

CHAPTER 134.

[H. B. 260.]

COMMISSION MERCHANTS.

AN ACT relating to commission merchants engaged in selling any agricultural product and repealing chapter 139 of the Laws of 1907, and providing penalties.

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

Definitions.

SECTION 1. The term "agricultural product" whenever used in this act shall include any horticultural, viticultural, forestry, dairy, livestock, poultry, bee or farm product; the term "commission merchant" whenever used in this act shall include every person, firm or corporation who receives any agricultural product to be sold on commission for the account of another, but shall not include non-profit cooperative marketing organizations; the term "consignor" whenever used in this act shall mean any person, firm or corporation forwarding, delivering, consigning, or shipping any agricultural product to any commission merchant for sale on commission.

License.

Application, contents.

SEC. 2. It shall be unlawful for any person, firm or corporation to act as a commission merchant without first obtaining a license as in this act provided. Applications for licenses under this act shall be in writing, signed and sworn to by the applicant and shall state the name of the city or town where the business of commission merchant is to be conducted, giving the street and number of building if practicable, and the character of products which will be handled by the applicant; and if made by an individual his full name; and if made by a copartnership, the full names of each of the partners composing the copartnership, together with the firm or trade name under which the business is to be conducted; and if made by a corporation, shall state

whether a domestic or foreign corporation, the amount of its capital stock as provided in its articles of incorporation and the amount of its capital stock fully paid in. All applications for licenses hereunder shall be executed in duplicate; one copy thereof shall at the time of making the application be filed with the director of agriculture and the other shall be filed with the state treasurer. The state treasurer shall, if the application is in proper form, is accompanied by a sufficient fee, and if the bond is sufficient and properly executed, on the next business day following the receipt of such application transmit the application and bond, accompanied by his duplicate receipt for the fee, to the department of licenses, and shall deposit the fee accompanying the application in the general fund of the state treasury. If the application is not in proper form, is not accompanied by a sufficient fee, or if the bond is insufficient or not in proper form, or properly executed, the state treasurer shall notify the applicant of the defects and shall not pass the application on to the department of licenses or pay the money accompanying the application into the state treasury until such time as all defects have been corrected.

The application filed with the state treasurer shall be accompanied by a good and sufficient bond in the penal sum of three thousand dollars (\$3,000) and upon a form to be approved by the attorney general, and shall be executed by the applicant as principal and by a surety company authorized to do business in the state of Washington as surety. Said bond shall be for the benefit of all consignors having any cause of action against the commission merchant, and shall be conditioned for the faithful performance by the applicant of all duties as such commission merchant.

Upon receipt by the department of licenses of such application the director of licenses shall cause

to be prepared and issued to the applicant a license as commission merchant under this act, which license shall be signed by the director of licenses and attested by the secretary under the seal of the department of licenses.

Fee.

SEC. 3. All applications shall be accompanied by a fee of ten dollars (\$10) which shall entitle the applicant to a license to expire on December 31st next following. Upon application and payment of a fee of ten dollars (\$10) on or before the first day of January following the date of expiration of any license issued hereunder the applicant shall be entitled to a renewal license to expire one year from the date of expiration of the old license. All applications for renewal of licenses shall be made in the same manner as applications for original licenses.

Renewal license.

Books to be kept.

SEC. 4. Every person licensed to do business as a commission merchant under this act shall keep an accurate and complete set of books, in which shall be truly recorded the amount and character of all agricultural products received on consignment by such commission merchant from any resident of the state of Washington, with the date of receipt, the name of the consignor and the condition of the shipment when received; the date when the same or any part thereof is sold, together with the price for which sold, and the name of the person, firm or corporation to whom sold. The books of any such commission merchant shall at all times be open and subject to the inspection of the director of agriculture or his duly authorized agent, and to any consignor as to any entry concerning any agricultural products received from such consignor.

Inspection.

Statement upon receipt of goods.

