WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

- • -

ENROLLED

HOUSE BILL No. 4349

(By Del Temple and Margaretta)

- • -

Passed .......................... 1990

In Effect .................................. 90 Days From Passage
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 interpretation and enforcement of this article. All words shall be construed to import either the plural or the singular, as the case demands:

5 (a) “Department” means the department of agriculture of the state of West Virginia.

7 (b) “Commissioner” means the commissioner of agriculture of the state of West Virginia and his duly authorized representatives.
(c) "Agent" means any person soliciting orders for nursery stock under the partial or full control of a nurseryman or dealer.

(d) "Dealer" means any person who buys, receives on consignment or otherwise acquires and has in his possession nursery stock which that person has not grown from propagative material such as tissue culture plants, cuttings, liners, seeds or transplanted nursery stock for the purpose of offering or exposing for sale, reselling, reshipping or distributing same. Each separate 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 who owns, leases, manages or is in charge of a nursery.

(g) "Nursery stock" means all trees, shrubs and woody vines, including ornamentals, bush fruits, grapevines, fruit trees and nut trees, whether cultivated, native or wild, and all buds, grafts, scions, fruit pits and cuttings from such plants. It also means sod, including sod plugs and sod-producing plants, and such herbaceous plants, including strawberry plants, narcissus plants and narcissus bulbs as the commissioner declares by regulation to be so included whenever he considers control of the movement of such plants and bulbs necessary for the control of any destructive plant pest. Florists' or greenhouse plants for inside culture or use, unless declared otherwise by the commissioner, as herein authorized, shall not be considered nursery stock, except that all woody plants, whether greenhouse or field grown, if for outside planting, are hereby defined 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.
(i) “Plant and plant products” means trees, shrubs, vines; forage, fiber, cereal plants and all other plants; cuttings, grafts, scions, buds and lumber and all other parts of plants; and fruit, vegetables, roots, bulbs, seeds, wood, lumber and all other parts of plants and plant products.

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

(l) “Regulated article” means any article of any character, as described in the quarantine or other order of the commissioner carrying or capable of carrying a 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.
Enr. H. B. 4349] 4

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

(1) The noxious weeds.
(2) The articles to be regulated.
(3) Conditions governing movement.
(4) The area or areas quarantined.
(5) Exemptions.

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

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

It shall be the duty of the prosecuting attorney of the county in which the violation occurred to represent the department of agriculture, to institute proceedings and 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 Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 23rd day of February, 1990.

Governor
PRESENTED TO THE
GOVERNOR
Date 2/22/90
Time 21:34 pm