

Plant Variety Protection Act (PVPA) and Patent Facts For Wheat Seed Growers, Dealers, and Consumers

Many private and public wheat varieties are protected from unauthorized replanting by the Plant Variety Protection Act (PVPA) and/or United States Patent. Dealers, seed cleaners, and consumers need to know how this affects them.

Wheat not labeled as a specific variety still must follow PVPA regulations if it contains seed produced from a variety protected by the 1994 PVPA. This wheat is labeled in Mississippi as "Mixed Wheat," "Mixed Wheat Variety Not Stated," or "Mixed Wheat VNS." Retail stores often refer to these types of wheat as dove wheat, pasture wheat, grazing wheat, wildlife food plot wheat, and brown bag wheat.

Seed companies and public institutions that own protected varieties may pursue and prosecute people who violate the PVPA. These may include grain dealers and producers, owners of retail operations, and consumers who purchase and/or sell PVP seed for planting purposes.

It is a violation to plant such seed for any purpose, including non-traditional uses, such as wildlife food plots, erosion control, livestock forage grazing, and others.

Seed produced from a PVPA variety with 1994 amendments cannot be sold, advertised, offered, delivered, consigned, exchanged, or exposed for sale without permission from the proprietary seed owner. In addition, no one can try to buy, transfer, or possess the variety in any way. It also is illegal to clean or condition such seed to sell for planting purposes. Retail dealers, seed cleaners, and consumers all are legally responsible for these violations.

For example, a dealer cannot legally purchase wheat grain from a grain elevator (which may contain a mixture of multiple PVP varieties) and sell that wheat seed for planting purposes unless the dealer has permission from the proprietary seed owner(s). Both the dealer and grain elevator are liable in this situ-

ation. Also, a consumer cannot buy for planting any mixed or variety not stated wheat that contains a PVP variety.

In addition, a PVPA Title V variety can be bought only as a class of certified seed from an authorized seed dealer. Each unit of seed must have a certification label that states the class of certification. The label must be from an official seed certification agency.

A Crop Exemption (section 113) in the 1994 amended PVPA allows growers to collect and save seed produced from any legally purchased PVPA-protected variety. Growers can

use this seed for their *own* future planting, but they cannot sell, trade, or transfer it to *others* for planting purposes. This also allows seed to be cleaned and conditioned for the activities permitted by the Crop Exemption.

Some commercial wheat varieties are now available in the United States that are patented. A variety may also receive double protection from patent and plant variety protection. PVP and patented are two distinct categories.

No one can replant a patented wheat variety for any reason.



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Information Sheet 1763

Extension Service of Mississippi State University, cooperating with U.S. Department of Agriculture. Published in furtherance of Acts of Congress, May 8 and June 30, 1914. VANCE H. WATSON, Director

(POD rev-11-05)