

other food fish at any time at such places for the consumption of himself and other members of band: *Provided, however,* That this right shall not extend to others than such Indians.

Passed the House March 2, 1939.

Passed the Senate March 6, 1939.

Approved by the Governor March 19, 1939.

CHAPTER 211.

[H. B. 351.]

WASHINGTON FEED, FERTILIZER, AND LIVESTOCK REMEDY ACT.

AN ACT relating to the Department of Agriculture; providing for the regulation and registration of concentrated commercial feeding stuffs, fertilizers, and livestock remedies, and the labeling and advertising thereof, and for other purposes; providing for the licensing and regulation of retail dealers in concentrated commercial feeding stuffs; providing penalties; repealing chapter 37 of the Laws of 1937 (section 7016 to section 7019-22, inclusive, of Remington's Revised Statutes; section 89-21 to 89-45, inclusive, of Pierce's Code).

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

Short title. SECTION 1. This act may be cited as the Washington feed, fertilizer, and livestock remedy act.

Definitions. SEC. 2. The definitions as given in this act shall apply as defined, unless the context clearly indicates otherwise.

"Person." SEC. 3. The term "person" as used in this act shall be deemed to include any individual, partnership, firm, corporation, or association engaged in the manufacture, sale, distribution, or mixing of any concentrated commercial feeding stuff, commercial fertilizer, livestock remedy, fertilizer material, or soil builder, which is exposed, intended, or offered for sale or is distributed in the State of Washington.

SEC. 4. The term "director" shall mean the Director of Agriculture of the State of Washington, or his authorized agents or representatives. "Director."

SEC. 5. The term "domestic animals" shall include horses, cattle, sheep, pigs, mules, dogs, cats, rabbits, pigeons, chickens, turkeys, ducks, geese, and all other species of animals, birds, or fowl which have been brought under control by man and adapted to his use or pleasure. "Domestic animals."

SEC. 6. The term "fertilizer", as used in this act, means and includes "commercial fertilizer", "fertilizer material", and "soil builder" as those terms are hereinafter defined. "Fertilizer."
"Soil builder."

SEC. 7. The term "retail" as used in this act means the selling or offering for sale of any concentrated commercial feeding stuff or fertilizer, directly to the consumer. "Retail."

SEC. 8. The term "label" means any written, printed, or graphic matter upon any can, sack, or any other container of concentrated commercial feeding stuff, fertilizer, or livestock remedy. "Label."

SEC. 9. Exclusive of the definitions provided in this act, the definitions and methods of analysis of concentrated commercial feeding stuff regulated by this act shall be as defined by the Association of American Feed Control Officials, Inc., as of the effective date of this act; the definitions and methods of analysis of fertilizer terms regulated by this act shall be as defined by the American Association of Official Agricultural Chemists as of the effective date of this act; and the definitions of livestock remedies shall be as defined in the United States Pharmacopoeia. Feed stuffs and fertilizer defined.

SEC. 10. For all the purposes of this act, concentrated commercial feeding stuff, fertilizer, and livestock remedies shall be considered as distinct brands when differing either in guaranteed analysis, Distinct brands.

ingredients, trade-mark, name, or any other characteristic method of marking of any nature whatsoever.

Injurious ingredients.

SEC. 11. It shall be unlawful for any person to distribute, sell, display, or offer for sale any concentrated commercial feeding stuff, fertilizer, or livestock remedy which is in itself, or which contains, any ingredients which are deleterious, detrimental, or injurious, or which are deleterious, detrimental, or injurious when used, fed, or applied as directed. It shall be unlawful for any person to distribute, sell, display, or offer for sale any concentrated commercial feeding stuff, fertilizer, or livestock remedy which is known to be of little or no value for the purpose for which it was intended, or to make any false or misleading claims whether explicit or implied.

Destruction of identification device.

SEC. 12. It shall be unlawful to alter, mutilate, destroy, obliterate, or remove without proper authority, any mark, stamp, tag, label, seal, sticker, or other identification device used by the director in carrying out the provisions of this act.

Simulation of label.

SEC. 13. It shall be unlawful to forge, counterfeit, simulate, or falsely represent, or, without proper authority, use any mark, stamp, tag, label, seal, sticker, or other identification device used by the director in carrying out the provisions of this act.

Disposal of unregistered products seized.

SEC. 14. It shall be unlawful for any person, without authority, to remove or dispose of by sale or otherwise any concentrated commercial feeding stuff, fertilizer, or livestock remedy seized under the provisions of section 22 of this act.

