

103^D CONGRESS
2^D SESSION

S. 1406

AN ACT

To amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

103^D CONGRESS
2^D SESSION

S. 1406

AN ACT

To amend the Plant Variety Protection Act to make such Act consistent with the International Convention for the Protection of New Varieties of Plants of March 19, 1991, to which the United States is a signatory, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Plant Variety Protection Act Amendments of 1994”.

1 (b) REFERENCES TO PLANT VARIETY PROTECTION
2 ACT.—Except as otherwise expressly provided, whenever
3 in this Act an amendment or repeal is expressed in terms
4 of an amendment to, or repeal of, a section or other provi-
5 sion, the reference shall be considered to be made to a
6 section or other provision of the Plant Variety Protection
7 Act (7 U.S.C. 2321 et seq.).

8 **SEC. 2. DEFINITIONS AND RULES OF CONSTRUCTION.**

9 Section 41 (7 U.S.C. 2401) is amended to read as
10 follows:

11 **“SEC. 41. DEFINITIONS AND RULES OF CONSTRUCTION.**

12 “(a) DEFINITIONS.—As used in this Act:

13 “(1) BASIC SEED.—The term ‘basic seed’
14 means the seed planted to produce certified or com-
15 mercial seed.

16 “(2) BREEDER.—The term ‘breeder’ means the
17 person who directs the final breeding creating a vari-
18 ety or who discovers and develops a variety. If the
19 actions are conducted by an agent on behalf of a
20 principal, the principal, rather than the agent, shall
21 be considered the breeder. The term does not include
22 a person who redevelops or rediscovers a variety the
23 existence of which is publicly known or a matter of
24 common knowledge.

25 “(3) ESSENTIALLY DERIVED VARIETY.—

1 “(A) IN GENERAL.—The term ‘essentially
2 derived variety’ means a variety that—

3 “(i) is predominantly derived from an-
4 other variety (referred to in this paragraph
5 as the ‘initial variety’) or from a variety
6 that is predominantly derived from the ini-
7 tial variety, while retaining the expression
8 of the essential characteristics that result
9 from the genotype or combination of
10 genotypes of the initial variety;

11 “(ii) is clearly distinguishable from
12 the initial variety; and

13 “(iii) except for differences that result
14 from the act of derivation, conforms to the
15 initial variety in the expression of the es-
16 sential characteristics that result from the
17 genotype or combination of genotypes of
18 the initial variety.

19 “(B) METHODS.—An essentially derived
20 variety may be obtained by the selection of a
21 natural or induced mutant or of a somaclonal
22 variant, the selection of a variant individual
23 from plants of the initial variety, backcrossing,
24 transformation by genetic engineering, or other
25 method.

1 “(4) KIND.—The term ‘kind’ means one or
2 more related species or subspecies singly or collec-
3 tively known by one common name, such as soybean,
4 flax, or radish.

5 “(5) SEED.—The term ‘seed’, with respect to a
6 tuber propagated variety, means the tuber or the
7 part of the tuber used for propagation.

8 “(6) SEXUALLY REPRODUCED.—The term ‘sex-
9 ually reproduced’ includes any production of a vari-
10 ety by seed, but does not include the production of
11 a variety by tuber propagation.

12 “(7) TUBER PROPAGATED.—The term ‘tuber
13 propagated’ means propagated by a tuber or a part
14 of a tuber.

15 “(8) UNITED STATES.—The terms ‘United
16 States’ and ‘this country’ mean the United States,
17 territories and possessions of the United States, and
18 the Commonwealth of Puerto Rico.

19 “(9) VARIETY.—The term ‘variety’ means a
20 plant grouping within a single botanical taxon of the
21 lowest known rank, that, without regard to whether
22 the conditions for plant variety protection are fully
23 met, can be defined by the expression of the charac-
24 teristics resulting from a given genotype or combina-
25 tion of genotypes, distinguished from any other

1 plant grouping by the expression of at least one
2 characteristic and considered as a unit with regard
3 to the suitability of the plant grouping for being
4 propagated unchanged. A variety may be rep-
5 resented by seed, transplants, plants, tubers, tissue
6 culture plantlets, and other matter.

