

plates as it deems necessary and proper, and for just cause may revoke, recall or prohibit the use of any plate issued under this section.

Approved May 24, 1946.

Chap. 377 AN ACT REGULATING THE SALE OF AGRICULTURAL, VEGETABLE AND FLOWER SEEDS.

Be it enacted, etc., as follows:

G. L. (Ter. Ed.), 94, § 1, etc., amended.

SECTION 1. Section one of chapter ninety-four of the General Laws, as amended, is hereby further amended by striking out the definitions of "Agricultural seeds" or "agricultural seed", "Vegetable seeds", "Noxious weed seeds" and "Weed seeds", all as appearing in section one of chapter three hundred and sixty-three of the acts of nineteen hundred and thirty-eight.

G. L. (Ter. Ed.), §§ 261A to 261L, inclusive, amended.

Definitions.

SECTION 2. Said chapter ninety-four is hereby further amended by striking out sections two hundred and sixty-one A to two hundred and sixty-one L, inclusive, as amended, and inserting in place thereof the eleven following sections: — *Section 261A.* The following words, as used in sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive, unless the context otherwise requires, shall have the following meanings: —

The term "agricultural seeds" shall include the seeds of grass, forage, cereal, mangel beets and fiber crops and any other kinds of seeds commonly recognized within the commonwealth as agricultural or field seeds, and mixtures of such seeds.

The term "vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in the commonwealth.

The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within the commonwealth, and shall include noxious-weed seeds.

Noxious-weed seeds are hereby divided into two classes, "Primary noxious-weed seeds" and "Secondary noxious-weed seeds", as hereinafter defined; provided, that the commissioner of agriculture, in this section and sections two hundred and sixty-one B to two hundred and sixty-one K, inclusive, called the commissioner, may add to or subtract from the list of seeds included under either definition whenever he finds, after public hearing, that such additions or subtractions are within the respective definitions.

(1) "Primary noxious-weed seeds" shall mean the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in the commonwealth by ordinary good cultural practice; and shall include the seeds of: — Canada thistle (*Cirsium Arvense*), field bind-weed (*Convolvulus Arvensis*), and quack grass (*Agropyron repens*).

(2) "Secondary noxious-weed seeds" shall mean the seeds of such weeds as are very objectionable in fields, lawns or gardens of the commonwealth, but can be controlled by good cultural practice; and shall include the seeds of dodder (*Cuscuta* Spp.), horse nettle (*Solanum Carolinense*), wild mustards (*Brassica* Spp.), wild garlic and wild onion (*Allium* Spp.), perennial sow thistle (*Sonchus Arvensis*), corncockle (*Agrostemima Githago*), buckhorn plantain (*Plantago Lanceolata*), and wild radish (*Raphanus Raphanistrum*).

The term "labeling" shall include all labels, and other written, printed or graphic representations, in any form, accompanying and pertaining to any seed, whether in bulk or in containers, and shall include invoices.

The term "advertisement" shall mean all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of said sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive.

Section 261B. Except as otherwise provided in section two hundred and sixty-one D, each container of agricultural, vegetable or flower seed which is sold, offered for sale or exposed for sale within the commonwealth for sowing purposes shall bear thereon, or have attached thereto in a conspicuous place on one side of a plainly written or printed label or tag, in the English language the following information: —

Containers of agricultural, vegetable or flower seeds to be mailed or tagged with certain information as to contents.

1. *Agricultural Seeds.* — (a) The commonly accepted name and variety of each agricultural seed component in excess of five per cent of the whole, and the percentage by weight of each in the order of its predominance; provided, that in the case of barley, buckwheat, oats, rye and wheat, when the variety thereof is unknown, the label or tag shall have printed thereon the words "Variety Unknown". When more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(b) The lot number or other lot identification.

(c) The origin, if known, of alfalfa, red clover and field corn (except "hybrid corn"). If the origin is unknown, that fact shall be stated.

(d) The percentage by weight of all weed seeds.

(e) The name and approximate number of each kind of secondary noxious-weed seed, per ounce in groups (A) and (B) of this subsection, and per pound in groups (C) and (D) thereof, when present singly or collectively in excess of: —

(A) One seed or bulblet in each five grams of *Agrostis* spp., *Poa* spp., Rhodes grass, Bermuda grass, timothy, orchard grass, fescues except meadow fescue, alsike and white clover, reed canary grass, Dallis grass and other agricultural seeds of similar size and weight, or mixtures within this group.

