

Section 12. Every employment agent shall keep a register or registers, approved by the secretary, in which shall be entered, in the English language, the date of any application for employment, the name and address of the applicant, the amount of the fee received, and, whenever possible, the names and addresses of former employers or persons to whom such applicant is known, and the final disposition of the applicant's case, *and in case of applicants under twenty-one years of age for employment, the age of the applicants and the names and addresses of parents or guardians*; a similar record of all applications of persons seeking employes, the date of such application, the kind of help required, the names of the persons sent, the record of the ones so sent, if any, who were employed as a result thereof, the amount of the fee received, and the rate of wages agreed upon. No person shall make any false entry in such register.

Register.

It shall be the duty of the employment agent, whenever possible, to communicate, orally or in writing, with at least one of the persons mentioned as reference by any applicant for work in private families, or to be employed in a fiduciary capacity, and the result of such investigation shall be kept on file in such agency: Provided, That if the applicant for help voluntarily waives, in writing, such investigation of references, the employment agent shall not be required so to do.

Inquiry of references.

Section 24. Any person who violates any of the provisions of paragraphs (e), (f), (g), or (h), of section [twenty-three] *twenty-two* of this act, shall be guilty of a misdemeanor, and, upon conviction thereof before a court of competent jurisdiction, shall be sentenced to pay a fine of not less than one hundred dollars (\$100), or more than one thousand dollars (\$1,000), and costs of prosecution, or undergo imprisonment in the county jail for a period of not more than one year, or both, at the discretion of the court.

Violations of other paragraphs.

APPROVED—The 25th day of May, A. D. 1937.

GEORGE H. EARLE

No. 241

AN ACT

For the protection of producers of farm produce; providing for the licensing, the bonding or holding collateral of and the regulation of certain dealers in farm produce, as herein defined, within this Commonwealth; conferring powers, and imposing duties on the Department of Agriculture; providing for appeals and injunctions; and prescribing penalties.

Section 1. Be it enacted, &c., That the following words or phrases, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

Producers of farm produce. Definitions.

(a) "Dealer in farm produce" means any person, association, copartnership or corporation engaged in the business of buying, receiving, selling, exchanging, negotiating, or soliciting the sale, resale, exchange or transfer of any farm produce, and includes every person, association, copartnership or corporation receiving or purchasing farm produce on consignment or on a net return basis.

(b) "Department" means the Department of Agriculture of this Commonwealth.

(c) "Farm produce" includes all agricultural, horticultural,* vegetable, fruit, and floriculture products of the soil; poultry, eggs, nuts, flowers, and honey, but shall not include timber products, tea, coffee or livestock.

(d) "Net return basis" means a purchase for sale of farm produce from a producer or shipper at an unfixed or unstated price at the time the produce is shipped from the point of origin, and it shall include all purchases made "at the market price," "at net worth," and on similar terms, which indicate that the buyer is the final arbiter of the price to be paid.

(e) "On consignment" means any receiving or sale of farm produce for the account of a person, other than the seller, wherein the seller acts as the agent for the owner.

(f) "Producer" means any producer of farm produce in this Commonwealth.

Application of the act.

Section 2. The provisions of this act shall not apply to—

(a) The sale of farm produce for cash, cash to mean settlement in full on or before delivery;

(b) Farmers who sell farm produce raised by themselves, or who, at the time of such sales, sell farm produce raised by their neighbors on behalf of such neighbors;

(c) Seeds sold at retail;

(d) Agricultural cooperative associations which market farm produce for their members.

Unlawful after December 31, 1937, to operate without a license.

Section 3. On and after December thirty-first, one thousand nine hundred and thirty-seven, it shall be unlawful for any dealer in farm produce to engage in business in this Commonwealth, unless he or it shall hold a license issued by the department as provided in this act.

Dealers must file an application for a license on or before December 1.

Section 4. Every dealer in farm produce, desiring to transact business within this Commonwealth, shall annually on or before December first, file an application for such license with the department. The application shall be on a form furnished by the department, and, together with such other information as the department shall require, shall state—

(a) The kind or kinds of farm produce which the applicant proposes to handle;

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* "horicultural" in the original.

