

**1999 DRAFTING REQUEST**

**Assembly Amendment (AA-AB133)**

Received: **05/7/99**

Received By: **traderc**

Wanted: **Soon**

Identical to LRB:

For: **Legislative Fiscal Bureau**

By/Representing: **Schug**

This file may be shown to any legislator: **NO**

Drafter: **traderc**

May Contact:

Alt. Drafters:

Subject: **Agriculture - miscellaneous**

Extra Copies:

**Pre Topic:**

LFB:.....Schug -

**Topic:**

Nursery grower and dealer changes

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1			hhagen 05/14/99	_____	lrb_docadmin 05/14/99		
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*KJF/48*

*KJF/jf 6/8*

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FE Sent For:

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/?	traderc	1 5/12 jlg	#5/14	UF 5/14			

FE Sent For:

<END>

## Tradewell, Becky

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**From:** Schug, David  
**Sent:** Friday, May 07, 1999 3:07 PM  
**To:** Tradewell, Becky  
**Subject:** RE: DATCP amendments

You are correct-- here goes...

Paper 210 Drainage Alt 5 and Alt 6  
Paper 211 AgChem Alt 4  
Paper 212 Pesticide Motion 216 and Motion 216  
#213 Export Motion 444 The wording in the motion is misleading and is based on alternative 3, which discusses Federal revenues in addition to the amount provided in Chapter 20.115(3)(m). Thus, \$1 of marketing GPR 115(3)(a) should lapse for every \$1 in federal funding received above the amount of funding provided in 20.115(3)(m). (We are thinking of a two-line appropriation with GPR and PR-F listed as well as a net amount provided).  
#214 price reform Alt 1  
#215 ~~nursery~~ Alt 2c (includes technical changes in Alt 1), Motion 214, Motion 231 (I made an error in calculating Alt 2c. The position total change to base is really 1.00 and not 2.00 as written.  
#216 weights Alt 2 and Alt 3, Motion 215 (add towns with cities and villages)  
#217 LPG Alt 5  
#218 grain Alt 2 and Alt 3  
#219 web page Alt 2  
#220 electronic Alt 3  
#221 fair aids Alt 1

All summary items for which no papers were written were approved, except for #20, consumer protection assessment. That item is still outstanding.

Motion 661 also was approved.

I am faxing over the above motions. Besides the pending consumer protection assessment item, that should do it for DATCP.

David

Representative Duff

**AGRICULTURE, TRADE AND CONSUMER PROTECTION**

**Temporary Permits for Short-term Nonprofit Nursery Dealers  
[Paper #215]**

**Motion:**

Move to exempt a nonprofit organization that sells nursery stock for a period of not more than seven consecutive days for the benefit of a nonprofit organization, and persons growing nursery stock for such a sale, from nursery dealer and grower licensing and permit requirements.

---

**Note:**

The motion removes the \$5 permit and fee recommended by the Governor for a nonprofit organization that sells nursery stock for no longer than seven consecutive days.

DAS

Representative Albers

AGRICULTURE, TRADE AND CONSUMER PROTECTION

Exclusion of Christmas Tree Growers from State Nursery Regulations  
[Paper #215]

Motion:

Move to exclude Christmas trees from the definition of nursery stock, eliminate the surcharge for Christmas tree growers operating without a license and allow DATCP to inspect Christmas tree growers and dealers.

Further, exclude those growers receiving over 50% of their nursery and Christmas tree revenues from Christmas trees from requirements to obtain a nursery grower license. Exclude those growers receiving over 50% of their nursery and Christmas tree revenues from nursery stock from requirements to obtain a Christmas tree grower license. Base license fees on total sales of all nursery stock and Christmas trees.

---

Note:

The motion specifies that Christmas tree growers are not subject to the same requirements, including recording, reporting and labeling, as nursery growers and removes the surcharge for Christmas tree growers operating without a license.



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 4, 1999

Joint Committee on Finance

Paper #215

### Nursery Regulations and Licensing (DATCP)

[LFB 1999-01 Budget Summary: Page 98, #12]

#### CURRENT LAW

The Department of Agriculture, Trade and Consumer Protection is given broad powers for plant protection and pest control, including the power to inspect plants for pests at any time, impose quarantines and prohibit the movement of plants. If a case is contested, DATCP is required to hold a public hearing within 30 days of the notice. As part of the Department's plant protection activities, DATCP is required to inspect all nurseries and nursery dealer distribution sites. The Department also issues nursery grower and dealer licenses, which expire on March 31 of each year. Dealer license fees are \$25 per business location with a \$30 surcharge and nursery grower fees range from \$30 to \$150 or more based on annual sales and number of sown acres. These fees include a nursery dealer surcharge of \$30 and a surcharge of \$20 to \$90 or more depending on gross sales and acreage for gypsy moth eradication. Christmas tree growers and dealers pay no licensing fee or surcharge. License fees for nurseries annually generate approximately \$46,900 for the general fund and \$67,500 PR for gypsy moth eradication. DATCP maintains reciprocal agreements with other states for licensing and certification of nursery stock and nursery dealers.

The Department also requires nursery growers and dealers to label every lot of nursery stock for delivery with the licensee's name, address and certification that the nursery stock is from an officially inspected source. However, nursery stock sold and delivered at a place of business where the license certificate is posted is exempted from the labeling requirement. It is unlawful for growers and dealers to accept uncertified shipments, and the carrier of any uncertified shipment is required to report and hold such shipments.



**GOVERNOR**

Decrease GPR by \$36,400 and 0.75 staff annually and create a new, annual SEG appropriation from the forestry account of the conservation fund of \$75,000 in 1999-00 and \$81,000 in 2000-01 for 1.75 positions for plant protection, including nursery regulation and control of plant pests. Provide \$114,600 PR in 1999-00 and \$127,600 PR in 2000-01 in a new, continuing appropriation for nursery regulation and plant pest detection and control. Revenue would come from revamped nursery dealer and grower (including Christmas tree grower) license fees.

Repeal a PR continuing appropriation for gypsy moth eradication that was funded by a nursery grower surcharge of \$20 to \$90 or more depending on gross sales and acreage and a nursery dealer surcharge of \$30. Transfer base authority of \$74,600 and 1.0 position annually to the newly created PR appropriation. Transfer any unencumbered balance in the repealed PR appropriation to the newly created PR appropriation.

*License Fees.* Dealers and growers that sell less than \$250 annually in nursery stock would not be required to obtain licenses. A temporary permit costing \$5 would also be established to allow nonprofit organizations to sell nursery stock for no more than one week. Such organizations would not be required to hold an annual license. In addition to the fees listed in the table, an assessment equal to the license fee would be charged to all dealers and growers who in the prior year operated without a license.

