

# Arkansas Laws on Plants and Seeds

## § 2–16–201. Subchapter citation

This subchapter shall be known as the “Arkansas Plant Act of 1917”.

## § 2–16–202. Definitions

As used in this subchapter, unless the context otherwise requires:

- (1) “Insect pests and diseases” means insect pests and diseases injurious to plants and plant products of this state including any of the stages of development of such insects and diseases;
- (2) “Persons” means individuals, associations, partnerships, and corporations;
- (3) “Places” means vessels, cars, other vehicles, buildings, docks, nurseries, orchards, and other premises where plants and plant products are grown, kept, or handled; and
- (4) “Plants and plant products” means trees, shrubs, vines, forage, and cereal plants, and all other plants; cuttings, grafts, scions, buds, and all other parts of plants; and fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all other plant products.

## § 2–16–203. Penalty

(a) Any person who shall violate any provision or requirement of this subchapter or the rules made or of any notice given under this subchapter or who shall forge, counterfeit, deface, destroy, or wrongfully use any certificate provided for in this subchapter or in the rules made under this subchapter shall be guilty of a violation, and upon conviction he or she shall be punished by a fine of not more than one hundred dollars (\$100).

(b)(1)(A)(i) In a lawful proceeding respecting licensing, as defined in the Arkansas Administrative Procedure Act, § 25–15– 201 et seq., in addition to or in lieu of any other lawful disciplinary action, the State Plant Board may assess a civil penalty of not more than one thousand dollars (\$1,000) for each violation of any statute, rule, or order enforceable by the board.

(ii)(a) The board may assess a civil penalty greater than one thousand dollars (\$1,000) but not more than twenty-five thousand dollars (\$25,000) only if the board finds that a violation under this subdivision (b)(1)(A) is egregious.

(b) A violation is egregious only if the application of one (1) of the following herbicides is used intentionally in violation of the federal labeling requirements or a state law or rule regarding its application:

- (1) Dicamba;
- (2) An auxin-containing herbicide; or
- (3) A new herbicide technology released after August 1, 2017.

(B) In no case shall a single application or drift incident by a pesticide applicator be considered multiple violations based on the number of complaints.

(C) In no case shall the failure to meet minimum treating standards, except those that require a termiticide application, be considered a violation and subject to a civil penalty.

(2)(A) The board shall by rule establish a schedule designating the minimum and maximum civil penalty that may be assessed under this section for violation of each statute, rule, or order over which it has regulatory control.

(B) The board may promulgate any other rule necessary to carry out the intent of this section.

(3) In the event of nonpayment of any civil penalty lawfully assessed under subdivision (b)(1) of this section, the civil penalty shall be recoverable in the name of the state by the Attorney General in Pulaski County Circuit Court or in the circuit court of the county in which the violation occurred.

(4)(A) All sums paid or recovered under this section shall be deposited into the State Treasury.

(B)(i) Sums collected under special revenue programs shall be deposited into the Plant Board Fund. (ii) Sums collected under general services programs shall be deposited into the Miscellaneous Agencies Fund Account.

(5) All rules promulgated under this section shall be reviewed by the House Committee on Agriculture, Forestry, and Economic Development and the Senate Committee on Agriculture, Forestry, and Economic Development or subcommittees of the House Committee on Agriculture, Forestry, and Economic Development and the Senate Committee on Agriculture, Forestry, and Economic Development.

(c) Moneys collected through a civil penalty assessed by the board shall be distributed as follows:

(1) For amounts up to one thousand dollars (\$1,000), as currently used, including funding for the Arkansas State Plant Board Scholarship program; and

(2) For amounts more than one thousand dollars (\$1,000):

(A) The first one thousand dollars (\$1,000) of the assessed penalty for scholarships through the Arkansas State Plant Board Scholarship program; and

(B) The remainder divided as follows:

(i) Sixty percent (60%) for scholarships through the Arkansas State Plant Board Scholarship program; and

(ii) Forty percent (40%) deposited into the University of Arkansas Fund to be used by the University of Arkansas Cooperative Extension Service.

