

CHAPTER 311.

[H. B. 240.]

HORTICULTURE.

AN ACT relating to horticulture and amending Sections 1, 2, 4, 10, 11, 14, 16, 17, 20, 21, 23, 24, 25, and 27, of Chapter 166 of the Laws of 1915.

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

§ 2707,
Pierce's
Code.

SECTION 1. That section 1 of chapter 166 of the Laws of 1915, pages 494-499, as amended by section 1 of chapter 141 of the Laws of 1921, pages 507-508, (section 2839 of Remington's Compiled Statutes) be amended to read as follows:

Terms
defined:

Director.

Assistant
director.

Assistant.

Horti-
cultural
inspector.

Inspector.

Nursery
stock.

Infect.

Infection.

Section 1. That the term "director" whenever used in this act shall be held and construed to mean the director of agriculture of the State of Washington, and the term "assistant director" and "assistant" shall be held and construed to mean the assistant director 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), bulbs, 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 diseases 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 term "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 director 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.

Disinfect.

Person.

SEC. 2. That section 2 of chapter 166 of the Laws of 1915, pages 495-498, as amended by section 2 of chapter 141 of the Laws of 1921, pages 509-512, (section 2840 of Remington's Compiled Statutes) be amended to read as follows:

§ 2708.
Pierce's
Code.

Section 2. The director of agriculture shall have the power and it shall be his duty:

Powers and
duties of
director of
agriculture.

(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.

Educational
meetings.

(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

Distribute
publications.

and methods of controlling, curing, removing, eradicating, and disinfecting for such diseases and pests.

Licenses. (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.

Annual estimate of expenses. (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, storerooms, 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.

Appoint inspectors. (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.

Appoint local fruit protective member as inspector. (g) The director 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 inspector-at-large and local inspectors.

Rules for grading, size, etc., of containers. (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 fruits, vegetables and nursery stock.

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

(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 growing 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. Quarantine.
Inspection.

The director of agriculture, and under his direction and control, the assistant director and the horticultural inspectors, shall have the power and it shall be their duty: Powers and duties of agriculture director and others.

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

(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, storerooms, 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 Inspect orchards, etc.

to be infected and for that purpose shall have free access to such property and premises at all times.

Inspection.

(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.

Disinfection.

(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.

Condemn
and destroy.

(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 licensed nurserymen and dealers in nursery stock, on stock inspected and approved. Certificates of inspection.

SEC. 3. That section 4 of chapter 166 of the Laws of 1915, page 499, as amended by section 2 of chapter 37 of the Laws of 1923, pages 86-87, (section 2842 of Remington's Compiled Statutes) be amended to read as follows: § 2710,
Pierce's
Code.

Section 4. 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 or horticultural plant pests or diseases, and of the owner or leasee 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 plant pests and diseases to which such premises, nursery stock, trees, fruit trees, vines, bushes, shrubbery, plants, fruits or vegetables may be subject, and to keep the same free from horticultural plant disease and pests, and, in event it is found that any such premises, nursery stock, trees, fruit trees, vines, bushes, shrubbery, plants, fruits or vegetables are infected with any plant disease or pest, to promptly take and use effective means to control, cure, remove, eradicate and disinfect for the same, and in case such premises, nursery stock, trees, fruit trees, vines, bushes, shrub- Nursery stock.

Prevention of infection by pests and diseases.

Cure and removal.

Spraying.

bery, 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, or other vegetation or horticultural plant pests, to thoroughly spray the same with a proper solution or emulsion or otherwise disinfect the same for the control, cure or removal of such 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 at any time found growing, to forthwith destroy such bushes.

§ 2717,
Pierce's
Code.

SEC. 4. That section 11 of chapter 166 of the Laws of 1915, pages 506-507, (section 2849, of Remington's Compiled Statutes), be amended to read as follows:

Disinfection
or destruc-
tion by
inspector.

Section 11. In case the owner or person in charge of any premises or property required to be disinfected or destroyed as in the previous section provided, shall fail or neglect to comply with the notice within the time specified therein, the officer giving the notice shall have the right and it shall be his duty to enter upon the premises to be disinfected or where the personal property required to be disinfected or destroyed is situated and perform the acts required in such notice, or cause the same to be performed at the cost and expense of the owner of such premises or property as the case may be. The officer shall keep an accurate account of such cost and expense and the same shall be a lien upon the premises or personal property so disinfected, which lien may be enforced by the methods hereinafter provided. The liens in this section provided for shall in the case of personal property have precedence over all other liens: *Provided*, That where infected property

Owner to
pay costs.Expense
a lien.

has not been sprayed for two years or which has been sprayed by the county or city for two years for which they have not collected the costs, such property may be declared a public nuisance as provided by law and treated as such.