Repeal current dealer license fees of \$25 per business location with a \$30 surcharge and nursery grower fees of \$30 to \$150 or more based on annual sales and number of sown acres. Rather, create the following fees, including new fees for Christmas tree growers that would be expected to generate an additional \$59,600 annually:

<u>Nursery Dealer License Fees</u>		<u>Nursery Grower License Fees</u>		
<u>Annual Purchases of Nursery Stock</u>	<u>Proposed Dealer Fees</u>	<u>Annual Sales of Nursery Stock</u>	<u>Proposed Grower Fees (non-Christmas Tree Sales)</u>	<u>Proposed Grower Fees (Christmas Tree Sales)</u>
\$250-\$5,000	\$30	\$250-\$5,000	\$40	\$20
\$5,000-\$20,000	50	\$5,000-\$20,000	75	55
\$20,000-\$100,000	100	\$20,000-\$100,000	125	90
\$100,000-\$200,000	150	\$100,000-\$200,000	200	150
\$200,000-\$500,000	200	\$200,000-\$500,000	350	250
\$500,000-\$2,000,000	300	\$500,000-\$2,000,000	600	450
Over \$2,000,000	400	Over \$2,000,000	1,200	900

*Requirements for Nursery Growers and Dealers.* Licensing fees and requirements would be changed, including the annual license expiration, which would move from March 31 to February 20. Include bulbs in the definition of nursery stock. Clarify that license fees would be

based on sales in the applicants' prior fiscal year. The applicant would determine the fiscal year and would base first-year fees of a new operation on predicted sales. Clarify that grower and dealer records must include the type and quantity of nursery stock shipped to other nursery growers and dealers, along with the address of the recipient. Specify that all required records be retained for at least three years.

*Dealer Requirements.* Specify that a dealer license is nontransferable and clarify that the applicant's name and address and the address of each of their selling locations must appear on the license application. Also, require dealers to notify DATCP of the address of any new selling location, prior to beginning such sales. Further, clarify that records must include the type and quantity of nursery stock received along with the address of the shipper. As drafted, the bill expands the definition of a nursery dealer to include all people selling for a dealer. Under current law, employees of a dealer are specifically excluded in the definition and therefore, do not have to pay a license fee. Administration officials indicate this change was not intended.

*Grower Requirements.* Clarify that the applicant's name and address and the address of each of their operating and selling locations must appear on the application. Also, require growers to write to DATCP the address of any new operating and selling locations prior to beginning operation. Remove the requirement that growers keep records of all nursery stock shipments received. (Wisconsin dealers would continue to record all shipments sent.)

*Labeling Requirements.* Require nursery growers and dealers, rather than the carrier, to report nursery stock shipments that are not fully labeled to DATCP. As drafted, the bill would prohibit shipping improperly labeled nursery stock only to nursery dealers (not growers) and prohibit nursery dealers from accepting improperly labeled nursery stock. Administration officials indicate the Governor intended to prohibit shipping improperly labeled nursery stock to both nursery dealers and growers and to prohibit both nursery dealers and growers from accepting improperly labeled nursery stock (as under current law). The bill would repeal the current law exemption from labeling of nursery stock sold and delivered at a place of business where the license certificate is posted.

*Department Powers.* Allow, rather than require, DATCP to inspect nursery and distribution sites. Allow the Department to order a grower or dealer to refrain from importing certain weeds or pests. Allow DATCP to order a grower or dealer to destroy or recall nursery stock. Require DATCP to hold an informal hearing, rather than a public hearing of a contested case, within 10 days, unless the person requesting the hearing consents to a later date. If a disputed matter is not resolved at the informal hearing, the grower or dealer may demand a contested case hearing.

## **DISCUSSION POINTS**

### **Background**

1. As shown in Table 1, There are 750 nursery growers and 830 nursery dealers

licensed in the state. In addition, the Wisconsin Christmas Tree Producers Association estimates there are 800 Christmas tree growers with 60,000 acres of Christmas trees.

**TABLE 1**

**Wisconsin Nursery Growers and Dealers**

<u>Year</u>	<u>Licensed Growers</u>	<u>Inspected Growers</u>	<u>Licensed Dealers</u>	<u>Inspected Dealers</u>
1994	722	482	821	116
1995	745	432	824	187
1996	742	396	825	33
1997	750	477	830	19
1998	750	560	830	52

2. While the number of nursery growers and dealers has remained fairly steady over the past five years, the Department indicates that more inspections are needed to counter increased numbers of plant pests. Federal regulations, such as a quarantine on the movement of products from 18 eastern Wisconsin counties due to gypsy moth infestations, have also increased Department workload. Further, when a pest is found at a nursery, inspectors generally visit that site more than once to ensure that infested stock is held or treated. These inspections take away time that may otherwise be spent performing annual grower and dealer inspections. To the extent that increased inspections should aid in discovering and mitigating plant pests, more inspections would enhance the quality of nursery stock sold in the state and slow the spread of plant pests.

3. In 1998-99, the Department has 2.75 GPR-funded positions that inspect nurseries and funds three limited-term employees (approximately 1.0 FTE) with program revenues to inspect nurseries during peak periods. The Governor's recommendation would add 1.0 SEG inspector and replace a 0.75 GPR position with funds from the forestry account of the conservation fund. The primary source of revenue deposited in the forestry account of the conservation fund is the forestry mill tax, a state tax on property of 0.2 mill (20 cents per \$1,000 of property value). Nursery inspectors inspect nurseries for various diseases and pests, including gypsy moth. These inspectors are currently based in Madison, except for a half-time nursery inspector in Stevens Point. DATCP plans to base the new nursery inspector in Madison.

4. A workload analysis prepared by DATCP allocates 5,670 hours to nursery grower inspections and 1,340 hours (19%) to various Christmas tree grower inspections. However as shown in Table 2, nursery growers would provide \$68,900 and Christmas tree growers would provide \$46,400 (40%) in program revenues under the Governor's proposal.

**TABLE 2**  
**Nursery Grower License Fees**

<u>Annual Sales of Nursery Stock</u>	<u>Number of Growers*</u>	<u>Non- Christmas Tree Fees</u>	<u>Nursery Grower Revenue</u>	<u>Christmas Tree Fees</u>	<u>Christmas Tree Grower Revenue</u>
\$250-\$5,000	438	\$40	\$17,520	\$20	\$8,760
\$5,000-\$20,000	102	75	7,650	55	5,610
\$20,000-\$100,000	84	125	10,500	90	7,560
\$100,000-\$200,000	38	200	7,600	150	5,700
\$200,000-\$500,000	32	350	11,200	250	8,000
\$500,000-\$2,000,000	18	600	10,800	450	8,100
Over \$2,000,000	<u>3</u>	1,200	<u>3,600</u>	900	<u>2,700</u>
Totals	715		\$68,870		\$46,430

\* Based on survey results from 715 of 750 licensed nursery growers. Christmas tree growers are estimated according to the same distribution of nursery growers by fee category with the same total number of 715.

5. In the past, Christmas tree growers have not had to pay license fees or been required to obtain a license. In 1997, 3,300 acres of Christmas trees were inspected and certified for shipment out-of-state. In 1997-98, for the first time, these out-of-state shippers who needed certifications paid an inspection fee of \$1.50/acre plus state staff travel costs for total program revenue of \$9,500. Certification will also be required for all Christmas tree growers in the gypsy moth quarantined areas to ship trees outside the quarantined area.

6. Some would argue that a portion of nursery grower and dealer fees historically has been used for Christmas tree grower inspections, since Christmas tree growers have not previously paid significant fees. Therefore, providing fees to cover the cost of inspecting Christmas tree growers while requesting lower fees than needed to inspect nursery growers may be justifiable.

