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COMMITTEE REPORT

April 27, 2017

**S. 570**

Introduced by Senator Massey

S. Printed 4/27/17--H.

Read the first time April 18, 2017.

**THE COMMITTEE ON AGRICULTURE, NATURAL**

**RESOURCES AND ENVIRONMENTAL AFFAIRS**

To whom was referred a Bill (S. 570) to amend Section 46-33-90 of the 1976 Code, relating to registration requirements for the shipment and sale of trees, plants, and shrubs, to provide a, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

DAVID R. HIOTT for Committee.

**A** **BILL**

TO AMEND SECTION 46-33-90 OF THE 1976 CODE, RELATING TO REGISTRATION REQUIREMENTS FOR THE SHIPMENT AND SALE OF TREES, PLANTS, AND SHRUBS, TO PROVIDE A NURSERY REGISTRATION FEE SCHEDULE AND A NURSERY DEALER REGISTRATION FEE SCHEDULE AND TO DEFINE NECESSARY TERMS; TO AMEND SECTION 46-9-90(A), RELATING TO PENALTIES FOR VIOLATING THE CHAPTER ON THE STATE CROP PEST COMMISSION, TO PROVIDE THAT A PERSON VIOLATING THE CHAPTER OR CHAPTERS ASSIGNED TO THE COMMISSION IS GUILTY OF A MISDEMEANOR; TO AMEND SECTION 46-10-100(A), RELATING TO BOLL WEEVIL ERADICATION, TO PROVIDE THAT A PERSON WHO VIOLATES SECTION 46-10-60 OR WHO ALTERS, FORGES, COUNTERFEITS, OR USES WITHOUT AUTHORITY A CERTIFICATE, PERMIT, OR OTHER DOCUMENT PROVIDED FOR IN THE CHAPTER IS GUILTY OF A MISDEMEANOR; TO AMEND SECTION 46-13-180(1), RELATING TO PENALTIES FOR VIOLATING THE PESTICIDE CONTROL ACT, TO PROVIDE THAT ANY PERSON WHO WILLFULLY VIOLATES THE PROVISIONS OF THE CHAPTER ON THE PESTICIDE CONTROL ACT IS GUILTY OF A MISDEMEANOR; TO AMEND SECTION 46-15-100, RELATING TO AGRICULTURAL MARKETING GENERALLY, TO PROVIDE THAT ANY PERSON WHO VIOLATES PROVISIONS WITHIN THE BOUNDS OF ANY MARKET ESTABLISHED UNDER CHAPTER 15, TITLE 46 OR ARTICLE 1, CHAPTER 19, TITLE 46 IS GUILTY OF A MISDEMEANOR; TO AMEND SECTION 46-23-80, RELATING TO NOXIOUS WEEDS, TO PROVIDE THAT ANY PERSON WHO VIOLATES CHAPTER 23, TITLE 46 IS GUILTY OF A MISDEMEANOR; AND TO AMEND SECTION 46-49-70, RELATING TO THE SUPERVISION AND REGULATION OF MILK AND MILK PRODUCTS, TO PROVIDE THAT ANY PERSON VIOLATING CHAPTER 49, TITLE 46 IS GUILTY OF A MISDEMEANOR.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 46-33-90 of the 1976 Code is amended to read:

“Section 46-33-90. (A) For purposes of this section:

(1) ‘Nursery’ means any place where nursery stock is grown for sale.

(2) ‘Nursery stock’ means all fruit, nut, and shade trees, all ornamental plants and trees, bush fruits, buds, grafts, scions, vines, roots, bulbs, seedlings, slips, or other portions of plants (excluding true seeds) grown or kept for propagation, sale, or distribution.

(3) ‘Nurseryman’ means a person who operates a nursery for the production of nursery stock.

(4) ‘Registered nursery dealer’ means any person other than a grower of nursery stock who buys certified nursery stock for resale with annual sales of five thousand dollars or more, and any nurseryman who operates a sales lot separately from his nursery with annual sales of five thousand dollars or more. Registered and unregistered nursery dealers are required to produce sales records to agents of the commission upon request.

(5) ‘Hobbyist’ and ‘back yard gardener’ mean any person selling nursery stock who has less than five thousand dollars in gross sales per calendar year. Hobbyist and backyard gardeners are required to produce sales records to agents of the commission upon request. Hobbyist and back yard gardeners are exempt from registration.

(6) ‘Gross annual sales’ means the total sales of nursery stock or related live plant material made by a nursery or registered nursery dealer that occurs during a given calendar year.

(7) ‘Person’ means an individual, firm, corporation, partnership, association, state or federal agency, school, other ground, or organization.

(8) ‘Sales lot’ means the individual physical area or property where a nursery or registered nursery dealer grows, collects, or distributes nursery stock or related live plant material for sale.

(9) ‘Turfgrass’ means the top layer of earth comprised of grass leaf blades, stolons, thatch, and roots grown for commercial harvesting and sale such as sod, sprigs, or any other part thereof, excluding seed.

(10) ‘Turfgrass grower’ means any person engaged in the production of turfgrass.

(B) All persons engaged in sale or distribution of nursery stock must register with the commission and pay the fees required by this section. The commission is authorized to collect and retain fees from nursery inspection and registration, nursery dealer registration, plant pest inspection, and all other plant pest certification activities.

(C)(1) Nursery registration fees shall be on a graduated scale and may not exceed two hundred dollars per year. All registration certificates expire on September 30 and are renewable on or before October 1 annually. In cases where nursery stock is grown at more than one location by one nursery, the fees shall be based upon the nursery's aggregate number of acres in production of the nursery. In cases where the nursery consists of a combination of greenhouses and acreage, a single license fee must be assessed at the higher rate of the two categories.

