

## Chapter 16 Utah Seed Act

### Part 1 Organization

#### 4-16-101 Short title.

This chapter is known as the "Utah Seed Act."

Renumbered and Amended by Chapter 345, 2017 General Session

#### 4-16-102 Definitions.

As used in this chapter:

- (1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or ground stock other than those on the label of a seed container, disseminated in any manner.
- (2) "Agricultural seed" includes:
  - (a) grass, forage, cereal, oil, fiber, and other kinds of crop seed commonly recognized within this state as agricultural seed;
  - (b) lawn seed;
  - (c) combinations of the seed described in Subsections (2)(a) and (2)(b); and
  - (d) noxious weed seed, if the department determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that a noxious weed seed is being used as agricultural seed.
- (3) "Blend" means seed consisting of more than one variety of a kind, each in excess of 5% by weight of the whole.
- (4) "Brand" means a word, name, symbol, number, or design used to:
  - (a) identify the seed of one person; and
  - (b) distinguish the seed of one person from the seed of another person.
- (5) "Certifying agency" means:
  - (a) an agency authorized under the laws of a state, territory, or possession to officially certify seed and that has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or
  - (b) an agency of a foreign country determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification.
- (6) "Coated seed" means seed that has been covered by a layer of materials that obscure the original shape and size of the seed resulting in an increase of the weight of the seed.
- (7)
  - (a) "Complete record" means all information that relates to the origin, treatment, germination, purity, kind, and variety of each lot of agricultural seed sold in this state.
  - (b) "Complete record" includes seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations.
- (8) "Conditioning" means drying, cleaning, scarifying, and other operations that:
  - (a) could change the purity or germination of a seed; and
  - (b) require a seed lot to be retested to determine the label information.
- (9) "Controlling the pollination" means to use a method of hybridization that will produce pure seed that is at least 75% hybrid seed.

- (10) "Dormant" means viable seed, excluding hard seed, that fail to germinate when provided the specified germination conditions for the kind of seed in question.
- (11) "Flower seed" includes the seed of herbaceous plants that are:
- (a) grown for their blooms, ornamental foliage, or other ornamental parts; and
  - (b) commonly known and sold under the name of flower or wildflower seed in this state.
- (12) "Foundation seed," "registered seed," or "certified seed" means seed that is produced and labeled in accordance with procedures officially recognized by a seed certifying agency approved and accredited in this state.
- (13) "Genuine grower declaration" means a statement signed by a grower which, for each lot of seed, provides the:
- (a) lot number;
  - (b) kind;
  - (c) variety, if known;
  - (d) origin;
  - (e) weight;
  - (f) year of production;
  - (g) date of shipment; and
  - (h) name of the person to whom the shipment was made.
- (14) "Germination" means the emergence and development from the seed embryo of those essential structures that are, for the kind of seed in question, indicative of the ability to produce a normal plant under favorable conditions expressed in whole numbers.
- (15) "Hard seed" means seed that remains hard at the end of the prescribed germination test period because the seed has not absorbed water due to an impermeable seed coat.
- (16)
- (a) "Hybrid," applied to kinds or varieties of seed, means the first generation seed of a cross produced by controlling the pollination and by combining:
    - (i) two or more inbred lines;
    - (ii) one inbred or a single cross with an open pollinated variety; or
    - (iii) two selected clones, seed lines, varieties, or species.
  - (b) The department shall treat hybrid designations as variety names.
- (17) "Inert matter" means all matter that is not seed, including broken seeds, sterile florets, chaff, fungus bodies, and stones, as determined by methods defined by rule.
- (18) "Inoculant" means a commercial preparation containing nitrogen-fixing bacteria applied to seed.
- (19) "Kind" means one or more related species or subspecies of seed that singly or collectively are known by one common name, for example, corn, oats, alfalfa, and timothy.
- (20)
- (a) "Label" means any written, printed, or graphic representation accompanying and pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in containers.
  - (b) "Label" includes a representation on an invoice, bill, or letterhead.
- (21) "Labeling" includes a tag or other device attached to, written, stamped, or printed on a container or accompanying a lot of bulk seeds that:
- (a) claims to specify the information required on the seed label by this chapter; and
  - (b) may include other information related to the labeled seed.
- (22) "Lot" means a definite quantity of seed identified by a number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.
- (23) "Mixture" or "mix" or "mixed" means seed consisting of more than one kind, each in excess of 5% by weight of the whole.

