

SEC. 13. No baits containing phosphorus or phosphorous compounds shall be employed in the extermination of rodents. All poisons and poisoned baits prepared and distributed under authority of the board of county commissioners shall be placed in containers plainly labeled to show the character and purpose of the contents thereof.

Distribution
of poisons.

SEC. 14. For the purpose of carrying out the provisions of this act there is appropriated out of the general fund for the use of the State College of Washington the sum of five thousand dollars (\$5,000.00).

Vetoed
L. F. H.

SEC. 15. This act is necessary for the immediate preservation of the public peace, health and safety, and shall take effect immediately.

Emergency.

Passed the House March 5, 1921.

Passed the Senate March 8, 1921.

Approved by the Governor, with the exception of Section 14, which is vetoed, March 19, 1921.

CHAPTER 141.

[H. B. 153.]

HORTICULTURE.

AN ACT relating to horticulture and horticultural plants and products and the protection thereof, and providing for the enforcement of the provisions hereof and amending sections 1, 2, 3, 5, 14, 16, 17, 18, 27, and 30, chapter 166, Laws of 1915, and sections 2 and 29 of chapter 166, Laws of 1915, as amended by sections 1 and 4 of chapter 195, Laws of 1919.

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

SECTION 1. That Section 1 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Section 1. That the term "commissioner" whenever used in this act shall be held and con-

Definition of
terms.

strued to mean the commissioner of agriculture of the State of Washington, and the term "assistant commissioner" and "assistant" shall be held and construed to mean the assistant commissioner of agriculture for the division of horticulture; the term "horticultural inspector" and the term "inspector" wherever used in this act shall be held and construed to mean an inspector of the department of agriculture, assigned to the division of horticulture; the term "nursery stock" wherever used in this act shall be held and construed to mean and include fruit trees, fruit tree stock, nut trees, grape vines, fruit bushes, rose bushes, rose stock, forest and ornamental trees and shrubs (both deciduous and evergreen), field grown, florists' stock, and cuttings, scions and seedlings of fruit or ornamental trees or shrubs, and all other fruit bearing plants and parts thereof and plant products for propagation or planting; the term "infect" and its derivatives "infecting," "infected" and "infection," wherever used in this act shall be held and construed to mean and include being affected by or infested with the disease or insect pests to which horticultural plants and products are subject and which are required to be guarded against, controlled, cured, removed, and eradicated as in this act provided; the terms "disinfect" and its derivatives shall be held and construed to mean and include the cure, removal or eradication of such diseases or pests by cutting and destroying the infected parts, or the application of fungicides or insecticides specified in this act or such other effective solutions or emulsions as may be discovered by science and specified and described in the bulletins issued by the commissioner of agriculture, and the term "person" wherever used in this act, shall be held and construed to mean and include individuals, partnerships, associations, joint stock companies and corporations.

SEC. 2. That Section 2 of Chapter 195 of the Laws of 1915, as amended by Section 1 of Chapter 195 of the Laws of 1919, be amended to read as follows:

Section 1. That Section 2 of Chapter 195 of the Laws of 1919 be amended to read as follows:

Powers and duties of commissioner of agriculture.

Section 2. The commissioner of agriculture shall have the 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 arrange for and hold meetings for the discussion and dissemination of information as to horticultural subjects and for the demonstration of methods of preventing diseases of and pests injurious to horticultural plants, fruits and vegetables, and of curing and removing the same;

(c) To publish and distribute circulars and reports upon horticultural subjects, the pests affecting and the diseases of fruit trees, vines or bushes, ornamental trees or shrubbery, horticultural plants, fruits, vegetables and nursery stock, and the means and methods of controlling, curing, removing, eradicating, and disinfecting for such diseases and pests;

(d) To issue licenses to nurserymen and dealers in nursery stock and their agents, salesmen and solicitors and revoke the same for violation of or failure to comply with this act, and to keep in his office a record of all licenses issued, showing the character of the license, name and address of the holder, the date of issue and the date of expiration or revocation;

(e) To furnish to the board of county commissioners of each county, annually, on or before September 1, an estimate of the expenses for the ensuing year of inspecting and disinfecting orchards, vineyards, berry farms, vegetable farms and nurseries,

fruit trees, vines or bushes, ornamental trees or shrubbery, horticultural plants, fruit, fruit products, vegetables, and packing houses, warehouses, dry-houses, store-rooms, depots, docks and other places where fruits, vegetables or nursery stock are grown, packed, stored, shipped or held for shipment or delivery or offered for sale within said county.

