

CHAPTER 83.

[S. B. 244.]

IMPROVEMENT, CERTIFICATION OF PLANTING
STOCK—CROP IMPROVEMENT NURSERIES.

AN ACT relating to the improvement and certification of planting stock used for propagation purposes; and providing penalties.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. For the purpose of this act:

(1) "Department" means the department of agriculture of the state of Washington.

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Definitions.

(2) "Director" means the director of the department or his duly appointed representative.

(3) "Person" means a natural person, individual, or firm, partnership, corporation, company, society and association and every officer, agent or employee thereof. This term shall import either the singular or plural, as the case may be.

(4) "Plant pests" means, but is not limited to, any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, viruses or any organisms similar to or allied with any of the foregoing, or any infectious substance, which can directly or indirectly injure or cause disease or damage to any plant or parts thereof, or any processed, manufactured, or other products of plants.

(5) "Plant propagating stock" hereinafter referred to as "planting stock" includes any propagating materials used for the production or processing of horticultural, floricultural, viticultural or olericultural plants for the purpose of being sold, offered for sale or exposed for sale for planting or reproduction purposes: *Provided*, That it shall not include agricultural and vegetable seeds as defined in RCW 15.48.010, (2) and (3).

(6) "Certified plant stock" means the progeny of foundation, registered or certified plant stock if designated foundation and plant propagating materials that are so handled as to maintain satisfactory genetic identity and purity and have met certification standards required by this act and have been approved and certified by the director.

(7) "Foundation planting stock" means plant stock propagating materials that are increased from breeder or designated plant stock and are so handled as to most nearly maintain specific genetic identity and purity. Foundation plant stock, established by designation shall be that plant stock so designated by the director.

(8) "Breeder planting stock" means plant propagating materials directly controlled by the originating or in certain cases the sponsoring plant breeder or institution, which may include the department and which provides the source of the foundation plant stock.

(9) "Registered planting stock" means the progeny of foundation or registered planting stock or plant propagating material that is so handled as to maintain satisfactory genetic identity and purity and that has been approved and certified by the director. This class of planting stock shall be of a quality suitable for the production of certified planting stock.

Legal plant
certifying
officer—Rules
and regula-
tions.

SEC. 2. The director is hereby designated the legal plant certifying officer for the state and he may adopt the rules necessary to carry out the purpose and provisions of this act. All such rules shall be adopted pursuant to the provisions of chapter 34.04 RCW as enacted or hereafter amended concerning the adoption of rules.

Scope of rules.

SEC. 3. The director may adopt rules concerning but not limited to:

(1) The certification of planting stock as to variety, type, strain or other genetic character.

(2) The freedom of planting stock from infection by plant pests.

(3) Grades and classifications for the various varieties, types or strains of planting stock and standards and sizes for such grades and/or classifications.

(4) The labeling and identification of certified planting stock.

(5) The inspection of planting stock prior to planting, prior to and during harvest and subsequent to harvest.

SEC. 4. The director may acquire by purchase, gift, device, lease or rental, real property and any other type property, including any equipment, products or planting stock necessary to carry out the purpose of this act. Such real property shall be designated as Washington state crop improvement nurseries and may be located in remote or outlying areas where the breeder or foundation planting stock may be planted to better protect its genetic identity and freedom from plant pests.

Acquisition of property.

State crop improvement nurseries.

SEC. 5. The director may, for the purposes of maintaining and/or improving the genetic characteristics and freedom from plant pests of any foundation and breeder planting stock, make such foundation and breeder stock readily available to producers and commercial growers, acquire and plant such foundation and breeder planting stock for research and propagation.

Permissible activities.

SEC. 6. The director shall make available to producers who desire to produce certified or registered planting stock for their own use or to commercial growers of certified or registered planting stock any or all surplus planting stock: *Provided*, That the director may retain a large enough supply of such foundation and breeder planting stock so as to maintain or improve its genetic characteristics and make

Surplus planting stock available—
Sales, conditions of.

future supplies of such foundation and breeder planting stock readily available to producers and commercial growers of certified and registered planting stock. The director may sell such foundation and breeder stock and shall sell it at its actual cost to the department, as determined by the director. A condition of the sale may be that the purchaser may only use such foundation and breeder planting stock for the purpose of producing certified or registered planting stock and that it may be inspected by the director whenever necessary during its growing period or at harvest time or subsequent to harvest for certification if it is found to meet the requirements of this act and rules adopted hereunder for certified or registered planting stock.

SEC. 7. The director may, subject to rules adopted under the provisions of this act:

Issuance of certificates.