#### § 2-16-204. Official agents—Actions—Responsibility

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

§ 2–16–205. Applicability of congressional acts

This subchapter shall not be so construed or enforced as to conflict in any way with any act of the United States Congress regulating the movement of plants and plant products in interstate or foreign commerce.

§ 2–16–206. State Plant Board—Establishment—Composition

(a) There is created and established a State Plant Board, composed of eighteen (18) members, as follows:

- (1) Two (2) nonvoting members designated by the Vice President for Agriculture of the University of Arkansas or his or her designee;
- (2) A practical cotton grower, actively engaged in the business, to be appointed by the Governor;
- (3) One (1) member to represent the Arkansas Plant Food Association, actively engaged in the business, to be appointed by the Governor;
- (4) A practical rice grower, actively engaged in the business, to be appointed by the Governor;
- (5) A practical horticulturist, actively engaged in the business, to be elected by the Arkansas State Horticultural Society; (6) A nurseryman, actively engaged in the business, to be elected by the Arkansas Green Industry Association; (7) A practical seed grower, actively engaged in the business, to be elected by the Arkansas Seed Growers Association; (8) A pest control operator, actively engaged in the business, to be elected by the Arkansas Pest Management Association, Inc.; (9) A seed dealer, actively engaged in the business, to be elected by the Arkansas Seed Dealers' Association;
- (10) One (1) member representing the Arkansas Bureau of Standards to be appointed by the Arkansas Oil Marketers Association;
- (11) A pesticide manufacturer, actively engaged in the business, to be elected by the Arkansas Crop Protection Association Inc.;
- (12) One (1) member to represent the Arkansas Agricultural Aviation Association, to be elected by the Arkansas Agricultural Aviation Association;
- (13) One (1) member to represent the Arkansas Forestry Association, to be elected by the Arkansas Forestry Association;
- (14) Two (2) farmers actively and principally engaged in farming in this state, appointed by the Governor;
- (15) One (1) representative of the livestock industry, actively engaged in the business, to be appointed by the Governor; and (16) One (1) representative of the forage industry, actively engaged in the business, to be appointed by the Governor.

(b) Board members shall serve a term of two (2) years or until such time as a successor has been elected or appointed as herein provided. A majority of the members of the board shall constitute a quorum for all purposes.

(c) The chair, vice chair, and secretary-treasurer shall be elected by the members of the board. The board shall designate some official or employee of the board to serve as disbursing officer of the board.

(d) Meetings of the board shall be called by the chair or by four (4) members of the board.

(e) The members shall serve without compensation but may receive expense reimbursements in accordance with § 25-16-901 et seq. and shall be authorized to provide a suitable office where the meetings of the board may be held and its records kept.

(f) If necessary to provide suitable space for its offices, laboratories, and other needs, the board may buy property, build buildings, or lease property for a period covering not more than fifteen (15) years from the date of lease.

§ 2-16-207. Authority of State Plant Board

(a)(1) The State Plant Board shall keep itself informed as to the varieties of insect pests, diseases, and noxious weeds and the origin, locality, nature, and appearance thereof; the manner in which they are disseminated; and the approved methods of treatment and eradication.

(2) Every such insect pest, disease, and noxious weed, and every plant and plant product infested or infected is declared to be a public nuisance.

(b)(1) The board in its rules made under this subchapter shall list the insect pests, diseases, and noxious weeds, of which it shall find that the introduction into or the dissemination within the state should be prevented in order to safeguard the plants and plant products of this state, and the list shall include the plants and plant products or other substances on or in which these pests may be carried.

(2) Every person who has knowledge of the presence of any insect pest, disease, or noxious weed listed as required in this section in the rules made under this subchapter, in or upon any place, shall immediately report it to the board or inspectors thereof, giving such detailed information relative thereto as he or she may have.

(3) Every person who deals in or engages in the sale of plants or plant products shall furnish to the board or its inspectors, when requested, a statement of the names and addresses of the persons from whom and the localities where he or she purchased or obtained the plant and plant products.

(c)(1) The board shall make rules for carrying out the provisions and requirements of this subchapter, including rules under which the inspectors and other employees of the Department of Agriculture shall:

(A) Inspect places, plants and plant products, and things and substances used or connected herewith;

(B) Investigate, control, eradicate, and prevent the dissemination of insect pests, diseases, and noxious weeds; and (C) Supervise or cause the treatment, cutting, and destruction of infected or infested plants and plant products.

