

Kentucky Seed Law and Provisions for Seed Certification in Kentucky

Unofficial Text of Statutes
As Revised in 2016

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For Information Only



250.010 Definitions for chapter.

As used in this chapter, unless the context requires otherwise:

- (1)** “Commissioner” means the Commissioner of Agriculture.
- (2)** “Concentrated commercial feeding stuff” includes linseed meals, corn and corncob meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn feeds, starch feeds, sugar feeds, dried brewers’ grains, malt sprouts, dried distillers’ grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat midlings, wheat shorts and other mill products, ground beef, fish scraps, mixed feeds, clover meal, alfalfa meal and feeds, pea-vine meal, cottonseed meal, velvet bean meal, feeds and meals mixed or unmixed, made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock, and poultry feeds.
- (3)** “Department” means the Department of Agriculture.
- (4)** “Director” means the director of the Agricultural Experiment Station or his designee.
- (5)** “Experiment station” means the Agricultural Experiment Station.
- (6)** “Weed seeds” means all seeds that are not agricultural, vegetable, or flower seeds. It includes noxious weed seeds.

Effective: April 8, 1994

History: Amended 1994 Ky. Acts ch. 370, sec. 11, effective April 8, 1994. Amended 1992 Ky. Acts ch. 200, sec. 1, effective July 14, 1992. — Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 42h-1, 1376b-14. 1376b-15, 1719a-2.

250.021 Definitions for KRS 250.021 to 250.111.

As used in KRS 250.021 to 250.111, unless the context requires otherwise:

- (1)** “Advertised” means all representations, other than those on the label, disseminated by the public press, circular, catalog, or other media, relating to agricultural, vegetable, or flower seed, or combination seed, mulch, and fertilizer products within the scope of KRS 250.021 to 250.111;
- (2)** “Agricultural seed” includes grass, forage, cereal, oil, fiber, tobacco, and other kinds of crop seed commonly recognized within Kentucky as agricultural seed, lawn seed, and combinations of these seed. Regardless of the name used to describe seed, the product shall be seed if its intended use is for plant production;

- (3)** “Blend” means seed consisting of more than one (1) variety of a kind, each in excess of five percent (5%) by weight of the whole;
- (4)** “Brand” means a word, name, symbol, number, or design used to identify seed of one (1) person to distinguish it from seed of another person;
- (5)** “Certified seed” means seed for which a certificate or any other instrument has been issued by an agency authorized under the laws of a state, territory, or possession 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;
- (6)** “Certified custom seed conditioner” means a person who has been approved by the Kentucky Seed Improvement Association (KSIA) to condition seed for distribution as certified seed;
- (7)** “Certified seed grower” means a person who has been approved by the Kentucky Seed Improvement Association to produce seed to be sold as Kentucky certified seed;
- (8)** “Certifying agency” means:
- (a) An agency authorized under the laws of a state, territory, or possession 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 determined by the United States Secretary of Agriculture to adhere to procedures and standards for seed certification comparable to those adhered to generally by seed certifying agencies under paragraph (a) of this subsection;
- (9)** “Conditioning” means drying, cleaning, applying seed treatment, scarifying, and other operations which could change the purity or germination of the seed;
- (10)** “Crop seed” means seed of crop plants other than the kind or variety included in the pure seed;
- (11)** “Distribute” means to consign, offer for sale, sell, advertise for sale, barter, or otherwise supply agricultural seed;
- (12)** “Distributor” means any person who distributes agricultural seed;
- (13)** “Dormant” means seed, excluding hard seed, which fail to germinate, even though viable, when provided the specified germination conditions for the kind of seed in question;
- (14)** “Flower seed” includes seed of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental parts, and commonly known and sold under the name of flower seed or wildflower seed, except for seed which have been placed on the Kentucky noxious weed seed list;

(15) "Germination" means the emergence and development from the seed embryo of those essential structures which, for the kind of seed in question, indicate the ability to produce a normal plant under favorable conditions;

(16) "Hard seed" means seed which remain hard at the end of the prescribed test period because they have not absorbed water due to an impermeable seed coat;

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

(a) Two (2) or more inbred lines;

(b) One (1) inbred or a single cross with an open-pollinated variety; or

(c) Two (2) varieties or species, excluding open-pollinated varieties of corn; and excludes the second generation or subsequent generations from those crosses;

