

## CHAPTER 34—H. F. No. 108

*An act relating to civil defense; amending Minnesota Statutes 1957, Section 12.31.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1957, Section 12.31, is amended to read:

**12.31 Enemy attack; declaration of emergency.** In the event information from the president of the United States or of the office of civil and defense mobilization or the department of defense or through the national air warning system indicates the imminence of an actual enemy attack upon the United States, which means the several states, the District of Columbia, the Territory of Hawaii, the Commonwealth of Puerto Rico, and the Panama Canal Zone, or the occurrence, within the state of Minnesota, of a major disaster from enemy sabotage or other hostile action, the governor may, by proclamation, declare that a civil defense emergency exists in all or any part of the state; and, if the legislature is then in regular session, or, if it is not, if the governor concurrently with his proclamation declaring such an emergency issues a call convening immediately both houses of the legislature, he shall have and may exercise for a period not to exceed 30 days the emergency powers and duties conferred and imposed upon him by sections 12.31 to 12.37, and the political subdivision shall have and may exercise for such period of not to exceed 30 days the powers and duties conferred and imposed upon them by sections 12.31 to 12.37. The lapse of such emergency powers shall not, as regards any act or acts occurring or committed within said 30-day period, deprive any person, firm, corporation, political subdivision, municipal corporation or body politic of any right or rights to compensation or reimbursement which he, she, it or they may have under the provisions of this chapter.

Approved February 23, 1959.

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CHAPTER 35—H. F. No. 79

[Coded]

*An act relating to entomology, nurseries, insects, plant diseases; repealing Minnesota Statutes 1957, Sections 18.01 to 18.12 and Sec. 18.21, Subdivision 1.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. [18.44] **Title.** Sections 1 to 20 is the Plant Pest Act.

Sec. 2. [18.45] **Policy.** The purpose of the Plant Pest Act is to prevent the introduction into and the propagation and dissemination within this state of plant pests and to provide for their suppression and control.

Sec. 3. [18.46] **Definitions.** Subdivision 1. **Terms.** The terms appearing in the Plant Pest Act mean and include:

Subd. 2. **Plant:** Any living organism, consisting of one or more cells, which does not typically exhibit voluntary motion or possess sensory or nervous organs.

Subd. 3. **Nursery stock:** Nursery stock includes: trees, shrubs and other plants having a persistent woody stem; all hardy herbaceous perennials; and parts of either of those which are capable of propagation.

Subd. 4. **Certified nursery stock:** The term certified nursery stock means nursery stock which has been inspected and found apparently free of plant pests by the commissioner or his employee.

Subd. 5. **A nursery:** A nursery is any place where nursery stock is grown for sale or distribution.

Subd. 6. **A nurseryman:** A nurseryman is any person who owns, leases, manages, or is in charge of a nursery.

Subd. 7. **Nursery inspector:** A nursery inspector is one who has been assigned the duties of nursery inspection by the commissioner.

Subd. 8. **A person:** A person includes a corporation, company, society, association, partnership, or any individual or combination of individuals or any political subdivision or school district of the state.

Subd. 9. **A dealer:** A dealer is any person who obtains nursery stock for the purpose of sale or distribution and includes any person who sells and distributes for more than one nurseryman.

Subd. 10. **An agent:** An agent is any person who sells or offers for sale nursery stock under the partial or full control of a nurseryman or a dealer.

Subd. 11. **Greenhouse:** A greenhouse is an enclosure of glass or similar material, which is ordinarily used to maintain suitable conditions under which plants may be grown.

Subd. 12. **A greenhouse operator:** A greenhouse operator means any person who operates a commercial greenhouse.

Subd. 13. **Plant pests:** Plant pests shall include any form of plant or animal life, including any disease producing organism dangerous to plants of the state. Alternate hosts of any plant disease are included in this definition.

Subd. 14. **Commissioner:** Commissioner means the Commissioner of Agriculture, Dairy and Food.

Subd. 15. **Tag:** A tag is a label which has been approved by the commissioner for use in the transportation or sale of nursery stock.

Subd. 16. **Private places:** Private places shall be deemed to include every place except a private home.

Sec. 4. [18.47] **Commissioner to employ entomologists.** The commissioner may employ entomologists and such other employees as are necessary to carry out the provisions of the Plant Pest Act who shall be classified civil service employees.

