

The killing of such dogs does not remove the liability of the owner of such damage done by his dog or dogs.

Upon failure, however, of such owner to comply with such order within a period of ten days, any police officer of the township, town, borough, or city in which said dog or dogs are kept, upon notice from the Secretary of Agriculture, shall kill such dog or dogs wherever found. For such service, he shall be entitled to a fee of [two dollars] *one dollar* for each dog so killed, to be paid by the State, upon a certified statement to the Secretary of Agriculture that such dog or dogs have been killed by him. The Secretary of Agriculture shall issue his requisition on the State Treasurer for such amount, unless payment has been made by the owner or keeper of the dog or dogs.

Owner's failure to kill dogs.

Fee of officer for killing dogs.

*Any person who owns or harbors an unlicensed dog or dogs shall forfeit any right to be reimbursed for any damage to his livestock or poultry by dogs.*

Owner of unlicensed dog to forfeit right to damages.

Section 5. This act shall take effect on the first day of June, one thousand nine hundred and thirty-three.

Effective date.

APPROVED—The 25th day of May, A. D. 1933.

GIFFORD PINCHOT

No. 240

AN ACT

To safeguard human health and life in counties of the second class by providing for the licensing and regulation of persons, municipalities, and entities engaged in the transportation of garbage, and in the disposal of garbage through the construction, keeping, maintenance or conduct of garbage disposal plants; conferring powers and imposing duties on the county commissioners of such counties, and otherwise providing for the administration of the act; and imposing penalties.

Section 1. Be it enacted, &c., That for the purpose and within the meaning of this act, the following definitions shall obtain:

Counties of second class. Garbage.

“Adequate provision for drainage” means closed or covered drains leading from floors, depositories of garbage, refuse or waste, into a cesspool or cesspools, sewer and treatment works.

Definitions.

“Adequate water supply” means a head and source of water of sufficient force, pressure and volume, when directly applied, to completely flush out and clean all floors, drains, receptacles, depositories, equipment and implements, used in the conduct of a garbage disposal plant, as often as may be necessary to keep the same clean and sanitary at all times.

“Cesspool” means a hole dug below the surface of the ground adequate to dispose of all liquids emanating from a garbage disposal plant, with a device for absolutely sealing such cesspool at the top.

“Garbage” means the animal or vegetable refuse from the storage, vending, transportation, sale, preparation or use of foodstuffs, such as meats, fish, fowl, fruits or vegetables, or any other organic substance or substances subject to fermentation or decay.

“Garbage disposal plant” means any place where garbage is dumped, spread, mixed, stored, incinerated, reduced, treated, buried or otherwise disposed of.

“Impervious material” means any material which shall make and maintain the floors, depositories of garbage and waste, at all time absolutely water-tight and easily cleaned.

“Municipality” means any county, city, borough, town or township in counties of the second class.

“Person” includes masculine and feminine, and any firm, copartnership, institution, association or corporation, excepting municipal and quasi-municipal corporations, and any agent, servant, assistant, employe or representative thereof.

“Waters of the Commonwealth” means all streams and springs, and all bodies of surface and of ground water, whether natural or artificial, seasonal or constant, within the boundaries of the Commonwealth.

License for  
garbage disposal  
plant required.

Section 2. It shall be unlawful for any municipality or person to keep, maintain or conduct a garbage disposal plant in counties of the second class within this Commonwealth without a plant license from the county commissioners, as in this act provided. It shall also be unlawful for any municipality or person to construct a garbage disposal plant within such counties until the plans and specifications therefor have been submitted to and approved by the county commissioners, and a plant license has been issued by the county commissioners authorizing such municipality or persons to keep, maintain or conduct such garbage disposal plant upon its construction.

Application for  
plant license.

Section 3. Every municipality or person desiring to construct, keep, maintain or conduct a garbage disposal plant within such counties shall file an application for such plant license with the county commissioners. The application shall be on a form prescribed, prepared and furnished by the county commissioners, and, together with such other information as the county commissioners shall require, shall state:

- (a) The name and address of the applicant.
- (b) The name and address of the owner or owners of the property upon which applicant desires to construct, keep, maintain or conduct such garbage disposal plant.
- (c) The location and locality of the property.
- (d) The method to be employed in disposing of garbage.
- (e) The approximate amount of garbage to be disposed of daily.

