

Provided, That the term "blend" as used herein shall be construed to mean a mixture or like substances, not excluding harmless coloring and flavoring ingredients used for the purpose of coloring and flavoring only: *And provided further*, That nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredients to disclose their trade mark formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding.

Passed the House January 24, 1923.

Passed the Senate February 21, 1923.

Approved by the Governor February 28, 1923.

CHAPTER 37.

[S. H. B. 43.]

HORTICULTURE.

AN ACT relating to horticulture and horticultural products and amending sections 2841, 2842, 2843, 2845, 2854, 2855, 2858 and 2872 of Remington's Compiled Statutes.

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

SECTION 1. That Section 2841 of Remington's Compiled Statutes be amended to read as follows:

Section 2841. 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 director, 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 the director or the assistant director. In addition to inspectors-at-large whenever a petition is pre-

Amends Rem.
Comp. Stat.
§ 2841;
Pierce's Code
§ 2709.

Inspectors
at large.

sented to the board of county commissioners of any county signed by twenty-five or more persons each of whom is a resident free-holder and owner of an orchard, berry farm, fruit farm, cultivated cranberry marsh or nursery, within said county stating that certain or all orchards, berry farms, fruit farms, cultivated cranberry marshes or nurseries or trees or plants of any variety or kind, within the county are infected, and that they desire the help of a local horticultural inspector in combating the infection, said board of county commissioners shall by resolution request the appointment and assignment to duty in such county by the director of agriculture of such number of local inspectors and for such length of time as such petition shall specify: *Provided, however,* That such local inspectors shall pass such an examination by the director of agriculture as will prove to his satisfaction that their knowledge and experience qualifies them to successfully perform horticultural inspection work. 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 director or the assistant director, 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 director of agriculture and the assistant director. 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.

Salaries.

Amends Rem.
Comp. Stat.
§ 2842;
Pierce's Code
§ 2710.

SEC. 2. That Section 2842 of Remington's Compiled Statutes be amended to read as follows:

Nursery
stock.

Section 2842. It shall be the duty of every person owning, leasing or occupying any land or premises on which there is or shall be growing, grown or situate any nursery stock, fruit trees, vines or bushes, shade trees, ornamental trees or shrubbery, or any horticultural plants, and of the owner or lessee of any such nursery stock, trees, fruit trees, vines, bushes, shrubbery or plants growing or situate on premises leased or occupied by him, and of the owner of any such nursery stock, trees, fruit trees, vines, bushes, shrubbery or plants growing, situate or being at any place within the State of Washington, for sale or delivery, and of every grower, shipper, commission merchant, consignee, dealer in and person in charge of any nursery stock, fruit or vegetables about to be shipped, or shipped, or held for delivery or offered for sale, to take and use sufficient methods and means for the prevention of infection by all pests and diseases to which such nursery stock, trees, fruit trees, vines, bushes, shrubbery, plants, fruits or vegetables may be subject, and to keep the same free from disease and pests, and, in event it is found that any such nursery stock, trees, fruit trees, vines, bushes, shrubbery, plants, fruits or vegetables are infected with any disease or pest, to promptly take and use effective means to control, cure, remove, eradicate and disinfect for the same, and in case such nursery stock, trees, fruit trees, vines, bushes, shrubbery, plants, fruits or vegetables cannot be successfully disinfected, to promptly destroy the same, and it shall be the duty of every owner and of the lessee of any premises upon which there are growing any infected fruit, fruit trees, shade or ornamental trees, vines or bushes, to thoroughly spray the same with a proper solution or emulsion or otherwise disinfect the same for the control, cure or removal of such

Pests and
diseases.

Cure and
removal.

Spraying.

infection, except that in any county where black stem rust infection occurs, it shall be the duty of every person owning or having charge of any premises on which barberry bushes of the rust-producing varieties are grown, or are at any time found growing, to forthwith destroy such bushes.

SEC. 3. That Section 2843 of Remington's Com-

Amends Rem.
Comp. Stat.
§ 2843;
Pierce's Code
§ 2711.