(f) To appoint inspectors to enforce and carry out the provisions of this act, which inspectors may be of two classes, inspectors at large and local inspectors: *Provided*, That not more than twenty inspectors at large shall be appointed.

(g) The commissioner may also in his discretion appoint any officer or member of any local fruit protective association to act as inspector, vested with power only to enter premises and inspect orchards and report to the inspector-at-large. Such inspectors shall receive no compensation for services and shall not be required to take the regular examination required of inspectors-at-large and local inspectors.

(h) To make, adopt, issue and publish from time to time, and enforce general rules and regulations governing the grading, packing, and the size and dimensions of commercial containers of apples and other fruit.

(i) To formulate, promulgate and enforce regulations fixing commercial grades of vegetables, and providing for the inspection of the same for either market or seed purposes, and furnishing of certificates of inspection.

(j) To declare, promulgate and enforce quarantine measures for the protection of any agricultural crop, forest trees, forest products or other products not otherwise protected by law against the ravages of destructive or injurious insects or diseases. To adopt, promulgate and enforce rules and regulations for the inspection, grading and certification of grow-

ing crops of agricultural or vegetable seed grown in this state and to inspect, grade and certify the same at the request of the grower and to fix and collect fees for such inspection, grading and certification and to pay the fees so collected into the state treasury.

The commissioner of agriculture, and under his direction and control the assistant commissioner and the horticultural inspectors, shall have the power and it shall be their duty :

(a) To enforce the provisions of this act and all laws relating to horticultural interests.

(b) To inspect orchards, vineyards, berry farms, vegetable farms, nurseries, fruit trees, vines or bushes, ornamental trees or shrubbery, horticultural plants, fruits, vegetables, nursery stock and horticultural supplies, and packing houses, dry-houses, warehouses, store-rooms, depots, docks, cars, vessels, and other places where fruits, vegetables or nursery stock are packed, stored, shipped, or held for shipment or delivery or offered for sale, and other property liable to be infected with any disease or pest injurious to horticulture, and to require the disinfection of all such property and premises found to be infected and for that purpose shall have free access to such property and premises at all times.

(c) To inspect and examine orchards, vineyards, nurseries, berry farms, vegetable farms, fruits, vegetables, nursery stock and all other horticultural plants and products, at the request of the owner thereof for the purpose of discovering the existence of any disease or pest, and to report to the applicant the result of such investigation and prescribe proper remedies ;

(d) To disinfect orchards, vineyards, berry farms, nurseries, fruit trees, vines and bushes, ornamental trees and shrubbery, horticultural plants,

fruits, vegetables and nursery stock and packing houses, dry-houses, warehouses, store-rooms, depots, docks, cars, vessels and other places where nursery stock, fruits, or vegetables are packed, stored or shipped or held for shipment or delivery, or offered for sale, in case the owner or person having the same in charge shall neglect or refuse so to do, after notice; and in case any infected fruit trees, vines or bushes, ornamental trees or shrubbery, horticultural plants, fruits, vegetables or nursery stock cannot be successfully disinfected to condemn and destroy the same or cause the same to be destroyed.

(e) To require all partially infected fruit, vegetable and nursery stock shipments to be sorted and repacked and, in case the owner or person having charge of the same shall neglect or refuse so to do after notice, to condemn and destroy the same, together with all dead nursery stock: *Provided*, That no inspector shall destroy more than ten per cent of any variety of nursery stock in any lot or shipment of fifty or more trees, vines or shrubs without five days notice to the shipper, during which time the owner or shipper shall have the right to apply to the chief officer of the division of horticulture.

(f) To issue certificates of inspection to license nurserymen and dealers in nursery stock, on stock inspected and approved.

