

NIPM Item #2

CALIFORNIA LICENSE TO SELL NURSERY STOCK

A license to sell nursery stock shall be obtained from the Secretary of Food and Agriculture before any sales are made.

The license is issued to the person operating the business where nursery stock is sold. The LICENSE IS NOT TRANSFERABLE to another person. The fee for a new license is due at the time any change in ownership occurs.

The LICENSE TO SELL NURSERY STOCK is issued for a 12-month period. There are four such 12-month periods: January through December; April through March; July through June; and October through September. New licenses are issued for the license period commencing nearest to the date of receipt of the application.

The LICENSE must be RENEWED no later than the 10th day of the first month of the licensee's license period. If the fee is not received by the date, the license is forfeited and thereafter can be renewed only upon payment of penalty in the form of a registration fee, or upon receipt of a signed statement that no nursery stock was sold from the first day of the license period to the date regular fee was paid.

The MINIMUM FEE FOR LICENSE is \$150. It is required for each branch sales yard, store or sales location which is owned and operated in the state. A location where nursery stock is grown or assembled for distribution directly to customers is a branch sales yard, store or sales location and requires an additional license.

In addition, an ACREAGE FEE is required for land in excess of one acre used in the production, storage or sale of nursery stock. The acreage fee established by the Secretary may not be less than \$25 or more than \$900. In calculating the acreage fee, the total acreage of all branch sales and growing-grounds shall be used. The acreage fee does not apply to those licensees whose gross income from the production

Extracts from Food and Agricultural Code

Definitions and General Provisions

38. "Person" means any individual, partnership, association, corporation, limited liability company, or any organized group of persons whether incorporated or not.

44. "Sell" includes offer for sale, expose for sale, possess for sale, exchange, barter, or trade.

5005. "Nursery stock" means any plant for planting, propagation, or ornamentation.

5006. "Pest" means any of the following things that is, or is liable to be, dangerous or detrimental to the agricultural industry of the state:

(a) Any infectious, transmissible, or contagious disease of any plant, or any disorder of any plant which manifests symptoms or behavior which the director, after investigation and hearing, finds and determines is characteristic of an infectious, transmissible, or contagious disease.

(b) Any form of animal life.

(c) Any form of vegetable life.

5007. "Plant" includes any part of a plant, tree, plant product, shrub, vine, fruit, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft, or fruit pit.

5008. "Shipment" means any article or thing which is, may be, or has been transported from one place to another place.

5009. "Horticultural product" means those products as stated in Group Number 18 of the Standard Industrial Classification Manual which are grown under cover or outdoors, including bulbs, flowers, shrubbery, florist greens, fruit stock, floral products, nursery stock, ornamental plants, potted plants, roses, seed, sod, fruits, food crops grown in greenhouses, vegetables, and horticultural specialties not otherwise specified.

5010. Agricultural or farm products include any horticultural product.

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.

Part 3: Chapter 1. Nursery Stock – Licenses

Article 1. General Provisions

6701. The director may publish in pamphlet form, as often as he deems necessary, a list of all persons that are licensed pursuant to this chapter. The pamphlet may also contain such additional information as the director deems advisable concerning the enforcement of laws and regulations which pertain to nursery stock.

Article 2. Issuance and Renewal of Licenses

6721. It is unlawful, for any person, except a person who is expressly exempt pursuant to Section 6742 or 6743, to sell any nursery stock unless such person holds a valid license which is issued pursuant to this chapter.

6722. Except as provided in Section 6761, the director, upon receipt of the total license fee which is established pursuant to Section 6723, shall issue a license to sell nursery stock for the appropriate period as established pursuant to Section 6724 to any person that sells or seeks to sell plants, as defined in Section 5007, for planting, propagation, or ornamentation. Plants for ornamentation shall include cut flowers and cut greens. The applicant shall further satisfy the director of his character and good faith in seeking to carry on the business of selling nursery stock.

6723.

(a) The secretary shall establish the minimum license fee at an amount not to exceed one hundred eighty dollars (\$180).

(b) The secretary may fix the minimum license fee at an amount that is less than one hundred eighty dollars (\$180) and may adjust the license fee if, after investigation and due notice, the secretary finds that the cost of administering this division and Chapter 5 (commencing with Section 53301) of Division 18, which

relate to nursery stock, can be defrayed from revenues derived from the license fee in combination with those sums as provided by Sections 435 and 5822.

(c) Both of the following amounts shall be added as an additional license fee to the license fee established pursuant to subdivisions (a) and (b):

(1) An equal sum for each branch sales yard, store, or sales location that is owned and operated by the applicant in the state.