(2) For the purpose of preventing fraud and misrepresentation, the board shall make rules governing the transportation, distribution, or sale of sorghum seed, hybrid corn seed, and other seeds intended for planting.

(d) For the purpose of carrying out the provisions and requirements of this subchapter, of the rules made, and notices given pursuant thereto, the board and the inspectors and employees of the department shall have power to enter into or upon any place and to open any bundle, package, or other container of plants or plant products.

§ 2-16-208. Director of board

(a)(1) For the purpose of carrying out the provisions of this subchapter, the State Plant Board shall employ, prescribe the duties of, and fix the compensation for a Director of the State Plant Board.

(2)(A) With the approval of the State Plant Board, the director may employ such inspectors or other employees as may be required and may incur such expenses as may be necessary within the limits of the appropriation made by law.

(B) The State Plant Board shall be subject to all executive orders by the Governor instituting a hiring freeze or restriction applicable to all cabinet-level departments.

(b)(1) The director shall be appointed by the State Plant Board with the approval of the Governor and shall serve at the pleasure of the Governor.

(2)(A) The director shall report to the Secretary of the Department of Agriculture.

(B) The secretary shall serve as the liaison between the State Plant Board and the Governor.

(c)(1) The director shall furnish a bond of five thousand dollars (\$5,000) with sufficient sureties approved by the State Plant Board for the faithful performance of his or her duties of this subchapter and the rules of the State Plant Board.

(2) Any person suffering damage by reason of the acts or omissions of the chief inspector or his or her duly authorized deputies or employees may bring action on the bond for damages.

(3) The State Plant Board may require to indemnify the director that similar bonds shall be furnished by deputies, inspectors, or employees.

(d) The State Plant Board shall cooperate with other departments, boards, and officers of this state and of the United States as far as possible.

(e) The secretary shall not be appointed to the position of director.

§ 2-16-209. Insect pest, etc.—Transportation—Prohibition

(a) Transportation through or into or transportation, distribution, or sale within the state of any insect pest, plant disease, noxious weed, or any plant, plant product, or other substance, listed in the rules of the State Plant Board as required under § 2-16-207, or of sorghum seed, hybrid corn seed, or other planting seeds for the transportation, distribution, or sale of which the board has made rules under this subchapter is prohibited except under such safeguards as may be provided for in the rules of the board.

(b) To cover expenses incident to inspection or treatment or incident to the issuance of such permits or certificates as may be required by the board's rules made under this subchapter, the board may require the payment of reasonable fees which shall be deposited in the manner prescribed by § 2-16-210 to be used in carrying out the provisions of this subchapter.

(c) The board is empowered to require that a shipper who ships plants from another state into Arkansas must meet any and all requirements which the shipper's state would make of an Arkansas shipper who ships plants into that state.

(d) Inspectors carrying out the provisions of this subchapter on issuance of a written notice may cause to be held or to be sent out of the state or to be destroyed any plant, plant product, or other substance which has been brought into or is being transported within the state in violation of any state or federal law, rule, or regulation. They may stop and detain for inspection any person, car, or other carrier.

§ 2-16-210. Inspection certificate requirement

(a) It shall be unlawful for any person to sell, give away, carry, ship, or deliver for carriage or shipment, within this state, any plants or plant products listed as required by this subchapter unless the plants and plant products have been officially inspected and a certificate has been issued by an inspector of the State Plant Board. This certificate shall state that the plants or plant products have been inspected and found to be apparently free from insect pests and diseases. It shall also be unlawful for any person to sell, give away, carry, ship, or deliver for carriage any plants or plant products unless the plants or plant products bear a certificate issued by an inspector of the board. This certificate shall show that the place on which the plants or plant products were grown has been inspected and found to be apparently free from insect pests and diseases and any other facts provided for in the rules made under this subchapter.

(b) This section shall not apply to plants and plant products not affected by rules made under § 2-16-211 when the plants or plant products are disposed of in local trade.

