

CIRCULAR 8

**ARKANSAS
LAWS ON PLANTS AND SEEDS**

This circular has been revised and is issued in April, 1993. For information on these, and other laws administered by the State Plant Board, contact the Plant Board office by writing to P.O. Box 1069, Little Rock, AR 72203.

CONTENTS

	Page		Page
The Plant Act	1	The Nursery Fraud Act	6
The Emergency Plant Act	4	The Seed Certification Act	7

THE PLANT ACT (77-101 - 77-116, ARKANSAS STATUTES 1947)

77-101. Arkansas Plant Act - Short title. - This act shall be known by the short title of the **Arkansas Plant Act of 1917.**

77-102. Definitions. - For the purpose of this act the following terms shall be construed, respectively, to mean:

"Insect pests and diseases," insect pests and diseases injurious to plant and plant products of this State, including any of the stages of development of such insects and diseases.

"Plants and plant products," 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.

"Places," vessels, cars and other vehicles, buildings, docks, nurseries, orchards, and other premises, where plants and products are grown, kept or handled.

"Persons," individuals, associations, partnerships and corporations.

Words used in this act shall be construed to import either the plural or the singular, as the

case demands.

77-103, as last amended by Act 409 of 1975. **State Plant Board - Members - Appointment - Term - Vacancies - Officers - Meetings - Quarters.** There is hereby created and established a State Plant Board, hereinafter to be called the Board, composed of sixteen (16) members, as follows:

(1)The Head of the Department of Entomology, University of Arkansas College of Agriculture; (2) the Head of the Department of Plant Pathology, University of Arkansas College of Agriculture; (3) a practical cotton grower, actively engaged in the business to be appointed by the Governor; (4) one (1) member to represent the Arkansas Fertilizer and Cotton Oil Mills, which member shall be actively engaged in the business, to be appointed by the Governor; (5) a practical rice grower, actively engaged in the business, to be appointed by the Governor; (6) a practical horticulturist, actively engaged in the business, to be elected by the State Horticultural Society; (7) a nurseryman actively engaged in the business, to be elected by the State Nurseryman's Association; (8) a practical seed grower, actively engaged in the business, to be elected by the Arkansas Seed Growers Association; (9) a pest control operator, actively engaged in the business, to be elected by the Arkansas Pest Control Association, Inc.; (10) a seed dealer, actively engaged in the business, to be elected by the Arkansas Seed Dealers Association; (11) a feed manufacturer, actively engaged in the business, to be elected by the Arkansas Feed Manufacturers Association, (12) a pesticide manufacturer, actively engaged in the business, to be elected by the Arkansas Agricultural Pesticide Association; (13) one (1) member to represent the Arkansas Agricultural Aviation Association, to be elected by the Arkansas Agricultural Aviation Association; and (14) one (1) member to represent the Arkansas Forestry Association, to be elected by the Arkansas Forestry Association; (15) two (2) farmers actively and principally engaged in farming in this State, appointed by the Governor, Members shall serve for 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. The Chairman, Vice-Chairman 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. Meetings of the Board shall be called by the Chairman or by four (4) members of the Board. The members shall serve without compensation, and shall be authorized to provide a suitable office or offices where the meetings of the Board may be held and its records kept. 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 15 years from date of lease.

Section 77-104 as amended by Act 360 of 1953. - **Director - Compensation - Bond.** - For the purpose of carrying out the provisions of this act, the Board shall employ, prescribe the duties of, and fix the compensation of a Director, who may, by the approval of the 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.

The Director shall furnish a bond of five thousand (\$5,000) dollars with sufficient sureties approved by the Board for the faithful performance of his duties of this act and the rules and regulations of the Board. Any person suffering damage by reason of the acts or omissions of the

Director or his duly authorized deputies or employees, may bring action on said bond for damages. The Board may require, to indemnify the Director, that similar bonds shall be furnished by such deputies, inspectors or employees. The Board shall co-operate with other departments, Boards and Officers of this State and of the United States as far as possible.

