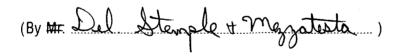
#### WEST VIRGINIA LEGISLATURE

**REGULAR SESSION, 1990** 

## ENROLLED

#### HOUSE BILL No. 4349



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### ENROLLED H. B. 4349

(By Delegates Stemple and Mezzatesta)

[Passed February 15, 1990; in effect ninety days from passage.]

AN ACT to amend and reenact sections two and sixteen, article twelve, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to providing an additional definition for the word "dealer", and increasing the penalty for violations of this article.

#### Be it enacted by the Legislature of West Virginia:

That sections two and sixteen, article twelve, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

#### ARTICLE 12. INSECT PESTS, PLANT DISEASES AND NOXIOUS WEEDS.

#### §19-12-2. Definitions.

1 The following definitions shall apply in the interpre-2 tation and enforcement of this article. All words shall 3 be construed to import either the plural or the singular, 4 as the case demands:

5 (a) "Department" means the department of agricul-6 ture of the state of West Virginia.

7 (b) "Commissioner" means the commissioner of
8 agriculture of the state of West Virginia and his duly
9 authorized representatives.

(c) "Agent" means any person soliciting orders for
nursery stock under the partial or full control of a
nurseryman or dealer.

13 (d) "Dealer" means any person who buys, receives on 14 consignment or otherwise acquires and has in his 15 possession nursery stock which that person has not 16 grown from propagative material such as tissue culture 17 plants, cuttings, liners, seeds or transplanted nursery 18 stock for the purpose of offering or exposing for sale. 19 reselling, reshipping or distributing same. Each separ-20 ate location shall constitute a dealership.

(e) "Nursery" means any grounds or premises on or
in which nursery stock is being propagated or grown for
sale or distribution, including any grounds or premises
on or in which nursery stock is being fumigated, treated,
packed or stored or otherwise prepared or offered for
sale or movement to other localities.

(f) "Nurseryman" means and includes any person whoowns, leases, manages or is in charge of a nursery.

29 (g) "Nursery stock" means all trees, shrubs and woody 30 vines, including ornamentals, bush fruits, grapevines, 31 fruit trees and nut trees, whether cultivated, native or 32 wild, and all buds, grafts, scions, fruit pits and cuttings 33 from such plants. It also means sod, including sod plugs and sod-producing plants, and such herbaceous plants, 34 35 including strawberry plants, narcissus plants and 36 narcissus bulbs as the commissioner declares by 37 regulation to be so included whenever he considers 38 control of the movement of such plants and bulbs 39 necessary for the control of any destructive plant pest. 40 Florists' or greenhouse plants for inside culture or use. unless declared otherwise by the commissioner, as 41 42 herein authorized, shall not be considered nursery stock. 43 except that all woody plants, whether greenhouse or 44 field grown, if for outside planting, are hereby defined 45 as nursery stock.

(h) "Person" means any individual or combination of
individuals, partnership, corporation, company, society,
association, governmental organization, or other business entity and each officer, agent or employee thereof.

50 (i) "Plant and plant products" means trees, shrubs, 51 vines; forage, fiber, cereal plants and all other plants; 52 cuttings, grafts, scions, buds and lumber and all other 53 parts of plants; and fruit, vegetables, roots, bulbs, seeds, 54 wood, lumber and all other parts of plants and plant 55 products.

56 (j) "Plant pest" means any living stage of: Any insects, 57 mites, nematodes, slugs, snails, protozoa or other 58 invertebrate animals, bacteria, fungi, other parasitic 59 plants or reproductive parts thereof, viruses or any 60 organisms similar to or allied with any of the foregoing. 61 or any infectious substances, which can directly or 62 indirectly injure or cause disease or damage in any 63 plants or parts thereof, or any processed, manufactured 64 or other products of plants.

(k) "Host" means any plant or plant product upon
which a pest is dependent for completion of any portion
of its life cycle.

68 (1) "Regulated article" means any article of any
69 character, as described in the quarantine or other order
70 of the commissioner carrying or capable of carrying a
71 pest.

(m) "Certificate" means a document issued or authorized by the commissioner indicating that a regulated
article is not contaminated with a pest.

(n) "Permit" means a document issued or authorized
by the commissioner to provide for a movement of
regulated articles to restricted destinations for limited
handling, utilization or processing.

(o) "Noxious weed" means rosa multiflora, commonly
known as multiflora rose or parts thereof; cannabis
sativa L., commonly known as marihuana or any parts
thereof and opium poppy or any parts thereof.

(p) "Infected area" means any area of uncontrolled
growth of plant pests, other insects or noxious weeds,
and any area of cultivated or controlled growth of
cannabis sativa L., commonly known as marihuana, or
of opium poppy.

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(q) "Quarantine" means a legal declaration by thecommissioner which specifies:

- 90 (1) The noxious weeds.
- 91 (2) The articles to be regulated.
- 92 (3) Conditions governing movement.
- 93 (4) The area or areas quarantined.
- 94 (5) Exemptions.

#### §19-12-16. Penalty for violation of article, rules and regulations; duties of prosecuting attorney.

1 Any person violating any of the provisions of this 2 article, or the rules or regulations adopted thereunder, 3 shall be deemed guilty of a misdemeanor and, upon 4 conviction thereof, shall be fined not less than one 5 hundred dollars nor more than five hundred dollars.

6 It shall be the duty of the prosecuting attorney of the 7 county in which the violation occurred to represent the 8 department of agriculture, to institute proceedings and 9 to prosecute the person charged with such violation. The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of De President of the Senate

Speaker of the House of Delegates

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