1 (3) A product described in subsection (1)(a) of this section shall contain a minimum of  
2 70 percent mulch.

3 (4) A product described in subsection (1)(b) of this section may not be less than 70 per-  
4 cent inert matter by weight.

5 **SECTION 12.** Containers of agricultural or vegetable seeds or of Kentucky bluegrass, red  
6 fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass,  
7 annual ryegrass, colonial bentgrass, creeping bentgrass and other cool season lawn and turf  
8 grasses, or mixtures of those grasses, are exempt from the labeling requirements of sections  
9 2 to 11 of this 2007 Act if the containers are filled in the presence of the purchaser from bins  
10 or other bulk display containers if the bins or bulk display containers are labeled with the  
11 information otherwise required to be present on individual packages of that seed.

12 **SECTION 13.** (1) Except as provided in subsection (2) of this section, each container of  
13 tree and shrub seed offered for sale, exposed for sale or transported within this state for  
14 purposes of sowing in this state shall bear or have attached in a conspicuous place a plainly  
15 written or printed label or tag in the English language, giving information as required under  
16 sections 14 and 15 of this 2007 Act. The statement may not be modified or denied in the la-  
17 beling or on another label attached to the container.

18 (2) The labeling of seed supplied under a contractual agreement may be by invoice ac-  
19 companying the shipment, or by an analysis tag attached to the invoice, if each bag or other  
20 container is clearly identified by lot number stenciled on the container or if the seed is in  
21 bulk. Each bag or container that is not identified as described in this subsection must carry  
22 complete labeling.

23 **SECTION 14.** (1) For all tree and shrub seed that has been treated, the label or tag must  
24 give the following information:

25 (a) A word or statement indicating that the seed has been treated.

26 (b) The commonly accepted coined, chemical or abbreviated chemical generic name of the  
27 applied substance or a description of the process used.

28 (c) If the applied substance in the amount present with the seed is harmful to humans  
29 or other vertebrate animals, a cautionary statement such as "Do not use for food, feed or  
30 oil purposes."

31 (d) If the applied substance contains mercurials or similarly toxic substances, a cau-  
32 tionary poison statement or symbol.

33 (e) If the seed is treated with inoculants, the date of expiration beyond which the  
34 inoculants are not to be considered effective.

35 (2) A separate label may be used for the information described in subsection (1) of this  
36 section.

37 **SECTION 15.** For all tree and shrub seed, the label or tag must give the following infor-  
38 mation:

39 (1) The common name of the species of seed and of the subspecies if appropriate.

40 (2) The scientific name of the genus and species and of the subspecies if appropriate.

41 (3) The lot number or other lot identification.

42 (4) The origin.

43 (5) For seed collected from a predominantly indigenous stand, the area of collection given  
44 by latitude or longitude, by geographic description or by political subdivision, such as state  
45 or county.

