

competent jurisdiction and on conviction thereof shall suffer a fine in any sum, not exceeding \$100.00, together with the cost of such government property, or imprisonment in the county jail for a period not exceeding sixty (60) days, or shall suffer both such fine and imprisonment.

SEC. 101. *Repealing Clause.*

All of chapter CVIII of the Session Laws of 1895, except sections 176, 177 and 178 thereof; all of chapter LXXVIII of the Session Laws of 1901; all of chapter 155 of the Session Laws of 1903, except sections 7 and 18 thereof; and sections 1, 2, 3, 4 and 5 of chapter 122 of the Session Laws of 1907 are hereby repealed.

Repealing clause.
Ch. 108, p. 201, L. '95, §§ 1915-2069
Bal.; ch. 78, p. 156, L. '01, §§ 1-6, 8-17, 19; ch. 135, pp. 314-324, L. '03, § 6301-6420
Pierce; §§ 1-5, ch. 122, pp. 221-5, L. '07.
Emergency.

SEC. 102. An emergency exists and this act shall take effect immediately.

Passed by the House February 25, 1909.

Passed by the Senate March 2, 1909.

Approved March 15, 1909.

CHAPTER 135.

[A. S. B. 155.]

RELATING TO HORTICULTURE.

AN ACT relating to horticulture and prescribing penalties for the violation thereof and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The office of State Commissioner of Horticulture is hereby created, which office shall be filled by appointment of the Governor of the State of Washington.

Office created.

SEC. 2. The State Commissioner of Horticulture shall be a skilled horticulturist. He shall be appointed prior to April 1, 1909, and shall qualify within ten days after his appointment and hold his office for a term of four years, and a vacancy in such office shall only occur by [death], resignation or the removal of the incumbent as herein provided. He shall be a citizen of the United States and he shall have been a resident of this state not less than three years prior to the date of his appointment.

Qualification.

Term.

Oath.
Bond.

SEC. 3. The State Commissioner of Horticulture shall take oath as other state officers and execute a bond to the State of Washington in the sum of \$5,000 with surety to be approved by the Governor, conditioned for the faithful performance of his duties. Said oath and bond and the certificate hereinbefore required shall be filed with the Secretary of State of the State of Washington.

Headquarters
at Kenne-
wick.

SEC. 4. Said State Commissioner of Horticulture shall maintain an office at Kennewick, Washington, which office shall be kept open from nine o'clock a. m. to twelve o'clock m., and from one o'clock p. m. to five o'clock p. m. daily except Sundays and legal holidays.

Deputy.

SEC. 5. The State Commissioner of Horticulture shall be allowed one deputy, who shall have the same qualification as the commissioner and shall hold office at the pleasure of said commissioner and may be removed at any time, without cause, who shall be designated Deputy State Commissioner of Horticulture, and who shall possess the same qualifications as, and take oath and give bond in the same manner as the State Commissioner of Horticulture, and who shall have and exercise the several powers herein granted to the State Commissioner of Horticulture, when acting under his direction; and, in event of the temporary absence or disability of said State Commissioner of Horticulture, said deputy shall have power and authority to carry on and conduct the business of said office in all respects.

Salaries.

Expenses.

SEC. 6. Said State Commissioner of Horticulture shall receive a salary of \$2,000 per annum and his deputy a salary of \$1,500 per annum, each, payable in equal monthly installments, as other state officers. He shall also be allowed the sum of \$2,000 per annum for traveling expenses for himself and his deputy, \$500 per annum for stationery, postage and incidental expenses, \$500 per annum for office rent, and \$900 per annum for an office clerk.

SEC. 7. Said State Commissioner of Horticulture shall Powers. have power, and it shall be his duty:

(a) To exercise a general supervisory and directory control over the horticultural interests of the state;

(b) To enforce all laws relating to horticulture and horticultural interests;

(c) Provide for the dissemination of information to horticulturists upon subjects pertaining to their interests and co-operate with district horticultural inspectors in arranging for meetings, lectures and institutes and the instruction of horticulturists;

(d) Publish and distribute bulletins and reports embodying information upon horticultural subjects, the pests Bulletins. affecting and the diseases of horticultural plants and fruits, to horticulturists, horticultural societies, and others, as he shall deem proper;

(e) Arrange for holding, fix the date of and preside over the district horticultural inspectors' institute to be held as herein provided;

(f) Examine, upon request, specimens of fruit, fruit trees, nursery stock and other horticultural plants or products submitted to him, and report to the applicant the result of such examination;

(g) Appoint district horticultural inspectors and prescribe rules and regulations for the guidance, and instruct, Appoint district inspectors. advise, direct and supervise them in all matters pertaining to their duties;

(h) Hear and decide appeals from the orders and decisions of district horticultural inspectors;

(i) Grant licenses to nurserymen, tree dealers and Licenses. their solicitors, agents and salesmen, and suspend or revoke such licenses as herein provided;

(j) Furnish to state inspectors lists of licensed nurserymen and tree dealers doing business in the state, and of agents and salesmen of nursery stock in his and adjoining districts;

(k) Approve the bonds of state horticultural inspec-

tors and of nurserymen and tree dealers as herein provided; and,

(1) Perform such other duties as may be prescribed by law.

