

## HORTICULTURAL LAW OF UTAH.

### Measure Creating State Board of Horticulture—Its Duties And Powers

#### DISTRICT DIVISION OF STATE.

#### Duties of County Tree Inspectors— Quarantine and Other Regulations Against Pests and Diseases.

**F**OLLOWING is the full text of the horticultural law passed by the last session of the state Legislature. A perusal of the measure reveals the fact that it differs very materially in several particulars from the old law which it repeals. It provides more effectively for the protection of the fruit growing interests of the state against the importation and spread of insect pests and diseases, and its enforcement should mark a great improvement in orchard conditions in Utah.

An Act Creating a State Board of Horticulture, Providing for County Fruit Tree Inspectors, Defining their Duties, Providing for the Publication and Distribution of their Reports, Defining the Duties of Orchardists and Nurserymen, and Repealing Chapter 104 Laws of Utah, 1903.

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

Section 1. A state board of horticulture is hereby created, consisting of five members, one of whom shall be the director of the Utah Agricultural College Experiment station and the other four shall be appointed by the governor by and with the consent of the senate, one from each of the four horticultural districts, which are hereby constituted as follows:

First—The counties of Boxelder, Cache, Rich, Morgan and Weber shall be known as District No. 1.

Second—The counties of Davis, Salt Lake, Tooele, Summit and Wasatch shall be known as District No. 2.

Third—The counties of Utah, Juab, Carbon, Emery, Uintah, San Juan, Grand, Sanpete and Sevier shall be known as District No. 3.

Fourth—The counties of Millard, Beaver, Plute, Wayne, Iron, Garfield, Kane and Washington shall be known as District No. 4.

Sec. 2. Upon approval of this act, the governor shall appoint four members, no more than three of whom shall belong to one political party, and their term of office shall be four years and until their successors are appointed and qualified. The members appointed from each district shall be residents of the district from which they are appointed, and shall be specially qualified by practical experience and study in connection with the industries dependent upon horticulture. Their term of office shall begin within 90 days after appointment.

Sec. 3. Said board shall have an office at the state capital, which shall be maintained at the expense of the state, and within 30 days after their appointment they shall meet and organize by electing a president and secretary from their number. The state treasurer shall be ex-officio treasurer of the board.

Sec. 4. The board shall meet semi-annually, and as much oftener and at such places as it may deem expedient, to consult and adopt such measures as may best promote the horticultural industries of the state. It may hold institutes and horticultural meetings, and may appoint competent and qualified persons to lecture in each of the horticultural districts named in Section 1 of this act, for the purpose of illustrating practical horticultural topics, and imparting instruction in the methods of culture, pruning, fertilizing and also in the best methods of treating the diseases of fruit and fruit trees, etc., cleaning orchards, and exterminating insect and other pests. They shall also confer with and instruct the county fruit tree inspectors provided for hereinafter in relation to their duties, as occasion may require, and shall have general supervision over the enforcement of the provisions of this act.

Sec. 5. The secretary, besides being a practical horticulturist, shall be especially qualified for his office by experience and education to compile and

correct reports and essays; to present in a logical order all the information to be published by the board. It shall be his duty to attend all meetings of the board and to prepare and preserve all reports of its proceedings and correspondence, to collect books, pamphlets, and periodicals and other documents containing information relating to horticulture, and to preserve the same, to collect statistics and other information showing the actual condition and progress of horticulture in this state and elsewhere, and prepare, as required by the board, reports for publication, and shall distribute by mail or otherwise the bulletins, reports and other publications of the board, to the fruit growers of the state, and to perform all such other duties as may be prescribed by the board.

Section 6.—The compensation of each appointed member of the state board of horticulture shall be \$400 per annum, excepting the member designated to act as secretary, provided, that hereafter, who shall receive as compensation the sum of \$1,200 per annum, who shall devote his time and attention to the board and shall not be engaged in any other business. In addition to such compensation, each member of the board shall receive the amount of his actual and traveling expenses when on official business. The salaries and other expenses as provided herein shall be paid as provided in case of other state officers; provided, that before entering upon the discharge of his official duties, each member shall make and subscribe to the constitutional oath of office.

Section 7.—The office of the board shall be in charge of the secretary and shall be open for the transaction of business each day during the year, excepting Sundays and legal holidays, and excepting such time as the secretary of the board may be in the active discharge of his duties outside of said office; provided, that the necessary office expenses shall be paid from the funds hereinafter appropriated as other expenses are paid.

Section 8.—The state treasurer is hereby authorized to receive gifts, donations, or bequests of money or property for the promotion of the horticultural interests of Utah, and to disburse the same upon the warrants of the state auditor, which said warrants shall be drawn only upon order of the majority of said board of horticultural commissioners, and for the purpose named in this title.

Section 9.—The state board of horticulture is hereby vested with all necessary authority to enforce quarantine against any infested fields, lots, orchards, nurseries, trees, plants, shrubs, vines, buds or scions, fruits or any place or articles within the state when the same may be liable to spread contagious diseases injurious to fruit or trees, or fruit crops of any kind, and to provide necessary rules and regulations to govern the same.