SEC. 3. That Section 3 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Section 3. Inspectors-at-large may be assigned to duty in one or more counties and transferred from one county to another in the discretion of the commissioner, and their salaries, compensation and actual and necessary traveling expenses shall be paid by warrants drawn upon the state treasurer by the state auditor upon vouchers signed and verified under oath by such inspectors and countersigned by

Inspectors-
at-large.

the commissioner or the assistant commissioner. In addition to inspectors-at-large the commissioner shall, whenever the board of county commissioners of any county by resolution request it, appoint such number of local inspectors and for such length of time as such resolution shall specify and assign them to duty in such county. The salaries as fixed by the county commissioners and actual and necessary traveling expenses, within the county, of all local inspectors shall be paid out of the current expense fund of their respective counties upon vouchers signed and verified under oath by such inspectors and approved by the commissioner or the assistant commissioner, and ordered paid by the county commissioners, and the county auditor shall issue warrants therefor upon the said county fund. All local inspectors shall be under the direction and control of the commissioner of agriculture and the assistant commissioner. In case any inspector is dismissed from the service or transferred to another place, or to other duties, any qualified inspector or officer of the agricultural department may continue or complete any work or perform any duty initiated by such dismissed or transferred officer.

Local inspectors.

Salary and expenses.

SEC. 4. That Section 5 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Section 5. The pests injurious to and diseases of nursery stock, fruit trees, shade trees, ornamental trees and shrubbery, horticultural plants, fruit and vegetables to be guarded against, controlled, treated, removed, eradicated and disinfected for, as in the next preceding section provided, shall be all bacterial diseases, including fire blight of apple, pear and quince, crown gall or root gall, and hairy root; all fungus diseases, including black spot canker, pear scab, apple scab, apple powdery mildew, peach leaf

Pests specified.

curl, peach mildew, brown rot of peach, cherry and prune, chestnut blight, potato wart, powdery scab of potato and peach twig blight; all insect pests, including chewing insects, such as bud moth, peach twig borer, caterpillars, pear slug, flat headed borer, round headed borer, imported cabbage worm, potato tuber moth, potato nematode or eel worm, Mediterranean fruit fly, lesser apple worm, tussock moth, gypsy moth, brown tail moth, coddling moth, fruit tree leaf roller, and the larva of any thereof, and sucking insects, such as San Jose scale, scurfy scale, oyster shell bark louse, aphids, pear leaf blistermites and red spider; and such other bacterial and fungus diseases and insect pests as may be identified by science and specified and described as injurious to horticulture in the circulars to be issued from time to time by the commissioner of agriculture.

Methods of
eradication.

The methods and means required to be used for the prevention, control, removal, eradication and cure of the diseases and pests above specified, shall be as follows: For bacterial diseases, eradication by the removal and destruction of the infected plant or part thereof, care being taken to disinfect all tools used in such removal to prevent the spread of the infection or by any other methods that shall have been approved by the insecticide and fungicide board; for fungus diseases, control or cure by spraying with effective fungicides, such as bordeaux solution, lime-sulphur solution, sulphide of iron or other effective fungicides; for chewing insect pests, control or removal by spraying with effective insecticides, such as arsenate of lead solution and arsenite of zinc solution; for sucking insect pests, control or removal by spraying with effective insecticides, such as lime-sulphur solution, crude oil emulsion, tobacco solution, distillate oil emulsion, kerosene emulsion, soap solution, and sulphur solution, or combinations

thereof; and for fungus and insect pests, control, cure or removal by spraying with such other effective solutions and emulsions as may be discovered by science and specified and described in the circulars issued by the commissioner of agriculture.

SEC. 5. That Section 14 of Chapter 166 of the Laws of 1915 be amended as follows:

Section 14. The cost and expense of disinfecting any nursery, orchard, berry farm, vineyard or vegetable farm, or any nursery stock fruit trees, vines or bushes, shade trees, ornamental trees or shrubbery or horticultural plants growing on any premises, or any packing houses, warehouses, dry houses, store-rooms, depots, or other premises where nursery stock, fruits, vegetables or horticultural products are stored, situated or being prepared or packed for shipment or offered for sale or held for the purpose of delivery upon any shipment or sale, may be recovered as in this section provided. The officer disinfecting any premises or property growing upon any premises or causing the same to be disinfected as in this act provided shall make and keep a full and detailed record of all acts done by him with reference to such property or premises, stating the legal description of premises upon which property disinfected was growing, the name of the owner or reputed owner, the date of inspection, the facts found upon inspection, the date and manner of giving of notice to disinfect, the failure of the owner or person in charge to disinfect, the disinfection by or under the direction of the officer, and the cost and expense thereof in detail, which record shall be signed by the officer making the same. In case the cost and expense of disinfecting any premises, or the property growing thereon, are not paid within five days after the completion of the work of disinfecting, the officer making such record shall make and

Recovery of
disinfection
expenses.

