

Text of New Horticultural Law

Reconstruction of the Statutes Regarding One of the Foremost Industries of Utah.

An Act Creating a State Board of Horticulture, Providing for the Publication and Distribution of its Reports, for the Appointment of County Horticultural Inspectors, Defining their Duties, the Duties of Orchardists and Common Carriers and for the Licensing of Nurserymen and Making an Appropriation for Carrying out the Provisions of This Act and Repealing Chapter 88, Laws of Utah, 1905.

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:

1. The counties of Boxelder, Cache, Rich, Morgan and Weber shall be known as District No. 1.
2. The counties of Davis, Salt Lake, Tooele, Summit and Wasatch shall be known as District No. 2.
3. The counties of Utah, Juab, Carbon, Emery, Uintah, San Juan, Grand, Garfield and Sevier shall be known as District No. 3.
4. The counties of Millard, Beaver, Platte, Wayne, Iron, Garfield, Kane and Washington shall be known as District No. 4.

Section 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 30 days after appointment.

Section 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.

Section 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 persons to lecture in each of the horticultural districts named in section 1 of this act. They shall confer with and instruct the county horticultural inspectors provided for herein in relation to their duties, and shall issue bulletins for the guidance and protection of the horticultural industries of the state, and shall also have general supervision

over the enforcement of the provisions of this act.

Section 5. The compensation for each appointed member of the state board of horticulture shall be \$400 per annum, exceeding the member designated to act as secretary, who shall receive as compensation the sum of \$1,200 per annum, who shall devote all his time and attention to the duties of the board. In addition to such compensation, each member of the board shall receive the amount of his actual and necessary traveling expenses when on official business. The salaries and other expenses as provided herein shall be paid as in the case of other state officers; provided, that before entering upon the discharge of his official duties each member shall take and subscribe to the constitutional oath of office.

Section 6. 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 Sunday 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 7. 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 the order of the majority of said board of horticulture and for the purpose named in this title.

Section 8. The state board of horticulture is hereby vested with all necessary authority to enforce quarantine against any infected fields, lots, orchards, nurseries, trees, plants, shrubs, vines, buds or scions, fruits or any place or article 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 9. 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 destruction of fruit and tree pests and diseases of fruit, and fruit, shade and ornamental trees, and for the disinfection of grafts, scions, orchards, nurseries, 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, said board shall make regulations for the quarantining and disinfecting thereof; which said regulations shall be decreed by the board in printed form among the fruit growers, fruit dealers, common carriers and nurserymen of the state, by publishing the same at least four successive times in some newspaper having a general circulation in

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the state and by posting copies thereof in three conspicuous places in each county, one of which shall be the county courthouse. 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.

Section 10. Within thirty 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 are 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 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 service actually rendered at such rate per day as the board of county commissioners shall fix, not to exceed \$4 per day for inspectors and \$3 for deputies, with reasonable transportation expenses. The county inspector or inspectors shall carry out the provisions of this act and the regulations of the state board of horticulture, and perform such other labors as the county commissioners may direct for the extermination of fruit and tree 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 any county inspector failing or refusing to properly perform his duties, nothing in this act shall be construed to prevent the members of the state board of horticulture for the district in which said 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 11. 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, store room or salesroom, warehouse, or any other place or article connected with horticulture 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, they shall notify the owner or owners, 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 disease, insects or 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 them, 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 an inspector, or they may be served the same in 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 to do so, he or 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

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charges are found correct, the court shall order the same destroyed or removed, the costs to be paid within 10 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 12. The county inspector shall make monthly reports to the county commissioners and to the secretary of the state board of horticulture, on forms furnished 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 in 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 governor the 15th day of December preceding the meeting of the state legislature and the secretary of the 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 13. No corporation, firm or person shall engage or continue in the business of selling within the state or of importing into the state, any fruit trees, shade or ornamental trees, shrubs, vines or plants or nursery stock without having first obtained a license to do business in this state as in this act provided.

