

Assembly Bill No. 135—Committee on Natural Resources,

Agriculture, and Mining

CHAPTER.....

AN ACT relating to agriculture; revising the definition of “nursery” to include a location where nursery stock is propagated and from which nursery stock is distributed directly to a customer; exempting certain nurseries that are licensed by another state from the requirement of obtaining a license from the administrator of the division of agriculture of the department of business and industry; revising the definition of “peddler” to exclude certain nurserymen licensed by another state; requiring nursery stock shipped intrastate or interstate to a point within this state to be accompanied by an inspection certificate or a phytosanitary certificate; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 555.235 is hereby amended to read as follows:

555.235 As used in NRS 555.235 to 555.249, inclusive:

1. ~~“Agent” means any person who:~~
 - ~~(a) Acts upon the authority of another person possessing a valid nursery license in this state; and~~
 - ~~(b) Solicits for the sale of nursery stock.~~
- ~~2. “Container” means any receptacle in which nursery stock is packed for shipment, storage or sale.~~
- ~~3.] “Inspecting officer” means a person authorized by the division to inspect nursery stock.~~
- ~~4.] 2. “Licensee” means any person licensed under the provisions of NRS 555.235 to 555.249, inclusive.~~
- ~~5.] 3. “Nursery” means any [ground or place where] location:~~
 - ~~(a) Where nursery stock is grown, propagated, stored [packed, treated, fumigated or offered for sale.~~
 - ~~6.] or sold; or~~
 - ~~(b) From which nursery stock is distributed directly to a customer.~~
4. “Nursery stock” means any plant for planting, propagation or ornamentation, and includes parts of plants, trees, shrubs, vines, vegetables, bulbs, stolons, tubers, corms, pips, rhizomes, scions, buds and grafts.
- ~~7. “Peddler” means any person who sells, solicits or offers for sale nursery stock to the ultimate customer and who does not have an established permanent place of business in the state. The term does not include nurserymen who wholesale stock to retail nurserymen in this state.~~
- ~~8.] 5. “Pest” means [:~~
 - ~~(a) Any] any form of animal or vegetable life detrimental to the nursery industry of [the state.~~
 - ~~(b) Any form of vegetable life detrimental to the nursery industry of the state.~~

~~—9.—“Pest disease” means any infectious, transmissible or contagious disease of plants, or any disorder of plants which manifests symptoms or behavior which the director, after investigation, determines to be characteristic of an infectious, transmissible or contagious disease.~~

~~—10.—“Place of business” means any location used to propagate, grow, maintain, hold, sell or distribute nursery stock and includes but is not limited to established permanent places of business, registered places of business, established sales yards, store yards, store or sales locations or similar outlets for which the minimum nursery license fee has been paid.~~

~~—11.] this state, including, without limitation, any insect, snail, nematode, fungus, virus, bacterium, microorganism, mycoplasmal organism, weed, parasitic plant or any other plant that is normally considered to be a pest of cultivated plants, uncultivated plants, agricultural commodities, horticultural products or nursery stock, or that the administrator declares to be a pest.~~

6. “Sell” means exchange, offer for sale, expose for sale, have in possession for sale or solicit for sale.

Sec. 2. NRS 555.236 is hereby amended to read as follows:

555.236 1. Every person who engages in the commercial production, holding, distribution, collection or selling of nursery stock shall obtain a license from the administrator, except:

(a) Retail florists or other persons who sell potted, ornamental plants intended for indoor decorative purposes.

(b) A person not engaged in the nursery business, raising nursery stock as a hobby in this state, from which he makes occasional sales, if the person reports to the administrator his intention to make such sales and does not advertise or solicit for the sale of such nursery stock.

(c) Persons engaged in agriculture and field-growing vegetable plants intended for sale for use in agricultural production.

(d) That the administrator may, to relieve hardships imposed by the licensing requirements of NRS 555.235 to 555.249, inclusive, upon persons residing in sparsely settled areas of ~~[the]~~ **this** state in which there ~~[exist]~~ **are** no licensed nurseries, waive nursery licensing requirements for any established business ~~[concern]~~ to permit occasional sales of nursery stock ~~[for customer accommodation.]~~ **to accommodate the customers of the business.**

(e) At the discretion of the administrator, persons selling vegetable bulbs or flower bulbs, ~~[such as]~~ **including, without limitation**, onion sets, tulip bulbs or similar bulbs.

(f) A nursery licensed by another state that sells nursery stock directly to:

(1) A licensed retail nursery in this state; or

(2) The public by catalog.

2. Persons, state agencies or political subdivisions exempt from the licensing requirements:

(a) Shall conduct their businesses in accordance with pest regulations and grades and standards for nursery stock as established by the administrator.

(b) Shall register annually, on or before July 1, with the division, the location, size and type of nursery stock being produced.

Sec. 3. NRS 555.238 is hereby amended to read as follows:

555.238 **1.** The minimum nursery license fee is \$50 per fiscal year, to which must be added:

~~**{1.} (a)** Twenty dollars for each additional ~~established sales yard, store or sales location operating at other than the registered place of business within the state.~~~~

~~**{2.}**~~ ***nursery of a licensee who has already paid the minimum nursery license fee.***

(b) Two dollars for each acre of nursery stock in production or portion thereof after the first acre up to a maximum fee of \$15.

