

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

SESSION LAW 2009-455
HOUSE BILL 1103

AN ACT TO UPDATE THE SEED LAW AND TO INCREASE FEES FOR SEED DEALER LICENSES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-277 reads as rewritten:

"§ 106-277. Purpose.

The purpose of this Article is to regulate the labeling, possessing for sale, sale and offering or exposing for sale or otherwise providing for planting purposes of agricultural ~~seeds, seeds and vegetable seeds and screenings;~~ seeds; to prevent misrepresentation thereof; and for other purposes."

SECTION 2. G.S. 106-277.2 reads as rewritten:

"§ 106-277.2. Definitions.

As used in this Article, unless the context clearly requires otherwise:

...
(7a) The term "conditioning" means cleaning, scarifying, or blending to obtain uniform quality and other operations that would change the purity or germination of the seed and therefore require retesting to determine the quality of the seed, but does not include operations such as packaging, labeling, blending together of uniform lots of the same kind, or kind and variety, without cleaning, or preparation of a mixture without cleaning, any of which would not require retesting to determine the quality of the seed.

...
(21) The term "North Carolina seed analysis tag" ~~shall mean~~means the tag designed and prescribed by the Commissioner as the official North Carolina seed analysis tag, ~~said tag to be purchased from the Commissioner.~~ tag.

...
(27) ~~The term "processing" means cleaning, scarifying or blending to obtain uniform quality and other operations which would change the purity or germination of the seed and therefore require retesting to determine the quality of the seed, but does not include operations such as packaging, labeling, blending together of uniform lots of the same kind or kind and variety without cleaning, or preparation of a mixture without cleaning, any of which would not require retesting to determine the quality of the seed.~~

...
(31) ~~The term "screenings" includes seed, inert matter and other materials removed from agricultural or vegetable seed by cleaning or processing.~~

...."

SECTION 3. G.S. 106-277.5(2) reads as rewritten:

"(2) Lot ~~number or other lot~~ identification."

SECTION 4. G.S. 106-277.6 reads as rewritten:

"§ 106-277.6. Labels for vegetable seeds in containers of one pound or less.

Labels for vegetable seeds in containers of one pound or less shall show the following information:

- (1) Name of kind and variety of seed.
- (2) ~~Origin, for pepper seed in containers of one ounce or more. If unknown, so stated.~~
- (2a) Lot identification.



- (3) ~~The year for which the seed is packed, provided the words "packed for" shall precede the year, or the percentage of germination, month and year tested.~~
- (3a) One of the following, as applicable:
- a. The statement "Packed for (year)" or "Sell by (year)."
 - b. The statement "Sell by (month) (year)" where the month and year in which the germination test was complete is no more than 12 months from the date of the test, exclusive of the month and year of the test.
 - c. The percentage germination and the calendar month and year that the test was completed to determine the percentage, provided that the germination test was completed within 12 months, exclusive of the month and year of the test.

...."

SECTION 5. G.S. 106-277.7 reads as rewritten:

"§ 106-277.7. Labels for vegetable seeds in containers of more than one pound.

Vegetable seeds in containers of more than one pound shall be labeled to show the following information:

- (1) The name of each kind and variety present in excess of five percent (5%) and the percentage by weight of each in order of its predominance.
- (2) Lot ~~number or other lot~~ identification.
- (3) ~~Origin, for snap bean and pepper seed only. If unknown, so stated.~~

...."

SECTION 6. G.S. 106-277.9 reads as rewritten:

"§ 106-277.9. Prohibitions.

It shall be unlawful for any person:

- (1) To transport, to offer for transportation, to sell, distribute, offer for sale or expose for sale within this State agricultural or vegetable seeds for seeding purposes:
 - a. Unless a seed license has been obtained in accordance with the provisions of this Article.
 - b. Unless the test to determine the percentage of germination required by G.S. 106-277.5 through 106-277.7 shall have been completed (i) on agricultural seed within a nine-month period, exclusive of the calendar month in which the test was completed, (ii) on cool season lawn seeds and mixtures of cool season lawn seeds, including, but not limited to, Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bent grass, and creeping bent grass, within a 15-month period, exclusive of the calendar month in which the test was completed, and (iii) on vegetable seed within a 12-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation; provided, the North Carolina Board of Agriculture may adopt after a public hearing, following public notice, rules and regulations to designate a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials (hermetically sealed), and under such other conditions prescribed, that will, during such longer period, maintain the viability of said seed under ordinary conditions of handling.

...

- i. ~~Pepper seed in containers holding one ounce or more of seed, unless treated in accordance with a procedure approved by the North Carolina Commissioner of Agriculture and labeled to reflect the procedure used.~~

...

- (2) To transport, offer for transportation, sell, offer for sale sale, or expose for sale seeds, whole grain ~~and screenings~~ not for seeding purposes unless labeled "not for seeding purposes."

