

**ACT 73**

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H.B. NO. 792

A Bill for an Act Relating to the Sale of Vegetable and Agricultural Seed.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 150-21, Hawaii Revised Statutes, is amended to read as follows:

**“§150-21 Definitions.** As used in this chapter:

[The terms shall conform insofar as possible with those of the Federal Seed Act and regulations issued thereunder.]

“Advertisement” means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this chapter.

“Agricultural [seeds]” seed” includes the [seeds] seed of grass, forage, cereal, and fiber crops and other kinds of [seeds] seed commonly recognized within the State as agricultural [seeds] seed and mixtures of these [seeds] seed[, and may include noxious weed seeds when the department determines that they are being used as agricultural seeds].

“Blend” means agricultural seed consisting of more than one variety of a kind, each in excess of five per cent by weight of the whole.

[“Board” means the board of agriculture.]

“Certifying agency” means (1) an agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or (2) an agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under (1).

[“Chairperson” means the chairperson of the board of agriculture.]

“Department” means the Hawaii department of agriculture.

“Kind” means one or more related species or subspecies which singly or collectively is known by one common name, for example, corn, barley, lettuce, and alfalfa.

[“Labeling”] “Label” or “labeling” includes all [labels and other] written, printed, or graphic representations in any form whatsoever, [including invoices,] accompanying [and] or pertaining to any seed, whether in bulk or in containers[.], and includes representations on invoices.

“Lot” means a definite quantity of seed identified by a [lot] number[, ] or other identification, every portion or bag of which is uniform, within permitted tolerances, for the factors which appear in the labeling.

“Mixture” or “mixed” means agricultural seed consisting of more than one kind, each in excess of five per cent of the whole.

“Noxious weed [seeds]” seed” means the [seeds] seed [or bulblets] of [any] plant species [that not only reproduces by seed but also spreads by underground roots, stems, and other reproductive parts and which, when well established, is] designated by the department by rule as being highly destructive and difficult to control or eradicate in the State by ordinary, good cultural practices[.], herbicides, and other control measures, or is, or which may be likely to become injurious, harmful, or deleterious to the agricultural, horticultural, aquacultural, or livestock industry of the State and to forest and recreational areas and conservation districts of the State.

“Person” includes any individual, partnership, corporation, company, society, or association.

The terms “pure seed,” “germination,” and other seed labeling and testing terms in common usage shall be defined as in the Rules for Seed Testing published by the Association of Official Seed Analysts.

“Record” means all label information such as analysis and test results, and other information relating to the shipment and sale of seed, such as invoices, vouchers, and freight bills.

“State” means the State of Hawaii.

## ACT 73

“Stop sale order” means any written or printed notice or order given or issued by the department restraining the sale of agricultural and vegetable seed.

[“Type” means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.]

“Variety” means a subdivision of a kind characterized by growth, plant, fruit, seed, or other characters by which it can be differentiated from other plants of the same kind.

“Vegetable [seeds] seed” includes the [seeds] seed of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable [seeds] seed in the State.

“Vendor” means any person engaged in selling or offering for sale agricultural or vegetable seed for planting purposes.

“Weed [seeds]” seed” includes noxious [weeds seeds] weed seed and the [seeds or bulblets] seed of all plants generally recognized as weeds within the State.”

SECTION 2. Section 150-22, Hawaii Revised Statutes, is amended to read as follows:

**“§150-22 Rules.** Subject to chapter 91, the department may adopt rules with respect to:

- (1) Designation of noxious weed [seeds] seed for the purpose of this chapter;
- (2) Maximum amount of noxious weed [seeds] seed which may be found in agricultural or vegetable [seeds] seed sold [or found] in the State;
- (3) Germination standards for agricultural and vegetable [seeds;] seed;
- (4) Inspection, sampling, and testing of [seeds] seed at the request of interested persons, and charges to be made for these services;
- (5) Minimum standards pertaining to the process of certifying [seeds;] seed;
- (6) Other requirements regarding the sale and labeling of [seeds and licensing of seed importers,] seed and seed licenses, including the license fee, as it deems necessary to effectuate this chapter.

In adopting rules with respect to standards for agricultural and vegetable [seeds] seed and tolerances of noxious weed [seeds,] seed, the department shall follow as closely as practicable the standards and tolerances [established under] of the Federal Seed Act[.], or as adopted by the Association of Official Seed Analysts.”

SECTION 3. Section 150-23, Hawaii Revised Statutes, is amended to read as follows:

**“§150-23 Prohibiting sales; germination tests.** A person may [bring into the State and] sell, offer, or expose for sale within the State any agricultural or vegetable seed for [sowing] planting purposes, provided:

- (1) The seed has been labeled in accordance with sections 150-24 and 150-25;
- (2) No false or misleading advertisement has been made with respect to the seed;
- (3) The amount of noxious weed [seeds] seed is not in excess of tolerances established by rules of the department;
- (4) A testing of the seed has been completed within nine months, exclu-

sive of the calendar month in which the test was completed, to determine the percentage of germination. The department, by rule, may extend the nine-month limitation for [seeds] seed that [have] has been packaged or processed under conditions that would greatly extend the viability of the [seeds.] seed;

- (5) Descriptive words or phrases on labels are clearly distinguishable from the kind and variety names.”