(B) One seed or bulblet in each ten grams of ryegrass,

meadow fescue, foxtail millet, alfalfa, red clover, sweet clovers, lespedezas, smooth brome, crimson clover, Brassica spp., flax, Agropyron spp., and other agricultural seeds of similar size and weight, or mixtures within this group, or of this group with (A).

(C) One seed or bulblet in each twenty-five grams of proso, Sudan grass and other agricultural seeds of similar size and weight, or mixtures not specified in (A), (B) or (D).

(D) One seed or bulblet in each one hundred grams of wheat, oats, rye, barley, buckwheat, sorghums except Sudan grass, vetches and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group.

(f) The percentage by weight of agricultural seeds other than those required to be named on the label.

(g) The percentage by weight of inert matter.

(h) For each named agricultural seed, (a) the percentage of germination, exclusive of hard seed; (b) the percentage of hard seed, if present; and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement "total germination and hard seed" may be stated as such.

(i) The name and address of the person who labeled such seed or who sells or offers or exposes for sale such seed within the commonwealth.

2. *Vegetable Seeds.* — (a) The kind of seed and variety.

(b) For seed that germinate less than the standard last adopted by the director of the Massachusetts agricultural experiment station and approved by the commissioner under section two hundred and sixty-one I: percentage of germination, exclusive of hard seed; percentage of hard seed, if present; the calendar month and year the test was completed to determine such percentages; and the words "Below Standard" in not less than eight-point type.

(c) The name and address of the person who labeled such seed or who sells or offers or exposes for sale such seed within the commonwealth.

3. *Flower Seeds.* — (a) Kind of seed and variety.

(b) The name and address of the person who labeled such seed or who sells or offers or exposes for sale such seed within the commonwealth.

Section 261C. (a) Except as otherwise provided in section two hundred and sixty-one D, no person shall sell, offer for sale or expose for sale any agricultural, vegetable or flower seed within the commonwealth: —

(1) Unless the test to determine the percentage of germination required by section two hundred and sixty-one B was completed within a nine-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, that the records of such tests shall be available to the commissioner or his duly authorized assistants for a period of at least one year from date of test.

(2) Not labeled in accordance with the provisions of sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive, or having a false or misleading labeling.

(3) Pertaining to which there has been a false or misleading advertisement.

(4) Containing primary noxious-weed seeds subject to tolerances and methods of determination prescribed in the regulations made under said sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive.

(b) No person shall, within the commonwealth: —

(1) Detach, alter, deface or destroy any label provided for in said sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive, or the regulations promulgated thereunder, or alter or substitute seed, in a manner that may defeat the purposes of said sections.

(2) Disseminate any false or misleading advertisement concerning agricultural, vegetable or flower seed.

(3) Hinder or obstruct any authorized person in the performance of his duties under said sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive.

(4) Fail to comply with an official order to withhold from sale certain seeds as provided in section two hundred and sixty-one F.

Section 261D. (a) Sections two hundred and sixty-one B and two hundred and sixty-one C shall not apply — Exemptions.

(1) To seed or grain not intended for sowing purposes.

(2) To seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing; provided, that any labeling or other representation made with respect to the unclean seed shall be subject to sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive.

(b) No person shall be subject to the penalties of sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive, for having sold or offered or exposed for sale in the commonwealth any agricultural, vegetable or flower seeds which were incorrectly labeled or represented as to kind, variety or origin, which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind, variety and origin, if required, and to take such other precautions as may be necessary to insure the identity to be that stated.

Section 261E. The commissioner and his duly authorized assistants shall have authority to enforce said sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive, and to prosecute all violations thereof. Before any prosecution is begun by said commissioner or any of his duly authorized assistants, the parties concerned shall be given an opportunity to be heard before said commissioner or a person designated by him for such purpose. The parties concerned shall be given a reasonable notice of the hearing, specifying Enforcement of provisions.

the day, hour and place thereof, and accompanied by a description of the alleged violation.

Access to stores, etc.

Taking of samples for analysis, etc.

