

FILED

Jane Dee Hull
Secretary of State

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HOUSE BILL 2141

CHAPTER 3 AN ACT

AMENDING SECTIONS 3-231, 3-232, 3-233, 3-234, 3-235, 3-237, 3-239 AND 3-240, ARIZONA REVISED STATUTES; REPEALING SECTION 3-242, ARIZONA REVISED STATUTES; AMENDING TITLE 3, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 3-242; RELATING TO SEED REGULATION.

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 3-231, Arizona Revised Statutes, is amended to
3 read:

4 3-231. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Advertisement" means all representations, other than those on the
7 label, made in any manner ~~or by any means~~ relating to seed within the scope
8 of this article.

9 2. "Agricultural seed" means the seeds of grass, forage, cereal, and
10 fiber crops and any other kinds of seeds commonly recognized within this
11 state as agricultural seeds, lawn seeds and mixtures of such seeds, and may
12 include noxious-weed seeds when the department determines that such seed is
13 being used as agricultural seed.

14 3. "Certified seed" or "registered seed" means seed that has been
15 produced and labeled in accordance with the procedures and in compliance with
16 the rules and regulations of an officially recognized seed-certifying agency.

17 4. "Custom application" means an application of pesticide ~~applied~~ to
18 a seed by a pesticide applicator who does not hold title to THE seed.

19 5. "Dealer" means any ~~distributor, retailer or farmer~~ PERSON who sells
20 seed ~~harvested from crops grown by him.~~

1 6. "Division" means the plant industries division of the Arizona
2 department of agriculture.

3 7. "Established plant, warehouse, or place of business" means any
4 permanent office headquarters maintained by an importer, broker, seller, or
5 authorized manufacturer's agent, or any permanent warehouse, building, or
6 structure, in or from which a ~~legitimate permanent business is carried on in~~
7 ~~good faith and not for the purpose of evading this article, during the usual~~
8 ~~and customary business hours, which is recognized, and where required, is~~
9 ~~licensed and taxed as such by the proper public authorities OPERATED, at~~
10 which stocks of agricultural seed, vegetable seed, or ornamental plant seed
11 regulated by this article are sold, distributed, processed, mixed, stored,
12 or kept. ~~in quantities reasonably adequate and usually carried for the~~
13 ~~requirements of the business and available for regular inspection by the~~
14 ~~director or his inspectors. It does not include temporary residences, tents,~~
15 ~~temporary stands, itinerate trucks or transportation vehicles, or other~~
16 ~~temporary quarters, occupied pursuant to any temporary arrangement to evade~~
17 ~~this article.~~

18 8. "Hybrid" means the first generation seed of a ~~cross~~ CROSSBREED
19 produced by controlling ~~the~~ pollination and by combining two or more inbred
20 lines, or one inbred or a single ~~cross~~ CROSSBREED with an open pollinated
21 variety, or two varieties or species, except open pollinated varieties of
22 corn (zea mays). The second generation, or subsequent generations from such
23 crosses, shall not be regarded as crosses. Hybrid designations shall be
24 treated as variety names. Any ~~one kind or kind and~~ KINDS OR varieties that
25 have pure seed which is less than ninety-five per cent, but more than
26 seventy-five per cent hybrid seed as a result of incompletely controlled
27 pollination in a cross shall be labeled to show the percentage of pure seed
28 that is hybrid seed, or SHALL BE LABELED WITH a statement such as "contains
29 from seventy-five per cent to ninety-five per cent hybrid seed". No one kind
30 of seed shall be labeled as hybrid if the pure seed contains less than
31 seventy-five per cent hybrid seed.

32 9. "Inoculant" means a ~~bacterial substance applied to legume seed~~
33 COMMERCIAL PREPARATION CONTAINING NITROGEN-FIXING BACTERIA THAT IS APPLIED
34 TO SEED.

