

No. 14

AN ACT

Relating to the protection of agriculture and horticulture from plant pests, and amending, revising, consolidating, and changing the law relating thereto; defining the powers and duties of the Department of Agriculture relating thereto; providing penalties, and repealing present laws.

Section 1. Be it enacted, &c., That this act shall be known by the short title of "The Pennsylvania Plant Pest Act of 1927."

"The Pennsylvania Plant Pest Act of 1927."

Short title.

Section 2. That for the purpose of this act the following terms shall be construed, respectively, to mean:

Construction of terms.

(a) The singular and plural forms of any word or term in this act shall be interchangeable and equivalent within the meaning of the act.

Singular and plural forms interchangeable.

(b) The word "person" shall include corporations, companies, societies, associations, partnerships, or any individual or combination of individuals. When construing and enforcing the provisions of this act the act, omission, or failure of any officer, agent, servant, or other individual acting for or employed by any person, as above defined, within the scope of his employment or office, shall in every case be deemed to be the act, omission, or failure of such person, as well as that of the officer, agent, servant, or other employe.

"Person."

(c) The term "plant or plant product" shall mean any plant or portion thereof, whether living or dead.

"Plant or plant product."

(d) The term "plant pests" shall mean insects, plant diseases, or any organisms causing or capable of causing injury or damage to plants or plant products.

"Plant pests."

(e) The term "nursery stock" shall include all field-grown florist stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit-pits, and other seeds of fruit and ornamental trees and shrubs, and other plants and plant products for propagation except field vegetable and flower seeds, bedding plants and other herbaceous plants, bulbs, and roots.

"Nursery stock."

(f) The term "nursery" shall be construed to mean any grounds or premises on or in which nursery stock is propagated and grown for sale, or any grounds or premises on or in which nursery stock is being fumigated, treated, packed, or stored.

"Nursery."

(g) The term "nurseryman" shall mean the person who owns, leases, manages, or is in charge of a nursery.

"Nurseryman."

(h) The term "dealer" shall be construed to apply to any person not a grower of nursery stock who buys nursery stock for the purpose of reselling and reshipping independently of any control of a nursery.

"Dealer."

"Agent."

(i) The term "agent" shall be construed as applying to any person soliciting orders for, or selling, nursery stock under the partial or full control of a nurseryman or of a dealer or other agent. This term shall also apply to any person engaged with a nurseryman, dealer or agent in handling nursery stock on a cooperative basis.

"Inspector" or
"deputy."

(j) The terms "inspector" or "deputy" shall mean any person duly authorized or appointed by the Secretary of Agriculture to act as his agent in carrying out any of the provisions or purposes of this act.

Secretary of Agriculture to enforce provisions of the act.

Section 3. The Secretary of Agriculture is hereby authorized and empowered to enforce all the provisions of this act; and shall have the power to prescribe, modify and enforce such reasonable rules, regulations, and orders as may be needed to carry out the provisions of this act; to issue such permits and certificates as, in his judgment, may be required to print, publish, post, distribute, and otherwise make available to the public, any and all rules, regulations, orders, or information relating to any of the provisions of, or duties imposed by, this act.

Inspection of land, premises, etc., by Secretary of Agriculture.

Section 4. The Secretary of Agriculture or any of his duly authorized inspectors or deputies in carrying out the provisions of this act shall have free access within reasonable hours to any land, premises, building, vehicle, vessel, car, or other place which it may be necessary or desirable for him to enter; and shall have the power to open any bundle, package, or other container of plants or plant products. It shall be unlawful to deny such access to the inspector or deputy, or to hinder, thwart, or defeat such inspection by misrepresentation or concealment of facts or conditions, or otherwise.

Inspection of nurseries and stock.

Section 5. The Secretary of Agriculture, through the inspectors or deputies, shall, at least once each year, inspect all nurseries and other places in which nursery stock is stored or kept for sale. He shall also have the authority to inspect or reinspect, at any time or place, any nursery stock shipped in or into the State, and to treat it as hereinafter provided.

Certificate to nurserymen.

Section 6. The Secretary of Agriculture shall cause to be issued to nurserymen in this State, after the nursery stock in their nurseries has been officially inspected as provided in this act and found to be apparently free from any plant pests, a certificate of inspection signed by the inspector, setting forth the fact of such inspection and the number of acres or fraction thereof inspected. Said certificate shall be valid not to exceed one year from October first.

