

duty of the county treasurers of the various counties to receive such allocated monies and to place them in a weed control fund subject to the order of the boards of county commissioners of the respective counties. Monies allocated and transmitted shall be accounted for in the usual manner covering such funds. } Vetoed.

SEC. 8. If any provision or section of this act shall be adjudicated to be unconstitutional, such adjudication shall not affect the act as a whole or any part thereof not adjudicated unconstitutional. } Partial invalidity.

Passed the House March 4, 1937.

Passed the Senate March 3, 1937.

Approved by the Governor March 17, 1937, with the exception of sections 6 and 7 which are vetoed.

## CHAPTER 195.

[H. B. 667.]

### STATE APPLE ADVERTISING COMMISSION.

AN ACT relating to apples, declaring the public policy of this state to promote the consumption and sale of apples by providing for research and a publicity advertising and sales promotion campaign to increase the consumption of Washington grown apples, levying an assessment and providing for its collection, creating an apple advertising commission and vesting in it the administration of this act, providing for the powers, duties and authority of said commission, providing penalties for the violation of this act, and providing that this act shall take effect immediately.

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

SECTION 1. That this act is passed:

(a) In the exercise of the police power of the state to protect the public health, to prevent fraudulent practices, to promote the welfare of the state, and to stabilize and protect the apple industry of the state; } Exercise of police power.

(b) Because the apple crop grown in Washington comprises one of the major agricultural crops of Washington, and that therefore the business of selling and distributing such crop and the expanding and protection of its market is of public interest;

(c) Because it is necessary and expedient to enhance the reputation of Washington apples in domestic and foreign markets;

(d) Because it is necessary to discover the health giving qualities and food and dietetic value of Washington apples, and to spread that knowledge throughout the world in order to increase the consumption of Washington apples;

(e) Because Washington grown apples are handicapped by high freight rates in competition with eastern and foreign grown apples in the markets of the world, and this disadvantage can only be overcome by education and advertising;

(f) Because the stabilizing of the apple industry, the enlarging of its markets, and the increasing of the consumption of apples are necessary to assure the payment of taxes to the state and its subdivisions, to alleviate unemployment within the state, and increase wages for agricultural labor;

(g) To disseminate information giving the public full knowledge of the manner of production, the cost and expense thereof, the care taken to produce and sell only apples of the finest quality, the methods and care used in preparing for market, and the methods of sale and distribution to increase the amount secured by the producer therefor, so that they can pay higher wages and pay their taxes, and by such information to reduce the cost of distribution so that the spread between the cost to the consumer and the amount received by the producer will be reduced to the minimum absolutely necessary;

(h) To protect the general public by educating it in reference to the various varieties and grades

of Washington apples, the time to use and consume each variety, and the uses to which each variety should be put.

SEC. 2. That as used in this act:

(a) The term "commission" shall mean the Washington State Apple Advertising Commission; "Commis-  
sion."

(b) The term "person" shall mean individuals, corporations, partnerships, trusts, associations, co-operatives, and any and all other business units, devices and arrangements; "Person."

(c) "Shipment" and "shipped" shall be deemed to take place when the apples are loaded in the car, boat, truck, wagon, or other conveyance to be transported: *Provided*, That apples being moved from the orchard where grown to a packing house or warehouse within the immediate area of production, shall not be deemed a shipment or to be shipped; "Shipment,"  
"Shipped."

(d) The terms "handle" or "handler" shall mean or indicate any person who ships or initiates the shipping operation, whether as owner, agent, or otherwise; "Handle,"  
"Handler."

(e) The term "dealer" shall mean and include any person who handles, ships, buys, or sells apples, or who acts as sales or purchasing agent, broker, or factor of apples; "Dealer."

(f) The term "box" or "standard box" shall mean a standard box as defined by Remington's Revised Statutes, section 11638; "Box,"  
"Standard  
box."

(g) The term "processor" or "processing plant" shall include every person and every place to whom or to which apples are delivered for the purpose of drying, dehydrating, canning, pressing, powdering, extracting, cooking, or for use in producing or manufacturing a product or manufactured article; "Processor,"  
"Processing  
plant."

(h) "District No. 1" or "first district" shall be and include the counties of Chelan, Okanogan, Grant, and Douglas; "District  
No. 1" or  
"First  
District."

“District No. 2” or “Second District.”

(i) “District No. 2” or “second district” shall be and include the counties of Kittitas, Yakima, Benton, Franklin, and Klickitat;

“District No. 3” or “Third District.”

(j) “District No. 3” or “third district” shall comprise all of the State of Washington not included in the first and second districts.

Commission created.

SEC. 3. There is hereby created a Washington State Apple Advertising Commission to be thus known and designated. The commission shall be composed of seven practical apple producers and four practical apple dealers. The director of agriculture and supervisor of horticulture of the State of Washington shall be ex-officio members of the commission without vote. The seven producer members shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actually engaged in growing and producing apples within the State of Washington for a period of five years, and shall not be engaged in business directly or indirectly as a dealer, and has derived during said period the major portion of his income therefrom. The four dealers shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization, are and have been actively engaged as dealers in apples within the State of Washington, and are citizens and residents of this state. The qualifications of members of the commission as herein set forth must continue during their term of office. The regular term of office of the members of the commission shall be three (3) years from the date of appointment and until their successors are appointed and qualified. The term of the first members shall terminate on July first, 1940.

