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States' Noxious Weed Laws:

Alabama



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A National Agricultural Law Center Research Publication
States' Noxious Weed Regulations: Alabama

Alabama Administrative Code

80-10-14-.01. Determination of Problem and Establishment of Quarantine

(1) It has been found and determined that certain noxious weeds defined as plant pests under provisions of Section 2-25-1(2) Code of Ala. 1975 exist in limited areas of Alabama and other states, or have the potential to enter Alabama from other states and foreign countries. It has also been found and determined that noxious weeds would be extremely injurious to Alabama's horticultural, agricultural, aquatic, forestry, wildlife, tourism and recreational industries should they be introduced or further disperse within the state and that a quarantine against said noxious weeds would be in the best interests of the state of Alabama.

(2) Due to the above findings and determination, a quarantine against noxious weeds defined herein is hereby established.

80-10-14-.02. Definitions

For the purposes of this quarantine, the following definitions shall apply:

(1) Administrator - The Plant Pest Administrator of the Alabama Department of Agriculture and Industries, Plant Protection Section.

(2) Board - The State of Alabama, Board of Agriculture and Industries.

(3) Certificate - A document issued by an Inspector to allow the movement of non contaminated regulated articles to any destination.

(4) Class A - Any noxious weed on the Federal Noxious Weed List, or any noxious weed that is not native to the State, not currently known to occur in the State, and poses a serious threat to the State.

(5) Class B - Any noxious weed that is not native to the State, is of limited distribution statewide, and poses a serious threat to the State.

(6) Class C - Any other designated noxious weed which poses harm to Alabama's various industries.

(7) Commissioner - The Commissioner of the State of Alabama, Department of Agriculture and Industries or his authorized representative.

(8) Compliance Agreement - A written agreement between a person engaged in growing, handling, or moving regulated articles and the State of Alabama, Department of Agriculture and Industries, Plant Protection Section, wherein the former agrees to comply with the requirements of the compliance agreement.

(9) Infestation - The presence of a noxious weed in any stage of development, including but not limited to seed and rhizomes the presence of which shall be considered evidence of a noxious weed.

(10) Inspector - Any authorized employee of the State of Alabama, Department of Agriculture and Industries, Plant Protection Section, or any other person authorized by the Commissioner to enforce the provisions of this chapter.

(11) Limited Permit - A document issued by an Inspector to allow the movement of noncertified regulated articles to a specified destination for special handling, utilization, or processing, or for treatment.

(12) Noxious Weed - Any living stage, including, but not limited to, seeds and productive parts of a parasitic or other plant of a kind, or subdivision of a kind, which may be a serious agricultural threat in Alabama. Evidence of noxious weed shall be considered a public nuisance.

(13) Regulated Article - Any noxious weed or any article listed herein which is capable of carrying a noxious weed.

(14) Regulated Area - Any state or territory or any portion thereof of the United States described herein which is infested with a noxious weed.

(15) Scientific Permit - A document issued by the Administrator to authorize the movement of regulated articles to a specified destination for scientific purposes.

80-10-14-.03. Quarantine Imposed

Upon the findings and determinations set out in Rule No. 80-10-14-.01, it is Hereby Declared under the provisions of Section 2-25-4, Code of Ala. 1975, that a quarantine be imposed upon the noxious weeds set out in this quarantine, subject to the conditions imposed by this quarantine.

80-10-14-.04. Noxious Weeds

For the purposes of this quarantine, the following articles are hereby deemed to be regulated:

(1) Class A **Noxious Weeds**.

(a) All **weeds** listed in 7 C.F.R. 360.200 Federal **Noxious Weed** List, the same of which is hereby incorporated by reference herein including its subsequent amendments and editions.

(b) Garlic mustard (Alliaria petiolata)

(c) Air-potato (Dioscorea bulbifera)

(d) Old world climbing fern (Lygodium microphyllum)

(e) Mile-a-minute (Polygonum perfoliatum)

(f) Coltsfoot (Tussilago farfara)

(2) Class B **Noxious Weeds**.

(a) Japanese climbing fern (Lygodium japonicum)

(b) Purple loosestrife (Lythrum salicaria)

(c) Skunk vine (Paederia foetida)

(3) Class C **Noxious Weeds**.