35 10. "Kind" means one or more related species or subspecies which singly
36 or collectively are known by one common name, such as corn, oats, alfalfa and
37 timothy.

38 ~~12.~~ 11. "Labeling" "LABEL" means ~~all labels and~~ ANY LABEL OR other
39 written, printed or graphic representations, in any form whatsoever,
40 accompanying or pertaining to any seed whether in bulk or in containers and
41 includes representations or invoices.

42 ~~11.~~ 12. "Labeler" means any ~~seed dealer~~ PERSON whose name and address
43 appear on the label pertaining to or attached to a lot or container of

1 agricultural, vegetable or ornamental plant seed sold, offered for sale,
2 exposed for sale or transported for sowing purposes.

3 13. "License" means an Arizona state seed license THAT IS OBTAINED FROM
4 THE DEPARTMENT.

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

8 15. "Noxious-weed seeds" means "prohibited noxious-weed seeds" and
9 "restricted noxious-weed seeds" as defined as follows and as listed in the
10 rules adopted under this article.

11 (a) "Prohibited noxious-weed seeds" are the seeds of perennial or
12 annual weeds which, when established, are highly destructive and difficult
13 to control by ordinary good cultural practice and the seed of which is
14 prohibited by this article subject to recognized tolerances.

15 (b) "Restricted noxious-weed seeds" are all noxious-weed seed not
16 classified as prohibited noxious-weed seed.

17 16. "Ornamental plant seed" means the seed of any plant used for
18 DECORATIVE OR ornamental purposes and ~~shall include~~ INCLUDES flower seed and
19 ~~seed of any plant used for decorative or ornamental purposes.~~

20 17. "Person" means any individual, partnership, corporation, company,
21 society, or association.

22 18. "Pure seed", "germination", and other seed labeling and testing
23 terms in common usage shall be defined as ~~in the rules for seed testing~~
24 ~~published by the association of official seed analysts and in the federal~~
25 seed act (7 UNITED STATES CODE SECTIONS 1551 THROUGH 1611; 53 Stat. 1275) and
26 the rules and regulations promulgated ~~thereunder~~ UNDER THAT ACT.

27 19. "Record" means all information relating to the shipment or
28 shipments involved and includes a file sample of each lot of seed.

29 ~~20. "Seizure" means a legal process carried out by court order against~~
30 ~~a definite amount of seed.~~

31 ~~21.~~ 20. "Sell" means offer for sale, expose for sale, possess for
32 sale, exchange, barter, or trade.

33 ~~22.~~ 21. "Stop sale" means an administrative order provided by law
34 restraining the sale, use, disposition and movement of a definite amount of
35 seed.

36 ~~23.~~ 22. "Treated" means that the seed has received an application of
37 a substance or process ~~which substance or process~~ THAT is designed to reduce,
38 control or repel certain disease organisms, insects or other pests attacking
39 such seeds or seedlings growing ~~therefrom~~ FROM THE SEEDS.

40 ~~24.~~ 23. "Type" means either a group of varieties so similar that the
41 individual varieties cannot be clearly differentiated except under special
42 conditions or, when used with a variety name, seed of the variety named which
43 may be mixed with seed of other varieties of the same kind and of similar
44 character, ~~the manner of and the circumstances connected with the use of the~~

1 ~~designation to be governed by rules prescribed under this article.~~ IF TYPE
2 IS DESIGNATED, THE DESIGNATION MAY BE ASSOCIATED WITH THE NAME OF THE KIND
3 BUT IN ALL CASES SHALL BE CLEARLY ASSOCIATED WITH THE WORD "TYPE". IF THE
4 TYPE DESIGNATION DOES NOT INCLUDE A VARIETY NAME, IT SHALL INCLUDE A NAME
5 THAT DESCRIBES A GROUP OF VARIETIES OF SIMILAR CHARACTER, AND THE PURE SEED
6 SHALL BE AT LEAST NINETY PER CENT OF ONE OR MORE VARIETIES ALL OF WHICH
7 CONFORM TO THE TYPE DESIGNATION.

