

L.D. 1320 2 (Filing No. H-409) б STATE OF MAINE HOUSE OF REPRESENTATIVES 8 **115TH LEGISLATURE** FIRST REGULAR SESSION 10 12 COMMITTEE AMENDMENT "/" to H.P. 923, L.D. 1320, Bill, "An Act to Revise the Maine Horticultural Laws" 14 Amend the bill by striking out all of section 2 and 16 inserting in its place the following: 18 'Sec. 2. 7 MRSA c. 405-A is enacted to read: 20 CHAPTER 405-A 22 HORTICULTURE 24 §2211. Definitions 26 As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. 28 1. Commissioner. "Commissioner" includes a designee of the 30 Commissioner of Agriculture, Food and Rural Resources. 32 2. Nursery. "Nursery" means a place where nursery stock is 34 produced, stored or offered for sale. 3. Nursery stock. "Nursery stock" means: 36 38 A. Woody plants, including ornamental and fruiting trees, shrubs, vines and all viable parts of these plants; 40 B. Herbaceous plants, including florist stock plants, annuals, perennials, vegetable seedlings, herbs, potted 42 plants and all viable parts of these plants; and 44 C. Any other plant or plant part designated by the commissioner. 46 48 "Nursery stock" does not include cut Christmas trees, wreaths, field crops, seeds, dried herbs and flowers and cut flowers. 50

Page 1-LR0995(2)

COMMITTEE AMENDMENT "A" to H.P. 923, L.D. 1320

	4. Other materials. "Other materials" means material not					
2	included in the definition of "nursery stock," such as					
	<u>containers, seeds and cut Christmas trees.</u>					
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·	5. Plant pest. "Plant pest" means any insect, mite,					
6	nematode, fungus, virus, bacteria, slug, snail or any form of					
	aquatic or terrestrial plant or organism that may cause injury to					
8	a plant or that the commissioner declares to be a plant pest.					
10	§2212. Appointment of State Horticulturist					
12	The commissioner shall appoint the State Horticulturist within the Department of Agriculture, Food and Rural Resources to					
14	carry out the provisions of this chapter.					
16	§2213. Inspections					
18	1. Inspections of nurseries; sales prohibitions.					
20	Inspections of nurseries and sales prohibitions are as follows.					
20	A. The State Horticulturist or an assistant shall inspect					
22	<u>nurseries as determined necessary by the State</u>					
	Horticulturist. Nurseries must be accessible at reasonable					
24	times for inspection. If plant pests are found at					
	sufficient levels to pose a threat to other horticultural					
26	establishments or the general public, the State					
28	<u>Horticulturist may issue an order embargoing or detaining</u> the nursery stock. Upon issuing an order of embargo or					
20	detention, the State Horticulturist shall notify the owner					
30	of the nursery stock of the order. Within 10 days of					
	receipt of notification, the owner may request a hearing to					
32	be held in accordance with provisions of the Maine					
	Administrative Procedure Act.					
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	 The State Horticulturist may prescribe measures designed to 					
36	control the plant pests. The State Horticulturist shall					
	<u>remove the order of embargo or detention if the State</u>					
38	Horticulturist is satisfied that the plant pests have been					
	controlled.					
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	B. A person may not offer for sale dead nursery stock or					
42	stock stressed by drying, excessive heat, excessive cold or					
	any other condition that prevents the normal growth of the					
44	stock. A person may not offer for sale nursery stock that					
	<u>is subject to an order of embargo or detention.</u>					
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4.0	2. Inspection of orchards, fields and gardens suspected of					
48	being infested with plant pests. The State Horticulturist or an					
	<u>assistant may inspect any orchard, field, garden or roadside in</u>					

COMMITTEE AMENDMENT "H" to H.P. 923, L.D. 1320

public or private grounds if the area is suspected of being infested with a plant pest that may be a threat to plants belonging to other property owners or to the health or safety of the general public. The State Horticulturist may, after notice and opportunity for a hearing is provided in a manner consistent with the Maine Administrative Procedure Act, order the owner, occupant or person in charge to take such action as necessary, including the proper treatment or destruction of any infested or diseased plants. If the owner of the property or a person having lawful custody of the plants does not comply with the written order, the commissioner may refer the matter to the Attorney General who may institute an action to abate the problem.

