

October, 2017

Kansas Department of Agriculture
Plant Protection and Weed Control
1320 Research Park Drive
Manhattan, Kansas 66502
Phone: (785) 564-6685
FAX: 785-564-6779



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The Kansas Seed Law

K.S.A. 2-1415. Definitions. As used in this act: (a) "Agricultural seed" means the seed of grass, legume, forage, cereal and fiber crops, or mixtures thereof, but shall not include horticultural seeds.

(b) "Person" means any individual, member of a partnership, corporation, agents, brokers, company, association or society.

(c) "Conditioned" means cleaned, or cleaned and blended, to meet the requirements of agricultural seed for the purpose of being planted or seeded.

(d) "Kind" means one or more related species or subspecies which singly or collectively is known by one common name, and includes, among others, wheat, oat, vetch, sweet clover and alfalfa.

(e) "Variety" means a subdivision of a kind, which is characterized by growth, yield, plant, fruit, seed or other characteristics by which it can be differentiated from other plants of the same kind.

(f) "Hard seed" means the seeds which because of hardness or impermeability do not absorb moisture or germinate under seed testing procedure.

(g) "Label" means the statements written, printed, stenciled or otherwise displayed upon, or attached to, the container of agricultural seed, and includes other written, printed, stenciled or graphic representations, in any form whatsoever, pertaining to any agricultural seed, whether in bulk or in containers, and includes declarations and affidavits.

(h) "Secretary" means the secretary of agriculture.

(i) "Weed seed" means the seeds of plants considered weeds in this state and includes noxious weed seed and restricted weed seed, determined by methods established by rule and regulation under this act.

(j) "Noxious weed seed" means the seed of Kudzu (*Pueraria lobata*), field bindweed (*Convolvulus arvensis*), Russian knapweed (*Centaurea repens*), hoary cress (*Cardaria draba*), Canada thistle (*Cirsium arvense*), leafy spurge (*Euphorbia esula*), quackgrass (*Agropyron repens*), bur ragweed (*Ambrosia grayii*), pignut (*Indian rushpea*) (*Hoffmannseggia densiflora*), Texas blueweed (*Helianthus ciliaris*), Johnson grass (*Sorghum halepense*), sorghum alnum, and any plant the seed of which cannot be distinguished from Johnson grass, musk (nodding) thistle (*Carduus nutans* L.) and sericea lespedeza (*Lespedeza cuneata*).

(k) "Restricted weed seed" means weed seeds or bulbets which shall not be present in agricultural seed at a rate per pound in excess of the number shown following the name of each weed seed: Silverleaf nightshade (*Solanum elaeagnifolium*) 45, horsenettle, bullnettle (*Solanum carolinense*) 45, dock (*Rumex* spp.) 45, oxeye daisy (*Chrysanthemum leucanthemum*) 45, perennial sowthistle (*Sonchum arvensis*) 45, giant foxtail (*Setaria faberii*) 45, cheat (*Bromus secalinus*) 45, hairy chess (*Bromus commutatus*) 45, buckthorn plantain (*Plantago lanceolata*) 45, wild onion or garlic (*Allium* spp.) 18, charlock (*Sinapsis arvensis*) 18, wild mustards (*Brassica* spp.) 18, treacle (*Erysimum* spp.) 18, wild carrot (*Daucus carota*) 18, morning glory and purple moonflower (*Ipomoea* spp.) 18, hedge bindweed (*Calystegia* spp., syn. *Convolvulus sepium*) 18, dodder (*Cuscuta* spp.) 18, except lespedeza seed, other than sericea lespedeza (*Lespedeza cuneata*), which may contain 45 dodder per pound, pennycress, fanweed (*Thlaspi arvense*) 18, wild oats (*Avena fatua*) 9, climbing milkweed, sandvine (*Cynanchum laeve*, syn. *Gonolobus laevis*) 9, jointed goatgrass (*Aegilops cylindrica*) 9, black nightshade complex (*Solanum ptycanthum*, *S. americanum*, *S. sarrachoides*, *S. nigrum*, and *S. interius*) 9, wild buckwheat, black bindweed (*Polygonum convolvulus*) 9, velvetleaf, butterprint (*Abutilon theophrasti*) 9, and cocklebur (*Xanthium* spp.) 9. The total number of the restricted weed seed shall not exceed 90 per pound except native grass, smooth bromegrass, tall fescue, wheatgrasses and lespedeza, other than

sericea lespedeza (*Lespedeza cuneata*), shall not exceed 150 per pound. In smooth bromegrass, fescues, orchard grass, wheatgrasses, and chaffy range grasses, hairy chess or cheat shall not exceed 2,500 per pound. For the purposes of this section the following weedy *Bromus* spp. shall be considered as common weeds and collectively referred to as "chess": Japanese chess (*Bromus japonicus*), soft chess (*Bromus mollis*) and field chess (*Bromus arvensis*).

(l) "Advertisement" means all representations, other than those on the label, disseminated in any manner, or by any means, relating to agricultural seed.

(m) "Record" means all information relating to any shipment of agricultural seed and includes a file sample of each lot of such seed.

