

# The Florida Senate

## 2018 Florida Statutes

<u>Title XXXV</u> AGRICULTURE, HORTICULTURE, AND ANIMAL INDUSTRY	<b>Chapter 578</b> <b>SEED</b>
--	-----------------------------------

### CHAPTER 578 SEED

- 578.001 Short title.
- 578.011 Definitions; Florida Seed Law.
- 578.012 Preemption.
- 578.08 Registrations.
- 578.09 Label requirements for agricultural, vegetable, flower, tree, or shrub seeds.
- 578.092 Seed in hermetically sealed containers.
- 578.10 Exemptions.
- 578.11 Duties, authority, and rules of the department.
- 578.12 Stop-sale, stop-use, removal, or hold orders.
- 578.13 Prohibitions.
- 578.181 Penalties; administrative fine.
- 578.22 Disposition of fees collected.
- 578.23 Records.
- 578.24 Mixed varieties of seed oats prohibited.
- 578.25 Use of disclaimer clause.
- 578.26 Complaint, investigation, hearings, findings, and recommendation prerequisite to legal action.
- 578.27 Seed investigation and conciliation council; composition; purpose; meetings; duties; expenses.
- 578.29 Prohibited noxious weed seed.

**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 seed, lawn seed, and combinations of such seed, and may include identified noxious weed seed when the department determines that such seed is being used as agricultural seed.

(3) “Blend” means seed consisting of more than one variety of one kind, each present in excess of 5 percent by weight of the whole.

(4) “Buyer” means a person who purchases agricultural, vegetable, flower, tree, or shrub seed in packaging of 1,000 seeds or more by count.

(5) “Brand” means a distinguishing word, name, symbol, number, or design used to identify seed produced, packaged, advertised, or offered for sale by a particular person.

(6) “Breeder seed” means a class of certified seed directly controlled by the originating or sponsoring plant breeding institution or person, or designee thereof, and is the source for the production of seed of the other classes of certified seed.

- (7) "Certified seed" means a class of seed which is the progeny of breeder, foundation, or registered seed.
- (8) "Certifying agency" means:
- (a) An agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed and which has standards and procedures approved by the United States Secretary of Agriculture to assure the genetic purity and identity of the seed certified; or
- (b) An agency of a foreign country that the United States Secretary of Agriculture has determined as adhering to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under paragraph (a).
- (9) "Coated seed" means seed that has been covered by a layer of materials that obscures the original shape and size of the seed and substantially increases the weight of the product. The addition of biologicals, pesticides, identifying colorants or dyes, or other active ingredients including polymers may be included in this process.
- (10) "Date of test" means the month and year the percentage of germination appearing on the label was obtained by laboratory test.
- (11) "Dealer" means any person who sells or offers for sale any agricultural, vegetable, flower, tree, or shrub seed for seeding purposes, and includes farmers who sell cleaned, processed, packaged, and labeled seed.
- (12) "Department" means the Department of Agriculture and Consumer Services or its authorized representative.
- (13) "Dormant seed" refers to viable seed, other than hard seed, which neither germinate nor decay during the prescribed test period and under the prescribed test conditions.
- (14) "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 or wildflower seed in this state.
- (15) "Foundation seed" means a class of certified seed which is the progeny of breeder or other foundation seed and is produced and handled under procedures established by the certifying agency, in accordance with this part, for producing foundation seed, for the purpose of maintaining genetic purity and identity.
- (16) "Germination" means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, are indicative of the ability to produce a normal plant under favorable conditions.
- (17) "Hard seed" means seeds that remain hard at the end of a prescribed test period because they have not absorbed water due to an impermeable seed coat.
- (18) "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 may not be regarded as hybrids. Hybrid designations shall be treated as variety names.

