



**Pennsylvania  
Association for  
Sustainable Agriculture**

104 North Street  
PO Box 419  
Millheim, PA 16854  
(814) 349-9856  
Fax (814) 349-9840  
[www.pasafarming.org](http://www.pasafarming.org)

June 16, 2015

The Honorable Russell C. Redding  
Secretary of Agriculture  
Pennsylvania Department of Agriculture  
2301 North Cameron Street  
Harrisburg, PA 17110

**Re: Application of the Pennsylvania Seed Act to Seed Libraries**

Dear Secretary Redding,

I write to you on behalf of the Pennsylvania Association for Sustainable Agriculture (PASA) and its 6,000 mostly-farmer members, as well as the undersigned organizations and individuals who are dedicated to transforming our food system to build resilience, equity, and sustainability. Recently, the Pennsylvania Department of Agriculture issued an informal draft protocol on seed libraries<sup>[1]</sup> explaining to the Simpson Library that seed libraries cannot distribute locally grown and saved seeds without complying with licensing, labeling, and testing requirements of the Pennsylvania Seed Act (“Seed Act”). We believe that the Department of Agriculture’s interpretation and enforcement of the Seed Act is inaccurate and will restrict seed libraries’ abilities to fulfill their charitable missions of promoting seed saving and resilient local food systems.

We recommend that the Department of Agriculture take the following actions to ensure that seed libraries have a clear legal space to operate, including sharing locally grown and saved seeds:

- Revise DOA’s interpretation of the Seed Act to be consistent with the intent of the law and discontinue enforcement of licensing, labeling, or permitting requirements against seed libraries.
- Sponsor or support the introduction of legislation amending the Pennsylvania Seed Act to create a clear legal space for seed libraries, expressly exempting them from the licensing, labeling, and testing requirements of the Seed Act.
- Provide technical assistance to seed libraries on best practices for seed growing, saving, and storage, to support high quality seed collections at seed libraries.

In this letter, we offer a brief explanation of the role and importance of seed libraries, our interpretation of the Seed Act, and recommendations for policy changes that support a healthier, more resilient food system in Pennsylvania.

## **Background on Seed Libraries**

Since the dawn of agriculture, more than 10,000 years ago, humans have domesticated, bred, and selected plant varieties that provide us with nourishment needed to survive. One of the few unbroken traditions that we share with our ancestors is the saving and sharing of seeds.

In the last century, however, the tradition of sharing has been largely replaced by buying and selling as the dominant form of exchanging seeds. As a result, three companies now control more than 50% of the commercial seed market. The consolidation of the seed industry has also led to a sharp loss in seed diversity around the globe. The UN Food and Agriculture Organization estimates that we have lost 75% of the world's plant genetic biodiversity in the last century and that currently, nearly 75% of our food comes from just 12 plant varieties and 5 animal species.<sup>[2]</sup> Studies show that seed genetic diversity is a key element of ensuring that our agricultural systems are resilient in the face of a number of environmental threats.

In addition to assisting in preserving biodiversity, seed saving and sharing expands opportunities to access healthy, affordable, and culturally appropriate food. One in eight Pennsylvanians is food insecure,<sup>[3]</sup> meaning they do not know from where their next meal will come and lack access to enough food for an active healthy lifestyle, as measured by the United States Department of Agriculture.

Accessing fresh produce can be challenging for many Pennsylvania families, particularly those living in low-income neighborhoods, communities of color, and rural areas. In recent years, communities across the country have found a new home for continuing the age-old tradition of seed saving and sharing - seed libraries. Over 350 seed libraries exist in the United States, with many more in countries around the world. Seed libraries offer people free access to seeds, promote seed saving, and strengthen the resilience of local food systems.

## **How Seed Libraries Operate**

Seed libraries are nonprofit, community-based organizations that distribute and receive donations of seeds for free. They are often housed inside public libraries. They operate on an entirely non-commercial basis, depending entirely on donations and dedicated volunteers to manage seed collection, storage, distribution, and public education.