- (24) "Mulch" means a protective covering of a suitable substance placed with seed that:
- (a) acts to retain sufficient moisture to support seed germination and sustain early seedling growth;
  - (b) aids in the prevention of the evaporation of soil moisture;
  - (c) aids in the control of weeds; and
  - (d) aids in the prevention of erosion.
- (25) "Noxious weed seeds" means:
- (a) prohibited noxious weed seeds; or
  - (b) restricted noxious weed seeds.
- (26)
- (a) "Off-type" means a seed or plant not part of the variety because the seed or plant deviates in one or more characteristics from the variety.
  - (b) "Off-type" may include a seed or plant that:
    - (i) is of another variety;
    - (ii) is not necessarily any variety;
    - (iii) results from cross-pollination by another kind or variety; or
    - (iv) results from uncontrolled self-pollination during production of hybrid seeds.
- (27) "Origin" means:
- (a) for an indigenous stand of trees, the area on which the trees are growing; and
  - (b) for a nonindigenous stand of trees, the place from which the seeds or plants originated.
- (28) "Other crop seed" means the seed of plants grown as crops other than the kind or variety included in the pure seed, as determined by methods defined by rule.
- (29) "Person" means an individual, partnership, corporation, company, association, receiver, trustee, or agent.
- (30)
- (a) "Prohibited noxious weed seeds" means those weed seeds determined by the commissioner that are prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed.
  - (b) "Prohibited noxious weed seeds" include the seeds of weeds that are highly destructive and difficult to control by good cultural practices and the use of herbicides.
- (31) "Pure seed" means seed exclusive of inert matter and all other seed not of the seed being considered as determined by methods defined by rule.
- (32) "Restricted noxious weed seeds" means those weed seeds determined by the commissioner that:
- (a) are objectionable in agricultural crops, lawns, and gardens of this state; and
  - (b) can be controlled by good cultural practices or the use of herbicides.
- (33) "Seed for sprouting" means seed sold for sprouting for salad or culinary purposes.
- (34) "Sowing" means the placement of agricultural seed, vegetable seed, flower seed, tree and shrub seed, or seed for sprouting in a selected environment for the purpose of obtaining plant growth.
- (35) "Tetrazolium test (TZ)" means a biochemical seed viability test using the compound 2, 3, 5 triphenyl tetrazolium chloride (TTC), as specified in Part II, Tetrazolium Testing Handbook, Contribution Number 29, to the handbook on Seed Testing, prepared by the Tetrazolium subcommittee of the Association of Official Seed Analysts, 2008 Edition.
- (36) "Total viable" is:
- (a) equal to the sum of percentage germination, percentage dormant seed, and percentage hard seed; or
  - (b) determined by a tetrazolium test for species identified in the rules for testing or for species for which there are no rules for testing.

- (37) "Treated" means that a seed has received an application of a substance or been subjected to a process designed to reduce, control, or repel disease organisms, insects, or other pests that attack seeds or seedlings.
- (38) "Tree and shrub seed" includes seed of woody plants commonly known and sold as tree and shrub seeds in this state.
- (39) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.
- (40)
  - (a) "Variant" means a seed or plant that:
    - (i) is distinct within the variety but occurs naturally in the variety;
    - (ii) is stable and predictable with a degree of reliability comparable to other varieties of the same kind, within recognized tolerances, when the variety is reproduced or reconstituted; and
    - (iii) was originally a part of the variety as released.
  - (b) "Variant" does not include an off-type.
- (41) "Variety" means a subdivision of a kind that is:
  - (a) distinct, meaning a variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge;
  - (b) uniform, meaning that variations in essential and distinctive characteristics are describable; and
  - (c) stable, meaning a variety's essential and distinctive characteristics and uniformity will remain unchanged when reproduced or reconstituted as required by the category of variety.
- (42) "Vegetable seed" includes the seed of those crops that are:
  - (a) grown in gardens or on truck farms; and
  - (b) generally known and sold under the name of vegetable or herb seed in this state.
- (43) "Weed seed" means the seed of all plants generally recognized as weeds within this state, as determined by methods defined by rule.
- (44) "Weight" means the net weight of the commodity.
- (45) "Wholesaler" is a person who predominantly supplies seed to a distributor rather than a customer.