- (19) "Inert matter" means all matter that is not a full seed.
- (20) "Kind" means one or more related species or subspecies which singly or collectively is known by one common name; e.g., corn, beans, *lespedeza*.
- (21) "Label" means the display or displays of written or printed material upon or attached to a container of seed.
- (22) "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.
- (23) "Lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.
- (24) "Mix," "mixed," or "mixture" means seed consisting of more than one kind, each present in excess of 5 percent by weight of the whole.

- (25) "Mulch" means a protective covering of any suitable substance placed with seed which acts to retain sufficient moisture to support seed germination and sustain early seedling growth and aid in the prevention of the evaporation of soil moisture, the control of weeds, and the prevention of erosion.
- (26) "Noxious weed seed" means seed in one of two classes of seed:
- (a) "Prohibited noxious weed seed" means the seed of weeds that are highly destructive and difficult to control by good cultural practices and the use of herbicides.
- (b) "Restricted noxious weed seed" means weed seeds that are objectionable in agricultural crops, lawns, and gardens of this state and which can be controlled by good agricultural practices or the use of herbicides.
- (27) "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 native species, where the term means the county or collection zone and the state where the seed were grown.
- (28) "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.
- (29) "Packet seed" means seed prepared for use in home gardens and household plantings packaged in labeled, sealed containers of less than 8 ounces and typically sold from seed racks or displays in retail establishments, via the Internet, or through mail order.
- (30) "Processing" means conditioning, cleaning, scarifying, 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.
- (31) "Pure seed" means the seed, exclusive of inert matter, of the kind or kind and variety of seed declared on the label or tag.
- (32) "Record" includes the symbol identifying the seed as to origin, amount, processing, testing, labeling, and distribution, and any other document or instrument pertaining to the purchase, sale, or handling of agricultural, vegetable, flower, tree, or shrub seed. Such information includes seed samples and records of declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, and examinations.
- (33) "Registered seed" means a class of certified seed which is the progeny of breeder or foundation seed and is produced and handled under procedures established by the certifying agency, in accordance with this part, for the purpose of maintaining genetic purity and identity.
- (34) "Shrub seed" means seed of a woody plant that is smaller than a tree and has several main stems arising at or near the ground.
- (35) "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, tree, or shrub 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.
- (36) "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.
- (37) "Tree seed" means seed of a woody perennial plant typically having a single stem or trunk growing to a considerable height and bearing lateral branches at some distance from the ground.
- (38) "Type" means a group of varieties so nearly similar that the individual varieties cannot be clearly differentiated except under special conditions.
- (39) "Variety" means a subdivision of a kind which is distinct in the sense that the variety can be differentiated by one or more identifiable morphological, physiological, or other characteristics from all other varieties of public knowledge; uniform in the sense that the variations in essential and distinctive characteristics are describable; and stable in the sense that the variety will remain unchanged in its essential and distinctive characteristics and its uniformity when reproduced or reconstituted.
- (40) "Vegetable seed" means the seed of those crops that are grown in gardens or on truck farms, and are generally known and sold under the name of vegetable seed or herb seed in this state.

(41) "Weed seed" includes the seed of all plants generally recognized as weeds within this state, and includes prohibited and restricted noxious weed seed, bulblets, tubers, and any other vegetative propagules.

**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; s. 39, ch. 2018-84.

#### **578.012 Preemption.**—

(1) It is the intent of the Legislature to eliminate duplication of regulation of seed. As such, this chapter is intended as comprehensive and exclusive and occupies the whole field of regulation of seed.

(2) The authority to regulate seed or matters relating to seed in this state is preempted to the state. A local government or political subdivision of the state may not enact or enforce an ordinance that regulates seed, including the power to assess any penalties provided for violation of this chapter.

