

SENATE BILL NO. 172—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DEPARTMENT OF AGRICULTURE)

FEBRUARY 20, 2003

Referred to Committee on Natural Resources

SUMMARY—Makes various changes concerning control of pests and plant diseases. (BDR 49-571)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to agriculture; deleting provisions authorizing the State Quarantine Officer to impose certain administrative penalties; providing civil penalties for violations of interstate quarantines; providing for the automatic suspension of licenses to engage in pest control under certain circumstances; revising provisions governing pests and plant diseases; making various changes concerning the regulation and licensing of dealers of nursery stock; providing for the issuance of permits for occasional sales of nursery stock; authorizing the State Board of Agriculture to adopt regulations establishing certain license fees and penalty fees; providing for the payment of costs of corrective actions ordered by the Director of the State Department of Agriculture; revising provisions governing inspections and shipments of nursery stock; revising certain exemptions from the licensing requirements relating to pest control; eliminating the grace period for renewing licenses to perform pest control; changing the Noxious Weed and Insect Pest Control Program to the Program for the Control of Pests and Plant Diseases; and providing other matters properly relating thereto.



* S B 1 7 2 R 1 *

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 554.085 is hereby amended to read as follows:
2 554.085 1. ~~{The State Quarantine Officer shall adopt~~
3 ~~regulations specifying a schedule of administrative fines which may~~
4 ~~be imposed, upon notice and a hearing, for each violation of the~~
5 ~~provisions of NRS 554.020 to 554.090, inclusive, or the regulations~~
6 ~~adopted pursuant thereto. The maximum fine that the State~~
7 ~~Quarantine Officer may impose}~~ *In addition to any criminal*
8 *penalty that may be imposed pursuant to NRS 554.090, any*
9 *corporation, common carrier, agent or employee of any*
10 *corporation, or any other person violating or assisting in violating*
11 *any of the provisions of NRS 554.020 to 554.090, inclusive, or any*
12 *regulation adopted pursuant thereto, is liable for a civil penalty for*
13 *each violation {may} not to exceed:*
14 (a) For the first violation, \$1,500;
15 (b) For the second violation, \$3,000; and
16 (c) For each subsequent violation, \$5,000.
17 2. *If a defendant is convicted of violating any of the*
18 *provisions of NRS 554.020 to 554.090, inclusive, or any regulation*
19 *adopted pursuant thereto, the court shall order the defendant to*
20 *pay a civil penalty pursuant to subsection 1. The court shall fix the*
21 *manner and time of payment.*
22 3. All ~~{fines collected by the State Quarantine Officer}~~
23 *penalties collected* pursuant to this section must be deposited with
24 the State Treasurer for credit to the State General Fund.
25 ~~{2. The State Quarantine Officer may:~~
26 ~~—(a) In addition to imposing an administrative fine pursuant to~~
27 ~~this section, issue an order requiring a violator to take appropriate~~
28 ~~action to correct the violation; or~~
29 ~~—(b) Request the district attorney of the appropriate county to~~
30 ~~investigate or file a criminal complaint against any person that the~~
31 ~~State Quarantine Officer suspects may have committed flagrant or~~
32 ~~repeated violations of any provision of NRS 554.020 to 554.090,~~
33 ~~inclusive.~~
34 ~~—3. The State Quarantine Officer shall adopt such regulations as~~
35 ~~are necessary to provide for adequate notice and conduct of a~~
36 ~~hearing required by this section.]~~
37 **Sec. 1.5.** Chapter 555 of NRS is hereby amended by adding
38 thereto the provisions set forth as sections 2 to 18, inclusive, of this
39 act.
40 **Sec. 2. 1.** *A person licensed to engage in pest control shall*
41 *ensure that each of his business locations in this state has a*



1 *primary principal who is licensed in the appropriate category or*
2 *categories of pest control.*

3 2. *If a licensee ceases to have a primary principal at each of*
4 *his business locations in this state for 30 consecutive calendar*
5 *days, his license for pest control is automatically suspended,*
6 *without action of the Director, and remains suspended until such*
7 *time as the licensee obtains a primary principal for each business*
8 *location.*

9 3. *As used in this section, "primary principal" means an*
10 *owner, officer, partner, member or technician of a pest control*
11 *business who has qualified by examination in one or more of the*
12 *categories of pest control and who has been designated by the pest*
13 *control business as the person responsible for the daily*
14 *supervision of the category or categories of pest control performed*
15 *by a business location of the pest control business within this state.*