(n) "Stop sale order" means an administrative order, authorized by law, restraining the sale, use, disposition and movement of a definite amount of agricultural seed.

(o) "Seizure" means a legal process, issued by court order, against a definite amount of agricultural seed.

(p) "Lot" means a definite quantity of agricultural seed, identified by a lot number or other mark, every portion or bag of which is uniform, within recognized tolerances for the factors which appear in the labeling.

(q) "Germination" means the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions, in accordance with the methods established by rule and regulation under this act.

(r) "Pure seed" means the kind of seed declared on the label, exclusive of inert matter, other agricultural or other crop seeds and weed seeds.

(s) "Inert matter" means all matter not seeds, and as otherwise determined by rules and regulations under this act.

(t) "Other agricultural seeds or other crop seeds" means seeds of agricultural seeds other than those included in the percentage or percentages of kind or variety and includes collectively all kinds and varieties not named on the label.

(u) "Hybrid" means the first generation seed of a cross produced by controlling the pollination and by combining (1) two or more inbred lines, (2) one inbred or a single cross with an open pollinated variety, or (3) two varieties or species, other than open pollinated varieties of corn (*Zea mays*). Hybrid shall not include the second generation or subsequent generations from such crosses. Hybrid designations shall be treated as variety names. Controlling the pollination means to use a method of hybridization which will produce pure seed which is 75% or more hybrid.

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

(w) "Treated" means that the seed has received an application of a substance or process which is designed to reduce, control or repel certain disease organisms, insects or other pests attacking such seeds or seedlings growing therefrom and includes an application of a substance or process designed to increase seedling vigor.

(x) "Tested seed" means that a representative sample of the lot of agricultural seed in question has been subjected to examination and its character as to purity and germination has been determined.

(y) "Native grass seed" means the seeds of aboriginal or native prairie grasses.

(z) "Chaffy range grasses" shall include Bluestems, Gramas, Yellow Indian grass, wild rye grasses, buffalo grass and prairie cord grass.

(aa) "Certified seed" means any class of pedigreed seed or plant parts for which a certificate of inspection has been issued by an official seed certifying agency.

(bb) "Certifying agency" means: (1) an agency which is authorized under the laws of a state, territory or possession to officially certify seed and which has standards and procedures approved by the secretary of agriculture of the United States department of agriculture to assure the genetic purity and identity of the seed certified; or (2) an agency of a foreign country which is determined by the secretary of agriculture of the United States department of agriculture to be an agency which adheres to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under clause (1) of this subsection.

(cc) "Blend" means two or more varieties of the same kind each in excess of 5% of the whole.

(dd) "Mixture" means a combination of seed consisting of more than one kind each in excess of 5% of the whole.

(ee) "Brand" means a term or mark that is proprietary in nature whether or not it is a registered or copyrighted term or mark.

(ff) "Commercial means" shall include all forms of advertising for which a person must pay another for the dissemination or distribution of the advertisement.

(gg) "Horticultural seeds" means those seeds generally classified as vegetable, fruit, flowers, tree and shrub and grown in gardens or on truck farms.

(hh) "Grower of agricultural seed" means an individual whose primary occupation is farming and offers, exposes or sells agricultural seed of such individual's own growing without the use of a common carrier or a third party as an agent or broker. Seed shall be in compliance with noxious and restricted weed seed requirements and may advertise if the advertisement specifically states variety, bin run and if tested.

(ii) "Wholesaler" means any person who is in the business selling agricultural seed at wholesale to any person other than the end user.

(jj) "Retailer" means any person who sells agricultural seed to the end user.

(kk) "Seed conditioner" means any person who is in the business of cleaning seed for a fee or compensation.

K.S.A. 2-1416. Testing and Labeling Required. Except as provided in subsection (c) of K.S.A. 2-1421 and amendments

thereto, it shall be unlawful for any person to offer or expose for sale, sell or exchange any agricultural seed for planting or seeding purposes that has not been tested and is not labeled. This provision shall apply to grain when sold as such or when sold according to grain standards and the seller knows, or has reason to know, it is to be used for seed.

K.S.A. 2-1417. Label Requirements. Each bulk quantity, package or parcel of agricultural seed offered for sale, exposed for sale or exchanged for planting or seeding purposes shall have a label which shall be affixed thereto or printed or stenciled thereon or in bulk quantity which shall be furnished with the invoice, in the English language giving the following information, which shall not be modified or denied on the label, or on another label attached to the container, and in bulk quantity shall be furnished with the invoice:

(a) The commonly accepted name of the kind and variety or the kind and the words "variety not stated" of each agricultural seed component in excess of 5% of the whole and the percentage by weight of each in order of its predominance, except for the annual grain crops wheat, oats, barley, and soybeans for which the label shall include kind and variety. For blends of wheat, oats, barley or soybeans, the label shall include the kind followed by the word "blend". For brands of wheat, oats, barley, and soybeans, the brand mark or term must precede the word "brand". Components of blends and brands of wheat, oats, barley and soybeans shall be registered with the secretary unless all varieties and the percentage thereof are listed on the label. Blends and brands so registered may be labeled by kind and the words "variety (varieties) not stated". The composition of registered blends and brands shall remain consistent from year to year. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label;

