

AMENDMENTS TO LB175

Introduced by Harr, 8.

1 1. Insert the following new sections:

2 Sec. 8. Section 81-2,147.01, Reissue Revised Statutes of Nebraska,
3 is amended to read:

4 81-2,147.01 As used in the Nebraska Seed Law:

5 (1) Advertisement means all representations, other than those on the
6 label, disseminated in any manner or by any means relating to seed,
7 including farm grain represented as suitable for sowing, within the scope
8 of the Nebraska Seed Law;

9 (2) Agricultural seed includes the seeds of grass, forage, cereal,
10 oil and fiber crops, and lawn and mixtures of such seeds and any other
11 kinds of seed commonly recognized within this state as agricultural seeds
12 and may include the seed of any plant that is being used as an
13 agricultural crop when the Director of Agriculture establishes in rules
14 and regulations that such seed is being used as agricultural seed;

15 (3) Blend means seeds consisting of more than one variety of a kind,
16 each in excess of five percent by weight of the whole;

17 (4) Brand means a word, name, symbol, number, or design to identify
18 seed of one person to distinguish it from seed of another person;

19 (5) Certifying agency means (a) an agency authorized under the laws
20 of a state, territory, or possession of the United States to officially
21 certify seed and which has standards and procedures approved by the
22 United States Secretary of Agriculture to assure genetic purity and
23 identity of the seed certified or (b) an agency of a foreign country
24 which is determined by the United States Secretary of Agriculture to
25 adhere to procedures and standards for seed certification comparable to
26 those adhered to generally by certifying agencies under subdivision (a)
27 of this subdivision;

1 (6) Conditioning means drying, cleaning, scarifying, or other
2 operations which could change the purity or germination of the seed and
3 require the seed lot or any definite amount of seed to be retested to
4 determine the label information;

5 (7) Director means the Director of Agriculture or his or her
6 designated employee or representative or authorized agent;

7 (8) Dormant seed means viable seeds, other than hard seeds, which
8 fail to germinate when provided the specified germination conditions for
9 the kind of seed in question;

10 (9) Flower seed includes seeds of herbaceous plants grown for their
11 blooms, ornamental foliage, or other ornamental parts and commonly known
12 and sold under the name of flower or wildflower seeds in this state;

13 (10) Germination means the emergence and development from the seed
14 embryo of those essential structures which for the kind of seed in
15 question are indicative of the ability to produce a normal plant under
16 favorable conditions;

17 (11) Hard seed means seeds which remain hard at the end of the
18 prescribed test period because they have not absorbed water due to an
19 impermeable seed coat;

20 (12) Hybrid means the first generation seed of a cross produced by
21 controlling the pollination and by combining (a) two or more inbred
22 lines, (b) one inbred or a single cross with an open-pollinated variety,
23 or (c) two varieties or species except open-pollinated varieties of corn
24 (*Zea mays*). The second generation and subsequent generations from such
25 crosses shall not be regarded as hybrids. Hybrid designations shall be
26 treated as variety names;

27 (13) Inert matter means all matter not seed which includes broken
28 seeds, sterile florets, chaff, fungus bodies, and stones as established
29 by rules and regulations;

30 (14) Kind means one or more related species or subspecies which
31 singly or collectively are known by one common name, such as corn, oats,

1 alfalfa, and timothy;

2 (15) Labeling includes all labels and other written, printed,
3 stamped, or graphic representations, in any form whatsoever, accompanying
4 or pertaining to any seed, whether in bulk or in containers, and includes
5 representations on invoices;

6 (16) Lot means a definite quantity of seed in containers or bulk
7 identified by a lot number or other mark, every portion of which is
8 uniform within recognized tolerances for the factors that appear in the
9 labeling;

10 (17) Mixture, mix, or mixed means seeds consisting of more than one
11 kind, each present in excess of five percent by weight of the whole;

12 (18) Mulch means a protective covering of any suitable material
13 placed with seed which acts to retain sufficient moisture to support seed
14 germination and sustain early seedling growth and aids in preventing the
15 evaporation of soil moisture, controlling weeds, and preventing erosion;

