

IC 15-15

ARTICLE 15. HORTICULTURE PRODUCTS

IC 15-15-1

Chapter 1. Indiana Seed Law

IC 15-15-1-1

"Advertisement"

Sec. 1. As used in this chapter, "advertisement" means any representation, other than those on the label, relating to seed covered by this chapter, disseminated in any manner or by any means.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-2

"Agricultural seed"

Sec. 2. As used in this chapter, "agricultural seed" means the seeds of legume, grass, forage, cereal, fiber, or oil crops. The term includes other kinds of seeds commonly recognized in Indiana as agricultural seeds, lawn seeds, and mixtures of such seeds.

As added by P.L.2-2008, SEC.6. Amended by P.L.75-2010, SEC.1.

IC 15-15-1-3

"Brand"

Sec. 3. As used in this chapter, "brand" means a word, name, number, or design used to identify seed of one (1) person to distinguish it from seed of another person.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-4

"Bulk lot"; "in bulk"

Sec. 4. As used in this chapter, "bulk lot" or "in bulk" refers to seed in an unpackaged form. The term does not include seed in bags.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-5

"Certifying agency"

Sec. 5. As used in this chapter, "certifying agency" refers to either of the following:

(1) An agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed.

(2) An agency of a foreign country determined by the state seed commissioner to adhere to procedure and standards for seed certification generally adhered to by certification agencies described in subdivision (1).

As added by P.L.2-2008, SEC.6.

IC 15-15-1-5.5

"Cool season lawn and turf grasses"

Sec. 5.5. As used in this chapter, "cool season lawn and turf grasses" includes:

(1) Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass, or creeping bentgrass; and
(2) mixtures of any of the grasses referred to in subdivision (1).

As added by P.L.75-2010, SEC.2.

IC 15-15-1-6

"Distribute"

Sec. 6. As used in this chapter, "distribute" means to sell, offer to sell, barter, or supply or transport for sale agricultural or vegetable seed for sowing and seeding purposes in Indiana.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-7

"Effective"

Sec. 7. As used in this chapter, "effective", as applied to inoculants, means that under laboratory tests at least two (2) nodules must be produced on or adjacent to the primary root on at least sixty-six percent (66%) of the plants in the test.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-8

"Hybrid"

Sec. 8. As used in this chapter, "hybrid" means the first generation of a cross made under controlled conditions between strains of different parentage and of satisfactory purity.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-9

"Kind"

Sec. 9. As used in this chapter, "kind" means one (1) or more related species or subspecies of plant that singly or collectively are known by one (1) common name, including corn, oats, alfalfa, and timothy.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-10

"Label"

Sec. 10. As used in this chapter, "label" means the display or displays of written, printed, or graphic matter on or attached to a seed container or accompanying seed sold in bulk quantities.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-11

"Labeling"

Sec. 11. As used in this chapter, "labeling" refers to the use of labels or other written, printed, or graphic representations in any form accompanying or associated with a lot of seed whether in bulk or in containers. The term includes any representations on an invoice.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-12**"Legume inoculant"**

Sec. 12. As used in this chapter, "legume inoculant" means a pure or mixed culture of bacteria of the genus *Rhizobium* capable of effectively inoculating a specific kind or specific kinds of legume plants.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-13**"Lot"**

Sec. 13. As used in this chapter, "lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-14**"Noxious weed seed"**

Sec. 14. As used in this chapter, "noxious weed seed" means either of the following:

(1) Prohibited noxious weed seed.

(2) Restricted noxious weed seed.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-15**"Percent"; "percentage"**

Sec. 15. As used in this chapter, "percent" or "percentage" refers to the percentage by weight.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-15.5**"Permit"**

Sec. 15.5. As used in this chapter, "permit" means a written authorization granted by the seed commissioner and required under this chapter before a person may distribute agricultural or vegetable seed in Indiana subject to this chapter.

