



# TIMELY INFORMATION

## Agriculture & Natural Resources

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### ***AGRICULTURAL SEED LAW UPDATE***

*Are you confused about U.S. seed laws?.*

*If so, review the chart below to find out where **YOU** stand with the **LAW!***

*The chart below represents our interpretation of the U.S. seed laws.*

*If in doubt, contact a qualified seed law attorney.*

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### ***USES ALLOWED ACCORDING TO TYPE OF REGISTRATION***

|   | <b><i>1970<br/>PVPA</i></b> | <b><i>1994<br/>PVPA</i></b> | <b><i>PVP<br/>Title V</i></b>                             | <b><i>Utility<br/>Patent</i></b> |
|---|-----------------------------|-----------------------------|---|----------------------------------|
| <b><i>Farmer</i></b>  |                             |                             |   |                                  |
| Save seed.  | *Yes                        | *Yes                        | *Yes  | No                               |
| Sell the seed (to a neighbor) that you had previously saved for your own use should your plans change for that variety. No advertising! | *Yes                        | **No                        | *Yes<br>1970 PVP Title V<br><br>** No<br>1994 PVP Title V | No                               |
| <b><i>Conditioner</i></b>   |                             |                             |   |                                  |
| Condition seed for farmers.   | *Yes                        | *Yes                        | *Yes  | No                               |
| Store seed for farmers.   | *Yes                        | *Yes                        | *Yes  | No                               |
| Clean or stock as step in marketing variety.  | No                          | No                          | No  | No                               |
| Deliver or load seed to a third party.  | No                          | No                          | No  | No                               |
| Advertise farmer saved seed.  | No                          | No                          | No  | No                               |
| Sell or act as broker for farmer saved seed.  | No                          | No                          | No  | No                               |
| <b><i>Grain Elevator</i></b>  |                             |                             |   |                                  |
| Sell to hunters for food plots.   | No                          | No                          | No  | No                               |

\* Limited to the amount of seed saved for replanting a farmer's own holdings (land owned, leased or rented).

\*\* Sale of saved seed is prohibited without permission of the variety owner.

## ***TYPES OF SEED GERMPLASM PROTECTION***

### ***1970 Plant Variety Protection Act (PVPA)***

- Legislation enacted to promote the development of new varieties.
- Allows growers to save seed for their own planting or sell that amount to a neighbor should plans for that variety change.
- Length of protection is 18 years from the date the variety was granted protection.
- Applies to all varieties protected prior to April 4, 1995.

### ***1994 Plant Variety Protection Act***

- Amendment to the 1970 PVPA that prohibits the sale of saved seed without permission of the variety owner.
- Grower can still save seed for his own plantings.
- Length of protection is 20 years from the date the variety was granted protection.
- Applies to all varieties protected after April 4, 1995.

### ***PVP Title V***

- Option for PVP protected varieties that will allow the sale by variety name, only as a class of certified seed.
- Can have both PVP 1970 Title V and PVP 1994 Title V seed.

### ***Utility Patent***

- Type of protection that prohibits farmers from saving, cleaning/conditioning or selling harvested grain as seed!
- Typically applies to varieties developed through genetic engineering or biotechnology such as Roundup Ready<sup>R</sup> soybeans or Bt<sup>R</sup> cotton, however, a utility patent may apply to conventional varieties as well.
- Length of protection is 20 years from date the application was filed.

## *Questions and Answers*

**1). If a grain elevator buys wheat from local farmers that was produced from PVP seed, can this elevator later sell this PVP wheat to hunters for the purpose of wildlife food plots provided the elevator does not provide variety and/or germ information?**

No, this is a violation of PVP laws because the grain was used as seed!

**2). How much seed can a farmer save from a PVP variety?**

There is no limit for his own use unless the variety is also protected by a utility patent, in which case no seed can be saved.

**3). Should a farmer decide not to use saved seed from his 1994 PVP wheat crop, can he transfer the wheat seed to another farmer?**

No!

**4). How do you tell if the seed you buy to plant is protected?**

The label on the bag of seed will tell you what type of protection this seed has.

**5). How is the protection of the variety enforced?**

The owner of the variety can bring civil action against the infringer. The USDA PVP Office will not take action.

**6). Where can I find a list of PVP varieties?**

<http://www.ars-grin.gov/cgi-bin/npgs/html/pvplist.pl>

### *References*

Science and Technology Programs. USDA Plant Variety Office. 2004.

Internet Publication, <http://www.ams.usda.gov/science/PVPO/PVPindex.htm>

Seed Protection: Rights and Responsibilities: 1970 Plant Variety Protection Act

(PVPA). Arkansas State Plant Board. 2004. Internet Publication,

[http://www.plantboard.org/seed\\_pdfs/protec.pdf](http://www.plantboard.org/seed_pdfs/protec.pdf)

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