Property declared a public nuisance.

SEC. 5. That section 14 of chapter 166 of the Laws of 1915, pages 510-513, as amended by section 5 of chapter 141 of the Laws of 1921, pages 515-519, (section 2852 of Remington's Compiled Statutes) be amended to read as follows:

§ 2720, Pierce's Code.

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, warehouse, 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

Recovery of expenses of disinfection.

Filing of
lien claim
for disinfect-
tion costs.

Hearing
date fixed.

Notice.

the completion of the work of disinfecting, the officer making such record shall make and file with the county auditor of the county where such premises are situated two verified copies of the record 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 or 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 proceed-

ings. In case the amount of said claim, together with the amount of the 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 proceedings 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 payments of such claim as fixed by the county commissioners. The said order of said board fixing the amount of

Record of
disinfecting
officer *prima
facie* proof.

Payment
of claim.

said claim and 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 the interest hereon 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 thereof 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 interest, 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 are collected and

Owner fails
to pay.

Unpaid lien
claim to be
charged
as tax.

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 as a revolving fund for the expenses of horticultural inspection and disinfection and it shall be lawful for such county and its duly authorized officers to expend the same for expenses of horticultural inspection and disinfection without regard to the fact that such expenditure may not have been included in the estimate made in the current county budget.

Collections paid into revolving fund for inspection expenses not governed by budget act.

SEC. 6. That section 16 of chapter 166 of the Laws of 1915, pages 514-515, as amended by section 1 of chapter 176 of the Extraordinary Session of 1925, pages 491-493, (section 2854 of Remington's Compiled Statutes), be amended to read as follows:

Sec. 2722, Pierce's Code.

Section 16. It shall be unlawful for any person growing or packing and selling, offering for sale or shipping in closed boxes or packages, any fruit or vegetables grown in this state, or offered or exposed for sale in the State of Washington, to sell, offer for sale or ship said fruit or vegetables in closed boxes or packages without plainly marking 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, peaches, cantaloupes or grapes, the net weight or the number contained in the package, and the grade of apples, pears, cantaloupes

Packing and shipping fruits and vegetables.

How containers shall be marked.

Misbranding
unlawful.

Re-marking

When
possession
unlawful.

Grade to
be marked
upon
package.

Registered
brands.

False
marking
unlawful.

or grapes, and it shall be unlawful for any person to make or place upon 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 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 package, 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 in 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 box or package of fruit, vegetable or nursery stock 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, vegetable or nursery stock contained therein, specifying the grades and markings 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 as provided by law, and it shall be unlawful for any 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.

Canned or dried fruit excluded.

SEC. 7. That section 17 of chapter 166 of the Laws of 1915, pages 515-516, as amended by section 7 of chapter 141 of the Laws of 1921, pages 521-523, as amended by section 6 of chapter 37 of the Laws of 1923, pages 92-94, as amended by chapter 175 of the Extraordinary Session of 1925, pages 487-490, (section 2855, of Remington's Compiled Statutes), be amended to read as follows:

Sec. 2723, Pierce's Code.

Section 17. It shall be unlawful for any grower thereof or association or organization of growers packing apples, or other fruits, vegetables or nursery stock, 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 fruits, vegetables or nursery stock, 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.

Unlawful marking of packages of fruits, vegetables or nursery stock.

To comply with established grade standards.

In case an inspector making an inspection finds that apples, or other fruits, vegetables or nursery stock do not meet the standards as established by the obligatory rules and regulations, he shall condemn and serve notice upon such owner or person having possession of such apples, or other fruits,

Inspection. Fruits etc., below established standards condemned.

May not
sell without
inspector's
permit.

Evidence of
non-com-
pliance with
order
condemning.

False
marking
or labeling.

Unlawful
to possess if
misbranded.

When
may sell
ungraded
vegetables,
etc.

vegetables or nursery stock and the owner or person having possession of apples, or other fruits, vegetables or nursery stock shall not sell or dispose of the condemned apples, or other fruits, vegetables or nursery stock without written permission from the inspector so to do. It will be *prima facie* evidence that the owner or person who has possession of such apples, or other fruits, vegetables or nursery stock has violated the provisions of this act unless he show the fruit, vegetables or nursery stock in possession or a release in writing signed by an inspector that he has complied with the provisions of the condemnation.