(b) the percentage by weight of pure seed;

(c) the percentage by weight of all weed seeds;

(d) the percentage by weight of inert matter;

(e) for each named agricultural seed: (1) The percentage of germination, exclusive of hard seed; (2) the percentage of hard seeds, if present; (3) total germination percentage including hard seed may be shown; (4) the calendar month and year the test was completed to determine such percentages;

(f) the percentage by weight of agricultural seeds (which may be designated as "crop seeds") other than those required to be named on the label;

(g) the lot number or other lot identification;

(h) the origin: i.e., the state of foreign country where grown, except grass seeds in quantities of less than 10 pounds for lawn seeding purposes, or a declaration that origin of seed is unknown to seller.

(i) the name and rate of occurrence per pound of each kind of restricted weed seed present, which shall not be more than the number per pound of restricted weed seed in agricultural seed, as provided in subsection (k) of K.S.A. 2-1415;

(j) the name and address of person responsible for the label;

(k) agricultural seed which has been treated with chemicals for insect or disease control, shall be labeled to show the following;

(1) A word or statement indicating that the seed has been treated;

(2) the commonly accepted, coined, chemical or abbreviated chemical (generic) name of the applied substance;

(3) if the substance in the amount applied is harmful to human or other vertebrate animals, a caution statement, such as: "Do not use for food, feed or oil purposes". The caution for mercurials and similarly toxic substances must include in a contrasting color the word "poison" and skull and crossbones; and

(4) a separate label may be used to show this information, or it may be a component part of the main label.

K.S.A. 2-1421. Unlawful acts. (a) It is unlawful for any person to sell, offer for sale, expose for sale or advertise by commercial means any agricultural seed for seeding purposes:

(1) Unless a test has been made to determine the percentage of germination and it shall have been completed within a nine-month period (exclusive of the calendar month in which the test was completed) immediately prior to sale, exposure for sale or offering for sale;

(2) which is not labeled in accordance with the provisions of this act;

(3) which has a false, misleading or incomplete label;

(4) which contains noxious weed seeds;

(5) which contains restricted weed seeds in excess of the quantity prescribed by subsection (k) of K.S.A. 2-1415, and amendments thereto;

(6) which contains more than 1% of weed seeds by weight, except smooth brome grass, fescues, orchard grass, wheatgrasses, and lespedeza which contain more than 2% weed seed by weight and chaffy range grasses which contain more than 4% by weight;

(7) if any label, advertisement or other media represents such agricultural seed to be certified or registered, unless: (A) Such certification or registration has been determined by an official seed certifying agency; and (B) such seed bears an official label issued for such seed by such agency stating that the seed is certified or registered;

(8) by variety name not certified by an official seed certifying agency when it is a variety for which a certificate of plant variety protection has been issued under public law 91-577, the plant variety protection act, specifying sale only as a class of certified seed, except that seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety;

(9) without having registered with the secretary as required by K.S.A. 2-1421a.

(b) It is unlawful for any person:

- (1) To alter or deface any label so that the information is false or misleading or to mutilate any label;
 - (2) to disseminate any false or misleading advertisements concerning agricultural seed;
 - (3) to issue any statement, invoice or declaration as to the variety of any agricultural seed which is false or misleading;
 - (4) to hinder or obstruct the secretary or an authorized representative of the secretary in the performance of official duties;
 - (5) to fail to comply with a stop sale order, or to move or otherwise handle or dispose of any quantity of seed held under a stop sale order, or a stop sale tag attached thereto, except with express permission of the enforcing officer in writing and except for the purpose specified therein;
 - (6) to use the word "trace" as a substitute for any statement which is required;
 - (7) to use the word "type" in any labeling in connection with the name of any agricultural seed variety.
- (c) Except as provided in subsection (a)(8), it shall not be a violation of this act for the grower of agricultural seed to: (1) Sell, offer or expose for sale for planting or seeding purposes agricultural seed which has not been tested and labeled when the agricultural seed:
- (1) Has been grown on the grower's premises;
 - (2) is free from noxious weed seed; and
 - (3) does not contain any restricted weed seed in excess of the quantity prescribed by subsection (k) of K.S.A. 2-1415, and amendments thereto. Agricultural seed sold pursuant to this exemption shall not be advertised by commercial means unless such advertisement specifically states such agricultural seed is bin run or whether such seed has been tested.

K.S.A. 2-1421a. Wholesaler and retailer business registration; fees; agricultural seed fee fund; disposition of moneys received; rules and regulation authority. (a) (1) Each wholesaler shall register with the secretary and shall pay a registration fee not to exceed \$300. The current wholesale registration fee is hereby set at \$175 and shall remain at that amount until changed by rules and regulations of the state board of agriculture.

(2) Each retailer shall register with the secretary and shall pay a registration fee not to exceed \$30. The current retailer registration fee is hereby set at \$10 and shall remain at that amount until changed by rules and regulations of the state board of agriculture.