Lien claim
for disinfection
costs.

file with the county auditor of the county where such premises are situated two verified copies of the records of his acts with reference to such premises and the charge against the same, and shall also file a claim of lien against said premises for the amount of such charges and expenses, which said claim shall refer to said record. Upon the filing of such verified record and claim of lien the county auditor shall record the said claim of lien as other lien claims are recorded. The county auditor shall also, at the time when said record and claim are filed, forthwith issue proper warrants in payment for labor of men employed in the work and fix a day for a hearing upon the report before the board of county commissioners, which date shall not be less than twenty days from the date of said filing and shall prepare a notice of the filing of such record and claim and of the date of hearing upon the same and in all proceedings the county shall be deemed substituted to all the rights of laborers paid as herein provided. Said notice shall be directed to the owner, or reputed owner, and shall give notice of the filing of said record and claim and of the amount thereof and shall also give notice of the time and place when and where the board of county commissioners will hear and determine the same. The county auditor shall deliver said notice, together with a copy thereof, to the sheriff of the county in which said claim is filed and the sheriff shall make service thereof in like manner and with like effect as herein provided for the service of notice to disinfect and shall make return of such service upon the original notice and file the same with the county auditor before the time of hearing of the same, and he shall also certify with said return the amount of his fees for such service, which shall be the same as is provided for service of summons in civil proceedings. In case the amount of said claim,

together with the amount of sheriff's fees and auditor's fees, which shall be the same as is charged for the filing and recording of other liens, is paid to the county treasurer on or before the date of said hearing before said board of county commissioners, the auditor shall, upon the presentation to him of a duplicate receipt of said treasurer for the amount above specified, cancel the said lien in the records of his office and notify the board of county commissioners of his action in the premises. The county treasurer shall disburse the fund received by him as above provided to the parties entitled to receive the same according to the record as shown in the office of the county auditor. In case the amount of said claim, together with costs as above provided, is not paid at or before the time of the hearing before the board of county commissioners, the county auditor shall present a verified copy of said claim and record to the said board, which shall proceed with the hearing upon the same and shall, if offered, hear sworn testimony concerning the matter set forth in said record and claim. The record required to be kept by the officer disinfecting, as hereinabove provided, and the verified copy thereof filed with the county auditor, shall be *prima facie* proof of the facts therein stated in any proceedings before the board of county commissioners and in any court in any action or proceeding where proof of such facts is competent or the validity of such charges or any tax levied therefor is questioned. After the hearing as herein provided for, the county commissioners shall make an order fixing the amount of such claim and costs and shall order the amount so fixed paid out of the current expense fund of said county, and the auditor shall draw warrants for the payment of such claim as fixed by the county commissioners. The said order of said board fixing the amount of said claim and

Disinfecting
officer's rec-
ord, *prima*
facie proof.

costs shall be recorded by the county auditor as are other lien claims and shall stand as a lien in favor of said county against the premises therein described until cancelled as herein provided. In case the amount of said lien, together with interest thereon at the rate of six per cent per annum from the date of said order of said board of county commissioners, is paid to the county treasurer of said county on or before the first Monday in October following the date of said order and a duplicate receipt therefor of said treasurer is presented to said county auditor, the county auditor shall cancel said claim of lien in the records of his office. Payment to the county treasurer as above set forth shall be made by presenting to said treasurer a statement over the signature of the county auditor of the amount due upon said claim together with the amount of money shown by said statement to be due. Upon said payment being so made the treasurer shall stamp said statement as paid, showing the date of said payment, and shall file said statement so stamped in the records of his office; he shall also issue a duplicate receipt for said payment and shall deliver one of said receipts to the party making payment and immediately transmit one of said receipts to the county auditor. In case the amount of said claim and costs, together with interest at the rate of six per cent. per annum from the date of said order of said board of county commissioners, is not paid as hereinabove provided, on or before the first Monday in October following the date of said order, the board of county commissioners shall, at the regular meeting for the levy of taxes in the month of October following the date of said order, make an order that the amount of such claim, costs and interests, together with a penalty of six per cent. thereon, shall be a tax on the premises described in said claim and collected as other taxes

