

1975 Assembly Bill 925

Date published: **June 8, 1976**

CHAPTER 394, Laws of 1975
(Vetoed in Part)

AN ACT to repeal 94.01 to 94.07, 94.14, 94.16 to 94.19, 94.24, 94.25, 94.33, 94.37 and 94.60 (6); to renumber 94.13, 94.15, 94.20 to 94.23, 94.36, 94.60 (title) and (1) to (5), (7) and (8), 94.61 and 94.755; to renumber and amend 94.544,

94.56, 94.57 and 94.80; to amend 20.115 (4) (a), 93.01 (16), 93.07 (12) and 94.10 (2) to (5), as renumbered; and to create 94.02 (3) and (4), 94.03 (2) and ~~(2m)~~ and 94.10 (title) of the statutes, relating to revisions of certain laws affecting the plant industry.

Vetoed
in Part

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

SECTION 1. 20.115 (4) (a) of the statutes is amended to read:

20.115 (4) (a) *Aid to agricultural societies.* The amounts in the schedule for the purpose of aid to the Wisconsin livestock breeders association for the ~~execution of its functions~~ conduct of junior livestock shows and other livestock educational programs under ss. 94.14 and 94.80 s. 93.31.

SECTION 2. 93.01 (16) of the statutes is amended to read:

93.01 (16) ~~"Plant pests"~~ "Pests" include any living stage of ~~any~~ insects, mites, nematodes, slugs, snails or other invertebrate animals injurious to plants, plant products, animals and ~~man~~ humans; any bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, mycoplasma, protozoans or infectious substances which cause disease in or damage to plants or plant products; ~~and any host plant upon which a plant pest is dependent for the completion of all or a portion of its life cycle; and any other living organism classified as a pest under s. 94.69 (1).~~

SECTION 3. 93.07 (12) of the statutes is amended to read:

93.07 (12) PLANT PESTS. To conduct surveys and inspections for the detection and control of injurious pests, make, modify and enforce reasonable rules needed to prevent the dissemination of ~~plant~~ pests, and ~~to~~ suggest methods of control.

SECTION 4. 94.01 to 94.07 of the statutes are repealed.

SECTION 5. 94.02 (3) and (4) of the statutes are created to read:

94.02 (3) In the event of a serious pest outbreak constituting a significant threat to agricultural production or plant life, and which cannot be adequately controlled by individual property owners or local units of government in any area of the state, the department, with the approval of the governor, may petition the joint committee on finance for emergency funds with which to conduct needed control work independently or on a cooperative basis with the federal or local units of government.

(4) This section pertains to the abatement of pests on agricultural lands and on agricultural business premises. This section does not affect the authority of the department of natural resources under ch. 26.

SECTION 6. 94.03 (2) and ~~(2m)~~ of the statutes are created to read:

94.03 (2) The department may by rule regulate and control the sale and use of biological control agents to assure their safety and effectiveness in the control of injurious pests and to prevent the introduction or use of biological control agents which may be injurious to persons or property or useful plant or animal life. The term "biological control agent" as used in this section means any living organism which because of its parasitic, predatory or other biological characteristics may be effective for use in the suppression or control of pests by biological rather than chemical means.

~~(2m) Prior to the establishment of any rules under this section, the department shall submit the rules to the senate and assembly committees on agriculture. A public hearing shall be held before the committees to review the proposed rules. The rules shall enter into effect only upon approval as a joint resolution by each house of the legislature.~~

Vetoed
in Part

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SECTION 7. 94.10 (title) of the statutes is created to read:

94.10 (title) Nursery stock; inspection; licensing.

SECTION 8. 94.13 of the statutes is renumbered 93.30.

SECTION 9. 94.14 of the statutes is repealed.

SECTION 10. 94.15 of the statutes is renumbered 93.075.

SECTION 11. 94.16 to 94.19 of the statutes are repealed.

SECTION 12. 94.20 to 94.23 of the statutes are renumbered 66.96 to 66.99, respectively.

SECTION 13. 94.24 and 94.25 of the statutes are repealed.

SECTION 14. 94.33 of the statutes is repealed.

SECTION 15. 94.36 of the statutes is renumbered 29.547.

SECTION 16. 94.37 of the statutes is repealed.

SECTION 17. 94.544 of the statutes is renumbered 94.03 (1) and amended to read:

94.03 (title) Shipment of pests and biological control agents; permits. (1) No person ~~shall~~ may sell or offer for sale, or move, transport, deliver, ship or offer for shipment, any ~~plant~~ pest, as defined in s. 93.01 (16) or any biological control agent as defined in sub. (2), without a permit issued under rules as prescribed by rules of the department, except bees under s. 94.76. The department may by rule Such rules may provide for reasonable exemptions from permit requirements. Permits may be issued only after the department determines that ~~the plant pests are not injurious to plants, animals or other materials, or if injurious,~~ the proposed shipment or use will not create sufficient hazard to warrant refusal of a permit. Such permit Permits shall be affixed to the outside of every shipping container or shipment thereof accompany the shipment as the department directs.