(3) Registration shall be required for each place of business at which agricultural seed is sold, offered or exposed for sale by the wholesaler or retailer.

(4) An individual who conducts a wholesaler and retailer business at the same location shall be required to register as both a wholesaler and retailer.

(b) Application for registration shall be made on a form provided by the secretary. Each registration shall expire on August 31 following the date of issuance unless such registration is renewed annually.

(c) Each seed conditioner shall register with the secretary. Such seed conditioner registration shall require no registration fee and shall be a biennial registration. Any seed conditioner who is ceasing to do business as a seed conditioner shall notify the department of agriculture within 30 days of ceasing to do business.

(d) As used in this section, "agricultural seed" shall include grain when sold as such, or when sold according to grain standards and the seller knows, or has reason to know, that the grain is to be used for seeding or planting purposes.

(e) The secretary shall remit all moneys received under this section to the state treasurer at least monthly. Upon receipt of any such remittance, the state treasurer shall deposit the entire amount thereof in the agricultural seed fee fund which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or a person or persons designated by the secretary.

(f) All moneys credited to the agricultural seed fee fund shall be expended for any purpose consistent with the Kansas seed law.

(g) The secretary may adopt rules and regulations necessary to administer the provisions of this act.

(h) This section shall be part of and supplemental to the Kansas seed law, K.S.A. 2-1415 et seq., and amendments thereto.

K.S.A. 2-1422. Penalties for violations. Any person who shall violate any of the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five (\$25) nor more than five hundred dollars (\$500).

K.S.A. 2-1422a. Seizure of mislabeled seed; disposition; injunction. Agricultural seed which is mislabeled shall be considered a common nuisance and subject to seizure and injunction in the manner as provided by law. In the event the court finds the seed to be in violation of this act, and orders the condemnation of said seed, it may be denatured, reprocessed, destroyed, relabeled, or otherwise disposed of as the court may direct: *Provided*, That in no instance shall the court order a disposition of said seed without first having given the defendant an opportunity to be heard and to apply to the court (a) for permission to reprocess or relabel it to bring it into compliance with law and any rules or regulations applicable thereto, and (b) for a release of said seed. When, in the performance of duties, the secretary or a duly authorized representative of the secretary, applies to any court for a temporary restraining order or a temporary or permanent injunction, restraining any person from violating or continuing to violate any of the provisions of this act, or any rules and regulation under this act, said order shall be issued without bond and said order shall be issued without regard to whether any criminal proceeding has been instituted.

K.S.A. 2-1423. Inspections; stop sale orders; judicial review. (a) Inspection. The secretary or a duly authorized representative of the secretary shall inspect, sample and determine the purity and germination of agricultural seed at such time and in such places, and to such extent as the secretary or representatives of the secretary consider advisable. The secretary or an authorized representative of the secretary may stop further sale or movement of any lot or lots of agricultural seed found to be in violation of any of the provisions of this act until compliance with the law has been satisfied or other disposition made. It shall be the duty of the secretary or a duly authorized representative of the secretary to:

(1) Enforce and administer this act;

(2) sample, inspect, make analysis of and test agricultural seeds transported, sold, offered for sale or exposed for sale within the state for planting and seeding purposes at such time and place and to such extent as considered necessary to determine whether the agricultural seeds are in compliance with provisions of the act; and

(3) cooperate with the United States department of agriculture and other agencies in seed law enforcement.

(b) Access. The secretary or authorized representatives of the secretary shall have free access during reasonable hours to all places of business, buildings, vehicles, cars and vessels, of whatsoever kind, used in the sale, transportation importation or storage of agricultural seed and shall have the authority to:

(1) Inspect the records concerning the place of origin, or concerning the sale, of any agricultural seed;

(2) open any package containing or suspected of containing any agricultural seed that is exposed or offered for sale; and

(3) take therefrom samples of contents for examination. The owner of the seed shall be paid the retail price of the sample so procured if the owner so requests.

(c) Stop sale orders. The secretary or authorized representatives of the secretary shall have the authority to:

(1) Issue and enforce a written or printed "stop sale" order to the owner or custodian of any quantity of agricultural seed which the secretary or duly authorized representatives of the secretary determine to be in violation of any of the provisions of this act or rules and regulations adopted hereunder, which order shall prohibit further sale, processing and movement of such seed, except on approval of the enforcing officer, until such officer has evidence that the law has been complied with and issues a release from the "stop sale" order of such seed. Any stop sale order issued pursuant to this subsection is subject to review in accordance with the Kansas judicial review act. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other sections of this act.

History: L. 1935, ch. 4, § 9; L. 1961, ch. 5, § 7; L. 1986, ch. 318, § 12; July 1; amended 2010.

K.S.A. 2-1424. Secretary to report violations of act; attested copies of analysis results. When the said secretary decides that prosecution for violation of this act is warranted, he or she shall report the facts to the prosecuting attorney of the county in which the violation was committed and furnish that officer with a copy of the results of the analysis or other examination or such agricultural seed duly attested to by the analyst or other representative making the examination.

K.S.A. 2-1424a. revoked – L. 2012, ch. 156, sec. 1; July 1.