16 (19) Origin means a foreign country or designated portion thereof, a
17 state, the District of Columbia, Puerto Rico, or a possession of the
18 United States, where the seed was grown;

19 (20) Other crop seed means seed of plants grown as crops, other than
20 the kind or variety included in the pure seed, as established by rules
21 and regulations;

22 (21) Person includes any corporation, company, society, association,
23 body politic and corporate, community, individual, partnership, limited
24 liability company, or joint-stock company or the public generally;

25 (22) Primary noxious weed seeds means the seeds of any plant
26 designated by the director as a noxious weed pursuant to the Noxious Weed
27 Control Act. Pursuant to subdivision (1)(c) of section 81-2,147.06, the
28 director may add to or subtract from this primary noxious weed seeds
29 list;

30 (23) Prohibited noxious weed seeds means the seeds of plants which
31 are highly destructive and difficult to control in this state by ordinary

1 good cultural practice, the use of herbicides, or both and includes field
2 bindweed (*Convolvulus arvensis*), hoary cress (*Cardaria draba*), Russian
3 knapweed (*Centaurea repens*), johnsongrass (*Sorghum halepense*), Scotch
4 thistle (*Onopordum acanthium*), morning glory (*Ipomoea purpurea*) when
5 found in field crop seeds, skeletonleaf bursage (*Ambrosia discolor*),
6 woollyleaf bursage (*Ambrosia tomentosa*), serrated tussock (*Nassella*
7 *trichotoma*), and puncturevine (*Tribulus terrestris*). Pursuant to
8 subdivision (1)(c) of section 81-2,147.06, the director may add to or
9 subtract from this prohibited noxious weed seeds list;

10 (24) Pure live seed means the product of the percent of germination
11 plus percent of hard or dormant seed multiplied by the percent of pure
12 seed divided by one hundred. The result shall be expressed as a whole
13 number;

14 (25) Pure seed means seed exclusive of inert matter and all other
15 seeds not of the seed being considered as established by rules and
16 regulations;

17 (26) Record means any and all information which relates to the
18 origin, treatment, germination, purity, kind, and variety of each lot or
19 definite amount of seed handled in this state. Such information includes
20 seed samples and records of declarations, labels, purchases, sales,
21 conditioning, bulking, treatment, handling, storage, analyses, tests, and
22 examinations;

23 (27) Restricted noxious weed seeds means the seeds of plants which
24 are objectionable in fields, lawns, and gardens of this state but can be
25 controlled by ordinary good cultural practice, the use of herbicides, or
26 both and includes dodder (*Cuscuta* spp.), wild mustard (*Brassica* spp.),
27 dock (*Rumex* spp.), quackgrass (*Elytrigia repens*), pennycress (*Thlaspi*
28 *arvense*), purple loosetrife (*Lythrum salicaria*), and horsenettle (*Solanum*
29 *carolinense*). Pursuant to subdivision (1)(c) of section 81-2,147.06, the
30 director may add to or subtract from this restricted noxious weed seeds
31 list;

1 (28) Sale in any of its variant forms means sale, to barter,
2 exchange, offer for sale, expose for sale, move, or transport, in any of
3 their variant forms, or otherwise supplying. Sale does not mean the
4 donation, exchange, or other transfer of seeds to or from a seed library
5 or among members of, or participants in, a seed library;

6 (29) Screenings means the results of the process which removes, in
7 any way, weed seed, inert matter, and other materials from any
8 agricultural, vegetable, or flower seed in any kind of cleaning process;

9 (30) Seed library means a nonprofit, governmental, or cooperative
10 organization, association, or activity for the purpose of facilitating
11 the donation, exchange, preservation, and dissemination of seeds of open
12 pollinated, public domain plant varieties by or among its members or
13 members of the public when the use, exchange, transfer, or possession of
14 seeds acquired by or from the seed library is free of any charge or
15 consideration;

16 (31 30) Seizure means a legal process carried out by court order
17 against a definite amount or lot of seed;

18 (32 31) Stop-sale order means an administrative order provided by
19 law restraining the sale, use, disposition, and movement of a definite
20 amount or lot of seed;

