

CHAPTER 578

SEED

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578.001 Short title.—This chapter shall be known and cited as the "Florida Seed Law."

History.—s. 1, ch. 20251, 1941; s. 1, ch. 21942, 1943; s. 1, ch. 22694, 1945; s. 2, ch. 88-75.

Note.—Former s. 578.20

578.011 Definitions; Florida Seed Law.—When used in this chapter, the term:

(1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this law.

(2) "Agricultural seed" includes the seed of grass, forage, cereal and fiber crops, and chufas and any other seed commonly recognized within the state as agricultural or field seed and mixtures of such seed.

(3) "Breeder seed" means seed that are released directly from the breeder or experiment station that develops the seed. These seed are one class above foundation seed.

(4) "Certified seed," "registered seed," and "foundation seed" mean seed that have been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of any agency authorized by the laws of this state or the laws of another state.

(5) "Date of test" means the month and year the percentage of germination appearing on the label was obtained by laboratory test.

(6) "Dealer" means any person who sells or offers for sale any agricultural, vegetable, flower, or forest tree seed for seeding purposes, and includes farmers who sell cleaned, processed, packaged, and labeled seed.

(7) "Department" means the Department of Agriculture and Consumer Services or its authorized representative.

(8) "Dormant seed" refers to seed, other than hard seed, which neither germinate nor decay during the prescribed test period and under the prescribed test conditions.

(9) "Flower seed" includes seed of herbaceous plants grown for blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower seed in this state.

(10) "Forest tree seed" includes seed of woody plants commonly known and sold as forest tree seed.

(11) "Germination" means the percentage of seed capable of producing normal seedlings under ordinarily favorable conditions. Broken seedlings and weak, malformed and obviously abnormal seedlings shall not be considered to have germinated.

(12) "Hard seed" means the percentage of seed which because of hardness or impermeability did not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned.

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

(a) Two or more inbred lines;

(b) One inbred or a single cross with an open-pollinated variety; or

(c) Two varieties or species, except open-pollinated varieties of corn (*Zea mays*).

The second generation or subsequent generations from such crosses shall not be regarded as hybrids. Hybrid designations shall be treated as variety names.

(14) "Inert matter" includes broken seed when one-half in size or less; seed of legumes or crucifers with the seed coats removed; undeveloped and badly injured weed seed such as sterile dodder which, upon visual examination, are clearly incapable of growth; empty glumes of grasses; attached sterile glumes of grasses (which must be removed from the fertile glumes except in Rhodes grass); dirt, stone, chaff, nematode, fungus bodies, and any matter other than seed.

(15) "Kind" means one or more related species or subspecies which singly or collectively is known by one common name; e.g., corn, beans, lespedeza.

(16) "Labeling" includes 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 includes invoices and other bills of shipment when sold in bulk.

(17) "Lot of seed" means a definite quantity of seed identified by a lot number or other identification, every portion or bag of which is uniform, for the factors which appear in the labeling, within permitted tolerances.

(18) "Mixed" or "mixture" means seed consisting of more than one kind or variety, each present in excess of 5 percent of the whole.

(19) "Origin" means the state, District of Columbia, Puerto Rico, or possession of the United States, or the foreign country where the seed were grown, except for

forest tree seed, with respect to which the term "origin" means the county or state forest service seed collection zone and the state where the seed were grown.

(20) "Other crop seed" includes all seed of plants grown in this state as crops, other than the kind or kind and variety included in the pure seed, when not more than 5 percent of the whole of a single kind or variety is present, unless designated as weed seed.

(21) "Processing" means conditioning, cleaning, scaring, or blending to obtain uniform quality and other operations which would change the purity or germination of the seed and, therefore, require retesting to determine the quality of the seed.

(22) "Prohibited noxious weed seed" means the seed and bulblets of perennial weeds such as not only reproduce by seed or bulblets, but also spread by underground roots or stems and which, when established, are highly destructive and difficult to control in this state by ordinary good cultural practice.

(23) "Pure seed" includes all seed of the kind or kind and variety or strain under consideration, whether shriveled, cracked, or otherwise injured, and pieces of broken seed larger than one-half the original size.

(24) "Record" includes the symbol identifying the seed as to origin, amount, processing, testing, labeling and distribution, file sample of the seed, and any other document or instrument pertaining to the purchase, sale, or handling of agricultural, vegetable, flower, or forest tree seed.

(25) "Restricted noxious weed seed" means the seed of such weeds as are very objectionable in fields, lawns, or gardens of this state, but can be controlled by good cultural practice. Seed of poisonous plants may be included.

(26) "Stop-sale" means any written or printed notice or order issued by the department to the owner or custodian of any lot of agricultural, vegetable, flower, or forest tree seed in the state, directing the owner or custodian not to sell or offer for sale seed designated by the order within the state until the requirements of this law are complied with and a written release has been issued; except that the seed may be released to be sold for feed.