7. The Department requested fees of nearly twice what the Governor has recommended. In 1997-98, nursery growers and dealers paid approximately \$114,000 in license fees and surcharges. Under the bill, they would pay total annual fees of \$128,000, for an increase of 12% while Christmas tree growers would pay \$46,000. The fee restructuring appears to comparatively assess nursery growers with larger sales volumes more than it does those with lesser sales figures. However, in some cases, the recommended fees assessed nursery growers with large sales volumes are one-third to one-half the actual cost per inspection while fees assessed smaller sales volume operations cover over two-thirds the cost of such inspections. The Wisconsin Nursery Association supported the higher fees originally requested by DATCP in order to increase inspection staff.

8. The Committee may wish to raise nursery grower fees to more closely reflect the cost of inspection and lower the cost-benefit disparity between nursery and Christmas tree growers. These fees could be set consistent with the Department's budget proposal submitted to the Governor and supported by the Wisconsin Nursery Association. While increased fees could potentially hurt the competitive position of nursery growers who sell out of state, growers can not sell outside of state unless they are inspected. Under the bill, Wisconsin nursery grower and dealer fees would be generally one-half to two-thirds the fees in Minnesota. Minnesota does not license Christmas tree growers.

**TABLE 3**

**Alternate Annual Nursery Grower Fees**

<u>Annual Sales of Nursery Stock</u>	<u>Bill Fees</u>	<u>Bill Revenue</u>	<u>DATCP Fees</u>	<u>DATCP Revenue</u>
\$250-\$5,000	\$40	\$17,520	\$55	\$24,090
\$5,000-\$20,000	75	7,650	100	10,200
\$20,000-\$100,000	125	10,500	200	16,800
\$100,000-\$200,000	200	7,600	400	15,200
\$200,000-\$500,000	350	11,200	600	19,200
\$500,000-\$2,000,000	600	10,800	1,200	21,600
Over \$2,000,000	1,200	<u>3,600</u>	2,400	<u>7,200</u>
Totals		\$68,870		\$114,290

9. If the Committee chose to implement nursery grower fees as originally requested by DATCP, revenues would be sufficient to fund an additional nursery inspector position. Alternatively, the increased fees could be used to switch the funding for 1.0 GPR inspector to PR, maintaining the same level of inspection provided under the bill.

**Technical Changes and Modifications**

10. As drafted, the bill expands the definition of a nursery dealer to include all people selling for a dealer. This could require all employees of a nursery dealer to obtain a license and pay the license fee. Administration officials indicate this change was not intended. These persons are not currently required to be licensed. (All revenue estimates are based on this provision being corrected.)

11. As drafted, the bill would prohibit shipping improperly labeled nursery stock only to nursery dealers (not growers) and prohibit nursery dealers from accepting improperly labeled nursery stock. It would also require that shipments to nursery dealers (rather than to both dealers and growers), be labeled with the name and address of the person selling or distributing the shipment. Administration officials indicate the Governor intended to prohibit shipping improperly labeled nursery stock to both nursery dealers and growers, to prohibit both nursery dealers and

growers from accepting improperly labeled nursery stock and to require shipments to dealers and growers be labeled with the name and address of the person selling or distributing the shipment.

12. The bill would also allow DATCP to order a grower or dealer to destroy or recall nursery stock. However, the Department would prefer to only have the authority to recall nursery stock shipped from one nursery to another, rather than the broader authority to recall any nursery stock sold in the state, including that sold to consumers. Some may argue that allowing the Department to recall nursery stock sold to consumers could potentially protect consumers from plant pests and diseases.

**ALTERNATIVES TO BASE**

1. Approve the Governor's recommendation, technically corrected as follows: (a) that employees of nursery dealers are exempt from nursery dealer license and fee requirements; (b) that shipping improperly labeled nursery stock to nursery dealers and growers is prohibited; (c) that nursery dealers and growers are prohibited from accepting improperly labeled nursery stock; (d) that a shipment of nursery stock must be labeled with the name and address of the person selling or distributing the shipment to the nursery dealer or grower.

<u>Alternative 1</u>	<u>GPR</u>	<u>PR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	- \$93,800	\$213,000	\$0	\$119,200
[Change to Bill]	\$0	\$0	\$0	\$0]
1999-01 FUNDING (Change to Base)	- \$72,800	\$93,000	\$156,000	\$176,200
[Change to Bill]	\$0	\$0	\$0	\$0]
2000-01 POSITIONS (Change to Base)	- 0.75	0.00	1.75	1.00
[Change to Bill]	0.00	0.00	0.00	0.00]

2. Modify the Governor's recommendation to:

a. Specify that the Department only has the authority to recall nursery stock shipped from a nursery dealer or grower to another nursery dealer or grower.

✓ b. Modify the fees for nursery growers as follows and provide \$32,500 in 1999-2000 and \$43,300 in 2000-01 for 1.0 nursery inspector from PR.

<u>Annual Sales of Nursery Stock</u>	<u>Nursery Grower Fees</u>
\$250 - \$5,000	\$55
\$5,000 - \$20,000	100
\$20,000 - \$100,000	200
\$100,000 - \$200,000	400
\$200,000 - \$500,000	600
\$500,000 - \$2,000,000	1,200
Over \$2,000,000	2,400

<u>Alternative 2(b)</u>	<u>GPR</u>	<u>PR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	- \$93,800	\$303,800	\$0	\$210,000
[Change to Bill]	\$0	\$90,800	\$0	\$90,800]
1999-01 FUNDING (Change to Base)	- \$72,800	\$168,800	\$156,000	\$252,000
[Change to Bill]	\$0	\$75,800	\$0	\$75,800]
2000-01 POSITIONS (Change to Base)	- 0.75	1.00	1.75	2.00
[Change to Bill]	0.00	1.00	0.00	1.00]

c. Modify the fees for nursery growers as shown in 2(b) and replace \$32,500 GPR in 1999-2000 and \$43,300 GPR in 2000-01 for 1.0 nursery inspector with PR.

<u>Alternative 2(c)</u>	<u>GPR</u>	<u>PR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	- \$93,800	\$258,400	\$0	\$164,600
[Change to Bill]	\$0	\$45,400	\$0	\$45,400]
1999-01 FUNDING (Change to Base)	- \$148,600	\$168,800	\$156,000	\$176,200
[Change to Bill]	- \$75,800	\$75,800	\$0	\$0]
2000-01 POSITIONS (Change to Base)	- 1.75	1.00	1.75	2.00
[Change to Bill]	- 1.00	1.00	0.00	0.00]

3. Maintain current law.

<u>Alternative 3</u>	<u>GPR</u>	<u>PR</u>	<u>SEG</u>	<u>TOTAL</u>
1999-01 REVENUE (Change to Base)	\$0	\$0	\$0	\$0
[Change to Bill]	\$93,800	-\$213,000	\$0	-\$119,200]
1999-01 FUNDING (Change to Base)	\$0	\$0	\$0	\$0
[Change to Bill]	\$72,800	-\$93,000	-\$156,000	-\$176,200]
2000-01 POSITIONS (Change to Base)	0.00	0.00	0.00	0.00
[Change to Bill]	0.75	0.00	- 1.75	- 1.00]

Prepared by: David Schug

5/10 Per David Shug - there should be a Christmas tree grower license with same fees.



1999

Date (time) needed SOON

LRB b 0271 1 1

**LFB BUDGET AMENDMENT  
[ONLY FOR LFB]**

RUT: JG:

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**LFB AMENDMENT  
TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

*DN Note*

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

#. Page 375, line 12: delete "and (3)" and substitute ", (3) and (3g)".