Office of
district
inspector
created.

SEC. 8. The office of district horticultural inspector is hereby created, and there shall be one district horticultural inspector appointed by the State Commissioner of Horticulture for each of the state horticultural districts hereinafter established. Said district horticultural inspectors shall be men learned in the science of horticulture and with respect to fruit trees and horticultural plants, and the fruits and products thereof, and with respect to the planting, propagation, cultivation and care of fruit trees and other horticultural plants and horticultural products, and the diseases thereof and the remedies therefor. They shall take an examination before the Commissioner of Horticulture upon questions and subjects to be prescribed by the Commissioner of Horticulture testing their qualifications for said office, upon which they shall be required to make seventy-five points out of a possible one hundred: *Provided*, That no applicant shall be required to take an examination as mentioned in this act if he be a graduate in horticulture from the Washington State College or some similar college with as high requirements.

District
inspector to
qualify, how.

SEC. 9. Said district horticultural inspectors shall qualify by taking oath as required of other state officers, and shall furnish a bond to the State of Washington in the sum of \$2,000 each, conditioned for the faithful performance of their duties. They shall hold office during good behavior and shall only be removed by the State Commissioner of Horticulture for inefficiency, neglect of duty, immoral conduct or other causes rendering him unfit for the position, and after notice specifying the grounds for removal and an opportunity to be heard: *Provided, however*, Any inspector shall forfeit his office and be removed if he fails to pass an examination as to his qualifications, or fail to keep his bond in effect as herein provided.

SEC. 10. The State Commissioner of Horticulture may, with the consent of the board of county commissioners of

any county, authorize the district horticultural inspector of any district to employ such assistants as in the judgment of such commissioner and county commissioners may be necessary, which assistants when acting under direction of the inspector shall exercise and have the power herein granted to inspectors.

Assistant
district
inspectors.

SEC. 11. District horticultural inspectors shall receive a salary of \$1,500 per annum, payable monthly as salaries of other state officers; and they shall be allowed their necessary traveling expenses; and assistants to inspectors shall receive four dollars (\$4.00) per day for the time actually employed, all payable upon presentation of proper vouchers to the State Auditor, signed by the district horticultural inspector, under oath, and countersigned by the State Commissioner of Horticulture.

Compensation
of inspectors.

SEC. 12. District horticultural inspectors shall have power, and it shall be their duty:

Duties of
inspectors.

(a) To enforce the provisions of all laws relating to horticulture, within their respective districts;

(b) To arrange for and hold institutes and meetings of horticulturists for the discussion of horticultural subjects and the dissemination of information as to horticultural questions, and for the demonstrations of methods of preventing the diseases of or pests injurious to horticultural plants and fruits, and of curing and removing the same;

(c) To inspect orchards, nurseries, nursery stock, fruit, horticultural products, supplies, packing houses, warehouses and other places where fruit is packed, stored or shipped; also vines, ornamental shrubs and bushes, as well as other trees and property, for the purpose of ascertaining whether the same is infected with any disease or pests injurious to fruit trees or fruit, and of taking steps to disinfect the same and prevent the spread thereof; and, for that purpose, shall have free access to orchards, nurseries, packing houses, storage houses and any other place at all times;

Inspect
orchards.

(d) To require the disinfection of all trees, ornamental shrubbery, orchards, nurseries or nursery stock, fruit

Infected
trees and
shrubbery.

packing houses or other places infected with any pests, fungi or disease injurious to the horticultural industry of the State of Washington;

Inspection.

(e) Inspect and examine orchards, fruit, nursery stock and other horticultural plants and products at the request of the owner thereof for the existence of any disease or pest thereof, and report to the applicant the result of such investigation and prescribe proper remedies therefor;

Infected fruit.

(f) Prevent the shipping and sale of infected fruit, except for canning, preserving or jellifying or the making of cider or manufacture of other by-products within the State of Washington, and under such rules and regulations as may be established by the State Commissioner of Horticulture, and the delivery, sale, planting and shipping of infected nursery stock, trees, and other horticultural products and supplies, by notifying the owner thereof or the person having the same in charge, and requiring the proper disinfection of the same;

To disinfect orchards.

(g) To disinfect, or cause to be disinfected, orchards, nursery stock, trees, fruit and other horticultural products and supplies, in case the owner or person having the same in charge, shall not do so after notice; and, in case of trees, fruit, etc., which cannot be properly disinfected, to destroy the same, or cause same to be destroyed;

(h) To sort and repack, or cause to be sorted and repacked, infected fruit, if the owner thereof, or the person having the same in charge shall not do so after notice;

Prevent diseases.

(i) Prevent the introduction and spread of diseases of or pests injurious to fruit trees and horticultural plants, fruit and other products, and to prescribe and specify the means and methods to be employed for the disinfection of trees, fruit and horticultural products;

(j) To issue certificates of inspection to nurserymen and tree dealers on stock inspected; and

(k) Furnish to the board of county commissioners of each county, wholly or partially within their respective districts, an estimate of expenses for each year.

