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FIRST REPRINT

A.B. 693

ASSEMBLY BILL NO. 693—COMMITTEE ON WAYS AND MEANS

MAY 24, 1999

Referred to Committee on Ways and Means

SUMMARY—Revises provisions governing certain fees imposed by state board of agriculture and state department of agriculture. (BDR 50-1748)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to fees; revising the provisions governing certain fees imposed by the state board of agriculture and the state department of agriculture; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 561.153 is hereby amended to read as follows:
2 561.153 The director may by regulation adopt such procedures as he
3 may deem appropriate for the billing or collection of fees for any service
4 ~~rendered~~ **or any publication or other product provided** by the department
5 under Titles 49, 50 and 51 of NRS for which fees are collectible.
6 **Sec. 2.** NRS 573.040 is hereby amended to read as follows:
7 573.040 The **state board of agriculture shall establish by regulation**
8 **the** fee for a license to operate a public livestock auction . ~~shall be \$100~~
9 ~~per year.~~
10 **Sec. 3.** NRS 576.042 is hereby amended to read as follows:
11 576.042 1. Any:
12 (a) Producer of livestock or farm products or his agent or consignee;
13 (b) Licensed broker, dealer or commission merchant; or
14 (c) Nonprofit organization or association, including the Nevada Fair of
15 Mineral Industries, 4-H clubs, the Nevada junior livestock show, the
16 Nevada state livestock show and the Nevada Hereford Association,
17 who is injured by any violation of the provisions of this chapter, or by any
18 misrepresentations or fraud on the part of any licensed dealer, broker or
19 commission merchant, may maintain a civil action against the dealer,

1 broker or commission merchant. If the dealer, broker or commission
2 merchant is licensed, he may also maintain an action against the surety on
3 any bonds, or the money or securities deposited in lieu of a bond. In such
4 an action against an unlicensed dealer, broker or commission merchant, the
5 injured person is entitled to treble damages.

6 2. Any person having a claim pursuant to subsection 1 against any
7 licensed dealer, broker or commission merchant must begin legal action on
8 any bond, or money or securities deposited in lieu of a bond, for recovery
9 of the amount claimed to be due within 1 year after the claim has accrued.

10 3. Pursuant to subsection 4 of NRS 576.030, process may be served by
11 delivering to the director duplicate copies of the process and paying a fee
12 ~~{of \$2.}~~ **established by regulation of the state board of agriculture.** The
13 service upon the director shall be deemed service upon the dealer, broker or
14 commission merchant. The director shall forward one copy of the process
15 by registered mail prepaid to the defendant dealer, broker or commission
16 merchant, ~~{giving}~~ **specifying** the day and hour of service. The
17 ~~{defendant's}~~ return receipt **of the defendant** is prima facie evidence of the
18 completion of service. If service of summons is made upon the director in
19 accordance with the provisions of this subsection, the ~~{time}~~ **period** within
20 which the defendant ~~{is required to}~~ **must** appear is extended 10 days. The
21 provisions of this subsection are not exclusive, but if a defendant dealer,
22 broker or commission merchant is found within the State of Nevada, he
23 must be served with process in the State of Nevada.

24 **Sec. 4.** NRS 576.050 is hereby amended to read as follows:

25 576.050 ~~{1.}~~ Each applicant for a license as a broker, dealer,
26 commission merchant, ~~{or}~~ cash buyer **or agent** shall pay to the department
27 an annual license fee ~~{of \$40.}~~

28 ~~—2.— Each applicant for a license as an agent shall pay to the department~~
29 ~~an annual license fee of \$10.~~ **established by regulation of the state board**
30 **of agriculture.**

31 **Sec. 5.** NRS 555.238 is hereby amended to read as follows:

32 555.238 1. The **state board of agriculture may establish by**
33 **regulation a minimum annual fee for each** nursery license, ~~{fee is \$50 per~~
34 ~~fiscal year,}~~ to which must be added ~~{:~~

35 ~~—(a) Twenty dollars for each additional}~~ **an amount established by**
36 **regulation of the board for each:**

37 (a) **Additional** nursery of a licensee who has ~~{already}~~ paid the
38 minimum nursery license fee.

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

41 ~~—(c) Five dollars for each agent}~~

42 (c) **Agent** acting on behalf of a licensed nursery established in this state
43 and operating outside of the county in which the nursery is located.