K.S.A. 2-1425. revoked – L. 2012, ch. 156, sec. 1; July 1.

K.S.A. 2-1426. revoked – L. 2012, ch. 156, sec. 1; July 1.

K.S.A. 2-1426a. Records; seed samples. Each person whose name appears on the label as handling agricultural seeds subject to this act, shall keep for a period of three (3) years complete records of each lot of agricultural seed handled, and shall keep a file sample of each lot of seed for a period of one (1) year after final disposition of said lot of agricultural seed. All such records and samples pertaining to any shipment of agricultural seed shall be accessible during customary business hours, for inspection by the secretary or a duly authorized representative of the secretary.

K.S.A. 2-1427. Rules and Regulations; enforcement of act. The secretary of agriculture is hereby empowered to make and publish such rules and regulations after public hearing as it may deem necessary to carry into effect the full intent and meaning of chapter 2, article 14, of the Kansas Statutes Annotated, and amendments thereto, and the secretary is hereby empowered to enforce the provision of this act and the rules and regulations promulgated by the secretary of agriculture.

CERTIFICATION OF SEEDS OR PLANT PARTS

K.S.A. 2-1429. Designation of agencies. The Kansas state university of agriculture and applied science is hereby authorized to appoint and designate an agency or agencies within the state of Kansas for the purpose of setting certain standards, making requirements and forms of and for the certification of seeds and plant parts intended for propagation or sale or to be sold or offered for sale within the state.

K.S.A. 2-1430. Persons subject to 2-1429 to 2-1440; certification defined. Every person, firm, association, or corporation who shall issue, use or circulate, any certificate, advertisement, tag, seal, poster, letterhead, marking, circular, written or printed or otherwise reproduced presentation or description of or pertaining to seeds or plant parts intended for propagation or sale, or sold or offered for sale wherein the word "Kansas state certified," "state certified," "Kansas certified," "certified," "foundation," "pedigreed," or "registered," or similar words or phrases are used or employed, or wherein are used or employed

signs, symbols, maps, diagrams, pictures, words or phrases expressly or impliedly stating or representing that such seeds or plant parts comply with or conform to the standards or requirements recommended or approved by the agency or agencies designated by the Kansas state university of agriculture and applied science of the state of Kansas, shall be subject to the provisions of this act. Every issuance, use or circulation of any certificate or any other instrument, as in this section above described, shall be deemed to be "certification" as that term is employed in this act.

K.S.A. 2-1431. Agency for certification of specified crop. The Kansas state university of agriculture and applied science shall designate not more than one agency for the certification of any one specified crop within the state of Kansas. No certification, within the provisions of this act shall be made except by or on the authority of said Kansas state university of agriculture and applied science.

K.S.A. 2-1432. Certification in other states recognized. The agency or agencies designated by the Kansas state university of agriculture and applied science may recognize the certification of officially authorized certifying agencies in states and territories other than Kansas and in countries, provinces, and territories other than those under the jurisdiction of the United States government.

K.S.A. 2-1433. Annual permits. The authority of any agency or agencies to issue, make, use or circulate any certificate or evidence of certification as defined in this act shall be indicated by a permit signed by an authorized representative of the Kansas state university of agriculture and applied science. Such permit shall be issued annually and shall become null and void at the expiration of one year after date of issue. Renewal of the permit shall be at the discretion of the Kansas state university of agriculture and applied science.

K.S.A. 2-1434. Agencies to be self-supporting. Certification work, conducted by the agency or agencies designated by the Kansas state university of agriculture and applied science within the state of Kansas shall be on a financially self-supporting basis.

K.S.A. 2-1435. Same; financial responsibility. The Kansas state university of agriculture and applied science shall not be financially responsible for debts incurred by, damages inflicted by, or contracts broken by a certifying agency.

K.S.A. 2-1436. Withholding certification, when. The agency or agencies designated by the Kansas state university of agriculture and applied science may withhold certification from any grower of seeds or plant parts who is engaged in or attempting to engage in any dishonest practices for the purpose of evading the provisions of this act, including standards, rules and regulations laid down by the agency or agencies designated by the Kansas state university of agriculture and applied science to cover certification.

K.S.A. 2-1437. Investigations and prosecutions. The agency or agencies designated by the Kansas state university of agriculture and applied science may call upon the secretary agriculture to investigate or aid in the investigation and prosecution of any violations of this act. The secretary of agriculture may on the secretary's own initiative investigate and prosecute any violations of the provisions of this act.

K.S.A. 2-1438. Unlawful acts; penalty. It shall be unlawful for any person, firm, association or corporation to issue, make, use or circulate any certification, or evidence of certification as defined in this act, without the authority and approval of the duly authorized agency or agencies of the Kansas state university of agriculture and applied science as herein provided. Every person, firm, association, or corporation who shall violate any of the provisions of this act, or any of the rules and regulations based hereon, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding five hundred dollars or a jail sentence of not more than sixty days, or both.

K.S.A. 2-1439. 2-1415 to 2-1428 not affected. Nothing contained in this act shall be construed to affect any of the provisions of the Kansas seed law as set forth in K.S.A. 2-1415 to 2-1428, inclusive, and amendments thereto.