(c) When any person shall notify the board of impending shipments of plants or plant products and the board fails to provide the proper inspector to inspect the plants or plant products under the rules made under this subchapter, the person desiring to make the shipment may do so without being liable to provisions of this section.

(d) For the issuance of the certificate as provided for in this section, the board may require the payment of a reasonable fee to cover the expenses of the inspection and certification. If it shall be found at any time that a certificate of inspection, issued or accepted under the provisions of this section, is being used in connection with plants and plant products which are infested or infected with insect pests or diseases, its further use may be prohibited, subject to such inspection and other disposition of the plants and plant products involved as may be provided for by the board.

(e) All moneys collected by the board under this section or under § 2-16-211 or § 2-16-214 shall be deposited with the treasurer of the board and shall be used in carrying out the provisions of this subchapter.

§ 2-16-211. Control of insect pests, etc.

(a) Whenever the inspection discloses that any places, plants, plant products, or things and substances used or connected therewith, are infested or infected with any insect pest, disease, or noxious weed, listed, as required by § 2-16-207 in rules made under this subchapter, written notice thereof shall be given the owner or other person in possession or control of the place where found, and the owner or other person shall proceed to control, eradicate, or prevent the dissemination of the insect pest, disease, or noxious weed. The owner shall then remove, cut, or destroy infested or infected plants and plant products or things and substances used or connected therewith, within the time and in the manner prescribed by the notice or the rules made under this subchapter.

(b) Whenever the owner or other person cannot be found or shall fail, neglect, or refuse to obey the requirements of the notice and the rules made under this subchapter, the requirements shall be carried out by the inspector or other employees of the State Plant Board. The board shall have and enforce a lien for the expenses thereof against the place in which or upon which the expenses were incurred in the same manner as liens are had and enforced upon buildings, lots, wharves, and piers for labor and materials furnished by virtue of contract with the owner.

§ 2-16-212. Plant Board findings—Regulations

(a) Whenever the State Plant Board shall find that there exists in this state or any part thereof any insect, disease, or noxious weed and that its dissemination should be controlled or prevented, the board may give notice thereof, specifying the plants and plant products infested, infected, or likely to become infested or infected therewith.

(b) The movement, planting, or other use of any plant, plant products, or other thing or substance specified in the notice as likely to carry and disseminate the insect pest, disease, or noxious weed, except under such safeguard as

may be provided in the rules made by the board, shall be prohibited within such area as may be designated in the public notice until the board shall find that the danger of the dissemination of the insect, disease, or noxious weed has ceased to exist, of which the board shall give public notice.

(c) Before the order of prohibition shall be issued, a public hearing, with due public notice thereof, shall be held by the board, at which hearing interested persons may appear in person or by attorney.

#### § 2–16–213. Receipt—Nonconforming plants—Responsibilities

Any person in this state who receives any plant or plant product sold, given away, carried, shipped, or delivered for carriage or shipment within this state, as to which the requirements of § 2–16–210 have not been complied with, shall immediately inform the State Plant Board or an inspector thereof and isolate and hold the plant product unopened or unused subject to such inspection and other disposition as may be provided for by the board.

#### § 2–16–214. Rules and regulations

Any person affected by any rules made or notice given, under this subchapter, may have a review thereof by the State Plant Board for the purposes of having the rules or notice modified, suspended, or withdrawn, and, pending the review, the rules or notice shall be suspended.

#### § 2–16–301. Subchapter citation

This subchapter shall be known as the “Arkansas Emergency Plant Act of 1921”.

#### § 2-16-302. Definitions

For the purposes of this subchapter, unless the context otherwise requires, the terms and definitions set forth in § 2-16-202 are adopted and made a part of this subchapter. In addition, the term “dangerous insect pest and plant diseases” shall be construed to mean such insect pests and plant diseases as the pink bollworm, the Mexican bean beetle, potato wart disease, “take all”, and such other insect pests and plant diseases, the prevalence of which would threaten an established agricultural industry in the state.

#### § 2-16-303. Subchapter construction

This subchapter shall not be construed as limiting the authority conferred upon the State Plant Board by the Arkansas Plant Act of 1917, § 2-16-201 et seq., but shall be construed as supplemental thereto.

