

As Reported by the House Agriculture Committee

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H. B. No. 364

Representatives Dobos, Klopfenstein

**Cosponsors: Representatives Carruthers, Gross, Hillyer, Hoops, McClain, Jones,
Miller, J.**

A BILL

To amend sections 907.01, 907.09, and 4959.11 of 1
the Revised Code to exempt certain non- 2
commercial seed sharing activities from the laws 3
governing seed labeling, inspection, and 4
advertising and to alter the requirements 5
specifying which noxious weeds must be destroyed 6
on a toll road, railroad, or electric railway. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 907.01, 907.09, and 4959.11 of 8
the Revised Code be amended to read as follows: 9

Sec. 907.01. As used in sections 907.01 to 907.17 of the 10
Revised Code: 11

(A) "Advertisement" means any representation, other than 12
that on a label, disseminated in any manner or by any means. 13

(B) "Agricultural seed" means the seed of grass, native 14
grass, forage, cereal, field and fiber crops, any other kinds of 15
seed commonly recognized in this state as agricultural or field 16
seed, lawn seed, and mixtures or blends of such seed. 17

(C) "Certifying agency" means an agency authorized by the laws of a state or a foreign country to certify officially seed, tubers for seeding purposes, or plants for varietal identification or for other factors and, in the case of seed, an agency determined by the United States secretary of agriculture to follow procedures and standards of seed certification comparable to those generally followed by seed certifying agencies that are members of the association of official seed certifying agencies.

(D) "Germination" means the emergence and development from seed embryos of those structures that indicate the capability of producing normal seedlings under ordinarily favorable conditions as determined by methods prescribed by rules of the association of official seed analysts.

(E) "Hard seed" means seed that, because of impermeability, does not absorb moisture or germinate, but remains hard during the period of germination prescribed for that particular kind of seed.

(F) "Hermetically sealed" means that the container used does not allow water vapor penetration through any wall, including the seals, greater than five one-hundredths grams of water per twenty-four hours per one hundred square inches of surface at one hundred degrees Fahrenheit with a relative humidity on one side of ninety per cent and on the other side of zero per cent.

(G) "Hybrid" means the first generation seed of a cross produced by controlling the pollination and by combining:

- (1) Two or more inbred lines;
- (2) One inbred or a single cross with an open-pollinated

variety;	47
(3) Two varieties or species, except open-pollinated varieties of corn (Zea Mays).	48 49
The second generation and subsequent generations from such crosses shall not be regarded as hybrids.	50 51
(H) "In bulk" or "bulk" means loose in vehicles or bins.	52
(I) "Inert matter" means all matter not seeds, including broken seeds, sterile florets, chaff, fungus bodies, and stones.	53 54
(J) "Kind," in reference to seed, means one or more related species or subspecies that, singly or collectively, are known by one common name, for example, soybeans, oats, alfalfa, or timothy.	55 56 57 58
(K) "Label" means a tag or other device that is attached to or written, stamped, or printed on any container of seed or that accompanies any lot of bulk seed and that describes the kind of seed together with any other information required by law. "Label" includes an invoice under which any seed is imported into the state.	59 60 61 62 63 64
(L) "Lot of seed" means a definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, as to the factors that appear on the label.	65 66 67 68
(M) "Mixture" means seed consisting of more than one kind, each of which is present in excess of five per cent of the whole.	69 70 71
(N) "Origin" means a state, the District of Columbia, Puerto Rico, a possession of the United States, or a foreign country, or designated portion thereof, where grown.	72 73 74

(O) "Other crop seed" means agricultural seed commingled	75
with the kind, or kind and variety, of seed under consideration,	76
but less than five per cent by weight of the lot.	77
(P) "Person" means any individual, partnership,	78
corporation, company, society, association, public agency,	79
receiver, trustee, or agent.	80
(Q) "Place of business" means any location, including any	81
vehicle, where seed is sold, processed, conditioned, or stored.	82
(R) "Prohibited noxious weeds" means weeds that reproduce	83
by seed, spread by roots, underground stems, or other	84
reproductive parts, and, when established, are highly	85
destructive and difficult to control.	86
(S) "Processing" or "conditioning" means cleaning to	87
remove chaff, sterile florets, immature seeds, weed seeds, inert	88
matter, and other crop seeds, scarifying, blending to obtain	89
uniform quality, or any other operation that would change the	90
purity or germination of the seed and therefore require	91
retesting to determine the quality of the seed. "Processing" or	92
"conditioning" does not include such operations as packaging,	93
labeling, blending uniform lots of the same kind or variety	94
without cleaning, or preparing a mixture without cleaning, any	95
of which would not require retesting to determine the quality of	96
the seed.	97
(T) "Pure seed" means agricultural, vegetable, or flower	98
seed free of inert matter and free of other seed distinguishable	99
by appearance or by test.	100
(U) "Records" means the complete data, including	101
representative samples, concerning each lot of agricultural,	102
vegetable, or flower seed that is sold. "Records" includes	103

information about the seed's source of purchase and origin; the 104
results of germination tests; the results of purity tests 105
regarding the amount of pure seed, inert matter, crop seed, weed 106
seed, and noxious weed seed contained in the lot of seed; and 107
information concerning the processing and disposition of the 108
seed. 109