SECTION 4. Section 150-24, Hawaii Revised Statutes, is amended to read as follows:

“§150-24 **Agricultural [seeds;] seed; labels.** Each container of agricultural seed that is [brought into the State and] sold or offered for sale within the State for [sowing] planting purposes shall bear or have attached, in a conspicuous place, a plainly written or printed label or tag in the English language, giving the following information:

- (1) Commonly accepted name of[:
  - (A) Kind; or
  - (B) Kind and variety; or
  - (C) Kind] The kind and [type] variety, or kind and the phrase “variety not stated” of each agricultural seed component in excess of five per cent of the whole, and the percentage by weight of each in the order of its predominance.
- (2) Where more than one component is required to be named, the [word] words “mixture” or “mixed” for seed consisting of more than one kind, or “blend” for seed consisting of more than one variety of the same kind [shall be shown conspicuously on the label].
- [(2)] (3) Lot number or other lot identification [assigned by the department].
- [(3)] (4) Percentage by weight of all weed [seeds.] seed.
- [(4)] (5) Name and approximate number of each kind of noxious weed [seeds] seed to the extent required by rules of the department.
- [(5)] (6) Percentage by weight of agricultural [seeds] seed other than those required to be named on the label.
- [(6)] (7) Percentage by weight of inert matter.
- [(7)] (8) For each named agricultural 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.
 Following (A) and (B), the additional statement, “total germination and hard [seed’.] seed.” may be stated if desired.
- [(8)] (9) Name and address of the person who labeled the seed [if it was labeled in the State. If not labeled within the State, the name and address of the person who imported the seed or caused the seed to be imported into the State.] or who sells, offers, or exposes the seed for sale within the State.

The department, by rule, may require additional information on the label or tag for agricultural [seeds] seed that [are] is packaged or processed, such as pelleted or coated [seeds,] seed, and sold in specialized containers such as packets, hermetically sealed containers, tapes, or any other innovative method or container.”

SECTION 5. Section 150-25, Hawaii Revised Statutes, is amended to read as follows:

“**§150-25 Vegetable [seeds;] seed: labels.** Each container of vegetable seed that is [brought into the State and] sold or offered for sale within the State for [sowing] planting purposes shall bear or have attached, in a conspicuous place, a plainly written or printed label or tag in the English language, giving the following information:

- (1) Name of kind and variety of seed.
- (2) For [seeds] seed which [germinate] germinates less than the standard [last] established by rules of the department:
  - (A) Percentage of germination, exclusive of hard seed.
  - (B) Percentage of hard seed, if present.
  - (C) The calendar month and year the test was completed to determine the percentages.
  - (D) The words “below standard” in not less than eight-point type.
- (3) Name and address of the person who labeled the seed [if it was labeled in the State. If not labeled within the State, the name and address of the person who imported the seed or caused the seed to be imported into the State.] or who sells, offers, or exposes the seed for sale within the State.

The department, by rule, may require additional information on the label or tag for vegetable [seeds] seed that [are] is packaged or processed, such as pelleted or coated [seeds,] seed, and sold in specialized containers such as packets, hermetically sealed containers, tapes, or any other innovative method or container.”

SECTION 6. Section 150-26, Hawaii Revised Statutes, is amended to read as follows:

“**§150-26 Removal from sale.** Any seed offered for sale in violation of this chapter or any rule adopted thereunder, shall be removed from sale by the [vender] vendor upon receiving [notice] a stop sale order from the department [of the violation]. The [vender] vendor shall withhold the [seeds] seed from sale until the violation has been corrected[.] and a written release has been issued by the department.”

SECTION 7. Section 150-27, Hawaii Revised Statutes, is amended to read as follows:

“**§150-27 [Seed sampling and testing.] Duties and authority of the department.** [The department, through its authorized agents and inspectors, may enter any premises and procure a sample of seed offered for sale or found in the State in bulk, lot, sack, or package. The sample shall be divided into two approximately equal parts. Each part shall then be sealed and one part promptly delivered to the person possessing, selling, or offering for sale the seed, and the other to the laboratory maintained by the department. A label shall be placed on each sample stating the name of the contents, the name of the person from whose stock the samples was taken, and the time and place the sample was taken. Each label shall be signed by an authorized agent of the department and by the owner, custodian,

or representative of the lot, sack, or package from which the sample was taken or by the owner, custodian, or representative of the seed found in bulk from which the sample was taken. The signature shall be affixed at the time of the sealing of the sample. If the signature of the owner, custodian, or representative cannot be obtained, or is refused, that fact shall be noted on the label by the department. Upon completion of the test of the sample, the department shall promptly forward a copy of the test results to the person to whom a portion of the sample was delivered pursuant to this section.] (a) The department may, through its authorized agents and inspectors:

- (1) Enter any premises during regular business hours in order to have access to seed and records related to seed subject to this chapter.
- (2) Cooperate with the United States Department of Agriculture and other agencies or associations in seed law enforcement.
- (3) Enforce a stop-sale order issued to the vendor for any agricultural or vegetable seed in violation of this chapter.
- (b) It is the duty of the department to:
  - (1) Inspect, sample, make analysis of, and test seed to determine whether the seed is in compliance with this chapter.
  - (2) Inspect records to determine whether the seed is in compliance with this chapter.
  - (3) Forward to the appropriate party, a report of the analysis and test result, and a stop sale order if necessary, upon completion of the analysis and test of the seed.
  - (4) Provide on request, seed testing and analyzing service to any person."

SECTION 8. Section 150-29, Hawaii Revised Statutes, is amended to read as follows:

**“§150-29 [Importers;] Seed licenses.** [No person shall import or cause to be imported into the State for purposes of sale or resale, any agricultural or vegetable seed for sowing purposes unless the person has a license to do so from the department.] A seed license from the department is required of:

- (1) Every person whose name and address are required on the label or who imports into the State for sale or resale, agricultural or vegetable seed for planting purposes.
- (2) Every person who opens any bag or container of agricultural or vegetable seed and sells the contents for planting purposes within the State.

Application for the license shall be made to the department in accordance with rules adopted by the department. All licenses shall expire on June 30 of each year.”

SECTION 9. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

(Approved April 30, 1991.)