#. Page 938, line 20: delete "(2) or (3) or (4)" and substitute "(2), (3) or (4) (3g)".

**INSA**  
*move to p. 4*

#. Page 939, line 16: after that line insert:

**text:  
treat**

"2m. A Christmas tree grower licensed under sub. (3g)."

#. Page . . . . , line . . . .

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

#. Page . . . . , line . . . . :

text:  
treat

#. Page 938, line 24: after that line insert:

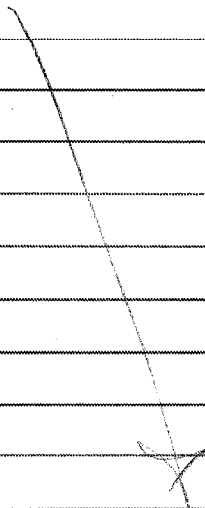
"(a)" Christmas tree grower means a person who grows evergreen trees for eventual harvest and sale as Christmas trees, except that "Christmas tree grower" does not include a person who grows evergreen trees for eventual harvest and sale as Christmas trees if the person also grows nursery stock for sale and if the amount of the person's annual sales of nursery stock is more than 50% of the amount of the person's annual sales of nursery stock plus Christmas trees."

#. Page 939, line 5: after "sale" insert "; except that "nursery" does not include premises on which a person propagates or grows nursery stock for sale if the person also grows evergreen trees for eventual harvest and

sale as Christmas trees and if the amount of the  
person's annual sales of Christmas trees is 50%<sup>%</sup> or more  
of the amount of the person's annual sales of Christmas  
trees plus nursery stock<sup>of</sup> ↑↑

#. Page 939, line 8: after "grower" insert "or Christmas  
tree grower".

#. Page 939, line 9: after "state" insert ", except  
that "nursery dealer" does not include an employe  
of a person licensed under this section".



#. Page 939, line 12: delete "including rooted Christmas trees, but". ✓

#. Page 939, line 13: delete "and annuals" and substitute "annuals and evergreen trees grown for eventual harvest and sale as Christmas trees".

✓  
Insert  
From  
p. 1  
A

#. Page 939, line 19: delete lines 19 and 20. ✓

~~#. Page 941, line 19: delete "pursuant to a valid permit".~~

~~#. Page 941, line 21: delete the material beginning with that line and ending with page 942, line 2, and substitute:~~

~~(g) Sales benefiting nonprofit organization. A person may sell nursery stock, for the benefit of a nonprofit organization, for a period of not more than 2 consecutive days~~

# Page 941, line 19: delete the material beginning with "pursuant" and ending with line 20 and substitute " for the benefit of a nonprofit organization, for a period of not more than 7 consecutive days".

#, Page 941, line 21: delete the material beginning with that line and ending with page 942, line 2.

#. Page 942, line 13: delete that line and substitute "nursery, grows evergreen trees for eventual sale as Christmas trees or hobby nursery stock or Christmas trees for sale."

#. Page 942, line 14: delete "or (cm)".

#. Page 942, 18: delete "Except as provided in par. (cm), a" and substitute "A".

~~✓# Page 942, line 22: substitute "\$55" for "\$40".~~

~~✓# Page 942, line 24: substitute "\$100" for "\$75".~~

~~✓# Page 943, line 2: substitute "\$200" for "\$175".~~

~~✓# Page 943, line 4: substitute "\$400" for "\$200".~~

~~✓# Page 943, line 6: substitute "\$600" for "\$350".~~

~~✓# Page 943, line 8: substitute "\$1,200" for "\$600".~~

~~✓# Page 943, line 10: substitute "\$2,400" for "\$1,200".~~

#. Page 942, line 22: delete ", \$40" and substitute  
" and Christmas trees, \$55" ✓

#. Page 942, line 24: delete ", \$75" and substitute  
" and Christmas trees, \$100" ✓

#. Page 943, line 2: delete ", \$125" and substitute  
" and Christmas trees, \$200" ✓

#. Page 943, line 4: delete ", \$200" and substitute  
" and Christmas trees, \$400" ✓

#. Page 943, line 6: delete ", \$350" and substitute  
" and Christmas trees, \$600" ✓

#. Page 943, line 8: delete ", \$600" and substitute  
" and Christmas trees, \$1,200" ✓

#. Page 943, line 10: delete ", \$1,200" and substitute  
" and Christmas trees, \$2,400" ✓

#. Page 943, line 11: delete the material beginning with  
that line and ending with page 944, line 2. ✓

#. Page 944, line 4: delete " or (cm)". ✓

# Page 944, line 11: delete "or (cm)".

# Page 944, line 12: after "stock" insert "and Christmas trees".

# Page 944, line 18: delete the material beginning with "pursuant" and ending with line 19 and substitute "only for sale" for the benefit of a nonprofit organization, for a period of not more than 7 days".

# Page 944, line 20: delete the material beginning with that line and ending with page 945, line 2, and substitute:

"(3g) Christmas tree grower's annual license. (a)

license required. No person may operate as a

Christmas tree grower without an annual license

from the department. A Christmas tree grower license

expires on February 20. A Christmas tree grower

license may not be transferred to another person.

(b) Applying for a license. A person applying for

a Christmas tree grower license under par. (a) shall apply

on a form provided by the department.) ~~An applicant~~

~~shall apply on a form provided by the department.~~

→ An applicant shall provide all of the following to the department:

¶ 1. The applicant's legal name and address and any other name under which the applicant does business.

¶ 2. The address of each location in this state at which the applicant grows <sup>evergreen trees for eventual sale as</sup> Christmas trees or nursery stock or at which the applicant holds Christmas trees or nursery stock for sale.

¶ 3. The license fee required under par. (c). ✓

¶ 4. Other information reasonably required by the department for licensing purposes.

↙



- 1 4. If the nursery grower annually sells more than \$100,000 but not more than
- 2 \$200,000 worth of nursery stock, \$200.
- 3 ~~5. If the nursery grower annually sells more than \$200,000 but not more than~~
- 4 ~~\$500,000 worth of nursery stock, \$350.~~
- 5 ~~6. If the nursery grower annually sells more than \$500,000 but not more than~~
- 6 ~~\$2,000,000 worth of nursery stock, \$600.~~
- 7 ~~7. If the nursery grower annually sells more than \$2,000,000 worth of nursery~~
- 8 ~~stock, \$1,200.~~

9 <sup>C</sup>  
 (c) License fees ~~Christmas tree growers~~. A Christmas tree grower shall pay  
 10 the following annual license fee, based on annual sales calculated according to par.