(V) "Screenings" means chaff, sterile florets, immature 110
seed, inert matter, weed seed, or any other matter removed from 111
seed in any kind of processing and that contains less than 112
twenty-five per cent by weight of live agricultural, vegetable, 113
or flower seed. 114

(W) "Restricted noxious weeds" means weeds that are 115
objectionable in fields, lawns, or gardens, but that can be 116
controlled by good cultural practices. 117

(X) "Sell" or "sold" includes: 118

(1) Transferring ownership, offering or exposing for sale, 119
exchanging, distributing, giving away, or transporting in this 120
state; 121

(2) Storing, carrying, or handling in aid of traffic in 122
this state, whether in person or through an agent, employee, or 123
others; 124

(3) Receiving, accepting, or holding on consignment for 125
sale. 126

(Y) "Germination standard," as applied to vegetable or 127
flower seed, means the minimum percentage of germination 128
established by the director of agriculture for any kind or 129
variety of seed. 130

(Z) "Tolerance" means the allowable deviation from any 131

percentage, fraction, or rate of occurrence stated on the label 132
of a lot of seed. Tolerance is based on the law of normal 133
variation from a mean. 134

(AA) "Type" means either a group of varieties so nearly 135
similar that the individual varieties cannot be clearly 136
differentiated except under special conditions or, when used 137
with a variety name, seed of that variety that may be mixed with 138
seed of other varieties of the same kind and of similar 139
character. In either case, ninety per cent of the pure seed 140
shall be of the variety or group of varieties named or, upon 141
growth, shall produce plants having characteristics similar to 142
the variety or group of varieties named. 143

(BB) "Variety" means a subdivision of a kind that is 144
characterized by growth, plant, fruit, seed, or other 145
characteristics by which it can be differentiated from other 146
sorts of the same kind. 147

(CC) "Vegetable seed" means the seed of any crop that is 148
grown in gardens or on truck farms and is generally known and 149
sold in this state under the name of vegetable seed or herb 150
seed. 151

(DD) "Weed seed" means the seed and bulblets of all plants 152
generally recognized in this state as weeds, including 153
prohibited noxious weeds and restricted noxious weeds. 154

(EE) "Coated agricultural seed" means an agricultural seed 155
with a film or layer applied to the seed that is greater than 156
one per cent of the net weight, for purposes of, including, but 157
not limited to, accurate seeding, nitrogen fixation, nutrient 158
improvement, or protection from insects and pathogens. "Coated 159
agricultural seed" does not include seeds treated with dusts or 160

liquids that are virtually unmeasurable using association of 161
official seed analysts rules. 162

(FF) "Combination seed-mulch product" means any product 163
containing both seeds and a natural or artificial substance that 164
is applied to the soil surface for the purpose of promoting seed 165
germination through moisture retention, maintaining soil 166
temperature, or preventing erosion, and may contain fertilizer. 167

(GG) "Blend" means seed that consists of more than one 168
variety of a kind, with each variety representing more than five 169
per cent by weight of the whole. 170

(HH) "Flower seed" means the seed of herbaceous plants 171
grown for their blooms, ornamental foliage, or other ornamental 172
parts and commonly known as and sold under the name of flower 173
seed. 174

(II) "Pure live seed" means the sum of seed's percentage 175
of germination plus the percentage of hard seed or dormant seed, 176
multiplied by the percentage of pure seed, the product of which 177
is divided by one hundred. The result is expressed as a whole 178
number. Expressed as an equation, the definition of "pure live 179
seed" is as follows: (percentage of germination plus percentage 180
of hard seed or dormant seed) multiplied by the percentage of 181
pure seed equals (product) divided by one hundred equals pure 182
live seed. 183

(JJ) "Cool season grass seed" means the agricultural seed 184
of Kentucky bluegrass, red fescue, chewings fescue, hard fescue, 185
tall fescue, perennial ryegrass, intermediate ryegrass, annual 186
ryegrass, colonial bentgrass, creeping bentgrass, and mixtures 187
or blends containing only those grass seeds. 188

(KK) "Native grass" has the meaning established in rules 189

adopted under section 907.10 of the Revised Code. 190

(LL) "Class of seed" means a classification of seed that 191
is established using the standards and procedures established by 192
the association of official seed certifying agencies and that 193
designates seed as breeder, foundation, registered, or certified 194
seed. 195

