

ment, approval by the railroad commission, and ratification by the electors, shall be applicable to the contracts authorized hereby and said railroad commission shall, when any such contract is approved by it and consummated co-operate with the parties in respect to making valuations, appraisal, estimates and other determinations specified in such contract to be made by it.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 26, 1919.

No. 248, S.]

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CHAPTER 670.

AN ACT to create sections 1495—1 to 1495—37, inclusive, paragraph (j) of subsection (4) and subsection (9) of section 20.60 of the statutes, creating a division of markets within the department of agriculture, prescribing its duties and powers, making an appropriation therefor and providing penalties.

The people of the state of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. Thirty-seven new sections are added to the statutes to read: Section 1495—1. "Farm products" means any agricultural or horticultural product, any fresh or salt water food product, or any product designed for food or feed purposes, manufactured or prepared principally from agricultural or horticultural products;

"Marketing" includes preparing for market, transporting, consigning, buying for purposes of manufacture or sale, offering for sale, selling, soliciting, consigning, or receiving on consignment;

"Director" means director of the division of markets;

"Board" means the board mentioned in subsection 1 of section 1495—2.

Section 1495—2. 1. A division of markets, in charge of a director is created in the department of agriculture. The director shall be appointed with the approval of the governor by a board consisting of the following ex officio members: the commissioner of agriculture, the secretary of state and the attorney general. His term of office shall be four years and until his successor qualifies. The provisions of chapter 16 do not apply to such appointment. The director shall receive an annual salary not exceeding five thousand dollars.

2. The board may meet at least once each month in an ad-

visory capacity and may invite such persons to meet with it as the board may determine. Such persons so called in shall be reimbursed for their necessary traveling expenses actually incurred in attending meetings of the board, such traveling expenses to be paid out of the appropriation provided for in subsection (9) of section 20.60.

3. In addition to other methods of removal provided by law, the director may be removed by joint resolution of the legislature adopted by an aye and nay vote of at least a majority of the members elected to each house.

Section 1495—3. The director shall have a general understanding of matters relating to distributing, grading, packing and preparing for market farm products. He shall devote his entire time to the performance of his duties and shall not hold any stock or interest whatsoever in any commission business, wholesale or retail produce business, cold storage, warehouse or transportation company engaged in the distribution of farm products or serve on or under any political committee or as manager of any political campaign for any candidate or party.

Section 1495—4. On or before the first day of December in each year the director shall make and submit to the commissioner of agriculture a report containing a full and complete account of the transaction and proceedings of the division of markets for the preceding fiscal year together with such facts, suggestions and recommendations as may be deemed of value to the people of the state.

Section 1495—5. 1. The director shall appoint and, with the approval of the board, fix the compensation of such assistants, clerks and other employes, as may be necessary in carrying out the provisions of sections 1495—1 to 1495—37, inclusive. The director and his assistants, clerks and other employes shall be reimbursed for actual and necessary traveling expenses incurred in the discharge of their official duties.

2. Before entering upon the duties of his office, the director shall make and file with the state treasurer an official bond in such sum as the commissioner of agriculture may deem necessary, conditioned for the faithful performance of the duties of his office. The board, upon the recommendation of the director, may require from employes in the division of markets such bond in such amount and form as may be deemed necessary for the faithful performance of their duties. The expenses of such bonds shall be paid for from the appropriation for the division of markets.

3. The division of markets shall keep its office in the state

capitol and shall be provided with the necessary rooms, office furniture, stationery, and other supplies by the superintendent of public property.

4. The director shall be provided with a seal bearing the inscription "Wisconsin Department of Agriculture, Division of Markets" to be affixed to such instruments as the director may require.

Section 1495—6. It shall be the duty of the division of markets and it shall have the power and jurisdiction to do all things reasonably necessary:

(1) To promote, in the interest of the public, including alike producer, distributor and consumer, economical and efficient distribution of farm products including public markets.

