

## CHAPTER 18

### PEST CONTROL

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#### **18.022 INSECT PESTS, PLANT DISEASES, BEE DISEASES, AND DESTRUCTIVE OR NUISANCE ANIMALS.**

*[For text of subd 1, see M.S.1990]*

Subd. 2. **Cost.** (a) To defray the cost of the activities under subdivision 1, the governing body of the political subdivision may levy a tax which, except when levied by a county, must not exceed 0.01596 percent of taxable market value in any year in excess of charter limitations, but not more than 50 cents per capita, except that the levy for the grasshopper control program under sections 18.0223 to 18.0227 is not subject to the 50 cents per capita limitation. The political subdivision may make the levy, where necessary, separate from the general levy.

(b) If, because of the prevalence of Dutch elm disease, the governing body of such a political subdivision is unable to defray the cost of control activities authorized by this section within the limits set by this subdivision, the limits set by this subdivision are increased to 0.03216 percent of taxable market value, but not more than one dollar per capita.

*[For text of subs 3 to 9, see M.S.1990]*

**History:** 1991 c 291 art 12 s 1

#### **18.023 SHADE TREE DISEASE CONTROL.**

*[For text of subs 1 to 10, see M.S.1990]*

Subd. 10a. **Experimental programs.** The commissioner may establish experimental programs for sanitation or treatment of shade tree diseases and for research into tree varieties most suitable for municipal reforestation. The research must include considerations of disease resistance, energy conservation, and other factors considered appropriate. The commissioner may make grants to municipalities, or enter into contracts with municipalities, nurseries, colleges, universities, or state or federal agencies in connection with experimental shade tree programs including research to assist municipalities in establishing priority designation areas for shade tree disease control and energy conservation.

Subd. 11. **Report to the legislature.** On or before January 31 each odd-numbered year, the commissioner shall report to the legislature on community shade tree disease and insect control programs and any experimental programs conducted under subdivision 10a during the previous fiscal biennium.

*[For text of subs 12 and 13, see M.S.1990]*

**History:** 1991 c 116 s 1,2

#### **18.024 DISEASED SHADE TREE UTILIZATION.**

Subdivision 1. **Wood utilization.** The departments of agriculture and natural resources, after consultation with the Minnesota shade tree advisory committee and the

commissioners of public service, and trade and economic development, shall investigate, evaluate, and make recommendations to the legislature concerning the potential uses of wood from community trees removed due to disease or other disorders. These recommendations shall include maximum resource recovery through recycling, use as an alternative energy source, or use in construction or the manufacture of new products. Wood utilization or disposal systems as defined in section 18.023 must be included to ensure maximum utilization of diseased shade trees with designs and procedures to ensure public safety and to assure compliance with approved disease control programs.

*[For text of subd 2, see M.S.1990]*

**History:** 1991 c 116 s 3

### 18.191 DESTRUCTION OF NOXIOUS WEEDS.

Except as otherwise specifically provided in sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322, it shall be the duty of every occupant of land or, if the land is unoccupied, the owner thereof, or an agent, or the public official in charge thereof, to cut down, otherwise destroy, or eradicate all noxious weeds as defined in section 18.171, subdivision 5, standing, being, or growing upon such land, in such manner and at such times as may be directed or ordered by the commissioner, the commissioner's authorized agents, the county agricultural inspector, or by a local weed inspector having jurisdiction.

Except as provided below, an owner of nonfederal lands underlying public waters or wetlands designated under section 103G.201 is not required to control or eradicate purple loosestrife (*Lythrum salicaria*) below the ordinary high water level of the public water or wetland. To the extent provided in this section, the commissioner of natural resources is responsible for control and eradication of purple loosestrife on public waters and wetlands designated under section 103G.201, except those located upon lands owned in fee title or managed by the United States. The officers, employees, agents, and contractors of the commissioner may enter upon public waters and wetlands designated under section 103G.201 and may cross adjacent lands as necessary for the purpose of investigating purple loosestrife infestations, formulating methods of eradication, and implementing control and eradication of purple loosestrife. The commissioner, after consultation with the commissioner of agriculture, shall, by June 1 of each year, compile a priority list of purple loosestrife infestations to be controlled in designated public waters. The commissioner of agriculture must distribute the list to county agricultural inspectors, local weed inspectors, and their appointed agents. The commissioner of natural resources shall control listed purple loosestrife infestations in priority order within the limits of appropriations provided for that purpose. This procedure shall be the exclusive means for control of purple loosestrife on designated public waters by the commissioner of natural resources and shall supersede the other provisions for control of noxious weeds set forth elsewhere in chapter 18. The responsibility of the commissioner to control and eradicate purple loosestrife on public waters and wetlands located on private lands and the authority to enter upon private lands ends ten days after receipt by the commissioner of a written statement from the landowner that the landowner assumes all responsibility for control and eradication of purple loosestrife under sections 18.171 to 18.315. State officers, employees, agents, and contractors are not liable in a civil action for trespass committed in the discharge of their duties under this section and are not liable to anyone for damages, except for damages arising from gross negligence.