8 ~~25-~~ 24. "Variety" means a subdivision of a kind characterized by
9 growth, yield, plant, fruit, seed, or other characteristics by which it can
10 be differentiated from other plants of the same kind.

11 ~~26-~~ 25. "Vegetable seeds" means seeds of those crops which are grown
12 in gardens and on truck farms and are generally known and sold under the name
13 of vegetable seeds in this state.

14 ~~27-~~ 26. "Weed seeds" means the seeds of all plants generally
15 recognized as weeds within this state and includes noxious-weed seeds.

16 Sec. 2. Section 3-232, Arizona Revised Statutes, is amended to read:

17 3-232. Enforcement of article

18 A. The director shall enforce the provisions of this article. The
19 director shall:

20 1. Sample, inspect, analyze and test agricultural, vegetable and
21 ornamental plant seed transported, sold or offered or exposed for sale for
22 sowing purposes, ~~at the time and place and~~ AS PROVIDED BY SECTION 3-233 AND
23 to the extent he deems necessary to determine whether the agricultural,
24 vegetable and ornamental plant seeds are in compliance with the provisions
25 of this article, and he shall notify promptly the person who transported,
26 sold, offered or exposed the seed for sale of any violation.

27 2. Prescribe and, after public hearing following due public notice,
28 adopt rules governing:

29 (a) The methods of sampling, inspecting, analyzing, testing and
30 ~~examination of~~ EXAMINING agricultural, vegetable and ornamental plant seed
31 and the tolerances to be followed in the administration of this article,
32 ~~which are in general accord~~ THAT COMPLY with the ~~officially prescribed~~
33 ~~practice in interstate commerce~~ FEDERAL SEED ACT (7 UNITED STATES CODE
34 SECTIONS 1551 THROUGH 1611; 53 STAT. 1275) AND THE RULES AND REGULATIONS
35 PROMULGATED UNDER THAT ACT.

36 (b) A prohibited and restricted noxious weed list and subsequent
37 revisions to the list.

38 (c) Reasonable standards of germination for vegetable seeds.

39 (d) Such other rules as are necessary to secure the efficient
40 enforcement of this article.

41 3. Designate seed-certifying agencies which he finds qualified to
42 certify AGRICULTURAL OR VEGETABLE SEEDS as to variety, purity, quality or
43 other ~~matter of agricultural or vegetable seeds~~ RELATED DESIGNATIONS. He THE
44 DIRECTOR shall consult with the director of the university of Arizona

1 agricultural experiment station before approving the qualifications of any
2 agency to certify as to variety, strain or other genetic character of
3 agricultural or vegetable seeds.

4 B. The director may assign personnel from the office of inspections
5 to perform any of the inspection-related activities prescribed by this
6 article.

7 Sec. 3. Section 3-233, Arizona Revised Statutes, is amended to read:

8 3-233. Powers and duties; fees; penalty

9 A. For the purpose of carrying out the provisions of this article, the
10 director may:

11 1. In order to have access to seeds and the records pertaining to
12 seeds subject to this article and the rules adopted under this article, enter
13 upon:

14 (a) Any ~~public or private premises~~ ESTABLISHED PLANT, WAREHOUSE OR
15 PLACE OF BUSINESS during CUSTOMARY business hours.

16 (b) Any truck or other conveyance operated on land, OR water or in the
17 air ON PROBABLE CAUSE OR REASONABLE SUSPICION TO BELIEVE THAT A VIOLATION OF
18 THIS ARTICLE HAS OCCURRED.

19 2. Issue and enforce a written "stop sale" order to the owner or
20 custodian of any lot of agricultural, vegetable or ornamental plant seed
21 which the director finds is in violation of any of the provisions of this
22 article, as provided in section 3-238, and any lot or lots of seed sold, or
23 transported for sale, which do not meet all requirements of the plant variety
24 protection act (P.L. 91-977; 7 UNITED STATES CODE SECTIONS 2321 THROUGH
25 2582; 84 Stat. 1542).