(2) To locate such farm products as may be necessary to supply the demands of the people of the state, and to furnish information regarding the location of markets for farm products produced or manufactured in the state.

(3) To cooperate with and aid producers, distributors and consumers in devising and maintaining economical and efficient systems of marketing, grading, standardization and storage of farm products, and in reaching advantageous markets.

(4) To aid in determining proper shipping routes therefor and to cooperate with shippers and with other state officers and departments in matters pertaining to interstate rates for farm products.

(5) To aid in such other ways as may be consistent or reasonably necessary in reducing the unnecessary expenses and wastes incidental to the marketing of farm products.

(6) To cooperate with and aid other state officers and departments in the enforcement of the provisions of sections 1747e, 1747e—1, 1747f, 1747g, 1747h, 1770g, 1791k, 1791l, 1791m, 1791n, 1791n—1 to 1791n—12, inclusive, and 4466a of the statutes.

Section 1495—7. The director may investigate the questions of supply and demand, prevailing prices and cost of production of and profits in handling of farm products, and shall investigate the cost of production of and profits in, the manufacture and handling of such manufactured products as the board may direct. The board shall direct an investigation of the cost of production of and profits in the manufacture or handling of manufactured products when, in its opinion, such products are used by the farmer to such an extent that they materially affect his costs of production and when, in its opinion, such investigation is wise and proper.

Section 1495—8. The division of markets shall collect and disseminate useful information relative to marketing. The director may, upon request, assist in the formation and advise in the management of cooperative associations. Such assistance may include provision as to efficient accounting and business methods and legal advice in the organization and conduct of such associations.

Section 1495—9. The director shall maintain a market news service including information as to supply, demand, prevailing prices, and commercial movement of farm products, including quantities in common and cold storage, and such other matters as may be of service to producers, distributors, and consumers.

Section 1495—10. The director may until July 1, 1921, in cooperation with the several county agents, extension division of the university, normal schools and schools wherein agricultural courses are taught, conduct in various parts of the state short courses to teach grading, standardization and branding of agricultural products and accounting and business methods.

Section 1495—11. 1. The director may devise and provide for uniform Wisconsin trade-marks, labels and brands and secure copyrights therefor under the laws of the United States or of this state and may, upon application therefor, permit their use as far as practicable upon farm products pursuant to rules and regulations prescribed and promulgated by him. Such trade-marks, labels or brands shall be furnished by a director at cost to those entitled to use the same. No such trade-mark, label or brand shall be used except pursuant to the provisions of this section and the rules and regulations promulgated hereunder.

2. Any person who removes any such trade-mark, label or brand from any product upon which the same has been placed or to which the same has been attached pursuant to authority or permission granted hereunder, or who mutilates or defaces the same, or who without authority or permission granted hereunder places any such trade-mark, label or brand upon or attaches the same to any product whatsoever, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in section 1495—37.

Section 1495—12. Every person engaged in marketing farm products in this state shall prepare and submit to the director, upon his request, at such regular intervals and in such form as he may prescribe reports of the quantity and condition of any farm product held by or for such person in commercial or other storage in this state. At any time when it is deemed by the governor that unusual need for such action exists, every person in

this state shall furnish the director, upon his request, on such date or dates and in such forms as he may prescribe, special reports, orally or in writing, concerning the demand for, and the supply, consumption, cost, value, price, condition, and period of the holding of any farm product which is or has been held by or for such person in storage or otherwise.

Section 1495—13. The director is authorized to inspect or cause to be inspected any farm product in the state upon which reports provided for in section 1495—12, have been requested. When making public any information received in the reports provided in this section, the director, his employes or agents, shall not divulge the name of the person owning or reporting upon a farm product without the consent of such person or except pursuant to legal process.

Section 1495—14. In carrying out the purposes of sections 1495—1 to 1495—37, inclusive, the director shall cooperate as far as possible with the bureau of markets of the United States department of agriculture and may, whenever practicable, cooperate with agencies of this or other states engaged in investigational work relating to the marketing of farm products.

