

CHAPTER 172

AN ACT to repeal 93.07 (12) (b), 94.53, 94.54, 94.55, 94.555, 94.56, 94.60 (2) (c) and (d), (3) (b) and (5) (a) and 94.63; to renumber and amend 93.07 (12) (a) and (c) and 94.60 (2) (e), (3) (a) and (5) (b); to amend 93.07 (3), 94.544, 94.57 and 94.60 (title), (1) (a), (d) and (f), (4) (a), (7) (a) and (c) and (8) (c); to repeal and recreate chapter 94 (title) and 94.60 (2) (a) and (b); and to create 93.01 (16) and 94.56 of the statutes, relating to the control of plant pests, the inspection of nursery stock, the licensing of nurserymen and nursery stock dealers, granting rule-making authority and making an appropriation.

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

SECTION 1. 93.01 (16) of the statutes is created to read:

93.01 (16) "Plant pests" include any living stage of any insects, mites, nematodes, slugs, snails or other invertebrate animals injurious to plants, plant products, animals and man; any bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses, 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 a portion of its life cycle.

SECTION 2. 93.07 (3) of the statutes is amended to read:

93.07 (3) To promote the interests of agriculture, dairying, horticulture, manufactures * * * and the domestic arts and to advertise Wisconsin and its dairy and other agricultural products by conducting campaigns of education throughout the United States. Such campaigns shall include the distribution of educational and advertising material concerning Wisconsin and its *plant, animal and dairy products*.

SECTION 3. 93.07 (12) (a) and (c) of the statutes are renumbered 93.07 (12) and (15), respectively and amended to read:

93.07 (12) PLANT PESTS. To make, modify and enforce reasonable * * * rules needed to prevent the dissemination of * * * *plant pests* * * * and to suggest methods of * * * control.

(15) CO-OPERATION. To co-operate with *and provide technical assistance* to the several counties, towns, villages and cities * * * *in* the expenditure of funds raised by the said counties, towns, villages and cities for the control of * * * *plant pests* * * * or animal diseases.

SECTION 4. 93.07 (12) (b) of the statutes is repealed.

SECTION 5. Chapter 94 (title) of the statutes is repealed and recreated to read:

CHAPTER 94.

PLANT INDUSTRY.

SECTION 6. 94.53, 94.54, 94.55, 94.555 and 94.56 of the statutes are repealed.

SECTION 7. 94.544 of the statutes is amended to read:

94.544 PERMITS FOR SHIPMENT OF PLANT PESTS. No person shall sell * * * or offer for sale, or move, transport, deliver, ship * * * or offer for shipment, any * * * *plant pest, as defined in s. 93.01 (16)*, with-

out a permit * * * issued * * * under rules prescribed by the department * * *, except bees * * * under s. 94.76. * * * The department may by rule provide 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 use will not create sufficient hazard to warrant refusal of a permit. Such permit shall be affixed to the outside of every container or shipment thereof.

SECTION 8. 94.56 of the statutes is created to read:

94.56 REMOVAL AND INSPECTION OF INFECTED MATERIALS. (1) Except as authorized by the department, no person shall remove any plant or other material from any premises.

(2) The department, by summary order, may prohibit the removal of any plant or other material from any private or public property, or any area of the state which in its judgment contains or is exposed to dangerous plant pests, except under such conditions as in its judgment seem necessary to prevent the spread of plant pests, giving written notice thereof to the owner or custodian. While such order is in force no person with knowledge thereof shall cause or permit the removal of any such plant or other material from such property or area, unless it is in compliance with the conditions of such order.

(3) No person shall obstruct or interfere with the examination or testing, by authorized inspectors and agents of the department, of any plants or material suspected of being infested with any plant pests.

(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 and may intercept, stop and detain for official inspection any person, truck, vessel, aircraft or any other vehicle believed to be carrying plants or other materials infested with plant pests, and may seize and destroy any such plants or other materials moved, shipped or transported in violation of any law, rule or order.

