Introduction

It is challenging enough to start your own business without the additional frustration and burden of figuring out which licenses, permits and requirements you need. This fact sheet will highlight some of the common requirements related to starting an ornamental horticulture business.

Arkansas State Plant Board

The Plant Board is a large state agency composed of several departments including the Feed and Fertilizer Division, Bureau of Standards Division, Seed Division, Pesticide Division and Plant Industry Division. Typically, an ornamental horticulture business will have contact with the Pesticide Division and the Plant Industry Division.

Pesticide Applicators’ Issues

The Arkansas State Plant Board is responsible for testing, licensing and enforcement issues related to pesticide applicators. Most commercial horticulture businesses will purchase or apply restricted use pesticides and, therefore, are required to have a current Pesticide Applicator’s License and receive periodic pesticide safety training. There are three categories of pesticide applicators: private, commercial and non-commercial. Issues related to this topic are covered at the Cooperative Extension Service website [https://www.uaex.ua.edu/farm-ranch/pest-management/education-licensing.aspx].

In most cases, nursery or greenhouse growers are considered private applicators when applying chemicals on their own property. Private applicators are required to receive pesticide training, but issuance of the license does not require a written test. Individuals who require a commercial license (those who are hired to apply pesticides) or a non-commercial license (e.g., Extension agents, chemical company representatives) receive training and are required to take written tests before the license is issued. The Cooperative Extension Service is NOT involved in testing, licensing or enforcement issues but is involved in issues related to training and education.

The State Plant Board is also involved in enforcing federal Worker Protection Standards (WPS). Information about WPS can be found on the Arkansas Agriculture Department website [http://www.agriculture.arkansas.gov/worker-protection-standards] or from the Pesticide Educational Resource Collaborative (PERC) website [http://www.pesticideresources.org/].

The owner of an ornamental horticulture business will definitely be required to contact the Plant Industry Division with regard to specific license and shipping issues.

License Issues

Within the area of ornamental horticulture, there are four license categories that may be required for your business. These license categories are Nurseryman, Nursery Dealer, Nursery Landscape Contractor and Vegetable Grower. While the final determination as to which license is appropriate may require you to contact the Plant Board directly, there are several simple rules of thumb that can be used to help clarify which, if any, license is required.
Typically, no license of any type is required from the Plant Industry Division if you are growing or selling annuals/bedding plants, if you are growing or selling tropical or foliage plants, if you are growing or selling cut flowers (no roots) or if you are growing or selling seasonal potted flowering crops such as poinsettia, flowering mums, ornamental vegetables like cabbage and kale and florist azaleas (forced to flower at non-traditional times). The Plant Board also makes the final determination based on the type of plant you grow or sell. For a Nurseryman or Nursery Dealer license, your primary business must be involved with growing or selling plants that typically overwinter successfully in Arkansas (i.e., cold-hardy plants).

All businesses holding a plant license are inspected annually. When conducting an inspection, the general health of the plants is checked, including the presence of insect pests and diseases. Additionally, sales receipts from shipping nurseries are checked to make sure that all plants received came from licensed and inspected nurseries and that all quarantines have been met.

Specific forms, fees and requirements are associated with each license category. A Confidential Information Form must accompany any license application per Arkansas General Assembly Act 1163. Let’s review what the four license categories cover.

**Nurseryman:** This license is required if over 50 percent of your gross plant sales are involved with the actual production or growing of nursery stock (does not include vegetables, non cold-hardy plants and annuals). This license is approved following a site visit by a nursery inspector. Fees include the base fee plus a fee based on production acreage. Technically, you do not need this license until you actually sell your nursery product; however, many people find this license essential when purchasing wholesale plants from other sources. For a Nurseryman’s license, request Form 501.

**Nursery Dealer:** The key is the word “dealer.” Are you primarily a dealer/retailer or a producer/grower? If greater than 50 percent of your gross plant sales are from selling woody or hardy perennial plants that are purchased for resale, you are classified as a dealer. Each physical selling location is required to have a Nursery Dealer license. For example, Jim’s Nursery Company has two locations. Location A is primarily a growing site but does have minimal walk-in retail sales. Location B is located 30 miles away, with the primary function being retail sales. Jim’s Nursery Company would be required to have two licenses from the Plant Board. Location A would be required to have a Nurseryman license and Location B a Nursery Dealer license. Grocery stores and mass merchandisers that sell any amount of woody nursery stock are required to have a Nursery Dealer’s license for each physical location. The Nursery Dealer license requires a basic fee plus a fee based on acreage. An inspection by a nursery inspector is not required before issuance of the license. For a Nursery Dealer’s license, request Form 505.

