

or administrative body or official to whom any such certificate is offered as evidence.

SECTION 6. This act shall take effect upon passage and publication.

Approved June 25, 1941.

No. 451, S.]

[Published June 28, 1941.

CHAPTER 313.

AN ACT to repeal 94.38 to 94.50 and to recreate 94.38 to 94.47 of the statutes, relating to agricultural seeds, and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Sections 94.38 to 94.50 of the statutes are repealed.

SECTION 2. Sections 94.38 to 94.47 of the statutes are recreated to read:

94.38 "AGRICULTURAL SEEDS" AND "VEGETABLE SEEDS" DEFINED. (1) The term "agricultural seeds" shall include the seeds of red clover, alsike clover, white clover, sweet clover, alfalfa, fescues, rye grass, timothy, red top, orchard grass, blue grass, reed canary grass, field peas, canning peas, sorghums, seed field corn, sudan grass, seed grains and the seeds of any other field crop and mixtures of such seeds which are sold, exposed for sale, or offered for sale within this state.

(2) The term "vegetable seeds" shall include the seeds of those crops that are or may be grown in gardens or on truck farms and are generally known and sold under the name of vegetable seed in this state.

(3) The term "weed seeds" shall mean the seeds of all plants generally recognized as weeds in this state and shall include noxious weed seeds.

(4) Noxious weed seeds shall be divided into 2 classes, namely, "primary noxious weed seeds" and "secondary noxious weed seeds" and are defined as follows:

(a) "Primary noxious weed seeds" shall include the seeds of field bindweed (*convolvulus arvensis*), leafy spurge (*euphor-*

bia esula), Canada thistle (*cirsium arvense*), quack grass (*agropyron repens*), and any other weed seeds that the department may, after public hearing, declare "primary noxious weed seeds."

(b) "Secondary noxious weed seeds" shall include the seeds of dodder (*cuscuta* sp.), wild mustard (*brassica arvensis*), Indian mustard (*brassica juncea*), buckhorn (*plantago lanceolata*), oxeye daisy (*chrysanthemum leucanthemum*), perennial sow thistle (*sonchus arvensis*) and any other weed seeds that the department may, after public hearing, declare "secondary noxious weed seeds".

(5) The term "label" means the display or displays of written, printed, or graphic matter upon or attached to the container of seed.

(6) The term "labeling" includes all labels, and other written, printed, and graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers and includes invoices.

(7) The term "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 sections 94.38 to 94.47.

(8) The meaning of all other terms used in labeling seed under sections 94.38 to 94.47 shall be as defined in the federal seed act or in the rules and regulations adopted thereunder.

94.39 AGRICULTURAL SEEDS; SALE; LABEL. Each container of agricultural or vegetable seed which is sold, offered for sale or exposed for sale for seeding purposes shall bear or have attached thereto in a conspicuous place, a plainly written or printed label or tag in the English language, giving the following information:

- (1) For agricultural seed,
 - (a) Lot or identification number.
 - (b) Commonly accepted name or kind, variety or type of each seed component in excess of 5 per cent of the whole and percentage by weight of each. When more than one component is named, the word "mixed" or "mixture" shall appear in the name of the seed.
 - (c) Origin of each agricultural seed named on label which

has been designated by the department as one on which such knowledge is important if origin is known. If unknown, that fact shall be so stated.

(d) Percentage by weight of all weed seeds including noxious weed seeds.

(e) Percentage by weight of all agricultural seeds other than those named on the label.

(f) Percentage by weight of inert matter.

(g) For each agricultural seed named on the label (1) percentage of germination, including hard seed (2) percentage of hard seeds, if present (3) calendar month and year the germination test was completed to determine such percentage.

(h) Name and address of the person who is responsible for the labeling of said seed or who sells, offers, or exposes it for sale.

(i) The name and rate of occurrence of each kind of secondary noxious weed seed per ounce, when present singly or collectively in excess of

1. One seed in 25 grams of red top, Canada blue grass, Kentucky blue grass and seeds of similar size and weight, or smaller, and mixtures of such seeds.