SECTION 9. 94.57 of the statutes is amended to read:

94.57 ABATEMENT OF PLANT PEST INFESTATIONS. (1) If the * * * department * * * finds any private * * * premises so infested with injurious * * * plant * * * pests as to constitute a hazard to plant or animal life in the state, it shall 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 the treatment or removal and destruction of infested * * * or infected * * * plants * * * or other * * * material * * * as directed in the notice. No * * * person shall violate the terms of any notice received by him under this subsection, nor shall any damages be awarded to the owner for * * * such treatment or destruction * * *.

(2) In case the owner or person in charge * * * fails to comply with the terms of the notice, within 10 days after receiving it, the * * * department may proceed to treat the premises or to treat or destroy the infested or infected plants or * * * other material. The expense * * * of such eradication 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 into the general fund.

SECTION 10. 94.60 (title) of the statutes is amended to read:

94.60 (title) NURSERY STOCK; INSPECTION; LICENSING NURSERYMEN AND DEALERS.

SECTION 11. 94.60 (1) (a), (d) and (f) of the statutes are amended to read:

94.60 (1) (a) "Nursery stock" means all * * * plants * * * and plant parts * * * capable of propagation or growth, except field, vegetable and flower seeds, * * * sod, annuals and bulbs.

(d) "Dealer" applies to any person other than a nurseryman who sells, offers to sell, solicits orders for or otherwise deals or traffics in nursery stock, but does not include a person who as agent or employe does business only in the name of a licensed nurseryman or dealer.

(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 * * *.

SECTION 12. 94.60 (2) (a) and (b) of the statutes are repealed and recreated to read:

94.60 (2) INSPECTION OF NURSERY STOCK; REMOVAL FROM SALE. (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 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. 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 with injurious plant pests to prevent the spread of further infection or infestation.

(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 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.

SECTION 13. 94.60 (2) (c) and (d) of the statutes are repealed.

SECTION 14. 94.60 (2) (e) of the statutes is renumbered 94.61 and amended to read:

94.61 SPECIAL INSPECTIONS; FEES. * * * Persons applying for any special inspection and certification of nursery stock or other plants or material as to freedom from infestation or infection shall pay a reasonable fee to cover travel and other expenses of the department.

SECTION 15. 94.60 (3) (a) of the statutes is renumbered 94.60 (3) and amended to read:

94.60 (3) NURSERYMAN'S LICENSE. No person shall engage as a nurseryman in this state without a license from the department. Such license * * * expires on December 31 of each year. Applications for license shall be * * * submitted on a form prescribed by the department, and shall be accompanied by * * * the proper fee * * * The fee for nurserymen whose gross annual sales 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.*

SECTION 16. 94.60 (3) (b) of the statutes is repealed.

SECTION 17. 94.60 (4) (a) of the statutes is amended to read:

94.60 (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 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.

SECTION 18. 94.60 (5) (a) of the statutes is repealed.

SECTION 19. 94.60 (5) (b) of the statutes is renumbered 94.60 (5) and amended to read:

94.60 (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 20. 94.60 (7) (a) and (c) and (8) (c) of the statutes are amended to read:

94.60 (7) (a) Every * * * nurseryman or dealer shall attach to the outside of each package, box, bale or lot of nursery stock shipped or otherwise delivered, * * * a tag or label bearing the name, address and license number of such licensee and a certification by him that such nursery stock * * * is from officially inspected * * * sources. The requirements of this paragraph shall not apply to nursery stock sold and delivered at the place of business of a nurseryman or dealer who has there conspicuously posted his license certificate.

(c) Nursery stock sold at retail * * * shall bear a tag or label giving the common * * * or botanical name of such plants.

(8) (c) To make a false declaration of nursery stock acreage or gross annual sales 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 * * * other records or documents relating to his acreage or gross sales.

SECTION 21. 94.63 of the statutes is repealed.

Approved July 11, 1963.