

Dear CNGA ,

On Monday, April 9, 2018, Governor John Hickenlooper signed the [Modernization of the Nursery Act](#) into law. Since September 2017, CNGA has worked closely with the Colorado Department of Agriculture (CDA) on the various updates needed to bring the Nursery Act up to date with our current industry environment and growth within Colorado. The last time the Nursery Act was updated significantly was in the 1970's.

To ensure the changes were appropriate and implementable, the CDA convened a [committee](#) of CNGA members to evaluate the necessary updates, discuss the most fitting solution and review the draft language. Once the draft was finalized, it was sent to CNGA members via email and in the eLeaf. Members met at the Owners & Managers Leadership Retreat (Nov., 2017) with Laura Pottorff from the CDA to review the changes and provide any feedback. For those members who were unable to attend the leadership retreat, we held a conference call with Laura in November to solicit feedback. In addition, members who would be significantly impacted by these changes were personally called and emailed. Through the process the CDA or CNGA did not receive any substantial feedback that required changes.



The bill was introduced to the Colorado House of Representatives on February 16, 2018 with [Representative Jessie Danielson](#) and [Senator Don Coram](#) as the sponsors. CNGA provided a [letter of support](#) to the House & Senate members. CNGA members testified in support of the bill. We thank Al Gerace of Welby Gardens, Dan Wise of Fort Collins Wholesale Nursery, Matt Edmundson of Arbor Valley Nursery and Dave Zach of Little Valley Wholesale Nursery for their time and testimony. The bill was passed through the House of Representatives and the Senate without any changes.

The major updates in the act that members who have a nursery license need to be aware of are as follows and you can read the updated [rules pertaining to the enforcement of the Nursery Act](#):

- Definitions were updated to clarify which plants are regulated as nursery stock, what constitutes sale, brokering and distribution of nursery stock, and the types and levels of pest presence that are high risk.
- Remove the statement that nurseries can 'exempt' themselves from an inspection as long as they only sell nursery stock within the state boundaries. With the arrival of invasive pests like Japanese beetle and emerald ash borer and internal quarantines adopted to keep those pests from spreading from the Front Range to un-infested areas of the state, it is unwise to allow a business to be able to 'exempt' themselves from an inspection.
- Add the sale of noxious weeds or nursery stock contaminated with noxious weeds to prohibited acts. CDA has authority to regulate noxious weeds in Title 35-5.5, the Colorado Noxious Weed Act. Additional authority within the Nursery Act is necessary to regulate the

sale of certain noxious weeds that may contaminate nursery stock or be sold as nursery stock.

- Raise the registration fee cap. The cap was set at \$100 and the current fee is \$90 and has not been increased since 2009. The cap was set at \$100 in the 1970's. While the CDA does not plan on raising the registration fee currently, the increase in the cap from \$100 to \$300 will allow for an increase in registration fees in the future.

In addition, the [Japanese Beetle Quarantine](#) that was adopted by the Colorado Agriculture Commission on February 22, 2018 become effective on Sunday, April 15, 2018. As a reminder, the amendments make the following changes:



- To ensure that nursery stock does not enter the state with Japanese Beetles, the Colorado Department of Agriculture is proposing an additional change. Specifically, under 4.00. Commodities Covered, letter B would be changed to: All plants with roots with the exception of nursery produced container grown plants imported in containers with a diameter of **7 inches** or less and the volume of the container is less than **252** cubic inches, except as provided in section 4.00 (c).
- In addition, there is a proposed change to nursery record keeping. Nurseries that are outside of the eleven quarantined counties and receiving stock from those counties would be required to retain records for a minimum of three years and make them available to the CDA upon request. The specific rule would read: Any persons engaged in the business of selling nursery stock in this state shall keep records of all shipments of nursery stock imported from outside this state **AND FROM QUARANTINED AREA WITHIN THIS STATE**. These records shall be kept for a minimum of three years and shall be made available to the Department of Agriculture upon request.

We feel that this new law and amendment to the quarantine will continue to help us raise the bar of professionalism in our industry and ensure that quality nursery stock is grown in Colorado and the end consumer is protected. If you need clarification on how the law will impact you and your organization, feel free to contact [Laura Pottorff](#) at the CDA or [me](#).

As always, thank you for your membership.

Sincerely,

Allison Gault, MBA, CAE
Executive Director