- 1       **(6) For seed collected from other than a predominantly indigenous stand:**  
 2       **(a) Identification of the area of collection and the origin of the stand; or**  
 3       **(b) The statement “Origin Not Indigenous.”**  
 4       **(7) The elevation or the upper and lower limits of elevations within which the seed was**  
 5 **collected.**  
 6       **(8) The purity, as a percentage of pure seed by weight.**  
 7       **(9) For those species for which standard germination testing procedures are prescribed**  
 8 **by the Director of Agriculture, the following:**  
 9       **(a)(A) The percentage of germination, exclusive of hard seed;**  
 10       **(B) The percentage of hard seed, if present; and**  
 11       **(C) The calendar month and year the test was completed to determine the percentages**  
 12 **described in subparagraphs (A) and (B) of this paragraph; or**  
 13       **(b) The words “Test is in process, results will be supplied upon request.”**  
 14       **(10) For those species for which standard germination testing procedures have not been**  
 15 **prescribed by the director, the calendar year in which the seed was collected.**  
 16       **(11) The name and address of the person who labeled the seed or the person who sells the**  
 17 **seed or who offers or exposes the seed for sale within this state.**  
 18       **SECTION 16. (1) A person may not sell, offer for sale, expose for sale or transport for**  
 19 **sale agricultural, vegetable or tree and shrub seed within this state:**  
 20       **(a) If the seed is subject to the germination requirements of sections 2 to 15 of this 2007**  
 21 **Act unless, except as otherwise provided in sections 2 to 15 of this 2007 Act and subsection**  
 22 **(2) of this section, the test to determine the percentage of germination was completed within**  
 23 **a nine-month period, exclusive of the calendar month in which the test was completed, im-**  
 24 **mediately prior to sale, offering for sale, exposure for sale or transportation.**  
 25       **(b) Not labeled in accordance with sections 2 to 15 of this 2007 Act or that has false or**  
 26 **misleading labeling.**  
 27       **(c) Pertaining to which there has been false or misleading advertisement.**  
 28       **(d) Consisting of or containing prohibited noxious weeds, subject to recognized toler-**  
 29 **ances.**  
 30       **(e) Consisting of or containing a number of restricted noxious weed seeds per pound in**  
 31 **excess of:**  
 32       **(A) The number allowed by rules adopted by the Director of Agriculture; or**  
 33       **(B) The number declared.**  
 34       **(f) Containing more than 2.5 percent by weight of all weed seeds.**  
 35       **(g) If any labeling, advertising or other representation subject to ORS 633.511 to 633.750**  
 36 **represents the seed to be certified seed or a class of certified seed unless:**  
 37       **(A) It has been determined by a seed certifying agency, in compliance with the rules and**  
 38 **regulations of the agency pertaining to that seed, that the seed:**  
 39       **(i) Conformed to standards of purity and identity as to kind, species, subspecies if ap-**  
 40 **propriate, or variety; and**  
 41       **(ii) If tree seed, was found to be of the origin and elevation claimed; and**  
 42       **(B) The seed bears an official label issued for the seed by a seed certifying agency certi-**  
 43 **fying that the seed is of the specified class and of a specified kind, species, subspecies if ap-**  
 44 **propriate or variety.**  
 45       **(h) Labeled with a variety name but not certified by an official seed certifying agency,**

1 when it is a variety for which a United States certificate of plant variety protection under  
 2 the Plant Variety Protection Act, 7 U.S.C. 2321 et seq., specifies sale only as a class of cer-  
 3 tified seed. However, seed from a certified lot may be labeled as to variety name when used  
 4 in a mixture by, or with the approval of, the owner of the variety.

5 (2) Subsection (1)(a) of this section does not apply to tree or shrub seeds or to agricul-  
 6 tural or vegetable seeds in hermetically sealed containers. Agricultural or vegetable seeds  
 7 packaged in hermetically sealed containers under the conditions defined by the director by  
 8 rule may be sold, offered or exposed for sale or offered for transportation for a period of 36  
 9 months after the last day of the month that the seeds were tested for germination prior to  
 10 packaging. If seeds in hermetically sealed containers are sold, offered or exposed for sale or  
 11 offered for transportation more than 36 months after the last day of the month in which the  
 12 seeds were tested prior to packaging, the seeds must have been retested within a nine-month  
 13 period, exclusive of the calendar month in which the retest was completed, immediately prior  
 14 to the sale, offering or exposing for sale or offering for transportation.

15 **SECTION 17.** A person may not:

16 (1) Detach, alter, deface or destroy any label provided for under ORS 633.511 to 633.750,  
 17 or under rules adopted under ORS 633.511 to 633.750, or alter or substitute seed in a manner  
 18 that may defeat the purpose of ORS 633.511 to 633.750.

19 (2) Use relabeling stickers without having both the calendar month and year the viability  
 20 test was completed, the “sell by” date statement as described in sections 5 (1)(g) or 7 (3) of  
 21 this 2007 Act and the lot number that matches the existing, original lot number.

22 (3) Relabel a container of seeds more than one time in six months.

23 (4) Disseminate any false or misleading advertisement concerning seeds that are subject  
 24 to ORS 633.511 to 633.750 in any manner or by any means.