Sec. 5. [18.48] **Authority.** Subdivision 1. **Right to Enter:** The commissioner or his employees may enter and inspect any public and private place which might harbor plant pests and may require that the owner destroy or treat plant pests, plants or other material. Should the owner fail to properly comply with a directive of the commissioner or his employee within a reasonable period of time, the commissioner may have any necessary work done at the owner's expense. If a dangerous plant pest infestation or infection threatens plants of any area within the state, the commissioner or his employees shall have the power to take any measures necessary to eliminate or alleviate the danger. The commissioner has the authority to collect fees as may be required by the Plant Pest Act.

Subd. 2. **Rules and regulations.** The commissioner may make reasonable rules and regulations, after a public hearing, in the manner provided by law, to properly execute the purpose of the Plant Pest Act.

Subd. 3. **Quarantines.** The commissioner may promulgate a quarantine to restrict or prohibit the transportation of plants or other materials capable of carrying plant pests into or through any part of the state.

Sec. 6. [18.49] **Inspection required.** It shall be unlawful for any person to sell or offer for sale any nursery stock

which has not within the preceding 12 months been officially inspected and found apparently free from plant pests.

**Sec. 7. [18.50] The sale of viable nursery stock.** All nursery stock and related plant products sold or offered for sale shall be in a sound, healthy condition and shall be stored and displayed under conditions which will maintain their vigor. Said stock which is dead or so seriously weakened by drying, excessive heat or cold, or any other condition that, in the judgment of the nursery inspector, it will be unable to grow with normal vigor when given reasonable care, shall not be sold or offered for sale.

**Sec. 8. [18.51] Certificate of inspection.** Subdivision 1. **Certificate required.** Each person who operates as a nurseryman shall obtain a certificate of inspection from the commissioner. Said certificate shall be obtained before he offers nursery stock for sale or distribution. Each certificate shall expire on November 15 of each year.

**Subd. 2. Fees.** Each nurseryman shall be required to pay an annual fee before the commissioner shall issue a certificate of inspection. This fee shall be based on the area of all his nurseries as follows:

**Nurseries:**

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| (1) 1/2 acre or less                        | \$ 10.00 per nurseryman |
| (2) Over 1/2 acre to and including 2 acres  | \$ 15.00 per nurseryman |
| (3) Over 2 acres to and including 10 acres  | \$ 30.00 per nurseryman |
| (4) Over 10 acres to and including 50 acres | \$ 50.00 per nurseryman |
| (5) Over 50 acres                           | \$100.00 per nurseryman |

**Sec. 9. [18.52] Dealers and agents certificates.** Subdivision 1. **Certificates required.** A dealer's certificate shall be obtained by every dealer for each location before offering nursery stock for sale or distribution unless he holds a valid greenhouse or nurseryman's certificate either of which will permit a single sales location. This certificate or a duplicate thereof shall be displayed in a prominent manner at each place where nursery stock is offered for sale. A certificate to sell or distribute certified nursery stock may be obtained by a dealer or by an agent through his principal, from the commissioner.

Subd. 2. **Expiration.** Said certificate shall expire on November 15 of each year.

Subd. 3. **List of sources.** Each person applying for a certificate shall list the sources of nursery stock he proposes to sell and distribute and shall furnish the commissioner such other reports as may be required.

Subd. 4. **Agents.** Each agent shall carry an agent's certificate which bears a copy of the nursery certificate held by the principal. This certificate shall be offered upon any reasonable request for identification. The agent's certificate shall be issued by the commissioner upon the written request of the principal.

Subd. 5. **Fees.** Each dealer is required to pay an annual fee. The fee charged shall be based on the gross sales of the dealer during the preceding certificate year. In the case of a dealer operating for the first year, the minimum fee will suffice.

**Dealers:**

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| (1) Gross sales up to \$15,000                   | at a location \$ 15.00 per location |
| (2) Gross sales over \$15,000 and up to \$25,000 | at a location \$ 25.00 per location |
| (3) Gross sales over \$25,000 up to \$50,000     | at a location \$ 35.00 per location |
| (4) Gross sales over \$50,000 up to \$100,000    | at a location \$ 50.00 per location |
| (5) Gross sales over \$100,000 up to \$200,000   | at a location \$ 70.00 per location |
| (6) Gross sales over \$200,000                   | at a location \$100.00 per location |

Sec. 10. [18.53] **Greenhouse certification.** The commissioner or his employee may inspect and certify greenhouses and greenhouse plants as being free from plant pests upon request of the greenhouse operator and issue a greenhouse certificate. The fee is \$15.00 for each greenhouse operator. Said certificate shall expire on November 15 next following the date of issue.