16 **Sec. 3.** *"Broker" means any person who acts as an agent for*
17 *another person in negotiating the purchase or sale of nursery*
18 *stock but who does not handle either the nursery stock which is*
19 *involved in the purchase or sale, or the proceeds of the sale, if*
20 *applicable.*

21 **Sec. 4.** *"Dangerously injurious plant pest" means a plant*
22 *pest that constitutes a significant threat to the public or to the*
23 *agricultural, forestry or horticultural industry of this state.*

24 **Sec. 5.** *"Dealer of nursery stock" means a person who*
25 *produces, holds, distributes, collects or sells nursery stock,*
26 *including, without limitation, a retail business, wholesale grower,*
27 *landscape contractor, landscape maintenance business, broker*
28 *and peddler.*

29 **Sec. 6.** *"Hold" means to have and maintain possession of*
30 *nursery stock at a temporary or permanent location.*

31 **Sec. 7.** *"Infested" means contaminated with a pest or so*
32 *exposed to a pest that contamination can reasonably be expected*
33 *to exist.*

34 **Sec. 8.** *"Inspecting officer" means a person authorized by*
35 *the Department to inspect nursery stock.*

36 **Sec. 9.** *"Inspection certificate" means a document which is*
37 *issued by an inspecting officer or an appropriate state officer who*
38 *is authorized to inspect nursery stock and which affirms, declares*
39 *or verifies that the nursery stock, or the nursery or premises from*
40 *which the nursery stock originated, has been inspected and found*
41 *to be free from plant pests and symptoms of diseases.*

42 **Sec. 10.** *"License" means a license issued pursuant to NRS*
43 *555.235 to 555.249, inclusive, and sections 3 to 18, inclusive, of*
44 *this act, to a licensee to conduct business as a dealer of nursery*
45 *stock.*



1 **Sec. 11.** *“Licensee” means a person licensed under the*
2 *provisions of NRS 555.235 to 555.249, inclusive, and sections 3 to*
3 *18, inclusive, of this act.*

4 **Sec. 12.** *“Nursery” means any location:*

5 1. *Where nursery stock is grown, propagated, held, stored or*
6 *sold; or*

7 2. *From which nursery stock is distributed directly to a*
8 *customer.*

9 **Sec. 13.** *“Nursery stock” means a plant for planting,*
10 *propagation or ornamentation, and includes, without limitation,*
11 *parts of plants, trees, shrubs, vines, vegetables, bulbs, stolons,*
12 *tubers, corms, pips, rhizomes, scions, buds and grafts.*

13 **Sec. 14.** *“Peddler” means any person who sells, solicits or*
14 *offers for sale nursery stock to a customer but who does not have a*
15 *nursery located in this state. The term does not include*
16 *nurserymen licensed by another state who wholesale nursery stock*
17 *to retail nurserymen located in this state or nurserymen who sell*
18 *nursery stock directly to the public by catalog.*

19 **Sec. 15.** *“Pest” means any form of animal or vegetable life*
20 *detrimental to the crops, horticulture, livestock, public health,*
21 *wildlife, quality of water and beneficial uses of land in this state,*
22 *including, without limitation, any insect, snail, nematode, fungus,*
23 *virus, bacterium, microorganism, mycoplasmal organism, weed,*
24 *parasitic plant or any other plant that is normally considered to be*
25 *a pest of cultivated plants, uncultivated plants, agricultural*
26 *commodities, horticultural products or nursery stock, or that the*
27 *Director declares to be a pest.*

28 **Sec. 16.** *“Phytosanitary certificate” means a certificate from*
29 *an authorized state plant regulatory officer that certifies, affirms,*
30 *declares or verifies that an article, nursery stock, plant product,*
31 *shipment or other officially regulated item meets federal or state*
32 *quarantine requirements, as appropriate, including, without*
33 *limitation, that the item is free of dangerously injurious pests or*
34 *quarantine pests, or that the item has been treated in the manner*
35 *set forth in the rules and regulations prescribed by the applicable*
36 *quarantine. The term includes a federal phytosanitary certificate,*
37 *a state phytosanitary certificate and a certificate of quarantine*
38 *compliance.*

39 **Sec. 17.** *“Quarantine pest” means a pest listed by the State*
40 *Quarantine Officer in a quarantine issued pursuant to chapter*
41 *554 of NRS.*

42 **Sec. 18.** *“Sell” means exchange, offer for sale, expose for*
43 *sale, have in possession for sale, arrange the sale of, solicit for*
44 *sale, display or advertise for sale, consign, accept on consignment,*
45 *or broker the purchase or sale.*