25 (5) Hinder or obstruct in any way any authorized person in the performance of duties  
 26 under ORS 633.511 to 633.750.

27 (6) Fail to comply with a stop sale order, or to move or otherwise handle or dispose of  
 28 any lot of seed held under a stop sale order or any tags attached to that lot of seed, except  
 29 with express permission of the Director of Agriculture and for purposes specified by the di-  
 30 rector.

31 (7) Use the word “trace” or the phrase “contains more than 0.01 percent” as a substitute  
 32 for any statement that is required.

33 (8) Use the word “type” in any labeling in connection with the name of any proprietary  
 34 agricultural seed variety.

35 (9) Alter or falsify any seed label, seed test, laboratory report, record or other document  
 36 to create a misleading impression as to the kind, kind of variety, history, quality or origin  
 37 of seed.

38 **SECTION 18.** (1) Each person whose name appears on the label as handling agricultural,  
 39 vegetable or tree and shrub seeds that are subject to ORS 633.511 to 633.750 shall:

40 (a) Keep for a period of two years complete records of each lot of agricultural, vegetable  
 41 or tree and shrub seed handled; and

42 (b) Keep for one year a file sample of each lot of seed after final disposition of that lot.

43 (2) All records and samples for seeds described in this section pertaining to the shipment  
 44 involved shall be accessible for inspection by the Director of Agriculture during customary  
 45 business hours.

**SECTION 19.** (1) The provisions of sections 2 to 17 of this 2007 Act do not apply:

(a) To seed or grain not intended for sowing purposes.

(b) To seed in storage in, or being transported or consigned to, a cleaning or conditioning establishment for cleaning or conditioning, provided that:

(A) The invoice or labeling accompanying any shipment of the seeds bears the statement “seeds for conditioning”; and

(B) Any labeling or other representation that may be made with respect to the uncleaned or unconditioned seed shall be subject to ORS 633.511 to 633.750.

(c) To any carrier in respect to any seed transported or delivered for transport in the ordinary course of its business, provided that the carrier is not engaged in producing, conditioning or marketing seeds subject to the provisions of ORS 633.511 to 633.750.

(2) A person is not subject to the penalties established in section 24 of this 2007 Act for having sold or offered for sale seeds subject to ORS 633.511 to 633.750 that were incorrectly labeled or represented as to kind, species, subspecies if appropriate, variety or type or origin, elevation or year of collection if required, and that cannot be identified by examination of the seed, unless the person has failed to obtain an invoice, a genuine grower’s or tree seed collector’s declaration or other labeling information and to take any other precautions as may be reasonable to ensure the identity to be that stated. A genuine grower’s declaration of variety shall affirm that the grower holds records of proof concerning parent seed, such as invoices and labels.

(3) The provisions of sections 13 to 15 and 18 of this 2007 Act do not apply to tree seed produced by the consumer.

**SECTION 20.** (1) The duty of enforcing, and carrying out the provisions and requirements of, ORS 633.511 to 633.750 is vested in the Director of Agriculture and the Dean of the College of Agricultural Sciences of Oregon State University.

(2) It is the duty of the director:

(a) To sample, inspect and examine seeds subject to the provisions of ORS 633.511 to 633.750 that are sold, offered for sale, exposed for sale or transported within this state for sowing purposes, at times and places and to the extent that the director may deem necessary to determine whether the seeds are in compliance with the provisions of ORS 633.511 to 633.750.

(b) To submit seeds described in paragraph (a) of this subsection to the dean for analysis, testing and examination.

(c) To notify promptly the person who sold seed or who offered or exposed seed for sale and, if appropriate, the person who labeled or transported the seed, of any violation, stop sale order or seizure.

