

CHAPTER 73.

[H. B. 242.]

SOFT TREE FRUITS.

AN ACT relating to cherries, apricots, plums, prunes, peaches and Bartlett pears; declaring the public policy of this state be to promote the production, consumption and sale of soft tree fruits by providing for research and publicity, advertising and sales promotion campaign to increase the consumption of Washington soft tree fruits; levying an assessment and providing for its collection; creating a tree fruit commission and vesting in it the administration of this act; providing for the powers, duties and authority of said commission; providing penalties for the violation of this act, and declaring an emergency.

PREAMBLE.

That this act is passed:

(a) In the exercise of the police power of the state to protect the public health, to prevent fraudulent practices, to promote the welfare of the state, and to stabilize and protect the soft tree fruit industry of the state;

(b) Because the soft tree fruits grown in Washington collectively comprise one of the major agricultural crops of Washington, and that therefore the business of selling and distributing such crops and the expanding and protection of the market for them is of public interest;

(c) Because it is necessary and expedient to enhance the reputation of Washington soft tree fruits in domestic and foreign markets;

(d) Because it is necessary to discover the health giving qualities and food and dietetic value of Washington soft tree fruits, and to spread that knowledge throughout the world in order to increase the consumption of Washington soft tree fruits;

(e) Because Washington grown soft tree fruits are handicapped by high freight rates in competition with eastern and foreign grown soft tree fruits in

the markets of the world, and this disadvantage can only be overcome by education and advertising;

Assure taxes and adequate wages.

(f) Because the stabilization of the soft tree fruits industry, enlargement of its markets, and the increase of the consumption of soft tree fruits are necessary to assure the payment of taxes to the state and its subdivisions, and to maintain employment and adequate wages for agricultural labor within the state;

Possibility of excess production.

(g) Because many new plantings of soft fruit trees are being made and substantially increased new plantings are expected in the near future as additional land comes under irrigation, and since the soft fruit trees mature quickly, it is conceivable that the industry may become unstabilized and demoralized by the excess production unless adequate outlets for the crops are provided, in advance of this anticipated production and it is essential that the program herein outlined be adopted for the purposes herein stated to aid in stabilizing the soft tree fruit industry;

Inform public.

(h) To disseminate information giving the public full knowledge of the manner of production, the cost and expense thereof, the care taken to produce and sell only soft tree fruits of the finest quality, the methods and care used in preparing for market, and the methods of sale and distribution to increase the amount secured by the producer thereof, so that they can pay adequate wages and pay their taxes, and by such information to reduce the cost of distribution so that the spread between the cost to the consumer and the amount received by the producer will be reduced to the minimum absolutely necessary; and to educate the wholesale and retail trade with reference to the advantages of establishing and maintaining markups that will result in increasing sales to the consumers with consequent benefits to the people of the State of Washington;

Reduce cost of distribution.

Increase sales.

(i) To protect the general public by educating it in reference to the various varieties and grades of Washington soft tree fruits, the time to use and consume each variety, and the uses to which each variety should be put. Protection of public.

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

SECTION 1. As used in this act the following words have the meanings set forth herein: Definitions.

(a) "Commission" means the Washington State Fruit Commission; "Commis-
sion."

(b) "Person" means individuals and any organization of individuals however formed or exercised; "Persons."

(c) "Shipment" and "shipped" includes loading in a car, boat, truck, wagon or other conveyance to be transported to market for resale, but does not include movement from the orchard where grown to a packing or storage plant within this state for fresh shipment, nor from an orchard, packing plant or storage plant to a processor or processing plant within this state; "Shipment."

(d) "Handler" means any person who ships or initiates the shipping operation, whether as owner, agent or otherwise; "Handler."

(e) "Dealer" means any person who handles, ships, buys or sells soft tree fruits, other than those grown by him, or who acts as sales or purchasing agent, broker, or factor of soft tree fruits; "Dealer."

(f) "Processor" or "processing plant" includes every person and every plant to whom or to which soft tree fruits are delivered for the purpose of drying, dehydrating, canning, pressing, powdering, extracting, cooking, quick-freezing, brining, or for use in producing or manufacturing a product or manufactured article; "Processor."
"Processing
Plant."

(g) "Soft tree fruits" mean Bartlett pears and "Soft tree
fruits."

all varieties of cherries, apricots, prunes, plums and peaches;

"Commercial fruit" or "Grade."

(h) "Commercial fruit" or "commercial grade" means soft tree fruits meeting the requirements of any established or recognized fresh fruit or processing grade. Fruit bought or sold on orchard run basis and not subject to cull weigh-back shall be deemed to be "commercial fruit";

"Cull Grade."

