

249.005 Purpose of group of sections within chapter.

The purpose of this section, KRS 249.010, 249.020, 249.030, 249.040, 249.050, 249.060, 249.070, 249.090, 249.100, 249.101, 249.102, 249.103, 249.104, and 249.105 is to prevent the introduction and dissemination within this Commonwealth of insect pests, plant diseases, and weeds and to provide for their repression and control.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 142, sec. 1, effective July 15, 1996.

249.010 Definitions for chapter.

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

- (1) "Commissioner" means the Commissioner of Agriculture.
- (2) "Department" means the Department of Agriculture.
- (3) "Director" means the director of the agricultural experiment station.
- (4) "Pest" means any insect, snail, slug, rodent, nematode, fungus, weed; and any other form of plant or animal life, or virus, bacterium, or other microorganism, except viruses, bacteria, or other microorganisms on or in living man or other living animals, which is normally considered to be a pest, or which the department declares to be a pest.
- (5) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six (6) legged, usually winged forms, as for example, beetles, bugs, bees, wasps, flies, and other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and wood lice, and any other invertebrates which are destructive, constitute a liability, and may be classed as pests.
- (6) "Plant disease" means any fungi, bacteria, nematodes, protozoans, and viruses injurious to plants and plant products, and the pathological condition in plants and plant products, caused by fungi, bacteria, nematodes, protozoans, and viruses.
- (7) "Nursery stock" means all field or container-grown and native trees, sod, shrubs, herbaceous perennials, vines, cuttings, grafts, scions, buds, fruit-pits, and other seeds of fruit and ornamental trees and shrubs; also other plants and plant products for, or capable of, propagation, excepting field, vegetable, and flower seeds, bedding plants, bulbs, and roots.
- (8) "Nursery" means any grounds or premises on or in which nursery stock is propagated and grown, or from which nursery stock is collected for sale, or any grounds or premises on or in which nursery stock is being fumigated, treated, packed, or stored.
- (9) "Nurseryperson" means any person who owns, leases, manages, or is in charge of a nursery, and who propagates nursery stock.
- (10) "Nursery dealer" means any person or landscaper not a grower of nursery stock in this Commonwealth who:
 - (a) Buys, sells, ships, or distributes nursery stock for commercial or monetary gain in the Commonwealth of Kentucky;
 - (b) Makes landscape plans or plants nursery stock and negotiates in the purchase of nursery stock for his clients; or
 - (c) Transplants or moves nursery stock from place to place within this state for other persons for a consideration in payment for the nursery stock, for the planting of the nursery stock, or for both nursery stock and planting.
- (11) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not.

- (12) "Weed" means any plant which grows where not wanted.
- (13) "Plants and plant products" means any trees, shrubs, vines, forage and cereal plants, and fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all other parts of plants or plant products.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 2, effective July 15, 1996. -- Created 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, to clarify chapter.

249.020 State entomologist -- Deputy -- Inspectors.

- (1) The chair of the Department of Entomology of the agricultural experiment station at the University of Kentucky shall be the state entomologist.
- (2) The state entomologist shall serve without pay other than his salary as an officer of the agricultural experiment station at the University of Kentucky. He shall be paid his traveling expenses.
- (3) The state entomologist shall appoint a deputy entomologist who shall have, as a minimum, a master of science degree in entomology, and nursery inspectors who shall have a B.S. or A.B. degree in plant sciences.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 3, effective July 15, 1996. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 1925a-1, 1925a-10.

249.030 Authority for administrative regulations -- Publication of data.

- (1) The state entomologist, with the advice and consent of the director and the Commissioner, may promulgate, modify, and enforce administrative regulations and orders needed to carry out KRS 249.020 to 249.100.
- (2) The state entomologist may publish bulletins, circulars, and reports containing information concerning inspections, insects, weeds, and plant diseases.
- (3) The state entomologist shall publish annually a list of the certified nurserypersons and nursery dealers licensed to do business in the Commonwealth and the list shall be furnished to interested persons.
- (4) The administrative regulations and publications shall be printed from time to time and furnished to interested persons.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 4, effective July 15, 1996. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 1925a-1, 1925a-10.