It shall be unlawful (1) to mark or place upon any package of fruit, vegetables or nursery stock 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 fruit, vegetables or nursery stock were grown in any locality other than that in which they were actually grown, or by any other person than the person by which they were actually grown; (2) to mark, brand, advertise, offer for sale, or sell, any fruit, vegetables or nursery stock 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 fruit, vegetables or nursery stock 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 fruit, vegetables or nursery stock thus misbranded.

But it shall not be unlawful to sell vegetables, fruit or nursery stock 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 unless obligatory grades, rules and regulations have been adopted as in this section provided.

The general obligatory rules and regulations shall be based on the official hearing held as in this section provided, 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, vegetables or nursery stock 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, vegetables or nursery stock for which changes in the rules and regulations are suggested or the director of agriculture may call a public hearing upon a reasonable showing of such a necessity by the industry 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, vegetables or nursery stock and establishing and defining the grades thereof, and in adopting the same the director is authorized to consult and advise with fruit, vegetables or nursery growers, the officers of associations or organizations of apple, other fruit, vegetable or nursery growers or distributors or dealers in apples, other fruits, vegetables or nursery stock. 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

Regulations.

Hearing
on proposed
changes in
rules.

Petition.

Hearing
called.Advice of
experts.Rules for
hearing.

Legal effect
of rules
when
established.

agriculture shall base them on the necessities and properties as shown in said hearing, taking into consideration the tonnage of commercial fruit, vegetables or nursery stock 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.

Sec. 2726,
Pierce's
Code.

SEC. 8. That section 20 of chapter 166 of the Laws of 1915, pages 517-518, as amended by section 7 of chapter 37 of the Laws of 1923, pages 94-95 (section 2858 of Remington's Compiled Statutes), be amended to read as follows:

Nursery
stock.

Dealer's
license.

Fee.

Section 20. 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 berry 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, as in this act required. The license fee shall be five dollars for nurserymen who grow all the stock they sell and fifteen dollars for other nurserymen, dealers, brokers, landscape architects or other persons deriving financial benefit from the sale of 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 pur-

pose for which issued, the name and location of the nursery or place of business of the nurseryman 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 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. All fees, collections and revenues derived hereunder shall be used exclusively for the purpose of carrying out the work and performing the functions to be performed by the department of agriculture, division of horticulture. The state auditor may anticipate the receipts and issue warrants to cover the same to the amount not exceeding three thousand (\$3,000.00) dollars.

Date and expiration.

Licenses now in force.

Disposition of fees.

Warrants may issue anticipating receipts.

SEC. 9. That section 21 of chapter 166 of the Laws of 1915, page 518 (section 2859, of Remington's Compiled Statutes), is hereby repealed.

Sec. 2727, Pierce's Code.

Section 21. Every nurseryman or dealer in nursery stock, applying for a license under this act shall make, execute and file with the commissioner of agriculture a bond running to the State of Washington, in the sum of one thousand dollars with surety or sureties to be approved by the commissioner, conditioned for the faithful compliance by the applicant with all of the provisions of this act and the laws of

Nursery stock.

Dealer's bond.

the State of Washington relating to the sale, disposition, delivery, inspection and disinfection of nursery stock grown, dealt in, imported, sold, handled or delivered by him during the term of the license applied for and the term or terms of any renewal of the same, and conditioned further that all nursery stock sold or delivered by him during said term or terms shall be true to name, age, and variety as represented, and free from the diseases and pests required to be guarded against by this act.

Renewal
of license.

Fee.

Every licensed nurseryman or dealer in nursery stock who shall have complied with the provisions of this section shall be entitled, upon the expiration of his license or any renewal thereof, by the payment of the fee of five dollars on or before the date of the expiration of his license or any renewal thereof, to have his license renewed for the ensuing year ending July 1st, by the giving of a bond as herein specified.

Suspension
of license.

The cancellation or revocation of, or the withdrawal of the sureties from, any bond filed in accordance with the provisions of this section, shall *ipso facto* work a suspension of the license of the principal of said bond and the license of all agents, salesmen and solicitors employed by and representing him, until such time as such principal shall furnish a new bond to be approved by the commissioner of agriculture.

Sec. 2729,
Pierce's
Code.