26 3. ~~Make provision~~ PROVIDE through the state agricultural laboratory
27 for seed testing facilities, employ qualified persons, and incur expenses
28 necessary to comply with the provisions of this article.

29 4. Through the state agricultural laboratory:

30 (a) Provide for making purity and germination tests of seeds for
31 farmers and dealers on request pursuant to rules prescribed by the director
32 governing such testing. ~~and~~

33 (b) Collect charges for the tests as prescribed by the director.

34 5. Cooperate with the United States department of agriculture and
35 other agencies in seed law enforcement.

36 6. Revoke, SUSPEND, RESTRICT, DENY OR NOT RENEW a license issued under
37 this article ~~upon satisfactory proof that the licensee has~~ OR FIX PERIODS AND
38 TERMS OF PROBATION FOR A LICENSE HOLDER AFTER A HEARING AT WHICH THE LICENSE
39 HOLDER IS FOUND BY A PREPONDERANCE OF THE EVIDENCE TO HAVE violated any of
40 the provisions of this article or any of the rules adopted under this
41 article.

42 7. Establish by rule fees that are sufficient to cover the costs of
43 interstate and international exportation inspection activities under section
44 3-232, subsection A, paragraph 1, but annually not more than one dollar fifty

1 cents per acre. Monies received under this paragraph shall be deposited in
2 the seed law fund pursuant to section 3-234.

3 B. For purposes of this article, the director, after an opportunity
4 for a hearing, shall establish and collect the following fees:

5 1. For a seed dealer's license, not more than fifty dollars per annum.

6 2. For a labeler's license, not ~~to exceed~~ MORE THAN five hundred
7 dollars per annum.

8 C. THE DIRECTOR SHALL ASSESS A LICENSE HOLDER WHO DOES NOT SUBMIT THE
9 ANNUAL LICENSE RENEWAL FEES TO THE DEPARTMENT BY JULY 1 A PENALTY OF TEN PER
10 CENT OF THE AMOUNT OF THE LICENSE FEE PER MONTH FOR NOT MORE THAN THREE
11 MONTHS. PENALTIES COLLECTED UNDER THIS SUBSECTION SHALL BE DEPOSITED IN THE
12 SEED LAW FUND PURSUANT TO SECTION 3-234.

13 Sec. 4. Section 3-234, Arizona Revised Statutes, is amended to read:

14 3-234. Seed law fund; continuing appropriation

15 A. All monies collected pursuant to ~~this article~~ SECTION 3-233 shall
16 be ~~paid~~ TRANSMITTED to the state treasurer, ~~through the director of the~~
17 ~~department of administration,~~ for deposit in the seed law fund.

18 B. All monies in the seed law fund are appropriated to the department
19 to be expended under the direction of the director for carrying out the
20 provisions of this article.

21 C. THE DIRECTOR SHALL ADMINISTER THE FUND. ON NOTICE FROM THE
22 DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS
23 PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE
24 CREDITED TO THE FUND.

25 Sec. 5. Section 3-235, Arizona Revised Statutes, is amended to read:

26 3-235. Seed dealer and labeler licenses; fee; exception

27 A. An Arizona seed dealer or an out-of-state seed dealer who sells,
28 distributes, processes or mixes for the use of others any agricultural,
29 vegetable or ornamental plant seed, except vegetable and ornamental plant
30 seed in packages of less than one pound, shall obtain a license from the
31 division, authorizing ~~him~~ THE DEALER to sell, distribute, process or mix such
32 seed. A dealer ~~shall~~ IS not be entitled to HAVE a license unless he has an
33 established plant, warehouse or place of business. A separate SEED DEALER
34 license ~~shall be~~ IS required for each place of business ~~within the~~ IN THIS
35 state ~~of Arizona~~ from which seed regulated by this article is sold.