Rules and regulations.

SEC. 15. The director is hereby empowered to prescribe and enforce such reasonable rules and regulations and make such definitions relating to concentrated commercial feeding stuff, fertilizer, or livestock remedy as he may deem necessary to carry

into effect the full intent and meaning of this act, and may register or refuse the registration of any concentrated commercial feeding stuff, fertilizer, or livestock remedy which may be sold or offered or exposed for sale or distribution within the State of Washington, and which does not comply with all the provisions of this act, or with the regulations which may be hereafter made by the director concerning concentrated commercial feeding stuff, fertilizer, or livestock remedy, or which contain noxious weed seeds or other materials which may contaminate the soil as they may be defined or determined by the director.

SEC. 16. The chemist of the agricultural experiment station of the State College of Washington and the dean of the College of Pharmacy of the University of Washington shall be the chemists of the Department of Agriculture, and it shall be the duty of such chemists or either of them, without compensation other than their expenses necessarily incurred in the performance of such work, to analyze any and all substances that the director may send to them, and report to the director, without unnecessary delay, the results of any analysis so made, and when called upon by said director, any such chemist, or any of the additional chemists as hereafter provided, shall assist, as an expert or otherwise, in any prosecutions for the violation of any law pertaining to the Department of Agriculture. Chemists.

SEC. 17. The director may appoint one or more competent graduate chemists to serve as additional chemists of the Department of Agriculture and such chemists may be required to and are empowered to perform any or all of the duties required of the chemists of the Department of Agriculture authorized in section 16 of this act. Such additional chemists shall be entitled to such compensation for their services as may be determined by the director. Any of such Additional chemists.

additional chemists may be assigned to duties under the supervision of either of the chemists authorized in section 16 of this act.

State
College.

SEC. 18. In order to promote better laboratory facilities, materials and equipment, and when consistent with prompt and efficient service, the director may submit concentrated commercial feeding stuff, fertilizers, and livestock remedies, preferably to the authorized chemists at the State College of Washington, and he may submit foods, drugs, dairy products and similar substances, preferably to the authorized chemist at the University of Washington.

University.

Access to
factory for
inspection.

SEC. 19. The director shall have access to any factory or establishment selling, offering, or exposing for sale, or distributing any concentrated commercial feeding stuff, fertilizer, or livestock remedy for the purpose of inspection and obtaining samples.

Unlawful
to prevent
inspection.

SEC. 20. Any person who shall prevent or strive to prevent the director from inspecting and obtaining samples of any concentrated commercial feeding stuff, fertilizer, or livestock remedy as provided in sections 19 and 21 of this act shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined as defined in section 58 of this act.

Samples for
analysis.

SEC. 21. The director is hereby empowered to procure from any lot, parcel, or package of concentrated commercial feeding stuff, fertilizer, or livestock remedy offered for sale, or found in the State of Washington, in bulk, sack, or package, a sample, quantity thereof not to exceed two (2) pounds, but the said sample shall be taken in the presence of the party or parties in interest, or their representatives, and taken from a parcel or number of packages which shall be not less than ten per cent (10%) of the whole lot inspected, and shall be thoroughly mixed, the same to be divided into two approximately equal parts, each to be sealed,

and one part promptly delivered to the person having said products in his possession, the other to be delivered to a chemist of the Department of Agriculture. Any products covered by the provisions of this act, packed other than in bulk or in sack, shall be sampled for analysis by taking not less than one (1) can, bottle, or other container from each lot or parcel which is to be sampled and submitted to a chemist of the Department of Agriculture for analysis. A label shall be placed on each sample stating the name or brand of the material sampled, the name of the party from whose stock the sample was taken, and the time and place of taking this sample, and said label shall be signed by the director, and by the party or parties in interest, or their representatives present at the taking and sealing of said samples. The chemist who makes the analysis shall return to the director two certified copies of his findings, one copy of which shall be forwarded promptly to the person in interest thereof. Such certified findings shall be admissible in the trial of any case, civil or criminal, or in any hearing involving any provision of this chapter as prima facie evidence of the facts therein set forth.

Label.

Certified proceedings.

SEC. 22. Possession by any person of any brand of concentrated commercial feeding stuff, fertilizer, or livestock remedy which has not been registered with the director, or the sale of which is for any reason prohibited by this act, or being the consignee thereof, shall be prima facie evidence that the same is kept or shipped to the said person in violation of the provisions of this act, and the director is hereby authorized to seize upon and take into his possession such articles of concentrated commercial feeding stuff, fertilizer, and livestock remedy and thereupon apply to the superior court of the county in which the seizure is made for an order directing him to dispose of or sell the same

Possession of unregistered products, seizure.

