

CHAPTER CIX.

[H. B. No. 402.]

RELATING TO HORTICULTURE.

AN ACT to promote and protect the fruit growing and horticultural interests of the State of Washington, to provide for the appointment of a commissioner of horticulture; to repeal certain laws in conflict therewith.

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

Commissioner
to be appointed
by governor.

SECTION 1. A commissioner of horticulture shall be appointed by the governor. It is hereby provided, prior to appointment, the applicant must furnish a certificate from the faculty of the college of agriculture that he is a skilled horticulturist; on such certificate the governor may make the appointment. Before entering upon the discharge of his duties said commissioner shall take and subscribe an oath to support the constitution of the United States, and the constitution and laws of the State of Washington, and to faithfully discharge the duties of his office, which said oath, together with the aforesaid certificate, shall be filed with the secretary of state. Said commissioner shall keep his office at Tacoma, which shall be open to the public during normal office hours, every day excepting Sunday and legal holidays and days when he may be necessarily absent attending to official duties in other parts of his district.

Office at
Tacoma.

Duties of
commissioner.

SEC. 2. The object for which said commissioner is appointed is to maintain and exercise a supervisory directory over the horticultural industries of the state, to enforce the laws relative to the importation, transfer and sale of fruit, fruit trees, plants or nursery stock within the state, and to give such instruction to fruit culturists regarding cultivation, and the extermination of fruit pests, as the nature of the case may demand. The official term of the commissioner of horticulture shall begin on the first day of April, 1897, and continue for four years and until his successor is appointed and qualified. Said commissioner shall receive annually, in full consideration of his official services, the sum of \$1,000, and for incidental expenses of

Salary of
commissioner.

his office, such as necessary traveling fare, stationery and postage, the sum of \$500, or so much thereof as shall be actually expended. Each of said sums shall be due and payable in monthly installment in warrants drawn by the state auditor on the state treasurer.

SEC. 3. Said commissioners may be removed from office at any time for cause, such as inefficiency, neglect of duty or immoral conduct, but no removal from the office of commissioner of horticulture shall be made for political reasons. Vacancies occurring in the office of commissioner during a term shall be filled by the governor making an appointment for the unexpired term, under rules and regulations as prescribed in section 1 of this act for full term appointments.

May be removed.

SEC. 4. Fruit culturists in any county in this state are hereby authorized and empowered to organize into a county horticultural society, and the better to promote and protect the horticultural interests of the county, the society will nominate a qualified person for county inspector of fruits, trees and plants, and of insect pests destructive to the fruit interests of the county. The nomination shall be made to the board of commissioners (of the county wherein said society is organized), who are hereby authorized to appoint such person as county fruit inspector, deliver to him a certificate of his appointment, and mail a duplicate copy of such certificate to the said state commissioner of horticulture; said county inspectors shall be entitled to a per diem of two dollars for each day's actual service, to be paid by the county in which said inspector is appointed.

Horticultural societies.

SEC. 5. No person, firm or corporation shall engage or continue in the business of selling within the state, or importing fruit trees, plants or nursery stock into this state, without first having obtained a license to carry on such business in this state, as in this act provided: [*Provided,*] That this section shall not apply to any person or persons who may from time to time sell or give away any fruit trees, plants or nursery stock the growth of which shall be the result of his or their own industry, and where such sales are made without canvassing, soliciting, advertising or the employment of agents.

License for selling nursery stock.

Bond.

SEC. 6. Any person, firm or corporation may obtain a license to engage or continue in the business of selling and importing fruit trees, plants or nursery stock into this state by submitting his application therefor to the commissioner of horticulture, together with a satisfactory bond in the sum of \$1,000, to be approved by the said commissioner, conditioned that the principal and his or their agents will faithfully obey the provisions of this act and the laws of the State of Washington, and that the said principal will pay the cost of inspection and destruction of all infested nursery stock or other material or goods imported into or sold within such district of this state, by the said principal or his or their agent. Licenses granted under this act shall be for two years or less, at the discretion of the commissioner.

License for two years.

Notice to commissioner of shipments.

SEC. 7. It shall be the duty of every person, firm or corporation licensed to do business under this act to notify the commissioner of horticulture of his intention to ship an invoice of fruit trees, plants or any nursery stock from one point to another within the state, or to import an invoice of similar goods from without to any point within the state, whether for the purpose of sale or for personal use. Such notice shall contain the name and address of both the consignor and consignee, and a descriptive invoice of the goods to be shipped, the freight or express office at which the goods are to be delivered and the name or title of the transportation company from whom the consignee is to receive such goods. Such notice shall be mailed at least twenty-four hours before the day of such shipment.