SEC. 13. No district horticultural inspector shall act as agent or solicitor for the sale or distribution of any

nursery stock or horticultural products or recommend any nursery to prospective purchasers of fruit trees, or act as agent for supplies or machinery for use in orchards or engage in the purchase or sale of fruits or horticultural products from any orchards save his own. Not to act as agent.

SEC. 14. The State of Washington is hereby divided into fifteen horticultural districts, the boundaries and descriptions of said districts being as follows, to-wit: Districts.

District No. 1 shall comprise and include Whatcom and San Juan counties.

District No. 2 shall comprise and include Yakima and Kittitas counties.

District No. 3 shall comprise and include Skagit, Snohomish, and Island counties.

District No. 4 shall comprise and include Chelan, Douglas and Okanogan counties.

District No. 5 shall comprise and include Clallam, Jefferson and Kitsap counties.

District No. 6 shall comprise and include Grant, Benton, Franklin and Adams counties.

District No. 7 shall comprise and include Thurston, Mason and Chehalis counties.

District No. 8 shall comprise and include Spokane and Lincoln counties.

District No. 9 shall comprise and include King county.

District No. 10 shall comprise and include Ferry and Stevens counties.

District No. 11 shall comprise and include Pierce county.

District No. 12 shall comprise and include Whitman and Asotin counties.

District No. 13 shall comprise and include Lewis, Cowlitz, Pacific and Wahkiakum counties.

District No. 14 shall comprise and include Garfield, Columbia and Walla Walla counties.

District No. 15 shall comprise and include Clarke, Skamania, and Klickitat counties.

SEC. 15. No person, firm or corporation shall engage in, continue in, or carry on the business of selling or dealing in nursery stock, fruit trees, or ornamental shrubbery

License
to deal in
nursery
stock.

or solicit purchasers of nursery stock, fruit trees or ornamental shrubbery within this state, or engage in the business of importing into this state for sale or distribution, nursery stock, fruit trees or ornamental shrubbery either as owner thereof, or as agent of such owner, without first obtaining a license to carry on and conduct such business in this state.

License fee.

SEC. 16. The form of license shall be prescribed by the State Commissioner of Horticulture, and shall be issued by him upon proper application therefor. All licenses shall run for one year from date of issue. The license fee shall be \$5.00 per annum for nurserymen and tree dealers, and \$1.00 per annum for agents, salesmen or solicitors.

Issue of
license.

The State Commissioner of Horticulture shall prescribe the form of application for licenses, and no license shall be issued until the license fee shall have been paid and bond furnished as herein provided. All licenses shall be issued in the name of the owner, solicitor, salesman or agent as the case may be, and shall designate the business which may be carried on thereunder, and no license shall be assigned or transferred. Licenses to salesmen, agents or solicitors shall show the name and location of nursery or place of business of the nurserymen or tree dealers for whom he acts, and no license shall be granted to an agent, salesman or solicitor unless the party whom he represents shall have taken out a license and furnished bond as herein provided.

Bond of
licensee.

SEC. 17. Each licensed nurseryman and tree dealer under provisions of this act shall make, execute and deliver to the State Commissioner of Horticulture, a bond running to the State of Washington in the sum of one thousand dollars (\$1,000.00) with sureties to be approved by said commissioner, conditioned for the compliance by such licensee with all of the laws of the State of Washington, relative to the sale, disposition, delivery, inspection and disinfection of nursery stock, fruit trees or horticultural plants, dealt in, sold, handled, or delivered by such licensee; also that all nursery stock, fruit trees

or horticultural plants sold or delivered by such licensee shall be true to name and variety as represented: *Provided*, No liability shall attach by reason of stock being untrue to name, unless at least 5% of any variety in any order shall so prove untrue to name.

Fruit to be true to name.

SEC. 18. The State Commissioner of Horticulture shall keep in his office a record of all licenses issued as herein provided, which records shall show the character of the license, the name of the holder, the date of issuance, and the date of expiration. The bonds taken from tree dealers and nurserymen, as herein provided, shall also be filed with and held by said State Commissioner of Horticulture.

Record of licenses.

SEC. 19. Upon report being made to the Commissioner of Horticulture by any horticultural inspector that any person, firm or corporation holding a license has not complied with, or is not complying with the laws of the State of Washington relative to such business, said State Commissioner of Horticulture may suspend the license of the person, firm or corporation and shall investigate the facts, and if it be ascertained that such licensee has violated the laws of the state relating to such business in any particular, such license shall be revoked. The cancellation or revocation of any bond furnished by any nurseryman or tree dealer as herein provided, shall *ipso facto* work a revocation of the license of such person and all agents, solicitors and salesmen employed by and representing him.

License suspended.