1 **Sec. 19.** NRS 555.100 is hereby amended to read as follows:
2 555.100 1. The Department shall, if necessary or if a
3 complaint is made to the Department, cause an inspection to be
4 conducted of any premises, land, means of conveyance or article of
5 any person in this state, and if found infested with ~~{an infectious~~
6 ~~disease, insect, plant, weed or other pest}~~ *any pest or plant disease*
7 that is injurious to:
8 (a) The public health or quality of any water in this state; or
9 (b) Any wildlife, beneficial use of land or agriculture in this
10 state,
11 the Department may provide a written notice of its findings to the
12 owner or occupant of the premises, land, means of conveyance or
13 article and require him to control, treat or eradicate the ~~{disease,~~
14 ~~insect, weed or other}~~ pest *or plant disease* in the manner and within
15 the period specified in the notice.
16 2. A notice issued pursuant to the provisions of subsection 1:
17 (a) May be served upon the owner or occupant by an officer or
18 employee of the Department; and
19 (b) Must be served in writing, by certified mail or personally,
20 with receipt given therefor.

21 **Sec. 20.** NRS 555.110 is hereby amended to read as follows:
22 555.110 1. ~~{All such premises so infected or infested are}~~
23 *Any premises found to be infested with any pest or plant disease is*
24 hereby adjudged and declared to be a public nuisance . ~~{, and if any}~~
25 *If* such *a* nuisance exists at any place within the jurisdiction of the
26 Department and the owner or occupant ~~{thereof,}~~ *of the premises,*
27 after notification, refuses or neglects to abate the nuisance within the
28 period specified, the Department shall cause the nuisance to be
29 abated at once by eradicating or controlling ~~{those diseases, insects,~~
30 ~~weeds or other}~~ pests *or plant diseases* in a manner to be determined
31 by the Department.

32 2. The expense thereof must be paid from any money made
33 available to the Department by direct legislative appropriation or
34 otherwise.

35 **Sec. 21.** NRS 555.235 is hereby amended to read as follows:
36 555.235 As used in NRS 555.235 to 555.249, inclusive ~~{:~~
37 ~~—1. “Inspecting officer” means a person authorized by the~~
38 ~~Department to inspect nursery stock.~~
39 ~~—2. “Licensee” means any person licensed under the provisions~~
40 ~~of NRS 555.235 to 555.249, inclusive.~~
41 ~~—3. “Nursery” means any location:~~
42 ~~—(a) Where nursery stock is grown, propagated, stored or sold; or~~
43 ~~—(b) From which nursery stock is distributed directly to a~~
44 ~~customer.~~



1 ~~4. "Nursery stock" means any plant for planting, propagation~~
2 ~~or ornamentation, and includes parts of plants, trees, shrubs, vines,~~
3 ~~vegetables, bulbs, stolons, tubers, corms, pips, rhizomes, scions,~~
4 ~~buds and grafts.~~

5 ~~5. "Pest" means any form of animal or vegetable life~~
6 ~~detrimental to the nursery industry of this state, including, without~~
7 ~~limitation, any insect, snail, nematode, fungus, virus, bacterium,~~
8 ~~microorganism, mycoplasmal organism, weed, parasitic plant or any~~
9 ~~other plant that is normally considered to be a pest of cultivated~~
10 ~~plants, uncultivated plants, agricultural commodities, horticultural~~
11 ~~products or nursery stock, or that the Director declares to be a pest.~~

12 ~~6. "Sell" means exchange, offer for sale, expose for sale, have~~
13 ~~in possession for sale or solicit for sale.] , and sections 3 to 18,~~
14 ~~inclusive, of this act, unless the context otherwise requires, the~~
15 ~~words and terms defined in sections 3 to 18, inclusive, of this act~~
16 ~~have the meanings ascribed to them in those sections.~~

17 **Sec. 22.** NRS 555.236 is hereby amended to read as follows:

18 555.236 1. ~~Every] Except as otherwise provided in this~~
19 ~~section, a~~ person who engages in the commercial production,
20 holding, distribution, collection or selling of nursery stock ~~shall~~
21 ~~must~~ obtain a license from the Director, except:

22 (a) Retail florists or other persons who sell potted, ornamental
23 plants intended for indoor decorative purposes.

24 (b) A person ~~who is~~ not engaged in the nursery *or landscaping*
25 business ~~and] who~~ raises nursery stock as a hobby in this state ~~;~~
26 from which he makes occasional sales, if the person ~~reports to the~~
27 ~~Director his intention to make those sales and]~~ does not advertise or
28 solicit for the sale of that nursery stock.

