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### Amending "The Nursery Act of 1965"

Colorado General Assembly

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## CHAPTER 348

## AGRICULTURE I—GENERAL PROVISIONS

## NURSERY ACT OF 1965

(House Bill No. 1243. By Representatives Woodfin, Morris, and Baer; also Senator Enstrom.)

## A N A C T

## AMENDING "THE NURSERY ACT OF 1965".

*Be it enacted by the General Assembly of the State of Colorado:*

Section 1. 6-15-2 (3), (11), and (15), Colorado Revised Statutes 1963 (1965 Supp.), are amended, and said 6-15-2 is further amended BY THE ADDITION OF SUBSECTIONS (18) through (23), to read:

6-15-2. Definitions.—(3) "Orchard plants" means trees, bushes, SHRUBS, and vines which are grown solely for their fruit or other products.

(11) "Place of business" means each separate nursery, store, stand, sales ground, lot, or any location from which nursery stock is being sold, offered for sale, or distributed. Retail sales from trailers or trucks without a valid Colorado nursery license are prohibited.

(15) "Botanical name" means the name in Latinized form of the genus and species and, if there be one, the variety recognized by botanists to be the name properly pertaining to any plant or plants and so stated by the best available published authority, or if there be no such name in Latinized form for any plant, then that name other than Latinized which is recognized by botanists as properly belonging to such plant or plants as prepared for the American joint committee standardized on horticultural nomenclature. THAT NAME USED IN THE BINOMIAL SYSTEM OF NOMENCLATURE CONSISTING OF THE GENUS AND THE SPECIES OF A PARTICULAR PLANT AND, IF THERE BE ONE, THE VARIETY NAME OF THE SPECIES.

(18) "Etiolated growth" means bleached and unnatural growth resulting from the exclusion of sunlight.

(19) "Balled and burlapped stock" means that nursery stock which has been removed from the growing site with a ball of soil, containing the root system, left intact and encased in burlap or other similar material to hold the soil in place.

(20) "Bare-root stock" means that nursery stock which has been removed from the growing site with the root system free of soil.

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(21) "Packaged stock" means that bare-root nursery stock packed either in bundles or as single plants with the roots in peat, shingletow, or other moisture-retaining material encased in plastic film or other material designed to retard evaporation and hold the moisture-retaining material in place.

(22) "Container stock" means that nursery stock which has been placed in a metal, clay, plastic, or other rigid container, in soil or other potting mixture capable of sustaining normal plant growth and remaining intact when removed from said container.

(23) "Stop-sale order" means a written order prohibiting the sale of nursery stock, and shall show the quantity, kind, and variety of such stock, and the reason for the issuance of the order and instructions for its remedy, if any be possible.

Section 2. 6-15-3, Colorado Revised Statutes 1963 (1965 Supp.), is amended to read:

**6-15-3. Labeling.**—(1) All types of nursery stock shall, when sold OFFERED FOR SALE or delivered, be properly graded and labeled as to name, grade, size, and variety. There shall be securely attached to each piece of nursery stock or securely attached to each bundle or lot when sold as a single lot, of the same kind, grade, size, and variety, a label or tag plainly and legibly printed or written showing the correct name, grade, size, and variety of such nursery stock, stating its botanical name or its recognized common name or both such names.

(2) The grade and size shall meet the specifications as recognized by the American Association of Nurserymen, Inc., or specifications established by rules or regulations after public hearing and published by the commissioner.

Section 3. 6-15-6 (1), Colorado Revised Statutes 1963 (1965 Supp.), is amended and said 6-15-6 is further amended BY THE ADDITION OF NEW SUBSECTIONS (8) AND (9) to read:

**6-15-6. Removal from sale and prohibitions.**—(1) It shall be the duty of every nurseryman or nursery stock dealer to remove from sale all nursery stock incapable of meeting MINIMUM indices of vitality, and to remove all nursery stock infected or infested with injurious plant pests or diseases to prevent the spread of further infection or infestation.

(8) No person shall make retail sales of nursery stock from trailers or trucks without first obtaining a Colorado nursery dealer's license for each place of business.

(9) It shall be the duty of the commissioner or his authorized agents to issue a stop-sale order to any person offering nursery stock for sale in violation of any provision of this article, or the rules or regulations promulgated hereunder.

Section 4. 6-15-7, Colorado Revised Statutes 1963 (1965 Supp.), is amended to read:

**6-15-7. Storage and display conditions.**—(1) Bare-root nursery stock, and balled and burlapped nursery stock shall be maintained under conditions of temperature and moisture ~~to~~ THAT WILL assure THE CONTINUING viability AND VIGOR of the plants.

(2) Container nursery stock shall be kept under CONDITIONS OF temperature, and light conditions and shall be watered MOISTURE sufficiently

SUFFICIENT to maintain the CONTINUING viability and vigor of the stock.

(3) ~~Prepackaged nursery~~ PACKAGED stock with roots packaged in moisture-retaining plastic, peat, shingletow, or other moisture-retaining material ~~not toxic to plants~~, shall be stored and displayed under conditions that will retard etiolated (~~non-green~~) or otherwise abnormal growth and will insure an adequate supply of moisture to the roots at all times.

Section 5. 6-15-8 (3), Colorado Revised Statutes 1963 (1965 Supp.), is amended to read:

6-15-8. Licenses and fees.—(3) Agent's license—All persons selling or soliciting orders for nursery stock in Colorado must be licensed ~~with~~ BY the commissioner. The fee for each agent's license shall be ten dollars. Such license ~~will~~ SHALL expire on December thirty-first of each year.

Section 6. 6-15-9 (2), Colorado Revised Statutes 1963 (1965 Supp.), is amended to read:

6-15-9. Advisory committee.—(2) The state agricultural ~~commission~~ COMMISSIONER after consultation with the nursery advisory committee, and after a public hearing, shall make rules and regulations pertaining to the identification and labeling of plants; the care of nursery stock offered for sale or distributed in the state; the establishment of grades and size classifications; and any other rules and regulations deemed necessary to the commission for carrying out the provisions of this article.

Section 7. Article 15 of chapter 6, Colorado Revised Statutes 1963 (1965 Supp.), is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS 6-15-11 AND 6-15-12 to read:

6-15-11. Authority to enter premises.—The commissioner and his authorized agents are hereby authorized, during reasonable business hours, to enter upon or into any premises, land, buildings, or places where nursery stock is kept, for the purpose of carrying out the provisions of this article, and the rules and regulations promulgated hereunder.

6-15-12. Penalties.—(1) After opportunity for a hearing, the commissioner may deny, suspend, or revoke a license if the applicant or holder thereof violates this article or any rules or regulations established hereunder.

(2) Any nurseryman, collector, dealer, or agent who violates any provision of this article shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than three hundred dollars.

Section 8. Repeal.—6-15-6 (3), (4), (5) and (6), and 6-15-10 (2) and (3), Colorado Revised Statutes 1963 (1965 Supp.), are repealed.

Section 9. Safety clause.—The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 8, 1967