

Horticulture, Fees In. Fees, In Horticulture Inspections. Nurseries, Fees for Inspection. Inspection Fees, Manner of Collection.

The fees for inspecting nursery stock shipped into the state cannot be collected in the manner provided in Sec. 1943, Chap. 121, Laws of 1911.

The fees provided for inspecting nursery stock of Montana nurseries are provided for in Sec. 1940, Chap. 121, Laws of 1911.

March 21, 1912.

Honorable M. L. Dean,
State Horticulturalist.
Missoula, Montana.

Dear Sir:

I acknowledge receipt of your favor of the 18th inst., in which you ask whether or not, in case of a consignment of nursery stock shipped to some point in the state, which is a prepaid station, and the stock is inspected at some quarantine station intervening between the point of shipment and the point of delivery, you can collect the inspection fees in accordance with the provisions of Sec. 1943 of Chapter 121, Laws of 1911.

Section 1943, above referred to, in my opinion relates to expenses incurred by your board in eradicating disease or insect pest from any orchard or other place where fruits are grown or kept. This section makes provision for the collection of such fees and expenses by assessment and by the addition of the amount thereof to the annual taxes upon the property of the debtor. The unusual method of collecting provided for in this section, would in my opinion render it necessary that the charge shall be for the specific purposes mentioned in the section and fees for the inspection of stock in transit not being enumerated in said section I am of the opinion that such fees could not be collected in the manner provided for in Section 1943.

You further ask concerning the payment of fees for inspection of nursery stock grown in Montana nurseries. Sec. 1940 provides:

"Said Inspector's certificate shall be furnished to those entitled to them at a price not to exceed 40c per hundred."

This is the only fee that I can find for the inspection of nursery stock grown in Montana nurseries, and you could not by regulation increase the charge of inspection to an amount beyond that prescribed by the law itself.

Yours very truly,
ALBERT J. GALEN,
Attorney General.