

MAINE STATE LEGISLATURE

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N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 516

H. P. 868

House of Representatives, February 8, 1951.

Referred to the Committee on Agriculture, sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Cobb of Lee.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT Creating the Maine Seed Law.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 27, §§ 187-A - 187-H, additional. Chapter 27 of the revised statutes is hereby amended by adding thereto 8 new sections, to be numbered 187-A to 187-H, inclusive, to read as follows:

‘Maine Seed Law

Sec. 187-A. Short title. Sections 187-A to 187-H, inclusive, shall be known and may be cited as the “Maine seed law.”

Sec. 187-B. Definitions. As used in sections 187-A to 187-H, inclusive, the following words and phrases shall have the following meanings:

“Advertisement” means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the meaning of sections 187-A to 187-H, inclusive.

“Agricultural seeds” shall include the seeds of grass, forage, cereal and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural or field seeds, and mixtures of such seeds, except seeds of cereals grown in Maine and sold directly from grower to grower and not labeled as seed.

“Labeling” includes all labels and other written, printed or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

“Noxious-weed seeds” shall be divided into 2 classes, primary noxious-weed seeds and secondary noxious-weed seeds, as hereinafter defined in this section; provided, however, that the commissioner may, through promulgation of regulations, add to or subtract from the list of seeds included under either definition whenever he finds, after public hearing, that such additions or subtractions are within the respective definitions.

“Person” shall include any individual, partnership, corporation, company, society or association.

“Primary noxious-weed seeds” are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground roots or stems, and which, when established, are highly destructive and difficult to control by ordinary good cultural practice. In this state they are the seeds of Bindweed (*Convolvulus arvensis*), Quackgrass (*Agropyron repens*), Canada Thistle (*Cirsium arvense*), Nut Grass (*Cyperus esculentus*) and Wound Wort (*Stachys polustris*).

“Secondary noxious-weed seeds” are the seeds of such weeds as are very objectionable in fields, lawns or gardens, but can be controlled by good cultural practice. In this state they are the seeds of Dodder (*Cuscuta* spp.), Horsenettle (*Solanum carolinense*), Wild Mustard (*Brassica* spp.), Wild Garlic (*Allium vineale*), Wild Onion (*Allium canadense*), Wild Radish (*Raphanus raphanistrum*), Perennial Sowthistle (*Sonchus arvensis*), Corncockle (*Agrostemma githago*), Buckhorn Plantain (*Plantago lanceolata*) and Yellow Rocket (*Barbarea vulgaris*).

“Vegetable seeds” shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this state.

“Weed seeds” shall include the seeds of all plants other than other crop seed and pure seed, and shall include noxious-weed seeds.

Sec. 187-C. Label requirements. Each container of agricultural or vegetable seed which is sold, offered for sale or exposed for sale within the 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:

I. For AGRICULTURAL SEEDS:

A. Commonly accepted name of kind or kind and variety of each

agricultural seed component in excess of 5% 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 "mixed" shall be shown conspicuously on the label.

B. Lot number or other lot identification.

C. Origin, if known, of alfalfa, red clover and field corn, except hybrid corn. If the origin is unknown, that fact shall be stated.

D. Percentage by weight of all weed seeds.

E. The name and approximate number of each kind of secondary noxious-weed seed:

1. Per ounce in *Agrostis* spp., *Poa* spp., Rhodes grass, Bermuda grass, timothy, orchard grass, fescues, alsike and white clover, reed canary grass, Dallis grass, ryegrass, foxtail millet, alfalfa, red clover, sweetclovers, lespedezas, smooth brome, crimson clover, *Brassica* spp., flax, *Agropyron* spp. and other agricultural seeds of similar size and weight, or mixtures within this group; and

2. Per pound in prose, Sudan grass, wheat, oats, rye, barley, buckwheat, sorghums, vetches and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group.

All determinations of noxious-weed seeds shall be subject to tolerances and methods of determination prescribed in the rules and regulations promulgated by the commissioner under the provisions of sections 187-A to 187-H, inclusive.

F. Percentage by weight of agricultural seeds, which may be designated as "crop seeds," other than those required to be named on the label.

G. Percentage by weight of inert matter.

H. For each named agricultural seed:

1. Percentage of germination, exclusive of hard seed;

2. Percentage of hard seed, if present;

3. "Total germination and hard seed" may be stated as such, if desired;

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

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

II. For VEGETABLE SEEDS:

A. Name of kind and variety of seed.

B. For seeds which germinate less than the standard last established by the commissioner:

1. Percentage of germination, exclusive of hard seed;
2. Percentage of hard seed, if present;
3. The calendar month and year the test was completed to determine such percentages;
4. The words "Below Standard" in not less than 8-point type.