Generally speaking, seed libraries operate as a local repository of seeds where members of the public can "check out" seeds to grow in their home gardens. Initial seed collections are sometimes purchased from seed companies, but more often than not, seed companies and others donate the initial seedstock to the library. People who check out seeds and learn proper seed-saving techniques are encouraged to save and return seeds from the plants they grow. Seed libraries often offer educational materials and conduct seed-saving workshops to educate members of the public about proper growing, saving, and storing techniques.

## **The Pennsylvania Seed Act**

Enacted in 2004, the Pennsylvania Seed Act (PA Cons. Stat. §§7101-7122) regulates the labeling, sale, and distribution of seed within the state of Pennsylvania. According to the Bureau of Plant Industry, the department within the Pennsylvania Department of Agriculture that enforces the law, the seed regulatory program “protects the industry and consumers through inspection and analysis of seed products in the marketplace.”<sup>[4]</sup> Indeed, state seed laws throughout the United States have been enacted to ensure fair competition and protect consumers from false or misleading advertising when purchasing seeds in the marketplace. Not only are the spirit and intent of the Seed Act focused on commercial transactions of seeds, but the plain language of the law applies labeling and testing requirements only to sales of seeds.

The Department of Agriculture, however, has interpreted the Seed Act as applying to seed libraries. By identifying the Simpson Library seed library as a “distributor” under the law, the Department appears to be operating under the belief that the rest of the law’s provisions necessarily apply to seed libraries. We believe this to be an incorrect reading of the law, with very dire consequences for the future of seed libraries and the ability of citizens of Pennsylvania to share seeds and grow food.

### **Application of the Seed Act to Seed Libraries**

There are three main requirements under the Seed Act that we believe are currently misapplied to seed libraries: licensing, labeling, and testing.

Section 7103 states that “every person functioning as a distributor of seed...shall...obtain an annual license” and pay a \$25 application fee.<sup>[5]</sup> The law defines a distributor as “the person whose name appears on the label of seed.”<sup>[6]</sup> Because the labeling requirements do not apply to seed libraries, as described below, seed libraries do not meet the definition of distributor and so are not required to apply for a license under this section.

Section 7104, regarding labeling and testing, applies only to a person who “sell[s], offer[s] for sale, expose[s] for sale or transport[s]” seed.<sup>[7]</sup> This section requires specific information to be included on the seed packet label, including: information about the distributor, germination testing, percentage by weight of the contents of the packet, and more. In order to comply with this section of the law, seed distributors need to pay for or conduct germination tests, which generally cost \$5-9 per variety and require 400 seeds per test. Sections 7105 and 7106 make it unlawful for “any person to sell, offer for sale or expose for sale in this Commonwealth any seed” if labeling and licensing requirements are not met or if such person does not comply with other consumer protection provisions of the Seed Act.

Seed libraries operate on a non-commercial basis and do not sell, offer for sale, expose for sale, or transport seeds. Therefore, these sections of the law do not apply to their seed sharing activities; nor does the Seed Act appear to make unlawful the “bartering or otherwise supplying seed” if licensing or labeling provisions are not met. Also, the cost and quantity required for testing each variety of seed would make it impossible for seed libraries to offer free seeds to the community.

Section 7111 vests enforcement power of the Seed Act in the Department of Agriculture. Pursuant to Sections 7111 and 7113, the Department can sample, inspect, make analysis of and test seeds and can prevent the sale of seeds in violation of the act through a stop-sale, use, or removal order. Section 7111 limits sampling, analysis, inspection, and testing to seeds that are transported, sold, offered or exposed *for sale* within this Commonwealth.” Similarly, the Department can issue and enforce stop-sale orders only when it finds a seed is “being offered or exposed *for sale* in violation of any of the provisions” of the Seed Act. The goal of issuing a stop-sale order is to “prohibit further sale of [illegal] seed.” These enforcement mechanisms reflect a consumer protection law designed only to regulate the sale and purchase of commercial seeds in the Commonwealth.

### **Recommendations for Action**

We believe that the Department of Agriculture’s current application of the Seed Act to seed libraries will lead to many seed libraries closing down in the near future. Seed libraries protect the basic human right to food by offering people access to free, healthy food in the form of seeds. With the closure of seed libraries in communities across Pennsylvania, we will be taking a step backwards in protecting our local food system and empowering citizens of Pennsylvania with access to resources that will support self-sufficiency, healthy lifestyles, and a deeper understanding of the importance of diversity in our food supply.