(a) Alligatorweed (Alternanthera philoxeroides)

(b) Balloon vine (Cardiospermum halicacabum)

(c) Brazilian elodea (Egeria densa)

(d) Curlyleaf pondweed (Potamogeton crispus)

(e) Floating waterhyacinth (Eichornia crassipes)

(f) Hairy crabgrass, mulberry **weed** (Fatoua villosa)

(g) Mary's grass, Japanese grass (Microstegium vimineum)

(h) Parrotfeather, watermilfoil (Myriophyllum aquaticum)

(i) Eurasian watermilfoil (Myriophyllum spicatum)

- (j) Star of Bethlehem (Ornithogalum umbellatum)
- (k) Torpedo grass (Panicum repens)
- (l) Phragmites, common reed (Phragmites australis)
- (m) Longstalked phyllanthus (Phyllanthus tenellus)
- (n) Chamberbitter, niuri (Phyllanthus urinaria)
- (o) Japanese knotweed, Japanese bamboo (Polygonum cuspidatum)
- (p) Multiflora rose (Rosa multiflora)
- (q) Spinyleaf naiad (Najas minor)
- (r) Water-aloe (Stratolotes aloides)
- (s) Water-lettuce (Pistia stratiotes)
- (t) Water Chestnut (Trapa natans)

80-10-14-.05. Regulated Areas

- (1) Except as permitted in 80-10-14-.07 and 80-10-14-.08 below, the following is prohibited:
 - (a) The movement of Class A, B, or C noxious weeds or any regulated article infested with Class A, B, or C noxious weeds into or within Alabama is prohibited.
- (2) Other regulated areas.
 - (a) The Commissioner may take action as authorized under 2-25-4 and 2-25-5, Code of Ala. 1975 to designate as a regulated area any state or portion of a state in which there is reasonable cause to believe that a noxious weed exists, and there is an immediate need to prevent its introduction, spread or dissemination in Alabama.
 - (b) The Commissioner may take action as authorized under 2-25-4 and 2-25-5 Code of Ala. 1995 to designate as a regulated area any county or portion thereof of the state of Alabama in which there is reasonable cause to believe that a noxious weed exists, and there is an immediate need to prevent its dissemination within Alabama.

80-10-14-.06. Regulated Articles

The following articles are regulated under the provisions of this Section:

- (1) Soil, compost, peat, humus, muck, decomposed manure, sand, and gravel, either separately or mixed with other articles; except that potting soil commercially prepared and free of noxious weed seed, packaged and shipped in original containers is not a regulated article;
- (2) Nursery stock including growing media (houseplants grown in a home and not for sale are excluded);
- (3) Grass sod;
- (4) Used mechanized soil-moving equipment, cultivating equipment and harvesting machinery, except when decontaminated and cleaned free of soil;
- (5) Hay, straw, or other material of a similar nature;

(6) Any means of conveyance of any noxious weed when such conveyance is determined by the Administrator to present a hazard of spread of noxious weeds and the person in possession of such conveyance has been so notified.

80-10-14-.06. Regulated Articles

The following articles are regulated under the provisions of this Section:

(1) Soil, compost, peat, humus, muck, decomposed manure, sand, and gravel, either separately or mixed with other articles; except that potting soil commercially prepared and free of noxious weed seed, packaged and shipped in original containers is not a regulated article;

(2) Nursery stock including growing media (houseplants grown in a home and not for sale are excluded);

(3) Grass sod;

(4) Used mechanized soil-moving equipment, cultivating equipment and harvesting machinery, except when decontaminated and cleaned free of soil;

(5) Hay, straw, or other material of a similar nature;

(6) Any means of conveyance of any noxious weed when such conveyance is determined by the Administrator to present a hazard of spread of noxious weeds and the person in possession of such conveyance has been so notified.

80-10-14-.07. Conditions Governing the Movement of Regulated Articles

(1) A certificate or permit must accompany the movement of regulated articles from regulated areas into Alabama.

(2) A certificate or permit must accompany the movement of regulated articles from a regulated area in Alabama to a non-regulated area in Alabama.

80-10-14-.08. Issuance of Certificates and Limited Permits

(1) Certificates may be issued by an inspector for the movement of regulated articles under the following conditions:

(a) In the judgment of the inspector, they have not been exposed to infestation.

(b) They have been examined and found to be free of noxious weeds.

(c) They have been treated under the direction of the inspector with approved control measures known to be effective under the conditions applied.

(d) They have been grown, produced, stored, or handled in such a manner that, in the judgment of the inspector, designated noxious weeds would not be transmitted by movement of the article.

(2) Limited permits may be issued by an inspector for the movement of noncertified regulated articles to specified destinations for limited handling utilization, processing or treatment when the inspector determines no hazard of spread of noxious weeds exists.

(3) Scientific permits may be issued by the Administrator to allow the movement of noxious weeds in any living stage and any regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Administrator.

(4) Fumigation certificates, which insure the pest-free premises of nurseries growing seedlings for afforestation and reforestation purposes, shall be issued by an inspector for intrastate and interstate shipments of conifer and hardwood seedlings. To insure pest-free plant material, the preferred method of treatment is fumigation using methyl bromide in seedling plant beds prior to seedling. Each shipment originating from another state shall be accompanied by a fumigation certificate issued by the state of origin to verify treatments.

(5) As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the Administrator.

80-10-14-.08. Issuance of Certificates and Limited Permits

(1) Certificates may be issued by an inspector for the movement of regulated articles under the following conditions:

(a) In the judgment of the inspector, they have not been exposed to infestation.