21 (33 32) Tetrazolium (TZ) test means a type of test in which
22 chemicals are used to produce differential staining of strong, weak, and
23 dead tissues, which is indicative of the potential viability of seeds;

24 (34 33) Treated means that the seed has been given an application of
25 a substance or subjected to a process or coating for which a claim is
26 made or which is designed to reduce, control, or repel disease organisms,
27 insects, or other pests which attack seeds or seedlings growing
28 therefrom;

29 (35 34) Variety means a subdivision of a kind which is distinct,
30 uniform, and stable. For purposes of this subdivision: (a) Distinct means
31 that the variety can be differentiated by one or more identifiable

1 morphological, physiological, or other characteristics from all other
2 varieties of public knowledge; (b) uniform means that variations in
3 essential and distinctive characteristics are describable; and (c) stable
4 means that the variety will remain unchanged in its essential and
5 distinctive characteristics and its uniformity when reproduced or
6 reconstituted as required by the different categories of varieties;

7 (36 35) Vegetable seed includes the seeds of those crops which are
8 grown in gardens and on truck farms and are generally known and sold
9 under the name of vegetable or herb seeds in this state; and

10 (37 36) Weed seed includes the seeds of any plant generally
11 recognized as a weed within this state as established in rules and
12 regulations and includes the primary noxious weed seeds, prohibited
13 noxious weed seeds, and restricted noxious weed seeds.

14 Sec. 9. Section 81-2,147.05, Reissue Revised Statutes of Nebraska,
15 is amended to read:

16 81-2,147.05 (1) Sections 81-2,147.02 and 81-2,147.03 shall not
17 apply:

18 (a) To seed or grain not intended for sowing purposes;

19 (b) To seed in storage in, or being transported or consigned to, a
20 cleaning or conditioning establishment for cleaning or conditioning,
21 except that the invoice or labeling accompanying any shipment of such
22 seed shall bear the statement Seed for Conditioning, and any labeling or
23 other representation which may be made with respect to the uncleaned
24 unconditioned seed shall be subject to the Nebraska Seed Law;~~or~~

25 (c) To any carrier in respect to any seed transported or delivered
26 for transportation in the ordinary course of its business as a carrier if
27 such carrier is not engaged in producing, conditioning, or marketing
28 agricultural, vegetable, or flower seeds subject to the Nebraska Seed
29 Law; or -

30 (d) To seed libraries.

31 (2) No person shall be subject to the penalties of the Nebraska Seed

1 Law for having sold agricultural, vegetable, or flower seed which was
2 incorrectly labeled or represented as to kind, variety, or origin, if
3 required, which seeds cannot be identified by examination thereof, unless
4 he or she has failed to obtain an invoice, genuine grower's declaration,
5 or other labeling information and to take such other precautions as may
6 be reasonable to insure the identity to be as stated.

7 Sec. 10. Sections 10 to 14 of this act shall be known and may be
8 cited as the Community Gardens Act.

9 Sec. 11. (1) The Legislature finds and declares that:

10 (a) Community gardens provide significant health, educational, and
11 social benefits to the general public, especially for those who reside in
12 urban and suburban areas of this state;

13 (b) The community garden movement (i) continues to provide low-cost
14 food that is fresh and nutritious for those who may be unable to readily
15 afford fresh fruits and vegetables for themselves or their families, (ii)
16 promotes public health and healthier individual lifestyles by encouraging
17 better eating habits and increased physical activity by growing food,
18 (iii) fosters the retention and expansion of open spaces, particularly in
19 urban environments, (iv) enhances urban and suburban environmental
20 quality and community beautification, (v) provides inexpensive community
21 building activities, recreation, and physical exercise for all age
22 groups, (vi) establishes a safe place for community involvement and helps
23 to reduce the incidence of crime, (vii) engenders a closer relationship
24 between urban residents, nature, and the local environment, and (viii)
25 fosters green job training and ecological education at all levels; and

26 (c) It is the public policy of this state to promote and foster
27 growth in the number of community gardens and the acreage of such
28 gardens.