**History.**—s. 40, ch. 2018-84.

#### **578.08 Registrations.**—

(1) Every person, except as provided in subsection (4), 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, tree, or shrub seed or mixture thereof, shall first register with the department as a seed dealer. The application for registration must 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 must be filed with the department by using a form prescribed by the department or by using the department's website and 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 of less than \$500, a fee of \$10.
2. Receipts of \$500 or more but less than \$1,000, a fee of \$25.
3. Receipts of \$1,000 or more but less than \$2,500, a fee of \$100.
4. Receipts of \$2,500 or more but less than \$5,000, a fee of \$200.
5. Receipts of \$5,000 or more but less than \$10,000, a fee of \$350.
6. Receipts of \$10,000 or more but less than \$20,000, a fee of \$800.
7. Receipts of \$20,000 or more but less than \$40,000, a fee of \$1,000.
8. Receipts of \$40,000 or more but less than \$70,000, a fee of \$1,200.
9. Receipts of \$70,000 or more but less than \$150,000, a fee of \$1,600.
10. Receipts of \$150,000 or more but less than \$400,000, a fee of \$2,400.
11. Receipts of \$400,000 or more, a fee of \$4,600.

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

(2) A 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, tree, or shrub seed within the state. However, the department has 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, tree, or shrub 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, tree, or shrub seed in the state other than as provided in subsection (4), shall be subject to the requirements of this section.

(4) This chapter does 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.

(5) When packet seed is sold, offered for sale, or exposed for sale, the company <sup>1</sup>that packs seed for retail sale must register and pay fees as provided under subsection (1).

**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; s. 43, ch. 2009-66; s. 128, ch. 2014-150; s. 41, ch. 2018-84.

<sup>1</sup>**Note.**— The word “that” was substituted for the word “who” by the editors.

**578.09 Label requirements for agricultural, vegetable, flower, tree, or shrub seeds.**— Each container of agricultural, vegetable, flower, tree, or shrub seed which is sold, offered for sale, exposed for sale, or distributed for sale within this state for sowing purposes must bear thereon or have attached thereto, in a conspicuous place a plainly written or printed label or tag in the English language. All data pertaining to analysis must appear on a single label. Language setting forth the requirements for filing and serving complaints as described in s. 578.26(1)(c) must 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 all treated agricultural, vegetable, flower, tree, or shrub seed as defined in this chapter:

(a) A word or statement indicating that the seed has been treated.

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

(c) If the substance in the amount present with the seed is harmful to humans or other vertebrate animals, a caution statement such as “Do not use for food, feed, or oil purposes.” The caution for mercurials, Environmental Protection Agency Toxicity Category 1 as referenced in 7 C.F.R. s. 201.31a(c)(2), and similarly toxic substances shall be designated by a poison statement or symbol.

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

A label separate from other labels required by this section or other law may be used to identify seed treatments as required by this subsection.

(2) For agricultural seed, including lawn and turf grass seed and mixtures thereof:

(a) The name of the kind and variety of each component present 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 “mixed,” “mixture,” or “blend” must be shown conspicuously on the label. Hybrids must be labeled as hybrids.

(b) Lot number or other lot identification.

(c) Net weight or seed count.

(d) Origin, if known. If the origin is unknown, that fact must be stated.

(e) Percentage by weight of all weed seed.

(f) Name and number of noxious weed seed per pound, if present.

(g) Percentage by weight of agricultural seed which may be designated as other crop seed, other than those required to be named on the label.

(h) Percentage by weight of inert matter.

(i) For each named agricultural seed, including lawn and turf grass seed:

1. Percentage of germination, exclusive of hard or dormant seed;

2. Percentage of hard or dormant seed, if present; and

3. The calendar month and year the test was completed to determine such percentages, provided that the germination test must have been completed within the previous 9 months, exclusive of the calendar month of test.

(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.

The sum total of the percentages listed pursuant to paragraphs (a), (e), (g), and (h) must be equal to 100 percent.

(3) For seed that is coated:

(a) Percentage by weight of pure seed with coating material removed. The percentage of coating material may be included with the inert matter percentage or may be listed separately.

(b) Percentage of germination. This percentage must be determined based on an examination of 400 coated units with or without seed.