249.040 Establishment of quarantines.

The state entomologist shall, with the advice and consent of the director and the Commissioner, establish and maintain quarantines against the importation into this state and against the transportation within this state, of any trees, plants, and parts of plants, whether nursery-grown or not, from any state or from any county within the state where the plants or parts of plants are known to be affected with dangerous insect pests or plant diseases. He shall designate in announcements of quarantines the area quarantined, whether it constitutes a part of this state or of some other state.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 5, effective July 15, 1996. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1925a-1.

249.050 Inspection of articles and premises -- Diseased plants to be destroyed -- Hindering inspection prohibited.

- (1) Whenever the state entomologist, his deputy, or a nursery inspector has reason to believe or is credibly informed that at any place within the state there has been introduced, or offered for sale, trees, plants, or parts of plants infected or infested with diseases or destructive pests that are likely to spread, he shall investigate the suspected articles and premises. If they are found so infested or infected, he shall notify the owner or possessor, in writing, of the nature of the infestation, specifying the insects, weeds, or diseases that have been found, and demand that within a reasonable specified time the affected articles or premises be disinfected, or destroyed by fire, under the direction of the state entomologist, his deputy, or a nursery inspector, and at the expense of the owner or possessor.
- (2) For the purpose of inspection and carrying out the provisions of this section, KRS 249.005, 249.010, 249.020, 249.030, 249.040, 249.060, 249.070, 249.090, 249.100, 249.101, 249.102, 249.103, 249.104, and 249.105, the state entomologist, his deputy, and nursery inspectors shall have free access to any field, orchard, garden, packing ground, building, cellar, freight or express office, warehouse, car or other vehicle, vessel, or other place where it may be necessary or desirable for them to go, or which it may be necessary for them to inspect, in the performance of their duties. The nurseryperson or nursery dealer shall provide assistance as necessary for any inspection or examination made in accordance with this section, KRS 249.005, 249.010, 249.020, 249.030, 249.040, 249.060, 249.070, 249.090, 249.100, 249.101, 249.102, 249.103, 249.104, and 249.105 and administrative regulations. It shall be unlawful to deny this access to the state entomologist, or to offer any resistance to the officers and employees of the department, or to thwart or hinder the inspection by misrepresenting or concealing facts or conditions, or otherwise.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 6, effective July 15, 1996. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1925a-2.

249.060 Nurseries and dealers to be licensed -- Fees.

- (1) Every resident nursery or dealer selling nursery stock in this state shall annually file credentials with the state entomologist. If these credentials are satisfactory to the state entomologist, the director, and the Commissioner, the state entomologist shall, upon payment by the nursery or dealer of the fee set out in subsection (2) of this section, issue it a license authorizing it to do business in the state.
- (2) Payment of fees shall be made according to the following rates:
 - (a) Class A nursery: nurseries that are actively growing nursery stock with the intent of selling shall pay an annual fee of forty dollars (\$40), plus one dollar and fifty cents (\$1.50) per acre.
 - (b) Class B nursery: nurseries and garden centers that do not grow their nursery stock, but do overwinter a portion of their stock, shall pay an annual fee of forty dollars (\$40).
 - (c) Class A dealer: landscapers and businesses who do not grow or overwinter their nursery stock but whose primary business involves the sale or planting of nursery stock shall pay an annual fee of forty dollars (\$40).
 - (d) Class B dealer: businesses whose primary business is not the sale of nursery stock shall pay an annual fee of twenty-five dollars (\$25).
- (3) Any person soliciting orders for or delivering trees or plants in this state shall carry with him a copy of his license which he shall show to prospective buyers, purchasers, county officials, or agents of the state entomologist, on demand.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 9, effective July 15, 1996. -- Amended 1978 Ky. Acts ch. 29, sec. 1, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1925a-8.