SECTION 18. 94.56 of the statutes is renumbered 94.01 and amended to read:

94.01 (title) Plant inspection and pest control authority. (1) ~~Except as authorized by the department, no person shall remove any plant~~ In the conduct of survey and inspectional programs for the detection, prevention and control of pests, the department may impose quarantines or such other restrictions on the importation into or movement of plants or other material from any premises within this state as necessary to prevent or control the dissemination or spread of injurious pests.

(2) ~~The~~ In accordance with sub. (1), the department, by summary order, may prohibit the removal of any plant, host plant, or other pest-harboring material from any private or public property, or any area of the state which in its judgment contains or is exposed to ~~dangerous plant~~ injurious pests, except under such conditions as in its judgment ~~seem~~ are necessary to prevent the dissemination or spread of plant pests, giving written notice thereof to the owner or ~~custodian~~ person in charge of the property. While such order is in ~~force~~ effect no person with knowledge thereof shall cause or permit the removal of any such plant, host plant or other pest-harboring material from such property or area, unless it is in compliance with the conditions of such order. Orders issued under this subsection shall be in writing, have the force and effect of an order issued under s. 93.18, and are subject to right of hearing before the department, if requested within 10 days after date of service. Any party affected by the order may request a preliminary or informal hearing pending the scheduling and conduct of a full hearing.

(3) No person ~~shall~~ may obstruct or interfere with the examination or testing, by authorized inspectors and agents of the department, of any plants or other material suspected of being infested or infected with any plant injurious pests; nor may any person move any plants, plant parts, pests or pest-harboring materials contrary to the

terms of any quarantine, rule, notice or order under this section.

(4) The department, through its authorized agents or inspectors, may enter at all reasonable times any ~~privately-owned~~ property for purposes of inspection, investigation and control of suspected ~~plant~~ pest infestations or infections and may intercept, stop and detain for official inspection any person, truck, vessel, aircraft or ~~any other vehicle~~ conveyance believed to be carrying plants or other materials infested or infected with ~~plant~~ pests, and may seize and destroy any such plants or other materials moved, shipped or transported in violation of any law, rule, quarantine notice or order.

SECTION 19. 94.57 of the statutes is renumbered 94.02 and amended to read:

94.02 (title) Abatement of pests. (1) If the department finds any ~~private~~ premises, or any plants, plant parts, or pest-harboring materials located thereon are so infested or infected with injurious ~~plant~~ pests as to constitute a hazard to plant or animal life in the state, or any area thereof, it ~~shall~~ may notify the owner or person having charge of such premises to that effect, and the owner or person in charge shall, within 10 days after such notice, cause the treatment of the premises ~~and~~ or the treatment or removal and destruction of infested or infected plants, host plants or other pest-harboring material as directed in the notice. No person ~~shall~~ may violate the terms of any notice received by him under this subsection, nor ~~shall~~ may any damages be awarded to the owner for such treatment, removal or destruction. Any person affected by a notice or order may appeal to the department and request a hearing under s. 94.01 (2).

(2) ~~In case~~ If the owner or person in charge fails to comply with the terms of the notice, within 10 days after receiving it, the department or any cooperating local unit of government may proceed to treat the premises or to treat or destroy the infested or infected plants or other material. The expense of such ~~eradication~~ abatement shall be certified to the town, city or village clerk and assessed, collected and enforced against the premises upon which such expense was incurred as taxes are assessed, collected, and enforced, and shall be paid to the cooperating unit of government incurring the expense, or into the general fund if the control work was conducted by the department.

SECTION 20. 94.60 (title) and (1) to (5) of the statutes are renumbered 94.10 (1) to (5), respectively, and 94.10 (2) to (5), as renumbered, are amended to read:

94.10 (2) (a) All nurseries, heeling-in grounds and all other premises on which nursery stock is kept for sale in the state shall be inspected at such intervals as the department considers necessary, except that the premises and nursery stock of a nurseryman shall be inspected at least once each year. It is unlawful for any nurseryman or dealer to buy, sell or distribute nursery stock except from officially inspected sources, or to sell or distribute nursery stock infested with injurious plant pests or in such damaged or desiccated condition as to be incapable of reasonable growth. Every nurseryman and dealer shall maintain facilities which are adequate for the care and keeping of nursery stock in a healthy and viable condition pending sale. It is the duty of every nurseryman or dealer to remove from sale any nursery stock incapable of reasonable growth and to remove from sale and treat or destroy stock infested or infected with injurious ~~plant~~ pests to prevent the spread of further infection or infestation. No nurseryman or dealer may buy, sell or distribute nursery stock except from officially inspected sources, or sell or distribute nursery stock infested or infected with injurious plant pests or in such damaged or desiccated condition as to be incapable of reasonable growth.