(18) "Inert matter" means all matter not seed, including broken seed, sterile florets, chaff, fungus bodies, and stones;

(19) "Inoculant" means a formulation containing nitrogen-fixing bacteria which is applied as a treatment to legume seed to increase the nitrogen-fixing capabilities of the plants produced from the seed;

(20) "Inspection fee" means a fee, based on volume or value of product distributed, collected by the director from permit holders in Kentucky;

(21) "Kind" means one (1) or more related species or subspecies which singly or collectively is known by one (1) common name, for example, corn, oats, alfalfa, and timothy;

(22) "Label" includes a tag or other device attached to or written, stamped, or printed on any container of seed or accompanying any lot of bulk seed purporting to set forth the information required on the seed label by KRS 250.021 to 250.111, and it may include other information relating to the labeled seed; (23) "Lot" means a definite quantity of seed identified by a number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors which appear in the labeling;

(24) "Mixture" means seed consisting of more than one (1) kind, each in excess of five percent (5%) by weight of the whole;

(25) "Mulch" means a protective covering of any suitable substance placed with seed which acts to retain moisture to support seed germination and sustain early seedling growth and aid in the prevention of the evaporation of soil water, the control of weeds, and the prevention of erosion;

(26) "Noncertified custom seed conditioner" means a person other than a certified seed conditioner who conditions agricultural seed which is to be distributed;

(27) "Noxious weed seed" means one (1) of two (2) classes:

- (a) "Prohibited noxious weed seed" means those weed seed which are prohibited from being present in agricultural, vegetable, or flower seed, and are seed of weeds which are highly destructive and difficult to control; or
- (b) "Restricted noxious weed seed" means those weed seed which are objectionable in agricultural crops, lawns, or gardens of Kentucky, but which can be controlled using conventional methods;

(28) "Pelleted seed" means seed coated with a layer of inert materials that may obscure the original shape and size of the seed resulting in a substantial weight increase and improved plantability. The addition of polymers, biologicals, pesticides, identifying colorants or dyes, or other ingredients may be included in the pelleting material;

(29) "Permit holder" means a person who has obtained a permit from the director to label agricultural, vegetable, or flower seed; or combination mulch, seed, and fertilizer products distributed in Kentucky and whose name and address is required to appear on labels of those products distributed in Kentucky as a condition for obtaining the permit;

(30) "Person" means an individual, partnership, company, corporation, or other type of business establishment;

(31) "Pure seed" means seed exclusive of inert matter and all other seed not of the kind or variety being considered;

(32) "Informal hearing" means a discussion of facts between the person involved in an apparent law violation and the director;

(33) "Record" means information which relates to the origin, treatment, germination, purity, kind, and variety of each lot of seed sold. The information shall include seed samples and documents showing declarations, labels, purchases, sales, conditioning, bulking, treatment, handling, storage, analyses, tests, or examinations;

(34) "Retail agricultural seed dealer" means a person who engages in the business of distributing agricultural seed in containers or bulk units of forty (40) pounds or more;

(35) "Seizure" means a legal process carried out by court order against a specified seed lot;

(36) "Stop sale" means an administrative order provided by law, which restrains the distribution of a specified seed lot;

(37) "Treated seed" means seed which has received an application of a substance or has been subjected to a process for which a claim is made;

(38) "Variety" means a subdivision of a species which is distinct, uniform, and stable; distinct in the sense that the variety can be differentiated by one (1) or more identifiable

morphological, physiological, or other characteristics from all other publicly known varieties; 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 as required by the different categories of varieties; and

(39) “Vegetable seed” means the seed of those crops which are grown in gardens and on truck farms and are generally known and sold under the name of vegetable or herb seed in Kentucky.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 38, sec. 2, effective July 15, 2016. —Amended 1996 Ky. Acts ch. 318, sec. 164, effective July 15, 1996. —Created 1994 Ky. Acts ch. 370, sec. 1, effective April 8, 1994.

250.022 Preemption of local regulation of seeds.

(1) No city, county, or other political subdivision of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation regarding the registration, packaging, labeling, sale, storage, distribution, use, application, or propagation of seeds as regulated pursuant to KRS 250.021 to 250.111. Any local legislation in violation of this section is void and unenforceable.