Section 1495—15. 1. Except as provided in section 1495—22, after investigation and public hearing, the director may, from time to time, as far as practicable establish and promulgate standards for the grade and other classification of, and standards for receptacles for, farm products by which their quality, value or quantity may be determined, and may make regulations governing the marks, brands, and labels which may be required upon receptacles for farm products for the purpose of showing the name and address of the producer, packer or dealer, the quantity, nature and quality of the product, or any of them, and for the purpose of preventing deception with reference thereto. Any standard for any farm product or receptacle thereof, or any requirement for marketing receptacles for farm products, now or hereafter made mandatory under authority of the congress of the United States, shall forthwith, as far as applicable, be established or prescribed, and promulgated, by the director as the official standard or requirement in the state. No standard established or requirement for marketing prescribed under this section shall become effective until the expiration of six months after it shall have been promulgated. The standard grades provided by law for apples shall continue to be and remain standard grades for that product until other standard grades therefor are established as provided in this section. All laws administered by the dairy and food commissioner which fix standards for quality and for

receptacles or which regulate the branding of food products shall remain in full force and effect and the provisions thereof shall not be altered by the director.

2. The provisions of subsection 4 of section 1661 relative to sealing by the sealer of weights and measures shall not be construed as applying to the standard containers established and promulgated under the provisions of sections 1495—1 to 1495—37, inclusive.

Section 1495—16. Whenever any standard for the grade or other classification of any farm product becomes effective under the provisions of sections 1495—1 to 1495—37, inclusive, no person thereafter shall pack for sale, offer for sale, consign for sale, or sell any such farm product, grown, manufactured or prepared within this state, to which such standard is applicable, unless it conform to such standard, subject to such variations therefrom as may be allowed in the regulations made under the provisions of said sections, except that any such farm product may be packed, offered or consigned for sale or sold without conforming to the standard for grade or other classification applicable thereto, in accordance with regulations made under the provisions of said sections in such manner as to indicate that it is ungraded or unclassified.

Section 1495—17. Whenever any standard for a receptacle for a farm product becomes effective under the provisions of said sections, no person thereafter shall pack for sale, offer for sale, consign for sale, or sell and deliver, in a receptacle, any such farm product to which the standard is applicable, unless the receptacle conform to the standard, subject to such variations therefrom as may be allowed in the regulations made under the provisions of said sections, or unless such product be brought from outside the state and offered for sale, consigned for sale or sold in the original package.

Section 1495—18. Whenever any requirement for the marketing, branding, or labeling of a receptacle for a farm product becomes effective under the provisions of said sections, no person thereafter shall pack for sale, offer for sale, consign for sale, or sell and deliver, any such farm product in a receptacle to which such requirement is applicable, unless the receptacle be marked, branded or labeled according to such requirement; or unless such product be brought from outside the state and offered for sale, consigned for sale or sold in the original package.

Section 1495—19. The director is authorized at any time to cause such inspections, classifications and tests to be made and such certificates to be issued, and, upon payment or tender of

payment of the market value thereof, to cause such samples to be taken as he may deem necessary to enforce the provisions of sections 1495—1 to 1495—37, inclusive.

Section 1495—20. The attorney-general shall provide for an attorney to appear and commence the prosecution, intervene in, or expedite the final determination of all actions or proceedings arising in or found necessary by the director in carrying out the provisions of sections 1495—1 to 1495—37, inclusive, and generally to perform all duties and services as attorney for the division of markets.

Section 1495—21. In case of emergency creating or threatening to create a scarcity of farm products within the state, the director, with the consent of the governor, is authorized to take such reasonable measures to secure relief as may be deemed to be advisable or necessary for the public welfare.