SEC. 20. Any person or persons suffering damage for any cause by reason of the infection of nursery stock bought by him or them or by reason of receiving nursery stock, fruit trees or horticultural plants not true to the name as represented by the owner, solicitor, or agent selling the same, shall have recourse against the bond filed by the person from whom such stock was purchased for all damages sustained, which damages may be recovered by suit in any court of competent jurisdiction: *Provided*, No liability shall attach to bond unless at least five per cent. of each variety ordered shall prove untrue to name.

SEC. 21. Any person, firm or corporation who shall carry on or conduct any business within this state for

Conducting
business
without
license—
penalty.

which a license is required as herein provided, and without first having procured said license and furnished bond as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof in any court of competent jurisdiction shall be subject to a fine of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00), together with the costs of prosecution and shall be committed to the county jail until such fine and costs are paid.

False repre-
sentation—
penalty.

SEC. 22. Any person who shall falsely represent that he is agent or representative of any tree dealer, nurseryman or dealer in fruit trees or horticultural plants, or ornamental shrubbery shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum of not less than fifty dollars (\$50.00), nor more than one hundred dollars (\$100.00), together with the costs of prosecution, and shall be committed to the county jail until such fine and costs are paid.

Nursery
stock to be
kept free
from pests.

SEC. 23. It shall be the duty of each person within the State of Washington owning premises on which there is or shall be growing or grown any nursery stock, fruit trees, shade trees, ornamental shrubbery or other horticultural plants, or the owner of any nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants situated upon premises leased or occupied by him or the owner of any nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants situated or being at any place within the State of Washington, for the sale or delivery to any person, firm, or corporation to take, adopt, and use all methods and means provided by law or prescribed by the State Commissioner of Horticulture for the prevention of pests or diseases to which such nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants may be subject, and keep the same in a healthful condition and free from disease and pests; and in event it is found that such nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants at any time are infected with any disease or pest to which the same may be subject, to

promptly take and use such methods as may be prescribed by law or by the State Commissioner of Horticulture to disinfect the same, and in event such nursery stock, fruit trees, shade trees, ornamental shrubbery and horticultural plants can not be disinfected to promptly destroy the same.

SEC. 24. The diseases of and pests injurious to nursery stock, fruit trees, shade trees, ornamental shrubbery and horticultural plants to be guarded against and treated and disinfected for as in the next preceding section provided shall include any and all such diseases or pests as the State Commissioner of Horticulture shall specify and describe in the bulletins to be issued by him as injurious to the fruit and horticultural interests of the state.

Commissioner to specify diseases and pests.

SEC. 25. The State Commissioner of Horticulture shall prescribe the remedy for and the methods and means for the disinfection of fruit trees, horticultural plants, fruits and horticultural products, and shall make such rules and regulations relative thereto as he shall deem proper, which prescription and rules and regulations shall be promulgated by him by means of bulletins to nurserymen, fruit tree dealers, and their solicitors or salesmen, and to horticulturists of the State of Washington, through the district horticultural inspectors herein provided for, and any person interested shall be entitled to receive a copy of all such prescriptions and rules and regulations at any time, upon application for the same.

Directions for disinfecting.

SEC. 26. For the purpose of ascertaining whether any nursery stock, fruit trees, shade trees, ornamental shrubbery, or other horticultural plants are infected with any disease or pests to which the same may be subject, the district horticultural inspectors, within their respective districts, shall be authorized to enter upon any premises at any time for the purpose of inspecting and examining any nursery stock, fruit trees or horticultural plants growing or stored thereon, or being situate thereon.

Inspectors may enter premises.

SEC. 27. Said district horticultural inspectors shall also have the power, within their respective districts and at any time, to enter upon any premises where fruit or horticultural products are stored, or are being prepared or

Same.

packed for shipment, or offered for sale, or are held for the purpose of delivery upon any shipment or sale thereof, for the purpose of inspecting said premises and such fruit or products to ascertain whether the same, or any part thereof, is infected with any of the diseases or pests declared injurious by the State Commissioner of Horticulture.

Owner to
disinfect.

SEC. 28. If, after inspection, as provided in sections 26 and 27 hereof, the district horticultural inspector shall ascertain that any nursery stock, fruit trees, shade trees, ornamental shrubbery or horticultural plants, or any fruit or horticultural products, or any place where such fruit or horticultural products is kept for sale or is being prepared for shipment or is stored is infected with any diseases or pests declared by the State Commissioner of Horticulture to be injurious to the horticultural industries of the state, said district horticultural inspector shall notify the owner or person having possession or charge of such nursery stock, fruit trees, shade trees, ornamental shrubbery, horticultural plants, fruit, horticultural products or places of storage, sale or preparation for market, in writing, requiring the disinfection of any or all thereof which is capable of disinfection, and the destruction of such as is incapable of proper disinfection, subject to the provisions hereof relative to the sale, disposition and use of infected fruit, and shall fix the time in said notice within which the same shall be so disinfected, or destroyed, as the case may be, and such owner or person having the same in charge shall proceed to disinfect or destroy such stock, trees or products, as the case may be, in the manner required by law and in the manner prescribed by the State Commissioner of Horticulture, and within the time specified in said notice.

May separate
infected
from healthy.

