

STATE OF NEW YORK

5309

2017-2018 Regular Sessions

IN SENATE

March 20, 2017

Introduced by Sen. RITCHIE -- (at request of the Department of Agriculture and Markets) -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, in relation to the inspection and sale of seeds, agricultural liming materials and commercial fertilizer

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivisions 2 and 7 of section 136 of the agriculture and
2 markets law, subdivision 2 as added by chapter 631 of the laws of 1955
3 and subdivision 7 as amended by chapter 592 of the laws of 2003, are
4 amended to read as follows:

5 2. The term "seed" means botanical structures used for planting
6 purposes and commonly referred to as "seed" within this state. This
7 includes potato tubers [~~of the Irish potato~~] when such tubers are
8 represented as being suitable for planting purposes.

9 7. The term "noxious weed seeds" [~~includes seeds of bindweed (Convolvulus arvensis), quackgrass (Elytrigia repens), Canada thistle (Cirsium arvense), bedstraw (Galium spp.), dodder (Cuscuta spp.), horse nettle (Solanum carolinense), wild onion (Allium canadense and A. vineale), corn cockle (Agrostemma githago), and Russian knapweed (Acroptilon repens)~~] are those weed seeds which are objectionable in agriculture crops, lawns, and gardens of this state and which can be controlled by good agricultural practices or the use of herbicides. Noxious weeds and the number of such noxious weed seeds allowable per pound of seed shall be established in regulation by the commissioner.

19 § 2. Section 136 of the agriculture and markets law is amended by
20 adding two new subdivisions 22 and 23 to read as follows:

21 22. "Mulch" means a protective covering of any suitable substance
22 placed with seed which acts to retain sufficient moisture to support
23 seed germination and sustain early seedling growth and aid in the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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prevention of the evaporation of soil moisture, the control of weeds, and the prevention of erosion.

23. "Mixture," "mix," or "mixed" means seed consisting of more than one kind, each in excess of five percent by weight of the whole.

§ 3. Paragraph 2 of subdivision C of section 137 of the agriculture and markets law, as amended by chapter 160 of the laws of 1983, is amended to read as follows:

2. Where more than one agricultural seed component is named, the word mixture, mix, or ~~[the word]~~ mixed shall be shown conspicuously on the label.

§ 4. Paragraph 1 of subdivision D of section 137 of the agriculture and markets law, as added by chapter 631 of the laws of 1955 and clause 3 of subparagraph (b) as amended by chapter 592 of the laws of 2003, is amended to read as follows:

1. For vegetable seeds in packets for use in home gardens or household plantings or vegetable seeds in pre-planted containers, mats, tapes, or other planting devices and for peas, beans, and sweet corn in containers of one pound or less, and other kinds of vegetable seeds in containers of one-quarter pound or less

(a) Name of kind and variety of seed;

(b) Lot identification, such as by lot number or other means;

(c) The calendar month and year the germination test was completed and the statement "Sell by _____", which may be no more than 12 months from the date of test, exclusive of the month of test; or

the year for which the seed was packaged for sale as "Packed for _____" and the statement "Sell by _____", which shall be for a calendar year; or

the percentage germination and the calendar month and year the test was completed to determine such percentage provided that the germination test must have been completed within 12 months, exclusive of the month of test;

(d) For seeds which germinate less than the standard last established by the commissioner under this article;

(1) Percentage of germination, exclusive of hard seed;

(2) Percentage of hard seed, if present;

(3) The calendar month and year the test was completed and the statement "Sell by _____," which may be ~~[not]~~ not more than twelve months from the date of test, exclusive of the month of test, or the percentage germination and the calendar month and year the test was completed to determine such percentage, provided that the germination test must have been completed within twelve months, exclusive of the month of test~~[-];~~ and

(4) The words "below standard" in not less than eight-point type.

§ 5. Subparagraph (c) of paragraph 1 of subdivision E of section 137 of the agriculture and markets law is relettered subparagraph (d) and a new subparagraph (c) is added to read as follows:

(c) The calendar month and year the germination test was completed and the statement "Sell by _____", which may be no more than 12 months from the date of test, exclusive of the month of test; or

the year for which the seed was packaged for sale as "Packed for _____" and the statement "Sell by _____", which shall be for a calendar year; or

the percentage germination and the calendar month and year the test was completed to determine such percentage, provided that the germination test must have been completed within 12 months exclusive of the month of test.

§ 6. Section 137 of the agriculture and markets law is amended by adding a new subdivision I to read as follows:

1. For combination seed and fertilizer products. 1. The word "combination" followed by the words "seed-fertilizer" must appear on the upper thirty percent of the principal display panel. The word "combination" must be the largest and most conspicuous type on the container, equal to or larger than the product name. 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".

2. On the analysis label, the percentage by weight of the fertilizer in the container shall be listed on a separate line as a component of the inert matter.

§ 7. Subdivision B of section 138 of the agricultural and markets law is amended by adding a new paragraph 10 to read as follows:

(10) To sell, offer, or expose for sale agricultural seed more than nine months from the date of the germination test, exclusive of the month of the test.

§ 8. The second undesignated paragraph of section 142 of the agriculture and market laws, as added by chapter 631 of the laws of 1955, is amended to read as follows:

The commissioner may, through promulgation of regulations, add to, or subtract ~~[from, the list of]~~ noxious weed seeds ~~[set forth in]~~ from definition seven, section one hundred thirty-six of this article, whenever he finds, after public hearing, that such addition or subtraction is in the best interests of the agriculture of this state.