~~**{3.} (c)** Five dollars for each agent acting on behalf of a licensed nursery established in this state and operating outside of the county in which the nursery is located.~~

~~**{4.} (d)** Fifty dollars for each peddler.~~

2. As used in this section:

(a) "Agent" means any person who:

(1) Acts upon the authority of another person possessing a valid nursery license in this state; and

(2) Solicits for the sale of nursery stock.

(b) "Peddler" means any person who sells, solicits or offers for sale nursery stock to the ultimate customer and who does not have a nursery in this state. The term does not include nurserymen licensed by another state who wholesale nursery stock to retail nurserymen in this state or sell nursery stock directly to the public by catalog.

Sec. 4. NRS 555.246 is hereby amended to read as follows:

555.246 **1.** All nursery stock shipped from other states to points within this state and all nursery stock shipped intrastate ~~{shall}~~ **must** bear on the outside of each container in which ~~{such}~~ **the** nursery stock was packed for shipment **a phytosanitary certificate or** an inspection certificate dated within **a** reasonable time ~~{prior to}~~ **before** shipment, which ~~{shall:~~

~~**(a) Certify that such} must:**~~

(a) If it is a phytosanitary certificate, certify that the nursery stock has been inspected and found free from **dangerously** injurious ~~{insect pests, plant diseases and noxious weeds}~~ **plant pests and quarantine pests or has been treated in the manner et forth in the rules and regulations prescribed by an applicable quarantine issued pursuant to chapter 554 of NRS;**

(b) If it is an inspection certificate, certify that the nursery from which the nursery stock was shipped has been inspected and found free of dangerously injurious plant pests and is commercially clean of common pests ~~†~~

~~—(b)~~ ; and

(c) Bear the signature of an ~~{official}~~ *officer* authorized to inspect nursery stock.

2. No corporation, company or ~~{individual}~~ *natural person* engaged in the transportation of freight or express may make delivery of any nursery stock in this state without *a phytosanitary certificate or* an inspection certificate.

3. *As used in this section:*

(a) *“Dangerously injurious plant pest” means a plant pest that constitutes a significant threat to the public, the nursery, agricultural, forestry or horticultural industry in this state or the general environmental quality of this state.*

(b) *“Phytosanitary certificate” means a certificate from the state of origin of nursery stock that was shipped to this state which verifies that an officer authorized to inspect nursery stock in the state of origin has inspected the nursery stock and determined that it meets the requirements set forth in paragraph (a) of subsection 1.*

(c) *“Quarantine pest” means a pest listed by the state quarantine officer in a quarantine issued pursuant to chapter 554 of NRS.*

Sec. 5. NRS 555.247 is hereby amended to read as follows:

555.247 1. All nursery stock shipped from other states to points within this state and all nursery stock shipped intrastate ~~{shall}~~ *must* bear a label on or attached to:

(a) The outside of the container in which the nursery stock was packed for shipment ~~{which shall indicate}~~ *that indicates* the name and address of the consignee and consignor and ~~{contain}~~ *contains* a statement describing plainly and legibly the correct botanical or commonly accepted name , or both , for each kind of nursery stock in ~~{such}~~ *the* container.

(b) Each individual piece of one kind and variety of nursery stock or subcontainer or lot containing one kind and variety of nursery stock in each container, ~~{which shall contain}~~ *that contains* a legible statement of the correct botanical or commonly accepted name, or both, of ~~{such}~~ *the nursery* stock.

2. Bulk shipments of nursery stock not packed in containers ~~{shall:}~~ *must:*

(a) Be accompanied by *one of* the ~~{certificate provided for in}~~ *certificates required pursuant to* NRS 555.246.

(b) Be accompanied by a manifest which ~~{shall state}~~ *must:*

(1) *State* the name and address of the consignor and consignee ; and ~~{which shall list}~~

(2) *List* and describe plainly and legibly the correct botanical or commonly accepted name, or both, for each kind of nursery stock in ~~{such}~~ *the* bulk shipment.

(c) Be labeled in accordance with the requirements of subsection 1.

Sec. 6. NRS 555.248 is hereby amended to read as follows:

555.248 Any nursery stock brought into this state which the administrator or inspecting officer finds or has reasonable cause to believe to be infested or infected with any pest must be destroyed immediately, at the expense of the owner or bailee, under the supervision of the administrator or the inspecting officer, unless:

1. The nature of the pest is such that no detriment can be caused to the *public, the nursery, agricultural, forestry or horticultural* industry ~~for related industries~~ in this state *or the general environmental quality of this state* by shipping the nursery stock out of ~~the~~ *this* state. In such case the administrator or inspecting officer:

(a) May affix a warning tag or notice to the nursery stock.

(b) Shall notify the owner or bailee to ship the nursery stock out of this state within 48 hours.

(c) Shall keep the nursery stock under his control at the expense of the owner or bailee.

(d) Shall destroy the nursery stock at the expiration of 48 hours if the owner or bailee has not shipped the nursery stock out of ~~the~~ *this* state.

2. The administrator determines that the pest can be exterminated by *a* treatment prescribed by the administrator with the result that no detriment can be caused to the *public, the nursery, agricultural, forestry or horticultural* industry ~~for related industries~~ in this state ~~or the general environmental quality of this state~~. In such case, nursery stock will be released if the nursery stock is:

(a) Treated in the manner prescribed by the administrator;

(b) Treated within the time specified by the administrator or inspecting officer;

(c) Treated under the supervision of the inspecting officer; and

(d) Found to be free from pests.

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