

NIPM Item #5

Laws for Nursery Stock Grades and Standards

The following is a reprinting of the laws regarding labeling, grades, and standards for nursery stock, found in the California Food and Agricultural Code, Division 18, Chapter 5: Nursery Stock Grades and Standards.

Article 1. Definitions.

53301. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

53302. "Advertisement" means any representation which relates to nursery stock, that is disseminated in any manner or by any means, except a representation which is on the label.

53303. "Decorative plants" means indoor plants which are commonly grown and sold in movable containers, and which are not adapted for cultivation out of doors because of climatic conditions and natural peculiarities of habit or growth and because of the purpose of their cultivation.

53304. "Grade size" means the designation relating to nursery stock which denotes the height, spread, caliper, dimension, condition, quality, age, methods of propagation, or means of growth.

53305. "Labeling" means all labels, and other written, printed, or graphic representations, in any form whatsoever, which accompanies and pertains to any nursery stock.

53306. "Nursery stock" means all kinds of nursery stock except decorative plants and seeds.

53307. "Ornamental" means any plant which is grown for ornamental purposes, except decorative plants, dormant bulbs, tubers, roots, corms, rhizomes, and pips.

53308. "Botanical name" means the genus and species, the genus, species, and cultivar name, or the genus and cultivar name given to a plant in accordance with the International Code of Botanical Nomenclature and the International Code of Nomenclature of Cultivated Plants.

53309. "Cultivar name" means the cultivated variety name given to a plant in accordance with the International Code of Nomenclature of Cultivated Plants, without regard to whether that plant is selected from a wild or cultivated population or produced through hybridization.

53310. "Blend" means a combination of the same kinds of nursery stock.

53311. "Mixture" means a combination of two or more kinds of nursery stock.

53312. "Sod" means grassy surface soil nursery stock held together by matted roots of the grass.

53313. "Turf" means grassy surface soil nursery stock consisting of grass cultivars, mixtures or blends of grass cultivars, and dichondra for use in residential and commercial landscapes.

Article 2. General Provisions.

53331. The Legislature hereby declares that by making any additions to or amendments of this chapter it intends to formulate a system of grades and standards and minimum requirements for nursery stock to the end that purchasers of nursery stock may have adequate knowledge concerning the name and the grade size of nursery stock with relation to established standards. If, however, any provisions of, or amendment or addition to, this chapter, either as originally enacted or as amended or added to, should be held to be unconstitutional, the unconstitutionality of such provision shall not affect any other provision of this chapter.

53332. The Legislature hereby declares that it would have enacted each section, subdivision, sentence, clause, or phrase of this chapter irrespective of the fact that one or more other sections, subdivisions, sentences, clauses, or phrases be declared unconstitutional.

Article 3. Enforcement.

53361. The director and the commissioners of each county of the state, their deputies and inspectors, under the supervision and control of the director, shall enforce this chapter.

53362. For the purpose of carrying out the provisions of this chapter, all enforcing officers may enter upon any public or private premises in order to have access to nursery stock subject to this chapter and the regulations which are adopted pursuant to it.

53363. If the director or the commissioner shall find that any person has violated any provision of this chapter, he may institute proceedings in a court of competent jurisdiction in the area in which the violation occurred, to have such person convicted of the violation, or he may file with the district attorney such evidence that may be deemed necessary.

Article 4. Regulations.

53391. The director may adopt regulations which may be necessary to carry into effect the purposes of this chapter and each section of it, and may issue in relation to this chapter explanatory data and charts.

53392. The director by regulations may provide for grade sizes of the different kinds of nursery stock, and may provide that nursery stock shall be labeled with grade sizes which are established by such regulations. The director may make such other regulations as are necessary to carry out the provisions of this chapter.

Article 5. Warning Tags or Notices.

53421. The director or the commissioner may issue and enforce a written or printed warning tag or notice to the owner or custodian of any lot of nursery stock which he finds is in violation of any provision of this chapter, which shall prohibit movement of such nursery stock until such officer has evidence that the law has been complied with. Upon compliance such order shall be removed.

53422. It is unlawful for any person to move or otherwise dispose of any lot of nursery stock which is held under a warning tag or notice except with the permission of the director or the commissioner and for the purpose specified.