7 “(b) RULES OF CONSTRUCTION.—For the purposes
8 of this Act:

9 “(1) SALE OR DISPOSITION FOR
10 NONREPRODUCTIVE PURPOSES.—The sale or dispo-
11 sition, for other than reproductive purposes, of har-
12 vested material produced as a result of experimen-
13 tation or testing of a variety to ascertain the charac-
14 teristics of the variety, or as a by-product of increas-
15 ing a variety, shall not be considered to be a sale or
16 disposition for purposes of exploitation of the
17 variety.

18 “(2) SALE OR DISPOSITION FOR REPRODUCTIVE
19 PURPOSES.—The sale or disposition of a variety for
20 reproductive purposes shall not be considered to be
21 a sale or disposition for the purposes of exploitation
22 of the variety if the sale or disposition is done as an
23 integral part of a program of experimentation or
24 testing to ascertain the characteristics of the variety,

1 or to increase the variety on behalf of the breeder
2 or the successor in interest of the breeder.

3 “(3) SALE OR DISPOSITION OF HYBRID SEED.—
4 The sale or disposition of hybrid seed shall be con-
5 sidered to be a sale or disposition of harvested mate-
6 rial of the varieties from which the seed was pro-
7 duced.

8 “(4) APPLICATION FOR PROTECTION OR EN-
9 TERING INTO A REGISTER OF VARIETIES.—The fil-
10 ing of an application for the protection or for the en-
11 tering of a variety in an official register of varieties,
12 in any country, shall be considered to render the va-
13 riety a matter of common knowledge from the date
14 of the application, if the application leads to the
15 granting of protection or to the entering of the vari-
16 ety in the official register of varieties, as the case
17 may be.

18 “(5) DISTINCTNESS.—The distinctness of one
19 variety from another may be based on one or more
20 identifiable morphological, physiological, or other
21 characteristics (including any characteristics evi-
22 denced by processing or product characteristics, such
23 as milling and baking characteristics in the case of
24 wheat) with respect to which a difference in geneal-
25 ogy may contribute evidence.

1 “(6) PUBLICLY KNOWN VARIETIES.—

2 “(A) IN GENERAL.—A variety that is ade-
3 quately described by a publication reasonably
4 considered to be a part of the public technical
5 knowledge in the United States shall be consid-
6 ered to be publicly known and a matter of com-
7 mon knowledge.

8 “(B) DESCRIPTION.—A description that
9 meets the requirements of subparagraph (A)
10 shall include a disclosure of the principal char-
11 acteristics by which a variety is distinguished.

12 “(C) OTHER MEANS.—A variety may be-
13 come publicly known and a matter of common
14 knowledge by other means.”.

15 **SEC. 3. RIGHT TO PLANT VARIETY PROTECTION; PLANT**
16 **VARIETIES PROTECTABLE.**

17 Section 42 (7 U.S.C. 2402) is amended to read as
18 follows:

19 **“SEC. 42. RIGHT TO PLANT VARIETY PROTECTION; PLANT**
20 **VARIETIES PROTECTABLE.**

21 “(a) IN GENERAL.—The breeder of any sexually re-
22 produced or tuber propagated plant variety (other than
23 fungi or bacteria) who has so reproduced the variety, or
24 the successor in interest of the breeder, shall be entitled

1 to plant variety protection for the variety, subject to the
2 conditions and requirements of this Act, if the variety is—

3 “(1) new, in the sense that, on the date of filing
4 of the application for plant variety protection, propa-
5 gating or harvested material of the variety has not
6 been sold or otherwise disposed of to other persons,
7 by or with the consent of the breeder, or the succes-
8 sor in interest of the breeder, for purposes of exploi-
9 tation of the variety—

10 “(A) in the United States, more than 1
11 year prior to the date of filing; or

12 “(B) in any area outside of the United
13 States—

14 “(i) more than 4 years prior to the
15 date of filing; or

16 “(ii) in the case of a tree or vine,
17 more than 6 years prior to the date of
18 filing;

19 “(2) distinct, in the sense that the variety is
20 clearly distinguishable from any other variety the ex-
21 istence of which is publicly known or a matter of
22 common knowledge at the time of the filing of the
23 application;

1 “(3) uniform, in the sense that any variations
2 are describable, predictable, and commercially ac-
3 ceptable; and

4 “(4) stable, in the sense that the variety, when
5 reproduced, will remain unchanged with regard to
6 the essential and distinctive characteristics of the va-
7 riety with a reasonable degree of reliability commen-
8 surate with that of varieties of the same category in
9 which the same breeding method is employed.