(d) To adopt and amend after due notice and hearing in accordance with ORS chapter 183:

(A) Rules governing the method of sampling, inspecting, and examining seeds subject to the provisions of ORS 633.511 to 633.750 and the tolerances to be used and any other rules necessary to secure the efficient enforcement of ORS 633.511 to 633.750;

(B) A prohibited and restricted noxious weed list;

(C) Rules establishing reasonable standards of germination for vegetable seeds;

(D) A list of the tree and shrub species subject to the germination labeling requirements of sections 13 to 15 of this 2007 Act; and

(E) A list of the kinds of vegetable seeds subject to the vegetable seed germination re-

1 **quirements of sections 2 to 11 of this 2007 Act.**

2 **(3) It is the duty of the dean:**

3 **(a) To make analysis of, test and examine seeds subject to the provisions of ORS 633.511**  
4 **to 633.750 that are sold, offered for sale, exposed for sale or transported within this state for**  
5 **sowing purposes, to determine whether the seeds are in compliance with sections 2 to 15 of**  
6 **this 2007 Act.**

7 **(b) To notify promptly the director of the results of analysis, testing and examination**  
8 **under this subsection.**

9 **(c) To adopt and amend, after due notice and hearing in accordance with ORS chapter**  
10 **183, rules governing the method of analyzing, testing and examining seeds subject to the**  
11 **provisions of ORS 633.511 to 633.750 and the tolerances to be used and any other rules nec-**  
12 **essary to carry out the duties of the dean under ORS 633.511 to 633.750.**

13 **(4) The dean shall maintain and operate facilities and make all tests for the voluntary**  
14 **inspection and certification of tubers and horticultural plants. The dean may adopt rules and**  
15 **establish fees for the voluntary inspection and certification of tubers and horticultural**  
16 **plants.**

17 **SECTION 21. (1) For purposes of carrying out ORS 633.511 to 633.750, the Director of**  
18 **Agriculture may:**

19 **(a) Enter upon any public or private premises during regular business hours in order to**  
20 **have access to seeds and the records connected with seeds subject to ORS 633.511 to 633.750**  
21 **and the rules adopted under ORS 633.511 to 633.750 and any truck or other conveyer by land,**  
22 **water or air at any time the conveyer is accessible for that purpose.**

23 **(b) Issue and enforce a written or printed stop sale order to the owner or custodian of**  
24 **any lot of seed subject to the provisions of ORS 633.511 to 633.750 that the director finds is**  
25 **in violation of any of the provisions of ORS 633.511 to 633.750 or rules adopted under ORS**  
26 **633.511 to 633.750.**

27 **(c) Cooperate with the United States Department of Agriculture and other agencies in**  
28 **seed law enforcement.**

29 **(2) An order issued under subsection (1)(b) of this section shall prohibit further sale,**  
30 **conditioning and movement of the seed, except upon the approval of the director, until the**  
31 **director has evidence that the law has been complied with and has issued a release from the**  
32 **stop sale order of that seed. In respect to seed that has been denied sale, conditioning and**  
33 **movement under the stop sale order, the owner or custodian of the seed may appeal from**  
34 **the order to the circuit court for the county where the seeds are found for judgment re-**  
35 **garding the justification for the order and for the discharge of the seeds from the stop sale**  
36 **order prohibiting the sale, conditioning and movement in accordance with the findings of the**  
37 **court.**

38 **(3) Nothing in subsection (1)(b) or (2) of this section limits the right of the director to**  
39 **proceed as authorized by ORS 633.511 to 633.750.**

40 **(4) For purposes of carrying out ORS 633.511 to 633.750, the Dean of the College of Agri-**  
41 **cultural Sciences of Oregon State University may:**

42 **(a) Establish, maintain or make provision for seed testing facilities, employ qualified**  
43 **persons and incur other expenses as necessary to carry out the duties of the dean under ORS**  
44 **633.511 to 633.750; and**

45 **(b) Make or provide for making purity and germination tests of seed for farmers and**

1 dealers upon request, adopt rules governing that testing and fix and collect fees for the tests  
2 made. Moneys from fees fixed and collected under this subsection are continuously appro-  
3 priated to the dean for the purpose of carrying out the duties of the dean under ORS 633.511  
4 to 633.750.