29 (c) Persons engaged in agriculture and field-growing vegetable
30 plants intended for sale for use in agricultural production.

31 (d) ~~[That the Director may, to relieve hardships imposed by the~~
32 ~~licensing requirements of NRS 555.235 to 555.249, inclusive, upon~~
33 ~~persons residing in sparsely settled areas of this state where no~~
34 ~~licensed nurseries exist, waive the requirements for the licensing of~~
35 ~~nurseries for any established business to permit occasional sales of~~
36 ~~nursery stock to accommodate the customers of the business.~~

37 ~~(e)]~~ At the discretion of the Director, persons selling vegetable
38 bulbs or flower bulbs, including, without limitation, onion sets, tulip
39 bulbs and similar bulbs.

40 ~~[(f) A nursery]~~

41 (e) A *business* licensed by another state that sells nursery stock
42 ~~directly] only~~ to:

- 43 (1) A licensed ~~retail] dealer of~~ nursery *stock* in this state; or
44 (2) The public *exclusively* by catalog.



1 (f) A garden club or charitable nonprofit association
2 conducting sales of nursery stock, provided that the garden club or
3 nonprofit association has applied for and received a permit from
4 the Director to conduct such sales. The Department shall not
5 charge a fee for such a permit.

6 (g) A state or local governmental entity, including a
7 conservation district. The Department may inspect any plant
8 materials held, distributed, collected or sold by such an entity.

9 2. The Director may waive the requirements relating to
10 licensing set forth in NRS 555.235 to 555.249, inclusive, and
11 sections 3 to 18, inclusive, of this act, for a person otherwise
12 required to obtain a license pursuant to this section if the person
13 only has occasional sales of nursery stock to the ultimate
14 customer. To obtain a waiver pursuant to this subsection, the
15 person must:

16 (a) Submit to the Department a completed application for a
17 license to engage in the business of a dealer of nursery stock that
18 includes sufficient information to demonstrate that the person
19 qualifies for a waiver pursuant to this subsection; and

20 (b) Submit to the Director a notarized affidavit on a form
21 provided by the Department attesting that all information
22 furnished in the completed application is true.

23 A completed application submitted to the Department pursuant to
24 this section need not be accompanied by the fee required by NRS
25 555.238. A waiver issued pursuant to this subsection may be
26 revoked at any time and must be renewed annually.

27 3. Persons, state agencies or political subdivisions exempt from
28 the licensing requirements:

29 (a) Shall conduct their businesses in accordance with pest
30 regulations and grades and standards for nursery stock as established
31 by the Director.

32 (b) Shall register annually, on or before July 1, with the
33 Department, the location, size and type of nursery stock being *sold*
34 *or* produced.

35 4. As used in this section, "occasional sales" means sales of
36 nursery stock in a gross annual amount that is less than \$1,000.

37 **Sec. 23.** NRS 555.237 is hereby amended to read as follows:

38 555.237 1. Any person applying for a license ~~[shall]~~ *must* do
39 so on the application form and in the manner prescribed by the
40 Director.

41 2. ~~[The]~~ *Except as otherwise provided in NRS 555.236, an*
42 *application for a license* must be accompanied by the ~~[nursery~~
43 ~~license fee required by]~~ *fee established pursuant to* NRS 555.238
44 and by evidence of the good faith and character of the applicant.



1 3. A license is not transferable. If a licensee changes its
2 business name or the ownership of the licensee changes, the
3 licensee must obtain a new license. A licensee shall not engage in
4 the business of a dealer of nursery stock until a new license is
5 issued.

6 4. A licensee shall prominently display his license at his
7 business location.

8 **Sec. 24.** NRS 555.238 is hereby amended to read as follows:
9 555.238 ~~[1.]~~ The State Board of Agriculture may establish by
10 regulation ~~[a minimum annual fee for each nursery license, to which~~
11 ~~must be added an amount established by regulation of the Board for~~
12 ~~each:~~

13 ~~—(a) Additional nursery of a licensee who has paid the minimum~~
14 ~~nursery license fee.~~

15 ~~—(b) Acre of nursery stock in production or portion thereof after~~
16 ~~the first acre.~~

17 ~~—(c) Agent acting on behalf of a licensed nursery established in~~
18 ~~this state and operating outside of the county in which the nursery is~~
19 ~~located.~~

20 ~~—(d) Peddler.~~

21 ~~—2. As used in this section:~~

22 ~~—(a) “Agent” means any person who:~~

23 ~~—(1) Acts upon the authority of another person possessing a~~
24 ~~nursery license in this state; and~~