Section 1495—22. Whenever the commissioner of agriculture, or the dairy and food commissioner, or the superintendent of weights and measures, or the grain and warehouse commissioners, or other state officers, act pursuant to authority to establish and promulgate standards for open and closed containers and for grading and other classifications of farm products, by which the quantity, quality or value may be determined, the director shall be called upon to act in an advisory capacity and likewise when the director acts pursuant to authority to establish and promulgate standards for open and closed containers and for grading and other classification of farm products, by which the quantity, quality or value may be determined, the appropriate officer or officers mentioned in this section shall be called upon to act in an advisory capacity and these officers shall mutually cooperate in prescribing and promulgating rules and regulations regarding the marks, brands, and labels which may be required upon containers for farm products; but no standard established, or rule or regulation prescribed under this section shall become effective until the expiration of six months after it shall have been promulgated, and all standards existing prior to such promulgation shall continue in force until the standards so established take effect.

Section 1495—23. 1. The director may make or cause to be made inspections and classifications of farm products in accordance with standards which have become effective under the provisions of sections 1495—1 to 1495—37, inclusive. So far as practicable such inspections and classifications shall be made by voluntary services and for such purpose the director may license any person, upon satisfactory evidence of competency, to make

such inspections and classifications, but where necessary may designate any competent employe or agent of the division of markets. The director may enter into agreements with the proper authorities so that county agricultural representatives and other agricultural agencies may be available to make such inspections and classifications. All county agricultural representatives and other agricultural agencies in the state receiving state aid or on whose behalf state aid is received shall upon the request of the director aid in the work of determining grades, standards and classifications of farm products and in making inspections.

2. The director may suspend or revoke any license, whenever, after opportunity for a hearing has been accorded to the licensee, the director shall determine that such licensee is incompetent, or has knowingly or carelessly failed to classify any farm product correctly in accordance with such standards, or has violated any provision of sections 1495—1 to 1495—37, inclusive, or of the regulations made hereunder. Pending investigation, the director may suspend a license temporarily without a hearing.

3. The director may fix, assess, and collect, or cause to be collected, fees for such services when they are performed by employes or agents of the division of markets. Licensed inspectors may charge and collect, as compensation for such services, only such fees as may be approved by the director. He may waive such fees if the service is given voluntarily or if the producers are organized for the purpose of standardization of farm products to such degree as will in his judgment assure proper inspection, classification and standardization.

Section 1495—24. Any interested party, within a reasonable time, to be prescribed in the regulations made under the provisions of sections 1495—1 to 1495—37, inclusive, may appeal to the director from the classification of any farm product authorized under the provisions of said sections, and the director shall thereupon cause such investigation to be made and such tests to be applied as he may deem necessary to determine the true classification, and shall issue a finding of the grade or other classification thereof. Whenever an appeal shall be taken to the director under the provisions of said sections, he shall charge and assess, and collect, or cause to be collected, a reasonable fee, to be fixed by him, which shall be refunded if the appeal be sustained.

Section 1495—25. A certificate, when not superseded by a finding or a finding of the grade or other classification of any farm product issued under the provisions of sections 1495—1 to 1495—37, inclusive, shall be accepted in any court of this state as

prima facie evidence of the true grade or classification of such farm product at the time of its classification.

Section 1495—26. All methods of competition in trade, business and dealings in farm and manufactured products, sold or offered for sale in this state shall be fair, just and reasonable, and no person shall use or employ any unreasonable or unfair act, practice or method of competition in such trade or business.

Section 1495—27. 1. The director shall be vested with power and jurisdiction to investigate and ascertain what business acts, practices, and methods of competition are unreasonable or unfair.

2. The director shall investigate, ascertain, determine and, from time to time fix and declare such reasonable rules or orders as may be necessary for the protection of producers and consumers against business acts, practices, and methods of competition which are unfair or unreasonable and shall provide for the enforcement thereof whenever necessary in the interests of the people of the state.