SEC. 5. Any commission merchant who shall receive any agricultural products to sell on commission, shall immediately send to such consignor a statement in writing, showing what agricultural

products were received and the date and condition thereof; and, if any such agricultural products are received in a damaged condition and unfit for sale, or if the markets are overstocked, it shall be the duty of such commission merchant to notify the director of agriculture or his duly authorized agent and procure from such director or such agent a certificate in duplicate as to the condition of said agricultural products and the condition of the market; to pay such reasonable fee as may be required for inspection and such certificate; and to transmit a duplicate of said certificate to the consignor.

SEC. 6. Whenever any commission merchant sells all or a portion of any agricultural products received for sale on commission he shall, within five (5) days following such sale, render a true statement to the consignor showing such sale, the price received therefor, the date of sale, all charges and expenses paid or incurred on account of such sale; and, if requested by the consignor in writing, the name and address of the purchaser. If any such agricultural products are sold for less than the market price, such fact shall be noted on the statement herein required and the reason therefor shall be set forth.

Statement
upon sale.

SEC. 7. Unless otherwise agreed to in writing no commission merchant shall make any charge to any consignor in excess of 10% of the selling price for any agricultural products received and sold by him on commission. Every commission merchant shall, within ten (10) days following the date of the sale of any such agricultural products, pay to the consignor all sums due said consignor after deducting therefrom any reasonable amount paid for transportation and drayage and any commission or fee to which said commission merchant is entitled.

Charge
permitted.

SEC. 8. Whenever any consignor shall, after request, receive no remittance or report of sale, or if

Consignor's
complaint.

after receipt of any report or remittance be dissatisfied with such report or the amount of such remittance, he may make a verified complaint in writing to the director of agriculture who shall upon receipt of the same cause to be investigated the sale or sales complained of, and if upon such investigation it appears that the said commission merchant has failed or neglected to account for such consignment or any part thereof, or has failed or neglected to make a true and complete report thereof, it shall be the duty of the director of licenses, upon recommendation of the director of agriculture to revoke the license of such commission merchant; and thereafter such commission merchant shall not be entitled to any license until the director of agriculture shall approve the issuance of a license to such person.

SEC. 9. If any commission merchant shall make any sale of any agricultural products received for sale on commission and shall fail or neglect to pay the amount received upon such sale as hereinbefore provided, the consignor of any such agricultural products may bring an action on the bond given by such commission merchant under the provisions of this act and recovery may be had against said commission merchant and the surety on said bond for the amount due such consignor; and in such action the court shall allow such consignor a reasonable attorney's fee; *Provided*, if such commission merchant has failed or neglected to account and pay for any agricultural products received and sold on commission for two or more consignors and the amount of said bond is not sufficient to pay the amount due all the consignors, they shall be entitled to receive from the proceeds of such bond a pro rata share in proportion to the amount due each of such consignors.

SEC. 10. It shall be unlawful for any commission merchant to enter into any combination, con-

Action on
bond.

Combination,
conspiracy,
pool,
prohibited.

spiracy or pool, for the purpose of excluding from any market, or artificially raising or depressing the market price of any agricultural products of the State of Washington.

SEC. 11. Any person, firm or corporation violating any provisions of this act shall be guilty of a misdemeanor. Penalty.

SEC. 12. The director of licenses shall revoke any license issued under this act whenever the person, firm or corporation holding the same is convicted of any violation of this act. Revocation of license.

SEC. 13. If any section or part of a section of this act shall, for any cause, be held unconstitutional, such holding shall not affect the rest of this act or any other section hereof. If any part unconstitutional.

SEC. 14. That chapter 139 of the Laws of 1907 is hereby repealed.

Passed the House March 3, 1923.

Passed the Senate March 6, 1923.

Approved by the Governor March 17, 1923.

CHAPTER 135.

[H. B. 13.]

LOCAL IMPROVEMENTS.

AN ACT relating to local improvements and amending section 9363 of Remington's Compiled Statutes.

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

SECTION 1. That Section 9363 of Remington's Compiled Statutes be amended to read as follows: Amends Rem. Comp. Stat. § 9363; Pierce's Code § 1000.

Section 9363. The council or other legislative body shall have jurisdiction to proceed with any such improvement initiated by petition or resolution: *Provided*, that in any city of the first class it appears from the certificate of the board, officer, or Council to proceed with improvement.
First class cities.