In order to resolve the uncertainty surrounding the legal status of seed libraries in Pennsylvania, we request a meeting between you and a few representatives of our coalition to discuss options for implementing the recommendations in this letter and to reach a positive resolution. This issue is very important to us, and we anticipate your response as soon as possible, given your understandably busy schedule at the beginning of a new administration. With that in mind, all of us at PASA also wish to offer our congratulations on your appointment by Governor Wolf, and approval by the Legislature, to once again head the Pennsylvania Department of Agriculture.

Sincerely,



Brian Snyder  
Executive Director  
Pennsylvania Association for Sustainable Agriculture

cc:  
Governor Tom Wolf

encl:  
Correspondence from PDA to Simpson Library, 6-12-14  
Correspondence from PDA to Rebecca Swanger, 7-10-14

The following organizations and individuals have signed on in support of the above letter and its requests of the Department of Agriculture.

Alaina Webber, Food Revolution Pittsburgh Cooking Club  
Amy Laura Cahn, Public Interest Law Center of Philadelphia  
Carolyn Barber, Hidden Harvest Pittsburgh  
Diane Cornman-Levy, Philadelphia Food Policy Advisory Council  
Don Nol, The Greenhouse Project  
Margaret McCarvill, Pennsylvania Horticultural Society  
Dusty Hinz and Nate Kleinman, Experimental Farm Network  
Elizabeth Alakszay, Chester County Master Gardener Coordinator, Penn State Extension  
Emily Brees, The Greenhouse Project  
Helen Ewing, Lawrenceville United (Pittsburgh)  
Jana Thomas, Olde Allegheny Community Garden  
Jane Rissel, The Greenhouse Project  
John Creasy, Garfield Community Farm  
Karen Stark, GMO Free PA  
Kelly Hames, Pittsburgh Public Market  
Kirtrina Baxter, Soil Generation  
Kyle Pattison, Hazelwood Farm  
Lisa Scales, Greater Pittsburgh Community Food Bank  
Julie Pezzino, Grow Pittsburgh  
Mary Ciarrocchi, Chester County Sierra Club Sustainable Agriculture Committee  
Melissa Miles, Eastern Pennsylvania Permaculture Guild  
Rebecca Swanger, Simpson Seed Library  
Richard Fennelly, Sr., Master Gardener  
Rose Smiechowski, Hidden Harvest Pittsburgh  
Sarai, Permatecture Design  
Tara Rockaway, Churchview Farm  
Thomas Linzey, Community Environmental Legal Defense Fund (CELDF)  
William Woys Weaver  
Heidi Secord, Pennsylvania Farmers Union  
Coach Mark Smallwood, Rodale Institute

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<sup>[1]</sup> See Appendix attached to this letter.

<sup>[2]</sup> UN FAO. Women: users, preservers and managers of agrobiodiversity, *available at* [http://www.fao.org/docrep/x0171e/x0171e03.htm#P181\\_22270](http://www.fao.org/docrep/x0171e/x0171e03.htm#P181_22270) (1999).

<sup>[3]</sup> Coalition Against Hunger, State of Hunger: Pennsylvania available at <http://www.hungercoalition.org/hungerreportpa/intro> (2013).

<sup>[4]</sup> *See*

[http://www.agriculture.state.pa.us/portal/server.pt/gateway/PTARGS\\_6\\_2\\_75292\\_10297\\_0\\_43/AgWebsite/ProgramDetail.aspx?name=Seed&navid=12&parentnavid=0&palid=76](http://www.agriculture.state.pa.us/portal/server.pt/gateway/PTARGS_6_2_75292_10297_0_43/AgWebsite/ProgramDetail.aspx?name=Seed&navid=12&parentnavid=0&palid=76).

<sup>[5]</sup> PA Cons. Stat. §7103.

<sup>[6]</sup> PA Cons. Stat. §7102.

<sup>[7]</sup> PA Cons. Stat. §7104.