



Jill Rowland

*Final Analysis*  
Legislative Service Commission

**Sub. S.B. 189**  
126th General Assembly  
(As Passed by the General Assembly)

**Sens. Grendell, Mumper, Dann, Harris, Miller**

**Reps. Cassell, Domenick, Sayre, McGregor, J., Blessing, Boccieri, Carano, Collier, Combs, Daniels, Dolan, Evans, C., Flowers, Garrison, Harwood, Hughes, Key Mitchell, Schlichter, Setzer, Smith, G., Stewart, J., Willamowski, Woodard**

**Effective date:** \*

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**ACT SUMMARY**

- Revises the requirements regarding the amount of vegetable and flower seed that a seed labeler permit holder reports on the permit holder's semiannual report as having sold and on which the fee for the report is based.
- Requires the labels for vegetable and flower seed sold in hermetically sealed containers weighing eight ounces or less to include the years, rather than the year, in which the packed seed is intended for sale.
- Revises the definition of "prohibited noxious weed" by removing the word "perennial."
- Changes the expiration date for the registration of legume inoculant brands from July 31 to December 31.

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\* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

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## CONTENT AND OPERATION

### Seed fees for seed labeler permit holders

Under continuing law, a person who holds a valid seed labeler permit issued under the Agricultural Seed Law must report to the Director of Agriculture concerning the amount of seed that the person sells in Ohio. The report must be made semiannually on a form that the Director prescribes and provides. A person who holds a valid seed labeler permit must include with each semiannual report a seed fee based on the amount of a particular seed that the person sold during that reporting period. Continuing law establishes different fees for specified types of seed. Law retained in part by the act specifies that for vegetable and flower seed sold at wholesale or retail or on consignment or commission in containers of eight ounces or less, the fee is 2% of the wholesale value of the containers of seed or, if the seed is not sold wholesale, 2% of the retail value of the containers of seed.<sup>1</sup>

The act generally retains the requirements governing the fee for flower and vegetable seed with the exception of the amount of seed to which the fee applies. Under the act, the fee applies to all of the following:

- (1) Vegetable and flower seed sold in containers, other than hermetically sealed containers, of eight ounces or less;
- (2) Flower seed sold in hermetically sealed containers that contain fewer than 300 seeds; and
- (3) Vegetable seed sold in hermetically sealed containers that contain fewer than 1,000 seeds.<sup>2</sup> (Sec. 907.14(B)(3)(a).)

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<sup>1</sup> Continuing law defines "flower seed" as the seed of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts and commonly known as and sold under the name of flower seed (sec. 907.01(HH)). "Vegetable seed" means the seed of any crop that is grown in gardens or on truck farms and is generally known and sold in this state under the name of vegetable seed or herb seed (sec. 907.01(CC)).

<sup>2</sup> Under law unchanged by the act, "hermetically sealed" means that the container used does not allow water vapor penetration through any wall, including the seals, greater than five one-hundredths grams of water per 24 hours per 100 square inches of surface at 100° F with a relative humidity on one side of 90% and on the other side of 0% (sec. 907.01(F)). "Container" means a packet, bag, box, tape, tube, envelope, pre-planted device, mat, or other device used to contain seed, except that it does not include a vehicle or bin used to contain bulk seed (sec. 907.01(MM)).

Under the act, the fees established pursuant to items (2) and (3), above, apply to seed sold in hermetically sealed containers that contain the amount of seeds specified in item (2) or (3), above, as applicable, and to seed sold in hermetically sealed containers that do not clearly state the number of seeds that they contain (sec. 907.14(B)(3)(b)). Except as otherwise provided above, if the weight of seed in a container, or the quantity of seed in a container, exceeds the applicable weight or quantity specified in item (1), (2), or (3), above, the fee established under continuing law for agricultural, vegetable, and flower seeds not otherwise specified applies, which is 10¢ per 100 pounds (sec. 907.14(B)(3)(c)).<sup>3</sup>

### **Seed package labeling**

Under continuing law, each container of agricultural, vegetable, or flower seed that is sold for sowing purposes must bear on it or have attached to it in a conspicuous place a label plainly written or printed in English containing certain information. For vegetable or flower seed that is sold in containers weighing eight ounces or less, the information must include the year in which the packed seed is intended for sale. The act adds that if the flower or vegetable seed, whichever is applicable, is packed in hermetically sealed containers, the years in which the packed seed is intended for sale instead must be included on the label. (Sec. 907.03(A)(3)(d) and (5)(d).)

### **Definition of "prohibited noxious weeds"**

Under law unchanged by the act, a person is prohibited from doing any of the following:

- (1) Selling any agricultural, vegetable, or flower seed if the seed contains prohibited noxious-weed seed;
- (2) Selling tree or shrub seed that contains prohibited noxious-weed seed;
- (3) Selling seed for use as bird feed if it contains viable prohibited noxious-weed seed or viable restricted-weed seed;
- (4) Selling prohibited noxious-weed seed or viable restricted-weed seed for the purpose of sowing, except sowing for research purposes; or

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<sup>3</sup> Continuing law defines "agricultural seed" as the seed of grass, native grass, forage, cereal, field and fiber crops, any other kinds of seed commonly recognized in this state as agricultural or field seed, lawn seed, and mixtures or blends of such seed (sec. 907.01(B)).

(5) Selling seed that contains prohibited noxious-weed seed or viable restricted-weed seed that is designated under federal regulations as having no tolerance or that is out of compliance with its tolerance (secs. 907.07(D) and 907.08(I), (J), and (K), not in the act).

For the purposes of the above prohibitions, law retained in part by the act defines "prohibited noxious weeds" as perennial weeds that reproduce by seed, spread by roots, underground stems, or other reproductive parts, and, when established, are highly destructive and difficult to control. The act generally retains the definition, but removes the word "perennial." (Sec. 907.01(R).)

**Legume inoculant brand registration**

Under continuing law, no person can manufacture or distribute any type of legume inoculant or pre-inoculated seeds in Ohio until the person has registered the brand of the legume inoculant with the Director. Applications for registration must be made on forms obtainable from the Director and must be accompanied by a \$50 per-brand fee. Under former law, all registrations expired each year on July 31. The act changes the expiration date from July 31 to December 31. It retains law that requires registrations to be renewed in accordance with the Standard License Renewal Procedure Law. (Sec. 907.28.)

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**HISTORY**

ACTION	DATE
Introduced	09-27-05
Reported, S. Agriculture	11-17-05
Passed Senate (33-0)	12-06-05
Reported, H. Agriculture & Natural Resources	02-02-06
Passed House (93-0)	02-22-06

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