5 **SECTION 22.** Any lot of seed not in compliance with the provisions of ORS 633.511 to  
6 633.750 shall be subject to seizure on complaint of the Director of Agriculture to a court of  
7 competent jurisdiction in the locality in which the seed is located. If the court finds the seed  
8 to be in violation of ORS 633.511 to 633.750 and orders the condemnation of the seed, the seed  
9 shall be denatured, processed, destroyed, relabeled or otherwise disposed of as provided by  
10 the State Department of Agriculture by rule. However, the court may not order such a dis-  
11 position of the seed without first having given the claimant an opportunity to apply to the  
12 court for the release of the seed or permission to condition or relabel the seed into con-  
13 formance with ORS 633.511 to 633.750.

14 **SECTION 23.** When the Director of Agriculture applies to any court for a temporary or  
15 permanent injunction restraining any person from violating or continuing to violate any  
16 provision of ORS 633.511 to 633.750 or rules adopted under ORS 633.511 to 633.750, the in-  
17 junction is to be issued without bond.

18 **SECTION 24.** The State Department of Agriculture may impose a civil penalty for a vio-  
19 lation of ORS 633.511 to 633.750, not to exceed \$100 for a first offense and not to exceed \$200  
20 for each subsequent similar offense.

21 **SECTION 25.** Sections 1 to 24 of this 2007 Act are added to and made a part of ORS  
22 633.511 to 633.750.

23 **SECTION 26.** ORS 62.848 is amended to read:

24 62.848. (1) As used in this section:

25 (a) "Parties" or "party" means seed producers, seed associations, seed cooperatives or seed  
26 dealers that participate in a state regulatory program described in subsection (2) of this section.

27 (b) "Regulatory program" means a state regulatory program described in subsection (2) of this  
28 section that is actively supervised by the Director of Agriculture and that authorizes parties to en-  
29 gage in certain collective bargaining and negotiations to establish the price of perennial ryegrass  
30 seed to be produced and sold to perennial ryegrass seed dealers in the future, annual ryegrass seed  
31 to be produced and sold to annual ryegrass seed dealers in the future or tall fescue seed to be  
32 produced and sold to tall fescue seed dealers in the future.

33 (2)(a) It is the intent of this section and ORS 646.535 (2) and 646.740 (10) to displace competition  
34 with regulatory programs in the perennial ryegrass seed, annual ryegrass seed and tall fescue seed  
35 industries to a limited degree. The regulatory programs are intended to grant immunity from federal  
36 and state antitrust laws to perennial ryegrass seed, annual ryegrass seed and tall fescue seed pro-  
37 ducers and perennial ryegrass seed, annual ryegrass seed and tall fescue seed dealers for the limited  
38 purpose of allowing the producers and the dealers to bargain collectively and to arrive at a nego-  
39 tiated price for the sale of seed by the producers to the dealers. The activities of any party that  
40 comply with the provisions of this section may not be considered to be in restraint of trade, a con-  
41 spiracy or combination or any other unlawful activity in violation of any provision of ORS 646.705  
42 to 646.826 or federal antitrust laws.

43 (b) A seed cooperative or seed association for perennial ryegrass seed, annual ryegrass seed or  
44 tall fescue seed may negotiate with one or more dealers, as defined in ORS 646.515, of perennial  
45 ryegrass seed, annual ryegrass seed or tall fescue seed to establish the price at which members of

1 the cooperative or association will sell perennial ryegrass seed, annual ryegrass seed or tall fescue  
 2 seed to be produced by its members or under the control of its members. The seed dealers may ne-  
 3 gotiate the price of the seed through a committee that sets forth the views of the dealers and votes  
 4 on any issues being negotiated as authorized by this section, including the price of the seed.