25 ~~—(2) Solicits for the sale of nursery stock.~~

26 ~~—(b) “Peddler” means any person who sells, solicits or offers for~~
27 ~~sale nursery stock to a customer and who does not have a nursery in~~
28 ~~this state. The term does not include nurserymen licensed by another~~
29 ~~state who wholesale nursery stock to retail nurserymen in this state~~
30 ~~or sell nursery stock directly to the public by catalog.] a schedule of~~
31 ~~annual fees for licenses.~~

32 **Sec. 25.** NRS 555.239 is hereby amended to read as follows:

33 555.239 1. ~~[Every licensee shall]~~ *Except as otherwise*
34 *provided in this section and NRS 555.237, a license expires on*
35 *June 30 of each year. A licensee must* apply for the renewal of his
36 nursery license annually on or before July 1. It is unlawful to
37 conduct business without a current license.

38 2. The fee for the renewal of a license is ascertained in ~~[the~~
39 ~~same manner as provided in]~~ *accordance with the schedule of fees*
40 *established pursuant to* NRS 555.238.

41 3. Any license may be renewed after July ~~[15]~~ 1 upon payment
42 of a penalty ~~[of \$10.~~

43 ~~—4. Any person who has been previously licensed to sell nursery~~
44 ~~stock and whose right to sell nursery stock has been forfeited by~~
45 ~~failure to renew his license is exempt from the penalty fee if his~~



1 ~~application to renew his license is accompanied by a signed~~
2 ~~statement that he has not sold any nursery stock during any part of~~
3 ~~the fiscal year for which he applies for renewal of his license.] fee~~
4 ~~established by regulation of the State Board of Agriculture. Such a~~
5 ~~penalty fee must not exceed \$200.~~

6 **Sec. 26.** NRS 555.241 is hereby amended to read as follows:
7 555.241 The Director may refuse to issue or renew, or may
8 suspend or revoke, a ~~[nursery]~~ license for violation of any provision
9 of NRS 555.235 to 555.249, inclusive, *and sections 3 to 18,*
10 *inclusive, of this act,* or any rule or regulation adopted under NRS
11 555.243, but no license may be refused, suspended or revoked
12 *pursuant to this section* until the applicant or licensee has been
13 given the opportunity to appear at a hearing. Offenders must be
14 given 15 days' notice in writing. The notice must indicate the
15 offense and the place of hearing.

16 **Sec. 27.** NRS 555.244 is hereby amended to read as follows:
17 555.244 **I.** The Director or any inspecting officer may enter
18 any ~~[nursery during reasonable]~~ *business during regular business*
19 hours to ascertain ~~[-~~
20 ~~—1. The pest conditions of nursery stock on growing grounds.~~
21 ~~—2. The condition of nursery stock offered for sale.] compliance~~
22 *with NRS 555.235 to 555.249, inclusive, and sections 3 to 18,*
23 *inclusive, of this act, and any regulations adopted pursuant*
24 *thereto.*

25 **2.** *Invoices and applicable inspection certificates, quarantine*
26 *certificates and phytosanitary certificates must be made available*
27 *to the Director or inspecting officer upon request.*

28 **Sec. 28.** NRS 555.246 is hereby amended to read as follows:
29 555.246 **1.** ~~[All]~~ *Except as otherwise provided in this*
30 *section,* nursery stock *that is* shipped from other states to points
31 within this state and all nursery stock shipped intrastate must ~~[bear~~
32 ~~on the outside of each container in which the nursery stock was~~
33 ~~packed for shipment a phytosanitary certificate or]~~ *be accompanied*
34 *by* an inspection certificate *which:*

- 35 *(a) Is* dated within a reasonable time before shipment ~~[- which~~
36 ~~must:~~
37 ~~—(a) If it is a phytosanitary certificate, certify that the nursery~~
38 ~~stock has been inspected and found free from dangerously injurious~~
39 ~~plant pests and quarantine pests or has been treated in the manner~~
40 ~~set forth in the rules and regulations prescribed by an applicable~~
41 ~~quarantine issued pursuant to chapter 554 of NRS;~~
42 ~~—(b) If it is an inspection certificate, certify that the nursery from~~
43 ~~which the nursery stock was shipped];~~

44 *(b) Is issued by an authorized state plant regulatory officer;*
45 *and*



1 (c) Affirms, declares or verifies that the nursery stock, nursery
2 or premises from which the nursery stock originated has been
3 inspected and found free of dangerously injurious plant pests ~~and is~~
4 ~~commercially clean of common pests; and~~

5 ~~—(c) Bear the signature of an officer authorized to inspect nursery~~
6 ~~stock.~~

7 ~~—2. No], pests and disease symptoms.~~

8 2. Except as otherwise provided in this section, nursery stock
9 that is shipped from other states to points within this state, and
10 nursery stock that is shipped intrastate, for which a quarantine
11 has been issued pursuant to chapter 554 of NRS or to which a
12 federal quarantine applies, must be accompanied by a
13 phytosanitary certificate.

