

CHAPTER 133.

[S. B. No. 90.]

FOR THE PROMOTION OF FRUIT GROWING AND HORTICULTURE.

AN ACT to promote the fruit growing and horticultural interests of the State of Washington, to provide for the appointment of a Commissioner of Horticulture; to repeal certain laws in conflict therewith, and to provide penalties and punishment for its violation, and declaring an emergency.

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

Governor to
appoint.

SECTION 1. That a Commissioner of Horticulture shall be appointed by the Governor, for the State of Washington. It is hereby provided, prior to the appointment, the applicant must furnish a certificate from the faculty of the College of Agriculture that he is a skilled horticulturist; on such certificate the Governor may make the appointment. Before entering upon the discharge of his duties the said commissioner shall take and subscribe an oath to support the constitution of the United States, and the constitution and laws of the State of Washington, and to faithfully discharge the duties of his office, which said oath, together with the aforesaid certificate, shall be filed with the Secretary of State. The said commissioner shall keep his office at Tacoma, which office shall be open to the public during normal office hours, every day excepting Sunday and legal holidays and days when he may be necessarily absent attending to official duties in other parts of his district.

Qualification
necessary.

Oath of
office.

Office—
where lo-
cated—and
hours.

Duties of
com-
missioner.

Official term.

SEC. 2. The objects for which said commissioner is appointed are to maintain and exercise a supervisory directory over the horticultural industries of the state, to enforce the laws, relative to the importation, transfer and sale of fruit, fruit trees, plants or nursery stock within the State, and to give such instructions to fruit culturists regarding cultivation, and extermination of fruit pests, as the nature of the case may demand. The official term of the said commissioner of horticulture shall begin on the first day of April, 1905, and continue for four years and

until his successor is appointed and qualified. Such commissioner shall receive annually in full payment of his official services, the sum of two thousand dollars, to be paid ^{Compensation.} monthly as other State officers, and for incidental expenses of his office, such as necessary traveling fare, stationery and postage, the sum of one thousand dollars annually, and for office rent and bulletins one thousand dollars annually. Said sums shall be paid on warrants drawn by the State Auditor on the presentation of proper vouchers therefor. The term of the present commissioner of horticulture shall expire April 1st, 1905. When from illness or other cause the commissioner of horticulture is temporarily unable to perform his duties, he may appoint some qualified person ^{Appointment of deputy—when.} to discharge the duties of such office until such disability is removed. Said appointment shall be in writing, signed by the commissioner of horticulture and filed in his office. The appointment of such deputy may be revoked by the commissioner of horticulture at will. The commissioner of horticulture shall be responsible for the acts of his deputy: *Provided,* That no charge or claim shall ever be made against the State or any of its funds for compensation to such deputy.

SEC. 3. Said commissioner may be removed from office ^{May be removed—how.} at any time for cause, such as inefficiency, neglect of duty or immoral conduct, but no removal from the office of commissioner of horticulture shall be made for political reasons. Vacancies occurring in the office of commissioner during ^{Vacancies—how filled.} a term shall be filled by the Governor making an appointment for the unexpired term, under the rules and regulations as prescribed in section 1 of this act, for full term appointment.

SEC. 4. Fruit culturists in any county in this state are hereby authorized and empowered to organize into a county horticultural society, and the better to promote and protect the horticultural interests of the county the society will ^{County horticultural societies.} nominate a qualified person for county inspector of fruits, trees and plants, boxes, barrels and other packages in which fruits or trees have been shipped. The nomination shall ^{Appointment of county inspectors.} be made to the board of commissioners (of the county wherein said society is organized), who are hereby authorized and required to appoint such person as county fruit inspector for a term of two years, deliver to him a certifi-