**Vegetable Grower:** This license applies to those businesses whose primary business is the production of vegetable or strawberry plants grown in media containing native soil, not the fruits. Vegetable plants grown in soilless substrates are exempt. Plants such as ornamental kale and cabbage are not considered in this category. Brokers of vegetable plants are also NOT required to have this license. A licensed vegetable grower is required to conspicuously tag each flat or tray to show the grower’s Arkansas permit number, the name and address of the grower, number of plants and the variety. Fees are assessed based on a specific rate per flat or tray. For a Vegetable Grower’s license, request Form 307.

**Landscape Contractors:** This license is required when landscape installation is your primary plant business function. A landscape contractor is also allowed to have a minimal “heel yard” or plant holding area without the need for a Nurseryman’s license. The total license fee includes a base fee and may include an additional fee depending on the size of a holding area. For a Landscape Contractor’s license, request Form 505-A.

Businesses (including Landscape Contractors) performing commercial construction jobs totaling $20,000 or more, labor and materials, need to obtain a license from the Contractors Licensing Board. Contact them at 4100 Richards Road, North Little Rock, AR 72117, 501-372-4661 (http://www.aclb.arkansas.gov).

**Stop Sale Authority:** The Plant Board also has the authority to impose a “stop sale” order (Form 160) if they feel the plant material being sold or grown is of poor quality. Plants identified under this order can be released back into the trade if the issue is resolved. This requires an inspection and Form 161.

**Plant Shipment Issues**

In general, when involved with the transportation of plant material within Arkansas or across state borders, you need to be aware of issues related to specific quarantines, federal and state noxious weed lists and phytosanitary requirements. The Arkansas State Plant Board is the agency that is involved in monitoring and enforcing many of these important rules. To facilitate certain shipping requirements, plant businesses may enter into a compliance agreement with the Plant Board. A compliance agreement may eliminate the need for individual inspections of specific shipments.

**Shipment or transport of plants within Arkansas:**

The primary issue to be concerned with when transporting container or balled-and-burlapped...
plants is the Federal Imported Fire Ant Quaran-
tine (https://www.agriculture.arkansas.gov/imported-
fire-ants1). Many counties in Arkansas are included
in the quarantine area. If you have a horticulture
business in one of the affected counties and you plan
to transport plant material out of the quarantine
area, you are required to have your plant material
inspected to certify that it is not affected or you must
treat your plants. The inspection is conducted by a
nursery inspector from the Plant Industry Division of
the Plant Board. Plant material shipped within the
quarantine area is not regulated. A complete
description of this problem and requirements for
transport are described in University of Arkansas
Cooperative Extension Service fact sheet FSA7053,
The Federal Imported Fire Ant Quaran-

Emerald Ash Borer is an invasive beetle that kills
ash trees. The entire state of Arkansas is under a
quarantine for EAB, and this affects the nursery/
landscape industry. No species of ash
(Fraxinus) nursery stock of any size can leave a
quarantined area to an area outside of the quar-
tine. Ash nursery stock can be transported from a
quarantined state to another quarantined state,
depending on the receiving state. It is best to call the
Plant Board in these cases and they can check if the
other state has any additional requirements. Other
conditions of the EAB quarantine apply to ash cut
logs with bark, ash lumber that has not been kiln
dried and any hardwood firewood unless it has been
kiln dried and certified.

**Shipment or transport of plants or plant products
(including bulbs, tubers, seeds) into Arkansas:** A great
deal of plant material sold in Arkansas is transported
in from states such as Tennessee, Alabama, Louisiana
and Oregon. The Plant Board requires that all incom-
ing shipments be accompanied by a Plant
Inspection Tag from the originating state which
indicates that the shipment meets all state and federal
shipping requirements. Plants listed on the state
(http://www.agriculture.arkansas.gov/noxious-weeds)
or federal (https://www.aphis.usda.gov/plant_health /
pest_info/weeds/downloads/weedlist.pdf)
noxious weed lists may not be transported into the
state. In particular, Arkansas does not allow
shipments into the state for any species of Lythrum
(Loosestrife), giant salvinia (Salvinia molesta),
Cocongrass (Imperata cylindrica) and Japanese blood
grass (I. cylindrica var. rubra; including ‘Red Baron’)
and water hyacinth
(Eichornia crassipes). Shipment of plants into
Arkansas from states affected by Japanese beetle and
gypsy moth will require that the originating nursery
has properly inspected and treated plant material
before shipment.

**Shipment or transport of plants or plant products
out of Arkansas:** Prior to shipping plant material out
of Arkansas, you should contact the Plant Board to
determine if you need to have your plant material
inspected. Based on the telephone conversation, a
determination can be made whether a phytosanitary
certificate or a plant inspection tag is required. The
nursery inspector can advise you as to specific
requirements for the state or country you intend to
ship into.

**General Business, Employee, Tax, License Issues**

In addition to these plant-specific license issues,
your business will likely need to obtain specific licenses
or permits from local and state governments. The
following are some general topics that may apply to
your business. These should only serve as guidelines.

