

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

400Q0204

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1070** - 2/20/2009

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

1 FOR AN ACT ENTITLED, An Act to revise certain fees pertaining to seed permits and nursery  
2 certificates of inspection.

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

4 Section 1. That § 38-12A-11 be amended to read as follows:

5 38-12A-11. No person may sell, distribute, advertise, solicit orders for, offer for sale, expose  
6 for sale, or transport seed without first obtaining from the Department of Agriculture a permit  
7 to engage in the business. ~~A~~ No permit is ~~not~~ required of any person selling or advertising seed  
8 of the person's own production in South Dakota, if the seed is stored or delivered to a purchaser  
9 only on or from the farm or premises where grown or the production and sale of seed is not a  
10 primary endeavor and primary source of income to such persons. Each permit shall expire on  
11 the thirty-first day of December of the year following the date of issue. The biennial fee for a  
12 seed permit is: Seedsman ~~--two hundred fifty~~ five hundred dollars; Seed producer ~~--fifty~~  
13 seventy-five dollars; Seed dealer ~~--fifty~~ seventy-five dollars.

14 Section 2. That § 38-24B-7 be amended to read as follows:



38-24B-7. The Department of Agriculture may issue a certificate of inspection to any nurseryman, operating as a resident nurseryman or dealer, whose nursery stock has been officially inspected and found to be viable and free from pests. The biennial fee for the inspection and certification is ~~one hundred fifty dollars plus four dollars for each acre over one acre of inspected plants. A conservation district that plants less than thirty acres of nursery stock in a year or a dealer who is in business for less than three months in a year and only sells plants obtained from an inspected in-state nursery may obtain a certificate of inspection at the reduced fee of one hundred dollars as follows:~~

(1) Resident nurseryman: two hundred fifty dollars plus ten dollars for each acre over one acre of inspected plants and ten dollars for each one thousand square feet of growing greenhouse, except the fee for a resident nurseryman with less than five thousand dollars in gross sales of nursery stock is one hundred fifty dollars plus twenty dollars for each acre over one of inspected plants;

(2) Nursery stock dealer with less than five thousand dollars annual gross sales of nursery stock: one hundred twenty-five dollars;

(3) Nursery stock dealer with more than five thousand but less than twenty thousand dollars annual gross sales of nursery stock: two hundred dollars; or

(4) Nursery stock dealer with more than twenty thousand dollars annual gross sales of nursery stock: two hundred fifty dollars.

A dealer who is in business for less than three months in a year and only sells plants obtained from an inspected in-state nursery may obtain a certificate of inspection at the reduced fee of one hundred dollars.

Section 3. That § 38-24B-9 be amended to read as follows:

38-24B-9. Any nurseryman whose location is outside the state may obtain a certificate of

1 inspection to sell nursery stock within the state by filing a certified copy of the official  
2 inspection certificate and paying ~~a one hundred fifty~~ an eight hundred dollar fee to the secretary  
3 of agriculture. The secretary may waive the payment of the fee if the applicant's state does not  
4 require a fee by South Dakota applicants for a like certificate in that state.

5 Section 4. That § 38-24B-12 be amended to read as follows:

6 38-24B-12. Any grower or dealer of decorative plants, annual plants, sod, or related plant  
7 products may apply to the department for a certificate of inspection. The Department of  
8 Agriculture may issue a certificate of inspection to the person whose decorative plants, annual  
9 plants, sod, or related plant products have been officially inspected and found free from pests.  
10 The fee for inspection and certification is ~~one hundred fifty~~ five hundred dollars plus ~~two~~ ten  
11 dollars for each acre of growing field and ~~two~~ ten dollars for each one thousand square feet of  
12 growing greenhouse.

13 Section 5. That § 38-24B-2 be amended to read as follows:

14 38-24B-2. The secretary of agriculture may promulgate rules pursuant to the provisions of  
15 chapter 1-26 to establish:

- 16 (1) Standards for inspection and sampling;
- 17 (2) Standards for inspection performance;
- 18 (3) Forms for requests for inspection;
- 19 (4) Procedures for issuing and revoking certificates of inspections;
- 20 (5) Restrictions for the movement of plants and hosts;
- 21 (6) Treatment provisions of infested hosts or premises;
- 22 (7) Provisions for issuance of special phytosanitary certificates;
- 23 (8) Provisions for quarantine or destruction of pests and hosts; ~~and~~
- 24 (9) Reporting requirements on suspected plants; and

- 1        (10) Criteria for the implementation and administration of the fee schedule contained in
- 2        § 38-24B-7.