As added by P.L.75-2010, SEC.3.

IC 15-15-1-16**"Person"**

Sec. 16. As used in this chapter, "person" means an individual, a partnership, a company, or a corporation.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-17**"Pre-inoculated seed"**

Sec. 17. As used in this chapter, "pre-inoculated seed" means seed to which has been applied before sale an application of a legume inoculant to effectively nodulate the resultant plant until the expiration date of the inoculant.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-18

"Prohibited noxious weed seed"

Sec. 18. As used in this chapter, "prohibited noxious weed seed" means:

- (1) the seeds of perennial weeds that not only reproduce by seed but also spread by underground roots, stems, and other reproductive parts; and
- (2) seeds, which when well established, are highly destructive and difficult to control by ordinary good cultural practice.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-19

"Record"

Sec. 19. As used in this chapter, "record" means all information relating to the shipment or distribution of a lot of seed. The term includes a file sample of each lot of seed.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-20

"Restricted noxious weed seed"

Sec. 20. As used in this chapter, "restricted noxious weed seed" means:

- (1) seeds of weeds that are very objectionable in fields, lawns, and gardens of Indiana; and
- (2) seeds of weeds that can be controlled by good cultural practices.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-20.5

"Special use permit"

Sec. 20.5. As used in this chapter, "special use permit" means authorization issued by the seed commissioner to a person subject to section 27(c) of this chapter for the use of seeds of plant species for the purpose of research, development, production, or education.

As added by P.L.75-2010, SEC.4.

IC 15-15-1-21

"Treated"

Sec. 21. As used in this chapter, "treated" refers to seed that has been subjected to an application of a substance or a process to:

- (1) reduce, control, or repel certain disease organisms, insects, or other pests attacking the seed or seedlings growing from the seed; or
- (2) change the appearance, growth pattern, or performance of the seed or seedlings growing from the seed.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-22

"Type"

Sec. 22. As used in this chapter, "type" means the general physiological and morphological characters common to a number of varieties, which varieties cannot be differentiated except under special conditions.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-23**"Variety"**

Sec. 23. As used in this chapter, "variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics, by which a plant can be differentiated from other plants of the same kind.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-24**"Vegetable seed"**

Sec. 24. As used in this chapter, "vegetable seed" means the seeds:

- (1) of crops grown commercially or in home gardens; and
- (2) commonly known and sold in Indiana as vegetable seeds.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-25**"Weed seed"**

Sec. 25. As used in this chapter, "weed seed" means the seeds of all plants commonly recognized as weeds in Indiana. The term includes noxious weed seeds.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-26**State seed commissioner**

Sec. 26. The state chemist is the state seed commissioner by virtue of office.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-27**Commissioner's duties; agent's authority**

Sec. 27. (a) The state seed commissioner shall administer this chapter. The state seed commissioner may authorize an agent to act for the state seed commissioner under this chapter.

(b) The state seed commissioner may do any of the following to administer this chapter:

- (1) Sample, inspect, analyze, and test agricultural and vegetable seed distributed within Indiana for seeding and sowing purposes, when, where, and to the extent the state seed commissioner considers necessary to determine whether the agricultural or vegetable seed is in compliance with this chapter.
- (2) Notify a seed distributor of any violations of this chapter.