10 “(b) MULTIPLE APPLICANTS.—

11 “(1) IN GENERAL.—If 2 or more applicants
12 submit applications on the same effective filing date
13 for varieties that cannot be clearly distinguished
14 from one another, but that fulfill all other require-
15 ments of subsection (a), the applicant who first com-
16 plies with all requirements of this Act shall be enti-
17 tled to a certificate of plant variety protection, to the
18 exclusion of any other applicant.

19 “(2) REQUIREMENTS COMPLETED ON SAME
20 DATE.—

21 “(A) IN GENERAL.—Except as provided in
22 subparagraph (B), if 2 or more applicants com-
23 ply with all requirements for protection on the
24 same date, a certificate shall be issued for each
25 variety.

1 “(B) VARIETIES INDISTINGUISHABLE.—If
2 the varieties that are the subject of the applica-
3 tions cannot be distinguished in any manner, a
4 single certificate shall be issued jointly to the
5 applicants.”.

6 **SEC. 4. APPLICATIONS.**

7 Section 52 (7 U.S.C. 2422) is amended—

8 (1) in paragraph (1), by adding at the end the
9 following new sentence: “The variety shall be named
10 in accordance with regulations issued by the
11 Secretary.”;

12 (2) in the first sentence of paragraph (2), by
13 striking “novelty” and inserting “distinctiveness,
14 uniformity, and stability”;

15 (3) by redesignating paragraphs (3) and (4) as
16 paragraphs (4) and (5), respectively;

17 (4) by inserting after paragraph (2) the follow-
18 ing new paragraph:

19 “(3) A statement of the basis of the claim of
20 the applicant that the variety is new.”; and

21 (5) in paragraph (4) (as redesignated by para-
22 graph (3)), by inserting “(including any propagating
23 material)” after “basic seed”.

24 **SEC. 5. BENEFIT OF EARLIER FILING DATE.**

25 Section 55(a) (7 U.S.C. 2425(a)) is amended—

1 (1) by redesignating the first and second sen-
2 tences as paragraphs (1) and (2), respectively;

3 (2) in paragraph (1) (as so designated), by in-
4 sserting before the period at the end the following: “,
5 not including the date on which the application is
6 filed in the foreign country”; and

7 (3) by adding at the end the following new
8 paragraph:

9 “(3)(A) An applicant entitled to a right of priority
10 under this subsection shall be allowed to furnish any nec-
11 essary information, document, or material required for the
12 purpose of the examination of the application during—

13 “(i) the 2-year period beginning on the date of
14 the expiration of the period of priority ; or

15 “(ii) if the first application is rejected or with-
16 drawn, an appropriate period after the rejection or
17 withdrawal, to be determined by the Secretary.

18 “(B) An event occurring within the period of priority
19 (such as the filing of another application or use of the
20 variety that is the subject of the first application) shall
21 not constitute a ground for rejecting the application or
22 give rise to any third party right.”.

23 **SEC. 6. NOTICE OF REFUSAL; RECONSIDERATION.**

24 The first sentence of section 62(b) (7 U.S.C.
25 2442(b)) is amended—

1 (1) by striking “six months” and inserting “at
2 least 30 days, and not more than 180 days”; and

3 (2) by striking “in exceptional circumstances”.

4 **SEC. 7. CONTENTS AND TERM OF PLANT VARIETY PROTEC-**
5 **TION.**

6 Section 83 (7 U.S.C. 2483) is amended—

7 (1) in subsection (a)—

8 (A) by designating the first through fourth
9 sentences as paragraphs (1) through (4), re-
10 spectively; and

11 (B) by striking paragraphs (2) and (3) (as
12 so designated) and inserting the following new
13 paragraphs:

14 “(2) If the owner so elects, the certificate shall—

15 “(A) specify that seed of the variety shall be
16 sold in the United States only as a class of certified
17 seed; and

18 “(B) if so specified, conform to the number of
19 generations designated by the owner.

20 “(3) An owner may waive a right provided under this
21 subsection, other than a right that is elected by the owner
22 under paragraph (2)(A).”;

23 (2) in the first sentence of subsection (b)—

24 (A) by striking “eighteen” and inserting
25 “20”; and

1 (B) by inserting before the period at the
2 end the following: “, except that, in the case of
3 a tree or vine, the term of the plant variety pro-
4 tection shall expire 25 years from the date of
5 issue of the certificate”; and

6 (3) in subsection (c), by striking “repository:
7 *Provided, however, That*” and inserting “repository,
8 or requiring the submission of a different name for
9 the variety, except that”.