(27) "Treated" means that the seed has been given an application of a material or subjected to a process designed to control or repel disease organisms, insects, or other pests attacking seed or seedlings grown therefrom to improve its planting value or to serve any other purpose.

(28) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.

(29) "Variety" means a subdivision of a kind characterized by growth, plant fruit, seed, or other characteristics by which it can be differentiated from other sorts of the same kind; e.g., Whatley's Prolific corn, Bountiful beans, Kobe lespedeza.

(30) "Vegetable seed" means the seed of those crops which are grown in gardens or on truck farms, and are generally known and sold under the name of vegetable seed in this state.

(31) "Weed seed" includes the seed of all plants generally recognized as weeds within this state, and

includes prohibited and restricted noxious weed seed, bulblets, and tubers.

History.—s. 2, ch. 22694, 1945; s. 1, ch. 57-199; s. 1, ch. 61-436; s. 1, ch. 63-116; ss. 14, 35, ch. 69-106; ss. 1, 2, 3, ch. 69-144; s. 241, ch. 71-377; s. 1, ch. 87-386; s. 22, ch. 92-143.

578.08 Registrations.—

(1) Every person, except as provided in subsection (4) and s. 578.14, before selling, distributing for sale, offering for sale, exposing for sale, handling for sale, or soliciting orders for the purchase of any agricultural, vegetable, flower, or forest tree seed or mixture thereof, shall first register with the department as a seed dealer. The application for registration shall include the name and location of each place of business at which the seed is sold, distributed for sale, offered for sale, exposed for sale, or handled for sale. The application for registration shall be accompanied by an annual registration fee for each such place of business based on the gross receipts from the sale of such seed for the last preceding license year as follows:

(a)1.	Receipts less than \$2,500.01, fee.....	\$50
2.	Receipts more than \$2,500 and less than \$5,000.01, fee	\$100
3.	Receipts more than \$5,000 and less than \$10,000.01, fee	\$175
4.	Receipts more than \$10,000 and less than \$20,000.01, fee	\$400
5.	Receipts more than \$20,000 and less than \$40,000.01, fee	\$500
6.	Receipts more than \$40,000 and less than \$70,000.01, fee	\$600
7.	Receipts more than \$70,000 and less than \$150,000.01, fee	\$800
8.	Receipts more than \$150,000 and less than \$400,000.01, fee	\$1,200
9.	Receipts more than \$400,000, fee	\$2,300

(b) For places of business not previously in operation, the fee shall be based on anticipated receipts for the first license year.

(2) A written receipt from the department of the registration and payment of the fee shall constitute a sufficient permit for the dealer to engage in or continue in the business of selling, distributing for sale, offering or exposing for sale, handling for sale, or soliciting orders for the purchase of any agricultural, vegetable, flower, or forest tree seed within the state. However, the department shall have authority to suspend or revoke any permit for the violation of any provision of this law or of any rule adopted under authority hereof. The registration shall expire on June 30 of the next calendar year and shall be renewed on July 1 of each year. If any person subject to the requirements of this section fails to comply, the department may issue a stop-sale notice or order which shall prohibit the person from selling or causing to be sold any agricultural, vegetable, flower, or forest tree seed until the requirements of this section are met.

(3) Every person selling, distributing for sale, offering for sale, exposing for sale, handling for sale, or soliciting orders for the purchase of any agricultural, vegetable, flower, or forest tree seed in the state other than as provided in s. 578.14, shall be subject to the require-

ments of this section; except that agricultural experiment stations of the State University System shall not be subject to the requirements of this section.

(4) The provisions of this chapter shall not apply to farmers who sell only uncleaned, unprocessed, unpackaged, and unlabeled seed, but shall apply to farmers who sell cleaned, processed, packaged, and labeled seed in amounts in excess of \$10,000 in any one year.

History.—s. 4, ch. 19364, 1939; CGL 1940 Supp. 4151(593); s. 8, ch. 20251, 1941; s. 8, ch. 21942, 1943; s. 8, ch. 22694, 1945; s. 1, ch. 26969, 1951; s. 2, ch. 57-199; s. 2, ch. 61-436; ss. 14, 35, ch. 69-106; s. 4, ch. 69-144; s. 6, ch. 78-95; s. 3, ch. 85-172; s. 2, ch. 87-386; s. 23, ch. 92-143; s. 24, ch. 94-335.