- (3) Adopt rules:
 - (A) governing:
 - (i) methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed; and
 - (ii) tolerances to be followed in the administration of this chapter; and
 - (B) necessary for the efficient enforcement of this chapter.
- (4) Adopt rules to establish lists of prohibited and restricted noxious weeds.
- (5) Adopt rules to establish reasonable standards of germination (as defined by rule adopted under section 28 of this chapter) for vegetable seed.
- (6) Adopt rules to establish standards for the effectiveness of legume inoculant applied to pre-inoculated seed.
- (7) Adopt rules to govern the treatment of seed and the labeling and distribution of treated seed.
- (8) Publish at least one (1) time each year, in the form the seed commissioner considers proper, information concerning:
 - (A) the sales of agricultural and vegetable seed; and
 - (B) the results of the analysis of official samples of agricultural and vegetable seed sold within Indiana as compared with the analysis guaranteed on the label.Information concerning production and use of agricultural and vegetable seed may not disclose the operation of any person.
- (9) Enter any:
 - (A) public or private property during regular business hours; or
 - (B) vehicle that transports seed, whether by land, water, or air, at any time the vehicle is accessible;to inspect seed and the records relating to the seed, subject to this chapter and the rules adopted under this chapter.
- (10) As used in this subdivision, "stop sale order" refers to a written order issued by the state seed commissioner to the owner or custodian of a lot of agricultural or vegetable seed that the state seed commissioner has found violates this chapter or rules adopted under this chapter. The state seed commissioner may issue and enforce stop sale orders. A stop sale order prohibits the future sale, processing, and movement of the seed until the state seed commissioner issues a release from the stop sale order. The owner or custodian of the seed is entitled to appeal a stop sale order to a court with jurisdiction in the locality in which the seed is found, as provided in IC 4-21.5, seeking a judgment as to the justification for the order for the discharge of the seed from the stop sale order in accordance with the findings of the court. This subdivision does not limit the right of the state seed commissioner to proceed as otherwise authorized by this chapter.
- (11) Establish and maintain or make provisions for seed testing facilities.
- (12) Employ qualified persons.

(13) Incur necessary expenses.

(14) Test or provide for testing seed for purity and germination (as defined by rule adopted under section 28 of this chapter) for farmers and dealers on request of a farmer or dealer, prescribe rules governing such testing, and charge for the tests made.

(15) Cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.

(16) Enter the property of a producer of hybrid seed to determine whether the seed produced is as the seed is represented.

(17) Issue a written special use permit to a person to use a prohibited noxious weed seed or a restricted noxious weed seed for purposes of research, development, production, or education, subject to subsection (c).

(18) Adopt rules under IC 4-22-2 to establish fees that are necessary for the administration of this chapter, including costs of inspections, analysis, and publications.

(19) Adopt rules under IC 4-22-2 to establish civil fines for the following:

(A) Failure to submit a report required under this chapter.

(B) Failure to pay a fee required under this chapter.

(c) The seed commissioner, in response to an application for the issuance of a special use permit under subsection (b)(17), may:

(1) issue a special use permit;

(2) issue a special use permit subject to conditions; or

(3) deny a special use permit request.

In determining whether to issue a special use permit, the seed commissioner shall consider each species of prohibited noxious weed or restricted noxious weed separately. The seed commissioner may revoke a special use permit at any time if it appears that the permit holder is not complying with the conditions established under the special use permit.

As added by P.L.2-2008, SEC.6. Amended by P.L.75-2010, SEC.5.

IC 15-15-1-28

Rules; pure seed and germination

Sec. 28. (a) The state seed commissioner may by rule define seed labeling and testing terms in common usage such as "pure seed" and "germination".

(b) A rule adopted by the state seed commissioner under this section must be based on published sources such as the rules of the Association of Official Seed Analysts.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-29

Rules; purity of hybrid seed

Sec. 29. The state seed commissioner may, by rule, define controlled conditions and satisfactory purity for the production of hybrid seed of any kind. A hybrid designation shall be treated as a variety name.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-30

Label; pre-inoculated seed

Sec. 30. The label of seed that has been pre-inoculated must indicate that the seed has been pre-inoculated.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-31

Exceptions from labeling requirements

Sec. 31. (a) Sections 32 and 33 of this chapter do not apply to the following:

- (1) Seed or grain not intended for seeding and sowing purposes. However, treated agricultural seed must be labeled in accordance with section 32 of this chapter when sold to any person for any purpose whether the seed is in containers or in bulk.
- (2) Seed in storage or seed that is being transported or consigned to a seed cleaning or processing establishment for cleaning or processing if the invoice or labeling accompanying a shipment of the seed contains the statement "Seed For Processing". Any labeling or other representation that may be made with respect to uncleaned or unprocessed seed is subject to this chapter.
- (3) A carrier in respect to seed transported or delivered for transportation in the ordinary course of its business as a carrier if the carrier is not engaged in producing, processing, or distributing agricultural or vegetable seed subject to this chapter.
- (4) Seed that satisfies all the following:
 - (A) The seed is grown on the property owned by the seller of the seed.
 - (B) The seed is sold and delivered to the purchaser on the property on which the seed is grown.
 - (C) The seed does not contain prohibited noxious weed seed.
 - (D) The seed contains not more than one-fourth of one percent (0.25%) of restricted noxious weed seed.
 - (E) The seed contains not more than two and one-half percent (2.5%) of all weed seed.

If seed is advertised for sale through the medium of the public press, by circular, by catalog, or by exposing a sample of the seed or a printed or written statement about the seed in a public place or place of business, or if the seed is delivered by a common carrier, (except when transported for the purpose of being re-cleaned as provided in this section), the producer is considered to be a vendor, and the seed must meet all requirements of this chapter, including complete labeling of the seed. For cereal and soybean seed where the purpose for which the seed is intended may be in question, seed advertised for sale by variety name, as processed, tested, treated, or offered at a

price substantially higher than current market prices, is presumed to be offered for seeding purposes and subject to the labeling provisions of this chapter.

(b) A person is not subject to the penalties of this chapter for distributing agricultural or vegetable seed incorrectly labeled or represented as to kind, variety, or origin and that cannot be identified by examination of the seed unless the person fails to:

- (1) obtain an invoice, genuine grower's declaration, or other labeling information; and
- (2) take other precautions reasonable to ensure the identity of the seed as stated.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-32

Agricultural seeds; information for purchaser; label; bulk purchase

Sec. 32. (a) A container of agricultural seed of any size consisting of more than one (1) pound distributed in Indiana for sowing and seeding purposes must contain or have attached in a conspicuous place on the outside of the container a plainly written or printed tag or label in English giving the information required by this section. If the seed is distributed in bulk, the information required by this section must accompany delivery and be supplied to the purchaser at the time of delivery.

(b) The labeling required for seed sold in bags and packages, and in bulk as required by this section, must include the following statements on the labeling attached to the container:

- (1) The commonly accepted name of each kind and variety of each agricultural seed component that exceeds five percent (5%) of the whole and the percentage by weight of each in the order of its predominance. However, the variety designation may be omitted if the label states the name of the kind and the words "variety not stated". If more than one (1) component is required to be named, the word "mixture" or the word "mixed" must be shown conspicuously on the label. A mixture consisting of two (2) or more varieties of the same kind may be designated as a "blend".
- (2) Lot number or other lot identification.
- (3) Origin (state or foreign country where grown) for all seed except hybrid corn. If the origin is unknown, that fact must be stated.
- (4) The percentage of all weed seed.
- (5) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present.
- (6) The percentage of all other agricultural or vegetable seed, which may be designated as "other crop seeds" or "crop seeds".
- (7) The percentage of inert matter.
- (8) For each named agricultural seed:
 - (A) the percentage of germination (as defined by rule adopted under section 28 of this chapter), 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.
- (9) The name and address of the person who labeled the seed or who distributed it within Indiana.
- (10) For all seed named and treated (for which a separate label may be used):
- (A) a word or statement indicating that the seed has been treated;
 - (B) the commonly accepted coined chemical or abbreviated chemical (generic) name of any applied pesticide;
 - (C) a description of the process or the commonly accepted name of the substance applied if other than a pesticide; and
 - (D) if the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do Not Use For Food Or Feed Or Oil Purposes". A poison statement or symbol must be used as the caution for mercurials and similarly toxic substances.
- (11) For pre-inoculated seed, in addition to other labeling requirements of this section (for which a separate label may be used):
- (A) a word or statement indicating that the seed has been pre-inoculated; and
 - (B) the date beyond which the inoculant is not to be considered effective.
- (12) For cool season lawn and turf grasses, the following statements on the labeling:
- (A) For single kinds of grasses, the name of the kind or the kind and variety.
 - (B) For grass mixtures:
 - (i) the word "mix", "mixed", "mixture", or "blend" must be stated with the name of the mixture;
 - (ii) the headings "Pure Seed" and "Germination" or "Germ" must be used in the proper places; and
 - (iii) the commonly accepted name of the kind or the kind and variety of each agricultural seed component that exceeds five percent (5%) of the whole, and the percentage by weight of pure seed in order of its predominance and in columnar form.
 - (C) The percentage by weight of agricultural seed other than those required to be named on the label (which must be designated as "crop seed").
 - (D) The percentage by weight of inert matter.
 - (E) The percentage by weight of all weed seeds. The maximum weed seed content may not exceed two and five-tenths percent (2.5%) by weight.
 - (F) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present and listed under the heading "Noxious Weed Seeds". Restricted noxious weed

