

who after approving them shall immediately issue the certificate, hereinbefore provided for, authorizing such corporation to transact business, and he shall further authorize it to collect the interest, income and dividends of such securities. Such corporations shall pay the same license fee as fire insurance companies are required to pay, which fee shall be in lieu of all taxes upon title guaranty premiums. The securities deposited with the commissioner of insurance shall be delivered for safe-keeping to the state treasurer who shall exchange and deliver any or all of said securities, or clip and forward interest coupons as directed by said commissioner; *provided, however, the provisions of this section other than those relating to the payment of license fees shall not apply to a title insurance company, whether incorporated under the laws of this state or not, which shall deliver to the commissioner of insurance of this state a certificate, duly authenticated, showing that such company has on deposit with the insurance commissioner, treasurer or other official body or officer of any state or states of the United States, for the protection of all the policyholders of such company, bonds of the United States, of any state of the United States, or of the cities, towns or counties thereof, of a cash market value of not less than one hundred thousand dollars or bonds or notes of face value not less than one hundred thousand dollars, secured by mortgage or deed of trust, as a first lien save taxes and assessments for current year, on real estate of the appraised value in each case of not less than double the amount loaned, or such other securities as may be approved by the commissioner of insurance of a cash market value of not less than one hundred thousand dollars.*

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

Approved July 12, 1933.

No. 727, A.]

[Published July 13, 1933.

CHAPTER 391.

AN ACT to create section 99.34 and subsection (19) of section 20.60 of the statutes, providing for a license to persons engaging in the wholesale, or wholesale and retail distribution of milk, conferring certain powers upon the department of agriculture and markets in connection therewith, providing a penalty and making an appropriation.

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

SECTION 1. A new section is added to the statutes and a new subsection is added to section 20.60 of the statutes to read: 99.34 LICENSE FOR WHOLESALE AND RETAIL DISTRIBUTION OF MILK; FEES; SUSPENSION OR REVOCATION; PENALTY. (1) In this section, unless the context otherwise requires:

(a) "Person" means any individual, partnership, corporation or association;

(b) "Dealer" means any person engaged in the business of buying and selling milk or cream at wholesale and retail or at retail only, other than a grocery or delicatessen store, meat market, bakery, confectionery store or restaurant.

(c) "Department" means the department of agriculture and markets of the state of Wisconsin.

(2) After July 1, 1933, no dealer shall at any time engage in the business of buying and selling milk or cream at wholesale, or at wholesale and retail, within the limits of a city or village or town adjacent thereto, without a license therefor issued by the department of agriculture and markets as herein provided, and valid and effective at such time. Provided, however, that no original producer and owner of milk who sells not to exceed ten quarts daily in quart containers shall require a license to sell his own milk in any town, city or village in Wisconsin.

(3) Any dealer desiring such license shall make application to the department upon blanks to be furnished by the department. The application shall be in writing, accompanied by the prescribed fee, and under oath, and shall set forth the place or places where the applicant intends to carry on the business for which the license is desired, the full names of the persons constituting the firm in case the applicant is a partnership, the names of the officers and directors of the corporation and where incorporated, if a corporation, and such other facts as the department may require.

(4) The license fee shall be two dollars annually. All licenses shall expire on the thirty-first day of December of each year, and applications shall be made and license fees paid, prior to the first day of January of the following year.

(5) Whenever an applicant has paid the prescribed fee, the department shall issue to such applicant a license, which shall entitle the licensee while such license is in effect to operate as a dealer in the city, village or town adjacent thereto as described

in the license, provided, however, that this provision shall not be construed as limiting the right of any municipality to provide for the enforcement of its regulations and the licensing of any dealer in milk or milk products.

(6) The department may temporarily suspend any license if it finds that the licensee, or any agent or employe thereof, or the managing officer or directors, if a corporation, or any member, if a partnership, has violated any provision of chapters 98 and 99, or any order or regulation of the department issued pursuant to the provisions of chapter 99, or has been guilty of misrepresentation to the department, or has failed to render to the producer a true and itemized statement of the weight of the milk or cream purchased from such producer, the fat content thereof and such other conditions as may affect the price thereof, and to make full payment of the purchase price due the producer within the proper, usual or agreed time, or if no agreement, within fifteen days after the end of the month during which such milk or cream was purchased, and shall have the power to permanently revoke such license for like cause. Before entering an order of suspension or revocation of a license, the department shall give written notice to the licensee that it contemplates the suspension or revocation of such license with its reasons therefor. Such notice shall designate a time for hearing before the department and shall be sent by registered mail to the licensee.