§ 2-16-304. Penalties--Prosecution

(a) Any person who shall violate any provision of this subchapter or who shall interfere with any member of the State Plant Board or any inspector or employee while engaged in the performance of his or her duties under this subchapter shall be guilty of a Class A misdemeanor.

(b)(1) Upon information furnished by the board, it shall be the duty of the Attorney General or the prosecuting attorney of the district in which an alleged violation of any provision of this subchapter may occur to enforce the provisions of this subchapter by proceedings in any court of competent jurisdiction.

(2) If the remedy elected to be pursued is by writ of injunction, no court of this state shall have the right to set aside or stay the writ of injunction before a hearing upon the merits.

§ 2-16-305. Official agents--Actions--Responsibilities

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

§ 2-16-306. Implementation of provisions

(a)(1) The provisions of this subchapter and the rules promulgated hereunder shall be carried out by the Director of the State Plant Board, who shall serve without extra compensation.

(2) The director may, with the approval of the State Plant Board, employ such inspectors or other employees as may be required and may incur such expenses as may be necessary, within the limits of the appropriation made by law or declared by the Governor.

(b) For the purposes of carrying out the requirements of this subchapter, and the rules made and notices given pursuant thereto, the inspectors and employees of the Department of Agriculture shall have the right to enter into or upon any place and for purpose of inspection to open any bundle, package, or other container of plants, plant products, articles, or substances.

(c)(1) In the enforcement of this subchapter and of the rules made pursuant thereto, the board may summon witnesses; require the production of any books, papers, or documents it deems material; administer oaths; and hear witnesses.

(2) It shall be the duty of each sheriff in the state to serve a summons when requested by the board.

§ 2-16-307. Plant Board proclamations--Infestations

(a) Upon satisfactory information acquired in any manner or upon information furnished by the State Plant Board, signed by the secretary and at least three (3) members thereof, showing that a dangerous insect pest or plant disease exists in the state or is in dangerous proximity thereto, the Governor shall issue a proclamation specifying the insect pest or plant disease. The proclamation shall declare such a pest or disease to be a dangerous insect pest or plant disease which threatens an agricultural industry. It shall specify the plants, plant products, articles, substances, and places capable of harboring or spreading the dangerous insect pest or plant disease and shall declare the zones or areas in which the danger exists.



(b) Until such time as the Governor shall ascertain from the board, as provided above, and shall by proclamation declare that the emergency has ceased to exist, it shall be unlawful for any person to grow or maintain within those zones or areas any plants, plant products, articles, substances, or places infected or infested with a dangerous plant disease or insect pest or likely to become so infested or infected.

(c) Plants, plant products, articles, substances, or places may be grown or maintained in the manner and method and under the conditions which shall be prescribed by rules made and promulgated by the board as provided in this subchapter.

#### § 2-16-308. Plant Board regulations

(a) It shall be the duty of the State Plant Board, and the board is authorized and directed, when public safety will permit, to make and promulgate rules which shall permit and govern the growing and maintenance in any zones or areas mentioned in § 2-16-307 of any plants, plant products, articles, substances, or places referred to in § 2-16-307.

(b) Whenever it shall be ascertained and determined by the board that any plants, plant products, articles, substances, or places are infested or infected or are so situated as to be subject to infestation or infection by a dangerous insect pest or plant disease, and thereby capable of spreading the infestation or infection, the board shall require the treatment, cutting, or destruction of the plants, plant products, articles, substances, or places.

(c) If the owner, custodian, or occupant of the plants, plant products, articles, substances, or places referred to in this section cannot be found or shall, upon reasonable notice, fail or refuse to comply with the requirements of this subchapter, the requirements shall be carried out by the board and the expense thereof charged against the owner, custodian, or occupant.

#### § 2-16-309. Committee on claims--Function

(a) Whenever property shall be damaged, destroyed, or rendered unproductive in carrying out the provisions of this subchapter, the Governor shall appoint a committee on claims for each county affected.

(b) The committee shall consist of two (2) representatives of the county affected, and three (3) members of the State Plant Board, as follows:

(1) The practical cotton grower;

(2) The nurseryman; and

(3) The practical horticulturist.

(c) The members of the committee shall serve as long as the Governor shall deem their services to be necessary. (d)(1) The committee shall elect a chairperson.

