

Variety and Brand Names

Brand names and variety names of crops are different and are intended for different purposes.

Variety names refer to the genetic makeup of seed and may only refer to a specific genetic makeup. Plant breeders are constantly improving varieties; whenever the genetic makeup is changed a new variety is created and it must have a new variety name.

Brand names refer to the seed source: the company or the individual labeling and selling the seed. Brand does not refer to the genetic makeup of the seed. If a crop grower wishes to spread risk by planting products with different genetic makeup, the variety name must be relied on to assure that the products are truly different. Relying on a brand name alone is no assurance of different varieties being planted.

Crop tests reported in this publication are listed by the names supplied by the individual or firm submitting them for testing; these names may be either a variety or brand.

Minnesota seed law requires that seed sold in Minnesota be labeled to show clearly whether it is a variety or brand. Information from the Minnesota Department of Agriculture, Plant Protection Division, Seed Unit's *Brand vs. Variety Seed Labeling in Minnesota* fact sheet follows, by permission. For further information contact Stephen Malone at Stephen.Malone@state.mn.us. or call the department at 651-201-6309

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 variety is 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 neither be used in that crop to identify another variety nor lawfully be changed.

Brand

A brand, as used in the seed law, is a word, mark or picture representing a trademark or a term taken from a trademark that indicates the owner, originator or labeler of the Seed; it does *not* indicate the genetic identity of the seed. Brands are names given for marketing purposes. Brand names from a particular company may be indicative of a specific maturity zone or other characteristics. Some brand names 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 T456 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 name only, it must register the brand name T456 with the Minnesota Department of Agriculture and disclose the variety 123456 on the registration application. On the label, the seed must be identified as **T456 Brand** or **Tiger T456 Brand** and listed as “**variety not stated**”. This clearly identifies T456 as a brand name and not the variety name. For example,

Tiger T456 Brand

KIND: Soybeans PURE SEED: 98%
 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: 2-2011
 NOXIOUS WEEDS: None NET WEIGHT: 2,000 lb
 Tiger Seed Co., P.O. Box 10, Zoo City, MN 99999

2. Unregistered Brand

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

Tiger T456 Brand

KIND: Soybeans PURE SEED: 98%
 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: 2-2011
 NOXIOUS WEEDS: None NET WEIGHT: 2,000 lb
 Tiger Seed Co., P.O. Box 10, Zoo City, MN 99999

Incorrect Brand and 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: 98%
 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: 2-2011
 NOXIOUS WEEDS: None NET WEIGHT: 2,000 lb
 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 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 need not be listed in advertising piece, but brand names must be clearly identified as brand names in all advertisements as indicated in this example:

Tiger Seeds

Brand	Maturity	Emergence	Stress Tolerance	Plant Height	Disease Resistance
T456	4.5	8	8	T	8
T389	3.8	9	8	M	7
T274	2.7	9	8	T	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 typeface 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.

