

1 H.769

2 Introduced by Committee on Agriculture

3 Date:

4 Subject: Agriculture; nursery inspection; nursery dealers and growers

5 Statement of purpose: This bill proposes to require growers and dealers of
6 nursery stock in the state to pay a fee for a nursery grower certificate or
7 nursery dealer license issued by the agency of agriculture, food and markets.
8 The bill would also authorize the agency of agriculture, food and markets to
9 charge a fee for inspection of a nursery grower or nursery dealer.

10 An act relating to the licensing and inspection of plant and tree nurseries

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

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

13 § 4021. DEFINITIONS

14 As used in this chapter:

15 (1) "Secretary" means the secretary of agriculture, food and markets or
16 his or her designee.

17 (2) "Agency" means the agency of agriculture, food and markets.

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

1 (4) "Nursery dealer" means any person who ~~buys, sells, or distributes~~
2 nursery stock at retail for commercial gain.

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

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

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

10 § 4023. NURSERY INSPECTION; ISSUANCE OF CERTIFICATE

11 (a) No person may grow, propagate, or produce nursery stock for
12 commercial gain without first obtaining a nursery grower's certificate from the
13 secretary. The secretary ~~shall, at least annually, but not more than three times~~
14 ~~a year,~~ may inspect all nurseries or places within the state where nursery stock
15 is grown, collected, or stored. ~~If, upon examination, the nursery stock is found~~
16 ~~to be healthy and apparently free from pests and diseases, the secretary shall~~
17 ~~issue a certificate.~~ The secretary shall establish by rule the conditions for the
18 issuance, suspension, or revocation of the nursery grower's certificate, and
19 may place any restrictions or requirements upon the certificate which he or she
20 deems necessary.

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

2 (c) ~~The secretary may charge a fee for any inspection conducted under the~~
3 ~~provisions of this chapter. The amount of the fee shall be determined in a~~
4 ~~manner to be established by rule, but shall be no greater than is necessary, in~~
5 ~~the judgment of the secretary, to meet all expenses incurred in making the~~
6 ~~inspection.~~

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

8 § 4024. NURSERY DEALERS; LICENSE

9 (a) No person may offer for sale or distribute nursery stock without first
10 obtaining a nursery dealer's license from the secretary. Every nursery dealer
11 purchasing, ~~selling or installing~~ offering for sale, or distributing nursery stock
12 in this state shall annually apply for and receive a nursery dealer's license from
13 the secretary. The secretary may inspect nursery stock in the possession of
14 licensed dealers as he or she deems necessary. The secretary shall establish by
15 rule the conditions for the issuance, suspension, or revocation of the license,
16 and may place any restrictions or requirements upon the license which he or
17 she deems necessary.

18 (b) Any person soliciting orders for, ~~selling, delivering or installing~~
19 offering for sale, or distributing nursery stock shall have in his or her
20 possession a copy of the license of the nursery which he or she represents or

1 his or her own license, if required by subsection (a) of this section, which he or
2 she shall show upon demand to prospective buyers or the secretary.

3 ~~(c) Any person who has been issued a certificate by the secretary under~~
4 ~~section 4023 of this title shall automatically be issued a nursery dealer's~~
5 ~~license.~~

6 Sec. 4. 6 V.S.A. § 4024a is added to read:

7 § 4024a. FEES; CERTIFICATE; LICENSE; INSPECTION

8 (a) A nursery grower or nursery dealer certified or licensed under section
9 4023 or 4024 of this title shall pay the following fee for the certificate or
10 license:

11 (1) \$50.00, if the nursery grower or nursery dealer owns or controls:

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

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

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

15 (2) \$20.00 for all other nursery growers or nursery dealers.

16 (b) The secretary may charge a fee for any inspection conducted under the
17 provisions of this chapter. The amount of the inspection fee shall be the same
18 fee as that charged for a nursery dealer's license as required by section 4024 of
19 this title. If the secretary implements an inspection fee under this subsection,
20 the initial inspection of a nursery grower or nursery dealer certified or licensed
21 under section 4023 or 4024 of this title in any calendar year shall be at no cost.

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

2 § 4027. DISEASED OR INFESTED STOCK; STOP-SALE; DESTRUCTION

3 (a) Only sound, healthy nursery stock which will maintain its vigor shall be
4 offered for sale. Offering for sale stock which is diseased or infested with
5 injurious pests is a violation of this chapter. Whenever the secretary has
6 reason to believe that any nursery in the state has produced, introduced,
7 installed, sold, or offered for sale; diseased or infested nursery stock, the
8 secretary shall inspect that nursery. If, upon inspection, the secretary finds any
9 diseased or infested stock, he or she may order the plants, either individually or
10 in blocks, to be:

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

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

21 * * *

1 Sec. 6. EFFECTIVE DATE

2 This act shall take effect on July 1, 2010.