29 (2) It is the intent of the Legislature and the purpose of the
30 Community Gardens Act to foster growth in the number, size, and scope of
31 community gardens in this state by encouraging state agencies,

1 municipalities, and private parties in their efforts to promote community
2 gardens.

3 Sec. 12. For purposes of the Community Gardens Act:

4 (1) Community garden means public or private land upon which
5 individuals have the opportunity to raise a garden on land which they do
6 not themselves own;

7 (2) Garden means a piece or parcel of land appropriate for
8 cultivation of herbs, fruits, flowers, nuts, honey, poultry for egg
9 production, maple syrup, ornamental or vegetable plants, nursery
10 products, or vegetables;

11 (3) Municipality means any county, village, or city or any office or
12 agency of a county, village, or city;

13 (4) State agency means any department or other agency of the State
14 of Nebraska;

15 (5) Use means to avail oneself of or to employ without conveyance of
16 title gardens on vacant public land by any individual or organization;
17 and

18 (6) Vacant public land means any land owned by the state or another
19 governmental subdivision, including a municipality, that is not in use
20 for a public purpose, is otherwise unoccupied, idle, or not being
21 actively utilized for a period of at least six months, and is suitable
22 for garden use.

23 Sec. 13. (1) A state agency or municipality having title to vacant
24 public land may permit community organizations to use such lands for
25 community garden purposes. Such use of vacant public land may be
26 conditioned on the community organization having liability insurance and
27 accepting liability for injury or damage resulting from use of the vacant
28 public land for community garden purposes. State agencies and
29 municipalities may adopt and promulgate rules, regulations, ordinances,
30 or resolutions to establish an application process for a community
31 garden. The applicant may include a request for access to a fire hydrant

1 or other source of water owned or operated by the state agency or
2 municipality or by a utility district in order to provide water to the
3 community garden. The state agency, municipality, or utility district
4 shall consider whether to supply the water to the applicant at a reduced
5 or fixed rate.

6 (2) A state agency or municipality which receives an application
7 pursuant to this section shall respond to the applicant within sixty days
8 from the date on which the application is received and shall make a final
9 determination within one hundred eighty days from such date.

10 Sec. 14. (1) The Director of Agriculture shall establish a
11 community gardens task force on or before August 1, 2015, to identify and
12 develop ways to encourage state agencies, municipalities, and individuals
13 to establish and expand community gardens. The director shall designate a
14 chairperson of the task force. The members of the task force shall be
15 appointed by the director and shall include no more than nine members. At
16 least three of the members shall be representatives of nonprofit
17 organizations involved with community gardens. The remaining members may
18 include representation from appropriate state agencies, existing
19 community gardens, counties, cities, towns, villages, utility districts,
20 and school districts.

21 (2) The director may request the assistance of other state agencies
22 to carry out the work of the task force.

23 (3) The goals of the task force may include, but are not limited to,
24 the study, evaluation, and development of recommendations (a) to
25 encourage the establishment and expansion of community gardens by state
26 agencies, municipalities, and individuals, (b) to encourage cooperation
27 between the activities and operations of community gardens and the
28 provision of donated food to local voluntary food assistance programs for
29 the poor and disadvantaged, and (c) to increase the benefits that
30 community gardens may provide to the community in which they are located.

31 (4) In carrying out its duties under subsection (3) of this section,

1 the task force may consider recommendations that (a) encourage the
2 execution of conservation easements by state agencies, municipalities, or
3 individuals to establish or protect community gardens, (b) encourage the
4 donation or lease of lands for community gardens, (c) encourage
5 development of model zoning codes, local land use laws, or other
6 municipal policies that could encourage the establishment or retention of
7 community gardens, and (d) provide for any other activity to achieve the
8 goals deemed appropriate by the task force.

9 (5) The task force shall issue a preliminary report to the
10 Department of Agriculture and electronically to the Legislature no later
11 than December 15, 2015, and shall issue a final report to the Department
12 of Agriculture and electronically to the Legislature no later than
13 December 15, 2016.

14 Sec. 16. Since an emergency exists, this act takes effect when
15 passed and approved according to law.

16 2. Renumber the remaining section and correct the repealer
17 accordingly.