

A Bill for an Act Relating to Plant and Animal Life, Seeds and Soils.

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

SECTION 1. Chapter 150, Hawaii Revised Statutes, is amended by amending the title to read as follows:

**“CHAPTER 150
[PLANT AND ANIMAL LIFE, SEEDS AND SOILS]
SEEDS”**

SECTION 2. Chapter 150, Hawaii Revised Statutes, is amended by amending Part I to read as follows:

**“PART I. [REGULATION OF IMPORTATION]
GENERAL PROVISIONS**

§150-1 Short title. This chapter shall be known and may be cited as the “Hawaii Seed Law”.

§150-2 Official certifying agency. The department is designated as the official certifying agency for certifying seed for the State. The department may appoint an appropriate agent to do the work necessary for the certifications in compliance with established standards.”

SECTION 3. Section 150-21, Hawaii Revised Statutes, is amended to read as follows:

“§150-21 Definitions. As used in [sections 150-21 to 150-31:] this chapter:

[The terms shall be construed so as to conform insofar as possible with the construction placed upon the Federal Seed Act and regulations issued thereunder, and to effectuate its purpose and to make uniform the laws of this State with those of the states which have adopted it;] 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 [sections 150-21 to 150-31;] this chapter.

“Agricultural seeds” [means the seeds of all domesticated grasses and cereals, and of all legumes and other plants grown as turf, cover crops, forage crops, fiber crops, or field crops, and mixtures of such seeds, but does not include varieties which are generally known and sold as flower seeds or vegetable seeds;] includes the seeds of grass, forage, cereal, and fiber crops and other kinds of seeds commonly recognized within the State as agricultural seeds and mixtures of these seeds, and may include noxious weed seeds when the department determines that they are being used as agricultural seeds.

“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 U.S. 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 U.S. 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 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.

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

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

“Noxious weed” means any species of plant which is liable to be detrimental or destructive and difficult to control or eradicate which has been defined or designated as a noxious weed by regulation of the department of agriculture[;].

“Noxious weed seeds” means the seeds 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 highly destructive and difficult to control or eradicate in the State by ordinary, good cultural practices.

“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.

“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” [means] includes the seeds of those crops which are [or may be] grown in gardens [or] and on truck farms and are generally known and sold under the name of vegetable seeds[;] in the State.

“Weed seeds” [means any and all noxious weed seeds, and any and all seeds not included in the definition of agricultural seeds, when occurring incidentally in agricultural seed.] includes noxious weed seeds and the seeds or bulblets of all plants generally recognized as weeds within the State.”

SECTION 4. Section 150-22, Hawaii Revised Statutes, is amended to read as follows:

“§150-22 Rules [and regulations]. Subject to chapter 91, the department [of agriculture] may [make] adopt rules [and regulations] with respect to:

- (1) [Plants which are to be considered as noxious weeds for the purpose of sections 150-21 to 150-31;] Designation of noxious weed seeds for the purpose of this chapter;
- (2) Maximum [amounts] amount of noxious weed seeds which may be found in agricultural or vegetable seeds sold or found in the State;
- (3) Germination standards for agricultural and vegetable seeds;

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- (4) Inspection, sampling, and testing of seeds at the request of interested persons [interested therein], and charges to be made for [such] these services;
- (5) [Such further rules and regulations regarding the sale and labeling of seeds and the licensing of seed importers, including the license fee, as it may deem necessary to carry into effect the full intent and meaning of sections 150-21 to 150-31.] Minimum standards pertaining to the process of certifying seeds;
- (6)¹ Other requirements regarding the sale and labeling of seeds and licensing of seed importers, including the license fee, as it deems necessary to effectuate this chapter.

In [making] adopting rules [and regulations] with respect to standards for agricultural and vegetable seeds and tolerances of noxious weed seeds, the department shall follow as closely as practicable the standards and tolerances established under the Federal Seed Act.”

SECTION 5. Section 150-23, Hawaii Revised Statutes, is amended to read as follows:

“**§150-23 Prohibiting sales; germination tests.** [No person shall sell, or offer, or expose for sale any agricultural or vegetable seed for sowing purposes within the State unless:] A person may bring into the State and sell, offer, or expose for sale within the State any agricultural or vegetable seed for sowing 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 [are] is not in excess of tolerances established by the rules [and regulations] of the department [of agriculture];
- (4) A testing of the seed has been completed within nine months, exclusive of the calendar month in which the test was completed, to determine the percentage of germination[; provided that the]. The department [may], by [regulation] rule, may extend the nine-month limitation for seeds that have been packaged or processed under conditions that would greatly extend the viability of seeds.”

SECTION 6. Section 150-24, Hawaii Revised Statutes, is amended to read as follows:

“**§150-24 Agricultural seeds; labels.** Each container of agricultural seed that is brought into the State and sold or offered for sale within [this] the State for sowing purposes shall bear [thereon,] or have attached [thereto], 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] Kind; or
 - (B) [kind] Kind and variety[.]; or
 - (C) [kind] Kind and type 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.

Where more than one component is required to be named, the word “mixture” or [the word] “mixed” shall be shown conspicuously on the label.