In addition to the requirements of this subsection, labeling of coated seed must also comply with the requirements of any other subsection pertaining to that type of seed.

(4) For combination mulch, seed, and fertilizer products:

(a) The word "combination" followed, as appropriate, by the words "mulch – seed – fertilizer" must appear prominently on the principal display panel of the package.

(b) If the product is an agricultural seed placed in a germination medium, mat, tape, or other device or is mixed with mulch or fertilizer, it must also be labeled with all of the following:

1. Product name.
2. Lot number or other lot identification.
3. Percentage by weight of pure seed of each kind and variety named which may be less than 5 percent of the whole.
4. Percentage by weight of other crop seed.
5. Percentage by weight of inert matter.
6. Percentage by weight of weed seed.
7. Name and number of noxious weed seeds per pound, if present.
8. Percentage of germination, and hard or dormant seed if appropriate, of each kind or kind and variety named.

The germination test must have been completed within the previous 12 months exclusive of the calendar month of test.

9. The calendar month and year the test was completed to determine such percentages.
10. Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within the state.

The sum total of the percentages listed pursuant to subparagraphs 3., 4., 5., and 6. must be equal to 100 percent.

(5) For vegetable seed in packets as prepared for use in home gardens or household plantings or vegetable seeds in preplanted containers, mats, tapes, or other planting devices:

(a) Name of kind and variety of seed. Hybrids must be labeled as hybrids.

(b) Lot number or other lot identification.

(c) Germination test date identified in the following manner:

1. The calendar month and year the germination test was completed and the statement "Sell by \_(month/year)\_", which may be no more than 12 months from the date of test, beginning with the month after the test date;
2. The month and year the germination test was completed, provided that the germination test must have been completed within the previous 12 months, exclusive of the calendar month of test; or
3. The year for which the seed was packaged for sale as "Packed for \_(year)\_" and the statement "Sell by \_(year)\_" which shall be 1 year after the seed was packaged for sale.

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

(e) For seed which germinate less than standard last established by the department:

1. Percentage of germination, exclusive of hard or dormant seed.
2. Percentage of hard or dormant seed, if present.
3. The words "Below Standard" prominently displayed.

(f) No seed marked "Below Standard" may be sold that falls more than 20 percent below the established standard for such seed. For seeds that do not have an established standard, the minimum germination standard shall be 50

percent, and no such seed may be sold that is 20 percent below this standard.

(g) 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 seeds from the medium, mat, tape or device, a statement to indicate the minimum number of seeds in the container.

(6) For vegetable seed in containers, other than packets prepared for use in home gardens or household plantings, and other than preplanted containers, mats, tapes, or other planting devices:

(a) The name of each kind and variety present of any seed in excess of 5 percent of the total weight in the container, and the percentage by weight of each type of seed in order of its predominance. Hybrids must be labeled as hybrids.

(b) Net weight or seed count.

(c) Lot number or other lot identification.

(d) For each named vegetable seed:

1. Percentage germination, exclusive of hard or dormant seed;

2. Percentage of hard or dormant seed, if present;

3. Listed below the requirements of subparagraphs 1. and 2., the "total germination and hard or dormant seed" may be stated as such, if desired; and

4. The calendar month and year the test was completed to determine the percentages specified in subparagraphs 1. and 2., provided that the germination test must have been completed within 9 months, exclusive of the calendar month of test.

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

(f) For seed which germinate less than the standard last established by the department, the words "Below Standard" prominently displayed.

1. No seed marked "Below Standard" may be sold if the seed is more than 20 percent below the established standard for such seed.

2. For seeds that do not have an established standard, the minimum germination standard shall be 50 percent, and no such seed may be sold that is 20 percent below this standard.

(7) 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 adopted under the provisions of this chapter.