(f) The municipalities with whom the applicant has a contract for the disposal of garbage and the duration thereof.

If the application is for the construction of a garbage disposal plant, the applicant shall submit with such application the plans and specifications pertaining to such construction.

Section 4. Upon receipt of an application for a plant license, the county commissioners shall cause such investigation as it shall deem necessary to be made of the location and premises where the garbage disposal plant is desired to be constructed, kept, maintained or conducted, and shall make a study of the plans and specifications pertaining to the proposed construction of any garbage disposal plant. The county commissioners shall, when satisfied that the place to be used as a garbage disposal plant is a suitable place for such purpose and is properly equipped therefor, and when all the requirements of this act and the rules and regulations of the county commissioners shall be complied with, issue a plant license to the applicant upon the payment of a license fee of one hundred dollars, except when the applicant is a municipality, which shall be paid into the county treasury. A plant license issued to a municipality shall be without the payment of a fee.

Investigation by county commissioners.

Issuance of license.

License fee.

All plant licenses issued by the county commissioners under this act shall expire on the first day of June next following the day on which issued, unless sooner revoked or suspended, shall be on a form prescribed by the county commissioners, shall not be transferable, shall be issued only for the premises named in the application. shall be posted in a conspicuous place on the applicant's premises, and may be renewed, from year to year, upon application and payment of license fee as in the procurement of an original license. Applications for renewal of plant licenses shall be mailed to license holders by the county commissioners at least thirty days before the expiration date of such licenses.

Expiration of plant license.

Form.

Renewal.

The county commissioners may refuse to grant a plant license, or may suspend or revoke a license, if the applicant or licensee does not meet or conform to the requirements of this act and the rules and regulations of the county commissioners authorized by this act. Before the county commissioners shall refuse to grant such a license, or shall suspend or revoke a license, they shall afford the applicant or licensee an opportunity to be heard, and shall give at least five days' written notice of the hearing to the applicant or licensee by registered letter sent to the address set forth in the application.

Refusal or revocation of license.

Section 5. It shall be unlawful for any person to transport, or cause to be transported, any garbage over any public highway, in any county of the second class, in any vehicle unless such person has applied to, and received from, the county commissioners of such county,

Transportation license for vehicle required.

as in this act provided, a transportation license in respect of such vehicle. Such license shall be in the possession of the driver of such vehicle at all times when garbage is being transported therein and until such vehicle has been thoroughly flushed out and cleaned after transporting garbage, and shall be exhibited to any county or municipal police officer, county road caretaker, constable, deputy constable, or other peace officer, or officer invested with the powers of a peace officer, upon his request.

Application for  
transportation  
license.

Section 6. Every person desiring to transport garbage in any vehicle within any such county shall file an application for a transportation license, in respect of such vehicle, with the county commissioners of such county, upon a form prescribed, prepared and supplied by the county commissioners, which, together with such other information as the county commissioners shall require, shall contain:

- (a) The name and address of the applicant.
- (b) The name and address of the owner of the vehicle, if the same be owned by some person other than the applicant.
- (c) A description of the vehicle sufficient to identify it and to show in detail its style of construction.
- (d) The locality from which the garbage is proposed to be collected.
- (e) The persons and municipal and quasi-municipal corporations with whom and which the applicant has contracts for the collection of garbage.
- (f) The place where, and the method by which, the applicant proposes to dispose of the garbage hauled, and the persons with whom the applicant has contracts for the disposal of garbage.

Inspection by  
county  
commissioners.

Section 7. Upon receipt of an application for a transportation license in respect of any vehicle, the county commissioners shall cause to be made such inspection thereof as they shall consider necessary, and, if satisfied that the vehicle is properly equipped and suitable for the purpose and that the rules and regulations of the county commissioners have been and will be complied with, shall issue a transportation license in respect of such vehicle upon the payment of a license fee, as follows:

License fees.

(a) If the applicant for the transportation license is the licensee under a plant license for a garbage disposal plant situated within the same county where the application for the transportation license is made, the transportation license fee shall be one dollar.

(b) If the applicant for the transportation license is not the licensee under any plant license from the same county, but the garbage which the applicant proposes to transport originates upon the applicant's own premises as an incident only of the prosecution of another business in which the applicant is principally engaged, the transportation license fee shall be five dollars.

(c) If the applicant for a transportation license is a municipality, the transportation license shall be issued without the payment of a fee.

