

require the petitioning company, to maintain a flagman or other safeguard at such crossing pending the determination of such appeal. All the provisions of these statutes relating to the exercise of eminent domain by railroad companies, shall apply to street and electric railroad corporations, provided, that nothing herein shall apply to any park or boulevard in any city or village nor to any street, alley or viaduct therein, unless the use of such street, alley or viaduct shall first be granted to such street or electric railway company by a franchise duly passed by the board of trustees or common council of such village or city; and provided further that nothing herein shall apply to the right of the public or the title of any city or village, in and to any street, alley or viaduct within its limits.

Conflicting laws repealed. SECTION 2. All acts and parts of acts in conflict with this act, are hereby repealed.

SECTION 3. This act shall take effect and be in force, from and after its passage and publication.

Approved May 14, 1901.

No. 7, S.]

[Published May 24, 1901.

CHAPTER 466.

AN ACT to amend sections 1421c, 1421d, 1421e, 1421g, 1421h, and 1421j, of the statutes of 1898 relating to the inspection of illuminating oils and petroleum products in the state of Wisconsin.

The people of the state of Wisconsin represented in senate and assembly do enact as follows:

Duties of supervisor; deputies; stamps and brands; use of.

SECTION 1. Section 1421c of the statutes of 1898 is hereby amended so as to read as follows: Section 1421c. It shall be the duty of said supervisor to devote his entire time to the duties of said office and under the direction of the governor to oversee all deputy inspectors of illuminating oils, instruct them in the performance of their duties, see that they faithfully perform the duties of their office, keep a record of their reports

to him, and to make a report to the governor on the first day of October in each year. He shall make rules and regulations for their guidance not inconsistent with the provisions of this chapter. The said supervisor may with the advice and consent of the governor appoint a sufficient number of deputy inspectors to properly inspect all oils sold in this state for illuminating or heating purposes. The inspection districts shall be defined by the supervisor, with the approval of the governor, and all oils shall be inspected in the inspection district where sold for consumption; provided that said supervisor may, in case said oil is sold for consumption at a point removed from the railroad, permit said oil to be inspected outside of said district if in his judgment it is impracticable to have such oil inspected in said district. The state treasurer shall prepare suitable stamps, seals, marks or brands or any combination of the same or any thereof, to be securely fastened upon all packages or enclosures inspected containing oil. Said stamps, seals, marks or brands or a combination of the same or any thereof shall be of the design designated by said treasurer and so arranged as to be used only once, and to be numbered consecutively, and to indicate the number of district to which issued. All districts shall be numbered by the state treasurer. The state treasurer shall make such rules and regulations for issuing, affixing and cancelling said stamps, seals, marks and brands as may be necessary to prevent their being used more than once and to compel the deputy inspectors to inspect all oils used in this state for illuminating or heating purposes, and to make prompt monthly remittances of all fees collected and complete reports of all doings as said deputies.

Bond, duties and salary of deputies; salary of supervisor; disposition of fees. SECTION 2. Section 1421d, of the statutes of 1898 is hereby amended so as to read as follows: Section 1421d. Every deputy inspector shall before entering upon his duties take an oath faithfully to discharge the same and execute a bond to the state in a sum not exceeding five thousand dollars nor less than five hundred dollars as may be fixed in each case by the said supervisor with the approval of the governor conditioned as aforesaid; such bond to be filed in the office of the state treasurer and a certified copy thereof in the office of the clerk of the county wherein the deputy inspector executing the same shall reside. All bonds executed under the provisions of this chapter shall be for the benefit of the state and of any person aggrieved by any act or neglect of the supervisor or his deputy respectively executing the same. The

sureties on the bond of each deputy shall be approved by the county judge of the county in which the deputy executing the same shall reside and the bond of the supervisor and of each deputy shall be approved by the governor. Every deputy inspector shall examine and test all oils offered for sale or used for illuminating or heating purposes by any person in the district assigned to him and not having been previously tested and stamped, sealed or branded by a deputy inspector of this state. He shall on the first day of each month make in writing to the state supervisor and the state treasurer a full statement of the number of barrels of oil inspected, for whom inspected, the date and place of such inspection, the numbers of the stamp or stamps, seal or seals, mark or marks, brand or brands, or any combination thereof used, and an account of the actual receipts of his office, and at the same time remit to the state treasurer all fees received for oil inspected by him during the preceding month, which fees shall be set aside by the state treasurer and constitute a separate fund for the payment of the salaries and expenses of the supervisor and his deputies. Said supervisor shall receive an annual salary of fifteen hundred dollars and each deputy inspector a salary of not to exceed one hundred dollars per month, said salaries to be fixed by the governor, but in no case shall the salary of a deputy inspector and his actual and necessary traveling expenses in the discharge of his official duty exceed together with his said salary the sum total of eight cents per barrel for the number of barrels of oil inspected during the month within his inspection district. The supervisor and his deputies shall have their actual and necessary expenses paid out of said special fund upon being approved by the governor and audited by the secretary of state, subject to the provisions of this act. Every deputy shall comply with all instructions issued by the supervisor and the state treasurer and furnish to the supervisor full information regarding any accident or explosion that may come to his knowledge from the use of illuminating or heating oils. The deputy inspectors shall be liable to all the penalties provided for in this chapter for any neglect, wilful misconduct or misfeasance in the discharge of their duties. The governor may at any time remove said supervisor or any deputy upon reasonable notice.