Members.

Ex-officio members.

Qualifications of members.

Tenure.

Appointment by governor.

The governor of the State of Washington shall immediately after this act becomes effective, appoint eleven men with the qualifications stated above, to be members of said commission; three (3)

of the grower members shall be appointed from district number one (1); three [(3)] from district number two (2); and one (1) from district number three (3). Two (2) of the dealer members shall be appointed from district number one (1) and two (2) from district number two (2). Due consideration shall be given to men who in the past have been connected with the various attempts at voluntary and involuntary apple advertising, and the governor shall consider any petitions or votes taken by growers recommending individuals for appointment.

A majority of the regular members shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission.

Quorum.

No member of the commission shall receive any salary or other compensation, but each member shall receive the sum of ten dollars (\$10.00) per day for each day spent in actual attendance on meetings of the commission, together with traveling expenses at the rate allowed by law to state employees.

Compensation.

SEC. 4. That the Washington State Apple Advertising Commission shall be, and it is, hereby declared and created a corporate body. It shall have power to sue and be sued; to contract and be contracted with; it shall have and possess all the powers of a corporation. The commission shall adopt a corporate seal. Copies of the proceedings, records, and acts of the commission, when certified by the secretary and authenticated by the corporate seal, shall be admissible in evidence in all courts of this state, and shall be *prima facie* evidence of the truth of all statements therein.

Corporate body.

Corporate seal.

SEC. 5. The commission shall elect a secretary-manager, whose compensation shall be fixed by the commission.

Secretary-manager.

SEC. 6. The commission shall appoint a treasurer. All monies received by the commission, or any other

Treasurer.

Disposition  
of monies.

state official from the assessment hereinafter levied, shall be paid to the treasurer of the commission, shall be deposited in such banks as the commission may designate, and shall be disbursed by order of the commission. The treasurer shall file with the commission a fidelity bond executed by a surety company authorized to do business in this state, in favor of the commission and the State of Washington, jointly and severally, conditioned for the faithful performance of his duties and the strict accounting of all funds of the commission, in the penal sum of fifty thousand dollars (\$50,000). None of the provisions of section 5501, Remington's Revised Statutes, shall be applicable to monies collected under this act.

Fidelity  
bond.

State not  
liable for  
acts of  
commission.

SEC. 7. The State of Washington shall not be liable for the acts of said commission or its contracts. All persons shall be limited to the funds collected by the commission, and no member of the commission or any employee or agent thereof shall be liable on the contracts of the commission. All salaries, expenses, costs, obligations, and liabilities incurred by said commission shall be payable only from the funds collected by the commission under this act.

Obligations  
incurred,  
payment.

Powers and  
duties of  
commission.

SEC. 8. The powers and duties of the commission shall include the following:

(1) To elect a chairman and from time to time such other officers as it may deem advisable, and to adopt and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations, and orders for the exercise of its power and the performance of its duties, which such rules, regulations and orders shall have the force and effect of the law when not inconsistent with existing laws;

(2) To administer and enforce this act, and do and perform all acts and exercise all powers reasonably necessary to effectuate the purpose of this act;

(3) To employ and at its pleasure discharge a manager and secretary, and such attorneys, clerks and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

(4) To establish offices and incur any and all expense and to enter into any and all contracts and agreements and to create such liabilities as may be reasonable for the proper administration and enforcement of this act;

(5) To investigate and prosecute violations of this act;

(6) To conduct scientific research to develop and discover the health, food, therapeutic and dietetic value of apples and products thereof;

(7) To employ and at its pleasure discharge an advertising manager, agents, advertising agencies, and such other help as it deems necessary, and to outline their powers and duties and fix their compensation;

(8) To make in the name of the commission such advertising contracts and other agreements as may be necessary;

(9) To keep accurate books, records, and accounts of all of its dealings, which books, records and accounts shall be open to inspection and audit by the state auditor and the department of efficiency.

SEC. 9. (a) There is hereby levied and imposed upon all apples grown in 1937 and annually thereafter, an assessment of two cents (2¢) on each one hundred (100) pounds gross billing weight of apples; payable when shipped, whether in bulk or loose in boxes or any other container, or packed in any style package: *Provided*, That the provisions of this act shall not apply to apples shipped to any processing plant for processing or manufacturing purposes;

Assessment  
levied upon  
apples.

All monies collected expended for advertising.

(b) All money levied and collected under this act shall be expended exclusively to advertise apples and to effectuate the purposes and objects of this act:

Record of apples handled, shipped or processed.