- 11 (d):
- 12 1. If the Christmas tree grower annually sells no more than \$5,000 worth of
  - 13 Christmas trees, \$20. *and nursery stock*
  - 14 2. If the Christmas tree grower annually sells more than \$5,000 but not more
  - 15 than \$20,000 worth of Christmas trees, \$55. *and nursery stock*
  - 16 3. If the Christmas tree grower annually sells more than \$20,000 but not more
  - 17 than \$100,000 worth of Christmas trees, \$90. *and nursery stock*
  - 18 4. If the Christmas tree grower annually sells more than \$100,000 but not more
  - 19 than \$200,000 worth of Christmas trees, \$150. *and nursery stock*
  - 20 5. If the Christmas tree grower annually sells more than \$200,000 but not more
  - 21 than \$500,000 worth of Christmas trees, \$250. *and nursery stock*
  - 22 6. If the Christmas tree grower annually sells more than \$500,000 but not more
  - 23 than \$2,000,000 worth of Christmas trees, \$450. *and nursery stock*
  - 24 7. If the Christmas tree grower annually sells more than \$2,000,000 worth of
  - 25 Christmas trees, \$900. *and nursery stock*

1 (d) *Surcharge for operating without a license.* In addition to the fee required  
2 under par. (c) or (cm), an applicant for a nursery grower license shall pay a surcharge  
3 equal to the amount of that fee if the department determines that, within 365 days  
4 before submitting that application, the applicant operated as a nursery grower  
5 without a license in violation of par. (a). Payment of the surcharge does not relieve  
6 the applicant of any other penalty or liability that may result from the violation, but  
7 does not constitute evidence of a violation of par. (a).

8 (8) (d) *Calculating annual sales.* The amount of an applicant's license fee under  
9 par. (c) or (cm) for a license year shall be based on the applicant's sales of nursery  
10 stock during the applicant's preceding fiscal year, except that if the applicant made  
11 no sales during the preceding fiscal year the fee shall be based on the applicant's good  
12 faith prediction of sales during the license year for which the applicant is applying.

13 (f) *Exemptions.* Paragraph (a) does not apply to any of the following:

- 14 1. A nursery grower whose only sales of nursery stock are retail sales totaling  
15 less than \$250 annually.
- 16 2. A person growing nursery stock for sale pursuant to a valid temporary permit  
17 under par. (g).

18 (g) *Temporary permit; sales benefiting nonprofit organization.* The department  
19 may issue a temporary permit authorizing the permit holder to sell nursery stock,  
20 for the benefit of a nonprofit organization, for a period of not more than 7 consecutive  
21 days. An applicant for a temporary permit shall apply on a form provided by the  
22 department and shall pay a fee of \$5. The department may impose written conditions  
23 on the temporary permit and may summarily suspend or revoke the permit if the  
24 permit holder violates those conditions.

#. Page 946, line 7: after "to" insert "grower or".

#. Page 946, line 8: after "a" insert "nursery grower or". ✓

#. Page 946, line 9: delete that line and substitute "nursery grower or nursery dealer may accept a shipment of nursery stock, unless the nursery stock was grown by a Christmas tree grower or unless that shipment is". ✓

#. Page 946, line 12: after "the" insert "nursery grower or". ✓

#. Page 947, line 25: after the period insert "The department

may inspect premises at which Christmas tree growers grow nursery stock, premises at which evergreen trees are grown for eventual sale as Christmas trees and

premises at which Christmas trees are held for sale or distribution." ✓

(End) ✓

DNote, p.1

b 027/1dn

David Shug:

¶ This is the nursery draft. A lot is going on in the draft, so please look it over carefully and do not hesitate to call me with any questions. I am not certain that

I have captured the intent of the motion with respect to nursery stock (that is, plants other than Christmas trees)

grown by those who qualify as Christmas tree growers.

As drafted, proposed s. 94.10<sup>✓</sup>(3m), (4), (5), (6), (7) and (9)

do not apply to Christmas tree growers or to nursery

stock grown by Christmas tree growers. Also, proposed

s. 94.10 (10) does not apply to Christmas trees.

¶ As drafted, this proposal treats similarly situated persons quite differently. For example, if two persons both grow Christmas trees and nursery stock and one has

P. 2

50% of sales as Christmas trees while the other has  
 49% of sales as Christmas trees, the second person  
 is subject to much more regulation with respect to  
 the nursery stock than the first person is. Also,  
 purchasers of nursery stock from the second person  
 get more consumer protection than purchasers from  
 the first person. These differences in treatment might  
 result in a challenge to the statute under the  
 equal protection provision of the U.S. or Wisconsin  
Constitution. Faced with such a challenge, a court  
 would look for a rational basis for the different  
 treatments. It is difficult to predict whether a  
 court would find a rational basis.

pt

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBb0271/1dn  
RCT:jlg:hmh

May 14, 1999

David Schug:

This is the nursery draft. A lot is going on in the draft, so please look it over carefully and do not hesitate to call me with any questions. I am not certain that I have captured the intent of the motion with respect to nursery stock (that is, plants other than Christmas trees) grown by those who qualify as Christmas tree growers. As drafted, proposed s. 94.10 (3m), (4), (5), (6), (7) and (9) do not apply to Christmas tree growers or to nursery stock grown by Christmas tree growers. Also, proposed s. 94.10 (10) does not apply to Christmas trees.

As drafted, this proposal treats similarly situated persons quite differently. For example, if two persons both grow Christmas trees and nursery stock and one has 50% of sales as Christmas trees while the other has 49% of sales as Christmas trees, the second person is subject to much more regulation with respect to the nursery stock than the first person is. Also, purchasers of nursery stock from the second person get more consumer protection than purchasers from the first person. These differences in treatment might result in a challenge to the statute under the equal protection provision of the U.S. or Wisconsin Constitution. Faced with such a challenge, a court would look for a rational basis for the different treatment. It is difficult to predict whether a court would find a rational basis.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [Becky.Tradewell@legis.state.wi.us](mailto:Becky.Tradewell@legis.state.wi.us)

6/4 Per David Schug -

1. Exempt Christmas tree growers with retail sales of less than \$250 From licensing

2. Page 945, line 7 - add Christmas tree growers



State of Wisconsin  
1999 - 2000 LEGISLATURE

SO ON

LRBb02717 Z  
RCT:jlg:hmh

fmr

LFB:.....Schug - Nursery grower and dealer changes

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 375, line 12: delete “and (3)” and substitute “, (3) and (3g)”.

3 **2.** Page 938, line 20: delete “(2) or (3) or ~~(4)~~” and substitute “(2), (3) or ~~(4)~~ (3g)”.

4 **3.** Page 938, line 24: after that line insert:

5 “(a) “Christmas tree grower” means a person who grows evergreen trees for  
6 eventual harvest and sale as Christmas trees, except that “Christmas tree grower”  
7 does not include a person who grows evergreen trees for eventual harvest and sale  
8 as Christmas trees if the person also grows nursery stock for sale and if the amount  
9 of the person’s annual sales of nursery stock is more than 50% of the amount of the  
10 person’s annual sales of nursery stock plus Christmas trees.”.



1           **4.** Page 939, line 5: after “sale” insert “, except that “nursery” does not include  
2 premises on which a person propagates or grows nursery stock for sale if the person  
3 also grows evergreen trees for eventual harvest and sale as Christmas trees and if  
4 the amount of the person’s annual sales of Christmas trees is 50% or more of the  
5 amount of the person’s annual sales of Christmas trees plus nursery stock”.

6           **5.** Page 939, line 8: after “grower” insert “or Christmas tree grower”.

7           **6.** Page 939, line 9: after “state” insert “, except that “nursery dealer” does not  
8 include an employe of a person licensed under this section”.

9           **7.** Page 939, line 12: delete “including rooted Christmas trees, but”.

10          **8.** Page 939, line 13: delete “and annuals” and substitute “, annuals and  
11 evergreen trees grown for eventual harvest and sale as Christmas trees”.