Court order.

Notice.

and apply the proceeds of the same to the general fund: *Provided, however,* That the director shall first give notice to the person in whose possession such goods are found, or if in the possession of a common carrier, then the consignee of such goods, notifying such person that he has seized such goods, and the reasons therefor, and that he has made an application to the superior court for an order to sell or dispose of the same, and that he will call up said application for hearing on a day certain, which shall not be less than ten (10) days from the service of such notice, and that at the hearing of said application the said person shall show cause, if any he has, why the prayer of the petition should not be granted. Upon the hearing of said petition, affidavits or oral testimony may be introduced to establish the contention of the respective parties. Hearing, however, may be had at an earlier date by mutual consent of the parties to said application.

Hearing.

Brand must
be registered.

SEC. 23. It shall be unlawful for any person, whether at wholesale or retail, to sell, offer to sell, or distribute any brand of concentrated commercial feeding stuff, fertilizer, or livestock remedy in the State of Washington, unless each such brand shall have been registered with the director on a form prescribed and provided by the director and showing the ingredients and the guaranteed analysis, and a registration fee of six dollars (\$6.00) for each brand shall have been paid to the said director. Each such person shall, on or before the first day of April of each calendar year, pay to the director an annual registration fee of six dollars (\$6.00) for each such brand manufactured or mixed by him, which fee shall be paid by the director into the state treasury to be used exclusively for the maintenance and enforcement of the provisions of this act: *Provided,* That a sum not to exceed fifteen per cent (15%) of the registration fees above speci-

Fee.

fied, collected in any one year, may be used with the approval of the director for the purchase of equipment and materials necessary to facilitate the testing and analysis of concentrated commercial feeding stuff, fertilizer, or livestock remedy.

SEC. 24. No person shall sell, offer to sell, or distribute within this state any concentrated commercial feeding stuff at retail without having first obtained a retail feed license for each establishment or vehicle used by such person in selling concentrated commercial feeding stuff at retail: *Provided, however,* That the above license shall not be required of any vehicle used by a licensed dealer merely in delivering concentrated commercial feeding stuff, nor to any dealer as to his sales of dog foods or livestock remedies. Applications for such licenses shall be made in writing and under oath to the director on such forms as he shall prescribe.

Retail feed
license
required.

SEC. 25. There shall be paid to the director with each application for a retail feed license an annual license fee of two dollars (\$2.00). The money derived therefrom shall be paid by the director into the state treasury to be used exclusively for the maintenance and enforcement of the provisions of this act.

License fee.

SEC. 26. Each retail feed license shall expire on the thirty-first day of March following its date of issuance. Such license shall not be transferable to any person or be applicable to any location or vehicle other than that for which originally issued.

Expiration
of license.

SEC. 27. There is hereby created in the state treasury a special fund to be known as the feed and fertilizer fund in which shall be deposited all moneys hereafter or heretofore collected as fees for feed and fertilizer licenses, and for the registration of concentrated commercial feeding stuff, fertilizer, and livestock remedies.

Feed and
fertilizer
fund.

Registration
cancelled or
refused.

SEC. 28. The director, after notice to the registrant or applicant and after a duly held hearing, may cancel the registration of, or refuse to register the brand or brands of any person who sells or proposes to sell any concentrated commercial feeding stuff, fertilizer, or livestock remedy detrimental or injurious in effect when applied, fed, or used as directed, or which is known to be of little or no value for the purpose for which it is intended, or as to which false or misleading claims are made or implied. The director may, after notice to the applicant or registrant and after a hearing duly held, cancel the registration of the brand or brands of any person who violates any of the provisions of this act.

"Canned dog
meat."

SEC. 29. The term "canned dog food" means any concentrated commercial feeding stuff, whether simple, mixed, or compound, packed in cans or hermetically sealed containers and used for food for dogs and cats.

"Meat."

SEC. 30. The term "meat" shall mean the properly dressed flesh derived from cattle, from swine, from sheep, or from goats, sufficiently mature and in good health at the time of slaughter, but is restricted to that part of the striated muscle which is skeletal or that which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, and does not include that found in the lips, in the snout, or in the ears; with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the flesh and which may not have been separated from it in the process of dressing it for sale.