(b) They have been examined and found to be free of noxious weeds.

(c) They have been treated under the direction of the inspector with approved control measures known to be effective under the conditions applied.

(d) They have been grown, produced, stored, or handled in such a manner that, in the judgment of the inspector, designated noxious weeds would not be transmitted by movement of the article.

(2) Limited permits may be issued by an inspector for the movement of noncertified regulated articles to specified destinations for limited handling utilization, processing or treatment when the inspector determines no hazard of spread of noxious weeds exists.

(3) Scientific permits may be issued by the Administrator to allow the movement of noxious weeds in any living stage and any regulated articles for scientific purposes under such conditions as may be prescribed in each specific case by the Administrator.

(4) Fumigation certificates, which insure the pest-free premises of nurseries growing seedlings for afforestation and reforestation purposes, shall be issued by an inspector for intrastate and interstate shipments of conifer and hardwood seedlings. To insure pest-free plant material, the preferred method of treatment is fumigation using methyl bromide in seedling plant beds prior to seedling. Each shipment originating from another state shall be accompanied by a fumigation certificate issued by the state of origin to verify treatments.

(5) As a condition of issuance of certificates or limited permits for the movement of regulated articles, any person engaged in purchasing, assembling, exchanging, handling, processing, utilizing, treating, or moving such articles may be required to sign a compliance agreement stipulating that he will maintain such safeguards against the establishment and spread of infestation and comply with such conditions as to the maintenance of identity, handling and subsequent movement of such articles, and the cleaning and treatment of means of conveyance and containers used in the transportation of such articles as may be required by the Administrator.

80-10-14-.09. Cancellation of Certificates and Limited Permits

Any certificate, limited permit, scientific permit or compliance agreement which has been issued or authorized may be canceled by the Administrator or the inspector if he determines that the holder has not complied with conditions for its use.

80-10-14-.10. Inspection and Disposal

Any inspector is authorized to stop and inspect, any person or means of conveyance moving within or from the State of Alabama upon probable cause to believe that such means of conveyance or articles are infested with a noxious weed; and, such inspector is authorized to seize, treat, or otherwise dispose of articles found to be moving in violation of these rules.

80-10-14-.11. Development of Specific Control on Eradication Programs

Due to the great variation and diversity of noxious weeds and habitats in which noxious weeds might be detected, the Administrator is authorized to develop and implement control and/or eradication strategies as necessary to protect the State's agricultural, horticultural, aquacultural wildlife, tourism, forestry and recreational industries.

80-10-14-.12. Violations

Any person violating the provisions herein shall be subject to the penalties imposed under Section 2-25-22, Code of Ala. 1975.

80-10-14-.13. Federal Rules Adopted

The Noxious Weed Regulations of the Code of Federal Regulations ([7 CFR 360.200](#)), revised as of January 1, 1999, as they are now written or as the same may hereafter be revised or amended, are hereby expressly adopted by reference thereto as a part of these regulations. Copies of this reference may be obtained from the Administrator.

States' Noxious Weed Statutes: Alabama

Code of Alabama

§ 2-25-1. Definitions

When used in this article, the following terms shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1)

PLANT PEST. Any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or reproductive parts thereof, or viruses, or any organisms similar to or allied with any of the foregoing, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants or parts thereof or any processed, manufactured, or other products of plants and which may be a serious agricultural or horticultural threat in Alabama. Evidence of a plant pest shall be considered a public nuisance.

(2)

NOXIOUS WEED. Any living stage, including, but not limited to, seeds and productive parts of a parasitic or other plant of a kind, or subdivision of a kind, which may be a serious agricultural threat in Alabama. Evidence of noxious weed shall be considered a public nuisance.

(3)

PLANTS and PLANT PRODUCTS. Trees, shrubs, vines, forage and cereal plants and all other plants, cuttings, grafts, scions, buds and all others parts of plants and fruit, vegetables, roots, bulbs, tubers, seeds, wood, lumber, and all other products made therefrom.

(4)

NURSERY STOCK. All plants, trees, shrubs, vines, cuttings, grafts, scions and buds grown or kept for or capable of propagation, distribution or sale, unless specifically excluded by the rules and regulations promulgated pursuant to this article.

(5)

NURSERY. Any grounds or premises on or in which nursery stock is grown or propagated for sale or distribution.

(6)

NURSERYMAN. Any person engaged in the production of nursery stock for sale or distribution to include any person who obtains nursery stock for the purpose of growing it to a more mature size over a period of one growing season or more.