10 **SEC. 8. PRIORITY CONTEST.**

11 (a) PRIORITY CONTEST; EFFECT OF ADVERSE FINAL
12 JUDGMENT OR INACTION.—Sections 92 and 93 (7 U.S.C.
13 2502 and 2503) are repealed.

14 (b) INTERFERING PLANT VARIETY PROTECTION.—

15 (1) REDESIGNATION.—Chapter 9 of title II (7
16 U.S.C. 2501 et seq.) is amended by redesignating
17 section 94 (7 U.S.C. 2504) as section 92.

18 (2) AMENDMENTS.—Section 92 (as so redesign-
19 nated) is amended—

20 (A) by striking “The owner” and inserting
21 “(a) The owner”; and

22 (B) by striking the second sentence.

23 (c) APPEAL OR CIVIL ACTION IN CONTESTED
24 CASES.—

1 (1) TRANSFER.—Section 73 (7 U.S.C. 2463) is
2 amended by transferring subsection (b) to the end
3 of section 92 (as redesignated by subsection (b)(1)).

4 (2) REPEAL.—Section 73 (as amended by para-
5 graph (1)) is repealed.

6 (d) CONFORMING AMENDMENTS.—

7 (1) Section 71 (7 U.S.C. 2461) is amended by
8 striking “92,”.

9 (2) Section 102 (7 U.S.C. 2532) is amended by
10 inserting “or tuber propagable” after “sexually re-
11 producible” each place it appears.

12 **SEC. 9. PROMPT PAYMENT.**

13 Chapter 9 of title II (7 U.S.C. 2501 et seq.) (as
14 amended by section 8) is further amended by adding at
15 the end the following new section:

16 **“SEC. 93. PROMPT PAYMENT.**

17 “If a seed grower contracts with the holder of a cer-
18 tificate of plant variety protection issued under this Act,
19 or a licensee of the holder, to produce lawn, turf, or forage
20 grass seed, alfalfa, or clover seed, protected under this
21 Act, payments due the grower under the contract shall be
22 completed not later than the earlier of—

23 “(1) 30 days after the contract payment date;

24 or

1 “(2) May 1 of the year following the production
2 of the seed.”.

3 **SEC. 10. INFRINGEMENT OF PLANT VARIETY PROTECTION.**

4 Section 111 (7 U.S.C. 2541) is amended—

5 (1) in subsection (a)—

6 (A) by striking “novel” the first two places
7 it appears and inserting “protected”;

8 (B) in paragraph (1), by striking “the
9 novel” and inserting “or market the protected”;

10 (C) by striking “novel” each place it ap-
11 pears in paragraphs (2) through (7);

12 (D) in paragraph (3), by inserting “, or
13 propagate by a tuber or a part of a tuber,”
14 after “sexually multiply”;

15 (E) by striking “or” each place it appears
16 at the end of paragraphs (3) through (6);

17 (F) by redesignating paragraphs (7) and
18 (8) as paragraphs (9) and (10), respectively;
19 and

20 (G) by inserting after paragraph (6) the
21 following new paragraphs:

22 “(7) condition the variety for the purpose of
23 propagation, except to the extent that the condi-
24 tioning is related to the activities permitted under
25 section 113;

1 “(8) stock the variety for any of the purposes
2 referred to in paragraphs (1) through (7);”;

3 (2) by redesignating subsection (b) as sub-
4 section (f); and

5 (3) by inserting after subsection (a) the follow-
6 ing new subsections:

7 “(b) The owner of a protected variety may authorize
8 the use of the variety under this section subject to condi-
9 tions and limitations specified by the owner.

10 “(c) This section shall apply equally to—

11 “(1) any variety that is essentially derived from
12 a protected variety, unless the protected variety is
13 an essentially derived variety;

14 “(2) any variety that is not clearly distinguish-
15 able from a protected variety;

16 “(3) any variety whose production requires the
17 repeated use of a protected variety; and

18 “(4) harvested material (including entire plants
19 and parts of plants) obtained through the unauthor-
20 ized use of propagating material of a protected vari-
21 ety, unless the owner of the variety has had a rea-
22 sonable opportunity to exercise the rights provided
23 by this Act with respect to the propagating material.