(2) Nothing in this section shall be construed to:

- (a) Abrogate the planning and zoning authority granted local government pursuant to KRS Chapter 100; or
- (b) Preempt or limit remedies available under common law or statutes.

Effective: July 15, 2016

History: Created 2016 Ky. Acts ch. 38, sec. 1, effective July 15, 2016.

250.031 Application of KRS 250.021 to 250.111.

(1) The requirements and prohibitions of KRS 250.021 to 250.111 shall not apply:

- (a) To seed or grain not distributed for planting purposes.
- (b) To seed in storage in, or being transported or consigned to a conditioning establishment, if the invoice or labeling accompanying any shipment of the seed bears the statement “seed for conditioning”; and if any labeling or other representation which may be made with respect to the unconditioned seed of the same lot shall be subject to KRS 250.021 to 250.111.
- (c) To any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier if the carrier is not engaged in

producing, conditioning, or distributing seed subject to the provisions of KRS 250.021 to 250.111.

(d) To seed grown, sold and delivered by a producer on his own premises to the purchaser himself. If, however, the seed is advertised by the public press, circular, or catalog, or if the seed is delivered by a common carrier, the seed and the distributor shall be subject to the certification and labeling requirements of KRS 250.021 to 250.111.

(2) No person shall be subject to the penalties of KRS 250.111 for having distributed seed which were incorrectly labeled or represented as to kind, species, and subspecies, if appropriate, variety, type, or origin, which seed cannot be identified by examination thereof, unless he has failed to obtain an invoice, genuine grower's declaration, or other labeling information and to take other reasonable precautions to ensure the identity to be that stated. A genuine grower's declaration of variety shall affirm that the grower holds records of proof concerning parent seed, such as invoice and label.

(3) The director may by administrative regulation omit the requirement for variety designation on labels of seed kinds not commonly sold by variety name.

Effective: April 8, 1994

History: Created 1994 Ky. Acts ch. 370, sec. 2, effective April 8, 1994.

250.041 Labeling requirements.

(1) Every lot of agricultural seed, when in bulk or a container of one (1) pound or more, or in the case of tobacco seed of one-twelfth (1/12) ounce or more; each packet or other container of vegetable or flower seed; each preplanted container, mat, tape, or other planting device containing vegetable or flower seed; and each container of a combination mulch, seed, and fertilizer product distributed in Kentucky for planting purposes shall bear or have attached in a conspicuous place a plainly written or printed label in the English language providing the information stipulated in subsection (10) of this section.

(2) Labels shall be obtained as described in KRS 250.051.

(3) The label specified in this section shall be delivered to the purchaser with every distribution of agricultural seed, if the distribution amounts to one (1) pound or more, whether the distribution is in bulk or in package.

(4) Seed remaining in the inventory of a retail agricultural seed dealer or a permit holder after the germination test has expired shall be removed from sale or relabeled. New tags are preferred for relabeling, but new percentages of germination, hard seeds, or dormant seed and the new date of germination test may be entered on the tags or labels previously attached to the container if inserted in a way to

be clearly legible and the old percentages of germination, hard seeds, or dormant seed and date of test are completely obliterated. The person upon whose premises the seed is located shall be held responsible for obtaining the new germination test and for subsequent relabeling of the seed.

(5) Labeling of seed supplied to or owned by a permit holder may be a single tag or laboratory report accompanying the invoice, if each bag or other container is clearly identified by a lot number stenciled or taped on the container. Each bag or container that is not so identified shall carry complete labeling.

(6) All soybean seed, except black soybean (hay bean) seed shall be labeled by variety name.

(7) All tobacco seed or winter rape (Canola) seed shall be certified by the Kentucky Seed Improvement Association (KSIA) or by the agency responsible for certification in the state, province, or country where the seed originated, but only if the standards there are not lower than KSIA standards.

(8) The label for treated seed shall provide the following as additional information:

- (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) A caution statement such as "Do not use for food, feed, or oil purposes" if the substance in the amount present with the seed is harmful to human or other vertebrate animals. The caution for mercurials and similarly toxic substances shall be a poison statement or symbol; and
- (d) The expiration date if the treatment is an inoculant.

(9) The label for agricultural seed which have been pelleted or coated shall provide the following as additional information:

- (a) Percentage by weight of pure seed with pelleting or coating material removed;
- (b) Percentage by weight of pelleting or coating material;
- (c) Percentage by weight of inert material exclusive of pelleting or coating material; and
- (d) Percentage of germination, which is to be determined on four hundred (400) pellets.