(a) The term "meat" when used in a qualified form, as, for example, "horse meat," "reindeer meat," "crab meat," etc., is then, and then only,

properly applied to the corresponding portions of animals other than cattle, swine, sheep and goats.

SEC. 31. The term "meat by-products" means ^{"Meat by-products."} the clean, sound, and properly dressed edible parts, other than meat, which have been derived from one or more carcasses of cattle, of swine, of sheep, or of goats, sufficiently mature and in good health at the time of slaughter.

SEC. 32. The term "meat by-products" when used in a qualified form, as in the case of the foregoing definition for "meat," and as, for example, "horse meat by-products," "reindeer meat by-products," "crab meat by-products," etc., is then and then only, properly applied to the corresponding portions of animals other than cattle, swine, sheep, and goats.

SEC. 33. The term "concentrated commercial feeding stuff" as used in this act shall be defined to be a substance used, sold, offered or exposed for sale as food for domestic animals, and claimed to have a nutritive value: *Provided, however,* That the expression "concentrated commercial feeding stuff" shall not include hay, either whole, chopped, or ground, where no other materials are added and no part of the whole removed; wheat flours or other flours; unmixed, single grains, whole seeds, or unmixed meals made from unmixed whole grains of wheat, rye, barley, oats, corn, or other cereal, and no part of the whole removed: *Provided, further,* That the director may permit the sale, under such conditions and safeguards as he may prescribe, of beet pulp, fruit by-products, brewers' or distillers' spent grains, pea, oat, or other grain by-products, alfalfa stem meal, alfalfa leaves and blossoms, and hemp seed meal, when sold singly or when mixed with molasses. ^{"Concentrated commercial feeding stuff."}

"Standard sack."

SEC. 34. The term "standard sack" shall mean a sack of concentrated commercial feeding stuff containing one hundred (100) pounds net weight.

Standard weight.

SEC. 35. It shall be unlawful to distribute, sell, offer for sale, or advertise for sale, concentrated commercial feeding stuff in sacks containing more than fifty (50) pounds except the standard one hundred (100) pound sack, unless each sack is labeled in a conspicuous manner on the face of the sack with the true net weight of the contents of the said sack in plain English words and figures at least two (2) inches in height, and any advertisement covering other than standard sacks of concentrated commercial feeding stuff shall state in a conspicuous manner the true net weight of the contents of each such sack.

Shipments, tag or label required.

SEC. 36. Any person who shall sell, offer, or expose for sale in this state any concentrated commercial feeding stuff, shall include in the invoice of every bulk shipment, or shall affix or cause to be affixed to every package or sample of such concentrated commercial feeding stuff, in a conspicuous place on the outside thereof, a tag or label which shall have plainly printed thereon in the English language the number of net pounds of concentrated commercial feeding stuff contained in the package or bulk shipment, except as provided for in section 37 of this act, the name, brand, or trademark under which the concentrated commercial feeding stuff is sold, the name and address of the manufacturer, importer, mixer, distributor, agent, or vendor, the guaranteed analysis stating the minimum percentages of crude fat and crude protein; the maximum percentage of moisture; the maximum percentage of crude ash, which shall not exceed twelve per cent (12%) except in the case of minerals and mineral mixtures; the maximum percentage of crude fiber, which shall not exceed ten

per cent (10%), except as provided in section 35 of this act; and a list of the ingredients from which the concentrated commercial feeding stuff referred to in such list by inclusion of the registered brand name thereof, is compounded. Such tag or label shall be construed as a guarantee by the manufacturer, importer, mixer, distributor, agent, or vendor of the facts therein stated.

SEC. 37. It shall be unlawful to include in any concentrated commercial feeding stuff any dirt, damaged or decayed feed, mill, elevator, or other sweepings or dust, or any injurious, deleterious or worthless or damaged ingredients.

Unlawful to include deleterious ingredients.

SEC. 38. The use of second-hand branded sacks as containers of concentrated commercial feeding stuff while being offered for sale is prohibited: *Provided*, That clean, branded sacks which have been used as such containers may be used again if thoroughly cleaned so that all feed and foreign matter is removed, and if turned inside out or the labels obliterated so that the outer surface is free from all matter deceptive as to the contents of the sack.

Second-hand sacks or containers.