14 3. Except as otherwise provided in this section, a corporation,
15 company or natural person engaged in the transportation of freight
16 or express ~~may~~ shall not make delivery of any nursery stock in
17 this state without ~~a~~ the inspection certificate or phytosanitary
18 certificate ~~for an inspection certificate.~~

19 3. As used in this section:

20 ~~—(a) “Dangerously injurious plant pest” means a plant pest that~~
21 ~~constitutes a significant threat to the public, the nursery,~~
22 ~~agricultural, forestry or horticultural industry in this state or the~~
23 ~~general environmental quality of this state.~~

24 ~~—(b) “Phytosanitary certificate” means a certificate from the state~~
25 ~~of origin of nursery stock that was shipped to this state which~~
26 ~~verifies that an officer authorized to inspect nursery stock in the~~
27 ~~state of origin has inspected the nursery stock and determined that it~~
28 ~~meets the requirements set forth in paragraph (a) of subsection 1.~~

29 ~~—(c) “Quarantine pest” means a pest listed by the State~~
30 ~~Quarantine Officer in a quarantine issued pursuant to chapter 554 of~~
31 ~~NRS.] , as appropriate, required by subsections 1 and 2.~~

32 4. A shipment of nursery stock which is in the possession of
33 an in-state dealer of nursery stock licensed with the Department
34 and which is being delivered to an in-state customer need not be
35 accompanied by the inspection certificate or phytosanitary
36 certificate, as appropriate, required by subsections 1 and 2, except
37 that the dealer of nursery stock must provide such documents to
38 the Department upon request.

39 **Sec. 29.** NRS 555.247 is hereby amended to read as follows:

40 555.247 1. All nursery stock shipped from other states to
41 points within this state and all nursery stock shipped intrastate must
42 bear a label on or attached to:

43 (a) The outside of the container in which the nursery stock was
44 packed for shipment that indicates the name and address of the
45 consignee and consignor and contains a statement describing plainly



* S B 1 7 2 R 1 *

1 and legibly the correct botanical or commonly accepted name, or
2 both, for each kind of nursery stock in the container.

3 (b) Each individual piece of one kind and variety of nursery
4 stock, or subcontainer or lot containing one kind and variety of
5 nursery stock in each container, that contains a legible statement of
6 the correct botanical or commonly accepted name, or both, of the
7 nursery stock.

8 2. ~~[Bulk]~~ *Except as otherwise provided in subsection 4 of*
9 *NRS 555.246, bulk* shipments of nursery stock not packed in
10 containers must:

11 (a) Be accompanied by ~~[one of the certificates]~~ *the appropriate*
12 *certificate* required pursuant to NRS 555.246.

13 (b) Be accompanied by a manifest which must:

14 (1) State the name and address of the consignor and
15 consignee; and

16 (2) List and describe plainly and legibly the correct botanical
17 or commonly accepted name, or both, for each kind of nursery stock
18 in the bulk shipment.

19 (c) Be labeled in accordance with the requirements of
20 subsection 1.

21 **Sec. 30.** NRS 555.2485 is hereby amended to read as follows:

22 555.2485 1. The Director shall adopt regulations specifying a
23 schedule of administrative fines which may be imposed, upon notice
24 and a hearing, for each violation of the provisions of NRS 555.235
25 to 555.249, inclusive, *and sections 3 to 18, inclusive, of this act*, or
26 the regulations adopted pursuant thereto. The maximum fine that the
27 Director may impose for each violation may not exceed:

28 (a) For the first violation, \$250;

29 (b) For the second violation, \$500; and

30 (c) For each subsequent violation, \$1,000.

31 All fines collected by the Director pursuant to this section must be
32 deposited with the State Treasurer for credit to the State General
33 Fund.

