

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-223—HB 5310

Environment Committee

Judiciary Committee

AN ACT CONCERNING CONNECTICUT'S SEED LAW

SUMMARY: This act replaces Connecticut's seed law with provisions based on the Association of American Seed Control Officials' Recommended Uniform State Seed Law. Similar to prior law, the act:

1. establishes labeling requirements for seed sold, offered for sale, or transported in Connecticut;
2. imposes certain sales restrictions and record retention requirements;
3. authorizes the agriculture commissioner to enforce the requirements; and
4. establishes penalties for violations.

Unlike prior law, the act:

1. applies to flower, tree, and shrub seeds, instead of just agricultural and vegetable seeds;
2. distinguishes between cool-season and warm-season grass seed;
3. updates and expands labeling requirements to account for current technology and terminology;
4. specifies that its provisions supersede and preempt any municipal law or ordinance regarding the registration, sale, labeling, storage, transportation, distribution, notification, or use of seeds;
5. allows the commissioner's designee to enforce the act's requirements;
6. increases the penalty for violating the seed law from a fine to a class D misdemeanor with a specified fine; and
7. eliminates a requirement that seed sellers or transporters register annually with the agriculture commissioner.

EFFECTIVE DATE: October 1, 2014

§ 2 — LABELING REQUIREMENTS

As under prior law, the act requires that each container of agricultural or vegetable seed sold, offered or exposed for sale, or transported in Connecticut for sowing purposes have a conspicuous label written or printed in English with specified information. The act extends this requirement to most flower seed and tree and shrub seed containers.

The labels must generally contain information about whether the seed was treated with any substance that is harmful to people or animals; the name, kind, and variety of seed; the lot number; the seed's origin; any weed seeds present; the seed's germination testing; the name of the person who labeled the seed or who is selling the seed; and other specified information.

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Prior law identified specific labeling requirements for five seed categories:

1. agricultural and vegetable seeds treated with a substance designed to (a) control or repel disease, insects, or other pests or (b) improve plant development;
2. agricultural seeds, except for grass seed mixtures;
3. grass seed mixtures in containers of 50 pounds or less;
4. vegetable seeds in containers of one pound or less; and
5. vegetable seeds in containers of more than one pound.

The act instead identifies specific labeling requirements for 14 seed categories:

1. agricultural, vegetable, and flower seeds treated with a substance or subjected to a process for which a claim is made;
2. agricultural seeds, except (a) cool-season grass seed, (b) seed sold on a pure live basis, or (c) hybrids with less than 95% hybrid seed;
3. cool-season grass seed, including Kentucky bluegrass, various fescues and ryegrasses, and colonial or creeping bentgrass;
4. coated agricultural seeds;
5. vegetable seeds in packets prepared for use in home gardens or household plantings or in pre-planted containers, mats, tapes, or other planting devices;
6. vegetable seeds in other containers prepared for use in home gardens or household plantings;
7. flower seeds in packets prepared for use in home gardens or household plantings or in pre-planted containers, mats, tapes, or other planting devices;
8. flower seeds in other containers, and not prepared for use in home gardens or household plantings;
9. agricultural seeds sold on a pure live basis;
10. agricultural and vegetable hybrid seed containing less than 95% hybrid seed;
11. combination mulch, seed, and fertilizer products;
12. combination products containing seed and granular fertilizer;
13. tree or shrub seeds treated with a substance or subjected to a process for which a claim is made; and
14. untreated tree or shrub seeds.

§ 3 — SALE RESTRICTIONS

Sales and Transport Prohibitions

Under prior law, no person (i.e., any individual, partnership, corporation, company, association, receiver, trustee, or agent) could sell, offer or expose for sale, or transport for sale any agricultural or vegetable seed in Connecticut unless a germination test was completed within the preceding nine months, not counting the month in which the test was performed. The act (1) extends the restriction to flower seed and tree and shrub seed and (2) describes the time period for germination testing as within 10 months, including the month in which the test

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was performed.

By law, no person may sell, offer or expose for sale, or transport for sale any agricultural or vegetable seed in Connecticut unless it (1) is labeled as required; (2) does not have a false or misleading label or advertisement; (3) meets certain purity standards; and (4) does not contain prohibited noxious-weed seeds, restricted noxious-weed seeds beyond certain tolerance levels, and more than 2.5% by weight of all weed seeds. The act extends these requirements to flower, tree, and shrub seed.

Exception to Sales and Transport Prohibitions

The act adds an exception to the sale and transport restrictions for agricultural, vegetable, or tree and shrub seed sold, offered or exposed for sale, or transported for sale in Connecticut in a hermetically sealed container.

But agricultural or vegetable seeds packaged in a hermetically sealed container may only be sold, offered or exposed for sale, or transported in the state for a 36-month period after the last day of the month in which the seeds were tested for germination before packaging. After the 36-month period, the seed must be retested within 10 months before selling, exposing or offering for sale, or transporting.

Generally Applicable Prohibitions

The act prohibits anyone from:

1. using a relabeling sticker for a seed more than once;
2. using a relabeling sticker that does not have the (a) calendar month and year the germination test was completed, (b) sell-by date, and (c) lot number that matches the existing, original lot number;
3. altering or falsifying any seed label, seed tests, laboratory report, record, or other document to mislead another on the kind, variety, history, quality, or origin on the seed; and
4. using the phrase “contains > than .01%” on a label as a substitute for any required statement.