(2) (A) An acreage fee in an amount to be established by the secretary for land used in the production, storage, or sale of all nursery stock, except as provided in subparagraph (B), in excess of one acre, which the secretary determines is necessary to carry out this part and any portion of this code that relates to nursery stock. The total acreage fee shall not be less than twenty-five dollars (\$25) nor more than nine hundred dollars (\$900) for each licensee. The acreage fee shall be calculated using as a basis the total of the acreage at all locations where nursery stock is produced, stored, or sold. (B) Subparagraph (A) does not apply to those licensees whose gross income from the production of cut flowers and cut ornamentals is 75 percent or greater of the gross income of their nursery.

(d) As to all the fees, the secretary may require payment of prorated amounts when necessary in the issuance of new licenses for branch sales yards, stores, or sales locations to persons already licensed pursuant to the licensing periods established in Section 6724.

6724. There shall be four licensing periods as follows: January through December, April through March, July through June, and October through September. The fees for the renewal of the license for the foregoing periods shall be paid by the 1st day of the first month of the licensee's license period. If the renewal license fee is not paid prior to the 11th day of the first month of the licensee's license period, for the 12-month period ensuing, the license to sell nursery stock is forfeited.

6725. Any person whose license to sell nursery stock has been forfeited shall not be issued a renewal license except upon written application to the department.

6726. Except as otherwise provided in Section 6727, the application for renewal of a license shall be accompanied by the following sums:

(a) If no part of the minimum license fee has been paid, a sum which is equal to the minimum license fee and a restoration fee in an amount that is equal to the minimum license fee.

(b) If a part of the minimum license fee has been paid, an amount which is a sum equal to any portion of the minimum license fee which is unpaid on the 11th day of the first month of the licensee's license period and a restoration fee in an amount which is equal to the unpaid portion of the minimum license fee.

6727. No restoration fee is required of any person whose application for renewal of a license is accompanied by his signed statement that prior to the date of his application and payment of the minimum license fee he has not sold any nursery stock during any part of the license period for which he applies for renewal of the license. The director also may accept, at his discretion, the licensee's affidavit that the minimum license fee was not

paid within the time limits specified in Section 6724 for reasons beyond the licensee's control.

6728. The director shall not refund more than one-half of the minimum license fee to any person who applies for a license to sell nursery stock and who later decides not to engage in the sale of nursery stock. No portion of the minimum license fee shall be refunded to any person who is denied a license pursuant to Section 6761.

Article 3. Exemptions

6741. A person is not required to pay any license fee if all of the following facts exist:

- (a) The person's sales of plants amount to less than one thousand dollars (\$1,000) within any one fiscal year.
- (b) The person has reported to the commissioner his or her intention to make those sales.
- (c) All plants which are sold by the person are of his or her own production, and are sold for planting within the county in which the plants were grown.

6742. Any person that sells seeds and does not sell or ship any other kinds of nursery stock is exempt from the license requirements of this chapter.

6743. Any retail florist or other person that sells plants at retail for indoor decorative purposes only is exempt as to such plants from the license requirements of this chapter.

6744. Any person that sells cut Christmas trees is exempt from the license requirements of this chapter.

Article 4. Refusal, Revocation and Suspension

6761. The director, after investigation and hearing, may refuse to issue or renew a license, or may suspend or revoke a license, if he determines that the licensee or the applicant has done any of the following:

- (a) Has willfully refused to comply with the laws and regulations relative to nursery stock, or to any pest which might be carried by nursery stock.
- (b) Was intentionally guilty of fraud or deception in the procurement of the license.
- (c) Has been guilty of fraud or misrepresentation in the handling or sale of nursery stock.
- (d) Has failed to maintain nursery stock produced or sold by him in accordance with the standards of cleanliness which are prescribed by the director.
- (e) Has failed to comply with any lawful order which is issued by the director or commissioner.

6762. Any proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The director shall have all the powers which are granted in such chapter.

<input type="checkbox"/> New	<input type="checkbox"/> Renewal
Previous License# _____	
<input type="checkbox"/> Branch	
<input type="checkbox"/> Change of Ownership	
<input type="checkbox"/> Change of Address Only	
<input type="checkbox"/> Growing Ground Addition	
<input type="checkbox"/> Change of Name Only	

Departmental Use Only
Lic. No. _____
Temp. Lic. _____
Annual Lic _____

APPLICATION FOR LICENSE TO SELL NURSERY STOCK

Please print or type information in spaces where indicated. Complete ALL sections.

