

# State of South Dakota

NINETY-FIRST SESSION  
LEGISLATIVE ASSEMBLY, 2016

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## SENATE ENGROSSED NO. **SB 16** - 02/23/2016

Introduced by: The Committee on Appropriations at the request of the Department of  
Agriculture

1 FOR AN ACT ENTITLED, An Act to establish a fee for a nursery license and to increase fees  
2 for nursery inspection.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 38-24B-7 be amended to read:

5 38-24B-7. The ~~Department of Agriculture~~ department may issue a ~~certificate of inspection~~  
6 license to any nurseryman, operating as a resident nurseryman or dealer, ~~whose nursery stock~~  
7 ~~has been officially inspected and found to be viable and free from pests.~~ The ~~biennial~~ annual fee  
8 for the ~~inspection and certification~~ license is as follows:

9 (1) Resident nurseryman: ~~three hundred fifty dollars plus ten~~ two hundred dollars for  
10 ~~each acre over one acre of field-grown inspected plants and ten dollars for each ten~~  
11 ~~thousand square feet of container-grown plants, except.~~ However, the fee for a  
12 resident nurseryman with less than five thousand dollars in gross sales on nursery  
13 stock is ~~seventy-five~~ forty-two dollars ~~plus ten dollars for each acre over one of field-~~  
14 ~~grown inspected plants and ten dollars for each ten thousand square feet of container-~~  
15 ~~grown plants~~ and fifty cents;



- 1       (2)   Nursery stock dealer with less than five thousand dollars annual gross sales of  
2           nursery stock: ~~one hundred twenty-five~~ seventy dollars;
- 3       (3)   Nursery stock dealer with more than five thousand but less than twenty thousand  
4           dollars annual gross sales of nursery stock: ~~two hundred~~ one hundred fifteen dollars;  
5           or
- 6       (4)   Nursery stock dealer with more than twenty thousand dollars annual gross sales of  
7           nursery stock: ~~three hundred fifty~~ two hundred dollars .

8       Section 2. The department may issue a certificate of inspection to any nurseryman or dealer  
9       whose nursery stock has been officially inspected and found to be viable and free from pests.  
10      The inspection fee shall be two hundred and fifteen dollars per inspection.

11      Section 3. That § 38-24B-5 be amended to read:

12      38-24B-5. No person may sell, offer for sale, or distribute any nursery stock ~~which has not~~  
13      ~~been officially inspected and for which a certificate of inspection has not been granted~~ until the  
14      person has obtained a license from the secretary. A violation of this section is a Class 2  
15      misdemeanor.

16      Section 4. That § 38-24B-6 be amended to read:

17      38-24B-6. Any nurseryman desiring to sell or ship nursery stock in the state shall make  
18      application before the first day of March to the ~~Department of Agriculture for inspection of his~~  
19      ~~nursery stock, and anyone failing to comply with this section is liable for extra charges to cover~~  
20      ~~travel expenses for the department for a license~~.

21      Section 5. That § 38-24B-8 be amended to read:

22      38-24B-8. A separate ~~certificate of inspection~~ license shall be obtained from the department  
23      for each location before selling, offering, or exposing nursery stock for sale. The ~~certificate of~~  
24      ~~inspection~~ license shall be displayed in a prominent manner wherever nursery stock is offered

1 for sale. A violation of this section is a Class 2 misdemeanor.

2 Section 6. That § 38-24B-11 be amended to read:

3 38-24B-11. No certificate of inspection or license may be issued to an applicant who  
4 purchases ~~his~~ nursery stock from an uncertified nursery in this state or from a nonresident  
5 nursery or nursery stock dealer whose stock has not been inspected and certified by the  
6 regulatory official of the state of origin.

7 Section 7. That § 38-24B-12 be amended to read:

8 38-24B-12. Any grower or dealer of decorative plants, annual plants, sod, or related plant  
9 products may apply to the department for a certificate of inspection. The ~~Department of~~  
10 ~~Agriculture~~ department may issue a certificate of inspection to the person whose decorative  
11 plants, annual plants, sod, or related plant products have been officially inspected and found free  
12 from pests. The fee for inspection and certification is ~~two hundred fifty~~ one hundred forty  
13 dollars plus five dollars for each acre of growing field and five dollars for each ten thousand  
14 square feet of growing greenhouse.

15 Section 8. That § 38-24B-13 be amended to read:

16 38-24B-13. The secretary ~~of agriculture~~ may revoke a ~~certificate of inspection~~ license for  
17 cause following a hearing pursuant to chapter 1-26. The secretary may issue a temporary cease  
18 and desist order pending the hearing. At least ten days notice shall be given prior to conducting  
19 a hearing pursuant to this section.

20 Section 9. That § 38-24B-14 be amended to read:

21 38-24B-14. A ~~certificate~~ license issued pursuant to the provisions of this chapter is in effect  
22 for a period not to exceed ~~two years~~ one year and expires on December thirty-first of the year  
23 following the date of issue.

24 Section 10. That § 38-24B-29 be amended to read:

1        38-24B-29. If a nurseryman violates the provisions of this chapter, ~~he may have his~~  
2 ~~certificate of inspection~~ the nurseryman's license may be cancelled or revoked pursuant to  
3 chapter 1-26. In addition, any person is liable in a civil action for all damage that is occasioned  
4 or caused by a violation of this chapter.