SEC. 29. In event of the infection of stock, trees or products, as hereinbefore specified, if a part only thereof is affected so that it can not be properly disinfected, the owner or person in charge of the same shall have the privilege of separating the same into one or more of three classes, to-wit: Such as does not need disinfection; such

as can be properly disinfected; and, such as cannot be properly disinfected; and such owner or person in charge shall destroy such stock, trees or products as cannot be disinfected within the time specified in said notice, except in case of fruit which may be used or disposed of under the rules and regulations prescribed by the State Commissioner of Horticulture, as herein provided, and shall proceed to disinfect such as can properly be disinfected within the time specified in said notice.

SEC. 30. In event of the failure of the owner or person in charge of such stock, trees or products to separate or disinfect or destroy the same, as in the last preceding section provided, and within the time specified in said notice, the district horticultural inspector shall have the right to enter upon the premises and perform the acts herein provided for, or cause the same to be performed, at the expense of the owner or person so having charge of such stock, trees or products, and shall have the right to destroy all stock or products which are infected so that they cannot be properly disinfected.

Inspector
may disinfect
at cost of
owner.

SEC. 31. In event of disinfection of any orchard, fruit trees, ornamental trees, shrubs, vines, horticultural plants, or other plants; fruits, horticultural products or other property by the district horticultural inspector, or any person under his direction or orders, the costs thereof shall be charged against the owner of such stock and the premises upon which the same may be growing, for the costs of such disinfection, or the destruction of the property which cannot be properly disinfected, which charge may be recovered in an action at law in the name of the State of Washington upon the relation of the district horticultural inspector against the owner or person having charge of such property, and shall also constitute a lien against the said property and the premises upon which the same may be growing, which lien may be enforced in any court of competent jurisdiction, and the bringing of an action at law to recover such costs shall not be deemed to be, and shall not constitute, a waiver of such right of lien.

Recovery
of cost of
inspection.

Penalty for failure to disinfect.

SEC. 32. Any person failing to disinfect or destroy any nursery stock, shade trees, ornamental shrubbery, fruit, horticultural products or disinfect the premises upon which the same may be situate, as herein provided, within the time specified after notice from the district horticultural inspector of the district wherein the same is situated shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not less than \$50.00 nor more than \$250.00, and shall be imprisoned in the county jail until such fine is paid.

Notice of shipment.

SEC. 33. It shall be the duty of each person, firm or corporation dealing in nursery stock or horticultural plants, whether a resident of this state or of some other state or county, to notify the State Commissioner of Horticulture of his, their or its intention to ship any nursery stock, fruit trees or horticultural plants from one point in this state to another point in this state, or from any point without the state to a point therein, for sale or delivery or for planting or propagation. A copy of such notice shall also be mailed to the district horticultural inspector of the district into which such stock is to be shipped for sale or delivery. Said notice shall be mailed not later than the date of shipment, and the same shall show the name and address of both the consignor and consignee, a descriptive invoice of the goods to be shipped, specifying quantities and varieties, and the name of the person or transportation company from whom the consignee is to receive such goods. Said notice shall also show whether such stock, trees or horticultural plants have been inspected and passed at the initial point of shipment within this state by a district horticultural inspector.

Carrier not to release shipment until released.

SEC. 34. Upon the arrival of any shipment of nursery stock, fruit trees or horticultural plants at its destination, it shall be the duty of the freight agent, express agent or the agent of the persons or transportation company having such shipment in charge for delivery, unless the same is accompanied by a certificate of inspection and approval by a district horticultural inspector showing that same was inspected and passed at the initial point

of shipment within this state, to notify the district horticultural inspector of the district within which delivery is to be made, of the receipt of such shipment, giving the name of the consignor and consignee and stating that such shipment is ready for inspection and delivery. Said notification may be by telephone or telegraph, or by written notice delivered personally to said inspector, or left with some person of suitable age and discretion at his residence or office, or by mail addressed to said inspector at his place of residence; and the person having such stock in charge for delivery shall not deliver or turn over such shipment until the same shall have been inspected by said district horticultural inspector: *Provided, however,* Such agent shall not be required to hold such goods more than 72 hours after notifying said district Horticultural Inspector as aforesaid, except in case the notice is given by mail, in which event such goods be held for such period beyond said 72 hours as is ordinarily required from said point of delivery to the address of said inspector: *And provided further,* No inspection at point of delivery shall be necessary if shipment is accompanied by the certificate of a district horticultural inspector showing inspection and approval at initial point of shipment in the state as aforesaid, unless the person having same for delivery be notified by inspector of district where delivery is to be made, to hold for inspection by him: *And provided further,* That any nurseryman or tree dealer within the state may demand the services of an inspector during shipping season by paying \$4.00 per day for his services.

SEC. 35. No inspection of goods as provided in the last preceding section shall be made until all transportation charges thereon have been paid: *Provided, however,* The agent of any person or transportation company having such goods in charge for delivery may waive, in writing, the payment of such transportation charges prior to inspection: *Provided further,* The district horticultural inspector shall have privilege, at his option, to inspect said goods before payment of transportation charges, but in the event of any stock suffering damage by such second in-

Transportation charges paid before inspection.

spection or exposure, the owner thereof may have recourse against the bond of said inspector, if shipments shall have been accompanied by a copy of former inspector's certificate, unless it is proven that the shipment contains stock not previously inspected.

