



Laws, Regs & Other Considerations When Buying Hemp Seed

No matter what type of seed you buy, it's important to know exactly what you're getting. There's a lot more to buying seed than meets the eye. Quality seed has been bred for specific characteristics, including geographic adaptation, disease or insect resistance, physical attributes, or plant function. It has been selected, harvested, cleaned, analyzed, tested, processed, packaged and shipped. Professional seed producers with years of knowledge and expertise have the infrastructure and know-how to ensure you have the best seed to address your specific challenges and concerns.

In addition to the many steps involved in hemp-seed production, state and national regulations provide a system of checks and balances to ensure you get your expected product. These laws require accurate labeling and purity standards for seeds in commerce, and prohibit the importation and movement of adulterated or misbranded seeds. All 50 states have seed laws that govern the intrastate movement and sale of seed. These laws are basically "truth-in-labeling" laws designed to provide consumers with important information relating to product quality and identity.

Interstate commerce of seed involves the Federal Seed Act, acting in coordination with the state seed laws. Created in 1939, the Act was designed to require accurate labeling and purity standards for seeds in commerce. In addition, the law works in conjunction with the Plant Protection Act of 2000 to authorize the Animal and Plant Health Inspection Service (APHIS) to regulate the importation of field crop, pasture and forage, or vegetable seed that may contain noxious weed seeds. USDA's Agricultural Marketing Service is responsible for enforcing the labeling and purity standard provisions to promote uniformity among state laws and fair competition within the seed trade. Seed companies spend a lot of time and effort to ensure compliance with these individual state laws, since most seed is sold across state lines.

Hemp seed has additional regulations over and above other seeds. The USDA and State Departments of Agriculture ("State Departments"), per the 2018 Farm Bill, are now allowed an expansive level of cultivation – beyond the research programs authorized previously. Hemp can now be cultivated for the transfer of hemp products across states for both commercial and non-commercial purposes. The Bill does not provide for restrictions related to transport, sale, or the possession of hemp-related products. However, the products produced must be compatible with the law, and there are some restrictions. First of all, it is important to note that legally hemp cannot contain over 0.3 percent tetrahydrocannabinol THC. If it exceeds this amount, then it is designated as marijuana and is considered an illegal crop. Secondly, there are both state and federal regulatory powers over hemp production. A state's department of agriculture must create an administrative plan through the legal channels for that particular state. That plan must be approved by USDA. As an option, a state may opt out of the creation of a plan and apply for a license under a federal program. It's important to recognize that hemp is a regulated crop and cannot be produced without a production license.

Laws, Regs and Other Consideration when Buying Seed

American Seed Trade Association

As you can imagine, 50 state seed laws and a federal seed law can make trade fairly complicated. So, in 1946, the Association of American Seed Control Officials created the Recommended Uniform State Seed Law, often referred to as “RUSSL.” That document serves as a model law for the states and is reviewed and updated regularly. While RUSSL is technically a guideline, rather than a law, it serves as a general reference point for states when seed law changes occur.

Germination is defined as the process of seeds growing into plants. Purity identifies everything that is in the package including other seeds, weeds, and inert materials. While seed processors strive for the highest level of purity, because seed is an organic material, it is difficult to ensure 100-percent pure seed. Today’s sophisticated lab equipment and highly-trained personnel can identify everything that might be in a package of seed. Many seed companies employ seed testing professionals, either internally or out-sourced to commercial labs, to verify that their seed output is in compliance before it ever makes it to the marketplace.

Ensuring a consumer’s seed is free of noxious weeds is a critical concern for all seed companies. It is important to understand the difference between state noxious weed laws, and state noxious seed laws. Both laws are designed to limit the spread of both noxious weeds and seeds. Noxious weed laws identify plants that have been determined to be injurious to crops, ecosystems, habitats, livestock or humans. Noxious weed laws require landowners to control or eradicate noxious weeds growing on their property. Noxious seed laws are designed to identify specific seeds of the same, and prevent spread of these plants as the farmer or landowner plants their crop, pasture, lawn, or wildlife plot. Often they are different within a state because some plants may be considered noxious but aren’t likely to be found in purchased seed. Conversely, some weed seeds may be listed as noxious seeds because that could be the primary method of spread. In preparing seed for sale, seed producers generally pay a laboratory to conduct an “all states” noxious weed identification test for their products so that they may distribute seeds between states.

Probably the most important tool in the enforcement of the state and federal seed laws is the lab test. Seed tests by the regulatory seed labs—which are often independent of the office of the state seed control officials—verify the seeds’ germination and purity. If an issue is found by seed control officials, the company will be required to recall that lot and correct the issue. However, typically problems are discovered through internal, proactive testing processes within a seed company and the products don’t go to market. You can be assured a seed company will do all they can to ensure a quality product; errors are costly, and grower confidence is of outmost importance.

Here’s the bottom line: State and federal seed laws are in place for the benefit of the grower and the producer. It is imperative that consumers get the quality and type of seed they desire, and that the seed will grow and produce their expected result. Seed production is complicated and requires extensive education and experience. Professional seed producers have committed a significant investment in personnel, equipment, research and testing to ensure the highest quality seed for growers. Whether it’s for your agricultural production, conservation planting, or backyard gardening, it pays to know that the seed you purchase is exactly what you desire – and state and federal seed laws are in place to assist.

For more information, contact Pat Miller with the American Seed Trade Association at pmiller@betterseed.org.