53423. The owner or custodian of nursery stock which is held under a warning tag or notice shall, upon demand, have the right of a hearing before the director or the commissioner as to the justification of any such order, and may appeal to the director from any order of the commissioner which is made pursuant to this article.

53424. This article shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of this chapter.

53425. Any decision of the director pursuant to this article is subject to review by any court of competent jurisdiction.

Article 6. Standards.

53451. Nursery stock which is sold shall comply with all of the following requirements:

- (a) It shall be living stock and shall not be dead, or in a dying condition.
- (b) It shall not be seriously broken, frozen, or damaged.

(c) It shall not be abnormally potbound.

53452. Deciduous fruit and nut trees which are sold shall be free from any of the following defects:

(a) Twisted, crossed, frosted, broken, or other defective roots.

(b) Broken grafts.

(c) Other deformations and defects which would interfere with the normal and proper development of such trees after planting.

Article 7. Labeling.

53481. When nursery stock is sold, it shall be labeled plainly and legibly as to the grade size, if so required by regulations, and as to the correct name as follows:

(a) The correct name for ornamentals, except roses, fruit trees, and annual or herbaceous perennial ornamental plants, shall be the botanical name.

(b) The correct name for fruit trees shall be the recognized common name and cultivar.

(c) The correct name for turf shall be the kind and cultivar.

(d) The correct name for roses, annual or herbaceous perennial ornamental plants, dormant bulbs, tubers, roots, corms, rhizomes, pips, and other kinds of nursery stock shall be the cultivar name, except that the recognized common name shall be required whenever no cultivar name has been given or can be determined.

53482. In order to identify nursery stock properly, whenever it is shipped, delivered, or transported to any purchaser, each plant shall be individually labeled as to the correct name. The director may create exceptions to this section by regulation.

53483. Nursery stock on display for sale at retail may be labeled by a sign on any block of stock of the same kind and species. Turf shall be labeled by a sign showing the required correct name of the stock on display.

53484. This article shall become operative January 1, 1982.

Article 8. Violations.

53511. It is unlawful for any person to sell, ship, deliver, or transport to any purchaser any nursery stock which is within any of the following:

(a) Is not labeled in accordance with the provisions of this chapter or the regulations of the director.

(b) Has false or misleading labeling, or pertaining to which there has been a false or misleading advertisement.

(c) Is represented to be certified or registered nursery stock unless it has been produced and labeled in accordance with the procedures and in compliance with the rules and regulations of an official agency.

This section does not apply to any common carrier in respect to any nursery stock which is transported or delivered for transportation in the ordinary course of its business as a carrier.

53512. It is unlawful for any person to do any of the following:

- (a) Detach, alter, deface, or destroy any label, warning tag, or notice which is provided for in this chapter or in the regulations which are adopted pursuant to it, or alter or substitute nursery stock, in a manner that may defeat the purpose of this chapter.
- (b) Disseminate any false or misleading advertisement concerning nursery stock in any manner or by any means.
- (c) Hinder or obstruct in any way any authorized person in the performance of his duties under this chapter.
- (d) Fail to comply with a warning tag or notice.

Article 9. Penalties.

53541. The violation of any provision of this chapter is a misdemeanor and punishable by a fine of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment.

Article 10. Abatement.

53561. Any lot of nursery stock which does not comply with the provisions of this chapter is a public nuisance and shall be subject to seizure on complaint of the director or the commissioner to a court of competent jurisdiction in the area in which the nursery stock is located.

53562. The district attorney of the county in which any such nuisance is found, at the request of the director or the commissioner, shall maintain, in the name of the people of the State of California, a civil action to abate and prevent such nuisance. Upon judgment and by order of the court, such nuisance shall be condemned and destroyed in the manner directed by the court, or relabeled, or reconditioned, or released upon such conditions as the court in its discretion may impose to insure the nuisance will be abated.

53563. If the owner fails to comply with the order of the court within the time specified in the order, the court may order that such nursery stock be forthwith destroyed or the nuisance otherwise abated as set forth in such order.

53564. A proceeding pursuant to this article where the value of the property is twenty-five thousand dollars (\$25,000) or less is a limited civil case.