- (3) To detach, alter, ~~deface~~ deface, or destroy any label provided for in this Article or the rules and regulations promulgated hereunder, or to alter or substitute seed in any manner that defeats the purposes of this Article.
- (4) To disseminate false or misleading advertisement in any manner concerning agricultural ~~seeds, seeds or~~ vegetable ~~seeds or screenings, seeds.~~

...."

SECTION 7. G.S. 106-277.10(c)(1) reads as rewritten:

"(c) The label requirements for peanuts, cotton and tobacco seed may be limited to:

- (1) Lot ~~number or other~~ identification."

SECTION 8. G.S. 106-277.10(d) reads as rewritten:

"(d) The provisions of G.S. 106-277.3 through 106-277.7 do not apply:

- (1) To seed or grain sold or represented to be sold for purposes other than for seeding provided that said seed is labeled "not for seeding purposes" and that the vendor shall make it unmistakably clear to the purchaser of such seed or grain that it is not for seeding purposes.
- (2) To seed for ~~processing~~ conditioning when consigned to, being transported to or stored in an approved ~~processing~~ conditioning establishment, provided that the invoice or labeling accompanying said seed bears the statement "seed for ~~processing~~" conditioning" and provided further that other labeling or representation which may be made with respect to the unlearned or ~~unprocessed~~ unconditioned seed shall be subject to this Article.
- (3) To seed sold by a farmer grower to a seed dealer or ~~processor, conditioner,~~ or to seed in storage in or consigned to a seed-cleaning or ~~processing~~ conditioning plant; provided that any labeling or other representation which may be made with respect to the unlearned or ~~unprocessed~~ unconditioned seed shall be subject to this Article.
- (4) To any carrier in respect to any seed or screenings transported or delivered for transportation in the ordinary course of its business as a carrier; provided that such carrier is not engaged in producing, ~~processing~~ conditioning, or marketing agricultural or vegetable seeds ~~or screenings~~ subject to provisions of this Article."

SECTION 9. G.S. 106-277.23 reads as rewritten:

"§ 106-277.23. Notice of violations; hearings, prosecutions or warnings.

It shall be the duty of the Commissioner to give notice of every violation of the provisions of this Article with respect to agricultural or vegetable seeds, or mixtures of such seeds, ~~or screenings~~ to the person in whose hands such seeds ~~or screenings~~ are found, and to send copies of such notice to the shipper of such seed ~~or screenings~~ and to the person whose "analysis tag or label" is attached to the container of such ~~seeds or screenings, seeds,~~ in which notice ~~he the~~ Commissioner may designate a time and place for a hearing. The person or persons involved shall have the right to introduce evidence either in person or by agent or attorney. If, after hearing, or without such hearing in the event the person fails or refuses to appeal, the Commissioner is of the opinion that the evidence warrants prosecution he may institute proceedings in a court of competent jurisdiction in the locality which the violation occurred or, if he believes the public interest will be adequately served thereby, he may direct to the alleged violator a suitable written notice or warning."

SECTION 10. G.S. 106-277.25 reads as rewritten:

"§ 106-277.25. Seizure and disposition of seeds violating Article.

Any lot of agricultural or vegetable seeds, mixtures of such seeds ~~or screenings~~ being sold, exposed for sale, offered for sale or held with intent to sell in this State contrary to the provisions of this Article shall be subject to seizure on complaint of the Commissioner to the resident judge of the superior court in the county in which the ~~seeds, seeds or~~ mixtures of such seeds ~~or screenings~~ are located. In the event the court finds the seeds ~~or screenings~~ to be in violation of the provisions of this Article and orders the condemnation thereof, such seeds ~~or screenings~~ shall be denatured, processed, destroyed, relabeled, or otherwise disposed of in compliance with the laws of this State; provided that in no instance shall such disposition be ordered by the court without first having given the claimant an opportunity to apply to the court for the release of the seeds, ~~mixtures of such seeds or screenings~~ with permission to process or relabel to bring them into compliance with the provisions of this Article."

SECTION 11. G.S. 106-277.28(2) reads as rewritten:

- "(2) Each seed dealer who offers for sale any agricultural, vegetable, or lawn or turf seeds for seeding purposes shall register with the Commissioner and shall obtain an annual license, for each location where activities are conducted, by January 1 of each year and shall pay the following license fee:
- a. Wholesale or combined wholesale and retail seed dealer.....~~\$100.00~~ \$125.00
 - b. Retail seed dealer ~~with sales of no more than \$500.00~~.....~~5.00~~
 - c. ~~Retail seed dealer with sales of more than \$500.00 but no more than \$1,000~~~~15.00~~
 - d. ~~Retail seed dealer with sales of more than \$1,000~~.....~~25.00~~ \$30.00."

SECTION 12. This act becomes effective October 1, 2009.

In the General Assembly read three times and ratified this the 30th day of July, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 12:20 p.m. this 7th day of August, 2009