(10) Labels giving the following information, which statement shall not be modified or denied in the labeling or on another label attached to the container, shall be used:

- (a) For agricultural seed, except for cool season grass seed and seed mixtures as provided in paragraph (b) of this subsection, when in bulk or a container of one (1) pound or more or in the case of tobacco seed of one-twelfth (1/12) ounce or more:

1. The name and address of the person who labeled the seed;
 2. The name of the kind and variety for each agricultural seed component present in excess of five percent (5%). If the variety of those kinds generally labeled as to variety as designated in the administrative regulations promulgated under KRS 250.021 to 250.111 is not known, the label shall show the kind and the words "Variety Unknown." If the variety of those kinds generally labeled as to variety as designated in the administrative regulations promulgated under KRS 250.021 to 250.111 is not stated, the label shall show the kind and the words "Variety Not Stated" or "VNS." Hybrid designations, when applicable, shall be used in place of variety names. If more than one (1) component is present in excess of five percent (5%), the word "mixed," "mixture," or "blend" shall be stated with the name of the mixture or blend, and each component shall be listed in columnar form in order of its prominence;
 3. Lot number or other lot identification;
 4. Percentage by weight of all weed seed;
 5. The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;
 6. Percentage by weight of crop seed;
 7. Percentage by weight of inert matter;
 8. The totality of pure seed, weed seed, crop seed, and inert matter described in subparagraphs 2., 4., 6., and 7. of this paragraph shall total one hundred percent (100%); and
 9. For each named agricultural seed:
 - a. Percentage of germination, exclusive of hard or dormant seed;
 - b. Percentage of hard or dormant seed, if present;
 - c. Origin (state or foreign country); and
 - d. The calendar month and year in which the germination test was completed;
- (b) For cool season grasses, including but not limited to Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass, creeping bentgrass, and mixtures of the grasses:
1. For single kinds, the name of the kind and variety shall be listed. If the variety of those kinds generally labeled as to variety as designated in the administrative regulations promulgated under KRS 250.021 to 250.111 is not known, the label shall show the kind and the words "Variety Unknown." If the variety of those kinds generally labeled as to variety as designated in the administrative regulations promulgated under KRS

250.021 to 250.111 is not stated, the label shall show the name and the kind with the words "Variety Not Stated" or "VNS";

2. For mixtures:
 - a. The word "mix," "mixed," "mixture," or "blend" shall be stated with the name of the mixture;
 - b. The heading "Pure Seed," "Germination," or "Germ" shall be used in the proper places; and
 - c. The commonly accepted name of the kind, or kind and variety, of each agricultural seed component in excess of five percent (5%) of the whole, and the percentage by weight of pure seed shall be written in order of its predominance and in columnar form. If the variety of those kinds generally labeled as to variety as designated in the administrative regulations promulgated under KRS 250.021 to 250.111 is not stated, the label shall show the name of the kind and the words "Variety Not Stated";
 3. The percentage by weight of crop seed;
 4. The percentage by weight of inert matter;
 5. The percentage by weight of all weed seeds;
 6. The totality of pure seed, pure seed mix, crop seed, inert matter, and weed seed described in subparagraphs 1., 2., 3., 4., and 5. of this paragraph shall total one hundred percent (100%);
 7. The name and rate of occurrence per pound of each kind of restricted noxious weed seed present;
 8. For each cool season grass seed named under subparagraphs 1. and 2. of this paragraph:
 - a. The percentage of germination, exclusive of hard seed;
 - b. The percentage of hard seed, if present;
 - c. The calendar month and year the test was completed to determine such percentages; and
 - d. The test to determine the percentage of germination shall be completed within a fifteen (15) month period immediately prior to sale, exposure for sale, or offering for sale or transportation, exclusive of the calendar month in which the test was completed; and
 9. The name and address of the person who labeled the seed;
- (c) For vegetable seed in packets as prepared for use in home gardens or household plantings or vegetable seed in preplanted containers, mats, tapes, or other planting devices:
1. The name and address of the person who labeled the seed;
 2. Name of kind and variety of seed;

