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State of Minnesota

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HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH  
SESSION

HOUSE FILE No. **598**

February 9, 2009

Authored by Eken and McNamara

The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs

February 16, 2009

Committee Recommendation and Adoption of Report:

To Pass

Read Second Time

February 26, 2009

Calendar For The Day

Amended

Read Third Time as Amended

Passed by the House as Amended and transmitted to the Senate to include Committee and Floor Amendments

1.1 A bill for an act  
1.2 relating to agriculture; changing certain provisions of the nursery law; amending  
1.3 Minnesota Statutes 2008, sections 18H.02, subdivision 12a, by adding  
1.4 subdivisions; 18H.07, subdivisions 2, 3; 18H.09; 18H.10; repealing Minnesota  
1.5 Rules, part 1505.0820.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2008, section 18H.02, subdivision 12a, is amended to  
1.8 read:

1.9 Subd. 12a. **Individual Dormant.** ~~"Individual" means a human being~~ "Dormant"  
1.10 means nursery stock without etiolated growth.

1.11 Sec. 2. Minnesota Statutes 2008, section 18H.02, is amended by adding a subdivision  
1.12 to read:

1.13 Subd. 12b. **Etiolated growth.** "Etiolated growth" means bleached and unnatural  
1.14 growth resulting from the exclusion of sunlight.

1.15 Sec. 3. Minnesota Statutes 2008, section 18H.02, is amended by adding a subdivision  
1.16 to read:

1.17 Subd. 12c. **Individual.** "Individual" means a human being.

1.18 Sec. 4. Minnesota Statutes 2008, section 18H.02, is amended by adding a subdivision  
1.19 to read:

1.20 Subd. 24a. **Packaged stock.** "Packaged stock" means bare root nursery stock  
1.21 packed with the roots in moisture-retaining material encased in plastic film or other  
1.22 material designed to hold the moisture-retaining material in place.

2.1 Sec. 5. Minnesota Statutes 2008, section 18H.07, subdivision 2, is amended to read:

2.2 Subd. 2. **Nursery stock grower certificate.** (a) A nursery stock grower must  
2.3 pay an annual fee based on the area of all acreage on which nursery stock is grown for  
2.4 certification as follows:

- 2.5 (1) less than one-half acre, \$150;
- 2.6 (2) from one-half acre to two acres, \$200;
- 2.7 (3) over two acres up to five acres, \$300;
- 2.8 (4) over five acres up to ten acres, \$350;
- 2.9 (5) over ten acres up to 20 acres, \$500;
- 2.10 (6) over 20 acres up to 40 acres, \$650;
- 2.11 (7) over 40 acres up to 50 acres, \$800;
- 2.12 (8) over 50 acres up to 200 acres, \$1,100;
- 2.13 (9) over 200 acres up to 500 acres, \$1,500; and
- 2.14 (10) over 500 acres, \$1,500 plus \$2 for each additional acre.

2.15 (b) In addition to the fees in paragraph (a), a penalty of ten percent of the fee  
2.16 due must be charged for each month, or portion thereof, that the fee is delinquent up  
2.17 to a maximum of 30 percent for any application for renewal not ~~received by January 1~~  
2.18 postmarked by December 31 of the current year ~~following expiration of a certificate.~~

2.19 Sec. 6. Minnesota Statutes 2008, section 18H.07, subdivision 3, is amended to read:

2.20 Subd. 3. **Nursery stock dealer certificate.** (a) A nursery stock dealer must pay an  
2.21 annual fee based on the dealer's gross sales of certified nursery stock per location during  
2.22 the most recent certificate year. A certificate applicant operating for the first time must pay  
2.23 the minimum fee. The fees per sales location are:

- 2.24 (1) gross sales up to \$5,000, \$150;
- 2.25 (2) gross sales over \$5,000 up to \$20,000, \$175;
- 2.26 (3) gross sales over \$20,000 up to \$50,000, \$300;
- 2.27 (4) gross sales over \$50,000 up to \$75,000, \$425;
- 2.28 (5) gross sales over \$75,000 up to \$100,000, \$550;
- 2.29 (6) gross sales over \$100,000 up to \$200,000, \$675; and
- 2.30 (7) gross sales over \$200,000, \$800.

2.31 (b) In addition to the fees in paragraph (a), a penalty of ten percent of the fee  
2.32 due must be charged for each month, or portion thereof, that the fee is delinquent up  
2.33 to a maximum of 30 percent for any application for renewal not ~~received by January 1~~  
2.34 postmarked by December 31 of the current year ~~following expiration of a certificate.~~

3.1 Sec. 7. Minnesota Statutes 2008, section 18H.09, is amended to read:

3.2 **18H.09 NURSERY STOCK CERTIFICATION REQUIREMENTS.**

3.3 (a) All nursery stock growing at sites identified by nursery stock dealers or nursery  
3.4 stock growers and submitted for inspection must be inspected by the commissioner within  
3.5 the previous 12 months prior to sale and found apparently free from quarantine and  
3.6 regulated nonquarantine pests as well as significantly dangerous or potentially damaging  
3.7 plant pests. The commissioner may waive a site inspection under the following conditions:

3.8 (1) the nursery stock is not going to be sold within 12 months;

3.9 (2) the nursery stock will not be moved out of Minnesota; and

3.10 (3) the nursery site or stock is not subject to certification requirements associated  
3.11 with a state or federally regulated or quarantined plant pest.

3.12 All nursery stock originating from out of state and offered for sale in Minnesota  
3.13 must have been inspected by the appropriate state or federal agency during the previous  
3.14 12 months and found free from quarantine and regulated nonquarantine pests as well as  
3.15 significantly dangerous or potentially damaging plant pests. A nursery stock certificate  
3.16 is valid from January 1 to December 31.

3.17 (b) Nursery stock must be accessible to the commissioner for inspection during  
3.18 regular business hours. Weeds or other growth that hinder a proper inspection are grounds  
3.19 to suspend or withhold a certificate or require a reinspection.

3.20 (c) Inspection reports issued to growers must contain a list of the plant pests found at  
3.21 the time of inspection. Withdrawal-from-distribution orders are considered part of the  
3.22 inspection reports. A withdrawal-from-distribution order must contain a list of plants  
3.23 withdrawn from distribution and the location of the plants.

3.24 (d) The commissioner may post signs to delineate sections withdrawn from  
3.25 distribution. These signs must remain in place until the commissioner removes them or  
3.26 grants written permission to the grower to remove the signs.

3.27 (e) Inspection reports issued to dealers must outline the violations involved and  
3.28 corrective actions to be taken including withdrawal-from-distribution orders which would  
3.29 specify nursery stock that could not be distributed from a certain area.

3.30 (f) Optional inspections of plants may be conducted by the commissioner upon  
3.31 request by any persons desiring an inspection. A fee as provided in section 18H.07 must  
3.32 be charged for such an inspection.

3.33 Sec. 8. Minnesota Statutes 2008, section 18H.10, is amended to read:

3.34 **18H.10 STORAGE OF NURSERY STOCK.**

4.1 All nursery stock must be kept and displayed under conditions of temperature,  
4.2 light, and moisture sufficient to maintain the viability and vigor of the nursery stock.  
4.3 Packaged dormant nursery stock must be stored under conditions that retard growth,  
4.4 prevent etiolated growth, and protect its viability.

4.5 Sec. 9. **REPEALER.**

4.6 Minnesota Rules, part 1505.0820, is repealed.

4.7 Sec. 10. **EFFECTIVE DATE.**

4.8 Sections 1 to 9 are effective the day following final enactment.