The law already prohibits anyone from:

1. detaching, altering, defacing, or destroying a seed label;
2. altering or substituting seed in a manner that is inconsistent with the labeling requirements;
3. disseminating any false or misleading advertisement concerning any seed subject to the labeling requirements;
4. hindering or obstructing the agriculture commissioner in the performance of his duties;
5. failing to comply with a “stop sale” order or moving, handling, or disposing of any seed held under a “stop sale” order or disposing of any tag attached to it, except with the commissioner’s express permission;
6. using the word “trace” as a substitute for any required statement; and
7. using the word “type” in any labeling in connection with the name of an agricultural seed variety.

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§ 4 — RECORD RETENTION REQUIREMENTS

The act extends to people whose names appear on a label as handling flower seed or tree or shrub seed, certain record retention provisions that already apply to people whose names appear on labels as handling agricultural or vegetable seed. Thus, under the act, anyone whose name appears on the label as handling the seeds must keep (1) for two years, a complete record of each seed lot handled and (2) for one year, a file sample of each seed lot after the final disposition of the lot. The records and samples must be accessible for inspection by the seed control officer (see below) or his or her agent during business hours.

The act specifies that these requirements do not apply to any tree seed a consumer produces.

§ 5 — EXEMPTIONS

The act, as under prior law, exempts certain seed and people from the labeling requirements and sales restrictions under certain conditions.

Similar to prior law, the act's provisions do not apply to:

1. seed or grain not intended for sowing purposes;
2. cleaned or conditioned seed in storage within, or in transit or consigned to, a cleaning or conditioning establishment;
3. any carrier transporting or delivering seed in the ordinary course of the carrier's business, if the carrier does not produce, condition, or market seeds; and
4. anyone who sells or offers for sale seed incorrectly labeled as to kind, species, subspecies, variety, type, origin, elevation, or year of collection, if (a) the seeds cannot be properly identified upon examination and (b) he or she obtained an invoice, genuine grower's or tree seed collector's declaration, or other labeling information, and took reasonable precautions to insure the label's veracity.

§ 6 — SEED CONTROL OFFICER'S ENFORCEMENT DUTIES AND POWERS

Enforcement Duties

Under prior law, the agriculture commissioner had the duty to enforce Connecticut's seed law. The act imposes this duty on the "seed control officer," who is the commissioner or his designee. The seed control officer, or his or her agent, must:

1. sample, inspect, analyze, and test seeds transported, sold, or offered or exposed for sale in Connecticut as he or she deems necessary to determine compliance with the labeling requirements;
2. promptly notify the seller and the labeler or transporter, as applicable, of any violation, "stop sale" order (see below), or seizure; and
3. adopt certain regulations.

In addition to the regulations prior law required the agriculture commissioner to adopt, the act expands the scope of the regulations that the seed control officer

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must adopt to include:

1. reasonable standards of germination for flower seeds;
2. labeling flower seeds with respect to their kind and variety or type and performance characteristics; and
3. developing lists of the kinds of (a) flower seeds, (b) tree or shrub seeds, and (c) vegetable seeds subject to the respective germination labeling requirements.

Enforcement Powers

Similar to the commissioner's duties under prior law, the seed control officer, in carrying out his or her duties, may:

1. access seeds and related records by entering (a) public or private premises during business hours and (b) a truck or other conveyer when accessible;
2. issue and enforce a "stop sale" order to the owner or custodian of any seed lot;
3. establish, maintain, or use seed testing facilities;
4. perform or provide for the performance of purity and germination tests for farmers and dealers on request;
5. adopt regulations on these purity and germination tests, including a fee to be charged for testing; and
6. cooperate with the U.S. Department of Agriculture or any other federal or state agency involved in seed law enforcement.

§ 7 — STOP SALE ORDERS

Under the act, the seed control officer may issue a stop sale order to prohibit the sale, conditioning, and movement of seed, except on his or her approval, until the seed control officer finds the act's requirements are met and issues a release from the order. Anyone aggrieved by an order may appeal to Superior Court. Prior law allowed the commissioner to issue stop sale orders.

§ 8 — SEIZURES AND INJUNCTIONS

Seizures

Under the act, the seed control officer may, upon complaint to the Superior Court, seize any seed lot that does not meet the act's requirements. If, after an opportunity for a hearing, the court finds the seed does not comply with the act and orders the condemnation of the seed, the seed must be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with law. Prior law granted these powers to the commissioner.

Injunctions

As prior law allowed the commissioner, under the act, if the seed control officer applies to Superior Court for, and is granted, a temporary or permanent injunction restraining someone from violating or continuing to violate the seed law, the injunction must be issued without bond.

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§§ 9 & 10 — PENALTY

The act increases the penalty for violating the seed law from a fine to a class D misdemeanor with a mandatory fine.

Under prior law, anyone who violated the seed law was fined up to \$100 for a first offense and up to \$250 for each subsequent offense. The violator could mail the fine to the Central Infractions Bureau without making a court appearance.

The act instead makes a violation of the seed law a class D misdemeanor, subject to a \$100 fine for the first offense and \$200 fine for each subsequent offense. In addition to the fine, a person may be sentenced to up to 30 days in prison. Fines can no longer be mailed in, thus, a court appearance is required.

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