2. Germination test date, identified in the following manner:

a. The calendar month and year the germination test was completed and the statement "Sell by \_(month/year)\_". The sell by date must be no more than 12 months from the date of test, beginning with the month after the test date;

b. The year for which the seed was packed for sale as "Packed for \_(year)\_" and the statement "Sell by \_(year)\_" which shall be for a calendar year; or

c. The calendar month and year the test was completed, provided that the germination test must have been completed within the previous 12 months, exclusive of the calendar month of test.

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 or dormant seed.

2. Percentage of hard or dormant seed, if present.

3. The words "Below Standard" prominently displayed.

(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.

(8) For flower seed in containers other than packets and other than preplanted containers, mats, tapes, or other planting devices and not prepared for use in home flower gardens or household plantings:

- (a) The name of the kind and variety, and for wildflowers, the genus and species and subspecies, if appropriate.
- (b) Net weight or seed count.
- (c) Lot number or other lot identification.
- (d) For flower seed with a pure seed percentage of less than 90 percent:
  - 1. Percentage, by weight, of each component listed in order of its predominance.
  - 2. Percentage by weight of weed seed, if present.
  - 3. Percentage by weight of other crop seed.
  - 4. Percentage by weight of inert matter.
- (e) For those kinds of seed for which standard testing procedures are prescribed:
  - 1. Percentage germination exclusive of hard or dormant seed.
  - 2. Percentage of hard or dormant seed, if present.
  - 3. The calendar month and year that the test was completed. The germination test must have been completed within the previous 9 months, exclusive of the calendar month of test.
- (f) For those kinds of seed for which standard testing procedures are not available, the year of production or collection.
- (g) The name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.

(h) For seed which germinate less than the standard last established by the department, the words "Below Standard" prominently displayed.

(9) For tree or shrub seed:

- (a) Common name of the species of seed and, if appropriate, subspecies.
- (b) The scientific name of the genus, species, and, if appropriate, subspecies.
- (c) Lot number or other lot identification.
- (d) Net weight or seed count.
- (e) Origin, indicated in the following manner:
  - 1. For seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude or geographic description, or political subdivision, such as state or county.
  - 2. For seed collected from other than a predominantly indigenous stand, the area of collection and the origin of the stand or the statement "Origin not Indigenous."
  - 3. The elevation or the upper and lower limits of elevations within which the seed was collected.
- (f) Purity as a percentage of pure seed by weight.
- (g) For those species for which standard germination testing procedures are prescribed by the department:
  - 1. Percentage germination exclusive of hard or dormant seed.
  - 2. Percentage of hard or dormant seed, if present.
  - 3. The calendar month and year test was completed, provided that the germination test must have been completed within the previous 12 months, exclusive of the calendar month of test.
- (h) In lieu of subparagraphs (g)1., 2., and 3., the seed may be labeled "Test is in progress; results will be supplied upon request."
- (i) 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.
- (j) The name and address of the person who labeled the seed or who sells, offers, or exposes the seed for sale within this state.

The information required by this section to be placed on labels attached to seed containers may 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 the invoice if



each bag or other container is clearly identified by a lot number displayed on the bag or other container. Each bag or container that is not so identified must carry complete labeling.

**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; s. 42, ch. 2018-84.

**578.092 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 must 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 H<sub>2</sub>O/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.

(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; s. 72, ch. 2000-154; s. 53, ch. 2018-84.

**Note.**—Former s. 578.28.

#### **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 to:

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

(b) Seed stored 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 is subject to this law.

(c) Seed under development or maintained exclusively for research purposes.

(3) If seeds cannot be identified by examination thereof, a person is not subject to the criminal penalties of this chapter for having sold or offered for sale seeds subject to this chapter which were incorrectly labeled or represented as to kind, species, and, if appropriate, subspecies, variety, type, or origin, elevation, and, if required, year of collection unless he or she has failed to obtain an invoice, genuine grower’s or tree seed collector’s declaration, or other labeling information and to take such other precautions as may be reasonable to ensure the identity of the seeds to be as stated by the grower. A genuine grower’s declaration of variety must affirm that the grower holds records of proof of identity concerning parent seed, such as invoice and labels.