3. Lot identification, such as by lot number or other means;
 4. The year for which the seed was packed for distribution as "Packed for _____" or the percentage germination and the calendar month and year the test was completed to determine such percentage;
 5. For seed which germinate less than the standard last established by the director under KRS 250.021 to 250.111:
 - a. Percentage of germination, exclusive of hard seed;
 - b. Percentage of hard seed, if present; and
 - c. The words "Below Standard" in not less than eight (8) point type; and
 6. For vegetable seed placed in a germination medium, mat, tape, or other device in a way 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;
- (d) 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:
1. The name and address of the person who labeled the seed;
 2. The name of each kind and variety present in excess of five percent (5%) and the percentage by weight of each in order of its predominance;
 3. Lot number or other lot identification; and
 4. For each named vegetable seed:
 - a. Percentage of germination, exclusive of hard seed;
 - b. Percentage of hard seed, if present; and
 - c. The calendar month and year the test was completed to determine the percentages.

The labeling requirements for vegetable seed in containers of more than one (1) pound shall be deemed to have been met if the seed is weighed from a properly labeled container in the presence of the purchaser;

- (e) 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:
1. The name and address of the person who labeled the seed;
 2. The name of the kind and variety or a statement of type and performance characteristics as prescribed in administrative regulations promulgated under the provisions of KRS 250.021 to 250.111;
 3. The calendar month and year the seed was tested or the year for which the seed was packaged;

4. If seed are of those kinds for which standard testing procedures are prescribed and which germinate less than the germination standard last established under the provisions of KRS 250.021 to 250.111:
 - a. Percentage of germination, exclusive of hard seed; and
 - b. The words "Below Standard" in not less than eight (8) point type; and
 5. If seed are in a germination medium, mat, tape, or other device in a way 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;
- (f) 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:
1. The name and address of the person who labeled the seed;
 2. The name of the kind and variety or a statement of type and performance characteristics as prescribed in administrative regulations promulgated under the provisions of KRS 250.021 to 250.111;
 3. The lot number or other lot identification;
 4. The calendar month and year that the seed was tested or the year for which the seed was packaged; and
 5. If seed are of a kind for which standard testing procedures are prescribed:
 - a. Percentage of germination, exclusive of hard seed; and
 - b. Percentage of hard seed, if present; and
- (g) For combination mulch, seed, and fertilizer products:
1. The name and address of the person who labeled the seed;
 2. The word "combination" followed by the words "mulch -seed - fertilizer" (if appropriate) shall appear on the upper thirty percent (30%) of the principal display panel. The word "combination" shall be the largest and most conspicuous type on the container, equal to or larger than the product name. The words "mulch - seed - fertilizer" shall be no smaller than half the size of the word "combination" and in close proximity to the word "combination." These products shall contain a minimum of seventy percent (70%) mulch; and
 3. Agricultural, lawn, and turf seed placed in a germination medium, mat, tape, or other device or mixed with mulch shall, in addition, be labeled as follows:
 - a. Product name;
 - b. Lot number;

- c. Percentage by weight of pure seed of each kind and variety named which may be less than five percent (5%) of the whole;
- d. Percentage by weight of crop seed;
- e. Percentage by weight of inert matter which shall not be less than seventy percent (70%);
- f. Percentage by weight of weed seed;
- g. Name and number of noxious weed seed per pound, if present; and
- h. Percentage of germination and hard seed (if appropriate) of each kind or kind and variety named and date of test.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 38, sec. 3, effective July 15, 2016.— Created 1994 Ky. Acts ch. 370, sec. 3, effective April 8, 1994. Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).

250.051 Permits for labeling — Fees — Registration.

(1) The following shall apply with regard to permits for labeling:

- (a) Each person who labels agricultural seed in accordance with KRS 250.041 shall obtain a labeling permit from the director and pay a semiannual inspection fee unless labels attached to the seed containers were issued by the Kentucky Seed Improvement Association, or purchased from the director;
- (b) Each person who labels vegetable seed, flower seed, or combination mulch, seed, and fertilizer product shall obtain a labeling permit from the director;
- (c) Permit holders shall be assessed a yearly fee of twenty-five dollars (\$25) based on a calendar year or fraction thereof. The procedure for obtaining a permit, the responsibilities of the permit holders, method to be used in determining inspection fees, and the procedure for payment of inspection fees by permit holders distributing agricultural seed shall be established by administrative regulations promulgated by the director. Permits may be revoked if the director determines that the permit holder is not complying with the provisions of KRS 250.021 to 250.111; and
- (d) Labels for agricultural seed may be purchased from the director at a price established by administrative regulation promulgated by the director.