5 (c) The Director of Agriculture is authorized to actively supervise the conduct of perennial  
 6 ryegrass seed, annual ryegrass seed and tall fescue seed agricultural cooperatives organized under  
 7 this chapter, representative committees of perennial ryegrass seed, annual ryegrass seed or tall  
 8 fescue seed dealers and any perennial ryegrass seed, annual ryegrass seed or tall fescue seed asso-  
 9 ciations in establishing the price of perennial ryegrass seed, annual ryegrass seed or tall fescue seed  
 10 to be produced and sold to seed dealers at a future date. The director is authorized to supervise the  
 11 negotiations between the parties, review the prices established by the negotiations and approve the  
 12 prices proposed by the parties before the prices take effect. The director must approve the proposed  
 13 prices and any adjustments to previously approved prices before the prices may be implemented.

14 (d) The director may compel the parties to take whatever action the director considers neces-  
 15 sary to:

16 (A) Ensure that the parties are engaging in conduct that is authorized under this section;

17 (B) Ensure that the policies of this state are being fulfilled under the regulatory programs; and

18 (C) Enjoin conduct by any of the parties that is not authorized by the director or conduct that  
 19 the director finds does not advance the interests of this state in carrying out the regulatory pro-  
 20 grams.

21 (e) The Director of Agriculture may adopt rules to carry out the director's authority under this  
 22 section.

23 (f) The director may designate persons as the director deems necessary to carry out the re-  
 24 sponsibility of actively supervising the conduct of the parties, including serving as intermediaries  
 25 between prospective parties. Persons designated by the director must be employees of the State  
 26 Department of Agriculture.

27 (g) The director by rule shall set and collect fees from the parties who are participants in reg-  
 28 ulatory programs. The fees shall be deposited in the Department of Agriculture Account established  
 29 under ORS 561.150.

30 (h) The director shall supervise the labeling of perennial ryegrass seeds, annual ryegrass seeds  
 31 and tall fescue seeds to ensure compliance with [ORS 633.520, 633.531 and 633.541] **section 5 of this**  
 32 **2007 Act.**

33 **SECTION 27.** ORS 87.750 is amended to read:

34 87.750. As used in ORS 87.750 to 87.777, unless the context otherwise requires:

35 (1) "Agricultural producer" means a person that engages in or has engaged in the business of  
 36 growing or producing grain for market or for delivery or transfer to others owning or holding title  
 37 to the grain. "Agricultural producer" includes a landowner, producer, landlord, tenant, sharecropper  
 38 or other person who participates in the growing of grain and receives a share of the grain.

39 (2) "Grain" means wheat, seed corn, corn used for animal feed, oats, barley, rye, flaxseed, cer-  
 40 tified alfalfa seed, agricultural seed as defined in [ORS 633.511 (1)] **section 1 of this 2007 Act**,  
 41 vegetable seed as defined in [ORS 633.511] **section 1 of this 2007 Act**, the seed of any cereal grain,  
 42 soybeans, grain sorghum, dry beans and dry peas and any other grain for which standards are es-  
 43 tablished or followed by the State Department of Agriculture.

44 (3) "Inventory" means all grain purchased or received from agricultural producers, whether in  
 45 bulk lots or in blended or packaged form. "Inventory" does not include the equipment or supplies

1 of the person holding or owning the grain.

2 (4) "Person" means individual, corporation, partnership, association, joint stock company, busi-  
3 ness trust, limited liability company, limited liability partnership, cooperative, government entity,  
4 unincorporated organization or other business entity.

5 **SECTION 28.** ORS 561.144 is amended to read:

6 561.144. (1) The State Treasurer shall establish a Department of Agriculture Service Fund which  
7 shall be a trust fund separate and distinct from the General Fund. The State Department of Agri-  
8 culture shall deposit all license and service fees paid to it under the provisions of the statutes  
9 identified in subsection (3) of this section in the Department of Agriculture Service Fund. The State  
10 Treasurer is the custodian of this trust fund which shall be deposited by the treasurer in such de-  
11 positories as are authorized to receive deposits of the General Fund, and which may be invested by  
12 the treasurer in the same manner as authorized by ORS 293.701 to 293.820.

13 (2) Interest received on deposits credited to the Department of Agriculture Service Fund shall  
14 accrue to and become a part of the Department of Agriculture Service Fund.