12          **9.** Page 939, line 16: after that line insert:

13           “2m. A Christmas tree grower licensed under sub. (3g).”.

14          **10.** Page 939, line 19: delete lines 19 and 20.

15          **11.** Page 941, line 19: delete the material beginning with “pursuant” and  
16 ending with “par. (g)” on line 20 and substitute “for the benefit of a nonprofit  
17 organization, for a period of not more than 7 consecutive days”.

18          **12.** Page 941, line 21: delete the material beginning with that line and ending  
19 with page 942, line 2.

20          **13.** Page 942, line 13: delete that line and substitute “nursery, grows  
21 evergreen trees for eventual sale as Christmas trees or holds nursery stock or  
22 Christmas trees for sale.”.

23          **14.** Page 942, line 14: delete “or (cm)”.

1           **15.** Page 942, line 18: delete “*general*. Except as provided in par. (cm), a” and  
2 substitute “. A”.

3           **16.** Page 942, line 22: delete “, \$40” and substitute “and Christmas trees, \$55”.

4           **17.** Page 942, line 24: delete “, \$75” and substitute “and Christmas trees,  
5 \$100”.

6           **18.** Page 943, line 2: delete “, \$125” and substitute “and Christmas trees,  
7 \$200”.

8           **19.** Page 943, line 4: delete “, \$200” and substitute “and Christmas trees,  
9 \$400”.

10          **20.** Page 943, line 6: delete “, \$350” and substitute “and Christmas trees,  
11 \$600”.

12          **21.** Page 943, line 8: delete “, \$600” and substitute “and Christmas trees,  
13 \$1,200”.

14          **22.** Page 943, line 10: delete “, \$1,200” and substitute “and Christmas trees,  
15 \$2,400”.

16          **23.** Page 943, line 11: delete the material beginning with that line and ending  
17 with page 944, line 2.

18          **24.** Page 944, line 4: delete “or (cm)”.

19          **25.** Page 944, line 11: delete “or (cm)”.

20          **26.** Page 944, line 12: after “stock” insert “and Christmas trees”.

21          **27.** Page 944, line 18: delete the material beginning with “for sale pursuant”  
22 and ending with “par. (g)” on line 19 and substitute “only for sale for the benefit of  
23 a nonprofit organization, for a period of not more than 7 days”.

1           **28.** Page 944, line 20: delete the material beginning with that line and ending  
2 with page 945, line 2, and substitute:

3           **(3g) CHRISTMAS TREE GROWER; ANNUAL LICENSE.** (a) *License required.* ~~No person~~  
4 may operate as a Christmas tree grower without an annual license from the  
5 department. A Christmas tree grower license expires on February 20. A Christmas  
6 tree grower license may not be transferred to another person.

7           (b) *Applying for a license.* A person applying for a Christmas tree grower  
8 license under par. (a) shall apply on a form provided by the department. An applicant  
9 shall provide all of the following to the department:

10           1. The applicant's legal name and address and any other name under which the  
11 applicant does business.

12           2. The address of each location in this state at which the applicant grows  
13 evergreen trees for eventual sale as Christmas trees or nursery stock or at which the  
14 applicant holds Christmas trees or nursery stock for sale.

15           3. The license fee required under par. (c).

16           4. Other information reasonably required by the department for licensing  
17 purposes.

18           (c) *License fee.* A Christmas tree grower shall pay the following annual license  
19 fee, based on annual sales calculated according to par. (d):

20           1. If the Christmas tree grower annually sells no more than \$5,000 worth of  
21 Christmas trees and nursery stock, \$20.

22           2. If the Christmas tree grower annually sells more than \$5,000 but not more  
23 than \$20,000 worth of Christmas trees and nursery stock, \$55.

*Except as provided  
in par. (e),* ✓

1           3. If the Christmas tree grower annually sells more than \$20,000 but not more  
2 than \$100,000 worth of Christmas trees and nursery stock, \$90.

3           4. If the Christmas tree grower annually sells more than \$100,000 but not more  
4 than \$200,000 worth of Christmas trees and nursery stock, \$150.

5           5. If the Christmas tree grower annually sells more than \$200,000 but not more  
6 than \$500,000 worth of Christmas trees and nursery stock, \$250.

7           6. If the Christmas tree grower annually sells more than \$500,000 but not more  
8 than \$2,000,000 worth of Christmas trees and nursery stock, \$450.

9           7. If the Christmas tree grower annually sells more than \$2,000,000 worth of  
10 Christmas trees and nursery stock, \$900.

11           (d) *Calculating annual sales.* The amount of an applicant's license fee under  
12 par. (c) for a license year shall be based on the applicant's sales of Christmas trees  
13 and nursery stock during the applicant's preceding fiscal year, except that if the  
14 applicant made no sales during the preceding fiscal year the fee shall be based on the  
15 applicant's good faith prediction of sales during the license year for which the  
16 applicant is applying.

17           **29.** Page 946, line 7: after "to" insert "grower or".

18           **30.** Page 946, line 8: after "to a" insert "nursery grower or".

19           **31.** Page 946, line 9: delete that line and substitute "nursery grower or  
20 nursery dealer may accept a shipment of nursery stock, unless the nursery stock was  
21 grown by a Christmas tree grower or unless that shipment is".

22           **32.** Page 946, line 12: after "the" insert "nursery grower or".

23           **33.** Page 947, line 25: after the period insert "The department may inspect

24 premises at which Christmas tree growers grow nursery stock, premises at which

Insert A → *H. Page 945, line 7: after "grower" insert "or Christmas  
tree grower".*  
Insert B →

MOVE

1 evergreen trees are grown for eventual sale as Christmas trees and premises at  
2 which Christmas trees are held for sale or distribution.”.

3 (END)

Insert A

text:  
text

(e) <sup>①</sup>Exemption. Paragraph (a) <sup>✓</sup> does not apply to a Christmas tree grower whose only sales of Christmas trees are retail sales <sup>s</sup> <sup>✓</sup> totaling less than \$250 <sup>✓</sup> annually. "

Insert B

#. Page 945, line 9: delete "or" <sup>hold</sup> and substitute  
", grow evergreen trees for eventual sale as  
Christmas trees or hold Christmas trees or ".

(end ins B)

6/7 Per David Schug -

The \$250 exemption from licensing should be based on sales of Christmas trees + nursery stock for both kinds of licenses - p. 944, line 16 of bill + p. 5, line 18 of amendment

RET





State of Wisconsin  
1999 - 2000 LEGISLATURE

500N

LRBb0271/3

RCT:jlg:jf

redraft  
make  
run

LFB:.....Schug - Nursery grower and dealer changes

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 375, line 12: delete “and (3)” and substitute “, (3) and (3g)”.

3 **2.** Page 938, line 20: delete “(2) or (3) or ~~(4)~~” and substitute “(2), (3) or ~~(4)~~ (3g)”.

4 **3.** Page 938, line 24: after that line insert:

5 “(a) “Christmas tree grower” means a person who grows evergreen trees for  
6 eventual harvest and sale as Christmas trees, except that “Christmas tree grower”  
7 does not include a person who grows evergreen trees for eventual harvest and sale  
8 as Christmas trees if the person also grows nursery stock for sale and if the amount  
9 of the person’s annual sales of nursery stock is more than 50% of the amount of the  
10 person’s annual sales of nursery stock plus Christmas trees.”.