Unpaid lien
claim to be
charged as
tax.

are collected and said last named amount shall be added to the amount of taxes levied against said premises for current expenses. Upon the making of said order the county auditor shall mark the recorded order of said board fixing the amount of said claim of lien "cancelled and amount hereof charged as taxes against the property." Upon the collection of said tax by the county treasurer the same shall be credited to the current expense fund of the county, to be used for the expenses of horticultural inspection.

SEC. 6. That Section 16 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Section 16. It shall be the duty of every person growing or packing and selling, offering for sale or shipping in closed boxes or packages, any fruit grown in this state, to plainly mark the same on the outside of the box or package with the name of the variety contained therein or with the words "variety unknown," the name of the place of locality where grown and the name of the grower, or in case of sale or shipment through an association or organization of growers, the name of such association or organization and the lot number of the grower, and, in case of apples, pears or peaches, the net weight or the number contained in the package, and the grade of apples or pears, and it shall be unlawful for any person to mark or place upon any such package the name of any other place or locality than the place where such fruit was grown, except the place to which shipped or to falsely mark any such package as to variety, name of grower, association or organization or place where grown, or to obliterate or change the original marks on any such package or to re-mark the same with the name of any other grower or of any other place than that by or in which the contents were grown, or in case such package is marked

Fruit boxes,
how marked.

Alteration or
misuse of
labels.

with the name of an association or organization of growers to re-mark the same with the name of any other association or organization, and it shall be unlawful for any person having in his possession for sale or offering for sale or selling any fruit grown in this state and shipped in closed packages, to re-pack the same in the boxes or packages of any other grower or shipper or from any other place, or to sell or offer for sale in closed packages, or to pack in or offer for sale any marked box or package any fruit other than that originally contained or shipped therein.

Grade mark-
ings.

In addition to the marks required to be placed upon any closed package of fruit grown in this state, as hereinabove provided, the grower thereof or association or organization of growers packing the same may mark upon the outside of such package the grade of the fruit contained therein, either as "First Grade," "Grade No. 1," or "Extra Fancy"; "Second Grade," "Grade No. 2," or "Fancy"; "Third Grade," "Grade No. 3," or "C-Grade"; and "Orchard Run," or such other designation as will indicate first, second or third quality of fruit and "Washington Standard Pack," according to the obligatory grading rules and regulations, issued, published and adopted by the commissioner of agriculture, and it shall be unlawful for any other person to re-mark any such closed package to a higher or superior grade than that originally marked by the grower thereof or association or organization packing the same, or for any person other than the grower or association or organization packing such fruit grown in this state to place upon any such closed package not marked with the grade of the contents thereof any mark or brand indicating the grade of such contents: *Provided*, That nothing in this section shall be construed to apply to canned or dried fruit.

SEC. 7. That Section 17 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Section 17. It shall be unlawful for any grower thereof or association or organization of growers packing apples, or other fruit to mark the package with the grade of the contents, or for any person to ship, sell, barter, or otherwise dispose of or offer for sale, or have in his possession for the purpose of sale, any package of apples, or other fruit, grown and packed within the State of Washington unless such contents shall comply with the general obligatory rules and regulations made, adopted and published from time to time by the commissioner of agriculture, which general obligatory rules and regulations shall define and establish the standard for the grades.

Compliance
with rules
and regula-
tions.