(MM) "Container" means a packet, bag, box, tape, tube, 196
envelope, pre-planted device, mat, or other device used to 197
contain seed, except that "container" does not include a vehicle 198
or bin used to contain bulk seed. 199

(NN) "Dormant seed" means viable seed, excluding hard 200
seed, that fails to germinate when provided with the specified 201
germination conditions for that kind of seed. 202

(OO) "Non-commercial seed sharing" means the distribution 203
or transfer of ownership of seeds with no compensation or 204
remuneration. "Non-commercial seed sharing" does not include the 205
distribution or transfer of seeds to which any of the following 206
apply: 207

(1) The seeds are given as compensation for work or 208
services rendered. 209

(2) The seeds are collected outside of this state. 210

(3) The seeds are patented, treated, or contain noxious 211
weed species or invasive plants. 212

(PP) "Seed library" means a non-profit, governmental, or 213
cooperative organization or association to which both of the 214
following apply: 215

(1) It is established for the purpose of facilitating the 216
donation, exchange, preservation, and dissemination of seeds 217

<u>among the seed library's members or the general public.</u>	218
<u>(2) The use, exchange, transfer, or possession of seeds</u>	219
<u>acquired by or from the non-profit, governmental, or cooperative</u>	220
<u>organization or association are obtained free of charge.</u>	221
Sec. 907.09. (A) Sections 907.03, 907.07, and 907.08 of	222
the Revised Code do not apply to:	223
(1) Agricultural, vegetable, or flower seed not intended	224
for sowing purposes;	225
(2) Unprocessed agricultural, vegetable, or flower seed in	226
storage or being transported to or consigned to a seed	227
processing establishment, provided that the label accompanying a	228
shipment of the seed shall bear the statement "seed for	229
processing" and provided further that any label or other	230
representation that is made with respect to the unprocessed seed	231
shall be subject to sections 907.01 to 907.17 of the Revised	232
Code;	233
(3) Agricultural, vegetable, or flower seed that is in	234
interstate transport and that is governed by 7 C.F.R. 201.33;	235
<u>(4) Non-commercial seed sharing that supports any of the</u>	236
<u>following activities:</u>	237
<u>(a) Conservation of pollinators and threatened or</u>	238
<u>endangered species;</u>	239
<u>(b) Planting and creation of native plant habitats;</u>	240
<u>(c) Propagation of native plants for their specific</u>	241
<u>conservation;</u>	242
<u>(d) Operation of a seed library, provided that the seed</u>	243
<u>library ensures that any seeds exchanged among the seed</u>	244

library's members or the general public are open-pollinated, 245
public domain varieties. 246

(B) In the case of agricultural, vegetable, or flower seed 247
that is being exported in bulk or containers directly to a 248
foreign country and that is in quantities of twenty thousand 249
pounds or more regardless of the number of lots included, the 250
labeling requirements established under section 907.03 of the 251
Revised Code do not apply, provided that all of the following 252
requirements are satisfied: 253

(1) The omission, from each container or bulk unit, of a 254
label with the required information is done with the knowledge 255
and consent of the buyer of the seed prior to the transportation 256
or delivery for transportation of the seed in international 257
commerce. 258

(2) Each container has stenciled on it or bears a label 259
containing a lot designation, variety identification, and kind 260
identification. 261

(3) The invoice or other records accompanying and 262
pertaining to the seed bear the information concerning the 263
respective seeds that is required under section 907.03 of the 264
Revised Code. 265

(4) Records are kept available to be provided to the 266
department of agriculture upon request in order to show proof 267
that the seed is being exported to a foreign country for 268
distribution. 269

Sec. 4959.11. (A) As used in this section, "noxious weed" 270
has the same meaning as in section 5579.04 of the Revised Code. 271

(B) The superintendent or manager of a toll road, 272
railroad, or electric railway shall destroy all brush, briers, 273

burrs, vines, ~~Russian thistle, Canadian thistle, common thistle,~~ 274
~~wild lettuce, wild mustard, wild parsnip, ragweed, milkweed,~~ 275
~~ironweed,~~ and all other noxious weeds growing or being cut 276
within the limits of such toll road, railroad, or railway, or 277
within the limits of any right of way belonging to the company 278
owning such toll road, railroad, or railway, whether or not it 279
is in actual operation on such right of way, between such days 280
as are specified in section 5579.04 of the Revised Code. 281

In default of such destruction, and for five days 282
thereafter, the board of township trustees of a township through 283
which such toll road, railroad, or railway passes, shall cause 284
it to be done, and shall have a right of action against such 285
company for the amount of such work, with one hundred per cent 286
penalty and costs of action, to be recovered before any judge or 287
a county court or judge of a municipal court having jurisdiction 288
in the area in which the work was done. 289

Section 2. That existing sections 907.01, 907.09, and 290
4959.11 of the Revised Code are hereby repealed. 291