(d) ~~{Fifty dollars for each peddler.}~~ **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}~~ a 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. 6. NRS 555.310 is hereby amended to read as follows:

555.310 1. The director shall collect from each person applying for the examination or reexamination a testing fee ~~{of \$10 for each field of pest control in which the applicant wishes to be examined, subject to a maximum charge of \$35 and a minimum charge of \$15 for any one application.}~~ **established by regulation of the state board of agriculture.**

2. Upon the successful completion of the testing, the director shall, **before the license is issued**, collect from each person applying for a license for pest control ~~{the sum of \$50 before the license is issued.}~~ **an annual fee established by regulation of the state board of agriculture.** Any company or person employing operators, pilots or agents shall pay to the director ~~{ \$15 }~~ **a fee established by regulation of the board** for each operator, pilot or agent licensed.

Sec. 7. NRS 555.355 is hereby amended to read as follows:

555.355 1. The director may require the applicant to show, upon examination, that he possesses adequate knowledge concerning the proper use and application of restricted-use pesticides and the dangers involved and precautions to be taken in connection with ~~{their application,}~~ **the application of those pesticides**, including, but not limited to, the following areas:

(a) Label and labeling comprehension.

(b) Environmental consequences of pesticide use and misuse.

(c) Pests.

(d) Pesticides.

(e) Equipment.

(f) Application techniques.

(g) Laws and regulations.

(h) Safety.

2. In addition, the director may require the applicant to meet special qualifications of competency to meet the special needs of a given locality regarding the use or application of a specific restricted-use pesticide.

3. The director shall collect from each person applying for an examination or reexamination, in connection with the issuance of a certificate, a testing fee ~~[not to exceed \$10]~~ *established by regulation of the state board of agriculture* for any one examination period.

Sec. 8. NRS 582.040 is hereby amended to read as follows:

582.040 If satisfied with the ~~[applicant's qualifications,]~~ *qualifications of the applicant*, the state sealer of weights and measures shall issue a certificate of appointment as a public weighmaster, for which certificate he shall charge a fee ~~[of \$60.]~~ *established by regulation of the state board of agriculture*. The certificate of appointment ~~[is]~~ :

1. *Is* valid for the calendar year in which it is issued. ~~[Renewal of the certificate of appointment may be obtained]~~

2. *May be renewed* each year upon application to the state sealer of weights and measures ~~[, accompanied by a fee of \$50,]~~ on or before the last day of January. *The application must be accompanied by a fee established by regulation of the state board of agriculture.*

Sec. 9. NRS 586.270 is hereby amended to read as follows:

586.270 1. A registrant shall pay an annual registration fee in an amount ~~[fixed]~~ *established by regulation of* the director ~~[not to exceed \$50]~~ for each pesticide registered.

2. The director shall *, for each annual registration fee he collects,* deposit in a separate account ~~[not more than \$25 of each annual registration fee he collects.]~~ *the amount established for that purpose by regulation of the director*. The money deposited in the account must be used only for the disposal of pesticides. ~~[The director shall fix, by regulation, the amount of each registration fee which must be deposited in the account.]~~

3. A registrant who offers a pesticide for sale before ~~[the registration of]~~ *registering* the pesticide shall pay an amount equal to twice the registration fee for ~~[registration of]~~ *registering* the pesticide.

Sec. 10. NRS 586.406 is hereby amended to read as follows:

586.406 1. It is unlawful for any person to sell or offer to sell at the retail level or distribute or deliver for transportation for delivery to the consumer or user a pesticide classified for restricted use pursuant to NRS 586.401 or the Federal Environmental Pesticide Control Act, 7 U.S.C. §§ 136 et seq., ~~[without being]~~ *unless he is* registered with the director.

2. Each person applying for registration must provide a statement including:

(a) The name and address of the person registering; and

(b) The name and address of any person who, on behalf of the person registering, sells, offers to sell, distributes or delivers for transportation a restricted-use pesticide.

3. All registrations expire on December 31 and are renewable annually.

4. Each person registering shall pay:

1 (a) An annual registration fee ~~{of \$10;}~~ *established by regulation of the*
2 *state board of agriculture;* and

3 (b) A penalty fee of \$5 if his previous registration has expired by the
4 failure to reregister on or before February 1, unless his registration is
5 accompanied by a signed statement that no person named on the
6 registration statement has sold or distributed any restricted-use pesticides
7 during the year the registration was not in effect.

8 5. ~~{All persons}~~ *Each person who is* registered shall maintain for 2
9 years a record of all sales of restricted-use pesticides showing:

10 (a) The date of sale or delivery;

11 (b) The name and address of the person to whom sold or delivered;

12 (c) The brand name of the pesticide product;

13 (d) The amount of pesticide product sold or delivered;

14 (e) The certification number of the certified applicator who is applying
15 or supervising the application of the pesticide if the purchaser of the
16 pesticide is not certified to apply the pesticide; and

17 (f) Such other information as may be required by the director.