578.09 Label requirements.—Each container of agricultural, vegetable, or flower seed sold, offered for sale, exposed for sale, or distributed for sale within this state for sowing or planting purposes shall bear thereon or have attached thereto, in a conspicuous place, a label or labels containing all information required under this section, plainly written or printed in the English language, in century type. All data pertaining to analysis shall appear on a single label. Language setting forth the requirements for filing and serving complaints as described in s. 578.26(1)(b) shall be included on the analysis label or be otherwise attached to the package, except for packages containing less than 1,000 seeds by count.

(1) FOR TREATED SEED.—For all agricultural, vegetable, or flower seed treated as defined in this chapter:

(a) A word or statement indicating that the seed has been treated or description of process used.

(b) The commonly accepted coined, chemical or abbreviated chemical (generic) name of the applied substance and the words "poison treated" in red letters, in not less than 1/4-inch type.

(c) A caution statement such as "Do not use for food, feed, or oil purposes."

(d) Rate of application or statement "Treated at manufacturer's recommended rate."

(e) If the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).

(2) AGRICULTURAL SEED.—

(a) Commonly accepted name of kind and variety of each agricultural seed component in excess of 5 percent of the whole, and the percentage by weight of each in the order of its predominance. Where more than one component is required to be named, the word "mixture" or the word "mixed" shall be shown conspicuously on the label.

(b) Lot number or other lot identification.

(c) Net weight or seed count.

(d) Origin, if known; if unknown, that fact shall be stated.

(e) Percentage by weight of all weed seed.

(f) The name and number per pound of each kind of restricted noxious weed seed.

(g) Percentage by weight of other crop seed.

(h) Percentage by weight of inert matter.

(i) For each named agricultural seed:

1. Percentage of germination, exclusive of hard seed;

2. Percentage of hard seed when present, if desired; and

3. The calendar month and year the test was completed to determine such percentages.

(j) Name and address of the person who labeled said seed or who sells, distributes, offers, or exposes said seed for sale within this state.

(3) FOR VEGETABLE SEED IN CONTAINERS OF 8 OUNCES OR MORE.—

(a) Name of kind and variety of seed.

(b) Net weight or seed count.

(c) Lot number or other lot identification.

(d) Percentage of germination.

(e) Calendar month and year the test was completed to determine such percentages.

(f) Name and address of the person who labeled said seed or who sells, distributes, offers, or exposes said seed for sale within this state.

(g) For seed which germinate less than the standard last established by the department the words "below standard," in not less than 8-point type, must be printed or written in ink on the face of the tag, in addition to the other information required. Provided, that no seed marked "below standard" shall be sold which falls more than 20 percent below the standard for such seed which has been established by the department, as authorized by this law.

(h) The name and number of restricted noxious weed seed per pound.

(4) FOR VEGETABLE SEED IN CONTAINERS OF LESS THAN 8 OUNCES.—

(a) Name of kind and variety of seed.

(b) Name and address of person who labeled seed or who sells, distributes, offers, or exposes said seed for sale within this state.

(c) For seed which germinate less than standard last established by the department, the additional information must be shown:

1. Percentage of germination, exclusive of hard seed.

2. Percentage of hard seed when present, if desired.

3. Calendar month and year the test was completed to determine such percentages.

4. The words "below standard" in not less than 8-point type.

(d) No seed marked "below standard" shall be sold which fall more than 20 percent below the established standard for such seed.

(5) FOR FLOWER SEED IN PACKETS PREPARED FOR USE IN HOME GARDENS OR HOUSEHOLD PLANTINGS OR FLOWER SEED IN PREPLANTED CONTAINERS, MATS, TAPES, OR OTHER PLANTING DEVICES.—

(a) For all kinds of flower seed:

1. The name of the kind and variety or a statement of type and performance characteristics as prescribed in the rules and regulations promulgated under the provisions of this chapter.

2. The calendar month and year the seed was tested or the year for which the seed was packaged.

3. The name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this state.

(b) For seed of those kinds for which standard testing procedures are prescribed and which germinate less than the germination standard last established under the provisions of this chapter:

1. The percentage of germination exclusive of hard seed.

2. The words "below standard" in not less than 8-point type.

(c) For seed placed in a germination medium, mat, tape, or other device in such a way as to make it difficult to determine the quantity of seed without removing the seed from the medium, mat, tape, or device, a statement to indicate the minimum number of seed in the container.

(6) FOR FLOWER SEED IN CONTAINERS OTHER THAN PACKETS PREPARED FOR USE IN HOME FLOWER GARDENS OR HOUSEHOLD PLANTINGS AND OTHER THAN PREPLANTED CONTAINERS, MATS, TAPES, OR OTHER PLANTING DEVICES.—

(a) The name of the kind and variety or a statement of type and performance characteristics as prescribed in rules and regulations promulgated under the provisions of this chapter.

(b) The lot number or other lot identification.

(c) The calendar month and year that the seed were tested or the year for which the seed were packaged.

(d) The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.