(2) Each person who distributes agricultural seed in containers of forty (40) pounds or more at retail in Kentucky and

each person, other than a certified seed conditioner, who conditions agricultural seed for distribution in Kentucky shall register with the director.

(3) Certified seed growers and certified seed conditioners shall be registered with the director by the Kentucky Seed Improvement Association at no additional fee as a part of the certification process.

(4) The yearly registration fee for retail agricultural seed dealers and for noncertified custom seed conditioners shall be twenty-five dollars (\$25). If a person is required to both register and obtain a permit, the permit fee shall apply, and if a person is required to register both as a retail agricultural seed dealer and noncertified custom seed conditioner, only one (1) registration fee shall be paid.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 38, sec. 4, effective July 15, 2016. — Created 1994 Ky. Acts ch. 370, sec. 4, effective April 8, 1994. Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).

250.061 Recordkeeping requirements.

(1) Every permit holder shall keep complete records as defined in KRS 250.021 to 250.111 for a period of two (2) years and shall keep or arrange to have kept a file sample of seed for a period of at least one (1) year after final disposition of the seed. All records and samples shall be accessible for inspection by the director during customary business hours.

(2) Every person registered as a retail agricultural seed dealer, or noncertified custom seed conditioner shall keep and maintain records for a period of two (2) years at the registrant's address. All records shall be accessible for inspection by the director during customary business hours.

Effective: April 8, 1994

History: Created 1994 Ky. Acts ch. 370, sec. 5, effective April 8, 1994. Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).

250.071 Unlawful acts.

It shall be unlawful:

- (1)** To distribute any agricultural seed, mixtures of agricultural seed, vegetable seed, or flower seed, for seeding purposes which is not labeled in compliance with the provisions of KRS 250.041 or which has false or misleading labeling;
- (2)** To perform or hold oneself out as being authorized to perform any of the acts for which registration or a permit is required without complying with requirements of KRS 250.051;
- (3)** To detach, alter, deface, or destroy any label provided for in KRS 250.021 to 250.111 or administrative regulations promulgated thereunder, or to alter or to falsely label seed;
- (4)** To disseminate false or misleading advertisements concerning seed subject to KRS 250.021 to 250.111;
- (5)** To hinder or obstruct any authorized person in the performance of his or her duties under KRS 250.021 to 250.111;
- (6)** To fail to comply with a "stop sale" order or to move or otherwise handle or dispose of any lot of seed, or tags attached thereto, held under a "stop sale" order, except with express permission of the director and for the purpose specified thereby;
- (7)** To distribute agricultural, vegetable, or flower seed subject to the requirements of KRS 250.021 to 250.111:
 - (a) If subject to the germination requirements in KRS 250.041, or unless otherwise stipulated in KRS 250.041(10)(b), the test to determine the percentage of germination required by KRS 250.041 shall be completed within a nine (9) month period immediately prior to sale, exposure for sale, or offering for sale or transportation, exclusive of the calendar month in which the test was completed. However, agricultural or vegetable seed packaged in hermetically sealed containers may be distributed for a period of thirty-six (36) months after the germination test was completed;
 - (b) Consisting of or containing prohibited noxious weed seed;
 - (c) Having a combined germination and hard seed or germination and dormant seed percentage that is under sixty percent (60%), unless exception is specifically granted by the director;
 - (d) Consisting of or containing restricted noxious weed seed in amounts in excess of the number prescribed by administrative regulations promulgated under KRS 250.021 to 250.111, or in excess of the number declared on the label;
 - (e) Containing more than two percent (2%) by weight of all weed seed; or
 - (f) Labeled with the word "trace" or other word as a substitute for a percentage amount;

(8) To distribute agricultural seed not certified by an official seed-certifying agency if it is a variety for which a certificate of plant variety protection under the Federal Plant Variety Protection Act, 7 U.S.C. secs. 2321 et seq., specifies distribution only as a class of certified seed. Agricultural seed from a certified lot may be included and labeled by variety name in a mixture provided that the approval of the owner of the variety has been obtained;