(i) "Cull grade" means fruit of lower than commercial grade except when such fruit included with commercial fruit does not exceed the permissible tolerance permitted in a commercial grade;

"District No. 1."

(j) "District No. 1" or "first district" includes the counties of Chelan, Okanogan, Grant, Douglas, Ferry, Stevens, Pend Oreille, Spokane and Lincoln;

"District No. 2."

(k) "District No. 2" or "second district" includes the counties of Kittitas, Yakima, Benton, Franklin, Klickitat, Walla Walla, Columbia, Asotin, Garfield, Whitman and Adams;

"District No. 3."

(l) "District No. 3" or "third district" comprises all of the State of Washington not included in the first and second districts.

Commission created.

SEC. 2. There is hereby created the Washington State Fruit Commission to be thus known and designated. The commission shall be composed of ten soft tree fruit producers, two practical soft tree fruit dealers and three practical soft tree fruit processors.

Membership.

The Director of Agriculture and Supervisor of Horticulture of the state shall be ex-officio members of the commission without vote.

Qualifications of members.

SEC. 3. The ten producer members shall be citizens and residents of this state, over the age of twenty-five years, each of whom is and has been actively engaged in growing and producing soft tree fruits within the state for a period of five years, and has during that period derived the major portion of his income therefrom, and who is not engaged in business directly or indirectly as a dealer. The two

dealer members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization, are and have been actively engaged as dealers in soft tree fruits within the state, and are citizens and residents of this state. The three processor members shall be persons who, either individually or as executive officers of a corporation, firm, partnership, association or cooperative organization, are and have been actively engaged as processors of soft tree fruits within the State of Washington, and are citizens and residents of this state. The qualifications of members of the commission as herein set forth must continue during their term of office.

SEC. 4. Of the fifteen voting members, four of the grower members, being positions one, two, three and four, shall be from the first district; four of the grower members, being positions five, six, seven and eight, from the second district; and two of the grower members, being positions nine and ten, from the third district. One of the dealer members, being position eleven, shall be from the first district; and one of the dealer members, being position twelve, from the second district. One of the processor members shall be from the first district, one from the second district, and one from the third district, being respectively positions fifteen, thirteen and fourteen.

Members
from certain
districts.

SEC. 5. The regular term of office of the members of the commission shall be three years from the date of election and until their successors are elected and qualified, except however, that the first terms of the members of the commission shall be as follows: Positions one, four, seven, ten and thirteen shall terminate on April 1, 1948; positions two, five, eight, eleven and fourteen shall terminate on April 1, 1949; and positions three, six, nine, twelve and fifteen shall terminate on April 1, 1950.

Terms of
office.

How com-
missioners
elected.

SEC. 6. Commissioners shall be elected by a majority vote of the qualified growers, dealers or processors present at their respective district meetings called by the Director of Agriculture for this purpose. The name of any qualified person may be placed before the respective meetings by oral nomination. After nominations are closed a secret written ballot shall be taken. Each qualified grower, dealer or processor present shall be entitled to one vote for each position for his respective group to be filled at said election. If a nominee does not receive a majority of the votes on the first ballot, a run-off election shall be held between the candidates receiving the largest number of votes with two candidates for each position not filled. If more than one position is to be filled at any election, the first candidate elected, or if elected on the same ballot, the candidate receiving the largest number of votes shall be declared elected to the position with the longest term.

Meetings to
elect com-
missioners.

SEC. 7. The Director of Agriculture shall immediately, after this act becomes effective, call a meeting of soft tree fruit growers, one of dealers, and one of processors in each of the three districts for the purpose of electing their respective members of the commission. Thereafter, district meetings of each group shall be called annually by the Director of Agriculture at times and places to be fixed by the commission. Public notice thereof shall be given by the commission in such manner as it may determine, provided that non-receipt of the notice by any interested person shall not invalidate the meeting and election.

Annual
meetings.

Vacancies
how filled.

SEC. 8. In the event a position becomes vacant due to resignation, disqualification, death, or for any other reason, such position, until the next annual election meeting shall be filled by vote of the remaining members of the commission. At such annual election a commissioner shall be elected to fill the balance of the unexpired term.

SEC. 9. A majority of the voting members shall constitute a quorum for the transaction of all business and the carrying out of the duties of said commission.

Quorum.