(e) For those kinds of seed for which standard testing procedures are prescribed:

1. The percentage germination exclusive of hard seed.

2. The percentage of hard seed, if present.

(f) For those seeds which germinate less than the standard last established by the department, the words "below standard" in not less than 8-point type must be printed or written in ink on the face of the tag.

(7) DEPARTMENT TO PRESCRIBE UNIFORM ANALYSIS TAG.—The department shall have the authority to prescribe a uniform analysis tag required by this section.

History.—s. 5, ch. 19364, 1939; CGL 1940 Supp. 4151(594); s. 3, ch. 20251, 1941; ss. 3, 13, ch. 21942, 1943; ss. 3, 12, ch. 22694, 1945; ss. 1, 2, 3, 4, ch. 26926, 1951; s. 3, ch. 57-199; s. 3, ch. 61-436; ss. 14, 35, ch. 69-106; s. 5, ch. 69-144; s. 1, ch. 88-75; s. 6, ch. 93-29.

578.091 Forest tree seed.—

(1) Each container of forest tree seed which is sold, offered for sale, exposed for sale, or transported within this state for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label or tag in the English language, giving the following information:

(a) For all forest tree seed treated as defined in this law:

1. A word or statement indicating that the seed has been treated.

2. The commonly accepted coined, chemical or abbreviated chemical (generic) name of the applied substance or description of the process used.

3. The words "poison treated" in red letters at least 1/4-inch type and a caution statement such as "Do not use for food, feed, or oil purposes."

4. If the seed has been treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).

(b) For all forest tree seed subject to this law:

1. Common name of the species of seed (and subspecies, if appropriate).

2. The scientific name of the genus and species (and subspecies, if appropriate).

3. Lot number or other lot identification.

4. State of origin and forest tree seed collection zone in state if state is divided into zones.

5. Purity as a percentage of pure seed by weight.

6. For those species for which standard germination testing procedures are prescribed by the department, the following:

a. Percentage germination exclusive of hard seed.

b. Percentage of hard seed, if present.

c. Calendar month and year test was completed to determine such percentages.

7. In lieu of sub-subparagraphs 6.a., b., and c., above, the seed may be labeled "Test is in process, results will be supplied upon request."

8. For those species for which standard germination testing procedures have not been prescribed by the department, the calendar year in which the seed was collected.

9. The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.

(2) The information required by subsection (1) to be placed on labels attached to seed containers shall not be modified or denied in the labeling or on another label attached to the container. However, labeling of seed supplied under a contractual agreement may be by invoice accompanying the shipment or by an analysis tag attached to said invoice if each bag or other container is clearly identified by a lot number stenciled on the container or if the seed is in bulk. Each bag or container that is not so identified must carry complete labeling.

History.—s. 6, ch. 69-144; ss. 14, 35, ch. 69-106.

578.10 Exemptions.—

(1) The provisions of s. 578.13 shall not apply to any common carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier. Provided, that such carrier is not engaged in processing or merchandising seed subject to the provisions of this law.

(2) The provisions of ss. 578.09 and 578.13 do not apply:

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

(b) To seed in storage in, consigned to or being transported to seed cleaning or processing establishments for cleaning or processing only. Any labeling or other representation which may be made with respect to the unclean seed shall be subject to this law.

(3) No person shall be subject to the criminal penalties of this law for having sold, offered, exposed, or distributed for sale in this state any agricultural, vegetable, or forest tree seed which were incorrectly labeled or represented as to kind and variety or origin, which seed

cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind and variety and origin.

(4) When seeds are sold from a duly labeled container and taken therefrom in the presence of the purchaser, the container in which such seeds are delivered to the purchaser will not be required to have a label or tag unless so requested by the purchaser. This, however, shall not relieve or exempt any seed dealer from any liability imposed by the Florida Seed Law.

History.—s. 6, ch. 19364, 1939; CGL 1940 Supp. 4151(595); s. 5, ch. 20251, 1941; s. 5, ch. 21942, 1943; s. 5, ch. 22694, 1945; s. 2, ch. 26969, 1951; ss. 4, 9, ch. 57-199; s. 7, ch. 69-144.

578.11 Duties, authority, and rules and regulations of the department.—

(1) The duty of administering this law and enforcing its provisions and requirements shall be vested in the Department of Agriculture and Consumer Services, which is hereby authorized to employ such agents and persons as in its judgment shall be necessary therefor. It shall be the duty of the department, which may act through its authorized agents, to sample, inspect, make analyses of, and test agricultural, vegetable, flower, or forest tree seed transported, sold, offered or exposed for sale, or distributed within this state for sowing or planting purposes, at such time and place and to such extent as it may deem necessary to determine whether said agricultural, vegetable, flower or forest tree seed are in compliance with the provisions of this law, and to notify promptly the person who transported, distributed, sold, offered or exposed the seed for sale, of any violation.

