

**§ 106-277.9. Prohibitions.**

It shall be unlawful for any person:

- (1) To transport, to offer for transportation, to sell, distribute, offer for sale or expose for sale within this State agricultural or vegetable seeds for seeding purposes:
  - a. Unless a seed license has been obtained in accordance with the provisions of this Article.
  - b. Unless the test to determine the percentage of germination required by G.S. 106-277.5 through 106-277.7 shall have been completed (i) on agricultural seed within a nine-month period, exclusive of the calendar month in which the test was completed, (ii) on cool season lawn seeds and mixtures of cool season lawn seeds, including, but not limited to, Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bent grass, and creeping bent grass, within a 15-month period, exclusive of the calendar month in which the test was completed, and (iii) on vegetable seed within a 12-month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation; provided, the North Carolina Board of Agriculture may adopt rules to designate a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials (hermetically sealed), and under such other conditions prescribed, that will, during such longer period, maintain the viability of said seed under ordinary conditions of handling.
  - c. Not labeled in accordance with the provisions of this Article or having a false or misleading labeling or claim.
  - d. Pertaining to which there has been a false or misleading advertisement.
  - e. Consisting of or containing prohibited noxious-weed seeds.
  - f. Containing restricted noxious-weed seeds, except as prescribed by rules and regulations promulgated under this Article.
  - g. Containing weed seeds in excess of two percent (2%) by weight unless otherwise provided in rules and regulations promulgated under this Article.
  - h. That have been treated and not labeled as required in this Article, or treated and not conspicuously colored.
  - i. Repealed by Session Laws 2009-455, s. 6, effective October 1, 2009.
  - j. To which there is affixed names or terms that create a misleading impression as to the kind, kind and variety, history, productivity, quality or origin of the seeds.
  - k. Represented to be certified, registered or foundation seed unless it has been produced, processed and labeled in accordance with the procedures and in compliance with rules and regulations of an officially recognized certifying agency.
  - l. Represented to be a hybrid unless such seed conforms to the definition of a hybrid as defined in this Article.
  - m. Unless it conforms to the definition of a "lot."

- n. Any variety, hybrid or blend of seeds not recorded with the Commissioner as required under rules and regulations promulgated pursuant to this Article.
  - o. Seed of any variety or hybrid that has been found by official variety tests to be inferior, misrepresented or unsuited to conditions within the State. The Commissioner may prohibit the sale or distribution of such seed by and with the advice of the director of research of the North Carolina agricultural experiment station.
  - p. Using a designation on seed tag in lieu of the full name and address of the person who labels or tags seed unless such designation qualifies as a code designation under this Article.
  - q. 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 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.
  - r. That employ a brand name on the label unless a variety or mixture of varieties is labeled as required in this Article. If a brand name other than a registered trademark is used, it must be a separate statement from the variety name or the statement of a mixture, or blend, of genetic variations.
  - s. Labeled as a "blend" unless the lot complies with the definition of "blend" in G.S. 106-277.2, and is registered with the Commissioner, as may be required in G.S. 106-277.9(1)n. Other mechanical combinations of varieties shall be labeled as a mixture according to the requirements in G.S. 106-277.5(1).
- (2) To transport, offer for transportation, sell, offer for sale, or expose for sale seeds, whole grain not for seeding purposes unless labeled "not for seeding purposes."
  - (3) To detach, alter, deface, or destroy any label provided for in this Article or the rules and regulations promulgated hereunder, or to alter or substitute seed in any manner that defeats the purposes of this Article.
  - (4) To disseminate false or misleading advertisement in any manner concerning agricultural seeds or vegetable seeds.
  - (5) To hinder or obstruct in any manner an authorized agent of the Commissioner in the performance of his lawful duties.
  - (6) To fail to comply with or to supply inaccurate information in reply to a stop-sale order; or to remove tags attached to or to remove or dispose of seed or screenings held under a stop-sale order unless authorized by the Commissioner.
  - (7) To use the name of the Department of Agriculture and Consumer Services or the results of tests and inspections made by the Department for advertising purposes.
  - (8) To use the words "type" or "trace" in lieu of information required by G.S. 106-277.4 through 106-277.7.
  - (9) To label and offer for sale seed under the scope of this Article without keeping complete records as specified in G.S. 106-277.12. (1941, c. 114, s. 5; 1943, c. 203, s. 3; 1945, c. 828; 1949, c. 725; 1953, c. 856, s. 4; 1957, c.

263, s. 2; 1959, c. 585, s. 2; 1963, c. 1182; 1971, c. 637, s. 6; 1987 (Reg. Sess., 1988), c. 1034, ss. 7-9; 1997-261, s. 47; 2009-455, s. 6.)