

**CHAPTER 168**

AN ACT to repeal 94.51, 94.52, 94.58, 94.59, 94.61 and 94.62; to amend 20.005 (1) (b) (lines 84, 85 and 86), as amended by chapter 204, (Bill No. 73, A.), laws of 1955; and to repeal and recreate 94.60 of the statutes, relating to inspection and licensing of nursery stock, and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 20.005 (1) (b) (lines 84, 85 and 86), as created by chapter 204, (Bill No. 73, A.), laws of 1955, of the statutes are amended to read:

20.005 (1) (b)			
84.	* * *	* * *	(1,028,615) (1,036,663)
85.	* * *	* * *	705,115 730,343
86.	* * *	* * *	306,400 302,220

SECTION 1a. Section 1 shall supersede any other enactment of the 1955 legislature with respect to the amounts by which the appropriations therein are increased, such increases being to enable the department of agriculture to carry out its functions under section 94.60 of the statutes during the ensuing biennium.

SECTION 1b. 94.51 and 94.52 of the statutes are repealed.

SECTION 2. 94.58 and 94.59 of the statutes are repealed.

SECTION 3. 94.60 of the statutes is repealed and recreated to read:

**94.60 NURSERY STOCK; INSPECTION; LICENSING NURSERYMEN.**

(1) DEFINITIONS. As used in this section:

(a) "Nursery stock" means all trees, shrubs, vines, evergreens and other plants, and plant parts thereof for propagation, except field, vegetable and flower seeds, annual bedding plants and bulbs.

(b) "Nursery" includes any grounds or premises in this state on or in which nursery stock is propagated or grown for sale purposes. The term "nursery" shall not be construed to mean a dealer's premises or heeling-in grounds on or in which nursery stock is held for purposes other than propagation or growth.

(c) "Nurseryman" includes the person who owns, leases, manages, or is in charge of a nursery. All persons engaged in operating a nursery are farmers and are engaged in farming for all statutory purposes.

(d) "Dealer" applies to any other person other than a nurseryman who sells, offers to sell, solicits orders for or otherwise traffics in nursery stock.

(e) "Agent" means any person selling or soliciting orders for nursery stock not from a supply on hand, for a nurseryman or dealer at a place other than the nurseryman's or dealer's place of business.

(f) "Place of business" means each separate store, stand, sales ground, lot, truck, railway car, or other vehicle or any other place at or from which nursery stock is being sold or offered for sale where one or more sales persons are in attendance.

(2) INSPECTION OF NURSERY STOCK. (a) No nursery stock shall be removed from any premises unless such stock has been inspected by the

department and certified to be apparently free from injurious insects, plant diseases and other plant pests. The department may authorize the removal of nursery stock to a place designated by it for inspection. All nurseries, heeling-in grounds and all other premises in which nursery stock is kept for sale in the state shall be inspected at least once each year. Every person receiving any nursery stock from a foreign country shall notify the department of the arrival of such shipment, the contents thereof and the name of the consignor, and shall hold such shipment until inspected and certified as provided in this subsection.

(b) Nurserymen's application for inspection and certification of nursery stock to be sold, shall be made before June 1 of each year on a form prescribed by the department, accompanied by the proper fee. The amount of such fees shall be as follows: An initial fee for one acre or less, \$10; each additional acre up to 10, \$2 per acre; additional acres in excess of 10, \$1. The application shall be accompanied by the initial inspection fee of \$10 and the balance of such fees shall be payable after inspection. A fee of \$10 shall be paid for each additional place of business where nursery stock is sold from a supply on hand.

(c) Dealer's application for inspection of premises and certification of stock to be sold shall be made in writing on a form prescribed by the department, and shall provide for at least one annual inspection of the premises and one inspection of heeling-in grounds up to one acre. Application for such inspection shall be made at the time of application for dealer's license and shall be accompanied by a fee of \$10 for each such place of business.

(d) Inspection certificates issued by the department shall bear the date of issue and shall be valid until December 31 following their issuance, provided that the department shall limit such expiration date whenever it is necessary to insure freedom from pests of the plants so inspected. Such expiration date shall be set forth on the certificate.

(e) Persons failing to comply with any provision of the section applicable to them, such failure necessitating special inspection, investigations or other expenses to the department and persons applying for any special inspection and certification of nursery stock or other material as to freedom from infestation or infection, shall pay a reasonable fee to cover travel and other expenses of the department.