seed may not exceed twenty-five hundredths of one percent (0.25%) by weight.

(G) For each agricultural seed named under clause (A) or (B), the following:

- (i) The percentage of germination, exclusive of hard seed.
- (ii) The percentage of hard seed, if present.
- (iii) The calendar month and year the test was completed to determine the required percentages. The oldest test date must be used.
- (iv) The statement "Sell by (month/year)". The date may not exceed fifteen (15) months from the date that must be stated on the labeling under item (iii), exclusive of the month of the test.

The total of the percentages by weight under clauses (B)(iii), (C), (D), and (E) must equal one hundred percent (100%).

(c) The statements required by this section may not be modified or denied.

(d) The total of the percentages that are stated on the labeling under subsection (b)(1), (b)(4), (b)(6), and (b)(7) must equal one hundred percent (100%).

As added by P.L.2-2008, SEC.6. Amended by P.L.75-2010, SEC.6.

IC 15-15-1-33

Vegetable seeds; label information

Sec. 33. (a) For vegetable seeds in packets as prepared for use in home gardens or household plantings or vegetable seeds in preplanted containers, mats, tapes, or other planting devices in containers that do not exceed one (1) pound, the labeling must include the following information:

- (1) The name of the kind and variety of seed.
- (2) The name and address of the person who labeled or who distributed the seed.
- (3) For seed that germinates less than the standard most recently established under this chapter:
 - (A) the percentage of germination (as defined by rule adopted under section 28 of this chapter), exclusive of hard seed;
 - (B) the percentage of hard seed, if present;
 - (C) the calendar month and year the test was completed to determine the percentages; and
 - (D) the words "Below Standard" in not less than 8 point type.
- (4) For seed that has been treated, the same labeling information required for agricultural seeds.
- (5) The number of noxious weed seeds per pound of vegetable seed, if any weed seed is present.
- (6) Lot number or other lot identification.
- (7) Germination test information in any of the following forms:
 - (A) The calendar month and year the germination test was completed and the statement "Sell by (month/year)". The

date may not exceed twelve (12) months from the date of the test, exclusive of the month of the test.

(B) The year for which the seed was packaged for sale, as "Packed for (year)". The date must be for a calendar year and include the statement "Sell by (month/year)". The date may not exceed twelve (12) months from the date of the test, exclusive of the month of the test.

(C) The percentage of germination and the calendar month and year the test was completed to determine the percentages. However, the germination test must have been completed within the previous twelve (12) months, exclusive of the month of the test.

(b) For vegetable seeds sold in containers that are more than one (1) pound, the labeling must include the following:

(1) The name of each kind and variety present that exceeds five percent (5%) and the percentage by weight of each in order of its predominance.