1           **4.** Page 939, line 5: after “sale” insert “, except that “nursery” does not include  
2 premises on which a person propagates or grows nursery stock for sale if the person  
3 also grows evergreen trees for eventual harvest and sale as Christmas trees and if  
4 the amount of the person’s annual sales of Christmas trees is 50% or more of the  
5 amount of the person’s annual sales of Christmas trees plus nursery stock”.

6           **5.** Page 939, line 8: after “grower” insert “or Christmas tree grower”.

7           **6.** Page 939, line 9: after “state” insert “, except that “nursery dealer” does not  
8 include an employe of a person licensed under this section”.

9           **7.** Page 939, line 12: delete “including rooted Christmas trees, but”.

10          **8.** Page 939, line 13: delete “and annuals” and substitute “, annuals and  
11 evergreen trees grown for eventual harvest and sale as Christmas trees”.

12          **9.** Page 939, line 16: after that line insert:

13           “2m. A Christmas tree grower licensed under sub. (3g).”.

14          **10.** Page 939, line 19: delete lines 19 and 20.

15          **11.** Page 941, line 19: delete the material beginning with “pursuant” and  
16 ending with “par. (g)” on line 20 and substitute “for the benefit of a nonprofit  
17 organization, for a period of not more than 7 consecutive days”.

18          **12.** Page 941, line 21: delete the material beginning with that line and ending  
19 with page 942, line 2.

20          **13.** Page 942, line 13: delete that line and substitute “nursery, grows  
21 evergreen trees for eventual sale as Christmas trees or holds nursery stock or  
22 Christmas trees for sale.”.

23          **14.** Page 942, line 14: delete “or (cm)”.

semicolon  


- 1 **15.** Page 942, line 18: delete ~~general~~. Except as provided in par. (cm), a” and  
 2 substitute “. A”.
- 3 **16.** Page 942, line 22: delete “, \$40” and substitute “and Christmas trees, \$55”.
- 4 **17.** Page 942, line 24: delete “, \$75” and substitute “and Christmas trees,  
 5 \$100”.
- 6 **18.** Page 943, line 2: delete “, \$125” and substitute “and Christmas trees,  
 7 \$200”.
- 8 **19.** Page 943, line 4: delete “, \$200” and substitute “and Christmas trees,  
 9 \$400”.
- 10 **20.** Page 943, line 6: delete “, \$350” and substitute “and Christmas trees,  
 11 \$600”.
- 12 **21.** Page 943, line 8: delete “, \$600” and substitute “and Christmas trees,  
 13 \$1,200”.
- 14 **22.** Page 943, line 10: delete “, \$1,200” and substitute “and Christmas trees,  
 15 \$2,400”.
- 16 **23.** Page 943, line 11: delete the material beginning with that line and ending  
 17 with page 944, line 2.
- 18 **24.** Page 944, line 4: delete “or (cm)”.
- 19 **25.** Page 944, line 11: delete “or (cm)”.
- 20 **26.** Page 944, line 12: after “stock” insert “and Christmas trees”. ✓  
 21 ~~#. Page 944, line 16: after “stock” insert “and Christmas trees”.~~
- 22 **27.** Page 944, line 18: delete the material beginning with “for sale pursuant”  
 23 and ending with “par. (g)” on line 19 and substitute “only for sale for the benefit of  
 a nonprofit organization, for a period of not more than 7 days”.

1           **28.** Page 944, line 20: delete the material beginning with that line and ending  
2 with page 945, line 2, and substitute:

3           **“(3g) CHRISTMAS TREE GROWER; ANNUAL LICENSE.** (a) *License required.* Except  
4 as provided in par. (e), no person may operate as a Christmas tree grower without  
5 an annual license from the department. A Christmas tree grower license expires on  
6 February 20. A Christmas tree grower license may not be transferred to another  
7 person.

8           (b) *Applying for a license.* A person applying for a Christmas tree grower  
9 license under par. (a) shall apply on a form provided by the department. An applicant  
10 shall provide all of the following to the department:

11           1. The applicant’s legal name and address and any other name under which the  
12 applicant does business.

13           2. The address of each location in this state at which the applicant grows  
14 evergreen trees for eventual sale as Christmas trees or nursery stock or at which the  
15 applicant holds Christmas trees or nursery stock for sale.

16           3. The license fee required under par. (c).

17           4. Other information reasonably required by the department for licensing  
18 purposes.

19           (c) *License fee.* A Christmas tree grower shall pay the following annual license  
20 fee, based on annual sales calculated according to par. (d):

21           1. If the Christmas tree grower annually sells no more than \$5,000 worth of  
22 Christmas trees and nursery stock, \$20.

23           2. If the Christmas tree grower annually sells more than \$5,000 but not more  
24 than \$20,000 worth of Christmas trees and nursery stock, \$55.

1           3. If the Christmas tree grower annually sells more than \$20,000 but not more  
2 than \$100,000 worth of Christmas trees and nursery stock, \$90.

3           4. If the Christmas tree grower annually sells more than \$100,000 but not more  
4 than \$200,000 worth of Christmas trees and nursery stock, \$150.

5           5. If the Christmas tree grower annually sells more than \$200,000 but not more  
6 than \$500,000 worth of Christmas trees and nursery stock, \$250.

7           6. If the Christmas tree grower annually sells more than \$500,000 but not more  
8 than \$2,000,000 worth of Christmas trees and nursery stock, \$450.

9           7. If the Christmas tree grower annually sells more than \$2,000,000 worth of  
10 Christmas trees and nursery stock, \$900.

11           (d) *Calculating annual sales.* The amount of an applicant's license fee under  
12 par. (c) for a license year shall be based on the applicant's sales of Christmas trees  
13 and nursery stock during the applicant's preceding fiscal year, except that if the  
14 applicant made no sales during the preceding fiscal year the fee shall be based on the  
15 applicant's good faith prediction of sales during the license year for which the  
16 applicant is applying.

17           (e) *Exemption.* Paragraph (a) does not apply to a Christmas tree grower whose  
18 only sales of Christmas trees<sup>and nursery stock</sup> are retail sales totalling less than \$250 annually.”

19           **29.** Page 945, line 7: after “grower” insert “or Christmas tree grower”.

20           **30.** Page 945, line 9: delete “or hold” and substitute “, grow evergreen trees  
21 for eventual sale as Christmas trees or hold Christmas trees or”.

22           **31.** Page 946, line 7: after “to” insert “grower or”.

23           **32.** Page 946, line 8: after “to a” insert “nursery grower or”.





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb0271/3  
RCT;jlg:kjf

LFB:.....Schug - Nursery grower and dealer changes

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

**LFB AMENDMENT**

**TO 1999 ASSEMBLY BILL 133 AND 1999 SENATE BILL 45**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 375, line 12: delete “and (3)” and substitute “, (3) and (3g)”.

3 **2.** Page 938, line 20: delete “~~(2) or (3) or (4)~~” and substitute “(2), (3) or (4) (3g)”.