(7)

DEALER. Any person not a grower of nursery stock who buys, receives on consignment or otherwise acquires and has in his possession nursery stock for the purpose of offering or exposing for sale, reselling, reshipping or distributing same. A person from out of state selling nursery stock directly to the public from a vehicle or from any other location within the state shall be considered a dealer whether such nursery stock is grown by him or not, and such person must comply with all requirements pertaining to the sale of nursery stock in Alabama. It shall include any person who is authorized to represent a nurseryman, another dealer or another agent in soliciting wholesale or retail orders for the sale of nursery stock, but who keeps no

nursery stock on hand for sale, display or advertising purposes or for delivery at the time an order is taken.

(8)

PLACES. Vessels, railroad cars, automobiles, aircraft, and other vehicles, buildings, docks, nurseries, orchards and other premises where plants or plant products are grown, kept or handled.

(9)

INFESTATION. The actual presence of plant pests and/or noxious weeds or the existence of circumstances that make it reasonable to believe plant pests and/or noxious weeds are present.

(10)

COMMISSIONER. The Commissioner of Agriculture and Industries or his authorized representatives.

(11)

BOARD. The State Board of Agriculture and Industries.

(12)

PERSON. Any individual, corporation, company, society, association or other business entity.

(13)

DISTRIBUTION. The movement of nursery stock from the property where it is grown or kept to any other property that is not contiguous thereto, regardless of the ownership of the properties concerned.

§ 2-25-2. Purposes of article

The purposes of this article are to prevent the introduction into and dissemination within this state of plant pests and noxious weeds injurious to plants and plant products of this state, to provide for the inspection and control of nurseries and the regulation of the sale and distribution of plants and plant products and to prescribe the powers and duties of the board and commissioner relative thereto.

§ 2-25-3. Power and duty of commissioner as to protection of agricultural and horticultural interests from plant pests and noxious weeds generally

It shall be the duty of the commissioner to protect the agricultural and horticultural interests of the state from plant pests and noxious weeds; and, to that end, he is vested with power and authority to:

(1)

Inspect or cause to be inspected by duly authorized employees, plants, plant products, places or other things and substances that may, in his opinion, be capable of disseminating or carrying plant pests or noxious weeds, and, for this purpose, he shall have power to enter into or upon any place and to open any bundle, package or other container containing or thought to contain plants or plant products or other things capable of disseminating or carrying plant pests or noxious weeds;

(2)

Supervise or cause the treatment, cutting and destruction of plants, plant parts, fruit, soil, containers, equipment, and other articles capable of harboring plant pests or noxious weeds if they are infested or located in an area which may be suspected of being infested or infected due to its proximity to a known infestation or infection, or if they come from a situation where they

are reasonably exposed to infestation or infection when necessary to prevent or control the dissemination of plant pests or noxious weeds, or to eradicate same and to prescribe rules and regulations therefor;

(3)

Inspect or cause to be inspected all nurseries in the state at such intervals as he may deem best;

(4)

Demand of any person who has plants or plant products or other things likely to carry plant pests or noxious weeds in his possession to give full information as to the origin and source of same, and it shall be a Class "C" misdemeanor for such person to refuse to give the information demanded, if able to do so;

(5)

Declare a plant pest or noxious weeds to be a public nuisance as well as any plant or other thing infested or infected therewith or that has been exposed to infestation or infection and therefore likely to communicate same;

(6)

Intercept and inspect while in transit or after arrival at destination all plants, plant products or other things likely to carry plant pests or noxious weeds being moved in this state or brought into this state from another state, territory or foreign country, and, if upon inspection, the same is found to be infested or infected with a plant, pest or noxious weed, or if such material is believed to be likely to communicate or transmit same or is being transported in violation of any of the rules and regulations of the commissioner, then said plants, plant products or other things may be treated when necessary and released, returned to the sender or destroyed, such disposition to be determined under rules and regulations to be prescribed by the board and commissioner;

(7)

Purchase all necessary materials, supplies, office and field equipment and other things and to make such other expenditures as may be essential and necessary in carrying out the provisions of this article;

(8)

Enforce the provisions of this article and the rules and regulations made pursuant thereto by writ of injunction in the proper court as well as by criminal proceedings;

(9)

To enter into cooperative arrangements with any person, municipality, county, and other department of this state and boards, officers, and authorities of other states and the United States for inspection with reference to plant pests and noxious weeds for the control and eradication thereof or to enter into cooperative agreements as above, for the production and distribution of organisms, pesticides, chemical compounds, or other methods of control investigated, discovered, or developed. The commissioner may accept a royalty or other remuneration for his services or contribution, which shall be deposited into the Agricultural Fund for use in furtherance of this article; and

(10)

To conduct hearings, administer oaths, to compel appearance of persons and any books, documents or records by subpoena or subpoena duces tecum, to examine any books or records kept by nurserymen or dealers in nursery stock which pertain to the business of handling, growing, distributing, selling, or any other activity involving plants, plant products, or nursery stock regulated by this article.