Amended by Chapter 528, 2023 General Session

**4-16-103 Department authorized to make and enforce rules -- Cooperation with state and federal agencies authorized.**

- (1) The department is authorized, subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to make and enforce rules.
- (2) The department may cooperate with other state agencies, other states, and with the United States Department of Agriculture or other departments or agencies of the federal government.

Renumbered and Amended by Chapter 345, 2017 General Session

**Part 2  
Regulations**

**4-16-201 Labeling requirements.**

- (1) A container of seed that is transported, sold, offered, or exposed for sale within this state shall bear on the container or have attached to the container a printed label that:
  - (a) is in a conspicuous place;
  - (b) is plainly written in the English language;
  - (c) is in type no smaller than eight point;
  - (d) specifies the information required by this chapter; and
  - (e) does not modify or deny the information required by this chapter in the labeling or on another label attached to the container.
- (2) A container of agricultural seed offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:
  - (a) name of the kind and variety for each seed component in excess of 5% of the whole and the percentage by weight of each component in the order of its predominance in columnar form, provided that:
    - (i) the label shall specify the name of the variety or state "Variety Not Stated" or "VNS," for any component that is required by rule of the department to be labeled as a variety;
    - (ii) a hybrid shall be labeled as a hybrid;
    - (iii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named; and
    - (iv) the total of the percentages described in Subsections (2)(a), (2)(d), (2)(e), and (2)(f) shall equal 100%;
  - (b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
  - (c) lot number or other lot identification;
  - (d) percentage by weight of all weed seeds;
  - (e) percentage by weight of agricultural or crop seeds other than those named on the label pursuant to Subsection (2)(a);
  - (f) percentage by weight of inert matter;
  - (g) name and rate of occurrence per pound of each kind of restricted noxious weed seed present for which tolerance is permitted;
  - (h) origin, if known, of alfalfa, red clover, white clover, or field corn seed, except hybrid corn, and, if the origin is unknown, that fact shall be stated;
  - (i) month and year seed tests were conducted for each named agricultural seed, specifying:
    - (i) percentage of germination, exclusive of hard or dormant seed; and
    - (ii) percentage of hard or dormant seed, if present; and
  - (j) net weight or seed count.
- (3) A container of lawn and turf seed or lawn and turf seed mixture offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:
  - (a) name of the kind and variety for each lawn and turf seed component in excess of 5% of the whole, and the percentage by weight of each component in the order of its predominance in columnar form, provided that:
    - (i) the label shall specify the name of the variety or state "Variety Not Stated" or "VNS," for any component that is required by rule of the department to be labeled as a variety;
    - (ii) a hybrid shall be labeled as a hybrid; and
    - (iii) the total of the percentages described in Subsections (3)(a), (3)(d), (3)(e), and (3)(f) shall equal 100%;
  - (b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
  - (c) lot number or other lot identification;

