WEST VIRGINIA CODE: §19-16-4

§19-16-4. Prohibitions.

(a) It is unlawful for any person to distribute or transport for sale any agricultural, vegetable, tree and shrub, or flower seeds, or seed potatoes within this state:

(1) Which have not been tested to determine germination rates as required under §19-16-2 of this code;

(2) Which is not labeled in accordance with the provisions of this article or has false or misleading labeling;

(3) Which has been the subject of false or misleading advertisement;

(4) Which consists of or contains prohibited noxious weed seeds, subject to tolerances and methods of determination as prescribed by rules promulgated under this article;

(5) Which consists of or contains restricted noxious weed seeds per pound or ounce in excess of the number prescribed by rules promulgated under this article, or in excess of the number declared on the label attached to the container of the seed or associated with seed;

(6) Which contains more than two and one-half percent by weight of all weed seeds;

(7) If any labeling, advertising, or other representation subject to this article represents the seed to be certified seed or any class thereof unless:

(A) It has been determined by a seed certifying agency that the seed conformed to standards of purity and identity as to kind, species (and subspecies, if appropriate), or variety, and also that tree seed was found to be of the origin and elevation claimed, in compliance with the rules of that agency pertaining to the seed; and

(B) That the seed bears an official label issued for that seed by a seed certifying agency certifying that the seed is of a specified class and a specified kind, species (and subspecies, if appropriate), or variety;

(8) Labeled with a variety name but not certified by an official seed certifying agency when it is a variety for which a U. S. certificate of plant variety protection under the Plant Variety Protection Act specifies sale only as a class of certified seed: *Provided*, That seed from a certified lot may be labeled as to variety name when used in a mixture by, or with the approval of, the owner of the variety.

(b) It is unlawful for any person within this state:

(1) To detach, alter, deface, or destroy any label provided for in this article or the rules

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promulgated under this article, or to alter or substitute seed in a manner that may defeat the purpose of this article;

(2) To use relabeling stickers without having both the calendar month and year the germination test was completed, the sell-by date, and the lot number that matches the existing, original lot number: *Provided*, That relabeling may not occur more than one time;

(3) To disseminate any false or misleading advertisement concerning seeds subject to this article in any manner or by any means;

(4) To interfere with the commissioner's official duties;

(5) To fail to comply with a "stop sale or embargo" order or to move or otherwise handle or dispose of any lot of seed held under a "stop sale or embargo" order or tags attached to the lot of seed, unless released by the commissioner, and for the purpose specified by the commissioner;

(6) To use the word "trace" or the phrase "contains < 0.01 percent" as a substitute for any statement which is required;

(7) To use the word "type" in any labeling in connection with the name of any agricultural seed variety;

(8) To distribute or knowingly use any agricultural, vegetable, tree and shrub, or flower seed that is misbranded;

(9) To misbrand any agricultural, vegetable, tree and shrub, or flower seed or seed potato. An agricultural, vegetable, flower, or tree and shrub seed, or seed potato is misbranded:

(A) If its label or labeling is false or misleading;

(B) If it is not labeled as required by this article;

(C) If any word, statement or other information required by this article to appear on the label is not prominently and conspicuously placed so that it can be read and understood by the ordinary individual under customary conditions of purchase and use; and

(D) If any damage or inferiority has been concealed;

(10) To distribute or knowingly use any agricultural, vegetable, or tree and shrub seed or seed potato that has not had an accurate statement of poundage reported to the commissioner in the previous reporting period;

(11) To use or imply the name West Virginia Department of Agriculture, or reference any inspection or sample findings made by the West Virginia Department of Agriculture on labels or labeling of agricultural, vegetable, flower, or tree and shrub seed, or seed potatoes; or

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(12) To falsify any laboratory reports regarding seed distributed within this state.

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