SEC. 39. The term "livestock remedy" as used in this act shall include all condimental feeds, mineral mixtures, medicated stock foods, medicinal stock foods, stock food tonics, stock powders, condition powders, conditioners, animal regulators, proprietary medicines, medicinal lotions, insecticides, body builders or preservers, worm capsules or other worm eradicators, pills, salves, or any other substance sold, exposed, or offered for sale in the State of Washington as preventive, inhibitive, or curative medicine or for their stimulating, invigorating, or other powers for domestic animals, whether administered externally or internally: *Provided*, That all products licensed under the Federal Virus, Serum, and Toxin Act of July 1, 1902, or under

"Livestock remedy."

the Federal Virus, Serums, Toxins, Antitoxins, and Analogous Products Act of March 4, 1913, shall be exempt from registration as provided herein.

Application
for
registration.

SEC. 40. Application for registration of a livestock remedy, form of which shall be prescribed and furnished by the director, shall have attached thereto a true copy of the label used upon the package or container, and a list of the ingredients which are contained in, or make up the livestock remedy.

Investigation
of claims as
to efficacy
of product.

SEC. 41. The director shall have ninety (90) days after the receipt of the application for registration of a concentrated commercial feeding stuff, fertilizer, or livestock remedy not previously registered, in which to investigate the claims made by the applicant as to the efficacy of the product and to conduct experiments in order to determine whether the said product is harmful, deleterious, or is of the claimed value for the purpose intended, when used as directed. At the end of ninety (90) days, if the director during such period has not notified the applicant that a hearing will be held or has not registered the product, then the product shall be registered, and a certificate of registration issued by the director: *Provided, however,* That during the ninety (90) day period provided herein, the applicant shall not sell the product in the State of Washington.

"Commercial
fertilizer."

SEC. 42. "Commercial fertilizer" shall mean any substance, including any combination or mixture of substances whose aggregate content of nitrogen, available phosphoric acid, and available potash is sixteen per cent (16%) or more, and which is designed and fit for use as a source of plant food to increase crop yields or plant growth, except unmanipulated animal manures.

"Fertilizer
material."

SEC. 43. "Fertilizer material" shall mean any mineral substance, any organic substance, mixture

of mineral substances, and mixture of mineral and organic substances, except unmanipulated animal manures, hays, straw, and peats, which has an aggregate content of less than sixteen per cent (16%) of nitrogen, available phosphoric acid, available potash, or contains other essential plant nutrients in any amounts, and is designed for use principally as a source of plant food to increase crop yields or plant growth.

SEC. 44. "Soil builder" shall mean any mineral substance, mixture of mineral substances, and mixture of mineral and organic substances, except sand and soil, used principally to add calcium, nitrogen, potassium, phosphorous, magnesium, or sulfur to the soil or as a means of producing physical or chemical changes in the soil for the purpose of improving plant growth.

"Soil builder."

SEC. 45. No lot, parcel, or package of, or receptacle containing commercial fertilizer, fertilizer material, or soil builder shall be sold, offered, or exposed for sale within this state unless the same shall have attached thereto or printed thereon a plainly printed label, stating the name, brand, and trademark, if any there be, under which the product is sold; also the number of net pounds of commercial fertilizer, fertilizer material, or soil builder contained therein, the name and address of the manufacturer, importer, or dealer, the materials from which all of the guaranteed constituents are derived, and the chemical analysis as specified in sections 49, 50, 51, and 52 of this act.

Packages labeled.

SEC. 46. If commercial fertilizer, fertilizer material, or soil builder are sold, offered, or exposed for sale in bulk, a statement shall be delivered to the purchaser of any quantity of such materials, and this statement or label shall contain the information specified in section 47 of this act.

Sales in bulk.

Statements of chemical composition.

SEC. 47. In stating the chemical composition of commercial fertilizer, fertilizer material, and soil builder, only the minimum percentage of each guaranteed constituent shall be stated.

Commercial fertilizer, label to state guaranteed chemical analysis.

SEC. 48. In the case of commercial fertilizer, the label shall state the guaranteed chemical analysis in the following form and order, and shall also state the minimum percentage of any other essential plant nutrients claimed to be contained therein:

- (a) Total nitrogen per cent (whole numbers only)
- Available phosphoric acid per cent (whole numbers only)
- Available potash per cent (whole numbers only)
- Other nutrient elements claimed per cent
- (b) Where bone is used in the commercial fertilizer:
- Total nitrogen per cent (whole numbers only)
- Total phosphoric acid per cent (whole numbers only)
- Available per cent
- From bone per cent
- Total potash per cent (whole numbers only)
- Other nutrient elements claimed per cent

Fertilizer material, label to state guaranteed chemical analysis.