False declaration.

Section 7. It shall be unlawful for any person intentionally to make a false declaration of acreage or

to cause any concealment of nursery stock from inspection.

Section 8. In case the inspector or deputy shall find present on any nursery or dealer's premises, or any packing ground, or in any cellar or building used for storage or sale of nursery stock, any plant pests, he shall notify the owner or person having charge of the premises in writing to that effect; and the inspector shall withhold his certificate of inspection until he is notified by the owner or person having charge of the premises, and is satisfied, that the premises are freed from such plant pests: Provided, That if the inspector shall find that part of a nursery is infested or infected with any plant pests, and that the remainder of it is not so infested or infected, he may prescribe in writing such measures or precautions, or may make in writing such conditions, as to the use of the certificate of inspection as may, in his judgment, be necessary; and he may withhold the certificate of inspection until such conditions have been accepted in writing by the owner of said nursery; and the use of such certificate of inspection without taking such measures or precautions or observing such conditions shall be regarded as a violation of this act.

When pests are found.

Proviso.

Section 9. Nurserymen, dealers, and agents selling or delivering nursery stock in this State except as herein otherwise provided, shall make application in writing before July first of each year to the inspector, for inspection of their nursery stock growing in this State; or failing to give such notice, such nurserymen, dealers, or agents shall be liable for the additional expense of the inspector for the inspection of the nursery stock.

Application for inspection.

Section 10. All dealers located either within or without the State, engaged in selling or soliciting orders for nursery stock within this State, shall be entitled to a dealer's certificate by furnishing a sworn affidavit that he will buy and sell only stock which has been duly inspected and certified by an official State or Federal inspector, and he shall furnish the inspector, on demand, a list of all sources from which he secured his stock.

Dealer's certificate.

Section 11. Nurserymen, dealers, or other persons residing or doing business outside the State desiring to solicit orders for nursery stock in the State, shall, upon filing with the inspector a certified copy of their original State certificate together with a statement setting forth the exact acreage owned by the applicants and the acreage being grown for them on contract, be entitled to a certificate permitting such persons to solicit orders for nursery stock in this State.

Dealers outside the State.

Agents must have copy of principal's certificate.

Section 12. (a) All agents selling nursery stock or soliciting orders for nursery stock for any nurseryman or dealer located within the State or outside the State shall be required to secure and carry an agent's certificate bearing a copy of the certificate held by the principal. Said agent's certificate shall be issued by the inspector only to agents authorized by their principal or upon request of their principal. Names and addresses of such agents shall not be divulged by the inspector.

Order forms, etc.

(b) Every person selling nursery stock in the State shall, if requested, furnish the inspector with copies of his order forms, contracts, and agreements with his customers, which are furnished for the use of agents or customers or both.

Revocation of certificate.

Section 13. The Secretary of Agriculture shall at any time have the power to revoke any certificate for sufficient cause, including any violation of this act or nonconformity with any rule or regulation promulgated under this act, or if he shall find at any time that a certificate of inspection issued or accepted pursuant to the provisions of this act is being used in connection with plants or plant products which are infested or infected with any plant pest, or is being used in connection with plants or other property which have not been inspected and certified as aforesaid.

Tags.

Section 14. Each person who shall engage in the selling and delivering of nursery stock in the State is hereby required to attach on the outside of each package, box, bale, or carload lot sold or delivered a tag or poster on which shall appear an exact copy of his valid certificate. The use of tags or posters bearing an invalid or altered certificate, and the misuse of any valid certificate tag, is hereby prohibited.

Stock from foreign countries.

Section 15. Every person receiving directly or indirectly any nursery stock from foreign countries shall immediately notify the inspector of the arrival of such shipment, the contents thereof, and the name of the consignor, and shall hold such shipment unopened until duly inspected or released by the inspector, who shall make such inspection with reasonable promptness. In case any infested or infected stock is discovered in such shipment the shipment shall be subject to the provisions of this act.

Imported stock.