§ 9. The agriculture and markets law is amended by adding a new section 142-a to read as follows:

§ 142-a. Stop sale orders. The commissioner may issue and enforce a written or printed "stop sale, use or removal" order to the owner or custodian of any lot of seed when the commissioner finds that seed is being offered or exposed for sale in violation of any of the provisions of this article, and require the owner or custodian to hold the seeds at a designated place until either: (1) the law has been complied with and said seed is released by the commissioner in writing; or (2) said violation has been otherwise legally disposed of by written authority. The commissioner shall release the seed so withdrawn when the requirements of the provisions of this article have been complied with.

§ 10. Subdivisions 1 and 3 of section 142-gg of the agriculture and markets law, as amended by chapter 251 of the laws of 1999, are amended to read as follows:

1. It shall be the duty of the commissioner or his or her duly authorized agent to sample and analyze each different brand of agricultural liming material distributed within the state, to such an extent as he or she may deem necessary to determine compliance with the provisions of this article.

~~[A sample to be designated official shall be one taken in the presence of the supplier or a person responsible to the supplier. Such sample shall, in the presence of the witness, be divided into two representative samples, each sealed, and one of such sealed samples shall be tendered, and if accepted, delivered to the witness; the other sealed sample the commissioner shall analyze or cause to be analyzed.]~~

The methods of sampling and analysis shall be those the commissioner may require by regulation and be based on methods adopted by the AOAC International.

3. The commissioner shall ~~[publish or cause to be published at least annually]~~ maintain an annual record of, and make available upon request,

1 the results of all analyses [~~indicating~~] with respect to the information
2 required to be shown on labels and statements pursuant to section one
3 hundred forty-two-cc of this article and such other information as the
4 commissioner shall deem advisable.

5 § 11. Subdivision b of section 143 of the agriculture and markets law,
6 as added by chapter 695 of the laws of 1974, is amended to read as
7 follows:

8 b. The term "specialty fertilizer" shall mean a commercial fertilizer
9 distributed primarily for non-farm use, [~~such as home gardens, lawns,~~
10 ~~shrubbery, flowers, golf courses, municipal parks, cemeteries, green-~~
11 ~~houses and nurseries, and such other use~~] as the commissioner may define
12 by regulation.

13 § 12. Section 143 of the agriculture and markets law is amended by
14 adding a new subdivision t to read as follows:

15 t. The term "AOAC International" means the globally recognized, inde-
16 pendent, third party, not-for-profit association and voluntary consensus
17 standards developing organization whose standards are used globally to
18 promote trade and to facilitate public health and safety.

19 § 13. Subdivision (c) of section 146 of the agriculture and markets
20 law, as amended by chapter 251 of the laws of 1999, is amended to read
21 as follows:

22 (c) The licensee shall inform the [~~director~~] commissioner in writing
23 of additional distribution points established during the period of the
24 license.

25 § 14. Section 146-a of the agriculture and markets law, as added by
26 chapter 695 of the laws of 1974, is amended to read as follows:

27 § 146-a. Inspection, sampling, analysis. a. It shall be the duty of
28 the commissioner, who may act through his authorized agent, to sample,
29 inspect, and analyze commercial fertilizers distributed within this
30 state at such time and place and to the extent he may deem necessary to
31 determine whether such commercial fertilizers are in compliance with the
32 provisions of this act. [~~A sample to be designated an official sample~~
33 ~~shall be divided into two representative samples, each sealed, and one~~
34 ~~of such sealed samples shall be tendered, and if accepted, delivered to~~
35 ~~the custodian of the product, the other sample the commissioner shall~~
36 ~~analyze or cause to be analyzed.~~] The methods of sampling and analysis
37 shall be those the commissioner may require by regulation and [~~which~~
38 ~~may~~] be based on methods [~~recommended in publications such as that of~~
39 ~~the association of official analytical chemists~~] adopted by the AOAC
40 International.

41 b. The results of the analysis of such sample shall be reported to the
42 licensee within ninety days of the date of sampling and the commissioner
43 shall publish or cause to be published at least annually a summary of
44 all analyses made, together with such additional information as circum-
45 stances advise.

46 § 15. Subdivision (b) of section 146-b of the agriculture and markets
47 law, as added by chapter 695 of the laws of 1974, is amended to read as
48 follows:

49 (b) A commercial fertilizer shall be deemed to be adulterated:

50 (1) if it contains any deleterious or harmful ingredient in sufficient
51 amount to render it injurious to beneficial plant life, animals, humans,
52 aquatic life, soil, or water when applied in accordance with directions
53 for use on the label, or if adequate warning statements or directions
54 for use, which may be necessary to protect plant life, animals, humans,
55 aquatic life, soil, or water are not shown upon the label;

1 (2) if its composition falls below or differs from that which it is
2 purported to possess by its labelling; [~~ex~~]

3 (3) if it contains unwanted crop seed or weed seed; or

4 (4) if it contains metals in amounts greater than those levels the
5 commissioner may establish by regulation, based upon the Association of
6 American Plant Food Control Officials (AAPFCO) - Statement of Uniform
7 Interpretation and Policy - statement number 25.

8 § 16. This act shall take effect on the one hundred twentieth day
9 after it shall have become a law, provided that any rule or regulation
10 necessary for the timely implementation of this act on its effective
11 date may be promulgated on or before such date.