2. One seed in 50 grams of timothy, alsike clover, orchard grass, reed canary grass, smooth brome grass, white clover, red clover, rape, alfalfa, sweet clover, rye grasses, millets, flax and seeds of similar size and weight, and mixtures of such seeds.

3. One seed in 150 grams of sudan, proso, and seeds of similar size and weight, and mixtures of such seeds.

4. One seed in 300 grams of sorghums, buckwheat and seeds of similar size and weight, and mixtures of such seeds.

5. One seed in 500 grams of vetches, cereals, field corn, beans, field and canning peas, cowpeas and seeds of similar size and weight and mixtures of such seeds.

(2) For vegetable seed,

(a) Name and kind and variety of seed.

(b) Name and address of the person who is responsible for the labeling of said seed or who sells, offers for sale, or exposes said seed for sale.

(c) For seed which germinates less than the standard last set by the department (1) percentage of germination (2) calen-

dar month and year test was made to determine such percentage (3) the words "below standard" in not less than 8-point type.

94.40 PROHIBITIONS. It shall be unlawful for any person to sell, offer for sale, or expose for sale:

(1) Any agricultural seed containing primary noxious weed seeds, subject to tolerances and methods of determination prescribed in the rules and regulations under sections 94.38 to 94.47.

(2) Any agricultural seeds containing secondary noxious weed seeds singly or collectively in excess of

(a) One seed in 5 grams of the agricultural seeds named in subdivision 1 of paragraph (i) of subsection (1) of section 94.39.

(b) One seed in 10 grams of the agricultural seeds named in subdivision 2 of paragraph (i) of subsection (1) of section 94.39.

(c) One seed in 25 grams of the agricultural seeds named in subdivision 3 of paragraph (i) of subsection (1) of section 94.39.

(d) One seed in 50 grams of agricultural seeds named in subdivision 4 of paragraph (i) of subsection (1) of section 94.39.

(e) One seed in 100 grams of agricultural seeds named in subdivision 5 of paragraph (i) of subsection (1) of section 94.39.

(3) Any agricultural seed containing weed seeds, except ragweed (*ambrosia elatior*) and foxtails (*chaetochla* sp.) at a rate in excess of 5 per cent by weight of the named seed; provided seeds of ragweed and foxtail may be present either singly or collectively at a rate not in excess of 10 per cent by weight of the named seed if the total weed seed content, including ragweed or foxtail, does not exceed 10 per cent.

(4) Any agricultural or vegetable seed unless the test to determine the percentage of germination, as shown by records, shall have been completed within a 12 month period from date of sale, exclusive of the calendar month in which the test was completed.

(5) Any agricultural or vegetable seed not labeled in ac-

cordance with the provisions of section 94.39 or having a false labeling, or to detach, deface, or destroy any label provided for in section 94.39 or to alter or substitute seed in a manner that may defeat the purpose of sections 94.38 to 94.47.

(6) Any agricultural or vegetable seed pertaining to which there has been a false or misleading advertisement or to disseminate any false or misleading advertisement concerning seed in any manner or means.

(7) Any alfalfa seed represented to be of a grimm, cosack, or ladak variety and any field seed corn representing to be hybrid field seed corn, unless such seed is certified as to variety by a seed certifying agency which is approved by the department as satisfactory for the performance of seed certification and the official tag of such agency is properly attached to each seed container.

94.41 EXEMPTIONS. The provisions of sections 94.38 and 94.43 shall not apply to seed or grain not intended for sowing purposes, or to seed in storage or consigned to a seed cleaning or processing plant for cleaning or processing; provided, that any labeling or any representation made with respect to such seed shall be subject to the provisions of sections 94.38 to 94.47.