Section 16. It shall be unlawful for any person to bring or cause to be brought into the Commonwealth from any other State, territory, district, or country any nursery stock unless there is plainly and legibly marked thereon or affixed thereto, or on or to the car or other vehicle carrying, or on the bundle, package, or other container of the same, in a conspicuous place, a statement or tag or other device showing the names

Requirements.

and addresses of the consignor or shipper and the consignee or the person to whom shipped, the general nature of the contents, together with a certificate of inspection of the proper official of the State, territory, district, or country from which it was brought or shipped, showing that such plant or plant product was found or believed to be free from plant pests. In case any nursery stock is shipped or transported into the Commonwealth from another State, territory, district, or country without a valid certificate plainly affixed as aforesaid, the fact must be promptly reported to the Secretary of Agriculture by the person carrying the same, or the person receiving the same, together with the names of the consignor and consignee and the nature of the shipment; and such person carrying or receiving such stock shall immediately return such stock to the consignor, or shall hold such stock subject to inspection by, or instructions from, the Secretary of Agriculture, and while awaiting such inspection or instruction shall not remove such stock from the original box, bundle, package, or other container.

When without valid certificate.

Section 17. The Secretary of Agriculture may make inspections and surveys to determine the existence or prevalence of, or damage done by, plant pests; may make reports on the same; may collect specimens for study and determination; may establish, in connection with plant products, standards of freedom from plant pests; may issue certificates or statements setting forth the condition of plants and plant products, or other material in relation to plant pests; may make investigations of plant pests, and prescribe methods for treatment or control.

Surveys to determine existence of pests.

Section 18. (a) If the inspector or deputy shall find in or on any land, premises, building, vehicle, vessel, car or other place, plants, plant products, or other material infested or infected with any plant pest, or has reason to believe that such infestation or infection exists, he shall notify in writing the owner or person having charge of such land, premises, building, vehicle, vessel, car, or other place, or both of them, to that effect, and shall state whether the infestation or infection be capable of successful treatment; and the owner or person having charge shall, within ten days after receipt of such notice, or within such longer or shorter period as the notice may state, cause the removal or destruction of such plants, plant products, or other material if incapable of successful treatment; otherwise, cause them to be treated as the inspector may direct. From receipt of such notice and until destruction or treatment as specified has been completed to the satisfaction of the in-

Notice of infection of plants, etc.

Destruction.

Treatment.

spector such land, premises, building, vehicle, vessel, car, or other place shall be considered under quarantine. No damages shall be awarded to the owner for the loss or destruction of such plants, plant products, or other material under this act. Such plants, plant products, or other material shall be deemed to be a public nuisance.

Violation of act.

(b) In case the owner or person in charge shall refuse or neglect to comply with the provisions of paragraph (a) of this section within the time specified he shall be deemed guilty of a violation of this act; and thereafter the inspector, under the direction of the Secretary of Agriculture, may proceed to treat or destroy, or cause to be treated or destroyed, the plants, plant products, or other material. The expense thereof, or such portion of it as the Secretary of Agriculture may direct, shall be collected or neglected, in an action or actions brought against him or them, either jointly or severally, in the same manner as debts of like amount are now recoverable. The amount of such expense when collected shall be paid into the State Treasury: Provided, That such portion of the amount so collected and paid into the State Treasury as shall represent the expenditures thereon by the United States Government in cooperation with the Secretary of Agriculture, as provided hereafter in this act, shall be paid to the United States Government; and for such purposes any such moneys paid into the State Treasury are hereby specifically appropriated.

Action by inspector.

Owner must bear expense.

Proviso.

Pest declared public nuisance.

Section 19. When the Secretary of Agriculture shall determine with reference to any plant pest that it is dangerous or destructive to the agriculture or horticulture of the Commonwealth, he may declare it to be a public nuisance. It shall be unlawful for any person knowingly to permit any plant pest so declared to exist in or on his premises, or to sell, or offer for sale, or give away, any plants, plant products, or other material infected or infested therewith.

Quarantines.

Section 20. (a) Whenever the Secretary of Agriculture believes it necessary for the protection of the agriculture and horticulture of the Commonwealth to prevent the dissemination within the Commonwealth of plant pests which are or may become injurious to plants or plant products, or which are new to or not heretofore widely prevalent or distributed or abundant within and throughout the Commonwealth, or to provide for the control or eradication of such plant pests,—he is authorized and directed to establish quarantines and quarantine restrictions covering any portion or portions of the

Rules and regulations.