Section 10.—For the purpose of preventing the introduction into the state or spread of contagious diseases, insect pests, or fungus growth among fruit, shade and ornamental trees, and for the prevention, treatment, cure and extermination of fruit and tree pests and diseases of fruit and fruit, shade and ornamental trees, and for the disinfection of grafts, cuttings, orchard boards, fruit boxes, and packages, and other material or transportable articles harboring or containing infectious diseases or insect pests dangerous to orchards, fruit or trees of any kind, the board shall make regulations for the quarantining and disinfection thereof; which said regulations shall be circulated by the board in printed form, among the fruit growers, fruit dealers and nurserymen of the state, by publishing the same at least four successive times in some newspaper having a general circulation in the state, and by posting copies thereof in three conspicuous places in each county, one of which shall be at the county court house. Such regulations, when so circulated and promulgated, shall be held to impart notice of their contents to all persons within the state and shall be binding upon them. A willful violation or violation by neglect of any quarantine or other regulation of said board, necessary to prevent the spread and introduction into the state of fruit or tree diseases or insect pests, or the shipment, sale, or distribution of any article so infected, as to be dangerous to the fruit growing interests of the state, or the spread of dangerous diseases among trees or orchards, shall be deemed a misdemeanor.

Section 11.—For the purpose of disseminating knowledge concerning contagious diseases or injurious pests affecting trees, plants, vines or fruit, and the remedies, preventives, and disinfectants applicable thereto, the board shall from time to time, as may deem necessary, have bulletins printed containing such information, remedies, preventives and disinfectants as it may approve, together with the rules and regulations formulated by it in accordance with section 10 of this act; which bulletins shall be circulated among the fruit growers, fruit dealers, shippers, transportation companies of horticultural products and their agents within the state.

Section 12. Within 30 days after this law

goes into effect, the board of county commissioners of the several counties shall appoint one horticultural inspector and as many deputies as deemed necessary to carry out the provisions of this act, said inspectors and their deputies shall be competent, experienced and practical horticulturists. Such inspectors shall hold office for a term of two years, and until their successors are appointed and qualified, unless sooner removed for cause. They shall qualify by taking and subscribing the constitutional oath, which shall be filed with the county clerk; said inspectors shall be paid out of the county treasury for the time and services actually rendered, at such rate per day as the board of county commissioners shall fix, not to exceed \$2 per day for inspectors, and \$2 for deputies, with reasonable transportation expenses. The county inspector or inspectors shall carry out the provisions of this act, and the county commissioners may direct for the extermination of fruit and other pests and diseases. Provided, that it shall not be lawful to spray with any arsenical or other poisonous material any tree or shrub when the same is in bloom. Provided, further, that in the event of any county inspector failing or refusing to properly perform his duties, nothing in this act shall be construed to prevent the member of the state board of horticulture for the district in which such county inspector may be derelict, from enforcing in said county the provisions of this act and the rules and regulations of the state board of horticulture.

Section 13.—The county fruit tree inspector or his deputies in each county shall make an inspection of every orchard, nursery, vineyard and fruit packing or cold storage house, storehouse or sales-regularly, and any county inspector failing or refusing to properly perform his duties, within their jurisdiction, at least once every year and as much oftener as may be deemed necessary for the protection of the fruit interests of the county, and if found infected with pests or diseases injurious to fruit or fruit trees, vines, shrubs, plants, ornamental or shade trees, or any of them, their larvae or eggs, shall notify the owner, person or persons, in charge or possession of the fruit, trees, vines, shrubs or places or articles as aforesaid, that the same or any of them are infected with insects, or any of their eggs or larvae, and they shall require such persons to remove or disinfect the same and make application of such treatment for the purpose of destroying the same as prescribed by the state board of horticulture, within a certain time to be specified in said notice, said notice may be served upon the person, or persons, owning or having charge of such infected trees, fruits, or places or articles aforesaid, by any inspector, or they may be served the same as a summons in a civil action. If the owner, or person or persons, in charge or possession of orchards or nursery trees, ornamental or shade trees, fruits, places or articles infected with said diseases, insects, or any of them, their larvae or eggs, after having been notified as above by said inspector, to destroy the same or make application of treatment, as directed, shall fail, neglect or refuse so to do, they shall be deemed guilty of maintaining a public nuisance and shall be punished by fine, not less than five nor more than one hundred dollars, and any such orchards, nurseries, trees or places or articles thus infected shall be adjudged and the same if hereby declared a public nuisance and shall be proceeded against as such, on approval of the board of county commissioners. It shall be the duty of the county inspector in whose county said nuisance shall exist, to cause such nuisance to be abated at once by eradicating or destroying said disease, insects or pests, or their larvae or eggs, by treating or disinfecting the infected or diseased fruit trees, plants, places or articles as aforesaid, and the costs thereof shall be assessed against the owner or owners, person or persons, in charge of said property or premises, in charge of said property or premises, and if not paid within 10 days from demand the said expense shall become a county charge, and the board of county commissioners shall allow and pay the same out of the general fund of the county. Any and all sums so paid shall be and become a lien on the property and premises from which said nuisance has been removed or abated in pursuance of this act, and may be recovered by an action against the owner or owners of such property or premises. Provided, that all formulas for disinfection or eradication of said diseases or insect pests shall be as prescribed by the state board of horticulture, but the time and place of application shall be left to the discretion of the county inspectors.