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

Sec. 187-D. Prohibitions.

I. It shall be unlawful for any person to sell, offer for sale or expose for sale any agricultural or vegetable seed within this state:

A. Unless the test to determine the percentage of germination required by section 187-C shall have been completed within a 9-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale or offering for sale or transportation.

B. Not labeled in accordance with the provisions of sections 187-A to 187-H, inclusive, or having a false or misleading label.

C. Pertaining to which there has been a false or misleading advertisement.

D. Containing primary noxious-weed seeds not in accordance with tolerances and methods of determination prescribed in the rules and regulations promulgated by the commissioner.

E. If noxious-weed seeds are present singularly or collectively in excess of 500 per pound.

II. It shall be unlawful for any person within this state:

A. To detach, alter, deface or destroy any label provided for in sections 187-A to 187-H, inclusive, or the rules and regulations promulgated by the commissioner thereunder, or to alter or substitute seed in any manner that may defeat the purposes of said sections.

B. To disseminate any false or misleading advertisement concerning agricultural or vegetable 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 the provisions of sections 187-A to 187-H, inclusive.

D. To fail to comply with a "stop-sale" order.

Sec. 187-E. Exemptions and penalties. The provisions of sections 187-C and 187-D shall not apply to seed or grain not intended for sowing purposes, nor to seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing; provided, however, that any labeling or other representation which may be made with respect to the uncleaned or unprocessed seed shall be subject to the provisions of sections 187-A to 187-H, inclusive.

No person shall be subject to the penalties of sections 187-A to 187-H, inclusive, for having sold or offered or exposed for sale in this state any agricultural or vegetable seeds which were incorrectly labeled or represented as to kind, variety, type or origin, which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, and origin, if required, and to take such other precautions as may be necessary to insure the identity to be that stated.

Every violation of the provisions of sections 187-A to 187-H, inclusive, shall be deemed to be a misdemeanor and shall be punished by a fine of not more than \$100 for the 1st offense and not more than \$250 for each subsequent similar offense.

Sec. 187-F. Duties of commissioner. It shall be the duty of the commissioner, who may act through his authorized agents:

I. To sample, inspect, cause to be analyzed or tested, agricultural and vegetable seeds transported, sold or offered or exposed for sale within this state for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether said agricultural or vegetable seeds are in compliance with the provisions of sections 187-A to 187-H, inclusive, and to notify promptly of any violation, the person who transported, sold, offered or exposed the seed for sale.

II. To prescribe and, after public hearing following due public notice, to adopt rules and regulations governing the methods of sampling, inspecting, analysis, test and examination of agricultural and vegetable seed, and the tolerances to be followed, which shall be in general accord

with officially prescribed practice in interstate commerce, and such other rules and regulations as may be necessary to secure the efficient enforcement of sections 187-A to 187-H, inclusive.

Sec. 187-G. Powers. For the purpose of carrying out the provisions of sections 187-A to 187-H, inclusive, the commissioner or his duly authorized agents shall have authority:

I. To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the commissioner finds is in violation of any of the provisions of sections 187-A to 187-H, inclusive, which order shall prohibit further sale of such seed until such officer has evidence that the law has been complied with; provided, however, that no "stop-sale" order shall be issued or attached to any lot of seed without first giving the owner or custodian of such seed an opportunity to comply with the law. The owner or custodian of seeds which have been denied sale by a "stop-sale" order shall have the right to appeal from such order to a court of competent jurisdiction in the locality in which the seeds are found, praying for a judgment as to the justification of said order and for the discharge of such seed from the order. The provisions of this subsection shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of sections 187-A to 187-H, inclusive.

II. To employ qualified persons under the provisions of the personnel law, and to incur such expenses as may be necessary to carry out the provisions of sections 187-A to 187-H, inclusive.

III. To cooperate with the federal government in seed law enforcement.

Sec. 187-H. Seizure. Any lot of agricultural or vegetable seed not in compliance with the provisions of sections 187-A to 187-H, inclusive, shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the locality in which the seed is located. In the event that the court finds the seed to be in violation of the provisions of sections 187-A to 187-H, inclusive, and orders the condemnation of said seed, it shall be denatured, processed, destroyed, relabeled or otherwise disposed of as provided in sections 187-A to 187-H, inclusive; provided, however, that in no instance shall the court order such disposition of seed without first having given the claimant an opportunity to apply to the court for the release of said seed or permission to process or relabel it to bring it into compliance with the provisions of sections 187-A to 187-H, inclusive.'