(9) To sell or offer for sale any seed bearing the certified label of any growers' association whose requirements for certification are in any regard lower than those of the Kentucky Seed Improvement Association;

(10) To mix seed, including "feed wheat" or "wheat," with fertilizer and distribute the mixture unless the seed have been tested and labeled and are in full compliance with KRS 250.021 to 250.111;

(11) To condition seed belonging to one (1) person and deliver the conditioned seed to, or allow its pick-up by, any other person unless the seed have been tested and labeled in accordance with KRS 250.041; and

(12) To use relabeling stickers without having both the calendar month and year the germination test was completed and the lot number that matches the existing original lot number.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 38, sec. 5, effective July 15, 2016. — Created 1994 Ky. Acts ch. 370, sec. 6, effective April 8, 1994. Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).

250.081 Duties and powers of director — Authority for administrative regulations.

(1) The duty of enforcing KRS 250.021 to 250.111 and carrying out its provisions and requirements shall be vested in the director. It shall be the duty of the director:

(a) To enforce and administer the provisions of KRS 250.021 to 250.111.

(b) To be responsible for the official seed, plant, and plant parts certifying process in Kentucky. The certifying agency of Kentucky shall be the Kentucky Seed Improvement Association (KSIA). The affairs and business of KSIA shall be managed by a board of not less than five (5), or more than fifteen (15) directors, to be elected by the members. The KSIA commodity committees for small grain, legumes

and grasses, tobacco, and corn, sorghum, and soybeans shall be represented by KSIA members and members of the experiment station staff approved by the director. Certification work shall be on a self-supporting basis but not for financial profit.

- (c) To prescribe, amend, adopt, and publish after public hearing following due public notice, administrative regulations governing:
1. The certification process.
 - a. Administrative regulations governing what crops grown in Kentucky shall be eligible for certification; the conduct of certification, and standards, requirements, and forms for certification.
 - b. If certification in Kentucky is requested for agricultural seed or plant parts for propagation produced outside of Kentucky and intended for sale in Kentucky, the request may be granted only when that part of the production process which has taken place outside the state has been certified by the agency responsible for certification in the state, province, or country where it originated, and only when the standards of certification there are not lower than those of the Kentucky Seed Improvement Association and are accepted by the director.
 - c. If certification is requested for agricultural seed or plant parts for propagation produced in Kentucky but eligible for certification outside of Kentucky and intended for sale outside of Kentucky, the request may be granted providing the production process conforms with requirements of the agency responsible for certification in the state, province, or country in which the seed or plant parts are eligible for certification, and further that the certification does not denote suitability or adaptability of the seed or plant parts for use in Kentucky. The director of the Kentucky experiment station may issue, when necessary, certificates or statements showing that the particular seed or plant parts so certified are not suitable or adapted for use in Kentucky.
 2. Seed sampling procedures, methods of analysis, testing and examining of seed, and tolerances.
 3. Names of seed which are to be considered noxious in Kentucky and the maximum number of each kind of noxious weed seed to be allowed in a seed lot.
 4. Means for distinguishing seed intended for distribution from seed not intended for distribution in establishments where only a portion of seed being conditioned or held is to be distributed.
 5. Procedures for issuing and releasing stop sales and for handling seed which has been seized.

6. Charges for tests of samples submitted to the Kentucky Agricultural Experiment Station Seed Laboratory for testing.
7. Procedures for obtaining a permit to label, responsibilities of permit holders, method to be used in determining inspection fees, and the procedure for permit holders to make payment of fees for distributing agricultural seed.
8. Charges for labels purchased from the director.
9. Other topics deemed necessary to secure the efficient enforcement of the provisions in KRS 250.021 to 250.111.

(2) Further, for the purpose of carrying out the provisions of KRS 250.021 to 250.111, the director may:

- (a) Withhold certification for two (2) or more years from any grower of seed who is engaged in or is attempting to engage in any dishonest practices for the purpose of evading KRS 250.021 to 250.111 or administrative regulations promulgated by the director.
- (b) Inspect, examine, sample, and analyze seed subject to the provisions of KRS 250.021 to 250.111 that are distributed in Kentucky for planting purposes, at the time and place and to the extent he deems necessary to determine whether the seed are in compliance with provisions of KRS 250.021 to 250.111, and notify promptly the person who distributed the seed and, if appropriate, the person who labeled or transported the seed, of any violation, stop sale order, or seizure.
- (c) Enter upon any public or private premises, including seed conditioning plants and fertilizer blending plants, during regular business hours in order to have access to seed and the records connected with them subject to KRS 250.021 to 250.111 and to administrative regulations promulgated thereunder, and any truck or other conveyer by land, water, or air at any time when the conveyer is accessible, for the same purpose.
- (d) Issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of seed subject to the provisions of KRS 250.021 to 250.111 which the director finds is in violation of any of the provisions of KRS 250.021 to 250.111 or administrative regulations promulgated thereunder. This order shall prohibit further distribution of the seed except on approval of the director, until the director has evidence that the law has been complied with, and has issued a release from the "stop sale" order of the seed. The owner or custodian of seed which has been denied distribution as provided in this paragraph, may appeal from the order to a court of competent jurisdiction in the locality in which the seed are found, asking for a judgment justifying the order and for the discharge of the seed from the order prohibiting their distribution in

accordance with the findings of the court. The provisions of this paragraph shall not be construed as limiting the right of the director to proceed as authorized by other sections included in KRS 250.021 to 250.111.

- (e) Seize improperly labeled seed. The director may seize any seed distributed which is not properly labeled, and may hold it until proper labeling is effected by the shipper or distributor of the seed.
- (f) Establish and maintain seed testing facilities, to employ qualified persons, and to incur expenses necessary to determine if seed has been labeled correctly. The testing facility established shall be officially named the "Kentucky Agricultural Experiment Station Seed Laboratory." The director shall, with the approval of the Board of Trustees of the University of Kentucky, fix the salaries of the analysts, inspectors, and supporting staff.
- (g) Make or provide for making purity, germination, and other tests of seed quality for farmers and dealers on request; prescribe administrative regulations governing the testing, and amount and means of collection of associated fees. If tests are made for nonresidents, the fee for the test of purity and for germination shall be paid in advance to the director. Fees received in payment for tests shall be used for operation of the Kentucky seed testing and control program.
- (h) Cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.
- (i) Reduce the certification requirements for seed in emergency situations to ensure adequate supplies of seed to Kentucky farmers.
- (j) Publish the results of the examination, analysis, and tests of any samples of agricultural seed or mixtures of that seed inspected or tested as provided in KRS 250.021 to 250.111 together with any other information he may deem advisable.

Effective: April 8, 1994

History: Created 1994 Ky. Acts ch. 370, sec. 7, effective April 8, 1994. Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).

250.091 Annual free test for Kentucky citizens.

Any Kentucky citizen may submit one (1) sample per year for test free of charge if the sample is accompanied by a signed statement: "I certify that I have not previously submitted a sample for free test during the current calendar year (signature)."

Effective: April 8, 1994

History: Created 1994 Ky. Acts ch. 370, sec. 8, effective April 8, 1994. Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).

250.101 Immunity of experiment station from liability of certifying agencies.

The experiment station shall not be financially responsible for any debts incurred by, any damages inflicted by, or any contracts broken by certifying agencies conducting certification work.

Effective: April 8, 1994

History: Created 1994 Ky. Acts ch. 370, sec. 9, effective April 8, 1994. Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).

250.111 Actions for violations of KRS 250.021 to 250.111 — Informal hearing — Injunctions.

(1) If the director has probable cause to believe that any of the provisions of KRS 250.021 to 250.111 have been violated, he shall give notice to the person who is in apparent violation designating a time and place for an informal hearing. If, after the informal hearing, or without the hearing if the person fails to appear, the director determines that a violation has occurred, he may issue a letter of reprimand, levy a fine pursuant to KRS 250.990, or impose any other penalties or sanctions authorized under KRS 250.021 to 250.111. Any penalty or sanction imposed as a result of an informal hearing may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(2) The director may petition a court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating or continuing to violate any provision of KRS 250.021 to 250.111 or any administrative regulation promulgated thereunder, notwithstanding the existence of other remedies of law. The injunction shall be issued without bond.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 318, sec. 165, effective July 15, 1996. —Created 1994 Ky. Acts ch. 370, sec. 10, effective April 8, 1994. Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).

Information and questions concerning the
Kentucky seed law regulations should be addressed to:

Division of Regulatory Services
Seed Regulatory Program
103 Regulatory Services Building
Lexington, KY 40546-0245
859-257-2785

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