§ 2-25-4. Power and duty of board as to protection of agricultural and horticultural interests from plant pests and noxious weeds generally

It shall be the duty of the board to protect the agricultural and horticultural interests of the state and, to that end, it is vested with power and authority to:

(1)

Make all such rules and regulations governing nurseries and the movement of nursery stock therefrom or the introduction of nursery stock therein as it may deem necessary to the eradication, control or prevention of the dissemination of plant pests or noxious weeds;

(2)

Make rules and regulations to govern the grading, marking, sale and distribution of nursery stock by dealers and nurserymen;

(3)

Provide rules and regulations under which nursery stock may be brought into this state from other states, territories and foreign countries;

(4)

Make such rules and regulations with reference to plants and plant products while in transit through this state as may be deemed necessary to prevent the introduction into or dissemination within this state of injurious plant pests and noxious weeds;

(5)

Declare a quarantine against any area, place, nursery, grove, orchard, county or counties within this state, other states, territories, foreign countries or portions thereof in reference to plant pests or noxious weeds and prohibit the movement within this state or any part thereof or the introduction into this state from other states, territories or foreign countries of all plants, plant products or other things from such quarantined places or areas which are likely to carry such plant pests and noxious weeds if such quarantine is determined, after due investigation, to be necessary in order to protect the agricultural and horticultural interests of this state. In such cases the quarantine may be made absolute or rules and regulations may be adopted prescribing the method and manner under which the prohibited articles may be moved into or within, sold or otherwise disposed of in this state; and

(6)

Make and publish reasonable rules and regulations regarding the application for the issuance, or revocation of certificates of inspection, under Section 2-25-6.

§ 2-25-5. Exercise of quarantine powers of board by commissioner

All powers and authority as to the declaration and imposition of quarantines granted in Section 2-25-4 to the board may be exercised by the commissioner, acting independently of the board, during the intervening time between the meetings of the board; provided, that when the same are exercised by the commissioner, such quarantines shall be subject to review by the board, which shall have the power to revoke or annul the same; but, until so revoked or annulled by the board, all such quarantines of the commissioner shall be held legal and binding and of full force and effect.

§ 2-25-6. Inspection certificate required for nurserymen and dealers in nursery stock; fees

(a)

(1)

Before any nurseryman or dealer in nursery stock may sell, offer, or expose for sale or distribution in this state any nursery stock, he or she shall apply for and obtain from the commissioner an inspection certificate indicating compliance with the provisions of this article and the rules and regulations promulgated thereunder. The inspection certificate shall, among other requirements, be based upon an inspection conducted by the commissioner of the nursery stock and the area where it is kept, stored or grown. The inspection certificate issued by the commissioner shall expire on September 30 and shall be renewable on or before October 1 for the succeeding fiscal year.

(2)

Where nursery stock is grown at more than one location by one nurseryman, fees shall be based upon the previous year's volume of sales, and established by rule of the Board of Agriculture and Industries, and the fees shall be deposited to the credit of the Agricultural Fund in the State Treasury.

(b)

(1)

Each application for a certificate of inspection shall be accompanied by an inspection fee. The fees shall be determined by the board by rule based upon the previous year's volume of sales, but in no event shall the board prescribe fees in excess of two hundred thirty dollars (\$230), nor less than fifty dollars (\$50) for any one certificate as follows:

Previous Year's Gross Sales of Production

Maximum Fee for Range

less than \$100,000

\$50.00

\$100,000 to \$500,000

\$100.00

\$500,000 to \$1,000,000

\$150.00

more than \$1,000,000

\$230.00

(2)

Certain public agencies designated by the board may, in the board's discretion, be exempt from the requirements of an inspection fee, although all other requirements for a certificate of inspection shall be met by the public agency. Delinquent fees shall be handled as provided under Section 2-9-2, but operating as a nurseryman or dealer without a valid and up-to-date certificate of inspection is a violation of the provisions of this article and will be handled accordingly.

(c)

Before any nurseryman or dealer in nursery stock may sell, offer or expose for sale or distribution any nursery stock, such person shall file with the commissioner a duplicate certificate of inspection issued by the official certifying agency of the state or country where the nursery stock is grown together with the inspection certificate fee which shall be an amount not to exceed twenty dollars (\$20), the fee to be deposited to the credit of the Agricultural Fund in the State Treasury. The inspection certificate shall expire on September 30 of each year and be

renewable as of October 1; provided, that the commissioner may enter into reciprocal agreements with the certifying agency of other states whereby no certificate or permit fee is required, provided Alabama nurserymen and dealers who otherwise qualify are permitted to ship nursery stock into such states without having to pay a fee for an inspection certificate or permit granting that privilege and provided further, that the commissioner shall find that the inspection standards of that state are equal to those required by the Alabama law and rules and regulations of the Department of Agriculture and Industries.