- (d) percentage by weight of all weed seeds;
  - (e) percentage by weight of agricultural or crop seeds other than those named on the label pursuant to Subsection (3)(a);
  - (f) percentage by weight of inert matter;
  - (g) name and rate of occurrence per pound of each kind of restricted noxious weed seed present for which tolerance is permitted;
  - (h) month and year seed tests were conducted for each named lawn and turf seed, specifying:
    - (i) percentage of germination, exclusive of hard or dormant seed; and
    - (ii) percentage of hard or dormant seed, if present;
  - (i) the word "mix," "mixture," or "blend," if more than one component is required to be named; and
  - (j) net weight or seed count.
- (4) Vegetable seed in packets of one pound or less prepared for home gardens or household plantings or vegetable seed preplanted in containers, mats, tapes, or other planting devices shall be labeled with the following information:
- (a) name of the kind and variety of seed, provided that a hybrid shall be labeled as a hybrid;
  - (b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
  - (c)
    - (i) calendar month and year the germination test was completed and sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of test;
    - (ii) year for which the seed was packaged for sale, stated as "Packed for yy," or year of the seed sell by date, stated as "Sell by yy"; or
    - (iii) calendar month and year the germination test was completed and the percentage germination, provided that the germination test was completed within the previous 12 months exclusive of the month of test;
  - (d) seed with germination less than the germination standard last established for the seed by the department shall specify the:
    - (i) percentage of germination, exclusive of hard or dormant seed;
    - (ii) percentage of hard or dormant seed, if present; and
    - (iii) words "Below Standard" in not less than eight-point type;
  - (e) statement to indicate the minimum number of seeds or net weight in the container, if the seed are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of the seed without removing the seed;
  - (f) lot number or other lot identification;
  - (g) the word "mix," "mixture," or "blend," if more than one component is required to be named; and
  - (h) net weight or seed count.
- (5) Vegetable seed not described in Subsection (4) shall be labeled with the following information:
- (a) name of each kind and variety present in excess of 5% of the whole and the percentage by weight of each in order of its predominance in columnar form, provided that a hybrid shall be labeled as a hybrid;
  - (b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
  - (c) lot number or other lot identification;
  - (d) month and year seed tests were conducted, for each named vegetable seed, specifying the:
    - (i) percentage of germination, exclusive of hard or dormant seed; and
    - (ii) percentage of hard or dormant seed, if present;

- (e) name and rate of occurrence per pound of each kind of restricted noxious-weed seed for which tolerance is permitted;
  - (f) the word "mix," "mixture," or "blend," if more than one component is required to be named; and
  - (g) net weight or seed count.
- (6) A flower seed packet of one pound or less prepared for use in home flower gardens or household plantings or flower seed in preplanted containers, mats, tapes, or other planting devices shall be labeled with the following information:
- (a) name of the kind and variety or a statement of type and performance characteristics of the seed as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:
    - (i) a hybrid shall be labeled as a hybrid; and
    - (ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named;
  - (b) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
  - (c)
    - (i) calendar month and year the germination test was completed and the sell by date, which may not be more than 12 months past the date of the germination test exclusive of the month of the test;
    - (ii) year for which the seed was packed for sale, stated as "Packed for yy," or year of the seed sell by date, stated as "Sell by yy"; or
    - (iii) calendar month and year the germination test was completed and percentage germination, provided that the germination test was completed within the previous 12 months exclusive of the month of the test;
  - (d) seed with germination less than the germination standard last established by the department shall specify the:
    - (i) percentage of germination, exclusive of hard or dormant seed;
    - (ii) percentage of hard or dormant seed, if present; and
    - (iii) words "Below Standard" in not less than eight-point type; and
  - (e) statement to indicate the minimum number of seeds or net weight in the container, if the seeds are placed in a germination medium, mat, tape, or other device that makes it difficult to determine the quantity of seed without removing the seed.
- (7) Flower seed not described in Subsection (6) offered or exposed for sale in this state shall be labeled with the following information:
- (a) name of the kind and variety or statement of the type and performance characteristics of the seed as prescribed by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provided that:
    - (i) a hybrid shall be labeled as a hybrid; and
    - (ii) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named;
  - (b) genus and species of wildflower and the subspecies, if appropriate, of wildflower;
  - (c) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
  - (d) lot number or other lot identification;
  - (e) percentage of germination, exclusive of hard or dormant seed;
  - (f) percentage of hard or dormant seed, if present;
  - (g) calendar month and year that testing was completed to determine percentages described in Subsections (7)(e) and (7)(f);