34 2. The Director may:

35 (a) In addition to imposing an administrative fine pursuant to
36 this section, issue an order requiring a violator to take appropriate
37 action to correct the violation. ~~[or]~~ *The violator shall pay the cost*
38 *of any appropriate action so ordered.*

39 (b) Request the district attorney of the appropriate county to
40 investigate or file a criminal complaint against any person who the
41 Director suspects may have committed flagrant or repeated
42 violations of any provision of NRS 555.235 to 555.249, inclusive ~~[]~~
43 *, and sections 3 to 18, inclusive, of this act.*



1 **Sec. 31.** NRS 555.249 is hereby amended to read as follows:
2 555.249 Any person violating the provisions of NRS 555.235
3 to 555.249, inclusive, *and sections 3 to 18, inclusive, of this act* or
4 the regulations adopted pursuant thereto is guilty of a misdemeanor
5 and shall be punished by imprisonment in the county jail for not
6 more than 6 months, or by a fine of not more than \$1,000, or by
7 both fine and imprisonment. The prosecuting attorney and the
8 Department may recover the costs of the proceeding, including
9 investigative costs and attorney's fees, against a person convicted of
10 a misdemeanor pursuant to this section.

11 **Sec. 32.** NRS 555.2605 is hereby amended to read as follows:
12 555.2605 As used in NRS 555.2605 to 555.460, inclusive, *and*
13 *section 2 of this act*, unless the context otherwise requires, the
14 words and terms defined in NRS 555.261 to 555.2695, inclusive,
15 have the meanings ascribed to them in those sections.

16 **Sec. 33.** NRS 555.270 is hereby amended to read as follows:
17 555.270 It is the policy of this state and the purpose of NRS
18 555.2605 to 555.460, inclusive, *and section 2 of this act*, to
19 regulate, in the public interest, the application of pesticides which,
20 although valuable for the control of pests, may seriously injure man,
21 animals and crops over wide areas if not properly applied.

22 **Sec. 34.** NRS 555.277 is hereby amended to read as follows:
23 555.277 1. The provisions of NRS 555.2605 to 555.460,
24 inclusive, *and section 2 of this act*, relating to licenses and
25 requirements for their issuance, except a certificate or permit to use
26 a restricted-use pesticide, do not apply to any farmer-owner of
27 ground equipment applying pesticides for himself or his neighbors,
28 if:

29 (a) He operates farm property and operates and maintains
30 equipment for applying pesticides primarily for his own use.

31 (b) He is not regularly engaged in the business of applying
32 pesticides for hire as a principal or regular occupation, and he does
33 not publicly hold himself out as a pesticide applicator.

34 (c) He operates his equipment for applying pesticides only in the
35 vicinity of his own property and for the accommodation of his
36 neighbors for agricultural purposes only.

37 2. The provisions of NRS 555.2605 to 555.460, inclusive, *and*
38 *section 2 of this act*, except those provisions relating to a certificate
39 or permit to use a restricted-use pesticide, do not apply to any
40 person using hand-powered equipment, devices or contrivances to
41 apply pesticides to lawns or to ornamental shrubs and trees as an
42 incidental part of his business of taking care of lawns and yards for
43 remuneration, if that person does not publicly hold himself out as
44 being in the business of applying pesticides ~~and~~ *and the cost of*



1 *applying the pesticides does not exceed 20 percent of the total*
2 *remuneration received.*

3 **Sec. 35.** NRS 555.320 is hereby amended to read as follows:

4 555.320 1. If the Director finds the applicant qualified, and
5 upon the applicant's appointing the Director agent for service of
6 process and finding that the applicant has satisfied the requirements
7 of NRS 555.325 and 555.330, the Director shall issue a license to
8 perform pest control within this state.

9 2. The license period is the calendar year. All licenses expire
10 on December 31 of each year. The license may be renewed annually
11 upon application to the Director and payment of the license fee on
12 or before ~~January 16~~ *December 31* of each year. If the holder of
13 the license is a natural person, he must submit with his application
14 for renewal the statement required pursuant to NRS 555.325.

15 3. ~~[A penalty fee of \$5 must be charged for failure to pay the~~
16 ~~renewal fee when due unless the application for renewal is~~
17 ~~accompanied by a written statement signed by the applicant that he~~
18 ~~has not made any application of pesticides from the time of~~
19 ~~expiration of his prior license until the time of application for~~
20 ~~renewal.~~

21 ~~—4.]~~ The license may restrict the licensee to the use of a certain
22 type or types of equipment or materials if the Director finds that the
23 applicant is qualified to use only a certain type or types.

24 ~~[5.]~~ 4. If a license is not issued as applied for, the Director shall
25 inform the applicant in writing of the reasons therefor.