24 “(d) It shall not be an infringement of the rights of
25 the owner of a variety to perform any act concerning prop-

1 agating material of any kind, or harvested material, in-
2 cluding entire plants and parts of plants, of a protected
3 variety that has been sold or otherwise marketed with the
4 consent of the owner in the United States, unless the act
5 involves further propagation of the variety or involves an
6 export of material of the variety, that enables the propaga-
7 tion of the variety, into a country that does not protect
8 varieties of the plant genus or species to which the variety
9 belongs, unless the exported material is for final consump-
10 tion purposes.

11 “(e) It shall not be an infringement of the rights of
12 the owner of a variety to perform any act done privately
13 and for noncommercial purposes.”.

14 **SEC. 11. RIGHT TO SAVE SEED; CROP EXEMPTION.**

15 The first sentence of section 113 (7 U.S.C. 2543) is
16 amended by striking “section: *Provided*, That” and all
17 that follows through the period and inserting “section.”.

18 **SEC. 12. LIMITATION OF DAMAGES; MARKING AND NOTICE.**

19 Section 127 (7 U.S.C. 2567) is amended by striking
20 “novel” each place it appears.

21 **SEC. 13. OBLIGATION TO USE VARIETY NAME.**

22 Section 128(a) (7 U.S.C. 2568(a)) is amended—

23 (1) by inserting “or tubers or parts of tubers”
24 after “plant material”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(4) Failure to use the name of a variety for
4 which a certificate of protection has been issued
5 under this Act, even after the expiration of the
6 certificate, except that lawn, turf, or forage grass
7 seed, alfalfa, or clover seed may be sold without a
8 variety name unless use of the name of a variety for
9 which a certificate of protection has been issued
10 under this Act is required under State law.”.

11 **SEC. 14. ELIMINATION OF GENDER-BASED REFERENCES.**

12 (a) The last sentence of section 7(a) (7 U.S.C.
13 2327(a)) is amended by striking “his designee shall act
14 as chairman” and inserting “the designee of the Secretary
15 shall act as chairperson”.

16 (b) Section 10(a) (7 U.S.C. 2330(a)) is amended by
17 striking “he” and inserting “the Secretary”.

18 (c) Section 23 (7 U.S.C. 2353) is amended—

19 (1) in the second sentence, by striking “he” and
20 inserting “the officer”; and

21 (3) in the third sentence, by striking “he” and
22 inserting “the person”.

23 (d) Section 24 (7 U.S.C. 2354) is amended—

24 (1) in the first sentence of subsection (a), by
25 striking “him” and inserting “the witness”; and

1 (2) in the second sentence of subsection (c)—

2 (A) by striking “his fees and traveling ex-
3 penses” and inserting “the fees and traveling
4 expenses of the witness”; and

5 (B) by striking “him” and inserting “the
6 witness”.

7 (e) The last sentence of section 27 (7 U.S.C. 2357)
8 is amended by striking “he” each place it appears ” and
9 inserting “the person”.

10 (f) The first sentence of section 44 (7 U.S.C. 2404)
11 is amended by striking “he” and inserting “the Sec-
12 retary”.

13 (g) Section 53 (7 U.S.C. 2423) is amended—

14 (1) in subsection (a), by striking “one (or his
15 successor)” and inserting “one person (or the suc-
16 cessor of the person)”; and

17 (2) in subsection (b), by striking “he” and in-
18 serting “the Secretary”.

19 (h) Section 54 (7 U.S.C. 2424) is amended by strik-
20 ing “his successor in interest” and inserting “the succes-
21 sor in interest of the breeder”.

22 (i) Section 55 (7 U.S.C. 2425) is amended—

23 (1) in subsection (a)(2) (as redesignated by sec-
24 tion 5(1)), by striking “his application” and insert-
25 ing “the application filed in the United States”; and

1 (2) in subsection (b), by striking “his prede-
2 cessor in title” and inserting “the predecessor in
3 title of the person”.

4 (j) The first sentence of section 62(b) (7 U.S.C.
5 2442(b)) is amended—

6 (1) by striking “him” and inserting “an appli-
7 cant”;

8 (2) by striking “an applicant shall” and insert-
9 ing “the applicant shall”; and

10 (3) by striking “he” and inserting “the Sec-
11 retary”.

12 (k) The second sentence of section 72 (7 U.S.C.
13 2462) is amended by striking “his variety as specified in
14 his application” and inserting “the variety as specified in
15 the application”.

16 (l) Section 82 (7 U.S.C. 2482) is amended by striking
17 “his signature” and inserting “the signature of the Sec-
18 retary”.