- (h) net weight or seed count; and
  - (i) wildflower seed with a pure seed percentage of less than 90% shall specify the percentage by weight of:
    - (i) each component listed in order of predominance;
    - (ii) weed seed if present; and
    - (iii) inert matter.
- (8) A container of tree and shrub seed that is sold, offered, or exposed for sale or transported for sowing into this state shall:
- (a) bear a label as required by Subsection (1), unless:
    - (i) each bag or other container is clearly identified by a lot number stenciled on the container or the seed is in bulk; and
    - (ii) under a contractual agreement the seed may bear a label by invoice accompanying the shipment or an analysis tag attached to the invoice; and
  - (b) bear on the label the following information:
    - (i) name of the seed and name of the subspecies, if appropriate;
    - (ii) scientific name of the genus and species and scientific name of the subspecies, if appropriate;
    - (iii) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
    - (iv) lot number or other lot identification;
    - (v) information as to origin as follows:
      - (A) seed collected from a predominantly indigenous stand shall specify the area of collection given by latitude and longitude, geographic description, or political subdivision such as state or county; and
      - (B) seed collected from other than a predominantly indigenous stand shall specify identity of the area of collection and the origin of the stand or state "origin not indigenous";
    - (vi) elevation or the upper and lower limits of elevation within which the seed was collected;
    - (vii) purity as a percentage of pure seed by weight;
    - (viii) percentage of germination, exclusive of hard or dormant seed;
    - (ix) percentage of hard or dormant seed, if present;
    - (x) calendar month and year the germination test was completed to determine percentages described in Subsections (8)(b)(viii) and (8)(b)(ix);
    - (xi) the word "mix," "mixture," or "blend" shall appear, if more than one component is required to be named; and
    - (xii) net weight.
- (9) A container of seed for sprouting that is offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:
- (a) name and address of the person who labeled the seed, or the person who sells, offers, or exposes the seed for sale in this state;
  - (b) name of the kind or kinds in order of predominance;
  - (c) lot number or other identification;
  - (d) percentage by weight of each pure seed component in excess of 5% of the whole, other crop seeds, inert matter, and weed seeds, if any;
  - (e) percentage of germination of each pure seed component, exclusive of hard or dormant seed;
  - (f) percentage of hard or dormant seed, if present;
  - (g) calendar month and year the test was completed to determine percentages described in Subsections (9)(d) through (9)(f) or the year for which the seed was packaged;

- (h) the word "mix," "mixture," or "blend," if more than one component is required to be named; and
  - (i) net weight or seed count.
- (10) A combination mulch, seed, and fertilizer product shall:
- (a) contain a minimum of 70% mulch;
  - (b) bear a label with the word "combination" followed by the words "mulch - seed - fertilizer" on the upper 30% of the principal display panel, provided that the:
    - (i) word "combination" shall be the largest and most conspicuous type on the container and equal to or larger than the product name; and
    - (ii) words "mulch - seed - fertilizer" shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination"; and
  - (c) bear an analysis label for seed placed in a germination medium, mat, tape, or other device or mixed with mulch, specifying the following information:
    - (i) name of each kind and variety;
    - (ii) product name;
    - (iii) lot number;
    - (iv) percentage by weight of pure seed of each kind and variety named, including those less than 5% of the whole, provided that the total of the percentages described in Subsections (10)(c)(iv) through (10)(c)(vii) shall equal 100%;
    - (v) percentage by weight of other crop seed;
    - (vi) percentage by weight of inert matter, which may not be less than 70%;
    - (vii) percentage by weight of weed seed;
    - (viii) name and number of noxious weed seed per pound, if present;
    - (ix) percentage of germination of each kind or kind and variety named;
    - (x) percentage hard or dormant seed, if appropriate;
    - (xi) date of germination test;
    - (xii) name and address of tagger; and
    - (xiii) net weight.
- (11) A product containing a combination of seed and granular fertilizer shall be labeled with the following information:
- (a) the word "combination" followed by the words "seed-fertilizer" on the upper 30% of the principal display panel provided that:
    - (i) the word "combination" must be the largest and most conspicuous type on the container and equal to or larger than the product name; and
    - (ii) the words "seed-fertilizer" shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination"; and
  - (b) an analysis label specifying the information listed in Subsection (10)(c) and the percentage by weight of the fertilizer, listed on a separate line as a component of the inert matter.
- (12) Coated seed shall be labeled with the:
- (a) information required by Subsections (2)(a) through (2)(e) and (2)(g);
  - (b) percentage by weight of pure seed exclusive of coating material;
  - (c) percentage by weight of coating material;
  - (d) percentage by weight of inert material exclusive of coating material; and
  - (e) percentage of germination, determined on 400 pellets with or without seed.