Section 1495—28. 1. Any person complaining of anything done or omitted to be done by any person in contravention of the provisions of sections 1495—26 to 1495—33, inclusive, may apply to the director by complaint which shall briefly state the facts. The director shall proceed with or without notice to make such investigation as may be necessary or convenient, but no order affecting the matters complained of in such complaint shall be entered by the director without a formal public hearing.

2. The director shall fix a time and place for a formal public hearing under such complaint, and shall give the person complained against and the complainant ten days' notice, in writing, of the time and place when and where such hearing will be held. Both the persons complained against and the complainant shall be entitled to be heard in person, or by agent or attorney, at any such hearing, and shall have process to enforce the attendance of witnesses. The director shall have power to adjourn any hearing, from time to time, as may be expedient, just or necessary.

Section 1495—29. In any case as to any matter the said director shall have full power to institute and carry on investigation to the same extent and in the same manner on his own motion as in any case concerning which a complaint is authorized to be made; except that no proceeding for the payment of money shall be instituted without complaint being filed.

Section 1495—30. 1. Whenever after a formal public hearing, the director shall find any method, practice, act, or omission of

the person investigated or complained against to be unreasonable, unfair or in violation of any provision of law, the director may order that such person desist from such practice, method, act or omission, and may, if he finds it necessary, determine and by order prescribe what will be the reasonable and fair practice, method, or act to be observed and followed for such time as may be fixed or until further order.

2. No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

Section 1495—31. 1. Any person who shall be injured in his business or property by any other person by reason of anything forbidden or declared to be unlawful by sections 1495—26 to 1495—33, inclusive, may sue therefor in any court of competent jurisdiction and shall recover twice the damages by him sustained, together with costs including a reasonable attorney's fee.

2. If, after a formal hearing, the director shall determine that any party complainant is entitled to an award of damages due to violation of the provisions of sections 1495—26 to 1495—33, inclusive, the director shall make an order directing the person complained against to pay to the complainant, on or before a day named, a sum equal to twice the damages actually sustained by such complainant. If such person does not comply with the order of the director for the payment of money within the time limit in such order, the complainant may bring an action for the enforcement of such award in any court of competent jurisdiction. The action shall proceed like other actions for damages, except that upon the trial thereof the findings and order of the director shall be prima facie evidence of the facts therein stated and except that the complainant shall not be liable for costs in the trial court nor the costs at any subsequent stage of the proceedings, unless they accrue upon his appeal. If the complainant shall finally prevail, he shall be allowed a reasonable attorney's fee to be taxed and collected as a part of the costs of the action.

3. All complaints for the recovery of damages must be filed with the division of markets within six years from the time the cause of action accrued. Action for the enforcement of any order of the director for the payment of money must be commenced in the state court within one year from the date of the order.

4. In such suits all parties in whose favor the director may have made an award of damages, by a single order, may be joined as plaintiffs, and all persons complained against, parties to such order, awarding such damages, may be joined as defendants, and such suit may be maintained by such joint plaintiffs against such

joint defendants, in any county in which one of such joint plaintiffs could maintain such suit against any one of such defendants. In case of such joint suit, the recovery, if any, may be by judgment in favor of any one of such plaintiffs against the defendant found to be liable to such plaintiff.

5. Nothing in this section contained shall be construed so as to preclude any person from bringing and maintaining an action for damages as by law. However, if any person proceeds under any other provision of law, and under this section to recover damages, the director shall order such person to elect which remedy he shall pursue.

Section 1495—32. 1. Whenever a hearing shall be held by the director he shall make a report in writing thereof with his decisions, orders, or requirements in the premises; and in case damages are awarded, such report shall include the findings of fact on which the award is made.

2. All reports of hearings made by the director shall be entered of record, and a copy thereof shall be furnished to the party who may have complained and to the party complained against.

3. The director may provide for the publication of his reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the director therein contained in all courts of the state, without any further proof or authentication thereof.