SEC. 36. The district horticultural inspector shall have the right to enter upon any premises where nursery stock, fruit trees or horticultural plants are held or stored, when same have been shipped or sent to any point within his district for the purpose of sale or delivery, and to inspect such stock, trees and plants for the purpose of ascertaining whether the same is infected with any of the diseases or pests to which the same may be subject, hereinbefore described; and, in event he shall find that such stock, trees, or plants, or any thereof, are infected with any such disease or pest, he shall at once notify the person in charge thereof, and having the same in his possession, not to deliver the same nor permit the same to be removed from his possession until they are disinfected; and he shall also notify the owner thereof or the agent of the owner, or the shipper thereof, that said stock is infected and requiring such owner, or his agent, to disinfect such part thereof as is capable of proper disinfection, within five days from the date of such notice, in the manner required by law and prescribed in the rules and regulations of the State Commissioner of Horticulture; and it shall be the duty of such owner or his agent, or the shipper of such goods to so disinfect or destroy such infected property within five days.

SEC. 37. Any person violating any of the provisions of the last preceding section hereof shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than \$50.00 nor more than \$200.00, together with costs of action, and shall be committed to the county jail until such fine and costs are paid.

SEC. 38. In event of the failure of the said owner or his agent, or the shipper of such disinfected goods to properly disinfect and destroy same as required by the notice hereinbefore provided for, it shall be the duty of said dis-

Inspector
may enter
premises to
inspect
shipments.

Penalty.

trict horticultural inspector, and he shall have power, to forthwith enter upon premises where such stock, trees or plants are situated and to properly disinfect or cause to be disinfected such part thereof as is capable of disinfection and to destroy such part thereof as is not capable of disinfection.

Inspector to disinfect shipment.

SEC. 39. In case of disinfection and destruction of infected stock by the district horticultural inspector, as in the last preceding section provided, the cost thereof shall be paid by the owner of said stock or his agent or the shipper of said stock, and such charge shall be a lien upon said property, and the enforcement of such charges may be had in the same manner as provided for the enforcement of charges for inspection and disinfection of nursery stock and orchards as hereinbefore provided.

Cost of disinfecting shipment.

SEC. 40. Any person or persons who shall wilfully and intentionally bring into this state, or offer for sale or distribution whether gratuitous or for profit, within this state, any nursery stock, fruit trees or horticultural plants infected with any of the diseases or pests injurious to the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine in any sum not exceeding one hundred dollars (\$100.00), together with the costs of the action, and shall stand committed to jail until said fine and costs are paid.

Importation of infected stock—penalty.

SEC. 41. Any person who shall suffer damage by reason of having purchased any nursery stock, fruit trees or horticultural plants delivered within this state, or shipped from a point within or without this state for delivery within this state, by reason of such stock, fruit trees or plants being infected with any disease or pest injurious to the same, or by reason of the destruction of such stock, trees or plants after inspection thereof as herein provided, shall have a recourse upon the bond of the tree dealer, or nurseryman furnishing such stock, which damages may be recovered in any court of competent jurisdiction of this state, at the suit of such injured party: *Providing*, No damages shall be recovered on account of infection of stock after the same has been inspected and passed.

Damages by reason of infected stock.

Inspection
defined.

SEC. 42. The term "infection" as used in this act shall mean the finding of any nursery stock, fruit trees, or horticultural products or supplies used in connection with horticultural products to be affected by any one of the species of infection and disease or pest specified and described by the State Commissioner of Horticulture, as provided in section 24 of this act.

Appeals from
inspector.

SEC. 43. Any person deeming himself aggrieved by any finding, order or act of the district horticultural inspector may appeal from such finding, order or act of the State Commissioner of Horticulture and said State Commissioner of Horticulture shall forthwith proceed to hear and determine such appeal, and render his decision therein, and report the same to the appellant and to the district horticultural inspector from whose action or decision such appeal is taken; and such decision shall specify the further proceedings to be had in the premises.

Inspectors'
institute.

SEC. 44. There shall be held annually a district horticultural inspectors' institute, which institute shall be held at the State College at Pullman, Washington, and shall be held in the month of January, February or June. The State Commissioner of Horticulture shall fix the date of such institute and direct the attendance of all district horticultural inspectors by notice in writing, and said institute shall continue for four days, and the State Commissioner of Horticulture shall outline the proceedings of said institute and preside over the same. It shall be the duty of the district horticultural inspectors to attend such institute, unless prevented by sickness or excused by the State Commissioner of Horticulture. Failure to attend on the part of any inspector, unless prevented by sickness or excused by the State Commissioner of Horticulture, shall work a forfeiture of his office, and he shall be discharged forthwith by the State Commissioner of Horticulture. The actual traveling expenses and hotel bills of inspectors attending said institute shall be allowed and paid upon vouchers endorsed by the State Commissioner of Horticulture.