**249.070 Entomologist to inspect nurseries and order management of plant pests --
Shipment of affected stock prohibited -- Exception.**

- (1) All nurseries in the Commonwealth of Kentucky shall be inspected by the state entomologist, his deputy, or by a nursery inspector, once each year. The state entomologist may collect specimens of plant material in order to make cultures and positive identifications of plant pests. The state entomologist also may inspect nursery stock which is stored in cellars, heeling in grounds, or warehouses, to ascertain whether it is infested with insect pests or plant diseases. If, upon the inspection of any nursery, it appears that the nursery and its premises are not infected or infested with insect pests and plant diseases, the state entomologist shall issue to the nursery a certificate of inspection. The certificate of inspection shall be valid through June 30 of the following year. This certificate shall be prominently displayed in the main office of the building.
- (2) If the nursery and its premises are infected or infested with insect pests and plant diseases, the state entomologist shall notify the owners or managers of the nurseries, and shall also notify, in writing, the owner of any affected nursery stock to take such measures, on or before a certain day, for the management of plant pests as have been shown to be effectual.
- (3) The owner or manager of the affected nursery shall, within the time specified, take steps for the mitigation of plant pests.
- (4) No owner or manager of affected nursery stock shall sell or offer for sale, ship, deliver, or remove from a nursery any nursery stock affected with plant pests, until the stock has been officially inspected and a certificate covering it has been issued by the state entomologist.
- (5) The provisions of this section do not apply to florists' greenhouse plants nor to flowers or cuttings.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 10, effective July 15, 1996. -- Amended 1978 Ky. Acts ch. 29, sec. 2, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 1925a-3, 1925a-4.

249.080 Entomologist to issue certificate for stock free from insects and fungus.

When the state entomologist examines any trees, vines, plants or other nursery stock and finds the stock free from dangerously injurious insect and fungus enemies, he shall make out and deliver to the owner of the stock a certificate stating that he has inspected the stock and that he believes it to be free from dangerously injurious insect and fungus enemies. He shall keep in his office, for the information of anyone interested, copies of all valid certificates issued by him.

Effective: October 1, 1942

History: Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1925a-5.

249.090 Shipments to be accompanied by inspection certificate or license.

Whenever a resident nurseryperson or nursery dealer ships or delivers nursery stock, he shall send on each package or shipment so shipped or delivered a printed copy of the certificate or license issued to him by the state entomologist.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 12, effective July 15, 1996. --
Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat.
sec. 1925a-6.

249.100 Plants to bear inspection certificate.

Trees, plants, or parts of plants, whether nursery-grown or not, that are sold, shipped, or transported into this state shall bear a copy of a certificate of inspection from a state or United States government inspector. Transportation companies within the state shall notify the state entomologist at once when the trees or plants are received by them without a valid certificate. Nursery stock or other trees, plants, or parts of plants shipped into this state in violation of a state or United States quarantine may be seized and destroyed or returned to the shipper at the expense of the owner or possessor.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 13, effective July 15, 1996. -- Amended 1978 Ky. Acts ch. 29, sec. 3, effective June 17, 1978. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. sec. 1925a-7.

249.101 Nursery records -- Prohibitions.

A nurseryperson and nursery dealer shall maintain for one (1) year records of plant purchases, acquisitions, sales, or other distributions, excluding retail sales, and make the records available upon request to the state entomologist for inspection. No person shall withhold records, keep or file false records, inaccurately alter that person's own records, or present the department any materially false records requested for the administration of this section, KRS 249.005, 249.010, 249.020, 249.030, 249.040, 249.050, 249.060, 249.070, 249.090, 249.100, 249.102, 249.103, 249.104, and 249.105.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 142, sec. 7, effective July 15, 1996.

Legislative Research Commission Note (7/15/96). In creating the tables for the 1996 Kentucky Acts, this statute was assigned the number KRS 249.052. The statute was renumbered as KRS 249.101 during codification.

249.102 Authority to issue permit for shipment of injurious plant pests.

When application is made, the state entomologist may issue a permit for shipment into or within the Commonwealth of injurious plant pests for research or diagnostic purposes.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 142, sec. 8, effective July 15, 1996.