18 6. Each person registered pursuant to this section shall, on or before
19 the 15th day of each month, file a report with the director ~~{of}~~ *specifying*
20 *the* restricted-use pesticides sold during the previous month. The director
21 shall provide the form for the report. The form must be filed ~~{even if}~~
22 *regardless of whether* the person ~~{did not sell}~~ *sold* any pesticides during
23 the previous month.

24 **Sec. 11.** NRS 588.170 is hereby amended to read as follows:

25 588.170 1. Each brand and grade of commercial fertilizer or
26 agricultural mineral must be registered with the department before being
27 offered for sale, sold or distributed in this state.

28 2. An application for registration must be submitted in duplicate to the
29 director on a form furnished by him, and must be accompanied by a
30 registration fee in an amount to be fixed annually by the director ~~{, not to~~
31 ~~exceed \$25}~~ for each combined registration of brand and grade.

32 3. The applicant must ~~{also}~~ deposit with the department an airtight
33 container containing not less than 2 pounds of the fertilizer or agricultural
34 mineral, *together* with an affidavit *stating* that it is a fair sample of the
35 fertilizer or agricultural mineral to be sold or offered for sale.

36 4. Upon approval by the director, a copy of the registration must be
37 furnished to the applicant.

38 5. All registrations expire on June 30 of each year.

39 **Sec. 12.** NRS 588.210 is hereby amended to read as follows:

40 588.210 1. There must be paid to the department for all commercial
41 fertilizers offered for sale, sold or distributed in this state a fee ~~{at the rate~~
42 ~~of 25 cents per ton on every}~~ *established by regulation of the state board*

1 *of agriculture for each* ton sold, but sales to manufacturers or exchanges
2 between them are ~~exempted.~~ *exempt.*

3 2. There must be paid to the department for all agricultural minerals
4 offered for sale, sold or distributed in this state a fee ~~of 25 cents per ton on~~
5 ~~every ton if~~ *established by regulation of the state board of agriculture.*
6 *The regulations must specify the amount of the fee for each ton of*
7 *agricultural minerals that is* sold in packages ~~for 5 cents per ton if~~ *and*
8 *the amount of the fee for each ton of those minerals that is* sold in bulk,
9 but sales to manufacturers or exchanges between them are exempt.

10 3. The department shall prepare suitable forms for reporting sales and ,
11 on request , shall furnish the forms without cost to all persons dealing in
12 registered brands of commercial fertilizers or agricultural minerals.

13 **Sec. 13.** NRS 590.380 is hereby amended to read as follows:

14 590.380 1. Before any antifreeze may be sold, displayed for sale or
15 held with intent to sell within this state, a sample thereof must be inspected
16 annually by the state sealer of weights and measures.

17 2. Upon application of the manufacturer, packer, seller or distributor
18 and the payment of a fee ~~of \$50~~ *established by regulation of the state*
19 *board of agriculture* for each brand of antifreeze submitted, the state sealer
20 of weights and measures shall inspect the antifreeze submitted. If the
21 antifreeze ~~is~~ :

22 (a) *Is* not adulterated or misbranded ~~if it meets~~ ;

23 (b) *Meets* the standards of the state sealer of weights and measures ~~if~~
24 ~~and if it is~~ ; and

25 (c) *Is* not in violation of NRS 590.340 to 590.450, inclusive,
26 the state sealer of weights and measures shall ~~give~~ *issue to* the applicant a
27 written permit authorizing its sale in this state for the fiscal year in which
28 the inspection fee is paid.

29 3. If the state sealer of weights and measures at a later date finds that
30 ~~the~~ :

31 (a) *The* product to be sold, displayed for sale or held with intent to sell
32 has been materially altered or adulterated ~~if it~~ ;

33 (b) *A* change has been made in the name, brand or trade-mark under
34 which the antifreeze is sold ~~if it~~ ; or

35 (c) *The antifreeze* violates the provisions of NRS 590.340 to 590.450,
36 inclusive,
37 he shall notify the applicant and the permit must be canceled forthwith.

38 **Sec. 14.** This act becomes effective upon passage and approval for the
39 purpose of adopting regulations by the state board of agriculture to
40 establish the fees specified in sections 2 to 13, inclusive, of this act and on
41 January 1, 2000, for all other purposes.