§ 9-1301. White pine blister rust and currant rust.

For the purpose of suppressing and controlling white pine blister rust and currant rust (Cronartium ribicola), the following provisions shall apply:

1. Certain cultivars of black currant declared a public nuisance. Unless otherwise provided for by this section, the planting, growing, propagating, cultivating, or selling plants, roots, or cuttings of any species of cultivated black currants (Ribes nigrum) other than cultivars that are immune or resistant to white pine blister rust or currant rust is hereby prohibited in this state; provided, however, that the planting, growing, propagating, cultivating, or selling plants, roots or cuttings of any species of cultivated black currants is authorized in all fruiting currant districts or potentially fruiting currant districts. Such unauthorized bushes, roots, cuttings, or plants may be destroyed by the agents of the department.

2. Fruiting currant districts and potential fruiting currant districts defined. Districts where the growing of all species of currants, including black currants, for the production of fruit is carried on and is a commercial enterprise or a potentially important commercial enterprise shall be determined and designated as "fruiting currant districts" or "potential fruiting currant districts", and in such districts the provisions of subdivision three of this section shall apply. The location and extent of such districts shall be determined by the department and the state department of agriculture and markets.

3. No measures for the control of white pine blister rust shall be undertaken by the department within the boundaries of designated fruiting currant districts or potential fruiting currant districts.

4. Control measures outside of fruiting currant districts or potential fruiting currant districts. Whenever such action is desirable as a means of controlling white pine blister rust or currant rust, the department or its duly authorized agents may eradicate any unauthorized plants of the genus Ribes (currants and gooseberries), either wild or cultivated,

except within nurseries which are annually certified by the state department of agriculture and markets to be free from disease. Owners shall remove from their lands, subject to the direction and the approval of the duly authorized agents of the department, the plants of the genus Ribes within a distance of not more than 900 feet of the white pine on the land of adjoining owners who have protected their white pine from white pine blister rust. If any owner, upon not less than thirty days' notice in writing, fails to destroy unauthorized Ribes on his or her property as provided in this subdivision, the commissioner may cause such plants to be destroyed, and the expense of such work shall be a charge against the owner, which shall constitute a lien upon the land.

5. Quarantine regulations. The department shall have the authority, by order, to establish quarantine districts in any part or parts of the state. In such districts, it may prohibit the possession of any five-leafed pine trees or plants of the genus Ribes (currants and gooseberries), or so much thereof as is deemed necessary. It may also prohibit the transportation of any plants, roots, or cuttings of the genus Ribes (currants and gooseberries) from or to any quarantine district within the state, or from any diseased area or locality in which the disease exists outside of the state to any point within the state. Such prohibitions shall be effective on and after the tenth day from the date of the order made with respect thereto. On the making of such order, the department shall cause a certified copy of the same to be filed in the office of the clerk of each county affected by such quarantine and shall give such other notice thereof as it may deem necessary. The provisions of this subdivision shall not apply to undiseased cultivated plants or to the fruit of diseased plants of the genus Ribes (currants and gooseberries) included within fruiting currant districts or potential fruiting currant districts or to the merchantable contents of any pine trees; provided that any diseased part thereof is first destroyed.

6. Diseased trees or plants defined. A plant of the genus Ribes which is visibly infected by Cronartium ribicola or any five-leafed pines upon which white pine blister rust has been found growing shall be construed to be and be, within the meaning of this section only, a diseased plant,

and, as such, may be destroyed without compensation under the provisions of this section.

7. Authority to eradicate and compensation. Agents or employees of the department may enter upon any land to carry out the provisions of this section if proper precautionary measures are taken by them to prevent the spread of this disease, and no action for trespass shall lie therefor. Fair compensation shall be allowed for all undiseased trees or undiseased cultivated Ribes destroyed, except for prohibited varieties of cultivated black currants (Ribes nigrum) located outside of a fruiting currant district or potential fruiting currant district. No compensation shall be paid by the state for any species of Ribes destroyed in connection with the establishment of a Ribes-free zone around commercial nurseries, but fair compensation for such Ribes must be paid by the person owning or operating the nursery protected by such destruction of bushes. The rate of fair compensation shall be determined by the commissioner of agriculture and markets or a committee appointed by him or her. If the commissioner of agriculture and markets determines to appoint a committee for the purpose of making such determination, such committee shall be appointed prior to May 1 in each year.