36 B. A SEED LABELER WHO LABELS ANY AGRICULTURAL, VEGETABLE OR ORNAMENTAL
37 PLANT SEED FOR SALE, DISTRIBUTION OR PROCESSING SHALL OBTAIN A SEED LABELER
38 LICENSE FROM THE DIVISION.

39 ~~B.~~ C. An application for a license shall be accompanied by the fee
40 prescribed by section 3-233. A license shall be renewed annually not later
41 than July 1, and the application for renewal shall be accompanied by the fee
42 prescribed by section 3-233.

43 ~~C.~~ D. This section does not apply to a farmer growing ~~and marketing~~
44 ~~his own~~ SEED crops ~~unless such farmer sells any of the seed harvested from~~

1 ~~such crops~~ FOR SALE TO A SEED DEALER OR LABELER. The portion of crops
2 received by an individual who harvests the producer's crop and receives part
3 of the crop as payment for services rendered in the harvesting shall be
4 exempt from the provisions of this section.

5 Sec. 6. Section 3-237, Arizona Revised Statutes, is amended to read:
6 3-237. Label requirements

7 Each container of agricultural, vegetable and ornamental plant seed
8 sold, offered for sale, exposed for sale or transported within the state for
9 sowing purposes, shall bear or have attached thereto in a conspicuous place
10 a plainly written label or tag in the English language, which statement shall
11 not be modified or denied in the labeling or on another label attached to the
12 container, giving the following information:

13 1. For all seeds named and treated as defined in this article:

14 (a) A word or statement indicating that the seed has been treated.

15 (b) The commonly accepted coined chemical or abbreviated chemical name
16 of the applied substance or substances used for treating seed which
17 substances must be registered for use by the division, the United States
18 department of agriculture and the United States environmental protection
19 agency. The provisions of this section shall also apply to seed which has
20 been treated by custom applicators, or in a custom manner, even though the
21 transfer of ownership is not intended.

22 (c) If the substance in the amount present with the seed is harmful
23 to human or other vertebrate animals, a ~~caution~~ CAUTIONARY statement such as
24 "Do not use for food or feed or oil purposes." The ~~caution~~ CAUTIONARY
25 STATEMENT for mercurials and similarly toxic substances shall be a poison
26 statement or symbol.

27 (d) If the seed is claimed to be inoculated, a label to show the month
28 and year beyond which the inoculant on the seed is no longer claimed to be
29 effective, ~~by~~ USING a statement such as: "Inoculant not claimed to be
30 effective after (month and year)."

31 2. For agricultural seeds:

32 (a) The commonly accepted name of the kind or the kind and variety of
33 each agricultural seed component in excess of five per cent of the whole, and
34 the percentage by weight of each in the order of its predominance. ~~In kinds
35 of seed, as listed in the federal seed act, where variety is generally shown,
36 the label shall show the name of the kind and variety, or the words "variety
37 not stated".~~ FOR KINDS OF SEED WHOSE VARIETY IS GENERALLY KNOWN, THE LABEL
38 SHALL SHOW THE NAME OF THE KIND AND VARIETY. IF THE WORDS "VARIETY NOT
39 STATED" ARE USED, THE WORD "TYPE" MAY ALSO BE USED. THE DIRECTOR SHALL
40 DETERMINE BY RULE WHICH KINDS OF AGRICULTURAL SEEDS MUST BE LABELED TO SHOW
41 THE VARIETY NAME OR THE WORDS "VARIETY NOT STATED". Hybrids shall be labeled
42 as "hybrids". Where more than one component is named, the word "mixture" or
43 the word "mixed" shall be shown conspicuously on the label.

44 (b) The lot number or other lot identification.