(2) Lot number or other lot identification.

(3) 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. The date may not be later than twelve (12) months after the date of the test, exclusive of the month of the test.

(c) For seeds placed in a germination medium, mat, tape, or another device and in a way to make it difficult to determine the quantity of seed without removing the seed from the medium, mat, tape, or other device, the labeling must include a statement to indicate the minimum number of seeds in the container.

As added by P.L.2-2008, SEC.6. Amended by P.L.75-2010, SEC.7.

IC 15-15-1-34

Fees; permits; reporting

Sec. 34. (a) A distributor of agricultural seed in packages of not more than one (1) pound shall pay not later than January 15 of each year an annual fee of forty-five dollars (\$45) for each brand of seed distributed. Payment of an annual fee is not required of retailers who furnish quantities of not more than one (1) pound from a properly labeled container of seed on which the inspection fee has been paid.

(b) A person who distributes agricultural or vegetable seed in Indiana may apply to the state seed commissioner for a permit to use the person's own labeling, report the quantity of seed sold, and pay the inspection fee on the basis of the report.

(c) In making application for a permit under subsection (b), the distributor must agree to the following:

(1) Label the seed with the information required by law.

(2) Keep the records the state seed commissioner considers necessary to indicate accurately the number and size of containers of each kind of agricultural and vegetable seed

distributed and the quantity of such seed distributed in bulk.

(3) Grant the state seed commissioner or the state seed commissioner's authorized representative permission to examine the records described in subdivision (2) and verify the statement of quantity of seed distributed.

(4) Report under oath to the state seed commissioner on forms furnished by the state seed commissioner the quantity of agricultural and vegetable seed sold during the period covered.

(d) The state seed commissioner may grant a permit under subsection (b) if the state seed commissioner determines that the applicant's proposed report of the quality of agricultural and vegetable seed sold will lead to efficient enforcement of this chapter. The state seed commissioner may revoke the permit at any time if it appears to the state seed commissioner that the distributor is not complying with the agreement described in subsection (c) or this chapter. If:

(1) the report is not filed and the inspection fee not paid before ten (10) days following the due date;

(2) the report of volume is false; or

(3) the labeling requirements of this chapter have not been complied with;

the state seed commissioner may revoke the permit. If the inspection fee is unpaid after the ten (10) day grace period, a penalty shall be assessed in the amount of ten percent (10%) in addition to the amount due.

(e) The report of quantity sold required under subsection (c)(4) is due, and the inspection fees required under this chapter are payable, semiannually on the last day of the month following the end of the semiannual period. The first half reporting period ends June 30 and the second half reporting period ends December 31.

As added by P.L.2-2008, SEC.6. Amended by P.L.75-2010, SEC.8.

IC 15-15-1-35

Deposit of collected fees; disposition of fees

Sec. 35. (a) The state seed commissioner shall pay all fees collected under this chapter to the treasurer of Purdue University.

(b) The board of trustees of Purdue University shall expend the fees on proper vouchers filed with the treasurer of Purdue University. The treasurer shall pay vouchers for the following expenses:

(1) The employment of inspectors and seed analysts.

(2) Procuring samples.

(3) Printing bulletins giving the results of inspection.

(4) Any other expenses of the Purdue University agricultural programs authorized by law and for implementing this chapter.

(c) The dean of agriculture of Purdue University shall make a financial report to the governor in such form as the state board of accounts requires, showing the total receipts and expenditures of all fees received under this chapter.

(d) Excess funds from the collection of fees under this chapter are subject to IC 15-16-2-36.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-36

Fees and samples

Sec. 36. (a) Each person whose name appears on the label as distributing agricultural or vegetable seed subject to this chapter shall do the following:

(1) Keep for two (2) years complete records of each lot of agricultural or vegetable seed distributed.

(2) Keep for one (1) year a file sample of each lot of seed that is distributed after final disposition of the lot.

