

Brand vs. Variety Seed Labeling in Minnesota

Seed offered for sale in containers or in bulk for sowing purposes in Minnesota must have attached a seed label containing the information required by the Minnesota Seed Law (Minnesota Statutes, section 21.82). Proper labeling is the responsibility of the initial labeler, that is, the first person or firm to label the seed lot for sale in Minnesota, regardless of where the firm is located. Initial labelers are required to have a current seed permit.

Variety

A subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics by which it can be differentiated from other plants of the same kind. The variety name is designated by the breeder, and once assigned to a specific genetic line, can never be used in that crop to identify another variety nor is it lawful to change it.

Brand

As used in the seed law, it is a word, mark, or picture representing a trademark or a term taken from a trademark which indicates the owner, originator, or labeler of the seed and does not indicate the genetic identity of the seed. Brands are names given for marketing purposes. Brands from a particular company may be indicative of a specific maturity zone or other characteristics. Some brands may be easily confused with variety names if care is not taken to make the distinction clear.

Labeling

In the seed marketplace today, the potential exists for the same variety to be marketed under several different brand names by different companies. For example, Zebra Seed Company licenses a variety called 123456 to Tiger Seed Company. Tiger Seed Company markets the variety under the brand name T456. Zebra Seed Company also markets the variety under the brand name Z-200. To label this seed as variety T456 would be false and misleading because the variety is really 123456. It is also unlawful to market seed by providing conflicting information identifying 1456 as both a variety and brand name. How can a seed labeler deal with this issue legally? In Minnesota, there are two ways:

1. Registered Brand

If Tiger Seed Company wants to sell variety 123456 by brand only, they must register the brand T456 with the Minnesota Department of Agriculture and disclose the variety 123456 on the registration application. On the label, they must identify the seed as T456 Brand or Tiger T456 Brand and list the variety as "Variety Not Stated". This clearly identifies T456 is a brand and not the variety name. An example of this provided below.

Tiger T456 Brand	
KIND: Soybeans	PURE SEED: 90%
VARIETY: Variety Not Stated	WEED SEED: 0.05%
LOT NO.: Z-A-21	OTHER CROP: 0.10%
ORIGIN: MN	INERT MATTER: 1.85%
GERMINATION: 90%	DATE TESTED: 2-2014
NOXIOUS WEEDS: None	NET WEIGHT: 2,000 lbs
Tiger Seed Co., P.O. Box 10, Zoo City, MN 99999	

2. Unregistered Brand

If the brand is not registered, the variety name must be shown on the label for seed sold in Minnesota. The labeler must identify T456 is a brand name on the seed label and also list the variety name as indicated in the example below.

Tiger T456 Brand	
KIND: Soybeans	PURE SEED: 90%
VARIETY: 123456	WEED SEED: 0.05%
LOT NO.: Z-A-21	OTHER CROP: 0.10%
ORIGIN: MN	INERT MATTER: 1.85%
GERMINATION: 90%	DATE TESTED: 2-2014
NOXIOUS WEEDS: None	NET WEIGHT: 2,000 lbs
Tiger Seed Co., P.O. Box 10, Zoo City, MN 99999	

Incorrect Brand Variety Labeling

In the example below, T456 is incorrectly identified as a variety. While Tiger is a part of a brand name and may be protected as a trademark, T456 is also a part of the brand name and must be identified accordingly. Listing a brand name as a variety name on the seed label is false and misleading labeling and a violation of the Minnesota Seed Law.

Tiger T456 Brand	
KIND: Soybeans	PURE SEED: 90%
VARIETY: Tiger 456	WEED SEED: 0.05%
LOT NO.: Z-A-21	OTHER CROP: 0.10%
ORIGIN: MN	INERT MATTER: 1.85%
GERMINATION: 90%	DATE TESTED: 2-2014
NOXIOUS WEEDS: None	NET WEIGHT: 2,000 lbs
Tiger Seed Co., P.O. Box 10, Zoo City, MN 99999	

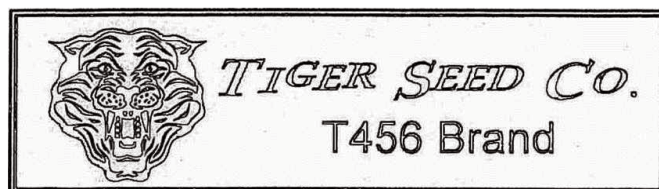
Advertising

Billboards, plot signs, product guides, magazine ads, and web sites are advertisements and information and claims must not be in conflict with the seed label. Brands must be clearly identified as brands in all advertisements by placing the word “Brand” immediately following or below the brand name (for example : T456 Brand). Comparison charts listing brands should have the heading “Brand” or “Brand Name” for the column where the brands are listed. The variety name does not need to be listed in an advertising piece but brand names must be clearly identified as brand names in all advertisements as indicated in the example below.

Tiger Seeds				
Brand	Maturity	Emer- gence	Stress Tolerance	Disease Resis- tance
T456	4.5	8	8	8
T389	3.8	9	8	7
T274	2.7	9	8	6

Plot Signs

On plot signs, the word “Brand” should be placed after or immediately below the brand name. It may be in a smaller, less showy font than the brand name so long as it is clear that a brand is a brand.



Rules for Labeling Variety

Whenever the variety name is not listed on the seed label, the words “variety not stated” must be listed. The variety name or number must be listed on the seed label unless:

- The variety name is not known or does not exist for a nonhybrid seed.
- The variety name is known for nonhybrid biennial or perennial seed but the owner of the variety has granted written permission to omit it from the label (may not be applicable in states other than Minnesota).
- The seed being offered for sale is a blend (may not be applicable in states other than Minnesota).
- The variety name(s) for lawn and turf grass seed sold in mixtures if the components are not sold by brand names (may not be applicable in states other than Minnesota).
- Seed of a non-hybrid annual may be sold by brand name only when the brand name has been registered with the Minnesota Department of Agriculture. When registered, the label must show the words “variety not stated.” If the brand name is not registered, the variety name must be listed on the label. A brand name must be clearly identified as a brand so that it cannot be confused with being a variety name.

For more information e-mail: seed.mda@state.mn.us . For copies of forms, go to: www.mda.state.mn.us/seed