Legislative Research Commission Note (7/15/96). In creating the tables for the 1996 Kentucky Acts, this statute was assigned the number KRS 249.032. The statute was renumbered as KRS 249.102 during codification.

249.103 Nursery dealer's license -- Application -- Exemption.

Every nursery dealer engaged in selling nursery stock in this state shall, before selling, offering for sale, or delivering any stock, make annual application to the state entomologist and obtain a nursery dealer's license as provided in this section, KRS 249.005, 249.010, 249.020, 249.030, 249.040, 249.050, 249.060, 249.070, 249.090, 249.100, 249.101, 249.102, 249.104, and 249.105. A separate license shall be required for each location and the license shall be prominently displayed at each place of business. A licensed nurseryperson who is also acting as a nursery dealer at the same location shall be exempt from procuring the nursery dealer's license. The nursery dealer's certificate shall expire on December 31 of each year. An application shall be made on forms to be furnished by the office of the state entomologist. The nursery dealer or agency is required to provide to the state entomologist the source of nursery stock offered for sale and this stock shall originate from a certified nursery. It shall be accompanied by a valid certificate of inspection of a federal or state inspector.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 142, sec. 11, effective July 15, 1996.

Legislative Research Commission Note (7/15/96). In creating the tables for the 1996 Kentucky Acts, this statute was assigned the number KRS 249.062. The statute was renumbered as KRS 249.103 during codification.

249.104 False declaration of acreage and concealment of nursery stock prohibited.

No person shall make a false declaration of acreage or conceal any nursery stock from inspection.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 142, sec. 14, effective July 15, 1996.

Legislative Research Commission Note (7/15/96). In creating the tables for the 1996 Kentucky Acts, this statute was assigned the number KRS 249.095. The statute was renumbered as KRS 249.104 during codification.

249.105 Inspection of shipments.

All shipments of nursery stock entering the state, as well as intrastate shipments, may be inspected in transit or at their destination in order to determine whether or not they are moving in compliance with the provisions of this section, KRS 249.005, 249.010, 249.020, 249.030, 249.040, 249.050, 249.060, 249.070, 249.090, 249.100, 249.101, 249.102, 249.103, and 249.104. Factors influencing the decision to inspect nursery stock include origin of plant material, destination of and probable distribution subsequently, whether or not a quarantine or other requirements exist relative to either geographic area, plant species, or pests, and personnel and budgetary restrictions.

Effective: July 15, 1996

History: Created 1996 Ky. Acts ch. 142, sec. 15, effective July 15, 1996.

Legislative Research Commission Note (7/15/96). In creating the tables for the 1996 Kentucky Acts, this statute was assigned the number KRS 249.055. The statute was renumbered as KRS 249.105 during codification.

249.990 Penalties.

- (1) Any person who violates any of the provisions of KRS 249.020 to 249.100 or hinders the carrying out of any of the provisions of those sections shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- (2) Any fine imposed for a violation of subsection (4) of KRS 249.070 may be recovered in the county in which the nursery is situated or the county to which the nursery stock is shipped.
- (3) Any person who knowingly neglects or refuses to comply with the provisions of KRS 249.180 or 249.190 shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200). Each day of violation after the notice provided in KRS 249.190 shall be a separate offense.

Effective: July 15, 1996

History: Amended 1996 Ky. Acts ch. 142, sec. 16, effective July 15, 1996. -- Amended 1990 Ky. Acts ch. 433, sec. 4, effective April 10, 1990. -- Amended 1980 Ky. Acts ch. 188, sec. 231, effective July 15, 1980. -- Amended 1960 Ky. Acts ch. 225, sec. 14, effective June 16, 1960. -- Amended 1954 Ky. Acts ch. 180, sec. 11. -- Recodified 1942 Ky. Acts ch. 208, sec. 1, effective October 1, 1942, from Ky. Stat. secs. 42f-4, 200, 1923, 1925a-4, 1925a-9.