(b) The full name or title of the applicant, or if the applicant be an association or copartnership, the name of each member of such association or copartnership, or if the applicant be a corporation, the name of each officer of the corporation;

(c) The names of the local agent or agents of the applicant, if any;

(d) The cities, boroughs, towns, and townships within which places of business of the applicant will be located, together with the street or mailing address of each.

Section 5. Unless the department refuses the application on one or more of the grounds hereinafter provided, it shall issue to such applicant, upon the payment of proper fees and the execution and delivery of a bond as hereinafter provided, a license entitling the applicant to conduct business as a dealer in farm produce at each place named in the application, until the thirty-first day of December in the year next following. The fee for such license shall be ten dollars (\$10.00) for each place of business which the applicant desires to conduct and names in the application.

License shall be issued upon payment of fees and the furnishing of proper bond.

Section 6. Before any license shall be issued the applicant therefor shall make and deliver to the department a surety bond in the amount of at least three thousand dollars (\$3,000), or in such greater amount as the department may determine, not exceeding the maximum amount of business done or estimated to be done in any month by the applicant, executed by a surety corporation, authorized to transact business in this Commonwealth, to the Commonwealth of Pennsylvania to the use of producers of farm produce handled by the applicant. Such bond shall be upon a form prescribed or approved by the department and shall be conditional to secure the faithful accounting for and payment to producers of the proceeds of all farm produce handled or sold by such dealer. Actions or suits upon the appropriate bond may be brought directly by any producer, his representatives, successors or assigns, to whom the principal named in such bond has failed to render an account or to make payment for farm produce, in any court of competent jurisdiction to recover for any loss or damage resulting from such breach of the condition of such bond: Provided, however, That in lieu of such bond, the department may accept and hold sufficient collateral of the applicant, which shall, in all respects, be subject to the same claims and actions as would exist against the bond: And provided further, That if the bond or collateral thus posted shall be insufficient to pay in full the valid claims of producers, the department may direct that the proceeds of such bond or collateral shall be divided pro rata among such producers.

Bonds.

Proviso.

Proviso.

Section 7. Every dealer in farm produce shall, upon the receipt of farm produce for which payment is not

Dealers to keep records.

made on delivery, and as he handles and disposes of the same, make and preserve for at least two years a record thereof, specifying the name and address of the producer consigning such farm produce, the date of receipt, the kind and quality of such produce, the amount of goods sold, the name and address of the purchaser, except that where sales total less than five dollars (\$5.00) in value, such sales may be made to order of "cash," the selling price thereof, and the items of expenses connected therewith. An "account sales," together with payment in settlement for said shipment, shall be mailed to the producer within forty-eight hours after the sale of such farm produce, unless otherwise agreed in writing.

Department
authorized to
investigate
dealers.

Section 8. The department shall have power to investigate upon complaint, in such form as it may require, of an interested person* or upon its own initiative, the record of any applicant or licensee, or any transaction involving the solicitation, receipt, sale or attempted sale of farm produce, the failure to make proper and true accounts and settlements at prompt and regular intervals, the making of false statements as to condition, quality or quantity of goods received or while in storage, the making of false statements as to market conditions with intent to deceive, or the failure to make payment for goods received, or other alleged injurious transactions. For such purposes the department may examine, at the place or places of business of the applicant or licensee, his ledgers, books of accounts, memoranda, and other documents which relate to the transaction involved, and may take testimony thereon under oath.

Department may
refuse to grant
or may revoke
a license.

Section 9. The department may decline to grant a license or may suspend or revoke a license already granted if it is satisfied that the applicant or licensee has either—

Reasons.

(1) Suffered a money judgment to be entered against him upon which execution has been returned unsatisfied; or

(2) Made false charges for handling or services rendered; or

(3) Failed to account promptly and properly, or to make settlements with any producer; or

(4) Made any false statement or statements as to condition, quality or quantity of goods received or held for sale when he could have ascertained the true condition, quality or quantity by reasonable inspection; or

(5) Made any false or misleading statement or statements as to market conditions or service rendered; or

(6) Been guilty of a fraud in the attempt to produce or the procurement of a license; or

(7) Directly or indirectly purchased farm produce received on consignment or on a net return basis for his

* "persons" in the original.

own account, without prior authority from the producer, consigning the same, or without notifying such producer.