(7) After such hearing the department shall make and file its findings and order. Pending the final determination of any case before it, the department may after hearing make interlocutory findings and orders which shall have the same force and effect as final findings and orders.

(8) The findings of fact made by the department acting within its powers shall be conclusive in the absence of fraud. The order, either interlocutory or final, shall be subject to review only in the manner and upon the grounds following: Application for rehearing may be made as provided in section 99.26. Within thirty days from the date of the order upon such rehearing, any party aggrieved thereby may commence in the circuit court for Dane county an action against the department for the review of such order. In such action a complaint which need not be verified, but which shall state the grounds upon which a review is sought, shall be served with the summons. The department shall serve its answer within ten days after the service of the complaint. With its

answer the department shall make return to said court of all documents and papers on file in the matter, and of all testimony which may have been taken therein, and of its findings and order. Such return of the department when filed in the office of the clerk of the circuit court shall constitute a judgment roll in such action. Said action may thereupon be brought on for hearing before said court upon such record by either party on five days' notice to the other, subject, however, to the provisions of law for a change of the place of trial or the calling in of another judge. Upon such hearing, the court may confirm or set aside such order but the same shall be set aside only upon the following grounds:

(a) That the department acted without or in excess of its powers.

(b) That the order was procured by fraud.

(c) That the findings of fact by the department do not support the order.

(9) Upon the trial of any such action the court shall disregard any irregularity or error of the department unless it be made to affirmatively appear that the plaintiff was damaged thereby.

(10) Upon the setting aside of any order, the court may recommit the controversy and remand the record to the department for further hearing.

(11) The department or any party aggrieved by a judgment entered upon the review of any order, may appeal therefrom within the time and in the manner provided for an appeal from an order of the circuit court, except that it shall not be necessary for the department or any party to said action to execute, serve or file the undertaking required by section 274.15 in order to perfect such appeal, but all such appeals shall be placed on the calendar of the supreme court and brought to a hearing in the same manner as state cases on such calendar.

(12) Any dealer operating in any city or village or town adjacent thereto in this state without first obtaining a license, as provided for in this section, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished for each offense by a fine not less than five dollars nor more than twenty-five dollars. Each day's violation shall constitute a separate offense.

(13) The attorney-general, in the name of the state, and upon its own information or upon complaint of the department or any individual, may commence and prosecute an action by quo war-

ranto proceedings, or by injunction, against any dealer operating without first obtaining a license as required in this section.

(14) If any subsection or paragraph of this section, or its application to any person or circumstance, shall be held unconstitutional, such decision shall not affect the constitutionality of any other subsection or paragraph, or its application to other persons or circumstances.

(20.60) (19) All moneys collected under section 99.34 shall be paid within one week of receipt into the general fund of the state treasury and are appropriated therefrom for the execution of the functions of the department of agriculture and markets under section 99.34.

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

Approved July 12, 1933.

No. 729, A.]

[Published July 13, 1933.

CHAPTER 392.

AN ACT to amend subsection (2) of section 202.11 of the statutes, relating to assessments of town mutual insurance companies.

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

SECTION 1. Subsection (2) of section 202.11 of the statutes is amended to read: (202.11) (2) When any assessment shall have been completed the secretary shall immediately insert a notice in one or more newspapers printed in the county or counties where the corporation is doing business, stating the amount of the assessment, the time such assessment was levied, and the time when the same becomes due. Such notice together with the proof of the publication thereof shall be conclusive evidence of notice of such assessment to every member. The secretary shall also notify every member by mail of the rate per cent of such assessment, and the sum due from him, and the time when due, and to whom payment is to be made, which time shall not be less than thirty nor more than sixty days from the date of such notice. If the insurance is payable to a mortgagee or assigns, and the mortgagee or his assignee shall be chargeable with knowledge of such fact, and the assessment thereon is not paid within the time specified, the secretary shall within thirty days after the expiration of