94.42 PERMITS. No person shall sell, offer, or expose for sale, any agricultural or vegetable seed without first obtaining from the department a permit to engage in such business. A separate permit shall be required for each store or place of business where such seed is sold, exposed for sale, or offered for sale for seeding purposes, provided no permit shall be required from persons selling seeds which have been packed and distributed by a seedsman holding and having in force a permit as herein provided. No permit shall be required of persons selling, offering, or exposing for sale, seed of their own production provided that such seed is sold and delivered to purchaser only on the farm or premises where grown. Such seed shall be otherwise labeled as required by section 94.39. The fee for issuing permits shall be \$1 each. All permits shall bear date of issue and shall expire on July 1 following. After due and public hearing, the department may revoke or refuse to renew any permit issued under authority of this section.

94.43 AUTHORITY. The department or its authorized

agents shall have free access during regular business hours to all places of business, warehouses, freight depots, cars, trucks and all other places where seeds as defined in section 94.38 are stored, transported, sold or exposed for sale. They are empowered to take from any container, samples of seed and shall transmit same to the department for analysis. Upon request, duplicate samples of the seed shall be left with the owner or agent of the seed sampled. They shall have authority to inspect all invoices and records relating to any lot of seed in order to secure evidence as to false advertising or improper labeling of such seed.

94.44 STOP-SALE. Whenever the department or any of its duly qualified inspectors shall find in any places of business, warehouse, freight depot, car, truck or any other place, a lot of seed which appears to be offered for sale in violation of the seed laws of this state or regulations promulgated by the department for their enforcement, the inspector shall obtain representative samples of such seed, mark for identification, and forward the same to the department for analysis. At the time of obtaining the samples, the inspector shall notify the owner or custodian of such seed, in writing, that the sale thereof appears to be in violation of the law. The lot of seed shall not thereafter be sold or removed from the premises without permission or release from the department. The department shall cause an analysis to be made of such seed and report its findings to the owner or custodian of the seed. The analysis and report shall be made within 15 days of the date of taking the sample. If it shall appear from the official laboratory examination of any lot of seed that it does not meet the requirements of the statute or is not labeled in accordance with the provisions of law, the department shall notify the vendor of said seed and he shall be given an opportunity to be heard under the rules and regulations as may be prescribed by the department. If, after such hearing, it appears that any of the provisions of sections 94.38 to 94.47 have been violated, the department may certify the facts to the proper district attorney.

94.45 POWERS OF THE DEPARTMENT. The department is authorized—after public hearing, to:

- (1) Add to the list of agricultural seeds as specified in subsection (1) of section 94.38.
- (2) Add to or remove from the list of noxious weed seeds as specified in subsection (4) of section 94.38.

(3) Prescribe regulations relative to the distribution and labeling of lawn seed mixtures.

(4) Prescribe the methods of sampling, size of samples and methods for making purity and germination tests.

(5) Prescribe tolerances allowable in purity and germination tests and in rates of occurrence of noxious weed seeds.

(6) Prescribe regulations and definitions not inconsistent with law governing the labeling and distribution of agricultural and vegetable seed and mixtures of such seeds.

(7) Prescribe regulations relative to issuing permits to seed dealers.

94.46 SEED TESTING. The department shall maintain a seed laboratory with necessary equipment and shall fix charges for seed tests and analyses.

94.47 PENALTY. Any person who shall violate any of the provisions of sections 94.38 to 94.47 or any of the regulations promulgated thereunder or interfere with any inspector in the discharge of his duties, shall be punished by a fine of not more than \$100 for the first offense and for each subsequent offense not more than \$500.

SECTION 3. This act shall take effect July 1, 1941, if passed and approved before that date, otherwise it shall take effect upon passage and publication.

Approved June 25, 1941.

No. 463, S.]

[Published June 28, 1941.

CHAPTER 314.

AN ACT to create 20.17 (2a) and 53.28 of the statutes, authorizing the purchase, with approval of the emergency board, of the house of correction of Milwaukee county to relieve overcrowded conditions at the state prison, and making an appropriation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. Subsection (2a) of section 20.17 of the statutes is created to read:

(20.17) (2a) WISCONSIN HOUSE OF CORRECTION. Annually, beginning July 1, 1941, \$225,000 for the