

No. 144. An act relating to the licensing and inspection of plant and tree nurseries.

(H.769)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 6 V.S.A. § 4021 is amended to read:

§ 4021. DEFINITIONS

As used in this chapter:

(1) “Secretary” means the secretary of agriculture, food and markets or his or her designee.

(2) “Agency” means the agency of agriculture, food and markets.

(3) “Nursery” means all lands, premises, and buildings on or in which nursery stock is grown, transported, or offered for sale.

(4) “Nursery dealer” means any person who ~~buys,~~ sells, or distributes nursery stock for commercial gain.

(5) “Nursery grower” means any person engaged in growing, propagating, or production of nursery stock for commercial gain.

(6) “Nursery license” means the license issued to nursery dealers or nursery growers under section 4024 of this title.

(7) “Nursery stock” means all woody or herbaceous shrubs, trees, plants, and vines, including bulbs and rhizomes as well as buds, grafts, scions, and other parts capable of propagation whether wild, cultivated, or grown under artificial covering. This definition does not include cut flowers or seeds.

Sec. 2. 6 V.S.A. § 4023 is amended to read:

§ 4023. NURSERY INSPECTION; ~~ISSUANCE OF CERTIFICATE FEES~~ FEES

(a) ~~The secretary shall, at least annually, but not more than three times a year, inspect all nurseries or places within the state where nursery stock is grown, collected or stored. If, upon examination, the nursery stock is found to be healthy and apparently free from pests and diseases, the secretary shall issue a certificate. The secretary shall establish by rule the conditions for the issuance, suspension or revocation of the certificate, and may place any restrictions or requirements upon the certificate which he or she deems necessary.~~

~~(b) No person may operate a nursery without a valid certificate.~~

~~(c) The secretary may charge a fee for any inspection conducted under the provisions of this chapter. The amount of the fee shall be determined in a manner to be established by rule, but shall be no greater than is necessary, in the judgment of the secretary, to meet all expenses incurred in making the inspection.~~ The secretary, as he or she deems necessary, may inspect nursery stock in the possession of a nursery grower or nursery dealer licensed under section 4024 of this title or any place within the state where nursery stock is grown, collected, stored, sold, offered for sale, or distributed. After the inspection of a licensed nursery grower or nursery dealer, the secretary may issue an inspection certificate.

(b) The secretary shall charge a fee for any inspection of a nursery grower or nursery dealer that is not licensed under section 4024 of this title. The secretary shall charge a fee for an inspection of a nursery dealer or nursery grower licensed under section 4024 of this title, provided that the initial inspection of a licensed nursery grower or nursery dealer in any calendar year shall be at no cost. The amount of the inspection fee shall be the same fee as that charged for a nursery dealer's license as required by section 4024 of this title. The secretary shall not charge an inspection fee when responding to consumer complaints or for technical assistance under section 1036 of this title for the management of plant pests, as that term is defined in section 1030 of this title.

Sec. 3. 6 V.S.A. § 4024 is amended to read:

§ 4024. ~~NURSERY DEALERS;~~ NURSERY LICENSE

(a) ~~Every nursery dealer purchasing, selling or installing stock in this state shall annually apply for and receive a nursery dealer's license from the secretary. The secretary may inspect nursery stock in the possession of licensed dealers as he or she deems necessary. The secretary shall establish by rule the conditions for the issuance, suspension or revocation of the license, and may place any restrictions or requirements upon the license which he or she deems necessary.~~

~~(b) Any person soliciting orders for, selling, delivering or installing nursery stock shall have in his or her possession a copy of the license of the nursery which he or she represents or his or her own license, if required by subsection (a) of this section, which he or she shall show upon demand to prospective buyers or the secretary.~~

~~(c) Any person who has been issued a certificate by the secretary under section 4023 of this title shall automatically be issued a nursery dealer's license. No person shall operate as a nursery grower or nursery dealer in the state without first obtaining a nursery license from the secretary. A nursery grower or nursery dealer shall apply annually for a nursery license on a form provided by the secretary. The secretary shall establish by rule the conditions for the issuance, suspension, or revocation of a nursery license, and may place any restrictions or requirements upon the license which he or she deems necessary.~~

(b) A nursery dealer licensed under section 4024 of this title shall pay the following fee for a license:

(1) \$50.00, if the nursery owns or controls:

(A) a nursery of one-half acre or more;

(B) greenhouse space of 25,000 square feet or more; or

(C) retail space of 25,000 square feet or more.

(2) \$20.00 for all other nursery dealers.

(c) Any person soliciting orders for, offering for sale, or distributing nursery stock shall have in his or her possession a copy of the nursery license required under subsection (a) of this section, which he or she shall show upon demand to prospective buyers or the secretary.

(d) A person selling \$1,000.00 or less of nursery stock in a year shall be exempt from the requirement to obtain a license under this section.

Sec. 4. 6 V.S.A. § 4025 is amended to read:

§ 4025. SHIPMENTS BY NURSERY DEALERS TO BE ACCOMPANIED
BY INSPECTION CERTIFICATES

Whenever a nursery dealer or nursery grower licensed under this chapter ships or delivers any nursery stock grown within this state, he or she shall include with each shipment a copy of the inspection certificate issued by the secretary, or an approved facsimile, stating that the nursery dealer or nursery grower is licensed and has been inspected and approved as required by this chapter and the nursery stock is believed to be free from injurious pests or plant diseases.

Sec. 5. 6 V.S.A. § 4027 is amended to read:

§ 4027. DISEASED OR INFESTED STOCK; STOP-SALE; DESTRUCTION

(a) Only sound, healthy nursery stock which will maintain its vigor shall be offered for sale. Offering for sale stock which is diseased or infested with injurious pests is a violation of this chapter. Whenever the secretary has

reason to believe that any nursery, nursery grower, or nursery dealer in the state has produced, introduced, installed, sold, or offered for sale, diseased or infested nursery stock, the secretary shall inspect that nursery. If, upon inspection, the secretary finds any diseased or infested stock, he or she may order the plants, either individually or in blocks, to be:

- (1) put on stop-sale;
- (2) treated in a particular manner; or
- (3) destroyed according to the secretary's instructions.

(b) Plants ordered destroyed or placed on stop-sale must be clearly separable from noninfested stock. Any order must be confirmed in writing within seven days. The writing shall include the reason for action, a description of the nursery stock affected, and any recommended treatment. Stop-sale tags may not be removed except by written permission of the secretary or upon suitable disposal of the infested plants as determined by the secretary.

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Sec. 6. 6 V.S.A. § 4028 is amended to read:

§ 4028. ACCESS TO RECORDS; NURSERY STOCK

A nursery dealer or nursery grower engaged in the sale, distribution, or installation of nursery stock shall:

- (1) provide access for inspection by the secretary of all nursery stock;

(2) follow appropriate practices so that an adequate inspection of the nursery can be made; and

(3) maintain for one year records of plant purchases, acquisitions, sales, or other distributions; and make the records available upon request to the secretary for inspection.

Sec. 7. EFFECTIVE DATE

This act shall take effect on July 1, 2010.

Approved: June 1, 2010