Amended by Chapter 528, 2023 General Session

**4-16-202 Distribution of seeds -- Germination tests required -- Date to appear on label -- Seed to be free of noxious weed seed -- Special requirements for treated seeds -- Prohibitions.**

- (1) A person in this state may not offer or expose for sale or sowing any seed for sprouting or any agricultural, vegetable, flower, or tree and shrub seed unless:
  - (a)
    - (i) for agricultural seed, including mixtures of agricultural seed:
      - (A) a test to determine the percentage of germination has been performed within 18 months, exclusive of the month the seed is tested and the date the seed is offered for sale; and
      - (B) the date of the test appears on the label;
    - (ii) for vegetable, flower, or tree and shrub seed or seed for sprouting:
      - (A) a test to determine the percentage of germination has been performed within 12 months, exclusive of the month the seed is tested and the date the seed is offered for sale; and
      - (B) the date of the test appears on the label;
    - (iii) for hermetically sealed agricultural, vegetable, flower, or tree and shrub seed:
      - (A) a test to determine the percentage of germination has been performed within 36 months, exclusive of the month the seed is tested and the date the seed is offered for sale, or the seed have been retested for germination within nine months, exclusive of the month the seed is retested and the date the seed are offered or exposed for sale; and
      - (B) the date of the test appears on the label;
  - (b) the package or other container is truthfully labeled and in accordance with Section 4-16-201; and
  - (c) the seed is free of noxious weed seed, subject to any tolerance as may be prescribed by the department through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2) The label on any package or container of an agricultural, vegetable, flower, lawn and turf, or tree and shrub seed or seed mixture that has been treated and for which a claim is made on account of the treatment, in addition to the labeling requirements specified in Section 4-16-201, shall:
  - (a) state that the seed have been treated;
  - (b) state the commonly accepted name, generic chemical name, or abbreviated chemical name of the substance used for treatment;
  - (c) state the date beyond which the inoculant is not considered effective, if the seed is treated with an inoculant; and
  - (d)
    - (i) include a caution statement consistent with rules of the department if the treatment substance remains with the seed in an amount which is harmful to vertebrate animals; and
    - (ii) subject to Subsection (2)(d)(i), state in a caution statement for mercurials and similarly toxic substances, as defined by rule of the department, that the seed has been treated with poison with "POISON" printed in red letters on a background of distinctly contrasting color together with a representation of the skull and crossbones.
- (3) A person may not:
  - (a) use the word "trace" as a substitute for a statement required under this chapter;
  - (b) disseminate any false or misleading advertisement about agricultural, vegetable, flower, or tree and shrub seed or seed for sprouting; or
  - (c) detach, alter, or destroy any label or substitute any seed in a manner that defeats the purpose of this chapter.

Amended by Chapter 355, 2018 General Session

**4-16-203 Inspection -- Samples -- Analysis -- Seed testing facilities to be maintained -- Rules to control offensive seeds -- Notice of offending seeds -- Warrants.**

- (1)
  - (a) The department shall periodically enter public or private premises from which seeds are distributed, offered, or exposed for sale to sample, inspect, analyze, and test agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting distributed within this state to determine compliance with this chapter.
  - (b) To perform the duties specified in Subsection (1)(a), the department shall:
    - (i) establish and maintain facilities for testing the purity and germination of seeds;
    - (ii) prescribe by rule uniform methods for sampling and testing seeds; and
    - (iii) establish fees for rendering service.
- (2) The department shall prescribe by rule weed seeds and noxious weed seeds and fix the tolerances permitted for those offensive seeds.
- (3)
  - (a) If a seed sample, upon analysis, fails to comply with this chapter, the department shall give written notice to that effect to any person who is distributing, offering, or exposing the seeds for sale.
  - (b) Notwithstanding Subsection (3)(a), nothing in this chapter shall be construed as requiring the department to refer minor violations for criminal prosecution or for the institution of condemnation proceedings if it believes the public interest will best be served through informal action.
- (4) The department may proceed immediately, if admittance is refused, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