(3) NURSERYMAN'S LICENSE; NONLICENSED GROWERS. (a) No person shall engage as a nurseryman in this state without a license from the department. Such license shall expire on March 31 of each year. Applications for license shall be in writing, on a form prescribed by the department, and shall be accompanied by a fee of \$15. Every nurseryman shall have proper facilities and shall keep nursery stock in a viable condition pending its sale. It is unlawful for any nurseryman to sell, offer for sale or have in his possession any nursery stock which has not been officially inspected as provided in this section. Each applicant for nursery license shall certify that he will buy and distribute only nursery stock which has been officially inspected, and that he will, on request of the department, furnish a list of all sources from which he secures nursery stock and all locations where he sells such stock. No such license is transferable. License may be denied, suspended or revoked if the applicant or holder thereof is not fit or qualified to engage as a nurseryman or violates any of the laws or regulations relating to the conduct of his business.

(b) Plant growers not generally considered nurserymen whose sales do not exceed \$500 per year, will not be required to obtain a nurseryman's license. Such growers shall pay the nursery inspection fees provided for in sub. (2) (b).

(4) DEALER'S LICENSE. (a) Every dealer before offering nursery stock for sale or distributing or soliciting orders for nursery stock in Wisconsin, shall secure a dealer's license from the department. Each applicant for license shall certify that he will buy and distribute only nursery stock which has been officially inspected, and that he will maintain with the department a list of all sources from which he secures nursery stock and all locations where he sells such stock. License applications shall be in writing before March 31, on a form prescribed by the department and shall be accompanied by a fee based on the total number of places of business where nursery stock will be sold by the applicant. The amount of such fee shall be \$15 for each such place of business. A dealer's license shall expire on March 31 of each year.

(b) Every dealer selling nursery stock from a supply kept on hand shall have proper facilities for keeping all nursery stock in a viable condition and shall keep stock in such a condition pending its sale. It shall be unlawful for any dealer to sell, offer for sale or have in his possession any nursery stock which has not been officially inspected as provided in this section.

(5) RECIPROCAL AGREEMENTS. (a) Nonresident nurserymen desiring to sell or solicit orders for nursery stock in the state shall, upon complying with all other provisions of ch. 94 and all rules and regulations promulgated thereunder, and upon payment of a fee of \$15, be entitled to a license permitting such persons to sell or solicit orders for nursery stock in this state.

(b) Notwithstanding par. (a), the department may enter into reciprocal agreements with the responsible officers of other states for the recognition of official inspection certificates, under which nursery stock owned by nurserymen from such states may be sold and delivered in this state without the payment of a Wisconsin license fee, if like privileges are accorded to Wisconsin nurserymen in such other states, and the department finds that such other states, before issuing official inspection certificates, require inspection equal to that required in Wisconsin, except that any nonresident nurseryman having a place of business in this state shall obtain a dealer's license and pay all fees therefor as required in this section.

(6) AGENTS. All agents selling or soliciting orders for nursery stock in Wisconsin must be registered with the department by their principal. Names and addresses of such agents shall not be divulged by the department.

(7) LABELING NURSERY STOCK; RETAIL SALES. (a) Every person selling or shipping nursery stock in this state shall attach to the outside of each package, box, bale or lot shipped or otherwise delivered, the certificate of inspection for such nursery stock, or a copy thereof, except that a licensed nurseryman or dealer may attach a tag or label bearing the name, address and license number of such licensee and a certification by him that such nursery stock has been inspected as required by sub. (2).

(b) It is unlawful to accept for shipment any nursery stock unless it bears a certificate as provided in par. (a). In case any nursery stock is shipped in or into this state without the certificate plainly affixed, the fact must be promptly reported to the department by the carrier, stating the consignor and the consignee and the nature of the shipment. Every common carrier when directed by the department shall notify it of any or all shipments of nursery stock, giving the name of the consignor, the consignee, and the nature of the shipment and shall hold such shipment subject to the order of the department.

(c) Nursery stock sold at retail, in addition to the certificate provided for in par. (a), shall bear a tag or label giving the common name or the botanical name of such plants.

(8) **MISREPRESENTATION.** It is unlawful for any person :

(a) To misrepresent the name, origin, grade, variety, quality or hardiness of any nursery stock offered for sale, or to make any other false or misleading representation of any kind, in connection with the advertising or sale of nursery stock.

(b) To represent, by name or otherwise, that he is a nurseryman or conducts a nursery business when such is not the case.

(c) To make a false declaration of nursery stock acreage to the department, or to conceal nursery stock to avoid inspection. Every person selling nursery stock, upon the request of the department, must furnish copies of his order forms, contracts and agreements with his customers.

(d) To sell or ship any nursery stock bearing an outdated, altered or otherwise invalid certificate.

SECTION 4. 94.61 and 94.62 of the statutes are repealed.

Approved May 26, 1955.

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