1 (c) The origin, state or foreign country, if known, of alfalfa, red
2 clover and field corn, except hybrid corn. If the origin is unknown, that
3 fact shall be stated.

4 (d) The percentage by weight of all weed seed.

5 (e) The name and rate of occurrence per pound of each kind of
6 restricted noxious-weed seed present.

7 (f) The percentage by weight of agricultural seeds, which may be
8 designated as "crop seeds," other than those required to be named on the
9 label.

10 (g) The percentage by weight of inert matter.

11 (h) For each named agricultural seed:

12 (i) The percentage of germination, exclusive of hard seed.

13 (ii) The percentage of hard seed, if present.

14 (iii) If desired, the germination and hard seed total.

15 (iv) The month and year the test was completed to determine such
16 percentages.

17 (i) The name and address of the person who labeled the seed, or who
18 sells, offers or exposes the seed for sale within this state.

19 3. For vegetable seeds in containers of one pound or less:

20 (a) The name of the kind and variety of seed.

21 (b) For seeds which germinate less than the standard last established
22 by the director under this article:

23 (i) The percentage of germination, exclusive of hard seed.

24 (ii) The percentage of hard seed, if present.

25 (iii) The month and year the test was completed to determine such
26 percentages.

27 (iv) The words "below standard" in not less than eight point type.

28 (c) The name and address of the person who labeled the seed, or who
29 sells, offers or exposes the seed for sale within this state.

30 4. For vegetable seeds in containers of more than one pound:

31 (a) The name of each kind and variety present in excess of five per
32 cent and the percentage by weight of each in order of its predominance.

33 (b) The lot number or other lot identification.

34 (c) For each named vegetable seed:

35 (i) The percentage of germination, exclusive of hard seed.

36 (ii) The percentage of hard seed, if present.

37 (iii) If desired, the germination and hard seed total.

38 (iv) The month and year the test was completed to determine such
39 percentages.

40 (d) The name and address of the person who labeled the seed, or who
41 sells, offers or exposes the seed for sale within this state.

42 5. For ornamental plant seed:

43 (a) The name of the kind and variety of seed.

1 (b) THE CALENDAR MONTH AND YEAR IN WHICH THE SEED WAS TESTED OR THE
2 YEAR IN WHICH THE SEED WAS PACKAGED.

3 ~~(b)~~ (c) The name and address of the person or firm that packeted the
4 seed and labeled it.

5 6. For agricultural, vegetable and ornamental seeds in containers or
6 bulk:

7 ~~(a) For seeds of plants for which plant variety protection has been~~
8 ~~applied for, the words "plant variety protection applied for".~~

9 ~~(b) For seeds of plants for which plant variety protection has been~~
10 ~~granted, the words "plant variety protection no. _____".~~

11 (a) ON APPLYING FOR PROTECTION OF A VARIETY AND PAYMENT OF THE
12 PRESCRIBED FEE, THE OWNER OR THE OWNER'S DESIGNEE MAY LABEL THE VARIETY OR
13 CONTAINERS OF THE SEED OF THE VARIETY OR PLANTS PRODUCED FROM THE SEED
14 SUBSTANTIALLY AS FOLLOWS: "UNAUTHORIZED PROPAGATION PROHIBITED--
15 (UNAUTHORIZED SEED MULTIPLICATION PROHIBITED)--U.S. VARIETY PROTECTION
16 APPLIED FOR." IF APPLICABLE, "PVPA 1994" MAY BE ADDED TO THE NOTICE.

17 (b) ON ISSUANCE OF A CERTIFICATE, THE OWNER OF THE VARIETY OR THE
18 OWNER'S DESIGNEE MAY LABEL THE VARIETY OR CONTAINERS OF THE SEED OF THE
19 VARIETY OR PLANTS PRODUCED FROM THE SEED SUBSTANTIALLY AS FOLLOWS:
20 "UNAUTHORIZED PROPAGATION PROHIBITED--(UNAUTHORIZED SEED MULTIPLICATION
21 PROHIBITED)--U.S. PROTECTED VARIETY." IF APPLICABLE, "PVPA 1994" MAY BE
22 ADDED TO THE NOTICE.