26 **Sec. 36.** NRS 555.350 is hereby amended to read as follows:

27 555.350 1. The Director may suspend, pending inquiry, for
28 not longer than 10 days, and, after opportunity for a hearing, may
29 revoke, suspend or modify any license issued under NRS 555.2605
30 to 555.460, inclusive, *and section 2 of this act*, if he finds that:

- 31 (a) The licensee is no longer qualified;
32 (b) The licensee has engaged in fraudulent business practices in
33 pest control;
34 (c) The licensee has made false or fraudulent claims through any
35 media by misrepresenting the effect of materials or methods to be
36 used;
37 (d) The licensee has applied known ineffective or improper
38 materials;
39 (e) The licensee operated faulty or unsafe equipment;
40 (f) The licensee has made any application in a faulty, careless or
41 negligent manner;
42 (g) The licensee has violated any of the provisions of NRS
43 555.2605 to 555.460, inclusive, *and section 2 of this act*, or
44 regulations adopted pursuant thereto;



1 (h) The licensee engaged in the business of pest control without
2 having a licensed applicator or operator in direct on-the-job
3 supervision;

4 (i) The licensee aided or abetted a licensed or an unlicensed
5 person to evade the provisions of NRS 555.2605 to 555.460,
6 inclusive, *and section 2 of this act* combined or conspired with such
7 a licensee or an unlicensed person to evade the provisions, or
8 allowed one's license to be used by an unlicensed person;

9 (j) The licensee was intentionally guilty of fraud or deception in
10 the procurement of his license; or

11 (k) The licensee was intentionally guilty of fraud or deception in
12 the issuance of an inspection report on wood-destroying pests or
13 other report required by regulation.

14 2. A license is suspended automatically, without action of the
15 Director, if the proof of public liability and property damage or drift
16 insurance filed pursuant to NRS 555.330, is canceled, and the
17 license remains suspended until the insurance is reestablished.

18 **Sec. 37.** NRS 555.460 is hereby amended to read as follows:

19 555.460 Any person violating the provisions of NRS 555.2605
20 to 555.420, inclusive, *or section 2 of this act*, or the regulations
21 adopted pursuant thereto, is guilty of a misdemeanor and, in
22 addition to any criminal penalty, shall pay to the Department an
23 administrative fine of not more than \$5,000 per violation. If an
24 administrative fine is imposed pursuant to this section, the costs of
25 the proceeding, including investigative costs and attorney's fees,
26 may be recovered by the Department.

27 **Sec. 38.** NRS 555.470 is hereby amended to read as follows:

28 555.470 1. The Director shall adopt regulations specifying a
29 schedule of fines which may be imposed, upon notice and a hearing,
30 for each violation of the provisions of NRS 555.2605 to 555.460,
31 inclusive ~~§~~, *or section 2 of this act*. The maximum fine that may
32 be imposed by the Director for each violation must not exceed
33 \$5,000 per day. All fines collected by the Director pursuant to this
34 subsection must be remitted to the county treasurer of the county in
35 which the violation occurred for credit to the county school district
36 fund.

37 2. The Director may:

38 (a) In addition to imposing a fine pursuant to subsection 1, issue
39 an order requiring a violator to take appropriate action to correct the
40 violation; or

41 (b) Request the district attorney of the appropriate county to
42 investigate or file a criminal complaint against any person that the
43 State Board of Agriculture suspects may have violated any provision
44 of NRS 555.2605 to 555.460, inclusive ~~§~~, *or section 2 of this act*.



1 **Sec. 39.** NRS 561.375 is hereby amended to read as follows:
2 561.375 1. The ~~{Noxious Weed and Insect Pest Control}~~
3 Program *for the Control of Pests and Plant Diseases* is hereby
4 established.
5 2. Money accepted by the Department under the provisions of
6 NRS 555.010 to 555.460, inclusive, *and sections 2 to 18, inclusive,*
7 *of this act*, from the Federal Government or any federal department
8 or agency, a county, a city, a public district or any political
9 subdivision of this state, a public or private corporation, or a natural
10 person, may be used in the ~~{Noxious Weed and Insect Pest Control~~
11 ~~Program.}~~ *Program for the Control of Pests and Plant Diseases.*
12 3. Expenditures for the ~~{Noxious Weed and Insect Pest~~
13 ~~Control}~~ Program *for the Control of Pests and Plant Diseases* may
14 be made only to carry out the provisions of this chapter and chapter
15 555 of NRS.
16 **Sec. 40.** This act becomes effective on July 1, 2003.