K.S.A. 2-1450. Uniformity of seed law; exclusive jurisdiction of state. (a) On and after the effective date of this section, the provisions of the Kansas seed law, and any rules and regulations promulgated thereunder relating to seed sale or use, including, but not limited to, planting, production, use, advertising, sale, distribution, storage, transportation, formulation, packaging, labeling, certification or registration of an agricultural seed within the state of Kansas, shall be applicable and uniform throughout this state and in all cities, counties and political subdivisions therein. No local authority shall enact or enforce any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas seed law unless expressly authorized by law to do so. Any law, ordinance, rule, regulation or resolution in conflict with, in addition to, or supplemental to, the provisions of the Kansas seed law is hereby declared to be invalid and of no effect. Any amendment to the Kansas seed law or any amendment of the rules and regulations promulgated thereunder, shall supersede and preempt the conflicting, additional or supplemental provisions of any law, ordinance, rule, regulation or resolution enacted by any city, county or other political subdivision of this state. As used in this section, "Kansas seed law" means the statutes contained in article 14 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto.

(b) Nothing in this section shall be construed to preempt or otherwise limit the authority of any city, county or political subdivision therein to adopt and enforce zoning regulations, fire codes or hazardous waste disposal restrictions.

(c) The provisions of this section are part of and supplemental to the Kansas seed law.

History: L. 2005, ch. 105, § 2; July 1.

K.S.A. 74-568. State board of agriculture and secretary of the state board of agriculture abolished; transfer of power and duties to the department of agriculture and secretary of agriculture. (a) The state board of agriculture created by K.S.A. 74-503, and amendments thereto, and the office of the secretary of the state board of agriculture created by K.S.A. 74-503, and amendments thereto, are hereby abolished.

(b) Except as otherwise provided by this act, all of the powers, duties and functions of the existing state board of agriculture and the existing secretary of the state board of agriculture are hereby transferred to and conferred and imposed upon, the department of agriculture and the secretary of agriculture established by this act.

(c) Except as otherwise provided by this act, the department of agriculture and the secretary of agriculture established by this act shall be the successor in every way to the powers, duties and functions of the state board of agriculture and the secretary of agriculture in which the same were vested prior to the effective date of this act. Every act performed in the exercise of such powers, duties and functions by or under the authority of the department of agriculture or the secretary of agriculture established by this act shall be deemed to have the same force and effect as if performed by the state board of agriculture or the secretary of the state board of agriculture, respectively, in which such powers, duties and functions were vested prior to the effective date of this act.

(d) Except as otherwise provided by this act, whenever the state board of agriculture, or words of the like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(e) Except as otherwise provided by this act, whenever the secretary of the state board of agriculture, or words of like effect, is referred to or designated by a statute, contract or other document, such reference or designation shall be deemed to apply to the secretary of agriculture established by this act.

(f) All rules and regulations of the state board of agriculture or the secretary of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of agriculture by this act until revised amended or nullified pursuant to law.

(g) All rules and regulations of the division of water resources of the state board of agriculture or the chief engineer of the division of water resources of the state board of agriculture in existence on the effective date of this act shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the chief engineer of the division of water resources of the department of agriculture established by this act until revised, amended, revoked or nullified pursuant to law.

(h) All orders and directives of the state board of agriculture or the secretary of the state board of agriculture in existence in the effective date of this act shall continue to be effective and shall be deemed to be orders and directives of the secretary of agriculture established by this act, until revised, amended or nullified pursuant to law.

(i) On the effective date of this act, the secretary of agriculture shall succeed to whatever right, title or interest the state board of agriculture has acquired in any real property in this state, and the secretary shall hold the same for and in the name of the state of Kansas. On and after the effective date of this act, whenever any statute, contract, deed or other document concerns the power or authority of the state board of agriculture or the secretary of the state board of agriculture to acquire, hold or dispose of real property or any interest therein, the secretary of agriculture shall succeed to such power or authority.

(j) The secretary of agriculture established by this act shall be continuations of the state board of agriculture and the secretary of the state board of agriculture.

Administrative Regulations

LABELING

K.A.R. 4-2-1. Labeling Prohibitions. Any agricultural seed shall be deemed mislabeled within the meaning of the act if there appears on the label, container, invoice, other accompanying literature, or any advertising media, any statement directly or indirectly implying that any agricultural seed is recommended or endorsed by the Kansas state board of agriculture or its state seed laboratory, or any of its other divisions. This regulation shall become effective on January 1, 1989.

K.A.R. 4-2-2. Labeling treated seed. Treated seed must be labeled. If seed has been chemically treated, each bag or container must be labeled bearing a true statement as follows: The required information shall be in type no smaller than eight point and may be on the tag bearing the analysis information or on a separate tag, or it may be printed in a conspicuous manner on a side or top of the container.

SAMPLING

K.A.R. 4-2-3. Sampling procedure. (a) Each of the following terms, as used in this regulation, shall have the meaning specified in this subsection:

(1) "Free-flowing seed" means any agricultural seed that readily sheds the husks, hulls, awns, bran, and other plant parts while being conditioned, allowing the seeds to move freely and independently of each other.