SEC. 49. In the case of fertilizer material, the label shall state the guaranteed chemical analysis in the following form and order, and shall also state the minimum percentage of any other essential plant nutrients claimed to be contained therein:

- Total nitrogen per cent (whole numbers only)
- Total phosphoric acid per cent (whole numbers only)
- Available phosphoric acid per cent (whole numbers only)
- Available potash per cent (whole numbers only)
- Other nutrient elements claimed per cent

Soil builder, label to state guaranteed chemical analysis.

SEC. 50. In case of soil builder, the label shall state the guaranteed chemical analysis in the following form and order:

- (a) For lime products, the following or such of the following as are contained therein:

- Total calcium carbonate per cent (whole numbers only)
- Total calcium hydroxide per cent (whole numbers only)
- Total calcium oxide per cent (whole numbers only)
- Total magnesium as magnesium carbonate per cent (whole numbers only)

Ground limestone shall be of such fineness that one hundred per cent (100%) shall pass through a ten (10) mesh sieve and fifty per cent (50%) through a one hundred (100) mesh sieve.

(b) For gypsum and sulfur products, the following or such of the following as are contained therein:

- Total calcium sulfate per cent (whole numbers only)
- Total sulfur per cent (whole numbers only)

Gypsum and sulfur products shall be of such fineness that one hundred per cent (100%) shall pass through a ten (10) mesh sieve.

(c) For bone, tankage, natural organic phosphates, heat treated mineral phosphates, or any unacidulated phosphatic materials, the following:

- Total phosphoric acid per cent (whole numbers only)

(d) For any other material claimed to be a soil builder, the label shall state in whole numbers only the percentage of any beneficial elements claimed to be contained therein.

SEC. 51. The director shall have the power to require registration of any commercial fertilizer, fertilizer material, and soil builder not specifically mentioned herein. The guaranteed chemical analysis shall be stated in terms of equivalents prescribed by the director.

Director may require registration of other products.

SEC. 52. The director shall not register any material submitted for registration as a commercial fertilizer, fertilizer material, or soil builder, which

Director shall not register products without value.

in his opinion, based on competent authority, is not of sufficient value for such purposes.

“Available phosphoric acid.”

SEC. 53. When the term “available phosphoric acid” is used in the statement of analysis, it shall mean the sum of the water soluble and citrate soluble phosphoric acid, except that when applied to basic slag phosphates, the term “available” shall mean that part of the phosphoric acid found “available” by the Wagner citric acid method as adopted by the Association of Official Agricultural Chemists. In the case of bone, tankage, natural organic phosphates, heat treated mineral phosphates, or other unacidulated phosphatic materials in which the phosphoric acid is not shown by laboratory methods to be available in the soil, the phosphoric acid may be guaranteed on the label as total phosphoric acid.

Leather as fertilizer.

SEC. 54. It shall be unlawful for any person to sell, offer, or expose for sale in this state, for fertilizer purposes, any leather, hair, wool waste, hoof, horn, or similar materials, either as such or mixed with other fertilizer materials, unless they have been processed in such manner as to make their plant food content available in conformity with the standards adopted by the Association of Official Agricultural Chemists.

False and misleading statements.

SEC. 55. It shall be unlawful for any person to make any false or misleading representation in regard to any commercial fertilizer, fertilizer material, or soil builder shipped, sold, offered, or exposed for sale by him in this state, either as principal or agent; or to use any misleading or deceptive trademark or brand name in connection therewith.

Penalty.

SEC. 56. Any person who violates any of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof, shall be for the first offense fined not more than one hundred dollars (\$100), and for the second and each subse-

quent offense not more than five hundred dollars (\$500).

SEC. 57. It shall be the duty of the Prosecuting Attorneys of the several counties of this state to cause proceedings to be commenced against any person whom the director shall report to have violated any section of this act and to prosecute the same in the manner required by law.

Prosecution
of violations
of act.

SEC. 58. If any provision of this act, or the application thereof to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby. If any section, sub-section, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The Legislature hereby declares that it would have passed this act and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the other sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

Partial
invalidity.

SEC. 59. All acts or parts of acts in conflict herewith are hereby repealed, and specifically chapter 37 of the Laws of 1937 (section 7016 to section 7019-22, inclusive, of Remington's Revised Statutes; section 89-21 to section 89-45, inclusive, of Pierce's Code): *Provided*, That the enacting of this act shall not have the effect of terminating or in any manner modifying the liability, civil or criminal, which shall already be in existence at the date this act becomes effective.

Repeal.

Passed the House March 9, 1939.

Passed the Senate March 9, 1939.

Approved by the Governor March 19, 1939.