(2) A majority of the members shall constitute a quorum for the transaction of business, but there shall be present at every meeting at least one (1) of the members appointed by the Governor to represent the county concerned and not less than two (2) members of the board composing the committee.

(e) The members of the committee shall serve without compensation, but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(f) The committee shall engage such clerical and other help as may be necessary.

(g) The committee shall investigate and cause a survey to be made to determine the claims of all persons whose property has been destroyed, damaged, or rendered unproductive in carrying out the provisions of this subchapter.

(h) The committee shall submit each claim approved by it to the secretary of the board, who shall then issue for each claim a voucher for a warrant drawing on the State Treasury out of funds made available for the purpose, to the amount of the claims approved by the committee.

#### § 2-16-310. Plant Board—Reports

The State Plant Board shall make an annual report to the Governor, in which report it shall give an account of the disposition of the appropriations which may be made for the purposes of carrying out the provisions of this subchapter.

#### § 2-18-101. Definitions

As used in this chapter, unless the context otherwise requires:

- (1) “Board” means the State Plant Board;
- (2) “Person” means individuals, partnerships, corporations, associations, or two (2) or more individuals having a joint or common interest; and
- (3) “Seed” means any agricultural seeds or plants used to produce a crop.

#### § 2-18-102. Penalty--Revocation of certificate

(a)(1) Any person shall be guilty of a violation who:

- (A) Falsely advertises or proclaims that seed has been certified by the State Plant Board;
- (B) Uses any emblem, label, or language for the purpose of misleading a person into believing that seed has been certified by the board when it has not;
- (C) Misuses any tag, label, or certificate issued by the board;
- (D) Obtains or attempts to obtain certification for seed or plants by making false statements or misrepresentations to the board or to the board's inspectors, deputies, or agents;
- (E) Having received a certificate, violates any of the rules of the board made under this chapter; or (F) Violates any agreement made as a condition for receiving a certificate.

(2) Upon conviction, an offender shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500) for each offense.

(b)(1) When the person holds a certificate from the board, the certificate, after a hearing before the Director of the State Plant Board has been given to the person, shall be revoked by the director regardless of whether a prosecution is commenced.

(2)(A) Any person whose certificate is revoked by the director shall be entitled to an appeal to the board. (B) The board's decision shall be final.

§ 2-18-103. Examination and classification

(a)(1) The State Plant Board is empowered to investigate and certify to varietal purity and fitness for planting of agricultural seed on request of the grower thereof.

(2)(A) For this purpose, the board shall set up, in its rules, one (1) or more classifications of seed, designating the classifications as "Registered" and "Certified" or by any other one (1) or more names which it may specify; and

(B) It shall specify, in its rules, the standards which seed must meet and the methods by which seed must be handled in order to be certified under the classifications.

(b) Any person applying for certification of seed must, if required by the board, produce satisfactory evidence as to character, qualifications as a seed breeder, and possession of such facilities for the growing and handling of purebred seed as may be deemed necessary by the board.

§ 2-18-104. Rules and regulations

The State Plant Board:

(1) Shall promulgate all rules necessary to carry into effect the purpose of this chapter, which is to provide supplies of high grade seed, true to name and free from disease, for planting purposes;

(2) Shall make rules to protect the interest of breeders who have developed high-quality strains of seed; and

(3) May appoint or may authorize the Director of the State Plant Board to appoint such deputies as shall be necessary to carry into effect the purpose of this chapter.

§ 2-18-105. Costs--Fees

(a) To cover costs of inspection and certification, the State Plant Board shall require reasonable fees of all applicants in advance. These fees shall be deposited into a separate fund and shall be used in carrying out the purposes of this chapter.

(b)(1) To cover costs of promotion and advertising of certified seed, the board after a public hearing shall establish by rule promotion and advertising fees which shall be collected in advance. The fees shall be assessed upon the acreage grown for certified agricultural seed production or upon the number of certified tags and labels sold for production of certified seed from the acreage.

(2) Those fees collected for seed promotion and advertising shall be remitted by the board to the Arkansas Seed Dealers' Association and the Arkansas Seed Growers Association, or their successors, which shall establish and administer their own promotion and advertising programs.