Penalty.

SEC. 8. Any person, firm or corporation who shall sell, within this state, or import into this state, any fruit trees, plants or nursery stock, in violation of the provisions of this act, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined for each offense in any sum not less than twenty-five nor more than one hundred dollars.

Penalty for agent.

SEC. 9. Any person who shall offer for sale, or solicit persons within this state to purchase from him, any fruit trees, plants or nursery stock belonging to any person or firm not licensed under the provisions of this act, shall be

deemed guilty of a misdemeanor, and fined in any sum not exceeding one hundred dollars (\$100). All fines imposed for violation of the provisions of this act shall be paid to the treasurer of the county wherein the violation was committed, and placed to the credit of the general fund of such county.

SEC. 10. For the purpose of preventing the introduction and spread of contagious diseases, fruit pests, spores and fungus growth among fruit trees and plants and other nursery stock, and for the disinfection and cure of fruit tree diseases, and the extirpation of fruit pests, spores and fungus growth, the commissioner of horticulture shall prescribe such remedies as he shall deem best; describe and formulate such remedies, with their proper mode of application, with such additional instructions as he may deem necessary, into a circular or bulletin, which he shall have printed and distributed to the several county horticultural societies and inspectors in his district; he shall include also in said bulletin the rules and regulations under which a person, firm or corporation may lawfully sell, import into this state and sell or authorize to be sold, fruit trees, plants or nursery stock, and the penalties to be incurred for a violation of these rules; he shall prepare also a poster which shall contain said rules, regulations and penalties, which shall be distributed with the said bulletins. County inspectors are directed to put up said posters in not less than three conspicuous places in their county, one of which places must be in front of the county court house. The commissioner of horticulture shall hear and promptly decide all appeals from the county inspectors, and his decisions shall have full force and effect until set aside by the courts of the state. In all cases of appeal he shall disregard technicalities; decide each and every case on its merits. All appeals from county inspectors to the commissioner shall be under forms and regulations as prescribed by the commissioner. He shall approve or reject all bonds required by law to be submitted to him, and he shall file and safely keep all bonds and other papers by law required to be filed with him. He shall examine all fruits, specimens of fruit trees, shrubbery or plants sub-

Means for preventing spread of contagious diseases, etc.

Bulletins
published.

mitted to him for examination; enter the result of his examination in a register to be kept by him for that purpose, and send a copy of such result to the person asking for the examination. He shall, from time to time, as he may deem for the best interests of the horticultural industry of the state, publish bulletins which shall be sent free to the various county horticultural societies in the state; such bulletins to contain a brief *résumé* of the discoveries of science of interest to horticulture, or any other matter which the commissioner shall deem of importance to such interests. And unless there be urgent or special need therefor, no bulletin shall contain any matter that has appeared in any previous bulletin.

County
inspectors.

SEC. 11. County fruit inspectors who shall be appointed under and by authority of this act are hereby authorized and empowered to enforce the provisions of this act to prevent the introduction and spread of fruit tree and plant diseases, insect pests, fungi spores, eggs or larvæ of insects injurious to the fruit interests of his county or of this state.

Commissioner
shall inspect in
certain cases.

SEC. 12. It is hereby made the duty of the county fruit inspector, if from his personal observation, complaint or other credible information, he has reason to suspect that any person, company or corporation has an orchard, trees or nursery of trees, vines or garden, fruit packing house, storeroom, or that any other place or material in his county is infected with, or is a repository for, eggs, larvæ, of any noxious insects injurious to fruits and plants, or that any trees, fruits or plants are in transit to his county from outside of this state, or about to be disseminated within his county, which are known or are suspected to be from localities that are infested with any disease or pests injurious, or that may become injurious to the fruit interests of his county or state. He shall without delay inspect the premises, property or materials so suspected, and if the same is found to be infected as aforesaid, he shall notify, in writing (prescribing the manner of disinfection), the owner, his agent, or the person in charge of the same, to treat and disinfect the said premises or property within five days. If any person so notified shall neglect or fail

to disinfect such said premises or property in the manner and in the time prescribed in said notice, the person so notified and failing to disinfect the infected property or premises shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than five dollars (\$5) nor more than fifty dollars (\$50) and costs of action in court, which fine and costs shall be a judgment lien upon said premises or property. After the expiration of said ten days and the failure on the part of the owner or person in charge to disinfect the said premises or property as aforesaid, then, to prevent the spread of insect pests or disease, it will be the duty of the county inspector to enter on such premises or property and disinfect the same. The cost of such disinfection shall be a lien against said premises or property, the payment of which shall be collectible, with costs, in any court of the state.