4 **3.** Page 938, line 24: after that line insert:

5 “(a) “Christmas tree grower” means a person who grows evergreen trees for  
6 eventual harvest and sale as Christmas trees, except that “Christmas tree grower”  
7 does not include a person who grows evergreen trees for eventual harvest and sale  
8 as Christmas trees if the person also grows nursery stock for sale and if the amount  
9 of the person’s annual sales of nursery stock is more than 50% of the amount of the  
10 person’s annual sales of nursery stock plus Christmas trees.”.

1           **4.** Page 939, line 5: after “sale” insert “, except that “nursery” does not include  
2 premises on which a person propagates or grows nursery stock for sale if the person  
3 also grows evergreen trees for eventual harvest and sale as Christmas trees and if  
4 the amount of the person’s annual sales of Christmas trees is 50% or more of the  
5 amount of the person’s annual sales of Christmas trees plus nursery stock”.

6           **5.** Page 939, line 8: after “grower” insert “or Christmas tree grower”.

7           **6.** Page 939, line 9: after “state” insert “, except that “nursery dealer” does not  
8 include an employe of a person licensed under this section”.

9           **7.** Page 939, line 12: delete “including rooted Christmas trees, but”.

10          **8.** Page 939, line 13: delete “and annuals” and substitute “, annuals and  
11 evergreen trees grown for eventual harvest and sale as Christmas trees”.

12          **9.** Page 939, line 16: after that line insert:

13          “2m. A Christmas tree grower licensed under sub. (3g).”.

14          **10.** Page 939, line 19: delete lines 19 and 20.

15          **11.** Page 941, line 19: delete the material beginning with “pursuant” and  
16 ending with “par. (g)” on line 20 and substitute “for the benefit of a nonprofit  
17 organization, for a period of not more than 7 consecutive days”.

18          **12.** Page 941, line 21: delete the material beginning with that line and ending  
19 with page 942, line 2.

20          **13.** Page 942, line 13: delete that line and substitute “nursery, grows  
21 evergreen trees for eventual sale as Christmas trees or holds nursery stock or  
22 Christmas trees for sale.”.

23          **14.** Page 942, line 14: delete “or (cm)”.



1           **15.** Page 942, line 18: delete “; *general*. Except as provided in par. (cm), a” and  
2 substitute “. A”.

3           **16.** Page 942, line 22: delete “, \$40” and substitute “and Christmas trees, \$55”.

4           **17.** Page 942, line 24: delete “, \$75” and substitute “and Christmas trees,  
5 \$100”.

6           **18.** Page 943, line 2: delete “, \$125” and substitute “and Christmas trees,  
7 \$200”.

8           **19.** Page 943, line 4: delete “, \$200” and substitute “and Christmas trees,  
9 \$400”.

10          **20.** Page 943, line 6: delete “, \$350” and substitute “and Christmas trees,  
11 \$600”.

12          **21.** Page 943, line 8: delete “, \$600” and substitute “and Christmas trees,  
13 \$1,200”.

14          **22.** Page 943, line 10: delete “, \$1,200” and substitute “and Christmas trees,  
15 \$2,400”.

16          **23.** Page 943, line 11: delete the material beginning with that line and ending  
17 with page 944, line 2.

18          **24.** Page 944, line 4: delete “or (cm)”.

19          **25.** Page 944, line 11: delete “or (cm)”.

20          **26.** Page 944, line 12: after “stock” insert “and Christmas trees”.

21          **27.** Page 944, line 16: after “stock” insert “and Christmas trees”.

1           **28.** Page 944, line 18: delete the material beginning with “for sale pursuant”  
2 and ending with “par. (g)” on line 19 and substitute “only for sale for the benefit of  
3 a nonprofit organization, for a period of not more than 7 days”.

4           **29.** Page 944, line 20: delete the material beginning with that line and ending  
5 with page 945, line 2, and substitute:

6           **“(3g) CHRISTMAS TREE GROWER; ANNUAL LICENSE.** (a) *License required.* Except  
7 as provided in par. (e), no person may operate as a Christmas tree grower without  
8 an annual license from the department. A Christmas tree grower license expires on  
9 February 20. A Christmas tree grower license may not be transferred to another  
10 person.

11           (b) *Applying for a license.* A person applying for a Christmas tree grower  
12 license under par. (a) shall apply on a form provided by the department. An applicant  
13 shall provide all of the following to the department:

14           1. The applicant’s legal name and address and any other name under which the  
15 applicant does business.

16           2. The address of each location in this state at which the applicant grows  
17 evergreen trees for eventual sale as Christmas trees or nursery stock or at which the  
18 applicant holds Christmas trees or nursery stock for sale.

19           3. The license fee required under par. (c).

20           4. Other information reasonably required by the department for licensing  
21 purposes.

22           (c) *License fee.* A Christmas tree grower shall pay the following annual license  
23 fee, based on annual sales calculated according to par. (d):

1           1. If the Christmas tree grower annually sells no more than \$5,000 worth of  
2 Christmas trees and nursery stock, \$20.

3           2. If the Christmas tree grower annually sells more than \$5,000 but not more  
4 than \$20,000 worth of Christmas trees and nursery stock, \$55.

5           3. If the Christmas tree grower annually sells more than \$20,000 but not more  
6 than \$100,000 worth of Christmas trees and nursery stock, \$90.

7           4. If the Christmas tree grower annually sells more than \$100,000 but not more  
8 than \$200,000 worth of Christmas trees and nursery stock, \$150.

9           5. If the Christmas tree grower annually sells more than \$200,000 but not more  
10 than \$500,000 worth of Christmas trees and nursery stock, \$250.

11           6. If the Christmas tree grower annually sells more than \$500,000 but not more  
12 than \$2,000,000 worth of Christmas trees and nursery stock, \$450.

13           7. If the Christmas tree grower annually sells more than \$2,000,000 worth of  
14 Christmas trees and nursery stock, \$900.

15           (d) *Calculating annual sales.* The amount of an applicant's license fee under  
16 par. (c) for a license year shall be based on the applicant's sales of Christmas trees  
17 and nursery stock during the applicant's preceding fiscal year, except that if the  
18 applicant made no sales during the preceding fiscal year the fee shall be based on the  
19 applicant's good faith prediction of sales during the license year for which the  
20 applicant is applying.

21           (e) *Exemption.* Paragraph (a) does not apply to a Christmas tree grower whose  
22 only sales of Christmas trees and nursery stock are retail sales totalling less than  
23 \$250 annually.”.

24           **30.** Page 945, line 7: after “grower” insert “or Christmas tree grower”.

- 1           **31.** Page 945, line 9: delete “or hold” and substitute “, grow evergreen trees  
2 for eventual sale as Christmas trees or hold Christmas trees or”.
- 3           **32.** Page 946, line 7: after “to” insert “*grower or*”.
- 4           **33.** Page 946, line 8: after “to a” insert “nursery grower or”.
- 5           **34.** Page 946, line 9: delete that line and substitute “nursery grower or  
6 nursery dealer may accept a shipment of nursery stock, unless the nursery stock was  
7 grown by a Christmas tree grower or unless that shipment is”.
- 8           **35.** Page 946, line 12: after “the” insert “nursery grower or”.
- 9           **36.** Page 947, line 25: after the period insert “The department may inspect  
10 premises at which Christmas tree growers grow nursery stock, premises at which  
11 evergreen trees are grown for eventual sale as Christmas trees and premises at  
12 which Christmas trees are held for sale or distribution.”.

13

(END)