77-105. Duties of the Board. - The Board shall keep itself informed as to the varieties of insect pests, diseases, and noxious weeds, the origin, locality, nature and appearance thereof, the manner in which they are disseminated, and approved methods of treatment and eradication. Every such insect pest, disease, and noxious weed, and every plant product infested or infected therewith is hereby declared to be a public nuisance.

The Board in its rules and regulations made pursuant to this act 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, together with the plants and plant products or other substances on or in which these may be carried.

Every person who has knowledge of the presence of any insect pest, disease, or noxious weed, listed, as required by this section in the rules and regulations made pursuant to this act, in or upon any place, shall immediately report the same to the Board or inspectors thereof, giving such detailed information relative thereto as he may have. 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 purchased or obtained such plant and plant products.

77-106. Rules and regulations. - The Board shall, from time to time, make rules and regulations for carrying out the provisions and requirements of this act, including rules and regulations, under which its inspectors and other employees 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 plants and plant products infested or infested therewith.

For the purpose of preventing fraud and misrepresentation the Board shall from time to time make rules and regulations governing the transportation, distribution, or sale of sorghum seed, hybrid corn seed, and other seeds intended for planting purposes.

77-107. Notice and eradication of pests or diseases - Lien for expenses in case of failure to comply. - Whenever such inspection discloses that any places, or plants, or 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 Section 77-105 in rules and regulations made pursuant to this act, written notice thereof shall be given the owner or other person in possession or control of the place where found, and such owner or other person shall proceed to control, eradicate or prevent the dissemination of such insect pest, disease, or noxious

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

77-108. Sale, shipment, or disposal of plants or products - Certificate of inspection - Fee - Disposal of proceeds. - It shall be unlawful for any person to sell, give away, carry, ship, or deliver for carriage of shipment, within this State, any plants or plant products listed, as required by Section 77-105 in the rules and regulations made pursuant to this act, unless such plants and plant products have been officially inspected and a certificate issued by an inspector of the Board stating that said plants or plant products have been inspected and found to be apparently free from insect pests and diseases or unless such plants or plant products bear a certificate issued by an inspector of the Board showing the place on which such 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 the rules and regulations made pursuant to this act; **provided**, however, that this section shall not apply to plants and plant products not affected by rules and regulations made pursuant to this act when such plants or plant products are disposed of in local trade. **Provided**, also that when any person shall notify the Board of impending shipments of plants or plant products, and the Board fail to provide the proper inspector to inspect the same under the rules and regulations made pursuant to this act, the person desiring to make such shipment may do so without being liable to provisions of this section. For the issuance of such certificates as provided for in this section, the Board may require the payment of a reasonable fee to cover the expenses of such inspection and certification. If it shall be found at any time that a certificate of inspection, issued or accepted pursuant to 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. All moneys collected by the Board under this section or under Sections 77-107 or 77-113 shall be deposited with the treasurer of the Board, and shall be used in carrying out the provisions of this act.

77-109. Duty of receiver of prohibited plants or products. - Any person in this State who received any plant or plant product sold, given away, carried, shipped, or delivered for carriage or shipment within the State as to which the requirements of Section 77-108 have not been complied with, shall immediately inform the Board or an inspector thereof, and isolate and hold the said plant product unopened or unused subject to such inspection and other disposition as may be provided for by the Board.

77-110. Transportation of insect pests, plant diseases, weeds or prohibited plants into state prohibited - Regulations - Inspection - Fees - Seizure. - Transportation through or into or

transportation, distribution, or sale within the State of any insect pest, plant disease, or noxious weed, or of any plant, plant product, or other substance, listed in the rules and regulations of the Board as required under Section 77-105, or of sorghum seed, hybrid corn seed, or other planting seeds for the transportation, distribution, or sale of which the Board has made rules and regulations under this act is hereby prohibited except under such safeguards as may be provided for in the rules and regulations of the Board. 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 regulations made under this act, the Board may require the payment of reasonable fees, which shall be deposited in the manner prescribed by Section 77-108 to be used in carrying out the provisions of this act. Provided, that the Board is hereby 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.