~~(2)~~ ~~The following annual fee schedule is in effect:~~

~~Nursery registration fees:~~

~~(i)~~  ~~ten acres or less~~ ~~$~~ ~~75.00~~

~~(ii)~~ ~~greenhouses with less than six thousand~~

~~square feet~~ ~~$~~ ~~75.00~~

~~(iii)~~ ~~eleven to twenty‑five acres~~ ~~$~~ ~~125.00~~

~~(iv)~~ ~~greenhouses with six thousand to~~

~~thirty thousand square feet~~ ~~$ 125.00~~

~~(v)~~ ~~more than twenty‑five acres~~ ~~$~~ ~~200.00~~

~~(vi)~~ ~~greenhouses with more than thirty~~

~~thousand square feet~~ ~~$~~ ~~200.00~~

(2)(a) The following nursery registration fees shall be paid annually:

(i) Nursery stock, except turfgrass, with a production acreage of ten or less; greenhouses with less than six thousand square feet; or a turfgrass production acreage of two hundred fifty or less shall be $75.00.

(ii) Nursery stock, except turfgrass, with a production acreage of eleven to twenty-five; greenhouses with six thousand to thirty thousand square feet; or a turfgrass production acreage of two hundred fifty-one to five hundred shall be $125.00.

(iii) Nursery stock, except turfgrass, with a production acreage of twenty-five or more; greenhouses with more than thirty thousand square feet; or a turfgrass production acreage of five hundred one or more shall be $200.00.

(b) The following nursery dealer fees shall be paid annually:

(i) Nursery dealer locations for which annual gross sales equal $10,000.00 or less shall pay $0.00.

(ii) Nursery dealer locations for which annual gross sales are between $10,001.00 to $100,000.00 shall pay $50.00.

(iii) Nursery dealer locations for which annual gross sales are over $100,000.00 shall pay $100.00.

(D) Growers who produce transplants or seedlings grown solely for the purpose of being distributed for production of agricultural commodities must register with the commission but are exempt from nursery registration fees. No ornamental bedding plants or nursery stock may be grown in conjunction with exempt agricultural transplants unless the fees required by this section are paid.

(E) Governmental and nonprofit organizations which are not in the business of commercial sale of nursery stock are exempt from the payment of fees and registration required by this section; however, governmental and nonprofit organizations which are not in the business of commercial sale of nursery stock are subject to all commission rules and regulations. The Forestry Commission is exempt from paying fees required by this section. All persons selling Christmas trees from November to January who are not otherwise required by this section to either register or pay the fees are exempt from registering and paying the fees.”

SECTION 2. Section 46-9-90(A) of the 1976 Code is amended to read:

“Section 46-9-90. (A) A person violating this chapter or chapters assigned to ~~or regulations of~~ the commission is guilty of a misdemeanor and, upon conviction, must be fined not less than fifty nor more than five hundred dollars or imprisoned not less than ten nor more than thirty days for a first offense and for a second offense in the discretion of the court.”

SECTION 3. Section 46-10-100(A) of the 1976 Code is amended to read:

“Section 46-10-100. (A) A person who violates Section 46‑10‑60 or who alters, forges, counterfeits, or uses without authority a certificate, a permit, or other document provided for in this chapter ~~or in regulations of the commission~~ is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both, in the discretion of the court.”

SECTION 4. Section 46-13-180(1) of the 1976 Code is amended to read:

“Section 46-13-180. (1) Criminal Penalty. Any person who wilfully violates the provisions of this chapter, ~~or regulations promulgated pursuant thereto shall be deemed~~ including, but not limited to, working without the appropriate South Carolina Commercial Pesticide Applicator’s License or South Carolina Pest Control Business License, is guilty of a misdemeanor and, upon conviction, shall be punished as follows:

(a) For a first offense, by a fine of not more than one hundred dollars or imprisonment for not more than thirty days;

(b) For a second offense, by a fine of not more than five hundred dollars or imprisonment for not more than sixty days;

(c) For a third or subsequent offense, by a fine of not more than one thousand dollars or imprisonment for not more than ninety days.”

SECTION 5. Section 46-15-100 of the 1976 Code is amended to read:

“Section 46-15-100. Any person who shall, within the bounds of any market established under the provisions of this chapter and Article 1 of Chapter 19, violate any of the provisions hereof ~~or any rule or regulation promulgated hereunder shall be~~ is guilty of a misdemeanor, punishable by a fine of not exceeding one hundred dollars or imprisonment for not exceeding thirty days.”

SECTION 6. Section 46-23-80 of the 1976 Code is amended to read:

“Section 46-23-80. Any person who violates any provision of this chapter~~, or any regulation promulgated thereunder, shall be deemed~~ is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or both.”

SECTION 7. Section 46-49-70 of the 1976 Code is amended to read:

“Section 46-49-70. Any person violating any provision of this chapter ~~or any regulations or orders promulgated pursuant to this chapter or any license issued by the department~~ is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than twenty‑five dollars nor more than two hundred dollars or by imprisonment for not more than thirty days, and each day during which the violation continues is considered a separate violation.”

SECTION 8. Section 46-13-90(1) of the 1976 Code is amended by adding a new item to read:

“Q. Made a pesticide application or performed other activity without the proper South Carolina Commercial Pesticide Applicator’s License or South Carolina Pest Control Business License.”

SECTION 9. This act takes effect upon approval by the Governor.

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