Sec. 11. [18.54] **Local sales and miscellaneous.** The commissioner or his employee may make small lot inspections or perform other necessary services for which another charge is not specified. For such a service, he shall charge a fee of

\$3.00; in addition, he may charge the necessary expenses incurred by the inspector performing this service.

**Sec. 12. [18.55] Reciprocity with other states. Subdivision 1. Out-of-state nurseryman, dealer or agent.** A nurseryman, dealer, or agent from another state which issues certificates to nurserymen, dealers, or agents of Minnesota on the same or similar basis as to nurserymen, dealers or agents of such state may operate in Minnesota upon complying with the Plant Pest Act without procuring a Minnesota certificate. Any person from another state shipping nursery stock into Minnesota shall be accorded treatment similar to that which is required of Minnesota nurserymen, dealers or agents who ship or sell nursery stock in such state. No reciprocity shall be extended under this section until the commissioner has first determined which states issue certificates to nurserymen, dealers or agents of Minnesota on the same or similar basis as to nurserymen, dealers or agents of such states.

**Subd. 2. Filing out-of-state certificate of inspection.** Each out-of-state nurseryman or dealer whose nursery stock is sold, offered for sale, or distributed within this state shall file a certified current copy of his out-of-state certificate in the office of the commissioner. Such filed certificate is void if said person has violated any provisions of the Plant Pest Act.

**Sec. 13. [18.56] Tag.** A tag bearing a reasonable facsimile of the certificate of inspection shall be attached to every package or bundle of nursery stock sold or transported by any person. The form of each tag shall be approved by the commissioner before being used.

**Sec. 14. [18.57] Carriers not to accept untagged stock.** All carriers for hire, including railroad companies, express companies and truck lines shall not accept nursery stock which is not tagged with a valid tag of the nursery or dealer making the shipment. The carrier shall promptly notify the commissioner regarding any prohibited shipment.

**Sec. 15. [18.58] Cooperation with the United States Department of Agriculture.** The commissioner may cooperate with the United States Department of Agriculture in order to enforce any quarantine order or regulation promulgated by it.

**Sec. 16. [18.59] Violations.** It shall be a violation of the Plant Pest Act for any person:

(1) to hinder or prevent the commissioner or his employee from carrying out the duties of the Act.

(2) to sell, transport, or offer for sale nursery stock which has not been inspected and certified, by a duly authorized nursery inspector, to be apparently free of plant pests.

(3) to fail to carry out the treatment or destruction of condemned plants or other material after official notification by the commissioner or his employee.

(4) to use an invalid certificate of inspection or shipping tag in the sale or distribution of nursery stock covered by this Act.

(5) to misrepresent or mislabel nursery stock as to vigor, hardiness and viability.

(6) to violate any quarantine promulgated by the commissioner in accordance with the Act.

(7) to fail to comply with any provision of the Plant Pest Act, or any rules and regulations promulgated thereunder.

Sec. 17. [18.60] **Penalties.** Subdivision 1. **Certificate may be revoked.** Any person violating any of the provisions of the Plant Pest Act may have his certificate suspended or revoked by the commissioner or his employee upon 5 days notice and opportunity to be heard.

Subd. 2. **Misdemeanor.** Any person violating any of the provisions of the Plant Pest Act, or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor.

Sec. 18. [18.61] **Enforcement.** It shall be the duty of every prosecuting officer to whom the commissioner or his employee shall report any violation of the Plant Pest Act or any of the rules and regulations promulgated thereunder to cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties as provided in such case.

Sec. 19. **Repealer.** Minnesota Statutes 1957, Sections 18.01 to 18.12 and Sec. 18.21, Subdivision 1, are repealed.

Sec. 20. **Effective date.** This act is in effect upon final enactment. However, all licenses issued pursuant to Minnesota Statutes, 1957, Sections 18.01 to 18.12 and 18.21, Subdivision 1, and in effect immediately prior to such final enactment shall remain in effect, unless suspended or revoked as provided by law, until November 15, 1959.

Approved February 23, 1959.

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