23 (c) ON FILING AN APPLICATION OR AN AMENDMENT TO AN APPLICATION
24 SPECIFYING SEED OF THE VARIETY IS TO BE SOLD BY THE VARIETY NAME ONLY AS A
25 CLASS OF CERTIFIED SEED, THE OWNER OR THE OWNER'S DESIGNEE MAY LABEL
26 CONTAINERS OF THE SEED OF THE VARIETY SUBSTANTIALLY AS FOLLOWS: "UNAUTHORIZED
27 PROPAGATION PROHIBITED--U.S. VARIETY PROTECTION APPLIED FOR SPECIFYING THAT
28 SEED OF THIS VARIETY IS TO BE SOLD BY VARIETY NAME ONLY AS A CLASS OF
29 CERTIFIED SEED."

30 Sec. 7. Section 3-239, Arizona Revised Statutes, is amended to read:

31 3-239. Seizure and disposition of noncomplying seed

32 A. Any lot of agricultural, vegetable or ornamental plant seed not in
33 compliance with the provisions of this article is subject to seizure upon
34 complaint of the director to a court of competent jurisdiction in the
35 locality in which the seed is located.

36 B. If the court finds the seed is in violation of this article and
37 orders condemnation of the seed, it shall be denatured, processed, destroyed,
38 relabeled or otherwise disposed of in compliance with the laws of this state.
39 Before the court orders such disposition of the seed, it shall first give the
40 claimant an opportunity to apply to the court for release of the seed or
41 permission to process or relabel it to bring it into compliance with this
42 article.

43 ~~C. Any violation of this article may be enjoined in a court of~~
44 ~~competent jurisdiction without commencing any other action.~~

1 Sec. 8. Section 3-240, Arizona Revised Statutes, is amended to read:

2 3-240. Prosecutions; classification; publication of results;
3 injunction

4 A. Any person violating any provision of this article is guilty of a
5 petty offense.

6 B. A PERSON WHO VIOLATES ANY PROVISION OF THIS ARTICLE WITH THE INTENT
7 TO COMMIT FRAUD IS GUILTY OF A CLASS 6 FELONY.

8 ~~C. When the director finds that a person has violated any of the~~
9 ~~provisions of this article, he THE DIRECTOR may institute proceedings in a~~
10 ~~court of competent jurisdiction in the locality in which the violation~~
11 ~~occurred to have the person prosecuted therefor FOR THE VIOLATION, or may~~
12 ~~file with the county attorney, with the view of prosecution, such evidence~~
13 ~~as the county attorney deems necessary. At the discretion of the director,~~
14 ~~the defendant may be given an opportunity to appear before a hearing officer~~
15 ~~to introduce evidence either in person or by his agent or attorney at a~~
16 ~~private hearing. If, after such hearing or without such hearing in case the~~
17 ~~defendant or his agent or attorney fails or refuses to appear, the director~~
18 ~~is of the opinion that the evidence warrants prosecution, he shall proceed~~
19 ~~as provided in this section.~~

20 ~~C.~~ D. The county attorney of the county in which the violation
21 occurred shall institute proceedings at once against any person charged with
22 a violation of this article if, in his judgment, the information submitted
23 warrants such action.

24 ~~D.~~ E. After judgment by the court in any case arising under this
25 article, the director shall publish any information pertinent to the issuance
26 of the judgment by the court in such media as he may at any time designate.

27 F. THE DIRECTOR MAY ENJOIN ANY VIOLATION OF THIS ARTICLE IN A COURT
28 OF COMPETENT JURISDICTION WITHOUT COMMENCING ANY OTHER ACTION.

