

**As Passed by the Senate**

**135th General Assembly**

**Regular Session**

**2023-2024**

**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**

**Senators Antonio, Cirino, Craig, DeMora, Johnson, Roegner, Schaffer, Smith**



**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

(1) Two or more inbred lines; 45

(2) One inbred or a single cross with an open-pollinated 46  
variety; 47

(3) Two varieties or species, except open-pollinated 48  
varieties of corn (Zea Mays). 49

The second generation and subsequent generations from such 50  
crosses shall not be regarded as hybrids. 51

(H) "In bulk" or "bulk" means loose in vehicles or bins. 52

(I) "Inert matter" means all matter not seeds, including 53  
broken seeds, sterile florets, chaff, fungus bodies, and stones. 54

(J) "Kind," in reference to seed, means one or more 55  
related species or subspecies that, singly or collectively, are 56  
known by one common name, for example, soybeans, oats, alfalfa, 57  
or timothy. 58

(K) "Label" means a tag or other device that is attached 59  
to or written, stamped, or printed on any container of seed or 60  
that accompanies any lot of bulk seed and that describes the 61  
kind of seed together with any other information required by 62  
law. "Label" includes an invoice under which any seed is 63  
imported into the state. 64

(L) "Lot of seed" means a definite quantity of seed 65  
identified by a lot number, every portion or bag of which is 66  
uniform, within permitted tolerances, as to the factors that 67  
appear on the label. 68

(M) "Mixture" means seed consisting of more than one kind, 69  
each of which is present in excess of five per cent of the 70

whole.	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  
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 ryegrass, colonial bentgrass, creeping bentgrass, and mixtures or blends containing only those grass seeds. 186  
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(KK) "Native grass" has the meaning established in rules adopted under section 907.10 of the Revised Code. 189  
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(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  
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(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  
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(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  
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(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: 203  
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(1) The seeds are given as compensation for work or services rendered. 208  
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(2) The seeds are collected outside of this state. 210

(3) The seeds are patented, treated, or contain noxious weed species or invasive plants. 211  
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(PP) "Seed library" means a non-profit, governmental, or 213



<u>cooperative organization or association to which both of the</u>	214
<u>following apply:</u>	215
<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
<b>Sec. 907.09.</b> (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
<u>library's members or the general public are open-pollinated,</u>	245
<u>public domain varieties.</u>	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