(b) By notice in writing the department may require a nurseryman or dealer to hold any variety of nursery stock for inspection or reinspection whenever such action is necessary to determine that it is free from ~~plant~~ pests. The department may further order the removal from sale and the treatment or destruction of any nursery stock

infested or infected with injurious ~~plant~~ pests or stock which is not viable or is in such damaged or desiccated condition as to be incapable of reasonable growth. No compensation shall be paid for any stock ordered destroyed. Any notice or order hereunder shall have the effect of a special order under s. 93.18 and may be appealed ~~under ch. 227 if within 5 days after service of such notice or order, the nurseryman or dealer affected thereby files with the department a written request for a hearing to the department as provided under s. 94.01 (2).~~

(3) No person ~~shall~~ may engage as a nurseryman in this state without a license from the department. Such license expires on ~~December~~ March 31 of each year. Applications for license shall be submitted on a form prescribed by the department, and shall be accompanied by payment of the proper ~~proper~~ required fee. The fee for nurserymen whose gross annual sales of nursery stock do not exceed \$500 is \$10. The fee for nurserymen whose gross annual sales exceed \$500 shall be based on total acreage and is as follows: \$35 for less than 10 acres; and \$35 for 10 acres or more with an additional acreage fee of \$25 for each 25 acres or fraction thereof for all acreage in excess of 10. Nurserymen selling nursery stock from a supply on hand at other than a nursery location shall pay an additional fee of \$25 for each such place of business. ~~Every nurseryman shall have proper facilities and shall keep nursery stock in a viable condition pending its sale.~~ Each nurseryman shall buy, sell and distribute only nursery stock from officially inspected sources. Upon request of the department, he shall furnish a list of all sources from which he secures nursery stock and all locations where he sells such stock. No 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 rules relating to the conduct of his business.~~

(4) (a) Every dealer before offering nursery stock for sale or distributing or soliciting orders for nursery stock shall secure a dealer's license from the department. Each applicant for license shall certify that he will buy and distribute only nursery stock from officially inspected sources. He shall 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 submitted on a form prescribed by the department and shall be accompanied by a fee for each place of business where nursery stock will be sold by the applicant. The amount of such fee is \$25 for each place of business. A dealer's license expires on ~~December~~ March 31 of each year. No license is transferable. ~~License may be denied, suspended or revoked if the applicant is not fit or qualified to act as a dealer or violates any of the laws or rules relating to the conduct of his business.~~

(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~~ No dealer to may sell, offer for sale or have in his possession any nursery stock which has not been officially inspected as provided in this section.

(5) The department may enter into reciprocal agreements with ~~the responsible officers of~~ other states for the recognition of official license and inspection certificates. Nursery stock owned by persons from such states may be sold and delivered in this state without license or fee, if like privileges are accorded to persons from this state in such other states, and the department finds that such states require inspection equal to that required in this state, except that any nonresident nurseryman or dealer having a place of business in this state shall obtain a license and pay the fees required by this section. ~~Each nonresident nurseryman or dealer shall file with the department an official copy of his out-of-state inspection or license certificate.~~

SECTION 21. 94.60 (6) of the statutes is repealed.

SECTION 22. 94.60 (7) and (8) of the statutes are renumbered 94.10 (6) and (7), respectively.

SECTION 23. 94.61 of the statutes is renumbered 94.11.

SECTION 24. 94.755 of the statutes is renumbered 95.15.

SECTION 25. 94.80 of the statutes is renumbered 93.31 and amended to read:

93.31 (title) Livestock breeders association. The secretary of the Wisconsin livestock breeders association shall on and after July 1 of each year make a report to the department of agriculture, signed by the president, treasurer and secretary of the association setting forth in detail the receipts and disbursements of the association for the preceding fiscal year in such form and detail together with such other information as the department may require. On receipt of such reports, if the department is satisfied that the business of the association has been efficiently conducted during the preceding fiscal year and in the interest of and for the promotion of the special agricultural interests of the state and for the purpose for which the association was organized and if the final statement shows that all the receipts together with the state aid have been accounted for and disbursed for the proper and necessary purposes of the association, and in accordance with the laws of the state, then the department shall file a certificate with the department of administration and it shall draw its warrant and the state treasurer shall pay to the treasurer of the association the amount of the appropriation made available for the association by s. 20.115 (4) (a) for the conduct of junior livestock shows and other livestock educational programs. The association may upon application to the state purchasing agent, upon such terms as he may require, obtain printing for the association under the state contract.

SECTION 26. **Program responsibilities.** (1) In the list of program responsibilities specified for the board of regents under section 15.911 (intro.) of the statutes, delete reference to section "94.14 (1)".

(2) In the list of program responsibilities specified for the executive office under section 14.011 (intro.) of the statutes, delete reference to section "94.19 (1)".

(3) In the list of program responsibilities specified for the office of the state treasurer under section 14.561 of the statutes, delete reference to section "94.16".

SECTION 27. **Cross reference changes.** In the sections listed below in column A, the cross references in column B are changed to the cross references shown in column C.

A	B	C
Statute section	Old cross reference	New cross reference
14.561	94.22 (1)	66.98 (1)
20.115 (2) (i)	94.755	95.15
20.115 (4) (e)	94.13	93.30
29.546	94.60	94.10
60.45 (13)	94.20	66.96
66.98, as renumbered	94.20	66.96
66.99, as renumbered	94.20 to 94.22	66.96 to 66.98
70.425 (2)	94.755	95.15
84.07 (3)	94.20	66.96
134.60	94.60	94.10