

No. 306

AN ACT

To prohibit the sale and offer for sale of the labeled artificial flowers of certain veterans' organizations except on the days appointed for such purpose.

Section 1. Be it enacted, &c., That it shall be unlawful for any person to imitate, sell or offer to sell the labeled artificial flowers of the American Legion, Veterans of Foreign Wars, Spanish American War Veterans, and Disabled American Veterans of the world war, namely the poppy, the buddy poppy, carnation, and the forget-me-not, except on the day or days designated or appointed by the respective veterans organizations to conduct such sales. Any person violating the provisions of this act shall, upon conviction in a summary proceeding, be sentenced to pay a fine of not more than fifty dollars (\$50), and in default of the payment of such fine and costs shall be sentenced to imprisonment for ten days.

Prohibiting the imitation and sale of artificial flower of veterans' organizations.

Violations.

APPROVED—The 2d day of June, A. D. 1937.

GEORGE H. EARLE

—
No. 307

AN ACT

To protect the public against fraud and deception; regulating the business of selling liquid fuels by requiring persons engaged in the sale or distribution of liquid fuels to secure a permit or permits for pumps or outlets used therein; prescribing the method and manner of obtaining such permit or permits and prescribing the fees for the issuance thereof; conferring powers and imposing duties on the Department of Revenue and prescribing penalties.

Section 1. Be it enacted, &c., That, as used in this act, the term "liquid fuels" shall include all distillates of, and condensates from, petroleum, natural gas, coal, coal tar, vegetable ferments, and other oils, including among others, gasoline, naphtha, benzol, benzine, or alcohols, which are ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, except kerosene, fuel oil, and gas oil: Provided, That petroleum naphtha, which distill, by American Society of Testing Materials Methods D 86-27, or United States Bureau of Mines Method 100.13, not more than nine (9) per centum at 176° F sold for any purpose other than use in internal combustion engines for the generation of power, and which are not ordinarily, practically, and commercially usable in internal combustion engines, are not included in the definition of "liquid

Liquid fuels.
Definitions.

fuels": Provided, further, That kerosene, fuel oil, and gas oil used in internal combustion engines for the generation of power to propel vehicles of any kind or character, which use the public highways in this Commonwealth, shall be included within the definition of "liquid fuels."

The word "person" shall include natural persons, copartnerships, associations and corporations.

Section 2. (a) On and after the effective date of this act, it shall be unlawful for any person to use or operate a liquid fuels pump or outlet from which liquid fuels are sold within this Commonwealth unless a liquid fuels pump or outlet permit or permits shall have been issued to him as hereinafter prescribed.

(b) Every person desiring to use or operate any liquid fuels pump or outlet from which liquid fuels are sold within this Commonwealth shall file an application for a liquid fuels pump or outlet permit or permits with the department. Every application for a liquid fuels pump or outlet permit shall be made upon a form prescribed, prepared and furnished by the department, and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business within this Commonwealth and the number and location of each pump or outlet, whether or not the applicant is the holder of a mercantile license in effect when the application is made, and if so the number of such license and the county for which such license was issued, and such other information as the department may require. If the applicant has or intends to have more than one place of business within the Commonwealth, the application shall state the location of each place of business. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation the names and addresses of the principal officers thereof, and any other information prescribed by the department for purposes of identification. The application shall be signed and verified by oath or affirmation by the owner if a natural person, and in the case of an association by a member or partner thereof, and in the case of a corporation by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his authority.

At the time of making such application the applicant shall pay to the department a permit fee of one dollar (\$1.00) for each permit, and a separate permit shall be required for each pump or outlet provided.

Upon approval of the application and the payment of the permit fee or fees herein required, the department shall grant and issue to each applicant a liquid fuels

pump or outlet permit for each liquid fuels pump or outlet at each place of business within the Commonwealth set forth in his application. Liquid fuels pump or outlet permits shall not be assignable and shall be valid only for the persons in whose names issued and for the transaction of business at the places designated therein, and shall at all times be conspicuously displayed upon the pumps or outlets for which issued.

All permits shall expire on the thirtieth day of June next succeeding the date upon which they are issued, unless sooner suspended, surrendered or revoked for cause by the department.

(c) Permits issued under the provisions of this act may be renewed annually before the first day of July upon application made to the department and the payment of a renewal fee of one dollar (\$1.00).

Whenever any permit issued under the provisions of this act is defaced, destroyed or lost, the department may issue a duplicate permit to the holder of the defaced, destroyed or lost permit upon the payment of a fee of fifty cents (\$.50).