(2) "Non-free-flowing seed" means any agricultural seed that, because of attached husks, hulls, awns, bran, and other plant parts that do not readily separate from the seed while being conditioned, tends to bind together, preventing the seeds from moving independently of each other.

(3) "Seed" means agricultural seed as defined in K.S.A. 2-1415, and amendments thereto.

(b) To obtain a representative sample, equal portions shall be taken from evenly distributed parts of the lot to be sampled based on the type of seed and number of containers, unless the seed is stored or piled in a manner that makes taking a representative sample impossible or impractical.

(c) For free-flowing seed in bags or bulk, a probe or trier long enough to sample all portions of the bag shall be used.

(d) All non-free-flowing seed, including uncleaned agricultural seed and chaffy range grasses that are difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions.

(e) The portions collected from a single lot shall be combined into one or more composite samples.

(f) As the seed is sampled, each portion shall be examined. If a lack of uniformity appears to exist, additional samples shall be taken to determine whether a lack of uniformity exists. (Authorized by K.S.A. 2016 Supp. 2-1427; implementing K.S.A. 2-1416 and K.S.A. 2016 Supp. 2-1423; effective Jan. 1, 1966; amended Oct. 6, 2017.)

ANALYSES IN ADMINISTRATION OF THE ACT

K.A.R. 4-2-8. Methods of analyses. (a) Subject to the provisions of subsections (f), (g), and (h) of this regulation, the methods of analysis shall be those published by the association of official seed analysts in the following sections of volume 1 of the "AOSA rules for testing seeds," titled "principles and procedures," including all tables and charts, dated October 1, 2016 and hereby adopted by reference:

(1) Section 2, preparation of working samples, except page 2-60;

(2) section 3, the purity analysis, except page 3-30;

(3) section 4, uniform classification of weed and crop seeds;

(4) section 5, examinations;

(5) section 6, germination tests;

(6) section 8, tetrazolium testing;

(7) section 12, mechanical seed counts; and

(8) section 14, tolerances, except subsection 14.10.

(b) Volume 2 of the association of official seed analysts' "AOSA rules for testing seeds," titled "uniform blowing procedure," revised 2015, is hereby adopted by reference, except page ii, section 1, and section 8.

(c) Volume 3 of the association of official seed analysts' "AOSA rules for testing seeds," titled "uniform classification of weed and crop seeds," revised 2016, is hereby adopted by reference, except pages i-iii and viii-xiv.

(d) Volume 4 of the association of official seed analysts' "AOSA rules for testing seeds," titled "seedling evaluation," including illustrations, dated 2016, is hereby adopted by reference, except pages i-vi; page 18; the "references" sections on pages 22, 41, 46, 58, 62, 67, 98, 109, and 115; and pages 135-139.

(e) The "AOSA/SCST tetrazolium testing handbook," prepared by the tetrazolium subcommittee of the association of official seed analysts and the society of commercial seed technologists, including tables and illustrations, 2010 edition, is hereby adopted by reference, except pages i-viii; in part 1, subsections 1, 3, 7, and 15.2; part 4; and part 5.

(f) For the purpose of this regulation, the term "noxious-weed seed" used in the material adopted by reference in this regulation shall mean "restricted weed seed" as defined in K.S.A. 2-1415 and amendments thereto.

(g) For the purpose of this regulation, the term "purity tolerances" used in the material adopted by reference in this regulation shall mean "the greatest non-significant difference between two values, which may be two estimates or a specification and an estimate."

All other terms used in the material adopted by reference in this regulation shall have the meanings specified in the adopted portions of the "AOSA rules for testing seeds," unless a term is defined by K.S.A. 2-1415 and amendments thereto, in which case the term shall have the meaning specified in that statute.

(h) The following restrictions shall apply in addition to tolerances for the testing of seed in section 14 adopted by reference in paragraph (a)(8) of this regulation:

(1) Restricted weed seed tolerances shall not exceed the limitations specified in K.S.A. 2-1415 and amendments thereto.

(2) No tolerance shall be applied to any seed component that is guaranteed as "none" on the label. (Authorized by K.S.A. 2016 Supp. 2-1427; implementing K.S.A. 2016 Supp. 2-1423; effective Jan. 1, 1966; amended May 1, 1983; amended Jan. 1, 1989; amended Dec. 12, 1994; amended Jan. 18, 2008; amended Oct. 6, 2017.)

EXAMINATIONS IN THE ADMINISTRATION OF THE ACT

K.A.R. 4-2-10. Indistinguishable seed. When the identification of the kind, variety, or type of seed is not possible by seed characteristics, identification may be based upon seeding, growing plant, or mature plant characteristics according to such authentic information as is available.

K.A.R. 4-2-11. Origin. The presence of incidental weed seeds, foreign matter, or any other existing circumstances shall be considered in determining the origin of seed.

