

No. 172

AN ACT

HB 1468

Amending the act of March 28, 1929 (P.L.86, No.97), entitled, as amended, "An act relating to the grading and sale of grapes, potatoes, apples and peaches in this Commonwealth; providing penalties for violations; and imposing certain duties upon the Department of Agriculture," excluding grapes from the provisions of the act; redefining "closed package"; and limiting the right of agents of the department to enter upon certain premises.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title and sections 1, 2, 3, 4 and 6, act of March 28, 1929 (P.L.86, No.97), entitled, as amended, "An act relating to the grading and sale of grapes, potatoes, apples and peaches in this Commonwealth; providing penalties for violations; and imposing certain duties upon the Department of Agriculture," reenacted and amended May 21, 1943 (P.L.412, No.191), are amended to read:

AN ACT

Relating to the grading and sale of [**grapes,**] potatoes, apples and peaches in this Commonwealth; providing penalties for violations; and imposing certain duties upon the Department of Agriculture.

Section 1. Be it enacted, &c., That the term "closed package," wherever used in this act, shall mean a basket, box, bag, or other container the contents of which cannot be adequately inspected without opening it *except when packaged in packages of less than three pounds net weight or twelve specimen and if fifty per cent of each specimen is visible to the consumer*. The terms "shipment" or "ship for sale," wherever used in this act, shall mean movement to market in a railroad car, motor truck, or other medium of transportation, but shall not be construed to include process of delivery to a local warehouse or shipping station.

Section 2. The Secretary of Agriculture of the Department of Agriculture of this Commonwealth is hereby authorized and empowered, after investigation, to establish and promulgate official standards of quality for grading and classifying [**grapes,**] potatoes, apples and peaches and to change any of them from time to time. The official standards so established and promulgated shall be the same in their requirements as the requirements of the official standards for corresponding grades of [**grapes,**] potatoes, apples or peaches as promulgated from time to time by the Secretary of Agriculture of the United States, which standards are commonly known as "United States Grades."

From and after the establishment of specific grades or standards of quality as hereinbefore provided [**grapes,**] potatoes, apples and peaches in

closed packages shall not be shipped for sale or thereafter sold or exposed for sale except by the grades or standards so established: Provided, however, That **[grapes,]** potatoes, apples and peaches not graded and classified as to quality may be shipped for sale or sold exposed for sale as "unclassified," if so marked in a conspicuous manner in accordance with rules to be adopted by the Secretary of Agriculture of the Department of Agriculture of this Commonwealth as hereinafter provided.

Section 3. **[Grapes, potatoes,]** *Potatoes*, apples and peaches in closed packages, if not definitely marked as "unclassified" as hereinbefore provided, shall be marked in a plain and conspicuous manner with a statement of (1) the grade, (2) the contents in cubic measure or weight, (3) the name and address of the person or association under whose authority the **[grapes,]** potatoes, apples or peaches are packed.

In case the marking is changed the person making the same shall cancel the name and address included in the original marking and substitute therefor his own name and address.

Section 4. (a) No person shall sell, expose for sale, or transport for sale, **[grapes,]** potatoes, apples or peaches in closed packages if the package containing them, the label on them, or any advertising accompanying them, shall bear any statement, design, or device regarding the **[grapes,]** potatoes, apples or peaches, which shall be false or misleading in any particular.

(b) No person shall sell, expose for sale, or transport for sale in closed packages, **[grapes,]** potatoes, apples or peaches packed in such manner that the face or shown surface shall not be an average of the contents of the package.

(c) When **[grapes,]** potatoes, apples or peaches in closed packages are delivered to a common carrier for shipment such delivery shall be presumptive evidence that the **[grapes,]** potatoes, apples or peaches are intended for sale.

Section 6. The enforcement of this act shall be vested in the State Department of Agriculture, and its officers, employes and agents are authorized to enter upon the premises of any person within this State **[for the purpose of purchasing packages of grapes,]** *when he is selling or offering for sale* potatoes, apples or peaches and securing evidence of violation of this act; and the Secretary of Agriculture of this Commonwealth is hereby authorized to make such rules and regulations as may be necessary for enforcing its provisions.

APPROVED—The 9th day of July, A. D. 1976.

MILTON J. SHAPP