Section 2843. 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 curl, peach mildew, brown rot of peach, cherry and prune, chestnut blight, potato wart, powdery scab of potato and peach twig blight, blue stem of black raspberry, black stem rust of barberry and wheat, eastern filbert blight, European apple canker; 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, codling moth, fruit tree leaf roller, cherry maggot, cherry fruit saw-fly, satin moth, currant maggot, Colorado potato beetle, strawberry weevil, European earwig, Japanese beetle, pear thrips, 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

Pests and
diseases
enumerated.

and specified and described as injurious to horticulture in the circulars to be issued from time to time by the director of agriculture.

Methods for
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 fungicide, 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 director of agriculture.

Spraying.

Amends Rem.
Comp. Stat.
§ 2845;
Pierce's Code
§ 2713.

SEC. 4. That Section 2845 of Remington's Compiled Statutes be amended to read as follows:

Sale of
adulterated
spraying
material.

Section 2845. It shall be unlawful for any person to offer for sale in the State of Washington any horticultural insecticide or fungicide which is adulterated or misbranded within the meaning of this act. The term "insecticide" as used in this act shall include any substance or mixture or substances intended to be used for preventing, destroying, repelling, or mitigating any insects which may infest

Insecticide.

vegetation. The term "Paris green" as used in this act shall include the product sold in commerce as Paris green and chemically known as the acetoarsenite of copper. The term "lead arsenate" as used in this act shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H₃AsO₄) by replacing one or more hydrogen atoms by lead. That the term "fungicide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all fungi that may infect vegetation or be present in any environment whatsoever.

Paris green.

Lead
arsenate.

Fungicide.

It shall be unlawful for any manufacturer, firm, corporation or person to sell, offer or expose for sale in this state, an insecticide, fungicide, or any materials to be used for preventing, destroying, repelling or mitigating insects, fungi, bacteria or other plant pests, unless such material shall have affixed to each and every package or container, in a conspicuous place on the outside thereof, a plainly printed statement as follows:

Sale
regulations.

(1) The name, brand or trade mark under which it is sold.

(2) The purpose for which it is to be used.

(3) Direction for its application.

(4) The name and principal address of the manufacturer or person responsible for placing the commodity on the market.

(5) The net weight of the contents of the package.

(6) The correct statement of the character and name of each insecticidal or fungicidal ingredient used and the minimum per centum of such active ingredients and the maximum per centum of the inert ingredients contained in the package.

It shall be unlawful for any person, firm or corporation to sell, offer for sale or to apply to trees or plants by boring holes or otherwise for compensation any material as a horticultural insecticide or fungicide which relies for its effectiveness on being transferred throughout the tree or plant by the sap thereof without having demonstrated to the satisfaction of the state insecticide and fungicide board the effectiveness thereof and without furnishing the purchaser thereof a printed statement describing the material in the same manner as listed above for other insecticides or fungicides sold in closed packages.

SEC. 5. That Section 2854 of Remington's Compiled Statutes be amended to read as follows:

Section 2854. 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 or 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

Amends Rem.
Comp. Stat.
§ 2854;
Pierce's Code
§ 2722.

Fruit
packing and
shipping.

Containers
marked.

marked 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 repack 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.

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 shall 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"; "Fourth Grade", or "Orchard Run", or "Combination Grades", specifying the grades such as "Fancy and C-Grade", etc., and "Washington Standard Pack," according to the obligatory grading rules and regulations, issued, published and adopted by the director of agriculture, or a special or private grade or brand duly registered and approved by the director 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

Grade
marked.

this section shall be construed to apply to canned or dried fruit.

Amends Rem.
Comp. Stat.
§ 2855;
Pierce's Code
§ 2723.

SEC. 6. That Section 2855 of Remington's Compiled Statutes be amended to read as follows:

Markings
under
regulations.

Section 2855. 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 director of agriculture, which general obligatory rules and regulations shall define and establish the standard for the grades.

Vegetables
marked for
shipping.

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 director 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 director of agriculture; or (4) to have in his possession any packages or vegetables thus misbranded; but it shall not be unlawful to sell

False
marking.

vegetables as ungraded, or as graded according to other standards than those adopted by the director of agriculture, provided the name of such other grades or standards does not closely resemble or imitate the name of any of the official grades.