GENERAL

K.A.R. 4-2-14. Seed offered for sale. Agricultural seeds whether in bags, cartons, bins or other containers exposed in salesrooms, storerooms, warehouses, or other places where seeds are sold for sowing purposes, shall be considered as seed offered or exposed for sale for planting purposes and subject to the provisions of the act, unless clearly labeled otherwise.

K.A.R. 4-2-17a. (Authorized by K.S.A. 2-1427; implementing K.S.A. 2-1425 as amended by 1989 HB 2133; effective, T-4-7-5-89, July 5, 1989; effective Aug. 14, 1989; revoked Oct. 6, 2017.)

K.A.R. 4-2-18. Label requirements for seed delivered to wholesalers. Seed delivered in bulk to a wholesaler after conditioning shall be completely labeled by an invoice or master label attached to the bulk container. Seed delivered to a wholesaler in bags or other containers may be labeled by an invoice or master label that bears a lot number and all other information required by law provided that each individual bag or other container is properly identified with the lot number shown on the invoice or master label clearly and readably stenciled on each individual bag or other container. Each bag or other container which does not bear a lot number that corresponds to an invoice or master label shall be completely labeled. This regulation shall become effective on Jan. 1, 1989.

K.A.R. 4-2-20. Adoption by reference. The following sections of 7 C.F.R. part 201, as revised on January 1, 2007, are hereby adopted by reference:

- (a) 201.39;
- (b) 201.40;
- (c) 201.41;
- (d) 201.42; and
- (e) 201.43.

(Authorized by K.S.A. 2006 Supp. 2-1427; implementing K.S.A. 2-1423; effective Dec. 12, 1994; amended Jan. 18, 2008.)

K.A.R. 4-2-21. Registration fees for wholesalers and retailers. (a) Each wholesaler shall pay a registration fee of \$250 for each location at which the wholesaler is doing business. (b) Each retailer shall pay a registration fee of \$30 for each location at which the retailer is doing business. (c) Each person registering as both a wholesaler and a retailer at the same location shall pay a registration fee 1089 Kansas Register Vol. 36, No. 38, September 21, 2017 © Kansas Secretary of State 2017 Regulations of \$280 for each location at which the person is doing business. (Authorized by K.S.A. 2016 Supp. 2-1421a and 2-1427; implementing K.S.A. 2016 Supp. 2-1421a; effective Oct. 6, 2017.)

FEDERAL REGULATIONS ADOPTED BY REFERENCE

201.39 General Procedure. (a) In order to secure a representative sample, equal portions shall be taken from evenly distributed parts of the quantity of seed or screenings to be sampled. Access shall be had to all parts of that quantity. When more than one trierful of seed is drawn from a bag, different paths shall be followed. When more than one handful is taken from a bag, the handfuls shall be taken from well-separated points.

(b) For free-flowing seed in bags or bulk, a probe or trier shall be used. For small free-flowing seed in bags a probe or trier long enough to sample all portions of the bag should be used.

(c) Non-free-flowing seed, such as certain grass seed, uncleaned seed, or screenings, difficult to sample with a probe or trier, shall be sampled by thrusting the hand into the bulk and withdrawing representative portions. The hand is inserted in an open position and the fingers are held closely together while the hand is being inserted and the portion withdrawn.

(d) As the seed or screenings are sampled, each portion shall be examined. If there appears to be a lack of uniformity, the portions shall not be combined into a composite sample but shall be retained as separate samples or combined to form individual-container samples to determine such lack of uniformity as may exist.

(e) When the portions appear to be uniform, they shall be combined to form a composite sample.

201.40 Bulk. Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require in at least seven uniformly distributed parts of the quantity being sampled. At least as many trierfuls or handfuls shall be taken as the minimum which would be required for the same quantity of seed or screenings in bags of a size customarily used for such seed or screenings.

201.41 Bags. (a) For lots of six bags or less, each bag shall be sampled. A total of at least five trierfuls shall be taken.

(b) For lots of more than six bags, five bags plus at least 10 percent of the number of bags in the lot shall be sampled. (Round off numbers with decimals to the nearest whole number, raising 0.5 to the next whole number.) Regardless of the lot size it is not necessary that more than 30 bags be sampled.

(c) Samples shall be drawn from unopened bags except under circumstances where the identity of the seed has been preserved.

201.42 Small Containers. In sampling seed in small containers that it is not practical to sample as required in 201.41, a portion of one unopened container or one or more entire unopened containers may be taken to supply a minimum size sample, as required in 201.43.

201.43 Size of Sample. The following are minimum sizes of samples of agricultural seed, vegetable seed and screenings to be submitted for analysis, test, or examination:

- (a) Two ounces of grass seed not otherwise mentioned, white or alsike clover, or seeds not larger than these.
- (b) Five ounces of red or crimson clover, alfalfa, lespedeza, ryegrass, bromegrass, millet, flax, rape, or seeds of similar size.
- (c) One pound of Sudangrass, proso, hemp or seeds of similar size.
- (d) Two pounds of cereals, sorghum, vetch, or seeds of similar or larger size.
- (e) Two quarts of screenings.
- (f) Vegetable seed samples shall consist of at least 400 seeds.