What oils to be inspected; sale of uninspected; adulterations; false branding; cancellation of seals, etc. SECTION 3. Section 1421e of the statutes of 1898 is hereby amended to read as follows: Section 1421e. All mineral or petroleum oil or any

oil or fluid substance which is the product of petroleum, or into which any product of petroleum enters or is found as a constituent element, whether manufactured within this state or not, shall be inspected as provided in this chapter before being offered for sale or sold for consumption or used for illuminating or heating purposes within this state; provided, that the gas or vapor from said oils may be used for illuminating purposes without inspection when the oils from which gas or vapor is generated are contained in closed reservoirs outside the building lighted by said gas, and that nothing in this chapter shall be construed to prevent the use in street or other open-air lamps or in stores, for heating purposes; of the lighter products of petroleum, such as gasoline, benzole or naphtha. Any person who shall, personally or by clerk or agent, sell or offer for sale or for use, or who shall, in any manner dispose of or attempt to dispose of any oil for illuminating or heating purposes which shall not have been examined or tested under the provisions of this chapter, or which, having been so tested, shall have been marked as rejected, or who shall knowingly use or furnish for use for illuminating purposes any oil which shall not have been properly examined or tested, and stamped, sealed or marked as herein provided, shall be liable to a fine of not less than five dollars nor more than five hundred dollars, and any person so offending against the provisions of this chapter shall be responsible in damages to the party injured, in the event of injury arising or growing out of the use of any oil so offered or provided for sale or use. Any person who shall wilfully adulterate any illuminating or heating oil by adding thereto benzine, naphtha or paraffine oil or any substance or thing whatever shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars or by imprisonment in the county jail for not more than six months. Any person who shall falsely stamp, seal, brand or mark any cask, barrel or other package of oil, or who shall personally or by agent or servant, cause the changing, altering or defacing in any manner any stamp, seal, brand or device affixed to any cask or barrel or other package of oil by any deputy inspector, or who shall refill or use any cask, barrel or other package having a deputy inspector's seal, mark, stamp or brand thereon without cancelling or defacing said seal, mark, stamp or brand and having the oil in such a cask, barrel or other package properly examined or tested and stamped or marked under the provisions of this chapter, or who shall offer for sale or shall sell any such oil, representing it to be in any respect other and different in quality or kind

than as represented to the person so purchasing the same, or without providing and exhibiting in a conspicuous place where such oil is sold, a sign or placard, announcing and plainly proclaiming to all intending purchasers the tests, both as to explosive and illuminating quality, provided for in this act, shall be liable to a fine of not less than five dollars nor more than five hundred dollars, or to imprisonment in the county jail for not more than six months, or to both such fine and imprisonment; and any person who shall sell or in any way dispose of any empty cask, barrel or other package bearing a deputy inspector's seal, brand or stamp without first thoroughly canceling, defacing or removing such seal, brand, stamp, mark or any combination thereof, shall be liable to a fine of not less than five dollars nor more than five hundred dollars or to imprisonment in the county jail not exceeding six months or to both such fine and imprisonment.

Supplies and apparatus; certificate of inspection; grades. SECTION 4. Section 1421g of the statutes of 1898 is hereby amended to read as follows: Section 1421g. It shall be the duty of the superintendent of public property to provide said supervisor and every deputy inspector all the necessary instruments and apparatus for examining and testing illuminating oils, together with the necessary stamps, seals, marks, brands, blank reports and record books required by the provisions of this act, which said instruments, apparatus, stamps, seals, marks, brands, blank reports, and record books shall, in case of the special fund provided for in section 1421d, be insufficient therefor, be paid for out of the general fund, said general fund to be reimbursed from said special fund as soon as said special fund shall contain sufficient funds therefor, and each deputy inspector shall use such instruments and apparatus in performing his duties and shall promptly examine and test, when called upon, any oil offered as to the temperature at which it will emit a combustible vapor and burn freely and also as to the illuminating qualities of said oil and if upon examination or test any such oil shall be found to meet the requirements of this chapter he shall affix to the package, cask or barrel containing the same a brand, stamp, seal or mark or any required combination of the same, containing the word "approved," with the name of the district and day of testing over his official signature upon such package, cask or barrel and issue to the person for whom inspected a certificate of inspection and approval, reciting the number of barrels, or in case of tank car, the name of the tank car line with the number of said car, with the number of bar-

rels contained, the commercial name of the oil, with the test found both as to explosive quality and as to illuminating power and date of inspection, and any person may sell the same as an illuminating or heating oil. But if the oil so tested shall not meet the requirements specified in this chapter, he shall mark in plain letters, by stencil, brand, stamp or seal as required, the words "rejected for illuminating purposes," with the date of testing, name of the district and his official signature, and issue a certificate to that effect; and it shall be unlawful for any person to sell such oil for illuminating or heating purposes. Said brand and stamp for the approval of oils shall further contain such numerals indicating the degree such oils test, together with the illuminating qualities of said oils, said illuminating qualities to be designated "excellent," "good," "fair," or "poor," as the same may be found upon being tested under the tests prescribed by the commission provided for by section seven of this act, and if any person shall sell or offer for sale any such rejected oils he shall be punished by a fine of not less than one hundred dollars nor more than one thousand dollars or by imprisonment in the county jail not more than six months, or by both fine and imprisonment.

