

HD 4472

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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1996



# ENROLLED

Com. Sub. for

HOUSE BILL No. 4472

(By Delegates Beach and Riggs )



Passed March 8, 1996

In Effect ninety days from Passage

APR 11 1996  
10:00 AM  
LEGISLATIVE

**ENROLLED**  
COMMITTEE SUBSTITUTE  
FOR  
**H. B. 4472**

(BY DELEGATES BEACH AND RIGGS)

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[Passed March 8, 1996; in effect ninety days from passage.]

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AN ACT to amend and reenact sections two and nine, article twelve, chapter nineteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to removing licensing requirements and fees for agents of nurserymen or dealers.

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

That sections two and nine, 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 interpreta-  
2 tion and enforcement of this article. All words shall be  
3 construed to import either the plural or the singular, as the  
4 case demands:

5 (a) "Certificate" means a document issued or autho-

6 rized by the commissioner indicating that a regulated  
7 article is not contaminated with a pest.

8 (b) "Commissioner" means the commissioner of agri-  
9 culture of the state of West Virginia and his or her duly  
10 authorized representatives.

11 (c) "Compliance agreement" means a written agree-  
12 ment between the department and any person engaged in  
13 growing, handling or moving articles, plants or plant prod-  
14 ucts regulated under this article, wherein the person agrees  
15 to comply with stipulated requirements.

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

24 (e) "Department" means the department of agriculture  
25 of the state of West Virginia.

26 (f) "Genetically modified organism" means any organ-  
27 ism altered or produced through genetic modification  
28 from a donor, vector or recipient organism using modern  
29 molecular techniques.

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

33 (h) "Infested area" means any area of uncontrolled  
34 growth of insects, plant diseases, noxious weeds or other  
35 plant pests.

36 (i) "Noxious weed" means any living plant, or part  
37 thereof, declared by the commissioner, after public hear-  
38 ing, to be detrimental to crops, other desirable plants, wa-

39 terways, livestock, land or other property, or to be injuri-  
40 ous to public health or the economy.

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

47 (k) "Nurseryman" means and includes any person who  
48 owns, leases, manages or is in charge of a nursery.

49 (l) "Nursery stock" means all trees, shrubs and woody  
50 vines, including ornamentals, bush fruits, grapevines, fruit  
51 trees and nut trees, whether cultivated, native or wild, and  
52 all buds, grafts, scions, fruit pits and cuttings from such  
53 plants. It also means sod, including sod plugs and  
54 sod-producing plants, and such herbaceous plants, includ-  
55 ing strawberry plants, narcissus plants and narcissus bulbs  
56 as the commissioner declares by rule to be so included  
57 whenever he or she considers control of the movement of  
58 such plants and bulbs necessary for the control of any  
59 destructive plant pest. Florists' or greenhouse plants for  
60 inside culture or use, unless declared otherwise by the  
61 commissioner, as herein authorized, shall not be consid-  
62 ered nursery stock, except that all woody plants, whether  
63 greenhouse or field grown, if for outside planting, are  
64 hereby defined as nursery stock.

65 (m) "Permit" means a document issued or authorized  
66 by the commissioner to provide for a movement of regu-  
67 lated articles to restricted destinations for limited handling,  
68 utilization or processing.

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

73 (o) "Plant and plant products" means trees, shrubs,  
74 vines; forage, fiber, cereal plants and all other plants; cut-  
75 tings, grafts, scions, buds and lumber and all other parts of  
76 plants and plant products; and fruit, vegetables, roots,  
77 bulbs, seeds and wood.

78 (p) "Plant pest" means any living stage of: Any in-  
79 sects, mites, nematodes, slugs, snails, protozoa or other  
80 invertebrate animals, bacteria, fungi, other parasitic plants  
81 or reproductive parts thereof, viruses or any organisms  
82 similar to or allied with any of the foregoing, or any infec-  
83 tious substances, and any genetically modified organisms  
84 for which there is reason to believe may directly or indi-  
85 rectly injure or cause disease or damage in any plants or  
86 parts thereof, or any processed, manufactured or other  
87 products of plants.

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

90 (1) The plant pest or noxious weeds.

91 (2) The articles to be regulated.

92 (3) Conditions governing movement.

93 (4) The area or areas quarantined.

94 (5) Exemptions.

95 (r) "Regulated article" means any article of any char-  
96 acter, as described in quarantine or other order of the  
97 commissioner carrying or capable of carrying a pest.

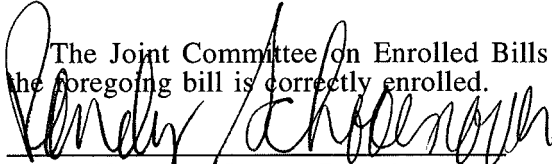
**§19-12-9. Certificate of registration for nurserymen, dealers,  
etc.; refusal, suspension, etc., of certificates; an-  
nual registration fees.**

1 It shall be unlawful for any nurseryman or dealer to  
2 expose or offer for sale, sell, deliver or give away any  
3 plants or parts of plants commonly known as nursery

4 stock unless such person shall have first secured from the  
5 commissioner a certificate of registration. The commis-  
6 sioner may refuse, suspend or cancel any certificate upon  
7 satisfactory evidence that any of the provisions of this  
8 article or rules governing the sale of nursery stock within  
9 the state have been violated. The commissioner shall for  
10 each certificate of registration issued and for each renewal  
11 thereof, collect an annual registration fee in the amount of  
12 ten dollars for each nurseryman and twenty dollars for  
13 each dealer. All certificates or registration shall expire on  
14 the thirtieth day of June next after issue.

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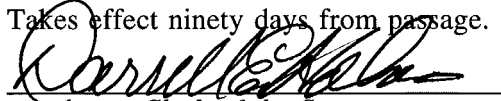
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

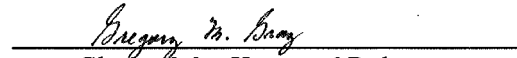
  
Chairman Senate Committee

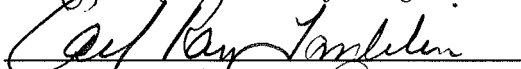
  
Chairman House Committee


Originating in the House.

Takes effect ninety days from passage.

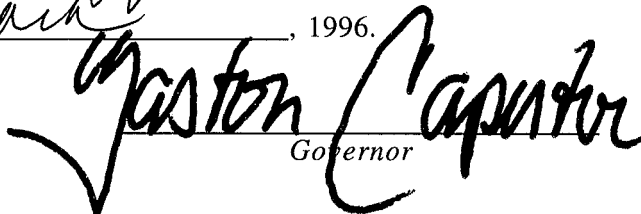
  
Clerk of the Senate

  
Clerk of the House of Delegates

  
President of the Senate

  
Speaker of the House of Delegates

The within is appended this the 25<sup>th</sup>  
day of March, 1996.

  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/22/86

Time 9:17am