FIRM NAME OR DBA & MAILING ADDRESS (AS IT WILL APPEAR ON YOUR LICENSE): _____ _____ _____	SALES LOCATION (GIVE SPECIFIC ADDRESS, NOT P. O. BOX): _____ _____ _____	COUNTY: _____
	CITY: _____ _____	ZIP: _____ _____
CONTACT PERSON: _____ TELEPHONE: _____	TELEPHONE: _____	FAX: _____
OWNER'S NAME(S) OR PARENT CORPORATION NAME: _____	E-MAIL ADDRESS: _____	# OF ACRES FOR THIS LOCATION _____

PART I CALCULATE YOUR FEES HERE

1. BASIC LICENSE FEE	1a. \$ 150.00																																																		
<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 35%;">2. ACREAGE FEE: Required for land in excess of one acre used in the production, sale or storage of nursery stock (Include growing grounds acreage from reverse side in this calculation)</td> <td style="width: 15%; text-align: center;">0</td> <td style="width: 15%; text-align: center;">1.0</td> <td style="width: 15%; text-align: center;">acres ... \$</td> <td style="width: 20%; text-align: center;">0</td> </tr> <tr> <td></td> <td style="text-align: center;">1.01</td> <td style="text-align: center;">-</td> <td></td> <td style="text-align: center;">5.0</td> </tr> <tr> <td></td> <td style="text-align: center;">5.01</td> <td style="text-align: center;">-</td> <td></td> <td style="text-align: center;">20.0</td> </tr> <tr> <td></td> <td style="text-align: center;">20.01</td> <td style="text-align: center;">-</td> <td></td> <td style="text-align: center;">50.0</td> </tr> <tr> <td>List total # acres to assist in calculating the fee</td> <td style="text-align: center;">50.01</td> <td style="text-align: center;">-</td> <td></td> <td style="text-align: center;">200.0</td> </tr> <tr> <td></td> <td style="text-align: center;">200.01</td> <td style="text-align: center;">-</td> <td></td> <td style="text-align: center;">500.0</td> </tr> <tr> <td></td> <td style="text-align: center;">500.01</td> <td style="text-align: center;">-</td> <td></td> <td style="text-align: center;">+</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">acres ... \$</td> </tr> <tr> <td></td> <td></td> <td></td> <td></td> <td style="text-align: center;">900</td> </tr> </table> <p>ACREAGE FEE EXEMPTION*: If greater than 75% of your nursery's gross income comes from sales of cut flowers/cut ornamentals, you do not need to pay the acreage fee. Check box 2a and enter zero fees in box 2b. List total # acres in box to right (examples: 0.25, 1.5, 12) →</p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;">LIST</td> <td style="width: 15%;">TOTAL</td> <td style="width: 15%;"># ACRES</td> <td style="width: 15%;">=</td> <td style="width: 40%; text-align: center;"> <input style="width: 80%; height: 20px;" type="text"/> </td> </tr> </table>	2. ACREAGE FEE: Required for land in excess of one acre used in the production, sale or storage of nursery stock (Include growing grounds acreage from reverse side in this calculation)	0	1.0	acres ... \$	0		1.01	-		5.0		5.01	-		20.0		20.01	-		50.0	List total # acres to assist in calculating the fee	50.01	-		200.0		200.01	-		500.0		500.01	-		+					acres ... \$					900	LIST	TOTAL	# ACRES	=	<input style="width: 80%; height: 20px;" type="text"/>	<p>2a <input type="checkbox"/> Please check this box if you qualify for the acreage fee exemption AND enter zero fees in box 2b below</p> <p>2b. Calculate your acreage fees due and enter amount here (Do not include fractions of an acre in calculations.)</p> <p style="text-align: right;">\$ <input style="width: 80%; height: 20px;" type="text"/></p>
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LIST	TOTAL	# ACRES	=	<input style="width: 80%; height: 20px;" type="text"/>																																															
3. TOTAL FEES DUE (Add total of 1a and 2b and enter in 3a)	3a. TOTAL DUE \$ <input style="width: 80%; height: 20px;" type="text"/>																																																		

SEND THIS APPLICATION ALONG WITH CHECK OR MONEY ORDER PAYABLE TO: "CDFA -90054" AND MAIL TO:

CASHIER
 California Department of Food and Agriculture
 1220 N Street
 Sacramento, California 95814

NOTE: Allow six to eight weeks for license processing.

PART II TYPE OF BUSINESS (Check one or more and answer questions below. See reverse for business descriptions.)

