

HOUSE BILL REPORT

ESB 5378

As Passed House
April 6, 1993

Title: An act relating to horticultural plants and facilities.

Brief Description: Modifying the regulation of horticultural plants and facilities.

Sponsors: Senators M. Rasmussen, Barr, Loveland and Winsley; by request of Department of Agriculture.

Brief History:

Reported by House Committee on:
Agriculture & Rural Development, March 24, 1993, DP;
Passed House, April 6, 1993, 95-2.

HOUSE COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT

Majority Report: Do pass. Signed by 10 members:
Representatives Rayburn, Chair; Kremen, Vice Chair;
Chandler, Ranking Minority Member; Schoesler, Assistant
Ranking Minority Member; Chappell; Foreman; Grant;
Karahalios; Lisk; and Roland.

Staff: Kenneth Hirst (786-7105).

Background: The horticultural nursery laws require a person to be licensed as a nursery dealer if the person plants horticultural plants for others or sells such plants. Cut plant materials are not subject to regulation under these laws. Certain garden clubs and associations and school organizations may sell horticultural plants by securing a permit rather than a license.

Horticultural plants may not be imported into this state unless they are accompanied by inspection certificates stating that the plants are free of plant pests and meet other state requirements. The director of agriculture may by rule require that plants delivered into this state be inspected for conformance with state requirements. Horticultural plants sold or transported within the state must appear to be free from plant pests. The director may issue a "hold order" to prevent the sale or movement of infested or infected plants.

Fees collected under the nursery laws are deposited in the agricultural local fund and used to administer the nursery program. Assessments levied on fruit trees and related ornamental or rootstock are deposited in the Northwest nursery fund and may be used only for related certification and improvement programs. The director may use up to 50 percent of the assessment monies for testing and improvement programs for such plants and plant materials.

Summary of Bill:

Plant Pests. Certification under the horticultural nursery laws that a plant is free from plant pests means that the plants meet this state's requirements regarding the presence of such pests. It is unlawful to import, sell, or distribute horticultural plants which do not satisfy these requirements. It is unlawful to alter an official inspection document or to represent one as being official when it is not.

A person who is in possession of plants which are the subject of a hold order issued by the director of agriculture is solely responsible for any treatment of the plants or other corrective measure required by the director. The authority of the director to order an infested plant to be destroyed is now limited to plants infested to such an extent that treatment is impractical. The director's order to hold or destroy plants is subject to hearing and review under the Administrative Procedure Act rather than review under special procedures specified in the horticultural nursery laws.

The director may enter agreements with the United States Department of Agriculture for issuing phytosanitary certificates and other documents to facilitate the export of nursery products from this state.

Licensing. An alternative form of licensure is authorized for producers who sell horticultural plants directly to consumers at nonprofit farmers markets. The director may allow such a market to obtain one wholesale nursery dealer license for sales of all producers at each site at which the market operates. The director is no longer required to set a fee for issuing permits to organizations, such as garden clubs, with such limited sales that they may receive permits rather than licenses for their activities. However, the director may establish a schedule of fees for categories of sales made under these permits.

Although cut plant materials continue to be exempted from regulation under the horticultural nursery laws, the following do not qualify for the exemption: cuttings,

budsticks, scion wood, and similar plant parts used for propagative purposes.

Powers of the Director. The director of agriculture may prescribe, by rule, minimum informational requirements for advertising regarding the sale of the plants regulated under the horticultural nursery laws. The director is also expressly granted the authority to establish labeling and tagging requirements for such plants. These rules may expressly apply to collected horticultural plants, that is, to noncultivated native plants collected from native habitat and sold within one year for horticultural purposes.

The director may enter the premises of a nursery dealer at reasonable times to carry out the horticultural nursery laws. If the director is denied access, the director may request a court of competent jurisdiction to issue a search warrant for these purposes and the court may issue the warrant. Denial of access may subject a nursery dealer to the loss of the dealer's nursery license.

Assessments; Use. An exemption from assessment on fruit tree rootstock provided by current law to rootstock that is grafted and planted for development in the nursery now expressly applies to such budded rootstock. A provision of law is repealed which expressly permits the director to use up to 50 percent of the monies collected from assessments for testing and improving fruit trees and related ornamental and rootstock.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: (1) The bill is the result of a two year effort by the industry and the department to update the nursery laws. (2) The bill will permit the department to set one standard for the presence of plant pests which are of no economic interest and a zero tolerance for pests which pose an economic or environmental threat. (3) The bill will facilitate the sale of horticultural plants at farmers' markets.

Testimony Against: None.

Witnesses: Senator Rasmussen; William E. Brookreson, Department of Agriculture; and Steve McGonigal, Washington State Nursery and Landscape Association.