Inspectors of the Board 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 or regulation, and may stop and detain for inspection any person, car, or other carrier.

77-111. Notice of pests or diseases within state - Regulation of transportation. - Whenever the 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 or infected, or likely to become infested or infected therewith, and the movement, planting or other use of any such plant or plant products, or other thing or substance specified in such notice as likely to carry and disseminate such insect pest, disease, or noxious weed, except under such safeguards as may be provided in the rules and regulations made by the Board, shall be prohibited within such area as may be designated in said public notice until the Board shall find that the danger of the dissemination of such insect, disease, or noxious weed, has ceased to exist, of which the Board shall give public notice; provided, however, that before such 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.

77-112. Powers of Board and inspectors to enforce act. - For the purpose of carrying out the provisions and requirements of this act, and of the rules and regulations made, and notices given pursuant thereto, the Board and its inspectors and employees shall have power to enter into or upon any place, and to open any bundle, package, or other container of plants or plant products.

77-113. Review of rules and regulations. - Any person affected by any rules and regulations made, or notice given, pursuant to this act, may have a review thereof by the Board, for the purposes of having said rule, regulations or notice modified, suspended or withdrawn, and pending such review, such rules and regulations or notice shall be suspended.

77-114. Offenses - Penalty. - Any person who shall violate any provisions or requirements of this act, of the rules and regulations made, or of any notice given, pursuant thereto, or who shall

forge, counterfeit, deface, destroy, or wrongfully use, any certificate provided for in this act, or in the rules and regulations made pursuant thereto, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars.

77-115. **Act of employee or agent deemed act of principal.** - In construing and enforcing the provisions of this act, 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 employment or office shall, in every case, also be deemed the act, omission or failure of such person, association, partnership or corporation as well as that of the person.

77-116. **Act not to conflict with federal law.** - This act shall not be so construed or enforced as to conflict in any way with any act of Congress regulating the movement of plants and plant products in interstate or foreign commerce.

EMERGENCY PLANT ACT (77-117 - 77-128, ARK. STAT. 1947)

77-117. **Emergency Plant Act - Short title.** - This act shall be known by the short title of the "**Arkansas Emergency Plant Act of 1921.**"

77-118. **Terms and definitions.** - For the purposes of this act, the terms and definitions set forth in Section 77-102, are hereby adopted and made a part thereof, and in addition thereto 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, the 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.

77-119. **Inspector to enforce provisions - Employees.** - The provisions of this act and the rules and regulations promulgated thereunder shall be carried out by the chief inspector of the State Plant Board, who serve without extra compensation. The Director may, with the approval of the Board, employ such deputy 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.

77-120. **Plant quarantine.** - Upon satisfactory information acquired in any manner, or upon information furnished by the State Plant Board, signed by the secretary and at least 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, declaring such to be a dangerous insect pest or plant disease which threatens an agricultural industry, and specifying the plants, plant products, articles, substances and places capable of harboring or spreading such dangerous insect pest or plant disease, and declaring the zones or areas in which such danger exists; and thereafter, and until such time as the Governor shall ascertain from the State Plant 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 such zones or areas any plants, plant products, articles, substances or places infected or

infested with dangerous plant disease or insect pest or likely to become so infested or infected; provided, that such 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 and regulations made and promulgated by the State Plant Board as hereinafter provided.

77-121. Rules and Regulations governing quarantine - Treatment or destruction of plants or products - Expenses. - It shall be the duty of the State Plant Board, and said Board is hereby authorized and directed, when public safety will permit, to make and promulgate rules and regulations which shall permit and govern the growing and maintenance in any zones or areas mentioned in Section 77-120 of this act of any plants, plant products, articles, substances or places referred to in said Section 77-120 of this act. Whenever it shall be ascertained and determined by the State Plant 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 such infestation or infection, the Board shall require the treatment, cutting, or destruction of such plants, plant products, articles, substances or places; and if the owner, custodian or occupant of said plants, plant products, articles, substances or places referred to herein cannot be found, or shall, upon reasonable notice, fail or refuse to comply with the requirements of this act, such requirements shall be carried out by the Board, and the expense thereof of charged against the owner, custodian or occupant.