cate of appointment, and mail a duplicate copy of said certificate to the commissioner of horticulture: *Provided, however,* That county inspectors shall be required to pass a satisfactory examination before the state horticultural commissioner before they are authorized to perform the duties of their office. Said county inspectors shall be entitled to a per diem of \$4.00 per day and actual expenses for each day's actual service, to be paid by the county in which said inspector is appointed. Any county inspector shall be removed by the commissioner of horticulture for incompetency or neglect of duty, or other sufficient cause, upon complaint filed with him, signed by the proper officers of the horticultural society in the county in which such inspector is sought to be removed: *Provided,* That no such removal shall be made without giving such inspector a hearing and ten day's notice of the time and place thereof. In order to furnish to the office of commissioner of horticulture information regarding the condition of orchards throughout the State, and to determine the compensation of such county inspectors, they shall make monthly reports to the commissioner of horticulture under oath upon blanks furnished by said commissioner and said commissioner of horticulture shall issue a certificate showing the number of days' work performed in each month, upon which the said county inspector shall receive payment from the county in which inspection has been made: *Provided,* That such monthly report shall not be conclusive evidence of the number of days' work any county inspector has performed in any month. Any county inspector who shall in said report under oath falsely state the number of days' work he has actually performed in any month shall be deemed guilty of perjury and upon conviction thereof shall be liable to the penalty provided by law therefor.

County inspectors to pass examination.

Per diem and expenses.

Removed from office—when.

Reports of inspectors.

False statement—perjury.

Shall procure license.

License and bond.

SEC. 5. No person, firm or corporation shall engage or continue in the business of selling as agent, solicitor or otherwise within the State, or importing fruit trees, plants or nursery stock into the State without first having obtained a license to carry on such business in the State, as in this act provided.

SEC. 6. Any person, firm or corporation, agent or solicitor may obtain a license to engage or continue in the busi-

ness of selling and importing fruit trees, plants or nursery stock into this State by submitting his application therefor to the commissioner of horticulture, together with a satisfactory bond of \$2,000, made in conformity with the laws of the State of Washington, such bond to be approved by and filed with the said commissioner, conditioned that the principal and his or their agents will faithfully obey the provisions of this act, the laws of the State of Washington, and that the said principal pays the costs of inspection and destruction of all infected nursery stock, or other material or goods imported into and sold within such district of this State by the said principal, his or their agent. Any person or persons shall have legal recourse against the bond for any damages accruing from the sale of or delivery of infected nursery stock. Licenses granted under this act shall be for two years or less, at the discretion of the commissioner. Any license granted to any person, firm or corporation shall be suspended in its operation by the commissioner of horticulture upon the report of any inspector that said person, firm or corporation has introduced infected stock into the State of Washington, and if upon examination by the commissioner such report of the inspector is found to be supported by facts, such license shall be at once revoked. The license fee for nurserymen and tree dealers shall be five dollars and for their agents or salesmen who shall be furnished an authentic copy, two dollars and fifty cents. Said moneys shall be collected by the State horticultural commissioner and paid to the general fund of the State treasury. All licenses shall expire on the first day of April, 1903, and on the first day of April every second year thereafter.

Term of license.

License suspended.

License fee.

License expires.

SEC. 7. It shall be the duty of every person, firm or corporation licensed to do business under this act, to notify the horticultural commissioner of his intention to ship an invoice of fruit trees, plants or nursery stock from one point to another within the state, or to import an invoice of similar goods from without to any point within the State, whether for the purpose of sale or for personal use. Such notice shall contain the name and address of both the consignor and consignee, and a descriptive invoice of the goods to be shipped, the freight or express office at which

Shippers to notify commissioner.

Notice—what to contain.

the goods are to be delivered, and the name or title of the transportation company from which the consignees receive such goods. Such notice shall be mailed at least two days prior to the date of such shipment.

Penalty for violation.

SEC. 8. Any person, firm or corporation who shall sell within this State, or import into this State, any fruit trees, plants or nursery stock in violation of the provisions of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined for each offense in any sum not less than fifty or more than one hundred dollars.

Fines.

SEC. 9. Any person who shall offer for sale or solicit persons within this State to purchase from him any fruit trees, plants or nursery stock belonging to any person or firm not licensed under the provisions of this act, shall be deemed guilty of a misdemeanor, and fined in any sum not less than fifty dollars nor exceeding one hundred dollars. All fines imposed for the violation of the provisions of this act shall be paid to the treasurer of the county wherein the violation was committed, and be placed to the credit of the general fund of such county.