(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; s. 911, ch. 97-103; s. 44, ch. 2018-84.

#### **578.11 Duties, authority, and rules 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, tree, or shrub 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, tree, or shrub 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 to:

(a) Enforce this chapter and prescribe the methods of sampling, inspecting, testing, and examining agricultural, vegetable, flower, tree, or shrub seed.

(b) 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) Prescribe uniform labels.

(d) Adopt prohibited and restricted noxious weed seed lists.

(e) Prescribe limitations for each restricted noxious weed to be used in enforcement of this chapter <sup>1</sup>and add or subtract therefrom from time to time as the need may arise.

(f) Make commercial tests of seed <sup>1</sup>and fix and collect charges for such tests.

(g) List the kinds of flower, tree, and shrub seed subject to this law.

(h) 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) Adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter.

(j) Establish, by rule, requirements governing aircraft used for the aerial application of seed, including requirements for recordkeeping, annual aircraft registration, secure storage when not in use, area-of-application information, and reporting any sale, lease, purchase, rental, or transfer of such aircraft to another person.

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

(a) Enter upon any public or private premises, where agricultural, vegetable, flower, tree, or shrub 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) Issue and enforce a stop-sale notice or order to the owner or custodian of any lot of agricultural, vegetable, flower, tree, or shrub 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, she or he has 15 days beyond the normal test period within which to comply with the law and obtain a written release of the seed. This paragraph may not be construed as limiting the right of the department to proceed as authorized by other sections of this law.

(c) 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; s. 912, ch. 97-103; s. 191, ch. 98-200; s. 4, ch. 2001-360; s. 45, ch. 2018-84.

<sup>1</sup>**Note.**— The word “to” following the word “and” was deleted by the editors.

**578.12 Stop-sale, stop-use, removal, or hold orders.**— When agricultural, vegetable, flower, tree, or shrub 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; s. 46, ch. 2018-84.

**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, tree, or shrub seed within this state:

(a) Unless the test to determine the percentage of germination required by s. 578.09 has been completed immediately prior to sale, exposure for sale, offering for sale, or transportation, except for a germination test for seed in hermetically sealed containers which is provided for in s. 578.092.

(b) Not labeled in accordance with 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 this law.

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

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

(a) 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) Disseminate any false or misleading advertisement concerning agricultural, vegetable, flower, tree, or shrub seed in any manner or by any means.

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

(d) Fail to comply with a stop-sale order<sup>1</sup> or move, handle, or dispose of any lot of seed, or tags attached to such seed, held under a “stop-sale” order, except with express permission of the department and for the purpose specified by the department.

(e) Label, advertise, or otherwise represent seed subject to this chapter to be certified seed or any class thereof, including classes such as “registered seed,” “foundation seed,” “breeder seed” or similar representations, unless:

1. A seed certifying agency determines that such seed conformed to standards of purity and<sup>2</sup> identity as to the kind, variety, or species and, if appropriate, subspecies and the seed certifying agency also determines that tree or shrub seed was found to be of the origin and elevation claimed, in compliance with the rules and regulations of such agency pertaining to such seed; and

2. The seed bears an official label issued for such seed by a seed certifying agency certifying that the seed is of a specified class and specified to the kind, variety, or species and, if appropriate, subspecies.

(f) Label, by variety name, seed not certified by an official seed-certifying agency when it is a variety for which a certificate of plant variety protection under the United States Plant Variety Protection Act, 7 U.S.C. ss. 2321 et seq., specifies sale only as a class of certified seed, except that seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the written approval of, the owner of the variety.

(g) 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.

(h) 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.

**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; s. 13, ch. 96-407; s. 1186, ch. 97-103; s. 47, ch. 2018-84.

<sup>1</sup>**Note.**— The word “to” following the word “or” was deleted by the editors.