SEC. 10. That section 23 of chapter 166 of the Laws of 1915, pages 519-520 (section 2861 of Remington's Compiled Statutes), be amended to read as follows:

Sales.

Section 23. It shall be unlawful for any person to deceive or defraud any person on the sale of any nursery stock by substituting inferior or different varieties from those ordered, or to wilfully or intentionally bring into this state or to offer for sale or distribution within this state or to ship, sell or de-

liver upon any sale any nursery stock that is infected, and in case of any such deceit, fraud or substitution, the person, firm, or corporation damaged or injured thereby shall have recourse against the licensed nurseryman or dealer from whom such stock has been purchased, for all damages sustained, which damages may be recovered at the suit of the party injured in any court of competent jurisdiction.

Misrepresentation.

Liability of dealer.

SEC. 11. That section 24 of chapter 166 of the Laws of 1915, page 520, (section 2862 of Remington's Compiled Statutes), be amended to read as follows:

Sec. 2730, Pierce's Code.

Section 24. It shall be the duty of all nurserymen and dealers in nursery stock and all salesmen, solicitors and agents therefor to give to every person ordering or buying any nursery stock a duplicate copy of such order which shall show: (a) the name of the nurseryman from whom ordered and the name of the solicitor, salesman or agent taking such order; (b) the season of the order and the date when delivery is to be made; and (c) the number, name, and price of each variety of tree or plant ordered.

Nursery stock.

Sales.

Duplicate copy of order.

SEC. 12. That section 25 of chapter 166 of the Laws of 1915, pages 520-521, (section 2863 of Remington's Compiled Statutes) be amended to read as follows:

Sec. 2731, Pierce's Code.

Section 25. It shall be the duty of every person growing or dealing in nursery stock to notify the director of agriculture of his, their or its intention to ship any nursery stock from one point in this state to another or from any point without the state to a point within the state for sale or delivery or for planting or propagation. Such notice shall be made in writing and in duplicate and signed by the person giving the notice and shall show the name and address of both the consignor and consignee, and the name of the person or transportation company from

Shipments of nursery stock.

Notice to director of agriculture.

Recitals of notice.

whom the consignee is to receive such goods, and whether such nursery stock has been inspected and approved at the initial point of shipment within this state by a horticultural inspector. Said notice shall be mailed not later than the date of shipment and the duplicate thereof shall be mailed to the horticultural inspector stationed nearest to the point of consignment and all such shipments of nursery stock shall be plainly marked with the contents on the outside of the package. A descriptive invoice of all goods shipped during the season shall be mailed to the director of agriculture before the first of July following shipment.

Sec. 2733,
Pierce's
Code.

SEC. 13. That section 27 of chapter 166 of the Laws of 1915, pages 521-523, as amended by section 9 of chapter 141 of the Laws of 1921, pages 523-525, (section 2865 of Remington's Compiled Statutes), be amended to read as follows:

Nursery
stock
shipments.

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 name of the consignor and consignee and stating that such shipment is ready for inspection and delivery, except that cut flowers, potted plants and greenhouse products which show a general inspection shall be exempt. Said notification may be by telephone or telegraph, or by written notice delivered personally to said

Inspection
at
destination.

inspector or to some person of suitable age and discretion at his 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 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 director 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

No delivery to consignee until inspection.

Inspection at initial shipment point satisfies.

Inspection fees.

Notice of arrival of shipment of fruit or vegetables.

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.

Passed the House March 10, 1927.

Passed the Senate March 10, 1927.

Approved by the Governor March 19, 1927.

CHAPTER 312.

[S. B. 154.]

RIGHTS OF WAY OVER STATE LANDS.

AN ACT relating to rights of way and easements over state land for the transportation of timber, stone, mineral and other products and reserving rights therein, and providing for the transportation of timber, stone, mineral and other products, and all necessary machinery, supplies or materials to be used in transporting, cutting, manufacturing, mining or quarrying any or all of such products owned by the state or any grantee or successor in interest thereof, prescribing powers and duties of the director of public works, and prescribing penalties for violation thereof.

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

SECTION 1. That all state lands hereafter granted, sold or leased shall be subject to the right of the state, or any grantee or lessee or successor in interest thereof hereafter acquiring other state lands, or acquiring the timber, stone, mineral or other natural products thereon, or the manufactured products thereof to acquire the right of way over such lands so granted, for logging and/or lumbering railroads, private railroads, skid roads, flumes,

State lands
sold or
leased.

Subject to
future acquisition of
right of way
for logging
roads,
canals, etc.