(3) Before collecting the fees under this subsection or increasing those fees hereafter, the board shall seek the advice of the House Committee on Agriculture, Forestry, and Economic Development and the Senate Committee on Agriculture, Forestry, and Economic Development.

§ 2-18-106. Compliance--Inspection certificate

(a) Persons whose seed has met the standards set up by the State Plant Board and who have complied with all the provisions of this chapter and with all the rules of the board made under this chapter shall receive from the board the proper certificate of inspection designating the classification of seed.

(b) Each bag or other container of seed sold under the classification designated by a certificate of the board shall bear an appropriate tag or label securely attached to it.

(c) Certificates issued under the provisions of this section shall run one (1) crop season only.

§ 2-18-107. Unlawful activities

(a) It shall be unlawful for any person to use the terms “certified” or “registered” as applied to the quality of seed or plants or to use any other term applying to seed classifications promulgated by the State Plant Board, without first having applied for and received the proper certificate from the board.

(b) Any person violating the provisions of this section shall be punished as provided in § 2-18-102.

§ 2-18-108. Interagency cooperation—Administration

In administering this chapter, the State Plant Board is authorized to cooperate to the fullest extent with other agencies of the state and federal government.

§ 2-18-109. Aflatoxin levels to be monitored

The level of aflatoxin in Arkansas-grown grain and seed sold or distributed in this state shall be monitored by the State Plant Board.

§ 2-18-110. Standards for sampling and analysis methods

Methods of sampling and analysis of the grain and seed described in § 2-18-109 shall meet the standards prescribed by the United States Grain Inspection, Packers and Stockyards Administration.

§ 2-18-111. Rules and regulations

The State Plant Board may establish rules necessary to implement the provisions of §§ 2-18-109, 2-18-110, and this section.

§ 2-18-112. Local legislation preemption

(a) As used in this section:

(1) “Local legislation” means any ordinance, motion, resolution, amendment, regulation, or rule adopted by a political subdivision of this state; and

(2) “Political subdivision” means a local governmental entity, including without limitation a city, county, township, or municipal corporation and any other body corporate and politic that is responsible for government activities in a geographical area smaller than that of the state.

(b) A political subdivision shall not:

(1) Regulate the registration, packaging, labeling, sale, storage, distribution, cultivation, any other use, or application of seeds; or

(2) Adopt or continue in effect local legislation relating to the registration, packaging, labeling, sale, storage, distribution, cultivation, any other use, or application of seeds.

(c) Local legislation in violation of this section is void and unenforceable.

(d) This section does not prohibit a city of the first class, a city of the second class, or an incorporated town from exercising the legitimate police powers of the city or town over building, planning, and zoning regulations under § 14-56-201 et seq., § 14-56-301 et seq., and § 14-56-401 et seq.

§ 2–21–101. Short title

This chapter shall be known as the “Arkansas Nursery Fraud Act of 1919”.

§ 2-21-102. Definitions

As used in this chapter, unless the context otherwise requires:

(1) “Agent” means any person not selling nursery stock under the partial or full control of a nurseryman or of a dealer or other agent. This term shall also apply to any person engaged with a nurseryman, dealer, or agent in handling nursery stock on a cooperative basis;

(2) “Dealer” means any person, not a grower of nursery stock, who buys nursery stock for the purpose of reselling and reshipping independently of any control of a nursery;

(3) “Nursery” means any grounds or premises on or in which nursery stock is propagated and grown for sale, or any grounds or premises on or in which nursery stock is being fumigated, treated, packed, or stored;

(4) “Nurseryman” means the person who owns, leases, manages, or is in charge of a nursery;

(5) “Nursery stock” means all field-grown florist stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruitpits, and other seeds of fruit and ornamental trees and shrubs and other plants and plant products for propagation, except field, vegetable, and flower seeds; and

(6) “Person” means corporations, companies, societies, associations, partnerships, or any individual or combination of individuals. When construing or enforcing the provisions of this chapter, omission or failure of any officer, agent, servant, or other individual acting for or employed by any person, as defined within the scope of his or her

employment or office, shall, in every case, be also deemed to be the act, omission, or failure of that person as well as that of the individual himself or herself.