Commonwealth in which such plant pest is found, and areas adjacent thereto, and adopt, issue and enforce rules and regulations relative to such quarantine and for the control, limitation, or eradication of such plant pest. The Secretary of Agriculture shall give due notice of the establishment of such quarantines and of the rules and regulations to be issued under them to public carriers and other persons in interest, either directly in writing or by publication in at least two newspapers having general circulation in the areas affected. Under such quarantine the Secretary of Agriculture may prohibit and prevent, without inspection, the movement, shipment, or transportation of any plant or plant product or any other material of any character whatsoever capable of carrying such plant pest in any state of its development; and, further, he may, under such quarantine, intercept, stop, and detain for inspection any person, car, vessel, truck, automobile, wagon, or other vehicle or container suspected or known to carry any plant or plant product or other material in violation of any quarantine or any official rule or regulations thereunder established by authority of this act; and may seize, possess, treat, or destroy, or cause or order to be treated or destroyed when such treatment or destruction is necessary to prevent the spread of such plant pest, any plant or plant product or other material of any character whatsoever moved, shipped, or transported in violation of such quarantine or any rules or regulations thereunder; and may regulate the planting, growing, and harvesting, and may order or require the destruction or other disposition of any plant or plant product infested or infected by such plant pest or liable to become infested or infected or capable of harboring or disseminating such plant pest, under such quarantine rule or regulation.

Publication.

Prohibition of shipments.

Precautions to prevent spread.

When destruction or other disposition of such plants or plant products is ordered the inspector or deputy shall give notice thereof in writing to the owner or person having charge of the lands, premises, buildings, vehicle, vessel, car, or other place where such plants or plant products may be, and the owner or person having charge as aforesaid shall, within such time as shall be specified in such notice, destroy or otherwise dispose of such plants or plant products as required by said order. In case the owner or person having charge shall refuse or neglect to comply with the provisions of this section with respect to the destruction or other disposition of such plants or plant products, he shall be deemed guilty of a violation of this act and thereafter the inspector, under the direction of the Secretary of Agriculture, may proceed to

Notice of destruction.

- destroy or cause to be destroyed or otherwise dispose of such plants or plant products. The expense so incurred or such portion thereof as the Secretary of Agriculture may direct shall be collected or obtained in accordance with the procedure provided for in paragraph (b), section eighteen of this act for the collection of expenses incurred in the destruction of infested plants, plant products, and other materials, and be paid into the State Treasury and disbursed therefrom in the same way and upon the same conditions as the funds under said paragraph (b), section eighteen, are required to be disbursed.
- Expense.**
- Quarantine against other States.** (b) Whenever the Secretary of Agriculture shall find or have reason to believe there exists in any other State, territory, or district or part thereof any dangerous plant pest, and believes that in order to safeguard plants and plant products in this Commonwealth its introduction should be prevented, he is hereby authorized to establish and to enforce by appropriate rules and regulations a quarantine prohibiting or restricting the transportation into or through the Commonwealth or any portion thereof, from such other State, territory, or district, of any nursery stock, plants, fruit seeds, or other articles of any character whatsoever capable of carrying such plant pest.
- Enforcement of U. S. quarantine.** (c) The Secretary of Agriculture is authorized to make rules and regulations for the seizure, inspection, disinfection, destruction, or other disposition of any nursery stock, plant, fruit seed, or other article of any character whatsoever carrying or capable of carrying any dangerous plant pest with respect to which a quarantine shall have been established by the Secretary of Agriculture of the United States and which have been transported to, into or through the Commonwealth in violation of such quarantine.
- Misdemeanor.** Section 21. Any person, copartnership, association, or corporation violating, neglecting, or failing to comply with any provision or requirement of this act or any quarantine rule or regulation made, or of any notice given pursuant thereto, or who shall forge, alter, counterfeit, deface, destroy, or wrongfully use any permit or certificate or copy thereof offered or used in lieu of any original valid permit or certificate provided for in this act, or in any order, rule, or regulation made pursuant thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine or penalty of not more than one hundred dollars for each offense, to be collected by summary conviction before any mayor, burgess, magistrate, alderman, or justice of the peace, as like fines and penalties are now by law collected; and in case of non-payment of said fine, to undergo an imprison-
- Penalty.**

ment in the county jail for a period not exceeding five days: Provided, That any person so convicted shall have the right of appeal as in other cases of summary conviction. The fines collected under this act shall be paid to the Secretary of Agriculture or his agent and by him shall be paid into the State Treasury.