Powers to enter premises. SECTION 5. Section 1421h of the statutes of 1898 is hereby amended to read as follows: Section 1421h. It shall be lawful for the supervisor or any deputy inspector to enter into or upon the premises of any manufacturer, refiner or vendor of such illuminating oils, and if he shall find or discover upon said premises any oil which shall not have been examined or tested and properly marked, stamped, sealed or branded he shall at once proceed to test and thereafter properly mark, stamp, seal or brand the same.

Fees; testing of tank cars; "barrel," what is. SECTION 6. Section 1421j of the statutes of 1898 is hereby amended to read as follows: Section 1421j. Every deputy inspector shall demand and receive from the owner or other person for whom or at whose request he shall examine or test any oil or sample, ten cents for every single cask, barrel or package or sample he shall test, and the said fee shall constitute a lien on the oil so inspected. Each deputy may inspect and test illuminating or heating oil in a tank or railroad tank car, so called, when standing upon a railroad track, and such oil shall not be transferred into warehouses or storage tanks or otherwise unloaded until so inspected; provided, if any such oils are not inspected within twenty-four hours after arriving at their destination

they may be unloaded and the deputy inspector shall make his inspection after they are so unloaded, and when such oil has been inspected no other inspection shall be necessary, but the deputy shall when such oil is put in stationary tanks, barrels, mark, stamp, seal or brand them without charge. When the amount contained in any such tank or tank car shall exceed fifty gallons, each fifty gallons shall constitute a barrel within the meaning of this chapter, and the fees for inspecting the same and marking, stamping, sealing or branding the barrels shall for each fifty gallons be the same as prescribed for each barrel, cask or package. The term cask, barrel, package or sample of oil as used herein means a quantity not exceeding that contained in an ordinary commercial barrel, estimated at fifty gallons.

Commission to determine upon test. SECTION 7. The governor may appoint three competent, disinterested persons, a commission to serve without compensation, to decide upon some practical test or tests by which to determine the illuminating qualities of oils as provided in section 1421g of the statutes of 1898 as amended by section four of this act, and prescribe rules and regulations for applying said test or tests and determining the result thereof, and all deputy inspectors of oils, shall in testing oils for illuminating purposes use the tests prescribed by such commission in accordance with the rules and regulations by said commission prescribed.

Reversion to general fund. SECTION 8. All moneys remaining in the state treasury in the special fund provided for in section 1421d shall at the end of each fiscal year be covered into the general fund.

Sale of gasoline. SECTION 9. Every person dealing at retail in gasoline in this state shall after the first day of June, 1901, deliver the same to the purchaser only in barrels, casks, packages or cans painted vermillion red and having the word "Gasoline" plainly stenciled thereon. No such dealer shall deliver kerosene in a barrel, cask, package or can painted or stenciled as above. Every person purchasing gasoline for use shall procure and keep the same only in barrels, casks, packages or cans painted and stenciled as above. No person keeping for use, or using, kerosene shall put or keep the same in any barrel, cask, package or can painted or stenciled as above. Any person violating any of the provisions of this section shall be punished by fine of not less than five, nor more than fifty dollars, or by

imprisonment in the county jail not to exceed three months or by both such fine and imprisonment.

Conflicting laws repealed. SECTION 10. All acts or parts of acts in conflict with this act are hereby repealed.

SECTION 11. This act shall take effect and be in force from and after the first day of June, 1901.

Approved May 15, 1901.

No. 320, S.]

[Published May 24, 1901.

CHAPTER 467.

AN ACT to authorize the appointment of an assistant deputy bank examiner, and fixing his salary.

The people of the state of Wisconsin represented in senate and assembly do enact as follows:

Appointment and powers of deputy. SECTION 1. The bank examiner is hereby empowered, by and with the consent of the state treasurer and approval of the governor, to appoint a competent person who shall be known as the assistant deputy bank examiner, in addition to the force already employed in his office, who shall have the power under like conditions and restrictions which are required of the bank examiner, to make examinations of any of the institutions under his supervision. Such person shall receive for his services the sum of eighteen hundred dollars per annum, payable monthly, and all actual and necessary traveling expenses incurred in the performance of the duties of his office.

Appropriation. SECTION 2. There is hereby appropriated out of any funds in the general fund not otherwise appropriated, a sum sufficient to carry out the provisions of this act.

SECTION 3. This act shall take effect and be in force from and after its passage and publication.

Approved May 15, 1901.