Section 1495—33. After an order has been made by the director in any proceeding under the provisions of sections 1495—26 to 1495—33, inclusive, any party thereto may at any time within thirty days thereafter make application for a rehearing of the same, or any matter determined therein, and it shall be lawful for the director in his discretion to grant such a rehearing, if sufficient reason therefor may be made to appear. Application for rehearing shall be governed by such reasonable rules as the director may establish. No such application shall excuse any person from conforming to or obeying any order of the director, or operate in any manner to stay or postpone the enforcement thereof, except under the special order of the director. In case a rehearing is granted, the proceedings thereon shall conform as nearly as may be to the proceedings in any original hearing, and if, after such rehearing and the consideration of all facts including those arising since the former hearing, it shall appear that the original order is in any respect unjust or unwarranted, the director may set aside or modify such order. Any order made after a rehearing, reversing, changing, or modifying the

original order shall have the same force and effect as an original order.

Section 1495—34. 1. The director is authorized to make and promulgate such rules and regulations as may be necessary in carrying out the provisions of sections 1495—1 to 1495—37, inclusive.

2. The director, or any of his employes or agents designated by him for the purpose may administer oaths and take testimony and may issue subpoenas to compel the attendance in this state of witnesses and the production of books and papers pertinent to any inquiry or investigation authorized by law to be made by the division of markets.

3. In case of the refusal of any person to comply with any subpoena issued hereunder or to testify to any matter regarding which he may be lawfully interrogated, the circuit court of any county or the judge thereof, on application of the director or any of his authorized agents, shall issue an order requiring such person to comply with such subpoena and to testify, or either, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

4. Each witness who appears before the department of markets or its agent by its order, shall receive for his attendance, the fees and mileage now provided for witnesses in civil cases in courts of record, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by such witnesses and approved by the director. Said fees and mileage shall be charged to the appropriation for the division of markets.

5. No witness subpoenaed at the instance of parties other than the division of markets shall be entitled to compensation from the state for attendance or travel unless the division of markets shall certify that his testimony was material to the matter investigated.

Section 1495—35. Any person, firm or corporation, being dissatisfied with any order or determination of the director establishing any standard for the grade or other classification of or receptacle for farm products or for the purpose of otherwise carrying out the provisions of sections 1495—1 to 1495—37, inclusive, may commence and prosecute an action in the circuit court to set aside, alter or amend such order or determination or any part thereof, as provided in sections 1797m—64 to 1797m—73, inclusive, and said sections so far as applicable shall apply to such action but the pendency of such action shall not of itself stay

or suspend the operation of the order or determination of the director.

Section 1495—36. In carrying out the provisions of sections 1495—1 to 1495—37, inclusive, the director, his employes and agents, are authorized to enter, on any business day during the usual hours of business, any storehouse, warehouse, cold storage plant, packing house, stock yard, railroad yard, railroad car, or any other building or place, where farm products are kept or stored by any person engaged in marketing farm products.

Section 1495—37. Any person who by himself or his agent or employe, or who as agent or employe for another violates any provisions of sections 1495—1 to 1495—37, inclusive, or who fails, neglects or refuses to obey any lawful rule, regulation, or order made by the division of markets, or any judgment or decree made by any court thereon shall for each such violation or refusal, neglect, or failure, be punished by a fine of not less than ten dollars nor more than five hundred dollars, or by imprisonment in the county jail for not less than ten days nor more than ninety days, or by both such fine and imprisonment.

SECTION 2. A new paragraph is added to subsection (4) of section 20.60 and a new subsection is added to section 20.60, of the statutes, to read: (20.60) (4) (j) For the execution of the powers and duties of the division of markets as prescribed in sections 1495—1 to 1495—37, inclusive.

(20.60) (9) Division of markets. On July 1, 1919, fifty thousand dollars; on July 1, 1920, and annually thereafter, sixty thousand dollars, for carrying out the provisions of sections 1495—1 to 1495—37, inclusive.

SECTION 3. This act shall take effect upon passage and publication.

Approved July 26, 1919.