<sup>2</sup>**Note.**— The word “identity” was substituted for the word “identify” by the editors to facilitate correct interpretation.

**578.181 Penalties; administrative fine.—**

(1) The department may enter an order imposing one or more of the following penalties against a person who violates this chapter or the rules adopted under this chapter or who impedes, obstructs, hinders, or otherwise attempts to prevent the department from performing its duty in connection with this chapter:

(a) For a minor violation, issuance of a warning letter.

(b) For violations other than a minor violation:

1. Imposition of an administrative fine in the Class I category pursuant to s. 570.971 for each occurrence.
2. 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; s. 129, ch. 2014-150; s. 49, ch. 2018-84.

**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 Records.—** Each person who allows his or her name or brand to appear on the label as handling agricultural, vegetable, flower, tree, or shrub seeds subject to this chapter must keep, for 2 years, complete records of each lot of agricultural, vegetable, flower, tree, or shrub seed handled, and keep for 1 year after final disposition a file sample of each lot of seed. All such records and samples pertaining to the shipment or shipments involved must be accessible for inspection by the department or its authorized representative during normal business hours.

**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; s. 50, ch. 2018-84.

**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 buyer is damaged by the failure of agricultural, vegetable, flower, tree, or shrub seed planted in this state to produce or perform as represented by the labeling of such seed as required by s. 578.09, as a prerequisite to her or his right to maintain a legal action against the dealer from whom the seed was purchased, the buyer must 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 property, crops, plants, or trees referenced in, or related to, the buyer’s complaint

by the seed investigation and conciliation council or its representatives and by the dealer from whom the seed was purchased.

(b) For types of claims specified in paragraph (a), the buyer may not commence legal proceedings against the dealer or assert such a claim as a counterclaim or defense in any action brought by the dealer until the findings and recommendations of the seed investigation and conciliation council are transmitted to the complainant and the dealer.

(c) 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 buyer.

(d) 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 her or his answer to the complaint and serve a copy of the answer on the buyer 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 must 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, must 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 buyer and to the dealer by certified mail.

(4) The department shall provide administrative support for the seed investigation and conciliation council and shall mail a copy of the council's procedures 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; s. 913, ch. 97-103; s. 85, ch. 2013-18; s. 51, ch. 2018-84.

**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, one member 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; the president of the Florida Seed Association; the 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 from the agriculture industry at large and from the Department of Agriculture and Consumer Services. Each member shall be appointed for a term of 4 years or less and shall serve until his or her successor is appointed. 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 chair from its membership. It shall be the duty of the chair 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 chair.

(2) The purpose of the seed investigation and conciliation council is to assist buyers and seed dealers in determining the validity of seed complaints made by buyers against dealers and recommend a settlement, when appropriate, resulting from the alleged failure of the seed to produce or perform as represented by the label of such seed.

(3) The seed investigation and conciliation council may be called into session by the department or upon the direction of the chair 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 buyer against a dealer, the council must make a full and complete investigation of the matters complained of and at the conclusion of the investigation must report its findings and make its recommendation and file same with the department.

(b) In conducting its investigation, the seed investigation and conciliation council or any representative, member, or members thereof are authorized to examine the buyer's property, crops, plants, or trees referenced in or relating to the complaint and the dealer on her or 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 chair of the council upon reasonable notice to the buyer and the dealer.

(c) Any investigation made by less than the whole membership of the council must be by authority of a written directive by the department or by the chair, and such investigation must 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; s. 914, ch. 97-103; s. 52, ch. 2018-84.

**578.29 Prohibited noxious weed seed.**—Seeds meeting the definition of prohibited noxious weed seed under s. 578.011 may not be present in agricultural, vegetable, flower, tree, or shrub seed offered or exposed for sale in this state.

**History.**—s. 54, ch. 2018-84.

Disclaimer: The information on this system is unverified. The journals or printed bills of the respective chambers should be consulted for official purposes.

Copyright © 2000- 2018 State of Florida.