Failure to
attend for-
feits office.

SEC. 45. Every candidate for appointment to any position in the service of the department of the Commissioner of Horticulture, unless he be a graduate of an agricultural college or similar institution in a department of agriculture and horticulture, shall be required to pass as examination satisfactory to the Commissioner of Horticulture.

Qualifications
for service.

SEC. 46. The district horticultural inspectors of the several districts in this state shall arrange for district institutes, horticultural meetings, lectures upon horticultural subjects and practical demonstrations shall be presided over by said district horticultural inspectors.

District
institutes.

SEC. 47. All fruit trees one year old or over shall be sprayed annually during the dormant season, in a careful and thorough manner by the owner thereof, or the lessee in charge of the property, with a lime and sulphur solution of the formula as prescribed by the State Commissioner of Horticulture: *Provided*, They are infected.

Trees
sprayed
annually.

SEC. 48. Any fruit grown in the State of Washington and offered for sale or shipment in closed packages, shall be marked on the outside on the box or package with the name of the variety, or if the variety is unknown, shall be marked "variety unknown" and show the location where grown and the name of the grower or owner, and all boxes or packages of apples, pears and peaches shall be marked with the number in each package or the tiers packed; and the name of no other place or locality shall appear on any box or package of such fruit, except the address of the place to which it is shipped, in case of shipment.

Shipments
labeled.

SEC. 49. The secretary of the State Horticultural Association shall within thirty days after the regular annual session of the association deliver the minutes and proceedings of said session to the State Commissioner of Horticulture, who shall edit and cause the same to be published in connection with such official information as may be available for their purpose in the office of the Commissioner of Horticulture. An appropriation shall be made by the legislature to cover the cost of such publication and the public distribution of the same.

Proceedings
of State
Horticultural
Association.

Inspectors
may be
transferred.

SEC. 50. The State Commissioner of Horticulture shall have power to temporarily transfer district horticultural inspectors from one district to another, as he may deem necessary to properly transact the business required of such inspectors: *Provided*, That such work shall be charged to the county in which such work is done.

Records
open to
public.

SEC. 51. All records, reports, data and information kept and compiled by the State Commissioner of Horticulture shall be kept in his office and shall be a public record, open to the inspection of any person interested, during the regular office hours of each business day.

Oaths and
bonds, filed
where.

SEC. 52. All oaths and bonds provided for herein shall be filed with the State Commissioner of Horticulture, except the oath and bond of said commissioner, and his deputy, which shall be filed with the Secretary of State.

Removal of
Commis-
sioner.

SEC. 53. The State Commissioner of Horticulture may be removed from office by the Governor for inefficiency, neglect of duty, immoral conduct, failure to keep bond good, or other cause rendering him unfit for said office; but no commissioner shall be removed for political reasons and shall not be removed without notice and a copy of the charges made against him and an opportunity to be heard thereon, except in case of failure to keep his bond good, upon which cause no hearing shall be necessary.

Orders.

SEC. 54. All nurserymen and dealers in fruit trees or horticultural plants, and all salesmen, solicitors and agents for such, shall give to any person ordering any fruit trees or horticultural plants from or through them, a duplicate copy of such order, which shall show:

(a) The name and location of the nursery where such stock is grown;

(b) The name of the nurseryman, dealer, solicitor, salesman or agent taking such order;

(c) The date of the order and date when delivery to be made; and

(d) The number, name and price of each variety of trees or plants ordered.

SEC. 55. Any nurserymen, tree dealer, salesman, solicitor or agent falsely representing or stating that nursery stock, fruit trees or horticultural plants for which an order is taken are or have been grown in, or are to come from, a certain nursery or locality when in fact the stock, trees, or plants actually delivered are or have been grown in, or come from another nursery or locality, shall be deemed guilty of a misdemeanor, and, upon conviction thereof shall be fined in any sum not less than \$50.00 nor more than \$200.00, and shall be committed to the county jail until such fine and costs are paid.

Misrepresentation—
penalty.

SEC. 56. The several district horticultural inspectors shall, upon the inspection of any nursery stock, trees, or plants, issue and deliver to the owner or person in charge thereof a certificate of inspection, over his signature showing date of inspection, and condition of such stock, trees or plants.

Certificate of
inspection.

SEC. 57. Any person to whom a certificate of inspection shall have been issued, showing approval of the stock, property or material so inspected, who shall substitute for such work, property or material so inspected and approved, any other stock, property or material not covered by said certificate, and ship, sell or dispose of the same under said certificate of inspection, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), together with the costs of action, and shall be committed to the county jail until such fine and costs are paid.

Misuse of
certificate.

