

# SENATE BILL REPORT

## SB 6251

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As Passed Senate, February 8, 2000

**Title:** An act relating to horticultural plants and facilities.

**Brief Description:** Regulating horticultural plants and facilities.

**Sponsors:** Senators Rasmussen, Morton, Swecker and Stevens; by request of Department of Agriculture.

**Brief History:**

**Committee Activity:** Agriculture & Rural Economic Development: 1/17/2000, 1/24/2000 [DP].

Passed Senate, 2/8/2000, 47-0.

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### SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

**Majority Report:** Do pass.

Signed by Senators Rasmussen, Chair; T. Sheldon, Vice Chair; Gardner, Honeyford, Morton, Prentice, Snyder, Stevens and Swecker.

**Staff:** Bob Lee (786-7404)

**Background:** The horticultural plants inspection statutes were enacted in 1971. The Department of Agriculture must conduct inspections of horticultural plants to determine whether they are healthy and free of pests and diseases.

The program is funded by license fees paid by nursery dealers and from fees paid for requested inspections. Businesses that sell more than \$100 of plants annually are required to be licensed. These include commercial planting stock growers, garden centers, landscapers, greenhouse growers and others.

In addition to the responsibility to inspect horticultural plants for pests and diseases, there are a number of consumer protection functions listed in the statute, such as making false representations about the horticultural plant, including health, blooming time, planting instructions, normal appearance of plant, size of the root ball, and rareness of plant.

A second statute that addresses the control of pests that affect horticultural plants is the horticultural pest and disease board laws. This 1969 law provides for landowners to petition the county for the creation or abolishment of a horticultural pest and disease board. In existence are 13 boards covering 15 counties.

These boards have the following powers and duties in relation to horticultural pest and diseases: (a) to receive complaints; (b) to inspect parcels; (c) to order a landowner to control and prevent the spread of pests and diseases on his or her property; and (d) to control and prevent the spread and to charge the owner for the expense of such work.

Since 1915, counties have had authority to assess a horticultural tax— on taxable property as part of the annual property tax collected by the county and to deposit the revenue in the county current expense fund.

**Summary of Bill:** In addition to inspecting horticultural plants to determine whether they contain pests that will harm that plant species, authority is provided to also inspect to see whether they contain pests that can harm other plant species or the environment. Included in the definition of plant pest is any organism that threatens the diversity or abundance of native species.

Included in what is considered to be a horticultural facility is the area records required by this statute are stored. If access is denied to the horticultural facility, the department may request the court to issue a search warrant.

Deleted from the list of unlawful acts include making a number of false representations about the horticultural plant, including health, blooming time, planting instructions, normal appearance of plant, size of the root ball, and rareness of plant.

Turf is included as a horticultural product. The exemption for olericultural— plants is replaced with an exemption for potatoes, onions, and garlic plants.

Authority is provided for the department to:

- (a) intercept and return to the consigner any horticultural plants entering the state through the mail that are not in compliance with state regulations;
- (b) sample nursery products, review records and gather information during inspections;
- (c) enter into compliance agreements with nursery dealers;
- (d) withhold services to persons who fail to pay tree fruit assessments or commodity commission assessments.

No state court shall allow recovery of damages from administrative action, hold order, or condemnation order if the court finds there was probable cause for the administrative action.

To horticultural pest and disease board, specific authority to levy an assessment on lands is provided in addition to current authority to fund board activities from the county general fund derived from the horticultural tax.

If an assessment on land is used as a means of generating revenue to fund board activities, the assessment must be based on a classification including orchard lands, range lands, dry lands, nonuse lands, forest lands and federal lands. The horticultural pest and disease board is to forward to the board of county commissioners a proposal of the assessment level for each land class. The assessment rate must either be uniform per acre, a flat rate per parcel, or a flat rate per parcel plus a uniform rate per acre. If no benefits are found to accrue to a class of land, a zero assessment may be levied. After public hearing, the proposed assessment can be accepted by the board of county commissioners or referred back to the

horticultural pest and disease board for reconsideration of all or any portion of the proposed assessment.

A horticultural pest and disease board may enter into contracts and agreements with federal, state and local governments, Indian tribes or other organizations to perform duties pursuant to the identification, detection, control, or eradication of horticultural pests and diseases.

**Appropriation:** None.

**Fiscal Note:** Not requested.

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

**Testimony For:** Laws that control horticultural pests and diseases have not been updated in many years. The scope of inspections needs to be broadened to include inspection for pests that adversely affect plant species in addition to the one being inspected.

County horticultural pest and disease boards need specific authority and a process to establish assessments to fund county pest and disease control programs.

**Testimony Against:** None.

**Testified:** PRO: Bruce Briggs, W. S. M. & L. Assoc.; Mary Beth Lang, Tom Wessels, Department of Agriculture.