(2) The department is authorized:

(a) To prescribe and adopt reasonable rules, which shall have the full force and effect of law, for the enforcement of this act, governing the methods of sampling, inspecting, testing, and examining agricultural, vegetable, flower, or forest tree seed. The department shall, on a one-time basis after the effective date of this act, notify those previously receiving personal notice of such rules that they will no longer be receiving such notice.

(b) To establish standards and tolerances to be followed in the administration of this law, which shall be in general accord with officially prescribed practices in interstate commerce.

(c) To prescribe uniform labels.

(d) To adopt prohibited and restricted noxious weed seed lists.

(e) To prescribe limitations for each restricted noxious weed to be used in enforcement of this act and to add or subtract therefrom from time to time as the need may arise.

(f) To make commercial tests of seed and to fix and collect charges for such tests.

(g) To list the kinds of flower and forest tree seed subject to this law.

(h) To analyze samples, as requested by a consumer. The department shall establish, by rule, a fee schedule for analyzing samples at the request of a consumer. The fees shall be sufficient to cover the costs to the department for taking the samples and performing the analysis, not to exceed \$150 per sample.

(i) To prescribe such other rules as may be necessary to secure the efficient enforcement of this act.

(3) For the purpose of carrying out the provisions of this law, the department, through its authorized agents, is authorized:

(a) To enter upon any public or private premises, where agricultural, vegetable, flower, or forest tree seed is sold, offered, exposed, or distributed for sale during regular business hours, in order to have access to seed subject to this law and the rules and regulations hereunder.

(b) To issue and enforce a stop-sale notice or order to the owner or custodian of any lot of agricultural, vegetable, flower, or forest tree seed, which the department finds or has good reason to believe is in violation of any provisions of this law, which shall prohibit further sale, barter, exchange, or distribution of such seed until the department is satisfied that the law has been complied with and has issued a written release or notice to the owner or custodian of such seed. After a stop-sale notice or order has been issued against or attached to any lot of seed and the owner or custodian of such seed has received confirmation that the seed does not comply with this law, he shall have 15 days beyond the normal test period within which to comply with the law and obtain a written release of the seed. The provisions of this paragraph shall not be construed as limiting the right of the department to proceed as authorized by other sections of this law.

(c) To establish and maintain a seed laboratory, employ seed analysts and other personnel, and incur such other expenses as may be necessary to comply with these provisions.

History.—s. 7, ch. 19364, 1939; CGL 1940 Supp. 4151(596); s. 6, ch. 20251, 1941; s. 6, ch. 21942, 1943; s. 6, ch. 22694, 1945; s. 5, ch. 57-199; s. 4, ch. 61-436; ss. 14, 35, ch. 69-106; s. 8, ch. 69-144; s. 6, ch. 78-95; s. 24, ch. 92-143; s. 7, ch. 93-29.

578.12 Stop-sale, stop-use, removal, or hold orders.—

When agricultural, vegetable, flower, or forest tree seed is being offered or exposed for sale or held in violation of any of the provisions of this chapter, the department, through its authorized representative, may issue and enforce a stop-sale, stop-use, removal, or hold order to the owner or custodian of said seed ordering it to be held at a designated place until the law has been complied with and said seed is released in writing by the department or its authorized representative. If seed is not brought into compliance with this law it shall be destroyed within 30 days or disposed of by the department in such a manner as it shall by regulation prescribe.

History.—s. 8, ch. 19364, 1939; CGL 1940 Supp. 4151(597); s. 7, ch. 20251, 1941; s. 7, ch. 21942, 1943; s. 7, ch. 22694, 1945; ss. 14, 35, ch. 69-106; s. 9, ch. 69-144; s. 1, ch. 77-174.

578.13 Prohibitions.—

(1) It shall be unlawful for any person to sell, distribute for sale, offer for sale, expose for sale, handle for sale, or solicit orders for the purchase of any agricultural, vegetable, flower, or forest tree seed within this state:

(a) Unless the test to determine the percentage of germination required by s. 578.09 shall have been completed within a period of 7 months, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, offering for sale, or transportation, except for germination test for seed in hermetically sealed containers which is provided for in s. 578.28.

(b) Not labeled in accordance with the provisions of this law, or having false or misleading labeling.

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

(d) Containing noxious weed seeds subject to tolerances and methods of determination prescribed in the rules and regulations under this law.

(e) Unless a seed license has been obtained in accordance with the provisions of this law.

(f) Unless such seed conforms to the definition of a "lot of seed."

(2) It shall be unlawful for any person within this state:

(a) To detach, deface, destroy, or use a second time any label or tag provided for in this law or in the rules and regulations made and promulgated hereunder or to alter or substitute seed in a manner that may defeat the purpose of this law.