3. Inspection of other material. A person may request inspection of other material by the State Horticulturist prior to the movement or sale of this material. The commissioner may assess fees to cover the costs associated with these inspections. Funds generated from these fees must be deposited in a nonlapsing account to be used to conduct these inspections.

§2214. Shipments into the State to be certified

All nursery stock shipped into this State from any other state, province or country must bear a certificate on each 24 package stating that the contents were inspected by an authorized 26 inspecting officer and that the contents appear to be free from plant pests. The State Horticulturist or an assistant may 28 inspect, at the point of destination, all nursery stock coming into the State. If such nursery stock is infested with any plant pests, the State Horticulturist, after conferring with the 30 consignor, may order that stock destroyed or returned to the consignor at the consignor's expense. The decision of the State 32 Horticulturist to require destruction or return of infested nursery stock may not be considered licensing or an adjudicatory 34 proceeding as defined by the Maine Administrative Procedure Act. 36

§2215. Transportation of uninspected stock forbidden

A person, firm or corporation who is the owner, seller or 40 transporter of nursery stock may not bring into this State any nursery stock unless each package bears an unexpired official 42 certificate of inspection that meets the requirements of section 2214.

§2216. Violations

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Any violation of this chapter and rules adopted pursuant to

48 <u>section 2217 is a civil violation for which a forfeiture of not</u> more than \$500 may be adjudged.

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Page 3-LR0995(2)

S2217. Fowers and rules 2 The commissioner may adopt rules to implement this chapter." 4 Further amend the bill by inserting after section 3 the 6 following: 8 'Sec. 4. Appropriation. The following funds are appropriated from the General Fund to carry out the purposes of this Act. 10 1991-92 1992-93 12 AGRICULTURE, FOOD AND RURAL 14 RESOURCES, DEPARTMENT OF 16 Agricultural Production 18 Positions (1.0) (1.0) 19 Personal Services \$22,410 \$32,461 20 All Other 2.400 4.000 Capital Expenditures 14,269 24 21 Provides funds for an 4.85istant Horticulturist position, a vehicle and deties. 14,269 22 Provides funds for specified duties. 1991-92 1992-93 30 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES Tortal Expenditures 14,269 30 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES TOTAL \$39,079 \$36,461 31 General Fund \$39,079 \$36,461 32 General Fund \$30,0		COMMITTEE AMENDMENT "A" to H.P. 923, L.D. 1320				
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Page 4-LR0995(2)

will require General Fund appropriations of \$39,079 in fiscal

COMMITTEE AMENDMENT "H" to H.P. 923, L.D. 1320

year 1991-92 and \$36,461 in fiscal year 1992-93 for an Assistant Horticulturist and general operating expenses. The bill also allows the department to assess fees to cover the costs associated with other inspections. The expected increase in dedicated revenue and the required allocations can not be determined at this time.

The additional work load and administrative costs associated with a minimal number of new cases filed in District Court as a result of the stricter standards will be absorbed within the budgeted resources of the Judicial Department. The additional collection of civil penalties will increase General Fund revenue in an amount that can not be determined at this time.

The Department of the Attorney General can absorb, within budgeted resources, the costs associated with instituting actions on matters referred by the commission.'

STATEMENT OF FACT

This amendment restructures certain language. It reduces 24 the penalty for violations of horticulture laws from not less than \$500 to not more than \$500. The amendment makes technical 26 changes to conform to preferred statutory language and also adds a fiscal note to the bill.

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Reported by the Committee on Agriculture Reproduced and distributed under the direction of the Clerk of the House (5/22/91) (Filing No. H0 409)

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