SEC. 58. In event of the shipment into the State of Washington from a point without said state, of any nursery stock, fruit trees, horticultural plants, shade trees, ornamental shrubbery, bushes or vines, by any person, firm or corporation not licensed as herein provided, the purchaser or the person receiving shipment of such trees, stocks, plants, ornamental shrubbery or vines, shall have the same inspected in the same manner as is required upon the delivery of stock sold and delivered by licensed nursery-

Foreign
stock.

men or tree dealers, and shall pay as inspector's fee ten per cent of the invoice price, the minimum fee to be fifty cents: *Provided*, That nurserymen or tree dealers, licensed under the provisions of this act to do business in this state, shall not be required to pay the inspector's fees provided for in this section.

Salaries and
expenses,
how paid.

SEC. 59. The salaries, compensation and expenses of all district horticultural inspectors and their assistants shall be paid by order drawn on the State Treasurer upon vouchers presented to the State Auditor signed by such district horticultural inspectors under oath and countersigned by the State Commissioner of Horticulture.

"District
Horticultural
Fund."

SEC. 60. There is hereby created a special fund in the hands of the State Treasurer to be known as the "District Horticultural Fund," from which shall be paid the salaries, compensation and expenses of the district inspectors and their assistants, as hereinbefore provided; and into which fund shall be paid any and all fines imposed and collected for any violation of the provisions of this act together with inspection fees collected and license fees issued to persons within the state, and which said fund shall also be supplied by the payment to the State Treasurer by the several counties of the state of all funds arising from the state horticultural tax to be levied as hereinafter provided. All moneys turned over to the State Treasurer for said fund by any county, as well as all moneys received from inspection fees and license fees and all moneys received from fines imposed under this act in such county, shall be credited to the state horticultural district in which the county is situated, from which the same is received; and all orders and vouchers issued as herein provided and presented to the State Treasurer for the salaries, compensation and expenses of district horticultural inspectors and their assistants, shall be paid from the moneys on hand to the credit of the district for which such inspectors and their assistants are appointed.

SEC. 61. Any county in the state which shall have heretofore provided and levied a tax for horticultural purposes

shall pay and turn over to the State Treasurer, as such taxes collected, all moneys received thereon, which shall be placed to the credit of the district composed of or comprising said county. In event warrants shall be drawn in favor of any district horticultural inspector or his assistants, for salaries, compensation and expenses, and presented for payment to the State Treasurer, when there shall be no moneys on hand in said fund to pay said orders or warrants, they shall be registered by the State Treasurer and shall draw interest at the rate of six per cent per annum until called for payment; and the county commissioners of each county shall include in the estimate of expenses for horticultural purposes, as herein provided, a sum [which] shall be deemed sufficient to take up and retire warrants outstanding against such fund.

Tax.

Warrants draw interest.

SEC. 62. All license fees collected under the provisions of this act from persons, firms or corporations, not residents of the State of Washington, as herein provided, shall be paid into the general fund of the State Treasurer.

Non-resident license fees paid to general fund.

SEC. 63. The district horticultural inspectors shall annually between the first day of July and the first day of September, of each year, furnish to the county auditor of each county included or partially included in their respective districts a statement showing the expenses of their office with respect to work done under provisions of this act in each county or portion of county included in their respective districts, together with an estimate of the expense of such work within said county, or portion of a county for the ensuing year.

Inspectors to report expenses to counties.

SEC. 64. It shall be the duty of the board of county commissioners at the time of making the regular annual tax levy in each year to include and levy a tax upon the taxable property of such county in such an amount as they shall find will produce funds sufficient to meet the estimated expense for horticultural purposes for the ensuing year, which tax shall be known as a "horticultural tax" and which shall be levied and collected the same as other general taxes; and, upon the collection of said tax, the same

Tax levy.

shall be turned over to the State Treasurer for the benefit of the "district horticultural fund" and to be credited to the horticultural district, or districts, within which said county is included.

Penalty. SEC. 65. Any person offering any hindrance to the carrying out of this act or in any manner preventing or hindering any inspection herein provided for shall upon conviction be fined not less than twenty-five dollars (\$25.00) nor more than two hundred dollars (\$200) together with costs, and shall be committed to the county jail until such fine and costs are paid.

Repeals. SEC. 66. All acts and parts of acts in conflict herewith are hereby repealed.

Emergency. SEC. 67. An emergency exists and this act shall take effect immediately.

Passed by the Senate February 25, 1909.

Passed by the House March 6, 1909.

Approved March 15, 1909.

CHAPTER 136.

[S. B. 214.]

RELATING TO TOWNSITES.

AN ACT amending section 6 of an act entitled, "An act to provide for the alteration, replat or vacation of any townsite, city plat or plats, addition or additions, or parts thereof, and the assessment, collection and payment of any damages connected therewith," approved March 14, 1903.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. That section 6 of an act entitled, "An act to provide for the alteration, replat or vacation of any townsite, city plat or plats, addition or additions, or parts thereof, and the assessment, collection and payment of any damages connected therewith," approved March 14, 1903, be amended to read as follows: Sec. 6. That any plat or replat so adjudicated, adjusted and approved, showing the lines of the original and adjudicated plat, shall be filed and recorded with the auditor of the county

[Am'd. § 6,
ch. 92, p. 140,
L.'03, § 3817c
Pierce.]

Plats to be
filed.