§ 2-25-8. When commissioner may refuse, recall or revoke inspection certificates

The commissioner shall have the power to refuse to issue an inspection certificate or to recall or to revoke any certificate already issued when he shall have reasonable cause to believe that the applicant for or holder of said certificate may tend to introduce into the state or disseminate within this state plant pests or noxious weeds injurious to plants and plant products of this state, or if an applicant or holder of said certificate is selling, offering to sell, distributing or offering to distribute nursery stock in violation of this article or the rules and regulations promulgated thereunder.

The commissioner may also refuse to certify or revoke or suspend existing certification of any nursery stock or plant product when it has been determined that plant pests and/or noxious weeds exist on said stock or product, or that the nursery or site is in such condition with regard to growth and cultivation that an adequate inspection for plant pests cannot be made.

§ 2-25-9. Affixation of official tags to boxes, packages, etc., in which nursery stock shipped; furnishing of official tags; confiscation of boxes, packages, etc., shipped into state without official tags

Each box, bundle or package of nursery stock moved into or within the State of Alabama shall have a valid official tag bearing a copy of the certificate of inspection and seal of the Department of Agriculture and Industries conspicuously attached. Official tags will be furnished at cost through the commissioner. Certificate tags are not required on local retail sales where such sales are made directly to the ultimate user of such nursery stock. Each box, bundle or package of nursery stock shipped into or within Alabama by any person shall bear a valid certificate tag, and shipments of stock not thus tagged shall be liable to confiscation by the commissioner.

§ 2-25-10. Introduction into state of live plant pests, etc., or specimens of disease injurious to plants; special permit

The introduction into this state of any live plant pest, noxious weed, or any regulated articles, or specimen of any disease injurious to plants, except under a special permit issued by the commissioner is hereby prohibited. He shall be the sole issuing agency for such special permits.

§ 2-25-11. Common carriers, etc., not to accept for shipment or deliver nursery stock, etc., without official tags, etc

No transportation company or common carrier shall accept from any shipper or person or deliver to any consignee nursery stock or other plants or plant products named in the regulations of the State Board of Agriculture and Industries which do not bear the official tag issued by the commissioner or the inspection tag of the federal Plant Quarantine and Control Administration.

§ 2-25-12. Common carriers not to be liable for damages for refusal to receive, deliver, etc., boxes, packages without official tags, etc

No common carrier shall be liable for damages to the consignee or consignor for refusing to receive, transport or deliver such trees, packages or boxes, when not accompanied by the tag or certificate as provided in Section 2-25-11.

§ 2-25-13. Movement, sale, etc., into state or within state of plants, plant products, etc., during quarantines; confiscation by commissioner; plants, etc., moved into quarantined area

Whenever the board or commissioner under the provisions of this article shall declare a quarantine against any place, nursery, grove, orchard, county or counties of this state, other states, territories or foreign countries as to plant, pest, or noxious weed, it shall be unlawful thereafter until such quarantine is removed for any person to introduce into this state or to move, sell or otherwise dispose of within this state any plant, plant product or other thing included in such quarantine, except under such rules and regulations as may be prescribed by the board or commissioner.

Any plant, plant product, or other thing included under a quarantine which is moved, sold, or otherwise disposed of within the state in violation of this section, and any plant propagated from such plant, plant product, or other thing, shall be declared contraband and confiscated and destroyed by the commissioner without compensation to anyone.

Any plant, plant product, or other thing moved into a quarantined area shall itself be quarantined and subject to all restrictions of the quarantine.

§ 2-25-13.1. Sale of plants or nursery stock which is not viable unlawful; "viable" defined

It shall be unlawful to sell or offer for sale any plants or nursery stock unless such plants or nursery stock are viable and meet the basic requirements of a viable plant or viable nursery stock at the time and place of sale. Nursery stock or plants that are capable of living and accomplishing the purpose for which they are grown, whether foliage, flowers, fruit or special use, shall be considered viable. The basic requirements of viable nursery stock or viable plants are as follows:

(1)

They must be free of physiological and pathological defects to the extent that all essential parts may function normally.

(2)

The root system must have adequate roots or the ability to produce them to support normal performance of all essential parts of the plant. The root system must be adequately protected to prevent excessive loss of moisture while in storage and transit.

(3)

The trunk and branches must be capable of transporting fluids throughout the plant and be free from any infirmity of a permanent nature which would interfere with this function. Any damaged branches must be capable of being pruned without seriously deterring growth of the plant.

(4)

The leaves must be capable of performing essential manufacturing functions, such as photosynthesis. In the case of deciduous plants, when void of leaves, they must have the ability to put out new leaves capable of functioning normally.

§ 2-25-14. Sale, carriage, shipment, etc., of nursery stock by nurserymen or dealers

It shall be unlawful for any nurseryman or dealer to sell, give away, carry, ship or deliver for carriage or shipment any nursery stock except in compliance with the provisions of this article and the rules and regulations made pursuant thereto.

