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H. B. No. 364

Representatives Dobos, Klopfenstein

Cosponsors: Representatives Carruthers, Gross, Hillyer, Hoops, McClain, Jones, Miller, J., Brennan, Click, Creech, Dell'Aquila, Demetriou, Forhan, Grim, Holmes, Isaacsohn, Lorenz, Mathews, Pavliga, Robb Blasdel, Santucci, Skindell, Thomas, C., Weinstein, Whitted, Willis

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 18
laws of a state or a foreign country to certify officially seed, 19
tubers for seeding purposes, or plants for varietal 20
identification or for other factors and, in the case of seed, an 21
agency determined by the United States secretary of agriculture 22
to follow procedures and standards of seed certification 23
comparable to those generally followed by seed certifying 24
agencies that are members of the association of official seed 25
certifying agencies. 26

(D) "Germination" means the emergence and development from 27
seed embryos of those structures that indicate the capability of 28
producing normal seedlings under ordinarily favorable conditions 29
as determined by methods prescribed by rules of the association 30
of official seed analysts. 31

(E) "Hard seed" means seed that, because of 32
impermeability, does not absorb moisture or germinate, but 33
remains hard during the period of germination prescribed for 34
that particular kind of seed. 35

(F) "Hermetically sealed" means that the container used 36
does not allow water vapor penetration through any wall, 37
including the seals, greater than five one-hundredths grams of 38
water per twenty-four hours per one hundred square inches of 39
surface at one hundred degrees Fahrenheit with a relative 40
humidity on one side of ninety per cent and on the other side of 41
zero per cent. 42

(G) "Hybrid" means the first generation seed of a cross 43
produced by controlling the pollination and by combining: 44

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| (1) Two or more inbred lines; | 45 |
| (2) One inbred or a single cross with an open-pollinated variety; | 46 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, 72
Puerto Rico, a possession of the United States, or a foreign 73
country, or designated portion thereof, where grown. 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

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| 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
agricultural seed" does not include seeds treated with dusts or
liquids that are virtually unmeasurable using association of
official seed analysts rules.

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

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

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

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

(JJ) "Cool season grass seed" means the agricultural seed
of Kentucky bluegrass, red fescue, chewings fescue, hard fescue,
tall fescue, perennial ryegrass, intermediate ryegrass, annual
ryegrass, colonial bentgrass, creeping bentgrass, and mixtures

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| or blends containing only those grass seeds. | 188 |
| (KK) "Native grass" has the meaning established in rules adopted under section 907.10 of the Revised Code. | 189 190 |
| (LL) "Class of seed" means a classification of seed that is established using the standards and procedures established by the association of official seed certifying agencies and that designates seed as breeder, foundation, registered, or certified seed. | 191 192 193 194 195 |
| (MM) "Container" means a packet, bag, box, tape, tube, envelope, pre-planted device, mat, or other device used to contain seed, except that "container" does not include a vehicle or bin used to contain bulk seed. | 196 197 198 199 |
| (NN) "Dormant seed" means viable seed, excluding hard seed, that fails to germinate when provided with the specified germination conditions for that kind of seed. | 200 201 202 |
| <u>(OO) "Non-commercial seed sharing" means the distribution or transfer of ownership of seeds with no compensation or remuneration. "Non-commercial seed sharing" does not include the distribution or transfer of seeds to which any of the following apply:</u> | 203 204 205 206 207 |
| <u>(1) The seeds are given as compensation for work or services rendered.</u> | 208 209 |
| <u>(2) The seeds are collected outside of this state.</u> | 210 |
| <u>(3) The seeds are patented, treated, or contain noxious weed species or invasive plants.</u> | 211 212 |
| <u>(PP) "Seed library" means a non-profit, governmental, or cooperative organization or association to which both of the following apply:</u> | 213 214 215 |

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| <u>(1) It is established for the purpose of facilitating the</u> | 216 |
| <u>donation, exchange, preservation, and dissemination of seeds</u> | 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 |

(d) Operation of a seed library, provided that the seed 243
library ensures that any seeds exchanged among the seed 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, briars, 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