Renumbered and Amended by Chapter 345, 2017 General Session

**Part 3  
Enforcement**

**4-16-301 Enforcement -- Stop sale, use, or removal authorized -- Court action -- Procedures -- Costs.**

- (1)
  - (a) The department may issue a "stop sale, use, or removal order" to the distributor, owner, or person in possession of any designated agricultural, vegetable, flower, or tree and shrub seed or seeds for sprouting or lot of seed which it finds or has reason to believe violates this chapter.
  - (b) The order shall be in writing and no seed subject to it shall be moved, offered, or exposed for sale, except upon subsequent written release by the department.
  - (c) Before a release is issued, the department may require the distributor or owner of the "stopped" seed or lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.
- (2)

- (a) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of any seed which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of this chapter.
  - (b) No bond may be required of the department in an injunctive proceeding brought under this section.
- (3)
- (a) If condemnation is ordered, the seed shall be disposed of as the court directs.
  - (b) The court may not order condemnation without giving the claimant of the seed an opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the seed into conformance, or for permission to remove it from the state.
  - (c) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the seed.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-16-302 False or misleading advertising with respect to seed quality prohibited.**

Unless agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting sold, advertised, or exposed or offered for sale in this state for propagation or planting have been registered or certified by an officially recognized seed certifying agency approved and accredited in this state, a person may not:

- (1) use orally or in writing:
  - (a) the term "foundation," "registered," or "certified" seed along with other words; or
  - (b) any other term or form of words which suggests that the seed has been certified or registered by an inspection agency duly authorized by any state, or that there has been registration or certification, or either; or
- (2) use any tags similar to registration or certification tags.

Renumbered and Amended by Chapter 345, 2017 General Session

**4-16-303 Distributors of seed to keep record of each lot of seed distributed.**

- (1) Each person whose name appears on the label of agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting shall keep:
  - (a) a complete record of each lot of agricultural, vegetable, flower, tree and shrub seed or seeds for sprouting distributed in this state for a period of two years; and
  - (b) a file sample of each lot of seed for a period of one year after final disposition of the lot.
- (2) The records and samples pertaining to the distribution of the seeds shall be available to the department for inspection during regular business hours.

Renumbered and Amended by Chapter 345, 2017 General Session

**Part 4  
Testing**

**4-16-401 Designation of official testing agency for certification of seed.**

- (1) The agricultural experiment station at Utah State University is designated as the official state agency responsible for the production, approval, and testing of foundation seeds in this state.

- (2) This agency shall perform all functions necessary for seed certification including the determination of the adaptability of established and new crop varieties for planting in this state, whether produced in this state or elsewhere, and the determination of eligibility of crop varieties for registration and certification in the state.
- (3) In performing its responsibility, the experiment station may contract, subject to available funds, upon such terms and conditions as it considers appropriate with a private seed certifying agency.

Renumbered and Amended by Chapter 345, 2017 General Session

## **Part 5 Exemption**

### **4-16-501 Chapter does not apply to seed not intended for sowing, to seed at seed processing plant, or to seed transported or delivered for transportation in the ordinary course of business.**

- (1) This chapter does not apply to:
  - (a) seed or grain not intended for sowing;
  - (b) subject to Subsection (2), seed at, or consigned to, a seed processing or cleaning plant; or
  - (c) to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier.
- (2) Any label or other representation which is made with respect to seed described in Subsection (1)(b) that is made with respect to the uncleaned or unprocessed seed is subject to this chapter.
- (3) A carrier described in Subsection (1)(c) may not be engaged in producing, processing, or marketing agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting.

Amended by Chapter 354, 2020 General Session