29 Sec. 9. Repeal

30 Section 3-242, Arizona Revised Statutes, is repealed.

31 Sec. 10. Title 3, chapter 2, article 2, Arizona Revised Statutes, is
32 amended by adding a new section 3-242, to read:

33 3-242. Violations; civil penalties

34 A. THE DIRECTOR MAY ASSESS A CIVIL PENALTY OF AT LEAST FIFTY DOLLARS
35 BUT NOT MORE THAN THREE HUNDRED DOLLARS FOR EACH VIOLATION, WITH EACH
36 AFFECTED CUSTOMER CONSTITUTING A SEPARATE VIOLATION, AGAINST A SEED DEALER
37 OR LABELER WHO, AFTER A HEARING, IS FOUND BY A PREPONDERANCE OF THE EVIDENCE:

38 1. TO HAVE NOT COMPLETED THE TEST TO DETERMINE THE PERCENTAGE OF
39 GERMINATION REQUIRED BY SECTION 3-237 WITHIN A NINE MONTH PERIOD, EXCLUSIVE
40 OF THE CALENDAR MONTH IN WHICH THE TEST WAS COMPLETED, IMMEDIATELY BEFORE THE
41 SALE, EXPOSURE FOR SALE OR OFFERING FOR SALE OR TRANSPORTATION.

42 2. TO HAVE NOT OBTAINED ANY LICENSE THAT IS REQUIRED BY THIS ARTICLE.

43 B. THE DIRECTOR MAY ASSESS A CIVIL PENALTY OF NOT MORE THAN TWO
44 THOUSAND FIVE HUNDRED DOLLARS FOR EACH VIOLATION, WITH EACH AFFECTED CUSTOMER

1 CONSTITUTING A SEPARATE VIOLATION, AGAINST A SEED DEALER OR LABELER WHO,
2 AFTER A HEARING, IS FOUND BY A PREPONDERANCE OF THE EVIDENCE:

3 1. TO HAVE LABELED OR SOLD SEED REPRESENTED TO BE CERTIFIED SEED,
4 REGISTERED SEED OR FOUNDATION SEED UNLESS IT HAS BEEN PRODUCED AND LABELED
5 ACCORDING TO THE RULES AND REGULATIONS OF AN OFFICIALLY RECOGNIZED SEED
6 CERTIFICATION OR REGISTRATION AGENCY.

7 2. TO HAVE LABELED OR SOLD SEED THAT HAS BEEN TREATED WITH ANY
8 APPROVED SUBSTANCE DESIGNED TO CONTROL OR REPEL PLANT DISEASE ORGANISMS OR
9 INSECT PESTS ATTACKING THE SEEDS, UNLESS EACH CONTAINER BEARS A LABEL GIVING
10 INFORMATION IN THE FORM THE DIRECTOR PRESCRIBES BY RULE, SHOWING THE COMMONLY
11 ACCEPTED NAME AND THE KIND OR NATURE OF THE SUBSTANCE AND, IF THE SUBSTANCE
12 MAY BE HARMFUL TO HUMANS OR OTHER VERTEBRATE ANIMALS, A WARNING OR CAUTION
13 STATEMENT THAT IS ADEQUATE TO PROTECT THE PUBLIC.

14 3. TO HAVE HINDERED OR OBSTRUCTED AN AUTHORIZED AGENT OF THE
15 DEPARTMENT FROM PERFORMING OFFICIAL DUTIES UNDER THIS ARTICLE.

16 4. TO HAVE FAILED TO COMPLY WITH A STOP SALE ORDER.

17 5. TO HAVE LABELED OR SOLD SEED THAT HAS A FALSE OR MISLEADING LABEL.

18 6. TO HAVE LABELED OR SOLD SEED THAT HAS BEEN ADVERTISED IN A FALSE
19 OR MISLEADING MANNER.

APPROVED BY THE GOVERNOR MARCH 8TH, 1996.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 11, 1996.