(b) All records and samples relating to the shipments involved must be accessible for inspection by the state seed commissioner or the state seed commissioner's agent during customary business hours.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-37

License to sell seed under contract to purchase crop; penalties; offenses

Sec. 37. (a) A person who is engaged in the business of selling agricultural or vegetable seed who enters into a contract with the purchaser under which the seller agrees to repurchase the seed crop produced by the purchaser at a price greater than the current market price of the seed at the time of delivery shall secure an annual license from the state seed commissioner to engage in that business.

(b) To secure a license required by this section, a person must apply for the license to the state seed commissioner. The application must be accompanied by the following:

(1) A bond with corporate surety, approved by the seed commissioner, in the penal sum of ten thousand dollars (\$10,000), payable to the state, for the use and benefit of any purchaser of seed who may have a cause of action against a seller who fails to comply with the terms of the purchase contract.

(2) A fee of one dollar (\$1) for each place of business from which agricultural or vegetable seed is distributed by the licensee.

An applicant for a license may request the state seed commissioner to accept a verified financial statement of the applicant's assets instead of the submission of a bond. If the state seed commissioner, after an examination of the applicant's financial statement, determines that the applicant is financially responsible for any damage that may arise out of a breach of a purchase contract, the state seed commissioner may accept the statement instead of a bond.

(c) A license issued under this section expires at the end of the calendar year in which it is issued.

(d) The state seed commissioner may suspend, revoke, or refuse to issue a license under this section to any person who fails to comply with this chapter. If a hearing is waived by nonappearance of the person at the date, time, and place designated for the hearing, the

state seed commissioner may proceed to act under this section and suspend, revoke, or refuse to issue a license. The failure to fulfill a contract to deliver seed sold, or the failure to repurchase the seed crop produced from any agricultural or vegetable seed sold, is prima facie evidence of intent to defraud the purchaser if the crop produced by the purchaser meets the requirements prescribed in the contract of sale. Whenever the state seed commissioner has evidence that a licensee has committed fraud on any purchaser, the state seed commissioner shall immediately start proceedings to suspend or revoke the license issued to the licensee.

(e) A person who recklessly, knowingly, or intentionally:

- (1) enters into a contract with a producer of agricultural or vegetable seed, under which the person sells seed and agrees to repurchase the seed crop produced from that seed at a price greater than the current market price at the time of delivery; and
- (2) has not obtained a license required by this section;

commits a Class B misdemeanor.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-38

Seizure of agricultural or vegetable seed; court disposition of seed

Sec. 38. (a) The state seed commissioner may file an action for the seizure of any lot of agricultural or vegetable seed that violates this chapter.

(b) An action filed under this section must be filed in a court with jurisdiction in the locality in which the seed is located.

(c) If the court finds the seed to be in violation of this chapter and orders the condemnation of the seed, the seed shall be denatured, processed, destroyed, relabeled, or disposed of in compliance with Indiana law. The court may not order the disposition of the seed unless the claimant is given an opportunity to apply to the court for release of the seed or permission to process or relabel the seed to bring it into compliance with this chapter.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-39

Injunctions

Sec. 39. (a) The state seed commissioner may apply for, and the court may grant, a temporary or permanent injunction to restrain a person from violating or continuing to violate this chapter, or a rule adopted under this chapter, notwithstanding the existence of other remedies at law.

(b) The court may not require a bond as a condition of granting an injunction under this section.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-40

Unlawful distribution

Sec. 40. A person may not distribute agricultural or vegetable seed within Indiana if any of the following apply:

(1) If the test to determine the percentage of germination (as defined by rule adopted under section 28 of this chapter) required by sections 32 and 33 of this chapter has not been completed within a nine (9) month period, not including the calendar month in which the test was completed immediately before distribution. However, the state seed commissioner may by rule designate:

(A) a shorter period for a kind of agricultural or vegetable seed that the state seed commissioner finds under ordinary conditions of handling will not maintain, during a nine (9) month period, a germination within the established tolerance limits; or

(B) a longer period for a kind of agricultural or vegetable seed that is packaged in such container materials and under such conditions prescribed by the state seed commissioner that the state seed commissioner finds will, during the longer period, maintain the viability of the seed under ordinary conditions of handling.