Section 261F. (a) The commissioner, either in person or his assistants, shall have free access at all reasonable hours to each building or other place where agricultural seeds or mixtures thereof, vegetable seeds or flower seeds are stored, sold or offered or exposed for sale, for the purpose of inspection of such seeds, and, upon tendering the market price, may take samples of such agricultural, vegetable and flower seeds or mixtures thereof for tests and analyses. Such samples shall be thoroughly mixed and two official samples taken therefrom; each official sample shall be securely sealed. Such official samples shall be submitted by said commissioner or his duly authorized assistants to the director of the Massachusetts agricultural experiment station, in this section and in sections two hundred and sixty-one G to two hundred and sixty-one K, inclusive, called the director, for testing and analyzing. One of such samples shall be held by the director or his duly authorized assistant at the disposal of the person named on the label as the vendor of the agricultural seed samples, for six months after the results of the analysis have been reported, as provided in section two hundred and sixty-one H, and the other sample retained by the director or such assistant for analysis.

(b) The commissioner shall co-operate with the United States Department of Agriculture in seed law enforcement.

(c) The commissioner may order that any agricultural seeds or mixtures thereof, vegetable seeds or flower seeds, the containers of which he finds are not tagged or labeled as provided in section two hundred and sixty-one B, or which do not conform to the statements made upon the tags or labels attached to the containers thereof, be withheld from sale until properly tagged or labeled or until made to conform to the statements made upon the tags or labels attached to the containers thereof. Any person aggrieved by such an order may, within ten days after the entry thereof, appeal therefrom by petition to the superior court in the county where he resides or has his usual place of business or in the county of Suffolk. The court shall hear such petition speedily in accordance with the usual course of procedure in equity, and may affirm, modify or revoke such order. Such order shall remain in force until so modified or revoked.

Seizure of seeds.

Section 261G. Any lot of agricultural, vegetable or flower seed not in compliance with the provisions of sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive, shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which the seed is located. If the court finds the seed to be in violation of said sections, and orders the condemnation of such seed, it shall be denatured, processed, destroyed, re-labeled or otherwise disposed of in compliance with the laws of the commonwealth; provided, that the court shall not order such disposition of such seed without first having given

the claimant an opportunity to apply to the court for the release of such seed or permission to process or relabel it to bring it into compliance with said sections.

Section 261H. The director shall cause such tests and analyses as he may specify to be made of samples collected under section two hundred and sixty-one F in order to determine the quality of the seeds contained in such samples. The results of all such analyses shall be reported to the commissioner. To enable the director to determine the trueness to type or variety of vegetable and other seeds he shall provide that field tests be made of such samples of seeds as he may designate, and may publish the results of all such tests and analyses as are made in accordance with the provisions of this section.

Analyses
and tests.

Section 261I. The director, after a reasonable notice and hearing, and with the approval of the commissioner, shall adopt vegetable seed germination standards, prescribe rules and regulations from time to time, and in like manner modify or amend rules and regulations governing the methods of sampling, inspecting, analyzing, testing and examining agricultural, vegetable and flower seed and the tolerances to be followed in the administration of sections two hundred and sixty-one A to two hundred and sixty-one K, inclusive, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of said sections.

Rules and
regulations.

Section 261J. Any person residing or doing business in the commonwealth may submit to the director samples of seeds for test and analysis, subject to such rules and regulations as may be adopted by the director, including a reasonable charge or fee for such test and analysis. Receipts under this section shall be paid into the state treasury.

Test and
analysis of
seeds for
persons
authorized.

Section 261K. Whoever sells, offers or exposes for sale any lot of agricultural seeds or mixtures thereof or vegetable seeds or flower seeds, without complying with the requirements of sections two hundred and sixty-one A to two hundred and sixty-one J, inclusive, applicable thereto, or in violation of any order, under section two hundred and sixty-one F, of the commissioner, or of the superior court if an appeal is taken, or whoever falsely marks or labels any such seed or mixture or impedes, obstructs or hinders the commissioner or any of his duly authorized agents, or the director or any of his duly authorized assistants, in the discharge of the authority or duties conferred or imposed by any provision of said sections, shall be punished by a fine of not more than five hundred dollars. *Approved May 24, 1946.*

Penalty.