- (2) Lot number or other lot identification assigned by the department [of agriculture].
- (3) Percentage by weight of all weed seeds.
- (4) [The name] Name and approximate number of each kind of noxious weed seeds to the extent required by rules [and regulations] of the department.
- (5) Percentage by weight of agricultural seeds other than those required to be named on the label.
- (6) Percentage by weight of inert matter.
- (7) For each named agricultural seed:
 - (A) [the] The percentage of germination, exclusive of hard seed[.];
 - (B) [the] The percentage of hard seed, if present[.]; and
 - (C) [the] The calendar month and year the test was completed to determine [such] the percentages.

Following (A) and (B), the additional statement, "total germination and hard seed", may be stated [as such,] if desired.

- (8) 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.

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

SECTION 7. Section 150-25, Hawaii Revised Statutes, is amended to read as follows:

"**§150-25 Vegetable seeds; labels.** Each container of vegetable seed that is brought into the State and sold or offered for sale within [this] the State for sowing purposes shall bear [thereon] or have attached [thereto], 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 which germinate less than the standard last established by [the] rules [and regulations] of the department [of agriculture]:
 - (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 [such] 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.

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

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SECTION 8. 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 [sections 150-21 to 150-31] this chapter or [of] any [rules or regulations] rule [made] adopted thereunder, shall[, in accordance with rules and regulations of the department of agriculture,] be removed from sale by the vender [thereof] upon [the vender’s] receiving notice from the department of [such] the violation. The vender shall withhold the seeds from sale until the violation has been corrected.”

SECTION 9. Section 150-27, Hawaii Revised Statutes, is amended to read as follows:

“§150-27 [Inspectors.] Seed sampling and testing. The department [of agriculture], through its authorized agents and inspectors, may enter any premises and procure a sample [from any lot, parcel, or package of seeds which is offered for sale or found in the State in bulk, sack, or package.] 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 sample was taken, and the time and place [of taking the sample.] the sample was taken. Each label shall be signed by an authorized agent of the department and by the owner, [or] custodian, or representative [thereof] of the lot, [parcel,] 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 [such] 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 [the] completion of the test of the sample, the department shall promptly forward a copy of the [result of the] test result to the person to whom a portion of the sample was delivered pursuant to this section.”

SECTION 10. Section 150-28, Hawaii Revised Statutes, is amended to read as follows:

“§150-28 Laboratory and analytical procedure. (a) The department [of agriculture] shall maintain a properly equipped laboratory for making [the test] tests required [by sections 150-21 to 150-31.] under this chapter.

(b) The method of sampling and testing of seed shall be based upon the rules for seed testing adopted by the Association of Official Seed Analysts [of North of America.] or as published in subchapter K of the Federal Seed Act.”

SECTION 11. Section 150-29, Hawaii Revised Statutes, is amended to read as follows:

“§150-29 Importers; licenses. No person shall import or cause to be imported into the State for purposes of sale or resale, any agricultural or vegetable [seeds] seed for sowing purposes unless the person [shall have] has a license to do so from the department [of agriculture]. Application for [such] the license shall be made to the department [and shall conform to such rules and regulations with respect thereto as may be made by the department.] in accordance with rules adopted by the department. All licenses shall expire on [July 1] June 30 of each year.”

SECTION 12. Section 150-30, Hawaii Revised Statutes, is amended to read as follows:

“§150-30 Disposition of fees and charges. All fees and charges received [under sections 150-21 to 150-31] pursuant to this chapter shall be deposited with the state director of finance to the credit of the general fund.”

SECTION 13. Section 150-31, Hawaii Revised Statutes, is amended to read as follows:

“§150-31 Violations; penalties. Every person who violates [sections 150-23 to 150-26 and any provision of section 150-29] this chapter or any rule [or regulation made] adopted by the department [of agriculture] pursuant to section 150-22, shall be fined not less than [\$10] \$100 nor more than [\$100] \$1000 for the first offense, and not less than [\$100] \$1000 nor more than [\$500] \$5000 for each offense thereafter.”

SECTION 14. Section 150-41, Hawaii Revised Statutes, is amended to read as follows:

“§150-41 Seed distribution program; revolving fund. There is established a revolving fund, the purpose of which shall be to enable the seed distribution program to operate at a level which will adequately meet the demand for seed. The fund shall be used for the cultivation and production of seeds and for research and developmental purposes directly related to [such] cultivation and production. The fund shall be administered by the college of tropical agriculture and human resources[,] of the University of Hawaii. All sums withdrawn from the fund shall be reimbursed or restored [thereto] from the proceeds realized through the sale of seeds. The college of tropical agriculture and human resources shall submit an annual report summarizing [receipt] receipts and expenditures and the fund balance of the revolving fund to the department of budget and finance. The first annual report shall be due within six months following the initial twelve-month period that the revolving fund is in operation [and]. Reports shall be due annually thereafter [not later than September 30] before October 1 following the end of the immediately preceding fiscal year.

The seed distribution revolving fund shall remit any moneys in excess of \$35,000 to the state general fund at the end of each fiscal year.”

SECTION 15. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 16. This Act shall take effect upon its approval.

(Approved June 5, 1987.)

Note

1. Should be underscored.