(2) If the seed is not labeled in accordance with this chapter.

(3) If the seed carries labeling that is false or misleading in any particular.

(4) If the seed contains or consists of prohibited noxious weed seed.

(5) If the seed consists of or contains restricted noxious weed seed in excess of one-fourth of one percent (0.25%). If less than one-fourth of one percent (0.25%) of weed seed by weight is present, the number per pound must be declared on the labeling.

(6) If the seed contains more than two and one-half percent (2.5%) of all weed seed.

(7) If the seed is represented to be "certified seed", "registered seed", or "foundation seed", the seed has not been produced and labeled in accordance with the procedures and in compliance with rules of an official or officially recognized seed certification or registration agency.

(8) If the inoculant applied to pre-inoculated seed is ineffective as determined by standards established by rule.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-41

Unlawful acts

Sec. 41. A person may not do any of the following:

(1) Detach, alter, deface, or destroy any label provided for in this chapter or the rules adopted under this chapter.

(2) Alter or substitute seed in a manner that may defeat the purpose of this chapter.

(3) Disseminate false or misleading advertisements concerning agricultural or vegetable seed.

(4) Hinder or obstruct in any way an authorized person in the performance of the person's duties under this chapter.

(5) Fail to comply with a stop sale order issued under section 27

of this chapter.

(6) Use the word:

(A) "trace" as a substitute for any statement required by this chapter; or

(B) "type" in any labeling in connection with the name of any seed variety.

(7) Use a state seed commissioner tag or label more than once.

(8) Sell grain or other seed that has been treated to any person for any purpose unless the grain or seed is clearly labeled as required in sections 32 and 33 of this chapter.

(9) Distribute seed colored so that it does not contrast with the natural color of the seed.

(10) Distribute noxious weed seed without a special use permit issued by the seed commissioner under section 27(b)(17) of this chapter.

(11) Assign the same brand designation to more than one (1) variety or blend of the same kind of seed, if not sold by variety name.

(12) Use relabeling stickers unless the relabeling stickers state:

(A) both the calendar month and year the germination test was completed and the sell-by date, as required under sections 32 and 33 of this chapter; and

(B) the lot number that matches the existing original lot number.

(13) Relabel a seed lot using stickers more than once.

As added by P.L.2-2008, SEC.6. Amended by P.L.75-2010, SEC.9.

IC 15-15-1-42

Violations

Sec. 42. Except as provided in section 39 of this chapter, a person who violates this chapter commits a Class C infraction.

As added by P.L.2-2008, SEC.6.

IC 15-15-1-43

Regulation of seed by political subdivision prohibited; waiver; hearing

Sec. 43. (a) Except as provided in subsection (c), a political subdivision (as defined in IC 36-1-2-13) may not regulate the advertising, labeling, distribution, sale, transportation, storage, or use of seed.

(b) A political subdivision may, by resolution, petition the state seed commissioner for a hearing to allow a waiver to adopt an ordinance because of special circumstances relating to the advertising, labeling, distribution, sale, transportation, storage, or use of seed. If a petition is received, the state seed commissioner shall hold a public hearing to consider granting the waiver requested. The public hearing must be conducted in an informal manner. IC 4-21.5 does not apply to a public hearing under this section.

(c) If the state seed commissioner, after a public hearing under subsection (b), grants a political subdivision's petition for a waiver,

the political subdivision may regulate the advertising, labeling, distribution, sale, transportation, storage, or use of seed to the extent allowed by the waiver.

As added by P.L.2-2008, SEC.6.