(b) To disseminate any false or misleading advertisement concerning agricultural, vegetable, flower, or forest tree seed in any manner or by any means.

(c) To hinder or obstruct in any way any authorized person in the performance of his duties under this law.

(d) To fail to comply with a stop-sale order or seizure order.

(e) To sell, distribute for sale, offer for sale, expose for sale, handle for sale, or solicit orders for the purchase of any agricultural, vegetable, flower, or forest tree seed labeled "certified seed," "registered seed," "foundation seed," "breeder seed," or similar terms, unless it has been produced and labeled under seal in compliance with the rules and regulations of any agency authorized by law.

(f) To fail to keep a complete record, including a file sample which shall be retained for 1 year after seed is sold, of each lot of seed and to make available for inspection such records to the department or its duly authorized agents.

(g) To use the name of the Department of Agriculture and Consumer Services or Florida State Seed Laboratory in connection with analysis tag, labeling advertisement, or sale of any seed in any manner whatsoever unless such seed are "certified seed."

History.—s. 4, ch. 20251, 1941; s. 4, ch. 21942, 1943; s. 4, ch. 22694, 1945; s. 6, ch. 57-199; s. 5, ch. 61-436; ss. 14, 35, ch. 69-106; s. 10, ch. 69-144.

578.14 Packet vegetable and flower seed.—When vegetable or flower seed are sold, offered for sale, or exposed for sale in packets of less than 8 ounces, the company who packs seed for retail sale shall register and pay fees as provided under s. 578.08.

History.—s. 9, ch. 20251, 1941; s. 9, ch. 21942, 1943; s. 9, ch. 22694, 1945; s. 6, ch. 61-436; s. 11, ch. 69-144; s. 25, ch. 92-143.

578.181 Penalties; administrative fine.—

(1) The department may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this chapter or the rules promulgated hereunder or who impedes, obstructs, hinders, or otherwise prevents or attempts to prevent the department in the performance of its duty in connection with the provisions of this chapter:

(a) Issuance of a warning letter.

(b) Imposition of an administrative fine of not more than \$1,000 per occurrence after the issuance of a warning letter.

(c) Revocation or suspension of the registration as a seed dealer.

(2) Any person who violates the provisions of this chapter is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 15, ch. 22694, 1945; s. 596, ch. 71-136; s. 3, ch. 87-386.

578.22 Disposition of fees collected.—All fees required and collected as provided in this chapter shall be paid into the State Treasury to the credit of the General Inspection Trust Fund, and shall be used solely for the seed inspection program.

History.—s. 11, ch. 21942, 1943; s. 10, ch. 22694, 1945; s. 3, ch. 26960, 1951; s. 2, ch. 61-119; s. 8, ch. 93-29.

578.23 Dealers' records to be kept available.—Every seed dealer shall make and keep for a period of 3 years satisfactory records of all agricultural, vegetable, flower, or forest tree seed bought or handled to be sold, which records shall at all times be made readily available for inspection, examination, or audit by the department. Such records shall also be maintained by persons who purchase seed for production of plants for resale.

History.—s. 14, ch. 21942, 1943; s. 13, ch. 22694, 1945; ss. 14, 35, ch. 69-106; s. 12, ch. 69-144; s. 4, ch. 87-386.

578.24 Mixed varieties of seed oats prohibited.—Oats consisting of mixed varieties shall not be sold for planting purposes in this state unless permitted by regulation promulgated by the department upon recommendation of the Florida Agricultural Experiment Station at Gainesville.

History.—s. 12, ch. 21942, 1943; s. 11, ch. 22694, 1945; ss. 14, 35, ch. 69-106.

578.25 Use of disclaimer clause.—The use of a disclaimer or nonwarranty clause in any invoice, advertising, labeling, or written, printed, or graphic matter pertaining to any seed shall not relieve or exempt any person from any provisions of the Florida Seed Law.

History.—s. 14, ch. 22694, 1945.

578.26 Complaint, investigation, hearings, findings, and recommendation prerequisite to legal action.

(1)(a) When any farmer is damaged by the failure of agricultural, vegetable, flower, or forest tree seed to produce or perform as represented by the label attached to the seed as required by s. 578.09, as a prerequisite to his right to maintain a legal action against the dealer from whom the seed was purchased, the farmer shall make a sworn complaint against the dealer alleging damages sustained. The complaint shall be filed with the department, and a copy of the complaint shall be served by the department on the dealer by certified mail, within such time as to permit inspection of the crops, plants, or trees by the seed investigation and conciliation council or its representatives and by the dealer from whom the seed was purchased.

(b) Language setting forth the requirement for filing and serving the complaint shall be legibly typed or printed on the analysis label or be attached to the package containing the seed at the time of purchase by the farmer.