SEC. 10. No member of the commission shall receive any salary or other compensation but each member shall receive the sum of ten dollars (\$10) per day for each day spent in actual attendance on or in traveling to and from meetings of the commission or on special assignment for the commission, together with actual expenses incurred in carrying out the provisions of this section.

Commissioners get no salary.

Expenses.

SEC. 11. There shall be separate district advisory committees and a separate state commodity committee for each of the following soft tree fruits, to-wit: Bartlett pears, peaches, apricots, prunes and plums, and cherries. The growers, dealers or processors of each of the soft tree fruits, at their respective annual district meetings may elect separate district advisory committees for each of the soft tree fruits if grown, handled or processed in their respective districts. The district advisory committee shall consist of five members comprising three growers, one dealer and one processor of the respective soft tree fruit groups. Each state commodity committee shall consist of two members from, and selected by, each district advisory committee for each soft fruit or fruits.

District and state advisory committees.

Election.

Composition.

SEC. 12. Each district advisory committee and each state commodity committee shall select one of its members as chairman. Meetings may be called by the chairman or by any two members of any committee by giving reasonable written notice of the meeting to each member of such committee. A majority of the members shall be necessary to constitute a quorum. The district advisory committees and state commodity committees shall consult with and advise the commission on matters per-

Chairman.

Meetings.

Quorum.

Duties.

taining to the soft tree fruits which they respectively represent, and the commission shall give due consideration to their recommendations. Any grower, dealer or processor, if qualified, may be a member of more than one committee.

Commission
is a
corporation.

SEC. 13. The Washington State Fruit Commission shall be, and it is hereby declared and created a corporate body. It shall have power to sue and be sued; to contract and be contracted with; it shall have and possess all the powers of a corporation. The commission shall adopt a corporate seal. Copies of the proceedings, records, and acts of the commission, when certified by the secretary and authenticated by the corporate seal, shall be admissible in evidence in all courts of this state, and shall be *prima facie* evidence of the truth of all statements therein.

Seal.

Records as
evidence.

Officers.

SEC. 14. The commission shall elect a secretary-manager, whose compensation shall be fixed by the commission.

Duties of
treasurer.

SEC. 15. The commission shall appoint a treasurer who may be the same person as the secretary-manager. All monies received by any person from the assessment levied under the authority of this act shall be paid to the treasurer of the commission, shall be deposited in such banks as the commission may designate, and shall be disbursed by order of the commission. The treasurer shall file with the commission a fidelity bond executed by a surety company authorized to do business in this state, in favor of the commission and the State of Washington, jointly and severally, conditioned for the faithful performance of his duties and the strict accounting of all funds of the commission, in the penal sum of fifty thousand dollars (\$50,000). None of the provisions of section 1, chapter 96, Laws of 1907, as amended, shall be applicable to monies collected under this act.

Fidelity
bond.

SEC. 16. The State of Washington shall not be

liable for the acts of said commission or its contracts. Payment of claims arising by reason of the administration of this act shall be limited to the funds collected by the commission, and no member of the commission or any employee or agent thereof shall be liable on the contracts of the commission. All salaries, expenses, costs, obligations and liabilities incurred by said commission shall be payable only from the funds collected by the commission under this act.

State not
liable for
commis-
sion's acts.

SEC. 17. The powers and duties of the commission shall include the following: (1) To elect a chairman and from time to time such other officers as it may deem advisable, and to adopt and from time to time alter, rescind, modify and amend all proper and necessary rules, regulations and orders for the exercise of its powers and the performance of its duties, which such rules, regulations and orders shall have the force and effect of law when not inconsistent with existing laws;

Powers and
duties of
commission.

Elect officers

Make rules.

(2) To administer and enforce this act, and do and perform all acts and exercise all powers deemed reasonably necessary, proper or advisable to effectuate the purposes of this act, and to perpetuate and promote the general welfare of the soft tree fruit industry of this state.

Enforce
this act.

(3) To employ and at its pleasure discharge a secretary-manager, treasurer, and such attorneys, clerks, and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

Hire
employees.

(4) To establish offices and incur any and all expense and to enter into any and all contracts and agreements and to create such liabilities as may be reasonable for the proper administration and enforcement of this act;

Establish
offices.

Make
contracts.

(5) To investigate and prosecute violations of this act;

Prosecute.

(6) To conduct scientific research; to develop

Research.

and discover the healthful, therapeutic and dietetic value of soft tree fruits and products thereof; to develop and expand markets; to increase production and quality of soft tree fruits and products thereof; and to improve products and product handling so that the various products may be placed in the hands of the ultimate consumer in the best possible condition, whether such fruits are shipped and sold in their fresh or processed state. In connection with such research the commission shall have power to accept contributions of, or to match private, state or federal funds that may be available for these purposes and to employ or make contributions of funds to other persons or state or federal agencies conducting such research;

Accept contributions for research.