(d) In all other cases, the transportation license fee shall be ten dollars.

All transportation licenses issued by the county commissioners under this act shall expire on the first day of June next following the date on which issued, unless sooner revoked or suspended, shall be in a form prescribed by the county commissioners, shall not be transferable from one person to another, shall not be transferable from one vehicle to another except by action of the board of county commissioners, which action shall be evidenced by the issuance of a new license certificate, properly describing the vehicle to which the license is transferred, after surrender of the old license certificate, and may be renewed, from year to year, upon application and payment of the license fee as in the procurement of an original license. Applications for renewal of transportation licenses shall be mailed to license holders by the county commissioners at least thirty days before the expiration date of such licenses.

Expiration of transportation license.

Form.

Renewal.

The county commissioners may refuse to grant a transportation license, or may suspend or revoke such a license, if the applicant or licensee does not meet, observe or conform to the requirements of this act and the rules and regulations of the county commissioners authorized by this act. Before the county commissioners shall refuse to grant such a license, or shall suspend or revoke a license, they shall afford the applicant or licensee an opportunity to be heard, and shall give at least five days' written notice of the hearing to the applicant or licensee by registered letter addressed to the applicant or licensee at the address set forth in the application.

Refusal or revocation of license.

Section 8. No municipality in such counties shall enter into a contract for the collection, transportation or disposal of its garbage with any person or municipality who or which has not secured proper licenses from the county commissioners under the provisions of this act.

Municipalities not to enter into contracts with those unlicensed.

Section 9. No municipality or person who transports garbage, or who keeps, maintains or conducts a garbage disposal plant, in such counties shall throw, spread or deposit any garbage, offal, pomace, dead animals, decaying matter, or organic waste substance of any kind in any ravine, ditch or gutter, on any street or highway, into any waters of the Commonwealth, or permit the same to remain exposed upon the surface of the ground.

Unlawful disposal of garbage, etc.

No person or municipality shall use or permit his or its property, or property occupied by him, in such counties to be used as a dumping ground or place of disposal for garbage or waste from any garbage disposal plant.

Use of property as dumping ground.

Nothing contained in this section, however, shall be construed so as to interfere with bona fide use of recognized fertilizers for legitimate agricultural purposes.

Noxious odors or substances deleterious to health.

Section 10. No person or municipality who keeps, maintains or conducts a garbage disposal plant in such counties shall allow any noxious exhalations, odors or gases that are or may be deleterious or detrimental to public health or are vile or offensive to escape into the air, or any substance that is deleterious or detrimental to public health to accumulate upon the premises, or be thrown or allowed to discharge into any street, roadway or public place, or be thrown or allowed to discharge into any stream or other waters of the Commonwealth.

Water supply.

Section 11. All garbage disposal plants in such counties shall have an adequate water supply for the purpose of keeping the place clean and sanitary at all times. All floors shall be constructed of concrete or other impervious material, and shall have adequate provision for drainage to a cesspool, to a sewer or treatment works approved by the commissioners.

Construction of floors.

Drainage.

Examination and inspection.

Section 12. The county commissioners shall have the power to visit, examine and inspect all garbage disposal plants, and all vehicles licensed under this act, and all places where such vehicles are kept, stored or garaged. The county commissioners shall have free and full access to the grounds, premises and buildings of any garbage disposal plant licensed under this act and any such vehicle storage place, and all licensees or their employes are hereby directed to give to the commissioners such means, facilities and opportunity for such visitation, examination and inspection as is hereby provided and required.

Municipal ordinances.

Section 13. The provisions of this act and the regulations made hereunder shall not be taken or deemed to repeal existing municipal ordinances, or to prevent municipalities from enacting and enforcing new ordinances for the further protection of the public health: Provided, That this act shall be considered as establishing minimum requirements and regulations, and that nothing herein contained shall be deemed to prevent municipalities from ordaining and enforcing such additional requirements in excess of the requirements and regulations hereunder as may be deemed necessary from time to time for the preservation of public health, and to require applications from and to issue licenses to such persons as may be defined by local ordinances.

Proviso.

Rules and regulations.

Section 14. The county commissioners of such counties are hereby authorized to adopt and promulgate rules and regulations which, in their judgment, are necessary for the proper administration and enforcement of this act.

Plant conducted in violation of act to be a nuisance.