15 (3) The license and service fees subject to this section are those described in ORS 561.400,  
16 570.710, 571.057, 571.063, 571.145, 583.004, 583.046, 583.445, 583.510, 583.610, 585.050, 586.270, 586.580,  
17 586.650, 596.030, 596.311, 599.235, 599.269, 599.406, 599.610, 601.040, 602.090, 603.025, 603.075, 616.706,  
18 618.115, 618.136, 619.031, 621.072, 621.166, 621.266, 621.297, 621.335, 621.730, 622.080, 625.180, 628.240,  
19 632.211, 632.425, 632.600, 632.720, 632.730, 632.741, 632.940, 632.945, 633.015, 633.029, 633.318, 633.362,  
20 633.461, 633.471, [633.680,] 633.700, 633.720, 634.016, 634.116, 634.122, 634.126, 634.132, 634.136, 634.212  
21 and 635.030 **and section 21 of this 2007 Act.**

22 **SECTION 29.** ORS 561.625 is amended to read:

23 561.625. Nothing in ORS 561.605 to 561.630, 616.225, 632.485 and [633.670] **section 21 of this**  
24 **2007 Act** shall be construed as requiring that a hearing be held in connection with the seizure or  
25 embargoing of illegal or suspected products or as prohibiting the release, destruction or other dis-  
26 position of such products by agreement between the State Department of Agriculture and the owner  
27 or person in possession of such products.

28 **SECTION 30.** ORS 633.690 is amended to read:

29 633.690. (1) The director may place a quarantine on all agricultural or vegetable seed entering  
30 this state from any outside source. However, seed labeled in accordance with [*ORS 633.520, 633.531*  
31 *and 633.541*] **sections 2 to 15 of this 2007 Act** shipped into the state by any person holding an  
32 Oregon license in full force shall not necessarily be quarantined; and any such seeds in tight con-  
33 tainers in transit directly through this state, to points outside this state, shall not be subject to  
34 quarantine. Any such seeds from outside this state, that are destined to points in this state for  
35 conditioning purposes, for later use in this state, or for shipment from this state, shall be held under  
36 quarantine until such seeds comply with ORS 633.511 to 633.750.

37 (2) The director may draw necessary samples of such seed and hold such seed until the neces-  
38 sary tests are completed and arrangements for the disposition of the seed are consummated. If the  
39 seed is found to be in compliance with those sections it shall be immediately released. If the seed  
40 is found to be in violation of any part of those sections, the director shall so notify the shipper and,  
41 unless the director is instructed to return such seed within 30 days or unless such seed is put in  
42 condition to comply with the provisions of those sections and all costs covering such inspection and  
43 seizure are paid, the director shall cause the seed to be destroyed.

44 **SECTION 31.** ORS 633.720 is amended to read:

45 633.720. On application of any person owning or controlling any lot of seed, the director may



1 draw an official sample of any lot of such seed for official testing purposes. After dividing the sample  
2 into two approximately equal portions and properly identifying, labeling and sealing them, the di-  
3 rector shall tender one portion to the applicant and shall send the other portion directly to the ag-  
4 ricultural experiment station for testing. The experiment station shall report the results of such  
5 tests to the person for whom such sample was drawn, and the person shall pay for such sampling  
6 at rates established by the director, in accordance with [ORS 633.680] **section 21 of this 2007**  
7 **Act**, and for the seed testing at commercial rates as established by the dean [*in accordance with*  
8 *ORS 633.600*].

9 **SECTION 32.** ORS 633.992 is amended to read:

10 633.992. Violation of any of the provisions of [*this chapter or regulations promulgated*  
11 *thereunder*] **ORS 633.006 to 633.089 or 633.311 to 633.479 or rules adopted under ORS 633.006 to**  
12 **633.089 or 633.311 to 633.479** is a misdemeanor.

13 **SECTION 33.** ORS **633.511, 633.520, 633.531, 633.541, 633.545, 633.550, 633.561, 633.580,**  
14 **633.600, 633.620, 633.651, 633.655, 633.660, 633.670, 633.680 and 633.996 are repealed.**

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