Proviso.

Section 22. The Secretary of Agriculture is authorized whenever he deems such action advisable and necessary, to carry out the purposes of this act to cooperate with the United States Department of Agriculture.

Cooperation with U. S. Department of Agriculture.

Section 23. This act shall not be so construed or enforced as to conflict in any way with any act of Congress regulating movement of plants or plant products in interstate or foreign commerce.

Construction of act.

Section 24. If any section or part of a section of this act shall for any cause be held unconstitutional at any time such fact shall not affect the remainder of this act.

Constitutionality.

Section 25. The following acts are hereby repealed absolutely:

Acts repealed.

"An act to provide for the protection of agriculture and horticulture; and to prevent the introduction into and the dissemination within the Commonwealth of insect and disease pests injurious or harmful to plants or plant products; providing for inspection of nurseries; providing for quarantines necessary to the enforcement of this act; and imposing penalties," approved June twenty-ninth, one thousand nine hundred and seventeen (Pamphlet Laws, six hundred and fifty-seven).

Act of June 29, 1917 (P. L. 657).

"An act to amend sections ten and twenty-two of an act approved the twenty-ninth day of June, Anno Domini one thousand nine hundred and seventeen (Pamphlet Laws, six hundred and fifty-seven), entitled 'An act to provide for the protection of agriculture and horticulture; and to prevent the introduction into and the dissemination within the Commonwealth of insect and disease pests injurious or harmful to plants or plant products; providing for inspection of nurseries; providing for quarantines necessary to the enforcement of this act; and imposing penalties'" approved April twenty-sixth, one thousand nine hundred and twenty-one (Pamphlet Laws, two hundred and eighty-four).

Act of April 26, 1921 (P. L. 284).

"An act providing for the control and eradication of the European wart disease of the potato; imposing certain powers and duties upon the Department of Agriculture; providing penalties; and making an appropriation," approved April eighteen, one thousand nine hundred and nineteen (Pamphlet Laws, seventy-one).

1919 (P. L. 71).

Act of April 6,
1921 (P. L. 112).

“An act to amend section five of an act approved the eighteenth day of April, Anno Domini one thousand nine hundred and nineteen (Pamphlet Laws, seventy-one), entitled ‘An act providing for the control and eradication of the European wart disease of the potato; imposing certain powers and duties upon the Department of Agriculture; providing penalties; and making an appropriation,’ approved April sixth, one thousand nine hundred and twenty-one.

Act of July 2,
1923 (P. L. 991).

“An act providing for the quarantine and control of the Japanese beetle; imposing certain powers and duties on the Department of Agriculture; providing penalties, and making an appropriation,” approved July second, one thousand nine hundred and twenty-three (Pamphlet Laws, nine hundred and ninety-one).

Act of March 30,
1925 (P. L. 91).

“An act providing for the quarantine and control of the European corn borer; imposing certain powers and duties on the Department of Agriculture; providing penalties,” approved March thirtieth, one thousand nine hundred and twenty-five (Pamphlet Laws, ninety-one).

Inconsistent acts
repealed.

All other acts or parts of acts inconsistent with this act are hereby repealed.

Quarantines,
inspections,
permits and
certificates in
force.

Section 26. All quarantines, inspections, permits, and certificates in force at the time of approval of this act under the acts specified in section 25 of this act shall be continued in the same manner and with like authority as if the aforesaid acts had not been repealed.

When enforced.

Section 27. This act shall be in force from and after passage and approval.

APPROVED—The 10th day of March, A. D. 1927.

JOHN S. FISHER

No. 15

AN ACT

To repeal the act, approved the thirtieth day of April, one thousand nine hundred and twenty-five (Pamphlet Laws, three hundred and ninety-six), entitled “An act providing for the admission of testimony given in ejectment suits upon a retrial and in subsequent real issues when the parties claim under a common source.”

Testimony in
ejectment suits.

Section 1. Be it enacted, &c., That the act approved the thirtieth day of April, one thousand nine hundred and twenty-five (Pamphlet Laws, three hundred and ninety-six), entitled “An act providing for the admission of testimony given in ejectment suits upon a retrial and in subsequent real issues when the parties

Act of April 30,
1925, (P. L.
396), repealed.