Section 15. Any garbage disposal plant in any county of the second class kept, maintained or conducted in vio-

lation of the provisions of this act is hereby declared to be a public or common nuisance.

Section 16. Any person violating the provisions of this act shall, upon summary conviction before a mayor, burgess, magistrate, alderman, or justice of the peace, be sentenced to pay a fine of not more than one hundred dollars and costs of prosecution for each offense, and, upon the nonpayment thereof, shall undergo imprisonment in the county jail for a term of not more than thirty days: Provided, That any person so convicted shall have the right of appeal as in other cases of summary conviction: Provided also, That the Commonwealth shall have the right of appeal to the appropriate appellate court in all prosecutions arising out of the violation of the provisions contained in this act. The fines collected hereunder, except as otherwise provided by the Constitution, shall be paid into the treasury of the proper county.

Violation.

Penalty.

Appeals.

Fines.

Section 17. At the instance of the county commissioners, an action to enjoin any nuisance, defined in section fifteen of this act, or to enjoin any person or municipality from constructing, keeping, maintaining or conducting a garbage disposal plant without a license, as provided for in this act, may be brought in the name of the proper county by the district attorney of the county where such nuisance exists, or where such person or municipality proposes to or has constructed or proposes to or is keeping, maintaining or conducting a garbage disposal plant without a license. Such action shall be brought and tried as an action in equity, and may be brought in the court of common pleas of the county where such nuisance exists, or where such person or municipality proposes to or has constructed or proposes to or is keeping, maintaining or conducting such garbage disposal plant without a license. If it is made to appear, by affidavit or otherwise, to the satisfaction of the court that such a nuisance exists, or that such person or municipality proposes to or has constructed or proposes to or is keeping, maintaining or conducting a garbage disposal plant in counties of the second class without a license, a temporary writ of injunction shall forthwith issue, restraining the defendant from conducting or permitting the continuance of such nuisance, or from constructing or keeping, maintaining or conducting such garbage disposal plant, until the conclusion of the proceedings. No bond shall be required in instituting such proceedings. If after hearing the court shall find such nuisance to exist, or that such person or municipality proposes to or has constructed or proposes to or is keeping, maintaining or conducting a garbage disposal plant without a license, it shall forthwith enter a final decree ordering such nuisance to be abated, or enjoining such person or municipality from constructing or from keep-

Actions to abate nuisance or enjoin unlicensed plants.

Injunction.

ing, maintaining or conducting such garbage disposal plant without a license.

Constitutionality.

Section 18. It is the intention of the General Assembly that if this act cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding unconstitutional any part or parts thereof, the remaining provisions of the act shall be given full force and effect as completely as if the part or parts held unconstitutional had not been included herein.

Effective date.

Section 19. This act shall become effective on the first day of June, one thousand nine hundred and thirty-three.

Repeal.

Section 20. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

APPROVED—The 25th day of May, A. D. 1933.

GIFFORD PINCHOT

No. 241

AN ACT

To amend the title, and sections one and three, of the act, approved the fourteenth day of April, one thousand nine hundred and thirty-one (Pamphlet Laws, thirty-eight), entitled "An act regulating the removal or dismissal of policemen and firemen in cities of the second class A," extending the provisions of said act with respect to policemen to cities of the second class.

Cities of second and second A classes.

Title and sections 1 and 3, act of April 14, 1931 (P. L. 38), amended.

Section 1. Be it enacted, &c., That the title, sections one and three of the act, approved the fourteenth day of April, one thousand nine hundred and thirty-one (Pamphlet Laws, thirty-eight), entitled "An act regulating the removal or dismissal of policemen and firemen in cities of the second class A," are hereby amended to read as follows:

AN ACT

Regulating the removal or dismissal of policemen and firemen in cities of the second class A, and the removal of policemen in cities of the second class.

Cities of second class—policemen.

Cities of second A—policemen and firemen.

Removal or dismissal.

Section 1. Be it enacted, &c., That no regularly appointed policeman [or fireman] in cities of the *second class*, and no regularly appointed policeman or fireman in cities of the second class A, shall be removed or dismissed without his written consent, except by the decisions of court, either of trial or inquiry, duly determined and certified in writing to the mayor, which court shall be composed of three persons belonging to the police or fire force equal or superior in official position therein to the accused. Such decisions shall only be determined by trial of charges, with plain specifications made by or lodged with the director of the department of public safety, of which trial the accused shall have