(c) A nonrefundable filing fee of \$100 shall be paid to the department with each complaint filed. However, the complainant may recover the filing fee cost from the dealer upon the recommendation of the seed investigation and conciliation council.

(2) Within 15 days after receipt of a copy of the complaint, the dealer shall file with the department his answer to the complaint and serve a copy of the answer on the farmer by certified mail. Upon receipt of the findings and recommendation of the arbitration council, the department shall transmit them to the farmer and to the dealer by certified mail.

(3) The department shall refer the complaint and the answer thereto to the seed investigation and conciliation council provided in s. 578.27 for investigation, informal hearing, findings, and recommendation on the matters complained of.

(a) Each party shall be allowed to present its side of the dispute at an informal hearing before the seed investigation and conciliation council. Attorneys may be present at the hearing to confer with their clients. However, no attorney may participate directly in the proceeding.

(b) Hearings, including the deliberations of the seed investigation and conciliation council, shall be open to the public.

(c) Within 30 days after completion of a hearing, the seed investigation and conciliation council shall transmit its findings and recommendations to the department.

Upon receipt of the findings and recommendation of the seed investigation and conciliation council, the department shall transmit them to the farmer and to the dealer by certified mail.

(4) The department shall provide administrative support for the seed investigation and conciliation council and shall adopt rules to govern investigations and hearings. A copy of the rules shall be mailed to each party, upon receipt of a complaint by the department.

History.—s. 1, ch. 26814, 1951; s. 7, ch. 57-199; ss. 14, 35, ch. 69-106; s. 13, ch. 69-144; s. 1, ch. 83-95; s. 3, ch. 85-62; s. 5, ch. 87-386; s. 3, ch. 88-75; s. 26, ch. 92-143

578.27 Seed investigation and conciliation council; composition; purpose; meetings; duties; expenses.—

(1) The Commissioner of Agriculture shall appoint a seed investigation and conciliation council composed of seven members and seven alternate members, one member and one alternate to be appointed upon the recommendation of each of the following: the deans of extension and research, Institute of Food and Agricultural Sciences, University of Florida; president of the Florida Seedsmen and Garden Supply Association; president of the Florida Farm Bureau Federation; and the president of the Florida Fruit and Vegetable Association. The Commissioner of Agriculture shall appoint a representative and an alternate from the agriculture industry at large and from the Department of Agriculture and Consumer Services. Initially, three members and their alternates shall be appointed for 4-year terms and four members and their alternates shall be appointed for 2-year terms. Thereafter, members and alternates shall be appointed for 4-year terms. Each alternate member shall serve only in the absence of the member for whom he is an alternate. A vacancy shall be filled for the

remainder of the unexpired term in the same manner as the original appointment. The council shall annually elect a chairman from its membership. It shall be the duty of the chairman to conduct all meetings and deliberations held by the council and to direct all other activities of the council. The department representative shall serve as secretary of the council. It shall be the duty of the secretary to keep accurate and correct records on all meetings and deliberations and perform other duties for the council as directed by the chairman.

(2) The purpose of the seed investigation and conciliation council is to assist farmers and agricultural seed dealers in determining the validity of complaints made by farmers against dealers and recommend cost damages resulting from the alleged failure of the seed to produce as represented by label on the seed package.

(3) The seed investigation and conciliation council may be called into session by the department or upon the direction of the chairman to consider matters referred to it by the department.

(4)(a) When the department refers to the seed investigation and conciliation council any complaint made by a farmer against a dealer, said council shall make a full and complete investigation of the matters complained of and at the conclusion of said investigation shall report its findings and make its recommendation of cost damages and file same with the department.

(b) In conducting its investigation the seed investigation and conciliation council or any representative, member, or members thereof authorized to examine the farmer on his farming operation of which he complains and the dealer on his packaging, labeling, and selling operation of the seed alleged to be faulty; to grow to production a representative sample of the alleged faulty seed through the facilities of the state, under the supervision of the department when such action is deemed to be necessary; to hold informal hearings at a time and place directed by the department or by the chairman of the council upon reasonable notice to the farmer and the dealer.

(c) Any investigation made by less than the whole membership of the council shall be by authority of a written directive by the department or by the chairman, and such investigation shall be summarized in writing and considered by the council in reporting its findings and making its recommendation.

(5) The members of the council shall receive no compensation for the performance of their duties hereunder, but the members of the council shall be reimbursed for travel expenses as provided in s. 112.061 when they attend a meeting or perform a service in conformity with the requirements of this section.

History.—s. 8, ch. 57-199; ss. 3, 14, 35, ch. 69-106; s. 1, ch. 71-1; ss. 4, 5, ch. 88-75; s. 5, ch. 91-429.