Section 10. Before the department shall refuse, suspend or revoke any license it shall give ten days' notice, by registered mail, to the applicant or licensee of a time and place of hearing. At such hearing the applicant or licensee shall be privileged to appear in person or by or with counsel and to produce witnesses. If the department shall find the applicant or licensee shall have been guilty of any of the acts provided in section nine of this act, the department may refuse, suspend or revoke such license, and shall give immediate notice of its action to the applicant or licensee.

Department shall give notice of its action.

Section 11. Any applicant or licensee aggrieved by any decision of the department, shall have the right of appeal therefrom, within thirty days from the date of notice, to the court of common pleas of Dauphin County.

Appeals.

From a decision of the court of common pleas of Dauphin County an appeal may be taken by either party to the Superior or Supreme Court of Pennsylvania, as in other cases.

No appeal shall act as a supersedeas, but pending final disposition of an appeal under this section, the department may, for special cause shown, grant, in writing, temporary permission, revocable at any time and subject to such terms and conditions as the department may prescribe, to transact business as a dealer in farm produce, but unless such permission be granted, any applicant to whom a license has been refused, and any licensee whose license has been revoked by the department, who shall do business as a dealer in farm produce, shall be liable therefor to the same extent as if no application had been filed.

Section 12. Any dealer in farm produce violating the provisions of section three of this act, or interfering* with an agent of the department in the enforcement of this act, shall for the first or second offense, upon conviction in a summary proceeding, be sentenced to pay a fine of not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00) and costs of prosecution, and in default of payment of such fine and costs, shall be sentenced to undergo imprisonment in the county jail for a period not exceeding sixty (60) days, and for a third or subsequent offense shall be guilty of a misdemeanor and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), or to undergo imprisonment not exceeding one year, or both, in the discretion of the court.

Violations.

Penalties.

Section 13. The Attorney General, at the request of the department, may, in the name of the Commonwealth,

Attorney General.

* "interfering" in the original.

institute proceedings in equity in the court of common pleas of Dauphin County for the purpose of enjoining the conduct of business in this Commonwealth contrary to the provisions of this act, and for such purpose jurisdiction is hereby conferred upon said court. In such case the Attorney General shall not be required to give bond.

Section 14. The department shall enforce and shall adopt, rules, and regulations deemed necessary to carry out the provisions of this act.

License fees and fines to be paid into the General Fund.

Section 15. All moneys received from license fees and fines shall be immediately paid by the department into the State Treasury, through the Department of Revenue, and credited to the General Fund.

Constitutional provision.

Section 16. The provisions of this act shall be severable, and if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect the validity 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.

APPROVED—The 27th day of May, A. D 1937.

GEORGE H. EARLE

No. 242

AN ACT

To further amend sections two, three, and four of the act, approved the eighth day of May, one thousand nine hundred and nine (Pamphlet Laws, four hundred seventy), entitled "An act to prevent the manufacture and sale of adulterated or misbranded drugs; defining the word 'drug'; prescribing penalties for violation of this act, and the method of its enforcement," by further defining the standards for drugs and adulteration of drugs.

Sections 2 and 3, act of May 8, 1909 (P. L. 470), as amended by act of April 9, 1929 (P. L. 462), further amended.

Section 1. Be it enacted, &c., That sections two and three of the act, approved the eighth day of May, one thousand nine hundred and nine (Pamphlet Laws, four hundred seventy), entitled "An act to prevent the manufacture and sale of adulterated or misbranded drugs; defining the word 'drug'; prescribing penalties for violation of this act, and the method of its enforcement," as last amended by the act, approved the ninth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws, four hundred sixty-two), are hereby further amended to read as follows:

Drug defined.

Section 2. That the term "drug," as used in this act, shall include all medicines and preparations recognized in the [tenth] *latest* revision of the Pharmacopoeia of the United States, the [fifth] *latest* edition of the National Formulary, or the American Homeopathic Phar-