**History:** 1991 c 254 art 2 s 3

### 18.46 DEFINITIONS.

*[For text of subs 1 to 5, see M.S.1990]*

**Subd. 6. Nursery stock grower.** "Nursery stock grower" means a person who owns, leases, manages, or is in charge of a nursery.

[For text of subds 7 and 8, see M.S.1990]

**Subd. 9. Nursery stock dealer.** "Nursery stock dealer" means a person who obtains nursery stock for the purpose of sale or distribution and includes any person who sells and distributes for more than one nursery stock grower. A person who purchases more than half of the nursery stock offered for sale at a sales location during the current certificate year shall be considered a nursery stock dealer rather than a nursery stock grower for the purposes of determining a proper fee schedule.

**Subd. 9a. Landscaper.** "Landscaper" is a nursery stock dealer who obtains certified nursery stock for immediate sale, distribution, or installation and who does not grow or maintain nursery stock for resale.

[For text of subds 10 to 16, see M.S.1990]

**History:** 1991 c 254 art 3 s 2-4

#### 18.49 INSPECTION REQUIRED.

[For text of subd 1, see M.S.1990]

**Subd. 2. Certificate.** It is unlawful for a person to sell or distribute nursery stock to a nursery stock dealer or nursery stock grower who does not have a valid grower's or dealer's certificate.

**History:** 1991 c 254 art 3 s 5

#### 18.51 NURSERY STOCK GROWER'S CERTIFICATE.

**Subdivision 1. Certificate required.** Each nursery stock grower shall obtain a nursery stock grower's certificate from the commissioner. Said certificate shall be obtained before offering nursery stock for sale or distribution. Each certificate shall expire on December 31 of each year.

**Subd. 2. Fees; penalty.** A nursery stock grower shall pay an annual fee before the commissioner shall issue a certificate of inspection. This fee shall be based on the area of all of the nursery stock grower's nurseries as follows:

Nurseries:

- |   |   |
|---|---|
| (1) 1/2 acre or less                        | \$70 per nursery stock grower   |
| (2) Over 1/2 acre to and including 2 acres  | \$85 per nursery stock grower   |
| (3) Over 2 acres to and including 10 acres  | \$150 per nursery stock grower  |
| (4) Over 10 acres to and including 50 acres | \$400 per nursery stock grower  |
| (5) Over 50 acres                           | \$725 per nursery stock grower for the first 50 acres and \$1 per acre for each additional acre |

A penalty of 25 percent of the fee due shall be charged for any application for renewal not received by January 1 of the year following expiration of a certificate.

**History:** 1991 c 254 art 3 s 6

#### 18.52 DEALERS' AND AGENTS' CERTIFICATES.

**Subdivision 1. Certificates required.** A nursery stock dealer certificate shall be obtained by every nursery stock dealer for each location before offering nursery stock for sale or distribution unless the nursery stock dealer holds a valid greenhouse or nur-

sery stock grower's certificate either of which will permit a single sales location. This certificate or a duplicate thereof shall be displayed in a prominent manner at each place where nursery stock is offered for sale. A certificate to sell or distribute certified nursery stock may be obtained by a nursery stock dealer or by an agent through a principal, from the commissioner. The commissioner may refuse to issue a nursery stock dealer or agent certificate for cause.

*[For text of subs 2 to 4, see M.S.1990]*

**Subd. 5. Fees; penalty.** A nursery stock dealer shall pay an annual fee based on the dealer's gross sales during the preceding certificate year. A nursery stock dealer operating for the first year will pay the minimum fee.