(1) Subsequent to inspection of certified or registered planting stock prior to planting and inspection during its growth and harvest and subsequent to harvest issue certificates stating that such planting stock is certified or registered planting stock.

Taking of samples.

(2) Take samples in reasonable amounts as necessary of planting stock certified or registered under the provisions of subsection 1 of this act for the purpose of checking and testing to see if such certified and registered planting stock is maintaining its genetic characteristics and freedom from plant pests. Such samples of certified or registered planting stock shall be planted and checked in Washington state crop improvement nurseries. Reports of the results of the test plantings shall be made available to the producers or commercial growers of certified or registered planting stock forthwith.

Planting stock area authorized.

SEC. 8. The director may, subsequent to obtaining real property in a remote area for the purpose of establishing a Washington state crop improvement nursery, establish a planting stock area for the

purpose of maintaining genetic qualities of planting stock and their freedom from plant pests. Such a planting stock area may be established only in areas where no commercial production of the planting stock to be planted in such Washington state crop improvement nursery is planted. No planting stock area shall be established until the director has published in a newspaper of general circulation, his intent to establish such planting stock area in the county or counties where it is to be located, once each week for three successive weeks, and that a public hearing will be held, within ten days subsequent to the last publication of such notice, for the purpose of determining the feasibility of establishing such a planting stock area. Such hearing shall be subject in addition to the foregoing requirements, to the provisions of chapter 34.04 as enacted or hereafter amended concerning contested cases. The director may in addition to the notice by publication use any other media to inform the public of his intent to establish a planting stock area.

Notice—
Hearing.

SEC. 9. No person shall make commercial plantings of any plants in a planting stock area which might affect the genetic characteristics of foundation or breeder planting stock in the Washington state crop improvement nursery located in such area, or any plantings of plants which may cause such foundation or breeder planting stock to become infested with plant pests without first obtaining a permit from the director. The director may refuse to issue such a permit if he determines subsequent to a hearing as provided for contested cases in chapter 34.04 as enacted or hereafter amended, that such plantings may endanger the planting stock located in such nursery.

Permits for
planting.

SEC. 10. The director shall by rule establish reasonable fees which may be charged by the department for the inspection, testing and certification of

Fees.

planting stock certified, registered, foundation or breeder planting stock.

Acceptable foundation or breeder seed.

SEC. 11. The director may accept for certification as foundation or breeder seed any plant material grown or produced by Washington State University, the United States department of agriculture or propagators whose plant materials are produced in conformance with the requirements of this act and rules adopted hereunder. Such propagators' plant materials shall have been under the observation of the director for a period of not less than one year pursuant to periodic inspections by the director before he may certify them as foundation or breeder planting stock.

Intergovernmental cooperation.

SEC. 12. The director may cooperate with and enter into agreements with Washington State University, experimental stations, governmental agencies of this state, other states and agencies of the federal government in order to carry out the purpose and provisions of this act.

Disposition of moneys received.

SEC. 13. All the moneys collected by the director under the provisions of this act shall be paid into the northwest nursery fund as created in RCW 15.69.020 and shall be used by the director only to carry out the provisions of this act.

Unlawful use of planting stock.

SEC. 14. It shall be unlawful for any person to sell, offer for sale, hold for sale, label, identify, represent or to advertise any planting stock as being certified, registered, foundation or breeder planting stock unless it has been inspected by the director and he has issued a certificate stating that such planting stock has met the requirements of this act and rules adopted hereunder and that it is properly identified and labeled.

Injunctive process available.

SEC. 15. The director may bring an action to enjoin the violation or threatened violation of any provision of this act or any rule adopted pursuant

to this act in the superior court of Thurston county, notwithstanding the existence of other remedies at law.

SEC. 16. The provisions of this act shall be cumulative and nonexclusive and shall not affect any other remedy. Construction
—Act non-
exclusive.

SEC. 17. The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this act becomes effective. Savings

SEC. 18. If any provisions of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected. Severability.

Passed the Senate February 7, 1961.

Passed the House March 1, 1961.

Approved by the Governor March 8, 1961.

CHAPTER 84.

[S. B. 262.]

FLOOD CONTROL.

AN ACT relating to state and local participation in flood control; and amending section 4, chapter 240, Laws of 1951 and RCW 86.26.020.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 4, chapter 240, Laws of 1951 and RCW 86.26.020 are each amended to read as follows: RCW 86.26.020
amended.

State participation in flood control construction, maintenance, and betterments shall be with corporate municipalities subject to flood conditions, namely, with counties, counties acting jointly, cities, State partici-
pation in flood
control
maintenance.