It shall be unlawful (1) to mark or place upon any package of vegetables the name of any other place or locality than the place where the same were grown, except the place to which shipped; or to falsely mark any such package as to variety, name of grower, or place where grown, or to represent for purposes of sale that said vegetables were grown in any locality other than that in which they were actually grown, or by any other person than the person by whom they were actually grown; (2) to mark, brand, advertise, offer for sale, or sell, any vegetables as graded according to, or by the name of any of the grades promulgated by the commissioner of agriculture unless they conform to such grades; (3) to mark, brand, advertise, offer for sale or sell any vegetables by the name of any grade that imitates or approaches the name of any of the grades promulgated by the commissioner of agriculture; or (4) to have in his possession any packages or vegetables thus misbranded;

But it shall not be unlawful to sell vegetables as ungraded, or as graded according to other standards

than those adopted by the commissioner of agriculture, provided the name of such other grades or standards does not closely resemble or imitate the name of any of the said official grades.

Publication
of rules and
regulations.

The general obligatory rules and regulations shall be adopted, issued and published within thirty days after the taking effect of this act and the commissioner of agriculture is authorized and directed to in the month of December of each year, make, adopt, issue and publish general obligatory rules and regulations governing the packing of apples, other fruit or vegetables and establishing and defining the grades thereof for the ensuing calendar year and in adopting the same the commissioner is authorized to consult and advise with fruit or vegetable growers, the officers of associations or organizations of apple, other fruit or vegetable growers or distributors or dealers in apples, other fruit or vegetables. Before making the obligatory rules and regulations for which provision is made in this section, the commissioner of agriculture shall provide for a public hearing of horticulturalists, or vegetable growers, thereon, notice of which shall be given by mail to every horticultural society, growers' association or marketing organization which shall have filed with him a notice of its existence thirty days before the date of any such hearing, and which shall be a resident of the State of Washington. For the conducting of such hearing the commissioner of agriculture may prescribe all necessary reasonable rules, but said rules must be such as to insure a fair, full and impartial opportunity for all interested districts to be heard. In establishing the grading obligatory rules herein mentioned the commissioner of agriculture shall base them on the necessities and properties as shown in said hearing, taking into consideration the tonnage of commercial fruit in each district of

the state affected by the grading obligatory rules to be established; said rules and regulations so established to become obligatory rules and regulations and be given the same force and effect as though enacted by the Legislature of the State of Washington, said obligatory rules and regulations to become effective upon being adopted and promulgated by the commissioner of agriculture.

SEC. 8. That Section 18 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Section 18. It shall be the duty of every person within forty-eight hours after removing any cuttings or prunings from bacterially infected trees or plants infested with fruit tree leaf roller egg clusters to destroy or disinfect the same by burning or scorching.

Destruction
of infected
parts of
trees, etc.

SEC. 9. That Section 27 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Section 27. Upon the arrival at its point of destination of any nursery stock shipped into this state from another state or county or shipped from one point within this state to another, 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 horticultural inspector of this state showing that the same was inspected and approved at the initial point of shipment within this state, to notify the horticultural inspector stationed nearest to the point where said shipment is received, of the receipt of such shipment, giving the names 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 to some person of suitable age and discretion at his

Inspection of
nursery stock
shipped.

residence or office, or by mail addressed to said inspector at his place of residence or at his office; and it shall be unlawful for any such agent or person having such shipment in charge to deliver the same to the consignee or to any other person until the same shall have been inspected by a horticultural inspector: *Provided, however,* That such agent shall not be required to hold such shipment more than forty-eight hours after notifying the inspector as aforesaid, except in case the notice is given by mail, in which event such shipment shall be held for such period beyond said forty-eight hours as is ordinarily required for the delivery of mail to the address of said inspector: *And provided further,* That no inspection at the point of delivery shall be necessary if the shipment is accompanied by a certificate of a horticultural inspector of this state showing inspection and approval at the initial point of shipment within this state as aforesaid, and upon the delivery of such shipment to the consignee, the agent or person making the delivery shall deliver such certificate of inspection to the consignee and retain the duplicate to show his authority for making delivery without inspection. Any nurseryman or dealer in nursery stock within this state may demand the services of an inspector at his place of business or point of shipment during the shipping season by paying such fees as agreed upon by the commissioner of agriculture.