Employ advertisers.

(7) To employ and at its pleasure discharge an advertising manager, agents, advertising agencies, and such other help as it deems necessary, and to outline their powers and duties and fix their compensation;

Make advertising contracts.

(8) To make in the name of the commission such advertising contracts and other agreements as may be necessary;

Keep records.

(9) To keep accurate books, records, and accounts of all of its dealings, which books, records and accounts shall be open to inspection and audit by the State Auditor;

Classify.

(10) To establish classifications for any soft tree fruit.

Assessment on soft tree fruits grown.

SEC. 18. There is hereby levied and imposed upon all commercial soft tree fruits grown in this state in 1947 and annually thereafter, an assessment of fifty cents (50¢) on each two thousand pounds (net weight) of commercial soft tree fruits when shipped fresh or delivered to processors, whether in bulk or loose in boxes or any other container, or packed in any style package: *Provided*, That there shall be exempt all sales of five hundred

pounds, or less, of commercial soft tree fruit sold by grower direct to consumer.

SEC. 19. All money levied and collected under this act shall be expended exclusively to effectuate the purposes and objects of this act. The money shall be generally expended on promotion and improvement of the various commodities approximately in the ratio it is derived from the various commodities, after deducting suitable amounts for general overhead and basic general research, unless a majority of the functioning state commodity committees consents to a larger expenditure on behalf of any commodity or commodities. Any funds contributed to the commission by any special group or raised by an additional levy on any commodity or classification thereof, shall be expended only in connection with such commodity.

Expenditure of money.

SEC. 20. Every dealer, handler, and processor shall keep a complete and accurate record of all soft tree fruits handled, shipped or processed by him. Such record shall be in simple form and contain such information as the commission shall by regulation or rule prescribe. Such records shall be preserved by such handler, dealer and processor for a period of two years and shall be offered and submitted for inspection at any reasonable time upon written request of the commission or its duly authorized agents.

Records to be kept as prescribed by commission.

SEC. 21. Every dealer, handler, and processor shall at such times as the commission may by rule or regulation require, file with the commission a return under oath on forms to be prescribed and furnished by the commission, stating the quantity of soft tree fruits handled, shipped or processed by him during the period or periods of time prescribed by the commission. Such return shall contain such further information as may be necessary to carry out the objects and purposes of this act.

Reports to commission

Assessments
payable
before
shipment.

SEC. 22. All assessments levied and imposed by this act shall be due and payable and shall be paid prior to shipment. No soft tree fruits shall be carried, transported, or shipped by any owner or agent of such owner, nor shall any soft tree fruit be offered by any person to any carrier, common or private, for transportation until such assessment has been paid to the commission and its official receipt issued.

Stamps may
be used to
collect.

SEC. 23. The commission shall by rule or regulation prescribe the method of collection, and for that purpose may require stamps to be known as "Washington State Fruit Commission stamps" to be purchased from the commission and fixed or attached to the container, invoices, shipping documents, inspection certificates, releases, or receiving receipts or tickets. Any such stamps shall be cancelled immediately upon being so attached or fixed, and the date of cancellation shall be placed on such stamps.

Grower
primarily
responsible.

SEC. 24. Unless the assessment has been paid by the grower and evidence thereof submitted by him, the dealer, handler or processor shall be responsible for the payment of all assessments hereunder on all soft tree fruits handled, shipped or processed by him but shall charge the same against the grower, who shall be primarily responsible for such payment.

SEC. 25. In order to effectuate the objects and purposes of this act, it is the duty of the commission to provide for and conduct a comprehensive and extensive research, advertising and educational campaign. The commission shall investigate and ascertain the needs of the soft tree fruits producers, the conditions of the markets, and the extent to which the same require advertising and research. If upon such investigation, it appears that the revenue from the assessment being levied is inadequate to ac-

compish the purposes and objects of this act, it shall file a full report with the Director of Agriculture of its investigation and findings, showing the necessities of the industry, the extent and probable cost of the required program, and the probable revenue to be expected from the assessment then being levied under the authority of this act. If the report of its investigation and findings filed with the Director of Agriculture shows that the probable revenue is less than the amount reasonably necessary to accomplish the objects and purposes of the act, the commission may thereafter increase such assessment to a sum not exceeding two dollars (\$2) for each two thousand pounds (net weight) of soft tree fruits, whether in bulk, loose in boxes, or any other container, or packed in any style package: *Provided*, That no such increase shall be made prior to May, 1948.