77-122. Claims committee - Membership - Quorum - Expenses - Adjustments of claims. - Whenever, in carrying out the provisions of this act or in the enforcement of rules and regulations promulgated hereunder, property shall be damaged, destroyed or rendered unproductive, the Governor shall appoint, for each county affected, a committee on claims. Said committee shall consist of 2 representatives of the county affected, and 3 members of the State Plant Board, as follows: (The Commissioner of Mines, Manufactures and Agriculture) the practical cotton grower, and the practical horticulturist. Said committee shall serve as long as the Governor shall deem their services to be necessary; they shall elect a chairman, and a majority of the members shall constitute a quorum for the transaction of business; provided, however, that there shall be present at every meeting at least one of the members appointed by the Governor to represent the county concerned and not less than 2 members of the State Plant Board composing said committee. The members of the committee shall serve without compensation, but they shall be allowed their traveling expenses and a per diem of \$6.00 while engaged in their official duties. The committee on claims shall engage such clerical and other help as may be necessary and 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 order to carry out the provisions of this act.

The committee shall submit each claim approved by it to the secretary of the Board, who shall then issued, 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 claims approved by the committee.

(Compiler's Note. The reference to the Commissioner of Mines, Manufactures, and Agriculture was enclosed in parenthesis by the compiler for the reason that the office was abolished by Acts 1933. No. 152.)

77-123. **Rights of inspection.** - For the purposes of carrying out the requirements of this act, and the rules and regulations made, and notices given, pursuant thereto, the State Plant Board and its inspectors and employees 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.

77-124. **Duty of attorney general or prosecuting attorney - Penalty for violation of act.** - Upon information furnished by the State Plant Board it shall be the duty of the Attorney General or the prosecuting attorney of the district in which an alleged violation of any of the provisions of this act may occur, to enforce the provisions of this act by proceedings in any court of competent jurisdiction, and if the remedy elected to be pursued be by writ of injunction, no court of this State shall have the right, previous to a hearing upon the merits, to set aside or stay such writ. Any person who shall violate any of the provisions of this act or who shall interfere with any member of the Board, or any inspector or employee thereof, while engaged in the performance of his duties under this act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25 nor more than \$500, or imprisonment for not less than 10 days nor more than 6 months, or by both such fine and imprisonment, at the discretion of the court having jurisdiction.

77-125. **Power of Board to summon witnesses and require production of documents.** - In the enforcement of this act and of the rules and regulations made pursuant thereto the State Plant Board, may summon witnesses, require the production of any books, papers or documents it deems material, administer oaths and hear witnesses, and it shall be the duty of every sheriff in the State to serve a summons when requested by the State Plant Board.

77-126. **Act of agent or employee deemed act of principal.** - In construing and enforcing the provisions of this act, 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 employment or office shall, in every case, also be deemed the act, omission or failure of such person, association, partnership or corporation as well as that of the person acting as such agent.

77-127. **Annual report of Board.** - The Board shall make an annual report to the Governor, in which report it shall given an account of the disposition of the appropriations which may be made for the purpose of carrying out the provisions of this act.

77-128. **Act supplemental.** - This act shall not be construed as limiting the authority conferred upon the State Plant Board by Sections 77-101 - 77-116, but shall be construed as supplemental thereto.

77-129. **Compensation for trees destroyed.** - The owner of any valuable pear trees, cedar trees or other growing trees of real value, which have been, or may hereafter be cut down and destroyed without his consent by the order and direction of the State Plant Board, or by their officers, employees, agents or inspectors, shall be entitled to compensation for the actual value of the trees cut down or destroyed, to be paid by the County in which such trees were growing.