§ 2-25-15. Importation, sale, possession, etc., of fruits, nuts, etc., infested or infected with plant pests or noxious weeds likely to cause damage

It shall be unlawful for any person to import, sell, give away or have in possession for sale or barter fruits, nuts, vegetables, flowers of any kind, or plants or plant products in the State of Alabama that are infested or infected with plant pests or noxious weeds of a kind and to such an extent that it is likely to cause serious damage to products susceptible to the plant pests or noxious weeds.

§ 2-25-15.1. Receipt of plants, nursery stock, etc., not in compliance with law by common carriers, et alia; duty to inform commissioner and isolate and hold item

Any person, including a common carrier, who receives plants, plant products, nursery stock, or other things sold, given away, carried, shipped, or delivered by carriage or shipment within this state, as to which provisions of this article and the rules and regulations adopted pursuant thereto have not been complied with, shall immediately inform the commissioner and isolate and hold the plant, plant product, nursery stock or other thing unopened or unused subject to such inspection or other disposition as may be provided by the commissioner.

§ 2-25-16. Throwing cuttings, prunings, etc., into public roads, fields, etc.; destruction of cuttings, prunings, etc., containing plant pests or noxious weeds

It shall be unlawful for any person owning or operating any nursery or fruit orchards of any kind to throw any cuttings or prunings of any fruit trees, nursery stock or ornamental trees or any fruit

if said cuttings, prunings or fruit contain plant pests or noxious weeds into any public road, highway, lane, field or other enclosure or into any watercourse of any kind. Any of the above cuttings or prunings or fruit shall be destroyed with fire or by other methods approved by the commissioner within a reasonable time from the time such cuttings or prunings are made.

§ 2-25-17.1. Procedures to be used when plant, nursery stock, etc., found to contain plant pests or noxious weeds; commissioner's power, upon notice, to order removal, destruction or treatment; refusal of owner to comply; liability for cost of treatment or destruction

If the commissioner finds, on examination, any plant, plant product or nursery stock infested or infected with plant pests or noxious weeds, he shall notify in writing the owner or persons having charge of such premises to that effect, and the owner or person in charge shall, within 10 days after such notice, unless an appeal is taken as provided in this article, cause the removal and destruction of the infested and infected plant or plant product if it is incapable of successful treatment; otherwise, such owner or person in charge shall cause it to be treated as directed in the order of the commissioner. No indemnity shall be awarded to the owner for complying with the above notice or orders of the commissioner.

In case the owner or person in charge shall refuse or neglect to comply with the terms of the order within 10 days after receiving it, the commissioner may proceed to treat or destroy the infested or infected plant or plant product. The expense thereof shall be assessed, collected, and enforced against the owner by the commissioner. If such owner shall fail to pay all such expenses within 30 days, the Attorney General shall, or shall cause the district attorney of such circuit, to institute a civil action in the name of the state for the recovery of the same; and when judgment is recovered and collected, the sum shall be paid into the Agricultural Fund.

§ 2-25-17.2. Procedures for fumigation or treatment of infested plants, etc

The commissioner is authorized to supervise or cause the fumigation or treatment of nursery stock, plants and plant products infested or infected by plant pests and/or noxious weeds. Fumigation or treatment may be performed by private employees or other persons supervised by the commissioner.

§ 2-25-18. Appeals to state board from findings or orders of commissioner

The owner or person in charge may appeal the orders of the commissioner requiring treatment or destruction of plants, plant products or nursery stock by serving written notice of appeal on the commissioner within 10 days after receiving his orders or findings.

This appeal from the findings or orders of the commissioner shall lie to the State Board of Agriculture and Industries, which shall, as soon as practicable, hear and determine the same. The order of the said board shall be enforced by the circuit court upon filing a complaint by the commissioner setting forth said order and requesting enforcement of the same.

§ 2-25-19.1. Penalties, temporary restraining orders or injunctions for violations issued without bond; form of action; approval of Attorney General; assistance of district attorneys or their deputies

In addition to any other penalties provided hereunder, the commissioner may apply for, and the circuit court shall grant a temporary restraining order, or temporary, or permanent injunction or both, restraining any person from violating or from continuing to violate any provisions of this article or any rules or regulations promulgated under this article, notwithstanding the existence of other remedies at law. Any such restraining orders or injunctions shall be issued without bond. Said action shall be brought in the name of the State of Alabama upon the relation of the Attorney General and with his approval and such officer shall, upon his request, be assisted by the district attorney or deputy district attorney of the judicial circuit in which injunctive proceedings are filed.

§ 2-25-19.2. Acts of officials, agents, employees, etc., deemed those of principal as well as of individual

In construing and enforcing the provisions of this article, the act, omission, or failure of any official, agent, or other person acting for or employed by any association, partnership, corporation or other principal within the scope of his employment or office shall in every case be deemed the act, omission or failure of such association, partnership, corporation or other principal as well as that of the individual.