Prevention of spread of fruit pests, etc.

SEC. 10. For the purpose of preventing the introduction and spread of contagious diseases, fruit pests, spores and fungus growth among fruit trees and plants and other nursery stock, and for the disinfecting and cure of fruit diseases, pests, spores and fungus growth, the commissioner of horticulture shall prescribe such remedies as he shall deem best, describe and formulate such remedies with their proper mode of application, with such additional instruction as he may deem necessary, into a circular or bulletin, which he shall have printed and distributed to the several county horticultural societies and inspectors of the State; and he shall include also in said bulletins the rules and regulations under which a person, firm or corporation may lawfully sell, import into this State, and sell or authorize to be sold, fruit trees, plants or nursery stock, and the penalty to be incurred for the violation of these rules. He shall prepare also a poster which shall contain said rules, regulations and penalties, which shall be distributed with said bulletin. County inspectors are directed to put up said posters in not less than three conspicuous places in their county, one of which places must be in front of the county

Bulletins and posters.

court house. The commissioner of horticulture shall hear and promptly decide all appeals from the county inspectors, and his decision shall have full force and effect until set aside by the courts of the State. In all cases of appeal he shall disregard technicalities, and decide each and every case on its merits. All appeals from county inspectors to commissioners shall be under forms and regulations prescribed by the commissioner. The commissioner shall approve or reject all bonds required by law to be submitted to him, and he shall file and safely keep all bonds and other papers by law required to be filed with him, and shall, upon the expiration of his term of office turn over the same to his successor. He shall examine all fruit, specimens of fruit trees, shrubbery or plants submitted to him for examination, enter the name of the person presenting such specimens of fruit trees, shrubs or plants for examination, and the result of his examination in a register to be kept by him for that purpose, and send a copy of such result to the person asking for the examination. He shall, from time to time, as he may deem for best interests of the horticultural industries of the State, publish bulletins which shall be sent free to the various county horticultural societies of the State; such bulletins to contain a brief resume of the discoveries of science of interest to horticulture, or any other matter which the commission shall deem of importance to such interest. And unless there be urgent or special need therefor, no bulletin shall contain any matter that has appeared in any previous bulletin.

Hearing of
appeals.

Approval or
rejection of
bonds.

Examination
of fruit,
etc.

Publication
of bulletins.

SEC. 11. County fruit inspectors who shall be appointed under and by authority of this act are hereby authorized, directed and empowered to enforce the provisions of this act to prevent the introduction and spread of fruit tree and plant diseases, insect pests, fungi spores, eggs or larvae of insects injurious to the fruit industries of his county or of this State.

Powers of
county in-
spectors.

SEC. 12. Whenever from any cause there shall be an absence of an inspector in any county, the commissioner of horticulture shall have power to order an inspector from any adjoining county in his district to perform the duties required by this act in the county needing the services of such inspector, and the expense of such inspection shall be chargeable to and paid for by the county in which the said

Duty of com-
missioner
in absence of
county in-
spectors.

services are rendered in the manner hereinbefore provided. The commissioner of horticulture shall have authority and he is hereby authorized, whenever in his judgment it is necessary, to appoint in writing one or more assistant county inspectors, who shall have the same powers and perform the same duties as county inspectors, such assistant inspectors shall be entitled to the same compensation to be paid in the same manner as county inspectors. The commissioner of horticulture shall have the power to revoke the appointment of such assistants at will.

Duty of
county in-
spector.