Dealers:

(1) Gross sales up to \$5,000	at a location \$70 per location
(2) Gross sales over \$5,000 up to \$10,000	at a location \$100 per location
(3) Gross sales over \$10,000 up to \$25,000	at a location \$200 per location
(4) Gross sales over \$25,000 up to \$75,000	at a location \$300 per location
(5) Gross sales over \$75,000 up to \$100,000	at a location \$400 per location
(6) Gross sales over \$100,000 up to \$250,000	at a location \$500 per location
(7) Gross sales over \$250,000	at a location \$600 per location

In addition to the above fees, a minimum penalty of \$10 or 25 percent of the fee due, whichever is greater, shall be charged for any application for renewal not received by January 1 of the year following expiration of a certificate.

**History:** 1991 c 254 art 3 s 7,8

#### 18.54 LOCAL SALES AND MISCELLANEOUS.

*[For text of subd 1, see M.S.1990]*

**Subd. 2. Virus disease-free certification.** The commissioner shall have the authority to provide special services such as virus disease-free certification and other similar programs. Participation by nursery stock growers shall be voluntary. Plants offered for sale as certified virus-free must be grown according to certain procedures in a manner defined by the commissioner for the purpose of eliminating viruses and other injurious disease or insect pests. The commissioner shall collect reasonable fees from participating nursery stock growers for services and materials that are necessary to conduct this type of work, as provided in section 16A.128.

**History:** 1991 c 254 art 3 s 9

#### 18.55 RECIPROCITY WITH OTHER STATES.

**Subdivision 1. Out-of-state nursery stock grower, dealer, or agent.** A nursery stock grower, dealer, or agent from another state which issues certificates to nursery stock growers, dealers, or agents of Minnesota on the same or similar basis as to nursery stock growers, dealers, or agents of such state may operate in Minnesota upon complying with

the plant pest act without procuring a Minnesota certificate. Any person from another state shipping nursery stock into Minnesota shall be accorded treatment similar to that which is required of Minnesota nursery stock growers, dealers, or agents who ship or sell nursery stock in such state. No reciprocity shall be extended under this section until the commissioner has first determined which states issue certificates to nursery stock growers, dealers, or agents of Minnesota on the same or similar basis as to nursery stock growers, dealers, or agents of such states.

**Subd. 2. Filing out-of-state certificates of inspection.** Each out-of-state nursery stock grower or dealer whose nursery stock is sold, offered for sale, or distributed within this state shall file a certified current copy of an out-of-state certificate in the office of the commissioner. The commissioner may accept, in lieu of such individual certificates, a certified list of current certified nursery stock growers or dealers from the regulatory agency having jurisdiction in the state of origin, and may distribute such lists to persons in the state of Minnesota requesting them. The commissioner also may supply certified lists of certified Minnesota nursery stock growers and dealers offering nursery stock for sale in Minnesota and other states on request of any person. If any certified nursery stock grower or dealer has violated any provisions of the plant pest act, the filed certificate will be voided or the person's name will be stricken from the appropriate certified list.

**History:** 1991 c 254 art 3 s 10

#### 18.56 TAGS.

A tag bearing a reasonable facsimile of the nursery stock grower or dealer certificate shall be attached to every package or bundle of nursery stock sold or transported by any person. The form of each tag shall be approved by the commissioner before being used.

**History:** 1991 c 254 art 3 s 11

#### 18.57 CARRIERS NOT TO ACCEPT UNTAGGED STOCK.

All carriers for hire, including railroad companies, express companies and truck lines shall not accept nursery stock which is not tagged with a valid tag of the nursery stock grower or dealer making the shipment. The carrier shall promptly notify the commissioner regarding any prohibited shipment.

**History:** 1991 c 254 art 3 s 12

#### 18.60 PENALTIES.

**Subdivision 1. Certificate revocation.** In addition to or in lieu of administrative penalties under subdivision 2, the certificate of any person violating any of the provisions of the plant pest act may be suspended or revoked by the commissioner.

**Subd. 2. Administrative penalty.** The commissioner may impose an administrative penalty on a person who violates sections 18.44 to 18.61. For a first violation, the commissioner may impose an administrative penalty of not more than \$1,000 for each violation. For a second or succeeding violation, the commissioner may impose an administrative penalty of not more than \$1,500 for each violation. Each day a violation continues is a separate violation. In determining the amount of the administrative penalty to be assessed under this section, the commissioner shall consider the gravity of the offense, the size of the business involved, and the effect of the penalty on the person's ability to continue in business.

**Subd. 3. Appeal.** A person adversely affected by an act, order, or ruling made under this section, or a rule adopted under the plant pest act, may appeal under chapter 14.

**History:** 1991 c 254 art 3 s 13