

Section 5. This act shall become effective immediately upon final enactment, When effective.

APPROVED—The 28th day of May, A. D. 1937.

GEORGE H. EARLE

No. 275

AN ACT

To re-enact and amend the title and act, approved the twenty-eighth day of March, one thousand nine hundred and twenty-nine (Pamphlet Laws, eighty-six), entitled "An act relating to the grading and sale of grapes in this Commonwealth, providing penalties for violations, and imposing certain duties upon the Department of Agriculture," extending the provisions of said act to potatoes; and changing the penalties prescribed.

Section 1. Be it enacted, &c., That the title and act, approved the twenty-eighth day of March, one thousand nine hundred and twenty-nine (Pamphlet Laws, eighty-six), entitled "An act relating to the grading and sale of grapes in this Commonwealth, providing penalties for violations, and imposing certain duties upon the Department of Agriculture," are hereby re-enacted and amended to read as follows:

AN ACT

Relating to the grading and sale of grapes *and potatoes* 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. 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.

Grapes and potatoes.

Grading and sale. Terms defined.

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, classifying, and packing grapes *and potatoes* packed or repacked within the State and to change any of them from time to time. [In establishing such standards he shall take into account, among other things, the factors of maturity, color, firmness of attachment to capstems, compactness of bunches, and damages caused by freezing or by disease or insects.] The official standards so established and promulgated shall

Official standards of quality.

be the same in their requirements as the requirements of the official standards for corresponding grades of grapes *or potatoes* as promulgated from time to time by the Secretary of Agriculture of the United States, which standards are commonly known as "United States Grades."

Sale according to grade.

From and after the establishment of specific grades or standards of quality as hereinbefore provided grapes *and potatoes* 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 *and potatoes* 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.

Proviso.  
Unclassified grades.

Marking of closed packages.

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

Change of marking.

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.

Misrepresentation.

Section 4. (a) No person shall sell, expose for sale, or transport for sale, grapes *or potatoes* 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 *or potatoes*, which shall be false or misleading in any particular.

Face must show average of contents.

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

Evidence of intended sale.

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

Violation.

Section 5. Any person who violates any of the provisions of this act shall, [be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars for the first offense, and not less than one hundred dollars nor more than five hundred dollars for each subsequent offense] *upon summary conviction thereof, for the first offense be sentenced to pay*

Penalty.

*a fine of not less than twenty-five dollars nor more than fifty dollars and the costs of prosecution, and for subsequent offenses be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars and the costs of prosecution, or in default of such fine and costs, be imprisoned in the county jail for not less than ten days nor more than thirty days.* All penalties, costs, and fines collected under this act shall be paid to the Secretary of Agriculture of the Department of Agriculture of this Commonwealth, or his agent, and by him shall be paid into the State Treasury for the use of the Commonwealth.

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 or potatoes 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. Enforcement.

Section 7. This act *as amended* shall take effect June first, one thousand nine hundred and [twenty-nine] *thirty-seven*. When effective.

Section 8. All acts and parts of acts inconsistent with this act are repealed. Repeal.

APPROVED—The 28th day of May, A. D. 1937.

GEORGE H. EARLE

No. 276

AN ACT

To prevent fraud and deception; regulating the weights and measures in the sale or offering for sale of fruits and vegetables in this Commonwealth; regulating sales of fruits and vegetables in original unbroken standard containers; imposing certain powers and duties on the Department of Internal Affairs and county and city inspectors of weights and measures; and prescribing penalties.

Section 1. Be it enacted, &c., That the term "original unbroken standard container," as used in this act, shall be construed to mean any barrel, box, basket, bag or similar container approved by any proper Federal agency as a standard container for fruits and vegetables under or in accordance with any act of the Congress of the United States or approved under or in accordance with the laws of this Commonwealth or under the authority of this act by the Department of Internal Affairs of this Commonwealth, and the contents of which have not been removed or repacked by any person whatever. Weights and measures.