SEC. 13. It is hereby made the duty of the county fruit inspector, if from his personal observation, complaint or other credible information, he has reason to suspect that any person, company or corporation, has an orchard, tree or nursery of trees, vines or garden, fruit packing house, store room, or that any other place or material in his county is infected with or is a repository for, eggs larvae or any noxious insects injurious to fruit and plants or that any trees, fruit or plants, are in transit to his county from outside of this State, or are about to be disseminated or distributed within his county, which are known to be, or are suspected to be from localities that are infested with any disease or pest injurious, or that may become injurious to the fruit interests of his county or state, he shall without delay inspect the premises, property or material so suspected, and if the same is found to be infected as aforesaid, he shall notify the owner, his agents or the person in charge of the same, not to remove or allow the removal of such property until the same has been disinfected, prescribing the manner of disinfection; and shall direct the owner, agent or such person having such property in his charge to treat and disinfect the said premises and property within five days. If any person so notified shall permit the removal of, or fail to disinfect such property or premises in the manner and in the time prescribed in said notice, the person so notified and failing to disinfect the infected property or premises, or who shall permit the removal of the same prior to disinfection, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$50 nor more than \$100, and the cost of action in court, which fine and costs shall be a judgment lien upon said premises or property. After the expiration of ten days and a failure

Disinfection.

Failure to
disinfect—
penalty.

on the part of the owner or person in charge to disinfect the said premises or property as aforesaid, then, to prevent the spread of insect pests or disease, it will be the duty of the county inspector to enter on such premises or property and disinfect the same. The cost of such disinfection shall be a lien against said property or premises, the payment of which shall be collectable with other costs in any court of this State. Cost of disinfection a lien.

SEC. 14. Any person or persons who shall bring into the state, to sell, offer for sale, distribute or give away fruit trees, shrubs, fruit or other material infested with any kind of insect pest injurious to fruit, fruit trees or plants, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than sixty days, nor more than one year: *Provided*, That for each repeated offense the person or persons convicted may be punished by a fine of not less than two hundred dollars or more than eight hundred dollars, or by imprisonment not to exceed two years. Any person or persons who shall sell, offer for sale, distribute or give away any tree or trees, root or roots, grass, cuttings, or scions infected with insect pests, spores or fungus growth, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than fifty dollars nor more than two hundred dollars, or by imprisonment in the county jail not less than fifteen days, nor more than thirty days. A repetition of the offense shall subject the offender to increased penalty not over the maximum above stated. Any nursery trees, shrubs or plants which have been shipped from and to any place within the State for distribution or for planting, and which are infested with any injurious insect, larvae or fungus growth, shall be disinfected under the direction of the inspector of the county where to such trees and plants are taken, and the cost of such disinfection shall be charged to the owner of said articles, and shall be a lien on such trees, shrubs or plants until paid, and the person in possession of said articles being held subject to lien shall have a legitimate claim against the party from whom he received the articles for reimbursement of costs, including cost of collection, and shall have recourse against the bond of the person furnish- Sale of infested fruit, trees, etc. Penalty. Disinfection of imported trees, etc. Party selling liable.

ing the articles, and such claim may be enforced in any court of the State.

Access to orchards, etc., by inspector.

SEC. 15. The county fruit inspector shall, in the performance of his duties as such inspector, have on any day except Sunday free access to orchards, nurseries, gardens, hop fields, packing houses, fruit stands, and store rooms where fruit may be kept; fruit boxes, full or empty, or any other material or place suspected of being infested with insect pests or disease injurious to the fruit interests of the State. If he find any nursery, orchard, garden or other place or material infested with insect or fungus growth, larvae or spores injurious to the fruit interests, he shall forthwith notify in writing, the owners, occupants or persons in possession thereof that the same is infested, prohibit their removal, and direct the manner in which the same shall be disinfected. If the owner, occupant or person in possession of said orchard, garden, store room, fruit stand or other place or infested material shall not within ten days disinfect the same in the manner by the county inspector required, or shall not have appealed to the decision of the county inspector through the commissioner of horticulture, if the premises infested be an orchard or nursery of fruit trees, a garden, fruit stand or store room, and the person or persons in charge thereof having neglected or refused to disinfect the said premises within the time specified in said notice, nor have appealed as aforesaid; then the county inspector shall enter on and disinfect any part or all of said premises so neglected, and the cost thereof shall be a legitimate charge and lien with interest until paid upon the real property of the owner of such premises so disinfected; such lien shall be collectable with costs in suit in any of the courts of the State as other lawful claims are collectable. If the infested property be transportable material, the county inspector shall notify the person in charge thereof not to remove the same and to disinfect the same within 24 hours, and describe the manner of disinfection. If the person in charge of said infested material neglect or refuse to disinfect the same as notified, or fail to appeal, then the inspector shall destroy such infested material as fruits, fruit boxes, baskets, wrappings, portable fruit stands, by burning the same. If an appeal be taken the inspector shall after 24 hours notice take immediate possession of such moveable