You may also wish to gain assistance from
the Arkansas Small Business and Technology
Development Center (ASBTDC) in Little Rock at
1-501-683-7700 or on the web (http://asbtdc.org/).
ASBTDC also has regional offices in Arkadelphia,
Fayetteville, Jonesboro, Magnolia, Monticello
and Russellville.

**Local/City Requirements**

**Privilege or Business License.** A business license
must be obtained before you open for business. This
license may be obtained from your city clerk’s office or
the county clerk’s office if the business is located
outside the city limits. In general, you should check
on the zoning status of your business **before** obtaining
the licenses since it is contingent upon zoning
approval. Check the telephone directory for the
zoning/planning commission in your city.

**County Requirements**

**Doing Business As (DBA) Certificate.** A DBA
certificate, which is obtained from the county clerk’s
office, is required for any general partnership or sole
proprietorship doing business in the county. The
records are open to the public, so you should check
before you pick a business name to make sure the
name is not currently being used. This is also the
office that you should contact when you are going out
of business or changing the name of the business. The
certificate must be notarized.

**Business Property Assessment.** This county
assessor’s office is responsible for assessing your
business property. When purchasing an existing
business, contact this office to make sure there are no
back taxes due. If you are purchasing an existing
business, you must assess at the time of the
purchase. You must also itemize leased equipment,
but the owner of the equipment will pay the tax.

The deadline for assessing is May 31. Taxes may
be paid from the first working day of March through
October 10 without penalty.

**State Requirements**

Department of Finance and Administration
1509 W. 7th St.
Little Rock, AR 72201
501-682-7104
https://portal.arkansas.gov/agency/department-of-
finance-administration/.

Prior to applying for a sales and use tax permit,
you must have obtained your privilege or business
license mentioned above. Application for this permit
also involves a small non-refundable fee. New
businesses must pay their taxes monthly for the first
year of operation, after which the timing of payments will be reviewed. All retail businesses and some service businesses should have a sales and use tax permit. Use tax must be paid on any tangible personal property purchased out of state.

Prior to purchasing an established business, check the status of the tax credit liability. The current owner should provide you with a current statement from the Sales and Use Tax department of the Arkansas Department of Finance and Administration.

The Sales and Use Tax department has a website (https://atap.arkansas.gov/ /?ga=2.202658392.83952785.1525375631-291419764.1525375631) with a good section on frequently asked questions.

**Personnel Issues**

**Withholding Taxes**


**Arkansas:** After obtaining an EIN, you should register with the state for a state withholding report.

**Withholding Tax Branch**  
Department of Finance and Administration  
Ledbetter Building  
P.O. Box 9941  
Little Rock, AR 72203  
501-682-2212  
http://www.dfa.arkansas.gov/offices/incomeTax /withholding/Pages/default.aspx

**State Unemployment Insurance**

After obtaining your EIN, call the Arkansas Department of Workforce Services (https://www.workforce.arkansas.gov/Tax21 /Home.aspx?ReturnUrl=%2fTax21%2f) to register it with them. This office will set up an account for you and establish an insurance rate. The insurance will be paid quarterly.

**Arkansas Department of Workforce Services**  
#2 Capitol Mall  
Little Rock, AR 72201  
501-682-2121  
https://www.dws.arkansas.gov/

**Worker’s Compensation**

Worker’s compensation insurance is required by law if your business has three or more employees or if you are a subcontractor.

You may obtain this insurance through your own insurance agent.

**Arkansas Workers’ Compensation Commission**  
324 Spring St.  
Little Rock, AR 72203  
501-682-3930  
http://www.awcc.state.ar.us/

**Labor Laws**

You may contact these offices with questions concerning minimum wage, overtime and child labor laws.

**Arkansas:** State labor laws apply to businesses employing four or more people and with gross sales under $500,000.

**Arkansas Department of Labor**  
10421 W. Markham  
Little Rock, AR 72205  
501-682-4500  
http://www.labor.arkansas.gov/

**Federal:**

U.S. Department of Labor -  
Employment Standards  
Wage & Hour Division  
Danville Bldg. II  
10810 Executive Cntr. Dr.  
Suite 220  
Little Rock, AR 72211  
501-221-4600

**Migrant Labor**

Migrant labor is a critical issue in agriculture. Employers interested in hiring alien workers (non U.S. citizens) must first seek approval from the Arkansas Department of Labor (alien certification: 501-683-2372). The employer must certify that they have made job offers to qualified U.S. citizens before they can hire aliens.

Information related to hiring migrant workers can be obtained from the Bureau of Citizenship and Immigration Services (BCIS), formerly INS, in Fort Smith and Memphis. These offices and the BCIS website (https://www.uscis.gov/) can help an employer with compliance issues. There is also a toll-free number (1-800-375-5283) with a service called “ask immigration” to handle such questions.