Sec. 2. R. S., c. 27, § 3, amended. The last sentence of section 3 of chapter 27 of the revised statutes is hereby amended to read as follows:

'He may also fix standards of purity, quality or strength when such standards are not specified or fixed by law, and shall publish them together with such other information concerning articles of ~~agricultural seed~~ commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide as he may deem to be of public benefit.'

Sec. 3. R. S., c. 27, § 4, amended. The 1st sentence of section 4 of chapter 27 of the revised statutes, as amended by section 53 of chapter 349 of the public laws of 1949, is hereby further amended to read as follows:

'When the commissioner becomes cognizant of the violation of any provision of sections 3 to 8, inclusive, 34 to 40, inclusive, 124 to 127, inclusive, **129, 157 to ~~187~~ 187-H, inclusive, 196 to 211, inclusive, and 213 to 224, inclusive,** he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the findings, or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name **appears upon the label,** (if a resident of the state), who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said commissioner.'

Sec. 4. R. S., c. 27, § 157, amended. Section 157 of chapter 27 of the revised statutes is hereby amended to read as follows:

'**Sec. 157. Sale of certain adulterated articles prohibited.** No person shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation, any article of ~~agricultural seed~~ commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide which is adulterated or misbranded within the meaning of this chapter.'

Sec. 5. R. S., c. 27, § 158, amended. Section 158 of chapter 27 of the revised statutes, as amended by section 1 of chapter 343 of the public laws of 1949, is hereby further amended by repealing the 1st paragraph thereof.

Sec. 6. R. S., c. 27, § 159, repealed. Section 159 of chapter 27 of the revised statutes is hereby repealed.

Sec. 7. R. S., c. 27, § 168, amended. Section 168 of chapter 27 of the revised statutes, as amended by section 4 of chapter 343 of the public laws of 1949, is hereby further amended by repealing subsection I thereof, which relates to agricultural seed.

Sec. 8. R. S., c. 27, § 169, amended. The 1st 2 paragraphs and subsection I of section 169 of chapter 27 of the revised statutes are hereby amended to read as follows:

"The term "misbranded" as used herein shall apply to all articles of ~~agricultural seed~~ commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, or which is falsely branded in any particular.

For the purpose of this chapter an article shall also be deemed to be misbranded:

I. In case of agricultural seed:

A. If any lot or package fails to bear all the statements required by section 159.'

Sec. 9. R. S., c. 27, § 180, amended. Section 180 of chapter 27 of the revised statutes is hereby amended to read as follows:

'Sec. 180. Annual analysis; results of analyses to be published. The director of the Maine Agricultural Experiment Station shall annually analyze, or cause to be analyzed, samples of articles of agricultural or vegetable seed, commercial feeding stuff, commercial fertilizer, drugs, foods, fungicide and insecticide at such time and to such extent as the commissioner may determine. Said commissioner, in person or by deputy, shall have free access, ingress and egress at all reasonable hours to any place or any building wherein articles of agricultural or vegetable seed, commercial feeding stuff, commercial fertilizer, drugs, food, fungicide or insecticide are manufactured, stored, transported, sold, offered or exposed for sale. He may also, in person or by deputy, open any case, package or other container, and may, upon tendering the market price, take samples for analysis. The results of all analyses of agricultural or vegetable seed, commercial feeding stuff, commercial fertilizer, drugs, food, fungicide and insecticide made by said director shall be published by him in the bulletins or reports of the experiment station, together with the names of the persons from whom the samples were obtained, the names of the manufacturers thereof, and such additional information as to him may seem advisable.'

Sec. 10. R. S., c. 27, § 185, amended. Section 185 of chapter 27 of the revised statutes is hereby amended to read as follows:

'Sec. 185. Certificate signed by director, presumptive evidence. Every certificate duly signed and acknowledged by the director of the Maine Agricultural Experiment Station, relating to the collection and analysis of any sample of agricultural or vegetable seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide, shall be presumptive evidence of the facts therein stated.'

Sec. 11. R. S., c. 27, § 186, amended. The 1st sentence of section 186 of chapter 27 of the revised statutes is hereby amended to read as follows: 'No person shall adulterate or misbrand, within the meaning of this chapter, any ~~agricultural seed~~ commercial feeding stuff, commercial fertilizer, drug, food, fungicide, insecticide or vinegar, or manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any article of ~~agricultural seed~~ commercial feeding stuff, commercial fertilizer, drug, food, fungicide, insecticide or vinegar in violation of any of the provisions of this chapter.'