Owners must
disinfect.

Penalty.

SEC. 13. Any person or persons who shall bring into the state, sell, offer for sale, distribute or give away fruit trees, plants, shrubs, fruit or other material infested with any kind of insect pests injurious to fruit, fruit trees or plants, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars (\$25) nor more than two hundred dollars (\$200), or by imprisonment in the county jail not less than sixty days nor more than one year: *Provided*, That for each repeated offense the person or persons convicted, as aforesaid, may be punished by a fine of one hundred to two hundred dollars (\$100 to \$200), or by imprisonment not to exceed two years. Any person or persons who shall sell, offer for sale, distribute or give away any tree or trees, root or roots, grafts, cuttings or scions, infested with insect pests, spores or fungus growth, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine [of] not less than five dollars (\$5) nor more than twenty-five dollars (\$25), or by imprisonment in the county jail not less than ten days nor more than thirty days. A repetition of the offense shall subject the offender to increased penalty, not over the maximum above stated. Any nursery trees, shrubs or plants which have been shipped from and to any place within the state

Sale infected
stock.

Penalty.

for distribution or for planting, and which are infested with any injurious insects, larvæ, or fungus growth, shall be disinfected under the direction of the inspector of the county whereto such trees and plants are taken, and the cost of said disinfection shall be charged to the owner of said articles, and shall be a lien on said trees, shrubs or plants until paid; and the person in possession of said articles being held subject to lien shall have a legitimate claim against the party from whom he received the articles for reimbursement of cost, including cost of collection, and may be enforced in any of the courts of the state. It is provided that if the cost of said disinfection is more than five dollars (\$5), the expenses shall not exceed the rate of five cents per tree; and said lien to be foreclosed upon like notice and manner as in the case of sales of personal property on execution.

Inspector shall have access.

SEC. 14. The county fruit inspector shall, in the performance of his duty as such inspector, have on any day (except Sundays) free access to orchards, nurseries, gardens, hop fields, packing houses, fruit stands and store rooms where fruit may be kept; fruit boxes, full or empty, or any other materials or place suspected of being infested with insect pests or diseases injurious to the fruit interests of the state. If he find any nursery, orchard, garden or other place or material infected with insects or fungus growth, larvæ or spores injurious to the fruit interests, he shall forthwith notify in writing the owners, occupants or persons in possession thereof that the same is infected, and direct the manner in which the same shall be disinfected. If the owner, occupant or person in possession of said orchard, garden, store room, fruit stand or other place or infested material, shall not within ten days disinfect the same in the manner by the county inspector required, or shall not have appealed from the decision of the county inspector to the commissioner of horticulture, if the premises infected be an orchard or nursery of fruit trees, a garden, fruit stand or store room, and the person or persons in charge thereof having neglected or refused to disinfect the said premises within the time specified in said notice, nor have appealed as aforesaid, then the county inspector shall

Infected property.

enter on and disinfect any of the said premises so neglected, and the costs thereof shall be a legitimate charge and lien, with interest until paid, upon the real property of the owner of such premises so disinfected; such lien shall be collectible, with costs of suit, in any of the courts of the state, as other lawful claims are collectible. If the infected property be transportable materials, the county inspector shall notify in writing the person in charge thereof to disinfect the same within twenty-four hours, and prescribe the manner of disinfection. If the person in charge of said infected materials neglect or refuse to disinfect the same as notified, or failed to appeal, then the inspector shall destroy such infected materials as fruits, fruit boxes, baskets, wrappings and portable fruit stands by burning the same. If an appeal be taken the inspector shall (after the twenty-four hours notice) take immediate possession of such moveable property and safely keep the same until the appeal is decided; if the decision of the commissioner be in favor of the appellant the property shall be returned to him; on an adverse decision the property will be destroyed by the inspector. All appeals from the action or demands of the county inspector shall be taken to the said state commissioner of horticulture.

Its disposition by commissioner.

SEC. 15. A certain act approved March 7, 1891, entitled "An act to create a state board of horticulture, and appropriate money therefor," and an act amendatory thereto approved March 11, 1895, and all other laws or parts of laws inconsistent or in conflict with the provisions of this act are hereby repealed.

Passed the House March 5, 1897.

Passed the Senate March 11, 1897.

Approved by the Governor March 17, 1897.