SEC. 10. Every dealer, handler, and processor shall keep a complete and accurate record of all apples handled, shipped or processed by him. Such record shall be in such form and contain such information as the commission shall by regulation or rule prescribe. Such records shall be preserved by such handler, dealer, and processor for a period of two (2) years, and shall be offered and submitted for inspection at any time upon written or oral request or demand by the commission or its duly authorized agent or employee.

Return filed with commission.

SEC. 11. Every dealer, handler, and processor shall at such times as the commission may by rule or regulation require, file with the commission a return under oath on forms to be prescribed and furnished by the commission, stating the quantity of apples handled, shipped or processed by him during the period or periods of time prescribed by the commission. Such return shall contain such further information as the commission may require.

Assessments payable prior to shipment.

SEC. 12. All assessments levied and imposed by this act shall be due and payable and shall be paid prior to shipment. No apples shall be carried, transported, or shipped by any person or by any carrier, railroad, truck, boat, or other conveyance until such assessment has been paid to the commission, and its official receipt issued. No apples shall be received by a processor until such tax has been paid.

Apple advertising stamps.

The commission shall by rule or regulation prescribe the method of collection, and for that purpose may require stamps to be known as "Apple Advertising Stamps" to be purchased from the commission and fixed or attached to the containers, invoices, shipping documents, inspection certificates, releases,

or receiving receipts or tickets. Any such stamps shall be cancelled immediately upon being so attached or fixed, and the date of cancellation shall be placed on such stamps. Cancellation.

SEC. 13. That in order to adequately advertise Washington grown apples in the domestic and foreign markets, and to make such advertising as extensive as public interest and necessity require, and to put into force and effect the policy of the State of Washington by this act intended, it is the duty of the commission to provide for and conduct a comprehensive and extensive research advertising and educational campaign, and to keep such advertising and education as continuous as the crop, sales, and market conditions reasonably require. The commission shall investigate and ascertain the needs of the apple producers, the conditions of the markets, and the extent to which public convenience and necessity require advertising and research to be conducted. If, upon such investigation, it shall appear that the revenue from the assessment levied and imposed under section 9 is inadequate to accomplish the purposes and objects of this act, it shall file a report with the director of agriculture showing the necessities of the industry, the extend [extent] and probable cost of the required research and advertising, the extent of the public convenience, interest and necessity, and the probable revenue from the assessment herein levied and imposed. If such probable revenue is less than the amount reasonably necessary to conduct the research and advertising that the public interest, convenience and necessity of the State of Washington requires to accomplish the objects and purposes of the act, the commission shall increase such assessment to a sum not exceeding the sum of six cents (6¢) for each one hundred (100) pounds gross billing weight of apples, whether shipped in bulk, loose in boxes or any other con- Research and advertising campaign.

Increase in assessments.

tainer, or packed in any style package: *Provided*, That no such increase shall be made prior to May, 1940: *And provided further*, That no such increase shall be made until the commission shall have filed with the director of agriculture a full report of such investigation and findings. Such increase shall be effective thirty (30) days after such report is so filed.

Penalty for violation of act.

SEC. 14. (a) Any person who shall violate or aid in the violation of any provision of this act shall be guilty of a gross misdemeanor;

Penalty for violation of rules and regulations.

(b) Any person who shall violate or aid in the violation of any rule or regulation of the commission shall be guilty of a misdemeanor.

Prosecutions.

SEC. 15. (a) Any prosecution brought under this act may be instituted or brought in any county in this state in which the defendant or any of the defendants reside, or in which the violation was committed, or in which the defendant, or any of the defendants, has his principal place of business;

(b) The several superior courts of the State of Washington are hereby invested with jurisdiction to enforce this act and to prevent and restrain violations thereof, or any rule or regulation promulgated by the commission.

Enforcement of act.

SEC. 16. That it shall be the duty of all state and county law enforcement officers and all employees and agents of the department of agriculture to enforce this act.

Liberal construction.

SEC. 17. This act shall be liberally construed. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this act.

The legislature hereby declares that it intended to pass each section and subsection of this act irrespective of every other section or subsection, sen-

tence, clause, or phrase hereof, and instructs all courts that such is their intention, and that such intention shall be given effect.

SEC. 18. Every rule, regulation or order promulgated by the commission shall be filed with the director of agriculture of the State of Washington, and shall be published in a legal newspaper in Wenatchee and Yakima within five days after its promulgation. And such rules, orders or regulations shall become effective five (5) days after such filing and publication.

Rules, regulations or orders to be published.

SEC. 19. The commission, through its authorized agents, shall have the right to inspect the premises, books, records, documents, and all other instruments of any carrier, railroad, truck, boat, handler, dealer, and processor for the purpose of enforcing this act and the collection of the excise tax.

Inspection.

SEC. 20. This act is necessary for the immediate preservation of public health, the preservation of the apple industry, the preservation of the apple producing areas, and for the support of the state government and its existing institutions, and shall take effect immediately.

Effective immediately.

Passed the House March 3, 1937.

Passed the Senate March 3, 1937.

Approved by the Governor March 17, 1937.