Section 14.—For the extermination of serious, non-curable tree diseases, such as pear blight, crown gall, peach yellows, peach rosette, upon discovery of said diseases the county fruit tree inspector shall notify the owner or owners, person or persons in charge or possession of said trees or shrubs, of such fact, and shall require such persons to extirpate the said disease by destroying the affected trees or shrubs by burning, within a certain time to be specified in said notice, said notice to be served upon the person, or persons owning or having charge of such infected trees, as aforesaid, by any inspector, or they may be served the same as a summons in a civil action. If the owner, or owners, person or persons in charge or possession of said trees or shrubs, after having been notified as above by said inspector, to destroy the same as directed, shall fail, neglect or refuse so to do, they shall be deemed guilty of maintaining a public nuisance and the case shall be reported to the county attorney, who shall file a complaint and it shall be speedily adjudicated, and if charges are found correct the court shall order the same destroyed or removed, the costs to be paid within ten days by the owner or person in charge, if not it shall be paid by the county, and it shall be collected by the county attorney, with costs and paid into the county treasury.

Section 15.—The county inspector shall make monthly reports to the county commissioners and to the secretary of the state board of horticulture, on forms prescribed by the said board. Said reports shall embrace the labors of the county inspector and his deputies for the month, and statistics showing the general condition of horticulture within the county, together with such statement of facts and recommendations as he may deem useful to the horticultural interests of the county. The secretary of the state board shall make a biennial report to the secretary of state, the first day of December preceding the meeting of the state legislature and the secretary of state shall cause 5,000 copies of the same to be

published in a pamphlet or book form, for distribution as other state publications.

Section 16.—It shall be the duty of every owner, possessor or occupier of any orchards, nurseries, garden lot or land where fruit trees are grown within this state, to remove from said land and destroy by burning all diseased or decayed branches of fruit trees affected with pear blight, and to burn and destroy all dead trees and trees affected with peach rosette or peach yellows.

Section 17.—It shall not be lawful for any nurseryman, corporation or private individual to import into this state or to ship in the state any trees, shrubs or vines, unless the same are properly certified to by a professor of entomology of a government experiment station, or an officer of a state board of horticulture or a regular examiner and appointed county inspector, operating in the regular discharge of their duties, as having been fumigated or disinfected by hydrocyanic acid gas before shipment. Importations of trees or shrubs unaccompanied by such certificate of fumigation shall be held in quarantine at owner's risk until so fumigated, at the cost of the importer. Said fumigation shall be made to the satisfaction of the county fruit tree inspector, or of the member for that district of the state board of horticulture.

Section 18.—It shall be the duty of any and all owners of any nursery or nurseries or nursery stock to disinfect by the use of hydrocyanic acid gas all their nursery stock for the destruction of insects or diseases injurious to fruit trees or shrubs before removing the same, or any of it, from their premises for sale, gift, distribution or transportation.

Section 19.—The state board of horticulture shall have power to authorize

the holding of state horticultural exhibitions, and shall determine the time and place for holding said exhibitions, with power to arrange for premiums and awards, and perform such other duties as may be necessary in conducting such exhibitions.

Section 20.—For the purpose of carrying out the provisions of this act, \$5,000 is hereby appropriated out of any money in the state treasury not otherwise appropriated; \$4,000 or so much thereof as may be necessary, to be paid in the year 1905 and \$4,000 in the year 1906.

Section 21.—That chapter 104, of the Session Laws of Utah, 1903, is hereby repealed.

Section 22.—This act shall take effect upon approval.

Approved March 9, 1905.

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The Salt Lake Temple will close on Wednesday evening, April 5, and reopen on Tuesday morning, April 11.

The Logan temple will close Tuesday, April 4, and reopen Tuesday, April 11, 1905.

M. W. MERRILL, President.

The St. George Temple will close on the evening of Friday, March 31, 1905, and reopen on Tuesday, April 11, 1905, at 9 a. m.

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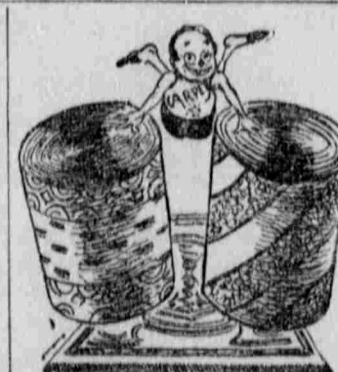
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