§ 2-25-20. Promulgation of rules and regulations of board or commissioner; admissibility in evidence thereof

(a)

All rules and regulations made by the board or commissioner shall be promulgated by publishing same in any official organ of the department or of the board or by giving such other reasonable public notice as may be prescribed by the board; provided, that in cases where it is deemed necessary to place a quarantine to take effect immediately, promulgation may be made by posting a copy in the courthouse or other places as the commissioner may prescribe within the county or counties in which the quarantined area exists.

(b)

Printed copies of all acts, rules and regulations, quarantines or notices of the board or of the commissioner which shall be published under the authority of the board shall be admitted as sufficient evidence of such acts, rules, regulations, quarantines or notices in all courts and on all occasions whatsoever; provided, that the correctness of such copies shall be certified to by the chairman of the board or the commissioner.

§ 2-25-21. Review of rules or regulations by board

Any person affected by any rule or regulation made on notice given pursuant to this article may have a review thereof by the board for the purpose of having such rule, regulation or notice modified, suspended or withdrawn. Such review shall be allowed and considered and the cost thereof fixed, assessed, collected and paid in such manner and in accordance with such rules and regulations as may be prescribed by the board.

§ 2-25-22. Violations of article, rules and regulations, notice or order; forgery, etc., of certificates, etc.

Any person who shall violate any provision or requirement of this article or of the rules and regulations made thereunder or of any notice or order given pursuant thereto or who shall forge, counterfeit, destroy or wrongfully or improperly use any certificate provided for in this article or in the rules and regulations made pursuant thereto or who shall interfere with or obstruct any inspector or other employee of the commissioner in the performance of his duties shall be deemed guilty of a Class "C" misdemeanor.

§ 2-25-3. Power and duty of commissioner as to protection of agricultural and horticultural interests from plant pests and noxious weeds generally.

It shall be the duty of the commissioner to protect the agricultural and horticultural interests of the state from plant pests and noxious weeds; and, to that end, he is vested with power and authority to:

- (1) Inspect or cause to be inspected by duly authorized employees, plants, plant products, places or other things and substances that may, in his opinion, be capable of disseminating or carrying plant pests or noxious weeds, and, for this purpose, he shall have power to enter into or upon any place and to open any bundle, package or other container containing or thought to contain plants or plant products or other things capable of disseminating or carrying plant pests or noxious weeds;
- (2) Supervise or cause the treatment, cutting and destruction of plants, plant parts, fruit, soil, containers, equipment, and other articles capable of harboring plant pests or noxious weeds if they are infested or located in an area which may be suspected of being infested or infected due to its proximity to a known infestation or infection, or if they come from a situation where they are reasonably exposed to infestation or infection when necessary to prevent or control the dissemination of plant pests or noxious weeds, or to eradicate same and to prescribe rules and regulations therefor;
- (3) Inspect or cause to be inspected all nurseries in the state at such intervals as he may deem best;
- (4) Demand of any person who has plants or plant products or other things likely to carry plant pests or noxious weeds in his possession to give full information as to the origin and source of same, and it shall be a Class "C" misdemeanor for such person to refuse to give the information demanded, if able to do so;
- (5) Declare a plant pest or noxious weeds to be a public nuisance as well as any plant or other thing infested or infected therewith or that has been exposed to infestation or infection and therefore likely to communicate same;
- (6) Intercept and inspect while in transit or after arrival at destination all plants, plant products or other things likely to carry plant pests or noxious weeds being moved in this state or brought into this state from another state, territory or foreign country, and, if upon inspection, the same is

found to be infested or infected with a plant, pest or noxious weed, or if such material is believed to be likely to communicate or transmit same or is being transported in violation of any of the rules and regulations of the commissioner, then said plants, plant products or other things may be treated when necessary and released, returned to the sender or destroyed, such disposition to be determined under rules and regulations to be prescribed by the board and commissioner;

(7) Purchase all necessary materials, supplies, office and field equipment and other things and to make such other expenditures as may be essential and necessary in carrying out the provisions of this article;

(8) Enforce the provisions of this article and the rules and regulations made pursuant thereto by writ of injunction in the proper court as well as by criminal proceedings;

(9) To enter into cooperative arrangements with any person, municipality, county, and other department of this state and boards, officers, and authorities of other states and the United States for inspection with reference to plant pests and noxious weeds for the control and eradication thereof or to enter into cooperative agreements as above, for the production and distribution of organisms, pesticides, chemical compounds, or other methods of control investigated, discovered, or developed. The commissioner may accept a royalty or other remuneration for his services or contribution, which shall be deposited into the Agricultural Fund for use in furtherance of this article; and

(10) To conduct hearings, administer oaths, to compel appearance of persons and any books, documents or records by subpoena or subpoena duces tecum, to examine any books or records kept by nurserymen or dealers in nursery stock which pertain to the business of handling, growing, distributing, selling, or any other activity involving plants, plant products, or nursery stock regulated by this article.