(d) The department may suspend or, after hearing, revoke a liquid fuels pump or outlet permit whenever it finds that the holder thereof has failed to comply with any of the provisions of this act or any rules or regulations of the department prescribed, adopted and promulgated under this act. Upon suspending or revoking any liquid fuels pump or outlet permit, the department shall request the holder thereof to surrender to it immediately all permits or duplicates thereof issued to him, and the holder shall surrender promptly all such permits to the department as requested. Whenever the department suspends a liquid fuels pump or outlet permit, it shall notify the holder immediately and afford him a hearing if desired and if a hearing has not already been afforded. After such hearing the department shall either rescind its order of suspension or, good cause appearing therefor, shall continue the suspension or revoke the permit.

Section 3. (a) Every person engaged in the business of selling liquid fuels to the consumer shall at all times have posted at his place of business, in a conspicuous place at or near the pumps or containers from which such products are dispensed, a sign showing the price for which said liquid fuel is sold.

(b) No person shall sell, or offer to sell, or cause to be sold, any liquid fuels at a price different from the price thereof so posted as required by this act.

(c) No person shall, in an attempt to evade the provisions of this act, give, or offer to give, any liquid fuels or any merchandise or anything of value or any service for which payment is ordinarily required to any

purchaser or prospective purchaser of any liquid fuels.

Section 4. It shall be unlawful for any person to sell, offer to sell, or cause to be sold, any liquid fuel unless the price thereof is plainly posted as herein provided.

Section 5. It shall be unlawful for any person to sell, deliver, cause or permit to be sold, any liquid fuel manufactured under a specific trade-mark or distinctive trade name unless there shall be attached to or near the point or outlet from which liquid fuel is drawn for sale or delivery a sign or label comprising the trade name or trade-mark of said liquid fuel.

Section 6. It shall be unlawful for any person to sell, offer to sell, or cause to be sold, any liquid fuels less than at the price posted in accordance with the requirements of this act.

Section 7. It shall be unlawful for any person, in an attempt to evade the provisions of this act, to give or offer to give any liquid fuels or any merchandise or anything of value or any service for which payment is ordinarily required to any purchaser or prospective purchaser of any liquid fuels.

Section 8. Whenever any liquid fuel shall be designated by a trade-mark or distinctive trade name, it shall be unlawful for any person to sell, deliver, cause or permit to be sold, any liquid fuel not made by the producer, using said trade-mark or trade name.

Section 9. It shall be unlawful for any person to sell, or offer for sale, any liquid fuel in any manner whatsoever which may deceive, tend to deceive, or have the effect of deceiving the purchaser of such products as to the nature, quality or quantity of the products so sold, exposed or offered for sale, and where a branded product is offered for sale, either by sign, poster or advertisement, it shall specify the name or trade name of such product, and where the product is not of a particular brand, such sign, poster or advertisement shall designate the same as "unbranded."

Section 10. It shall be unlawful for any person to disguise or camouflage his own equipment by imitating the design, symbol or trade name of the equipment under which recognized brands of liquid fuels are generally marketed.

Section 11. It shall be unlawful for any person to mix, blend or compound liquid fuels of any manufacturer or distributor with the products of any other manufacturer or distributor, or to adulterate the same, or to expose or offer for sale or sell such mixed, blended or compounded products under the trade name, trade-mark or other distinguishing mark of either of such manufacturers or distributors, or as the adulterated products of such manufacturer or distributor: Pro-

vided, however, That nothing herein shall prevent the lawful owner thereof from applying its trade-mark, trade name or symbol to any product or material manufactured by him. Proviso.

Section 12. It shall be unlawful for any person or persons to aid or assist any other person in violating any of the provisions of this act by the depositing or delivering into any tank or receptacle or other container any liquid fuels other than those indicated by trade name, trade-mark or other distinguishing mark displayed on the container itself or on the pump or other distributing device used in connection therewith, or by any other means to aid or assist another in the violation of any of the provisions of this act.

Section 13. Any person, copartnership, association or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five thousand dollars (\$5,000), or, in the case of individuals, the members of copartnerships and associations and the officers and managers of corporations, to undergo imprisonment for not more than one year, or both, in the discretion of the court. The Department of Revenue is hereby charged with the enforcement of the provisions of this act and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce the rules and regulations for any matter or thing pertaining to the administration and enforcement of the provisions of this act.

Section 14. The provisions of this act shall be severable, and if any of the provisions shall be held to be unconstitutional, such decision shall not affect the validity of any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional provision not been included therein. Constitutional
provision.

Section 15. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Section 16. This act shall become effective upon the first day of July, one thousand nine hundred and thirty-seven. When effective.

APPROVED—The 2d day of June, A. D. 1937.

GEORGE H. EARLE