19 (m) Section 83 (7 U.S.C. 2483) is amended—

20 (1) in subsection (a) (as amended by section
21 7(1)(A))—

22 (A) in paragraph (1), by striking “(or his
23 successor in interest)” and inserting “(or the
24 successor in interest of the breeder)”; and

1 (B) in paragraph (4), by striking “his dis-
2 cretion” and inserting “the discretion of the
3 Secretary”; and

4 (2) in subsection (c), by striking “he” and in-
5 serting “the last owner”.

6 (n) Section 86 (7 U.S.C. 2486) is amended—

7 (1) in the first sentence, by striking “him” and
8 inserting “the Secretary”; and

9 (2) in the third sentence, by striking “he” and
10 inserting “the person”.

11 (o) Section 91(c) (7 U.S.C. 2501(c)) is amended by
12 striking “he” and inserting “the Secretary”.

13 (p) The fourth sentence of section 92(b) (as trans-
14 ferred by section 8(c)(1)) is amended by striking “he” and
15 inserting “the Secretary”.

16 (q) The first sentence of section 111(f) (as redesignig-
17 nated by section 9(2)) is amended by striking “his official
18 capacity” and inserting “the official capacity of the officer
19 or employee”.

20 (r) Section 112 (7 U.S.C. 2542) is amended by strik-
21 ing “his successor in interest” and inserting “the succes-
22 sor in interest of the person”.

23 (s) Section 113 (7 U.S.C. 2543) is amended—

24 (1) in the first sentence—

1 (A) by striking “him” and inserting “the
2 person”; and

3 (B) by striking “his farm” and inserting
4 “the farm of the person”; and

5 (2) in the third sentence, by striking “his ac-
6 tions” and inserting “the actions of the purchaser”.

7 (t) Section 121 (7 U.S.C. 2561) is amended by strik-
8 ing “his”.

9 (u) Section 126(b) (7 U.S.C. 2566(b)) is amended
10 by striking “his” and inserting “the”.

11 (v) Section 128(a) (7 U.S.C. 2568(a)) is amended by
12 striking “he” and inserting “the Secretary”.

13 (w) Section 130(a) (7 U.S.C. 2570(a)) is amended
14 by striking “his official capacity” and inserting “the offi-
15 cial capacity of the officer or employee”.

16 **SEC. 15. TRANSITIONAL PROVISIONS.**

17 (a) IN GENERAL.—Except as provided in this section,
18 any variety for which a certificate of plant variety protec-
19 tion has been issued prior to the effective date of this Act,
20 and any variety for which an application is pending on
21 the effective date of this Act, shall continue to be governed
22 by the Plant Variety Protection Act (7 U.S.C. 2321 et
23 seq.), as in effect on the day before the effective date of
24 this Act.

25 (b) APPLICATIONS REFILED.—

1 (1) IN GENERAL.—An applicant may refile a
2 pending application on or after the effective date of
3 this Act.

4 (2) EFFECT OF REFILING.—If a pending appli-
5 cation is refiled on or after the effective date of this
6 Act—

7 (A) eligibility for protection and the terms
8 of protection shall be governed by the Plant Va-
9 riety Protection Act, as amended by this Act;
10 and

11 (B) for purposes of section 42 of the Plant
12 Variety Protection Act, as amended by section
13 3 of this Act, the date of filing shall be the date
14 of filing of the original application.

15 (c) LABELING.—

16 (1) IN GENERAL.—To obtain the protection
17 provided to an owner of a protected variety under
18 the Plant Variety Protection Act (7 U.S.C. 2321 et
19 seq.) (as amended by this Act), a notice given by an
20 owner concerning the variety under section 127 of
21 the Plant Variety Protection Act (7 U.S.C. 2567)
22 shall state that the variety is protected under such
23 Act (as amended by this Act).

24 (2) SANCTIONS.—Any person that makes a
25 false or misleading statement or claim, or uses a

1 false or misleading label, concerning protection de-
2 scribed in paragraph (1) shall be subject to the sanc-
3 tions described in section 128 of the Plant Variety
4 Protection Act (7 U.S.C. 2568).

5 **SEC. 16. EFFECTIVE DATE.**

6 This Act and the amendments made by this Act shall
7 become effective 180 days after the date of enactment of
8 this Act.

Passed the Senate May 25 (legislative day, May 16),
1994.

Attest:

Secretary.

S 1406 ES—2

S 1406 ES—3