Assessments
may be
increased.

SEC. 26. The same assessment shall be made for each soft tree fruit, except that if a two-thirds majority of the state commodity committee of any fruit in writing recommends the levy of an additional assessment on such fruit, or any classification thereof, for any year or years, the commission may levy such assessment for such year or years up to the maximum of two dollars (\$2) for each two thousand pounds of any fruit except cherries or any classification thereof, as to which the assessment may be increased to a maximum of five dollars (\$5) for each two thousand pounds. Any funds so raised shall be expended solely for the purposes provided in this act and solely for such fruit, or classification thereof.

Levy on a
particular
fruit may be
increased.

How addi-
tional funds
expended.

SEC. 27. If the commission publishes a bulletin or other publication, or a section in some established trade publication, for the dissemination of information to the soft tree fruit industry in this state, the first two dollars (\$2) of any assessment paid annually by each grower, handler, dealer and proces-

Payment
for com-
mission
publication.

sor of such fruit shall be applied to the payment of his subscription to such bulletin or publication.

Penalty.

SEC. 28. Every person shall be guilty of a misdemeanor who: (1) Violates or aids in the violation of any provision of this act;

(2) Violates or aids in the violation of any rule or regulation of the commission.

Venue.

SEC. 29. Any prosecution brought under this act may be instituted or brought in any county in this state in which the defendant or any of the defendants reside, or in which the violation was committed, or in which the defendant or any of the defendants has his principal place of business.

Jurisdiction of Superior Courts.

The several Superior Courts of the State of Washington are hereby invested with jurisdiction to enforce this act and to prevent and restrain violations thereof, or of any rule or regulation promulgated by the commission.

Who to enforce this act.

SEC. 30. It shall be the duty of all state and county law enforcement officers and all employees and agents of the Department of Agriculture to aid in the enforcement of this act.

Promulgation of rules.

SEC. 31. Every rule, regulation or order promulgated by the commission shall be filed with the State Director of Agriculture, and shall be published in a legal daily newspaper in each of the three districts. All such rules, orders or regulations shall become effective fifteen days after both filing and publication.

Inspection of records.

SEC. 32. Agents of the commission, upon specific written authorization signed by the chairman or secretary-manager of the commission, shall have the right to inspect the premises, books, records, documents, and all other instruments of any carrier, railroad, truck, boat, grower, handler, dealer, and processor for the purpose of enforcing this act and collecting the assessments levied under the authority of this act.

SEC. 33. This act shall be liberally construed. If any section, sentence, clause or part of this act is for any reason held to be unconstitutional or invalid, as applied to any person or as applied under certain circumstances, such decision shall not affect the remaining portions of this act nor the application of this act to other persons or under other circumstances.

Construction
of act.Constitution-
ality.

SEC. 34. This act is necessary for the immediate preservation of public health, the preservation of the soft tree fruits industry, the preservation of the soft tree fruits producing areas, and for the support of the state government and its existing institutions, and in order that the commission may be organized and function prior to the beginning of the 1947 soft tree fruit marketing season, and shall take effect immediately.

Emergency.

Passed the House February 18, 1947.

Passed the Senate February 26, 1947.

Approved by the Governor March 5, 1947.

CHAPTER 74.

[H. B. 219.]

FOOD FISH AND SHELLFISH.

AN ACT relating to food and shellfish; providing for licenses for the taking, canning, receiving, buying, wholesaling and selling of food and shellfish, defining license fees, fixing penalties for violations thereof, amending section 51, chapter 31, Laws of 1915, as last amended by section 1, chapter 149, Laws of 1937 (sec. 5703, Rem. Rev. Stat.; sec. 555-21, PPC) and adding thirty-six new sections thereto, to be known as sections 51-a to -z, incl., and sections 51-aa to -jj, incl., respectively and repealing section 2, chapter 8, Laws of 1941, as amended by section 2, chapter 44, Laws of 1943 (sec. 5724-1, Rem. Rev. Stat.; sec. 555-33, PPC); section 2, chapter 63, Laws of 1921, as last amended by section 1, chapter 222, Laws of 1937 (sec. 5704, Rem. Rev. Stat.; sec. 560-1, PPC); section 2, chapter 133, Laws of 1931, as last amended by section 1, chapter 45, Laws of 1943 (sec. 5704b, Rem. Rev. Stat.; sec. 555-25, PPC), and declaring this act shall take effect April 1, 1947.