578.28 Seed in hermetically sealed containers.—

The period of validity of germination tests is extended to the following periods for seed packaged in hermetically sealed containers, under conditions and label requirements set forth in this section:

(1) GERMINATION TESTS.—The germination test for agricultural and vegetable seed shall have been completed within the following periods, exclusive of the calendar month in which the test was completed, immediately prior to shipment, delivery, transportation, or sale:

(a) In the case of agricultural or vegetable seed shipped, delivered, transported, or sold to a dealer for resale, 18 months;

(b) In the case of agricultural or vegetable seed for sale or sold at retail, 24 months.

(2) **CONDITIONS OF PACKAGING.**—The following conditions are considered as minimum:

(a) *Hermetically sealed packages or containers.*—A container, to be acceptable under the provisions of this section, shall not allow water vapor penetration through any wall, including the wall seals, greater than 0.05 gram of water per 24 hours per 100 square inches of surface at 100 °F. with a relative humidity on one side of 90 percent and on the other of 0 percent. Water vapor penetration (WVP) is measured by the standards of the National Institute of Standards and Technology as: gm H₂O/24 hr./100 sq. in./100 °F/90 percent RH V. 0 percent RH.

(b) *Moisture of seed packaged.*—The moisture of agricultural or vegetable seed subject to the provisions of this section shall be established by rule of the department.

¹A tolerance of 1 percent is applicable to the maximum percentage of moisture listed above and the percentage of moisture found by an official test. The percentage of moisture shall be determined by the air oven method.

(3) **LABELING REQUIRED.**—In addition to the labeling required by s. 578.09, seed packaged under the provisions of this section shall be labeled with the following information:

(a) Seed has been preconditioned as to moisture content.

(b) Container is hermetically sealed.

(c) "Germination test valid until (month, year)" may be used. (Not to exceed 24 months from date of test).

History.—s. 14, ch. 69-144; s. 10, ch. 90-320; s. 27, ch. 92-143.

Note.—The table listing moisture percentages for specified seed was deleted from paragraph (b) by s. 27, ch. 92-143.

578.30 Seed Technical Council.—

(1) **COMPOSITION.**—The Seed Technical Council is created within the Department of Agriculture and Consumer Services and shall be composed of 11 members to be appointed by the Commissioner of Agriculture as follows:

(a) Two representatives of the department; one member representing the certified seed growers; one member representing the registered seed dealers; two members representing the vegetable industry; two members representing the agronomic industry; one member representing the greenhouse plant growers; one member representing field seed growers or processors; and one member representing the University of Florida Institute of Food and Agriculture Science.

(b) For the initial appointments, three members shall be appointed for 4-year terms, two members shall be appointed for 3-year terms, two members shall be appointed for 2-year terms, and two members and the department representatives shall be appointed for

1-year terms. Thereafter, all members shall be appointed for a 4-year term, except the two department representatives who shall be appointed each year.

(c) If a vacancy occurs, it shall be filled for the remainder of the term in the same manner as an initial appointment.

(2) **POWERS AND DUTIES.**—The Seed Technical Council shall:

(a) Consider and study all issues involving seed, seedlings, vegetative propagating materials, and plants.

(b) Review and make recommendations to the department on any seed matter.

(c) Advise and consult with the Commissioner of Agriculture and the directors of the divisions responsible for conducting the seed inspection program, at their request or upon its own initiative, regarding the promulgation, administration, and enforcement of all laws and rules relating to inspection, regulation, and certification.

(d) Review the budget, including all revenues and expenditures, direct and indirect costs, and make budget recommendations to the department in accordance with s. 575.03.

(e) Consider all matters submitted to it by the Commissioner of Agriculture, the division directors, or other members of the council.

(f) Submit proposed legislation and rules to the Commissioner of Agriculture.

(g) Suggest policies and practices for the administration of this chapter to the Commissioner of Agriculture and the division directors, which they shall duly consider.

(3) **MEETINGS; PROCEDURES; RECORDS.**—The council shall meet at least annually and elect a chairman and a vice chairman for 1-year terms.

(a) The council shall meet at the call of the chairman, at the request of the department or a majority of the council membership, or at such times as may be prescribed by council rules.

(b) The Commissioner of Agriculture shall designate one of the department representatives to serve as the secretary of the council.

(c) In conducting its meetings, the council shall use accepted rules of procedure. The secretary shall keep a complete record of the proceedings of each meeting, which shall show the names of the members present at each meeting and the actions taken. The records shall be kept on file with the secretary and shall be public records.

(4) **OFFICIAL ACTION.**—A majority of members shall constitute a quorum, and action by a majority of a quorum shall be official.

(5) **PER DIEM AND TRAVEL EXPENSES.**—Members of the council shall receive no compensation for their services but shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

History.—s. 9, ch. 93-29.