The general obligatory rules and regulations shall be based on the official hearing held December 15, 1922, and shall be adopted, issued and published not later than July 1, 1923, and thereafter the director of agriculture is authorized and directed to hold a public hearing in the principal districts affected, to consider proposed changes in these obligatory rules and regulations for any kind of fruit or vegetables only when a petition is submitted to him signed by resident freeholders of the state who are owners of twenty-five per cent or more of the total commercial acreage based on the census of the state department of agriculture for the kind of fruit or vegetables for which changes in the rules and regulations are suggested, requesting such hearing to consider desired changes in said rules and regulations and 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, and in adopting the same the director 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. For the conducting of such hearing the director 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 director of agriculture shall base them on the necessities and properties as shown in said hearing, taking into consideration the tonnage of commercial

Rules and regulations to be established.

Hearing.

fruit or vegetables 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 director of agriculture.

Promulgation
of rules.

Amends Rem.
Comp. Stat.
§ 2858;
Pierce's Code
§ 2726.

SEC. 7. That Section 2858 of Remington's Compiled Statutes be amended to read as follows:

Section 2858. It shall be unlawful for any person, firm or corporation to sell, deal in or import into this state for sale or distribution any nursery stock except berry plants or bushes, or to act as agent, salesman, or solicitor for any nurseryman or dealer in nursery stock, without first having obtained from the director of agriculture and having in force a license so to do, and it shall be unlawful for any person to falsely represent that he is the agent, salesman, solicitor or representative of any nurseryman or dealer in nursery stock. No license shall issue until the applicant therefor shall have paid the fee and furnished the bond, as in this act required. The license fee shall be five dollars for nurserymen and dealers in nursery stock and one dollar for agents, salesmen and solicitors. All licenses shall be in the name of the person, firm or corporation licensed, and shall show the purpose for which issued, the name and location of the nursery or place of business of the nurserymen or dealer licensed or represented by the agent, salesman or solicitor licensed, and no license shall be issued to any agent, salesman or solicitor unless the nurseryman or dealer represented shall be licensed. All licenses shall bear the date of issue and shall expire on the first day of July next following the date of issue: *Provided*, That all licenses in force at the time of the taking

Nursery stock,
salesman,
license.

Fee.

Date and
expiration.

effect of this act shall continue in force during the term for which they were issued, unless sooner revoked, and any holder of such license applying for a license under this act prior to the first day of July next following the expiration of his former license, shall be required to pay therefor only the proportional part of the fee required for an annual license for the remaining portion of the year until the first day of July next following.

SEC. 8. That Section 2872 of Remington's Compiled Statutes be amended to read as follows:

Section 2872. The director of agriculture, assistant director and all horticultural inspectors are authorized and empowered, upon application for certificate inspection service on certain specified fruits or vegetables to inspect, investigate and certify to shippers and other interested parties, the quality, grade and condition of the fruits or vegetables specified in the application and the cars in which they are loaded, such inspection and investigation to be made under such rules and regulations as the director of agriculture may from time to time prescribe, upon the payment of such reasonable fees to be fixed by the director as will as near as may be cover the cost for the services rendered. Such fees are to be collected by the inspectors-at-large who have charge of such inspection and expended by them to assist in defraying the expense of the horticultural inspection. Such inspectors-at-large shall be bonded in a sum of three thousand dollars each running to the State of Washington with a surety approved by the director conditioned for the faithful handling of these funds for the purpose specified in this act. Said inspectors-at-large shall render on or before the tenth day of each month a detailed account to the director of agriculture showing the receipts and disbursements for the preceding month. On the thirtieth of June of each year the inspectors-

Amends Rem.
Comp. Stat.
§ 2872;
Pierce's Code
§ 2737a.

Fruits and
vegetables,
inspection.

Certificate.

Fees.

Report.

at-large shall render a complete account of the past year's business to the board of county commissioners of each county in which such certificates have been issued in their district, and should there be in excess of fifteen hundred dollars remaining on hand in any horticultural inspection district after all expenses of such certificate of inspection service have been met, to date, in that district, such amount shall be divided among the various counties in the district, in proportion to the number of certificates issued, and placed in the current expense fund of such counties to be used to assist in defraying the expenses of other horticultural inspection. In case the applicant for such certificate service shall fail, neglect or refuse, to pay such fee within thirty (30) days after the inspection has been made, it shall be the duty of the prosecuting attorney of the county in which the inspection was made to bring action for debt in the name of the inspector-at-large in charge of the inspection on his request. Such certificate 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.

Refusal to
pay fee.

Passed the House February 1, 1923.

Passed the Senate February 14, 1923.

Approved by the Governor February 28, 1923.