77-130. **Presentation of claims to county court - Allowance.** - The owner of the trees shall present to the County Court his claim in writing, verified by his affidavit, stating the kind, number and value of the trees, and when and by what authority the same were destroyed; and the Court shall allow from the County general fund such sum as the evidence shows the claimant is entitled to receive.

NURSERY FRAUD ACT (77-401 - 77-406 ARK. STAT. 1947)

77-401. **Short Title.** - This act shall be known by the short title of "**The Arkansas Nursery Fraud Act of 1919.**"

77-402. **Definitions.** - For the purpose of this act the following terms used in the act shall be construed as follows:

(1) The singular and plural forms of any word or term in this act shall be construed as interchangeable and equivalent within the meaning of the act.

(2) The term "person" shall include corporations, companies, societies, associations, partnerships, or any individual or combination of individuals. When construing or enforcing the provisions of this act, omission or failure of any officer, agent, servant or other individual acting for or employed by any person as above defined within the scope of his employment or office, shall in every case be also deemed to be the act, omission or failure of such person as well as that of the individual himself.

(3) The term "nursery stock" shall include all field-grown 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.

(4) The term "nursery" shall be construed to mean 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.

(5) The term "nurseryman" shall mean the person who owns, leases, manages, or is in charge of a nursery.

(6) The term "dealer" shall be construed to apply to 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.

(7) The term "agent" shall be construed as applying to 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 co-operative basis.

77-403, as amended by Act 118 of 1963.

SECTION 1. Section 4 of Act 683 of 1919, as amended, the same being Section 77-403 of Arkansas Statutes of 1947, is hereby amended to read as follows:

Nursery dealer's license - Fee - Operating without license - Penalty - Grounds for revocation of license. - Section 4. It shall be unlawful for any person, firm or corporation to 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, or to act as agent, salesman, or solicitor for any nurseryman or dealer in nursery stock, or to solicit orders for the purchase of nursery stock without first having qualified and obtained and have in force a valid license from the Arkansas Plant Board to do so. Also, it shall be unlawful for any person to falsely represent that he is the agent, salesman, solicitor or representative of any nurseryman or dealer in nursery stock. No license shall be issued until the applicant therefor shall have qualified and paid the fee as in this Act required.

The Plant Board shall have authority to deny or refuse renewal of a license to any person who, when it is revealed by investigation or experience, does not have a record of financial or moral responsibility. Any person so denied a license may appeal to the Circuit Court.

The annual license fee shall be \$10.00 for either a nurseryman or dealer in nursery stock, and \$10.00 for each agent, salesman or solicitor. Provided, that fees for nursery inspections under Section 77-101 - 77-116, shall also cover the license fee for nurserymen required under this Act, but shall not be construed to cover the license fee for dealers, agents, salesmen or solicitors. All licenses shall be in the name of the person, firm or corporation licensed, and shall show the purpose for which issued, the name and location of the nursery or place of business of a nurseryman or dealer licensed or represented by the agent, salesman or solicitor licensed, and no license shall be issued to any agent, salesman or solicitor, unless the nurseryman or dealer represented shall be licensed. Licenses shall be issue on an annual basis. The date of expiration of such licenses shall be set by the Plant Board in its rules and regulations made pursuant to this Act.

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

Any license issued in accordance with this Act may be invalidated by the Plant Board or its authorized representatives, 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; (5) Violation of any provisions of this Act, or of the provisions of the Plant Act of 1917, as amended (Arkansas Statues 1947 - Sections 77-102 - 77-116), or of the rules and regulations made under authority of the Plant Act of 1917 as amended; provided that the licensee may appeal the Plant Board's decision within 30 days to the

Circuit Court.

Any person who shall violate any provisions or requirements of this Act, or of the rules and regulations made under authority of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than \$15.00, or no more than \$500.00

SECTION 2. The provisions of this Act shall not be construed as limiting the authority conferred upon the State Plant Board by Sections 77-101 - 77-116, Arkansas Statutes 1947, but shall be construed as supplemental thereto.