Upon the arrival at its point of destination of any shipment of fruit or vegetables shipped into this state from another state or country, it shall be the duty of the freight agent, express agent or agent or persons or transportation company having such shipment in charge for delivery, to notify the horticultural inspector stationed nearest to the point where said shipment is received, of the receipt

of such shipment giving the names of the consignor and consignee, and upon the delivery of such shipment to the consignee or his order, the agent or person making such delivery shall demand and receive from the person to whom such shipment is delivered a receipt therefor showing the name and address of the consignee or his order and the place to which said shipment is to be removed, and shall thereupon mail said receipt to the horticultural inspector stationed nearest to the point where said shipment is received.

SEC. 10. That Section 29 of Chapter 166 of the Laws of 1915 as amended by Section 4, Chapter 195, of the Laws of 1919, be amended to read as follows:

Section 4. That Section 29 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Section 29. It shall be the duty of every horticultural inspector upon the inspection of any nursery stock, fruit or vegetables found free from disease and pests, to deliver to the owner or person in charge thereof a certificate of inspection over his signature, showing the date of inspection and stating that such nursery stock, fruit or vegetables were not infected, which certificate in case inspection be made at the initial point of shipment or at such place within a reasonable distance as requested by the shipper shall be in triplicate form and it shall be unlawful for any person to substitute for any such nursery stock, fruit or vegetables covered by said certificate, or to ship, sell or dispose of any other nursery stock, fruit or vegetables than that actually inspected and approved under such certificate of inspection; fees as fixed by the commissioner of agriculture may be charged for this inspection, the same to be collected at the time of the inspection and paid to the county treasurer of the county in which the services are rendered, and by him placed

Certificate of inspection.

in the current expense fund of such county to be used to assist in defraying the expenses of horticultural inspection: *Provided*, That the inspector may issue certificates of general inspection for shipment to points within this state in addition to the regular certificate of inspection.

SEC. 11. That Section 30 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Penalty for violations.

Section 30. Every person violating or failing to comply with the provisions of this act or any obligatory rule or regulation 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 \$500.00. All fines imposed under the provisions of this act shall, when collected, be paid to the treasurer of the county where imposed to be placed in the current expense fund of such county and to be used to assist in defraying the expenses of horticultural inspection.

Disposition of fines.

SEC. 12. That Section 31 of Chapter 166 of the Laws of 1915 be amended to read as follows:

Actions to restrain violations.

Section 31. Whenever any person is about to or threatens to violate any provision of this act, or any obligatory rule or regulation, the commissioner of agriculture may, with the advice of the prosecuting attorney of the county where such violation is threatened or of the attorney general, begin an action in the superior court of such county in the name of the state upon the relation of such commissioner to restrain and enjoin such threatened violation, and in case such prosecuting attorney shall fail or refuse to begin such action upon the request of the commissioner, the same may be begun by or under the direction of the attorney general. In such action no bond shall be required for the issuance of a restraining order or injunction, but the state shall be liable

for any damages occasioned by the unlawful suing out of such restraining order or injunction.

SEC. 13. The commissioner of agriculture, assistant commissioner, and all horticultural inspectors are authorized and empowered to inspect, investigate and certify to shippers and other interested parties the quality, grade and condition of fruits and vegetables and the cars in which they are loaded, such inspection and investigation to be made under such rules and regulations as the commissioner of agriculture may from time to time prescribe, including the payment of such fees as will be reasonable and as near as may be to cover the cost for the services rendered and such fee to be placed in the current expense fund of such county to be used to assist in defraying the expenses of horticultural inspection. Such certificates so issued shall be received in all courts of the State of Washington as *prima facie* evidence of the truth of the statements therein contained.

Inspection
authorized

Fee.

SEC. 14. All questions of fact arising under this act shall be determined by the commissioner of agriculture and there shall be no appeal from his decision upon said question of fact. Either grower, horticultural society, association or marketing organization shall have the right to appeal to the superior court on questions of law.

Appeals.

SEC. 15. The director of agriculture shall exercise the powers and perform the duties vested in and required to be performed by the commissioner of agriculture by this act, when such director is appointed and qualified, and assumes and exercises the duties of his office.

Exercise of
powers and
duties con-
ferred.

Passed the House February 18, 1921.

Passed the Senate March 7, 1921.

Approved by the Governor March 19, 1921.