

250.081 Duties and powers of director -- Authority for administrative regulations.

- (1) The duty of enforcing KRS 250.021 to 250.111 and carrying out its provisions and requirements shall be vested in the director. It shall be the duty of the director:
 - (a) To enforce and administer the provisions of KRS 250.021 to 250.111.
 - (b) To be responsible for the official seed, plant, and plant parts certifying process in Kentucky. The certifying agency of Kentucky shall be the Kentucky Seed Improvement Association (KSIA). The affairs and business of KSIA shall be managed by a board of not less than five (5), or more than fifteen (15) directors, to be elected by the members. The KSIA commodity committees for small grain, legumes and grasses, tobacco, and corn, sorghum, and soybeans shall be represented by KSIA members and members of the experiment station staff approved by the director. Certification work shall be on a self-supporting basis but not for financial profit.
 - (c) To prescribe, amend, adopt, and publish after public hearing following due public notice, administrative regulations governing:
 1. The certification process.
 - a. Administrative regulations governing what crops grown in Kentucky shall be eligible for certification; the conduct of certification, and standards, requirements, and forms for certification.
 - b. If certification in Kentucky is requested for agricultural seed or plant parts for propagation produced outside of Kentucky and intended for sale in Kentucky, the request may be granted only when that part of the production process which has taken place outside the state has been certified by the agency responsible for certification in the state, province, or country where it originated, and only when the standards of certification there are not lower than those of the Kentucky Seed Improvement Association and are accepted by the director.
 - c. If certification is requested for agricultural seed or plant parts for propagation produced in Kentucky but eligible for certification outside of Kentucky and intended for sale outside of Kentucky, the request may be granted providing the production process conforms with requirements of the agency responsible for certification in the state, province, or country in which the seed or plant parts are eligible for certification, and further that the certification does not denote suitability or adaptability of the seed or plant parts for use in Kentucky. The director of the Kentucky experiment station may issue, when necessary, certificates or statements showing that the particular seed or plant parts so certified are not suitable or adapted for use in Kentucky.
 2. Seed sampling procedures, methods of analysis, testing and examining of seed, and tolerances.

3. Names of seed which are to be considered noxious in Kentucky and the maximum number of each kind of noxious weed seed to be allowed in a seed lot.
 4. Means for distinguishing seed intended for distribution from seed not intended for distribution in establishments where only a portion of seed being conditioned or held is to be distributed.
 5. Procedures for issuing and releasing stop sales and for handling seed which has been seized.
 6. Charges for tests of samples submitted to the Kentucky Agricultural Experiment Station Seed Laboratory for testing.
 7. Procedures for obtaining a permit to label, responsibilities of permit holders, method to be used in determining inspection fees, and the procedure for permit holders to make payment of fees for distributing agricultural seed.
 8. Charges for labels purchased from the director.
 9. Other topics deemed necessary to secure the efficient enforcement of the provisions in KRS 250.021 to 250.111.
- (2) Further, for the purpose of carrying out the provisions of KRS 250.021 to 250.111, the director may:
- (a) Withhold certification for two (2) or more years from any grower of seed who is engaged in or is attempting to engage in any dishonest practices for the purpose of evading KRS 250.021 to 250.111 or administrative regulations promulgated by the director.
 - (b) Inspect, examine, sample, and analyze seed subject to the provisions of KRS 250.021 to 250.111 that are distributed in Kentucky for planting purposes, at the time and place and to the extent he deems necessary to determine whether the seed are in compliance with provisions of KRS 250.021 to 250.111, and notify promptly the person who distributed the seed and, if appropriate, the person who labeled or transported the seed, of any violation, stop sale order, or seizure.
 - (c) Enter upon any public or private premises, including seed conditioning plants and fertilizer blending plants, during regular business hours in order to have access to seed and the records connected with them subject to KRS 250.021 to 250.111 and to administrative regulations promulgated thereunder, and any truck or other conveyer by land, water, or air at any time when the conveyer is accessible, for the same purpose.
 - (d) Issue and enforce a written or printed "stop sale" order to the owner or custodian of any lot of seed subject to the provisions of KRS 250.021 to 250.111 which the director finds is in violation of any of the provisions of KRS 250.021 to 250.111 or administrative regulations promulgated thereunder. This order shall prohibit further distribution of the seed except on approval of the director, until the director has evidence that the law has been complied with, and has issued a release from the "stop sale" order of the seed.

The owner or custodian of seed which has been denied distribution as provided in this paragraph, may appeal from the order to a court of competent jurisdiction in the locality in which the seed are found, asking for a judgment justifying the order and for the discharge of the seed from the order prohibiting their distribution in accordance with the findings of the court. The provisions of this paragraph shall not be construed as limiting the right of the director to proceed as authorized by other sections included in KRS 250.021 to 250.111.

- (e) Seize improperly labeled seed. The director may seize any seed distributed which is not properly labeled, and may hold it until proper labeling is effected by the shipper or distributor of the seed.
- (f) Establish and maintain seed testing facilities, to employ qualified persons, and to incur expenses necessary to determine if seed has been labeled correctly. The testing facility established shall be officially named the "Kentucky Agricultural Experiment Station Seed Laboratory." The director shall, with the approval of the Board of Trustees of the University of Kentucky, fix the salaries of the analysts, inspectors, and supporting staff.
- (g) Make or provide for making purity, germination, and other tests of seed quality for farmers and dealers on request; prescribe administrative regulations governing the testing, and amount and means of collection of associated fees. If tests are made for nonresidents, the fee for the test of purity and for germination shall be paid in advance to the director. Fees received in payment for tests shall be used for operation of the Kentucky seed testing and control program.
- (h) Cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.
- (i) Reduce the certification requirements for seed in emergency situations to ensure adequate supplies of seed to Kentucky farmers.
- (j) Publish the results of the examination, analysis, and tests of any samples of agricultural seed or mixtures of that seed inspected or tested as provided in KRS 250.021 to 250.111 together with any other information he may deem advisable.

Effective: April 8, 1994

History: Created 1994 Ky. Acts ch. 370, sec. 7, effective April 8, 1994.

Legislative Research Commission Note (4/8/94). Although the section of 1994 Ky. Acts ch. 370 creating this statute directed its placement in KRS Chapter 350, it is clear from the subject matter of this statute and the structure of ch. 370 that placement in KRS Chapter 250 was intended, and this has been done in codification pursuant to KRS 7.136(1)(h).