77-404. **Giving horticultural advice - Certificate of authority - Fee.** - Any person or persons 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 furnish satisfactory evidence to the chief inspector of the Arkansas Plant Board that he is qualified to give such expert advice or perform such service and shall be required to obtain a certificate to that effect

under signature of the Director of the Arkansas Plant Board. A fee of \$1.00 shall be required for this certificate.

77-405. **Prosecutions.** - Prosecutions under this act shall be commenced by district attorney upon evidence furnished by the Director of the Arkansas Plant Board.

77-406. **Deposit and use of moneys collected.** - All moneys collected by the Board under this act shall be deposited and used in the same manner as moneys collected under Section 77-108.

SEED CERTIFICATION ACT (77-315 - 77-322 ARK. STAT. 1947)

Sale of seeds is governed by the Plant Act, 77-105 - 77-111,
and regulations made thereunder

77-315. **Certification of seed on request of grower - Definitions** - For the purpose of this act the following terms shall be construed, respectively, to mean:

"Board" - The State Plant Board of Arkansas.

"Person" - Individuals, partnerships, corporations, associations, or two or more individuals having a joint or common interest.

"Seed" - Any agricultural seeds, or plants used to produce a crop.

Words used in this act shall be construed to import either the singular or plural, as the case demands.

77-316. **Investigation and certification by Board.** - The State Plant Board is hereby empowered to investigate and certify to varietal purity and fitness for planting of agricultural seed, on request of the grower thereof. For this purpose the Board shall set up, in its rules and regulations, one or more classifications of seed, designating such classifications, as "Registered," and "Certified," or by any other one or more names which it may specify, in its rules and regulations, the standards which seed must meet, and the methods by which seed must be handled, in order to be certified under such classifications. **Provided**, that 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 pure bred seed as may be deemed necessary by the Board.

77-317. **Rules and regulations by Board.** - The Board shall promulgate all rules and regulations necessary to carry into effect the purpose of this act, which is to provide supplies of high-grade seed, true to name and free from disease, for planting purposes, and shall also

make rules and regulations to protect the interests of breeders who have developed high quality strains of seed; and may appoint, or may authorize the chief inspector to appoint, such deputies as shall be necessary to carry into effect the purpose of this act.

77-318. **Fees.** - The Board shall, to cover costs of inspection and certification, require reasonable fees of all applicants in advance. All moneys collected under this act shall be deposited in a separate fund in the manner prescribed in Section 77-108, and shall be used in carrying out the purposes of this act.

77-319. **Certificates of inspection.** - Persons whose seed have met the standards set up by the Board, and who have complied with all the provisions of this act, and with all rules and regulations of the Board made pursuant to this act, shall receive from the Board the proper certificate of inspection designating the classification of seed. Each bag or other container of seed sold under the classification designated by a certificate of the Board shall bear a tag or label securely attached and displayed, and procured from the Board at a cost not to exceed two cents. Certificates issued under the provisions of this section shall run one crop season only.

77-320. **Offenses relating to certification - False advertising - Penalty - Revocation of certificate.** - Any person who falsely advertises or proclaims that seed has been certified by the Board, or who uses any emblem, label, or language, for the purpose of misleading persons into believing that seed has been certified to by the Board when it has not, or who misuses any tag, label, or certificate issued by the Board, or who 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, or who having received a certificate violates any of the rules and regulations of the Board made pursuant to this act or who violates any agreement made as a condition for receiving a certificate, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$25.00 nor more than \$500.00, for each offense, and when such person holds a certificate from the Board said certificate shall, after a hearing before the Director of the Board has been given to said person, be revoked by the Director, irrespective of whether or not a prosecution is commenced, provided that any person whose certificate is revoked by the Director shall be entitled to an appeal to the Board, whose decision shall be final.

77-321. **Improper use of terms "certified" or "registered" unlawful.** - 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 Board, without first having applied for and received the proper certificate from the Board. Any person violating the provisions of this section shall be punished as provided in Section 77-320.

77-322. **Cooperation with other agencies.** - In administering this act the Board is authorized to co-operate to the fullest extent with other agencies of the State and Federal Government.