Section 14. Any corporation, firm or person may obtain a license from the state board of horticulture to engage in the business as provided in the preceding section upon the payment of the sum of \$5 for a business below \$1,000 a year; \$10 for a business below \$3,000 a year; \$20 for a business from \$3,000 to \$10,000 a year; and \$30 for a business exceeding \$10,000 a year, and by filing with the secretary of the state board of horticulture a bond with good and sufficient sureties, in the sum of \$100, conditioned that the principal will comply with the provisions of this act and will pay the cost of fumigating or disinfecting all nursery stock materials or goods imported into the state or sold within the state by said principal, his or their agents, and the expense of destruction of any infected nursery stock. License granted under this act shall be for one year; provided, however, that such license may be revoked at any time for any violation of this act or the rules and regulations of the state board of horticulture, at the discretion of the board.

Section 15. All nursery stock, trees, plants and cuttings, grown or growing within the state, to be used for sale, gift, distribution or transportation, shall, after said stock shall have been taken from the nursery trees or grounds and before the same shall have been packed for delivery, be inspected by the county inspector or his deputy and shall be disinfected by fumigating or other method when in his judgment such is necessary. After such inspection, if it be found that said nursery stock, trees, plants, and cuttings are

clean and free from insects, pests or diseases injurious to the fruit trees, he shall issue his certificate to said nurseryman and said certificates shall entitle him to use said stock so inspected and disinfected for filling orders for next current delivery. Said nurseryman shall give to the secretary of the state board of horticulture, the county inspector or his deputy, five days' notice of the time when such stock shall be ready for inspection under the provisions of this act.

Section 16. It shall be unlawful for any nurseryman, corporation, firm or person to import into this state any trees, shrubs or vines unless the same are properly certified to by a professor of entomology at a government station, or an officer of a state board of horticulture or a regular 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 the owner's risk until so fumigated, at the cost of the importer. Provided, that in case of confusion and delicate ornamental plants, other methods of disinfection may be applied. Said fumigation or disinfection shall be made to the satisfaction of the county horticultural inspector or the member of the state board of horticulture for that district.

Section 17. Every corporation, firm or person, his or their agent, doing business as common carriers within the state, shall, upon the arrival of all nursery stock, trees, plants, vines and cuttings at the station or other place to which said nursery stock, trees, plants, vines or cuttings might be consigned, immediately notify the county horticultural inspector or his deputy of such arrival, and to whom assigned, with date and place of arrival, also stating the name of the consignee, and shall hold the shipment for 24 hours after said notice of arrival has been sent to the county horticultural inspector or his deputy, who shall have the opportunity to make the necessary inspection of said stock. Provided, that where such shipment is accompanied by the certificate of any member of the state board of horticulture or county horticultural inspector or deputy of any county in the state, the stock may be delivered immediately after said notice is sent.

Section 18. It shall be the duty of every corporation, firm or person offering for sale at selling and delivering any imported nursery stock, fruit trees, plants, vines, shrubs, scions, cuttings, etc., within the state to state to the person or persons to whom such offer for sale is made, that the said stock is imported, or where the stock is sold, to

state in the invoice of sale that the stock is imported.

Section 19. All sums of money collected as license or fines under the provisions of this act shall be covered into the state treasury.

Section 20. The state board of horticulture shall have power to authorize the holding of state horticultural exhibitions, and shall determine the time and place of 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 21. Any corporation, firm or person violating any of the provisions of this act or any regulation or quarantine of the state board of horticulture, issued in accordance with the provisions of this act, shall be deemed guilty of a misdemeanor.

Section 22. For the purpose of carrying out the provisions of this act \$3,000 is hereby appropriated out of any money in the state treasury not otherwise appropriated; \$3,000 or so much thereof as may be necessary to be paid in the year 1907 and \$4,000 dollars in the year 1908.

Section 23. That chapter 88, Laws of Utah, 1905, is hereby repealed.

Section 24. This act shall take effect upon approval.

Approved March 11, 1907.

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