Notice to owners of infested stock.

Destruction of infested property.

Appeal—possession.

property, and safely keep them until the appeal is decided. If the decision of the commissioner be in favor of the appellant, the property shall be returned to him; on an adverse decision the property must be destroyed by the inspector. All appeals from the action or demand of the county inspector shall be taken to the state commissioner of horticulture.

SEC. 16. The said commissioner of horticulture shall be allowed seven hundred dollars (\$700) per annum for the employment of one office clerk who shall be continually in the office of the commissioner during normal office hours, and whose salary shall be paid monthly.

SEC. 17. There shall be kept and maintained in the office of the commissioner in the City of Tacoma an exhibit of the fruits of the State of Washington and for the maintenance of such exhibit an annual appropriation of three hundred dollars (\$300) is hereby made, to be paid out upon warrants drawn by the State Auditor upon presentation of proper vouchers.

SEC. 18. An annual "Inspector's" institute shall be held during the month of January at the Agricultural College in Pullman. The commissioner of horticulture shall fix the date of convening of such institute and by written notices direct the attendance of all county inspectors. The commissioner shall preside over and formulate the proceedings of the institute, which shall continue for four days. As the purpose of these institutes is improvement and conference, and study of subjects of experimentation, by the scientist of the college along entomologist and horticultural lines it is required that all county inspectors shall attend such institute meetings unless prevented by illness. Failure to attend on the part of any inspector shall work a forfeiture of his office and it shall be the duty of the commissioner to inform county commissioners of the absence of their inspectors. Inspectors attending institutes shall be allowed their actual traveling expenses and hotel bills on vouchers endorsed by the commissioner or chairman of institute, said expenses to be paid by the respective counties.

SEC. 19. Any person offering any hindrance to the carrying out of this act or in any manner preventing or hindering any inspection herein provided for shall upon con-

viction be fined not less than twenty-five dollars nor more than two hundred dollars, together with costs.

SEC. 20. A certain act approved March 17th, 1897, and entitled "An act to promote and protect the fruit growing and horticultural interests of the State of Washington, to provide for the appointment of commissioner of horticulture, and to repeal certain laws in conflict therewith," and all other laws or parts of laws inconsistent with or in conflict with the provisions of this act, are hereby repealed.

Repeal.

SEC. 21. An emergency exists and this act shall take effect immediately.

Emergency.

Passed the Senate February 24, 1903.

Passed the House March 10, 1903.

Approved by the Governor March 16, 1903.

CHAPTER 134.

[S. B. No. 40.]

FOR THE PROTECTION OF BIRDS AND THEIR NESTS.

AN ACT for the protection of birds and their nests and eggs, and to define and punish as misdemeanors all violations thereof, establishing certificates and providing for the disposition of any moneys collected under the same.

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

Possession unlawful.

SECTION 1. No person shall, within the State of Washington, kill or catch or have in his or her possession, living or dead, any wild bird other than a game bird, or purchase, offer or expose for sale, transport or ship within or without the State, any such wild bird after it has been killed or caught, except as permitted by this act. No part of the skin, plumage or body of any wild bird protected by this section shall be sold or had in possession for sale. For the purposes of this act the following only shall be considered game birds:

Game birds defined.

The anatridae, commonly known as swans, geese, brant, and river and sea ducks; the rallidae, commonly known as rails, coots, mud hens and gallinules; the limicolae, commonly known as shore birds, plovers, surf