§ 2-21-103. Illegal activities

(a) Without first having qualified, obtained, and having in force a valid license from the State Plant Board to do so, it shall be unlawful for any person, firm, or corporation to:

- (1) Engage in, conduct, or carry on the business of selling or dealing in any nursery stock or of importing into this state for sale or distribution any nursery stock;
- (2) Act as agent, salesman, or solicitor for any nurseryman or dealer in nursery stock; or
- (3) Solicit orders for the purchase of nursery stock.

(b) It is unlawful for any person to falsely represent that he or she is the agent, salesman, solicitor, or representative of any nurseryman or dealer in nursery stock.

§ 2-21-104. Fines and penalties

Any person who shall violate any provisions or requirements of this chapter or of the rules made under authority of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than fifteen dollars (\$15.00) nor more than five hundred dollars (\$500).

§ 2-21-105. Actions and proceedings

Prosecutions under this chapter shall be commenced by the prosecuting attorney upon evidence furnished by the Director of the State Plant Board.

§ 2-21-106. Rules

The State Plant Board is authorized to make such reasonable rules as it may deem necessary for the enforcement of the provisions of this chapter and to prevent violations.

§ 2-21-107. Licenses

(a) All licenses shall be in the name of the person, firm, or corporation licensed and shall show the: (1) Purposes for which issued; and

(2) Name and location of the nursery or place of business of the nurseryman or dealer licensed or represented by the agent, salesman, or solicitor licensed.

(b) No license shall be issued to any agent, salesman, or solicitor unless the nurseryman or dealer represented shall be licensed.

§ 2-21-108. Fees

- (a) No license shall be issued until the applicant shall have qualified and paid the required fee.
- (b)(1) The annual license fee shall be ten dollars (\$10.00) for either a nurseryman or dealer in nursery stock and ten dollars (\$10.00) for each agent, salesman, or solicitor.
- (2) Fees for nursery inspections under the Arkansas Plant Act of 1917, § 2-16-201 et seq., shall also cover the license fees for nurserymen required under this chapter but shall not be construed to cover the license fees for dealers, agents, salesmen, or solicitors.

§ 2-21-109. Licenses--Issuance--Expiration

- (a) Licenses shall be issued on an annual basis.
- (b) The date of expiration of the licenses shall be set by the State Plant Board in its rules and regulations made under this chapter.

§ 2-21-110. License denial

- (a) The State Plant Board shall have authority to deny or refuse renewal of a license to any person when it is revealed by investigation or experience that the person does not have a record of financial or moral responsibility.
- (b) Any person so denied a license may appeal to the circuit court.

§ 2-21-111. License invalidation

- (a) Any license issued in accordance with this chapter may be invalidated by the State Plant Board or its authorized representative, after a hearing, for the following reasons:
  - (1) Substitution by the licensee of varieties or kinds of nursery stock other than those ordered, except by the consent of the purchaser;
  - (2) Misrepresentations such as making false statements or promises for the purpose of making a sale; (3) Repeated sales of poor quality, unthrifty, diseased, or insect-infested nursery stock;
  - (4) Failure to fulfill commitments covered by contracts or neglecting to make adjustments or replacements on nursery stock as by prior agreement; or
  - (5) Violation of any provisions of this chapter or the rules made under authority of it, or of the provisions of the Arkansas Plant Act of 1917, § 2-16-201 et seq., or of the rules made under authority of the Arkansas Plant Act of 1917, § 2-16-201 et seq.
- (b) The licensee may appeal the board's decision within thirty (30) days to the circuit court.

§ 2-21-112. Expert qualification requirements

Any person contracting to render expert advice or services regarding horticultural practices as part of the value received in the sale of nursery stock shall be required to:

(1) Furnish satisfactory evidence to the Director of the State Plant Board that he or she is qualified to give expert advice or perform the service; and

(2)(A) Obtain a certificate to that effect, under signature of the director.

(B) A fee of one dollar (\$1.00) shall be required for this certificate.

§ 2-21-113. Funds

All moneys collected by the State Plant Board under this chapter shall be deposited and used in the same manner as moneys collected under § 2-16-210.