<input type="checkbox"/> Cut Flowers/Cut Ornamentals	<input type="checkbox"/> Jobber/Broker/Commission Merchant	<input type="checkbox"/> Producer
<input type="checkbox"/> Incidental Retailers	<input type="checkbox"/> Landscaper	<input type="checkbox"/> Retailer
Do you have growing grounds? If yes, please fill in Part IV on reverse side.	YES NO <input type="radio"/> <input type="radio"/>	Do you intend to sell at Farmers' Markets? If yes, please fill in Part V on reverse side.
	YES NO <input type="radio"/> <input type="radio"/>	

PART III TYPE OF NURSERY STOCK (Check as many as applicable. Commercial producers must complete this section.)

1. Coniferous evergreens	7. Bulbs, corms, rhizomes, etc.	D. Other subtropical & tropical fruit trees, including avocado
2. Broad-leaved evergreens	8. Decorative plants, foliage or florist's potted plants, including orchids	E. Strawberry, bushberry, etc.
3. Deciduous shade trees	9. Cacti and succulents	F. Vegetable plants
4. Deciduous shrubs	A. Deciduous fruit & nut trees**(see reverse)	G. Sod (turfgrass)
5. Rose plants	B. Grapevine and kiwi plants**(see reverse)	H. Ground covers
6. Herbaceous ornamental annuals and perennials and aquatics	C. Citrus trees**(see reverse)	J. Palms

I hereby certify that the information submitted in this application is true and correct to the best of my knowledge and belief.

SIGNATURE OF AUTHORIZED REPRESENTATIVE	OFFICIAL TITLE	DATE
<input style="width: 100%; height: 100%;" type="text"/>	<input style="width: 100%; height: 100%;" type="text"/>	<input style="width: 100%; height: 100%;" type="text"/>

PART IV GROWING GROUNDS (List locations where nursery stock is grown but neither sold nor delivered directly to customers)				
ADDRESS (LOCATION)	CITY	ZIPCODE	COUNTY	#ACRES

PART V FARMERS' MARKETS (List locations where you will be selling your stock)		
ADDRESS (DESCRIPTION OF LOCATION OK)	CITY	COUNTY

TYPE OF BUSINESS DESCRIPTION

- Cut Flowers/Cut Ornamentals – Wholesale sales only
- Incidental Retailers - An operator of a retail sales outlet for nursery stock, which is handled incidental to other merchandise
- Jobber/Broker/Commission Merchant - A dealer, not a producer, who buys and resells nursery stock at wholesale
- Landscaper - A landscape contractor who maintains a sales yard or holding yard for the nursery stock handled
- Producer - A commercial producer who grows and sells a total of \$1,000 or more of nursery stock in one year
- Retailer - An operator of a retail sales outlet which has no growing grounds except small areas devoted to the production of plants for local distribution and those producing less than \$1,000

*** ACREAGE FEE EXEMPTION**

A change in the law, effective January 1, 2000, exempts licensees from paying acreage fees if their gross income from the production of cut flowers and/or cut ornamentals is 75% or greater of their gross income for their nursery. If qualified for this exemption, licensees must still list total acreage on the front page, however, in the adjacent acreage fee block, please enter zero fees.

**** ASSESSMENTS FOR CITRUS, FRUIT OR NUT TREES AND GRAPEVINES**

If a producer nursery grows and sells citrus trees, deciduous pome and stone fruit trees or grapevine nursery stock during the past fiscal year, it may owe an assessment. Sections 6981-6988 of the California Food and Agricultural Code established an annual assessment to be collected from producers of deciduous pome and stone fruit trees, nut trees, and grapevine nursery stock. The assessment is 1% of the gross sales made in the producer's most recently completed fiscal year. Some exceptions may apply. The law does not allow the License to Sell Nursery Stock to be renewed until assessment fees are paid.

ALTERNATIVE FORMATS

This application can be made available in alternative formats for visual or hearing impaired individuals. Please allow 7-10 working days for production of the alternative format. Requests for an alternative format may be directed to the address and telephone number below.

TIME PERIODS

The Department of Food and Agriculture has established time periods for the processing of permit applications, in compliance with Government Code Section 15374-15378. Failure to comply with these time periods may be appealed to the Secretary of Food and Agriculture, 1220 N Street, Sacramento, CA 95814, pursuant to Regulations set forth in Title 3, California Code of Regulations, Section 301. Under certain circumstances, the Secretary may order that the applicant receive a reimbursement of filing fees.

If you have additional questions, please contact:

Pest Exclusion Branch
 Nursery, Seed and Cotton Program
 1220 N Street, Room 344
 Sacramento, CA 95814
 (916) 654-0435
 Fax: (916) 651-1207