

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved June 10, 1909.

No. 353, S.]

[Published June 12, 1909.

CHAPTER 363.

AN ACT to amend sections 1421c, 1421d, 1421e, 1421f, 1421g, 1421h, 1421i, 1421j, and 1421o of the statutes; to repeal section 1421n of the statutes; to designate section 1421o of the statutes as section 1421n; to amend section 1421p of the statutes and to designate it as section 1421o; and to create section 1421p of the statutes, relating to inspection of oils.

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

SECTION 1. Sections 1421c, 1421d, 1421e, 1421f, 1421g, 1421h, 1421i, 1421j, and 1421o of the statutes are amended to read: 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 *eligible under the provisions of chapter 363, laws of 1905, and amendments thereto* to properly inspect all oils, *gasoline, benzine, naphtha, and other like products of petroleum* sold in this state for illuminating, * * * heating, or power purposes. The inspection districts shall be defined by the supervisor, with the approval of the governor. * * * The * * * supervisor 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, *gasoline, benzine, naphtha, and other like products*. Said stamps, seals, marks, or brands, or a combination of the same, or any thereof, shall be of the design designated by said * * * supervisor and so arranged as to be used only once, and to be numbered consecutively, and to indicate the number of *the* district to which issued. All districts shall be numbered by the * * * supervisor. The * * * supervisor 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, *gasoline, benzine, naphtha, and other like products of petroleum*, used in this state for illuminating, * * * heating, or power purposes, and to make prompt monthly remittances of all fees collected, and complete reports of all doings as said deputies.

Section 1421d. Every deputy inspector shall, before entering upon his duty, 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 * * * supervisor and a certified copy thereof in the office of the * * * county clerk, wherein the deputy inspectors executing the same shall reside. All bonds executed under the provisions of this * * * act shall be for the benefit of the state and of any person aggrieved by any act or neglect of the supervisor or his deputies, 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, *gasoline, benzine, naphtha, and other like products of petroleum*, offered for sale or used for illuminating, * * * heating, or power purposes, by any person in the district assigned 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 to the state treasurer a full statement of the number of barrels of * * * all products inspected, for whom inspected, the date and place of such inspection, the number 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 * * * 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 the expenses of the supervisor and his deputies. Said supervisor shall receive an annual salary of * * * *two thousand dollars*, and * * * *his actual expenses and disbursements to be paid upon vouchers therefor, approved by the governor out of the fund known as the oil inspection fund.* Each deputy in-

*spector shall be entitled to a salary payable monthly, the amount of which is to be determined by the number of barrels containing not less than fifty gallons actually inspected by such deputy during the month as follows: for each of the first ten, thirty cents each; for each of the second ten, twenty-five cents each; for each of the third ten, twenty cents each; for each of the fourth ten, fifteen cents each; for each of the next sixty, ten cents each; for each of the next two hundred, eight cents each; for each of the fourth and fifth hundred, six cents each; for each in excess of six hundred, five cents each; provided that in no case shall a deputy inspector receive more than one hundred dollars in any month under this act as such salary. * * **

*Said deputy inspectors shall have their actual and necessary expenses paid out of said special fund upon being approved by the governor and state supervisor and audited by the secretary of state, subject to the provisions of this act. Every deputy inspector shall comply with all instructions issued by the supervisor * * * and furnish to * * * him full information regarding any accident or explosion that may come to his knowledge from the use of illuminating or heating oils, gasoline, benzine, naphtha, or other like products of petroleum. The deputy inspectors shall be liable to all the penalties provided for in this * * * act for neglect, wilfull misconduct, or misfeasance in the discharge of their duties. The governor may at any time remove said supervisor or any deputy upon reasonable notice.*

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 * * * act before being offered for sale or sold for consumption or used for illuminating or heating purposes within this state. * * * *For the purpose of this act, all gasoline, benzine, naphtha, or other like products of petroleum under whatever name called used for illuminating, heating, or power purposes, shall be deemed to be subject to the same inspection and control as provided for in this act for illuminating oils, except that the inspectors are not required to test it other than to ascertain its gravity, and it shall be unlawful for any person, dealer, or vendor to sell or offer for sale any such petroleum products for any of such purposes, that has not been so inspected and approved. It shall be the duty of the supervisor or his deputies to inspect all such petroleum products under whatever name called, whether manufactured within this state or not, and*

stamp the gravity test over his official signature, which shall also be stamped on the barrel, cask, or package inspected, before being sold or offered for sale within this state. Provided, however, that any person, corporation, or vendor selling or delivering gasoline, benzine, naphtha, and other like products of petroleum for illuminating, heating, or power purposes in bulk by tank wagon shall, in lieu of the stamp or brand herein provided for, print or stencil on each tank-wagon-sale-ticket covering deliveries the following:

“This is to certify that the (gasoline, oil) covered by this sale has a fire test—Flash . . . degrees; Burns . . . degrees; gravity test of . . . degrees Beaume Scale; according to a certificate or certificates of approval issued by the state oil inspection department (month), (day), (year)”

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(Name of oil company and individual making delivery.)

*Such inspection shall be in the nature of a test by approved methods of Tagliabue’s Standard Registered Hydrometer Beaume Scale, and the state supervisor and his deputies shall, when called upon for that purpose, as promptly as possible inspect all gasoline, benzine, naphtha, and other like products of petroleum hereinbefore mentioned, and shall be entitled to demand and shall receive from the owner thereof the same fees as provided for the inspection of illuminating and heating oils as hereinafter mentioned. 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, gasoline, benzine, naphtha, or other like products of petroleum under whatever name called, for illuminating, * * * heating, or power purposes, which shall not have been examined or tested under the provisions of this * * * act, or which, having been so tested, shall have been marked as rejected, or who shall knowingly use or furnish for use for illuminating, heating, or power purposes any oil, gasoline, benzine, naphtha, or other like products of petroleum, 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 * * * act 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, *gasoline, benzine, naphtha, and other like products of petroleum*, 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, *gasoline, benzine, naphtha, and other like products of petroleum* 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, *gasoline, benzine, naphtha, and other like products of petroleum* in such a cask, barrel, or other package properly examined or tested and stamped or marked under the provisions of this * * * act, or who shall offer for sale, or shall sell any such oil, or *gasoline, benzine, naphtha, and other like products of petroleum*, 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, or *gasoline, benzine, naphtha, and other like products of petroleum* is sold, a sign or placard, announcing and plainly proclaiming to all intending purchasers the tests, *both flash and burning, according to the last certificate issued by the deputy inspector making the inspection of the product* * * * as to explosive * * * qualities, and *the gravity test of gasoline* 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 cancelling, 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.

Section 1421f. No person shall knowingly sell or offer for sale, or knowingly use any coal or kerosene oil or any product of petroleum for illuminating or heating purposes, which by reason of being adulterated or for any other reason will emit a combustible vapor at a temperature less than one hundred and five degrees above the zero point of Fahrenheit's thermometer, open test, where tested as provided in section 1421i, or will burn freely at a temperature less than one hundred and

twenty-five degrees above the zero point of such thermometer, open test, where tested as therein provided. No kerosene oil or fluid, whether composed wholly or in part of petroleum or its products, which will ignite and burn at a temperature of less than three hundred degrees Fahrenheit's thermometer, open test, shall be burned in any lamp or vessel or used for illuminating purposes in any passenger, baggage, mail, or express car on any railroad or steamboat in which passengers are carried, nor shall the same be carried as freight in any passenger, baggage, mail, or express car on any railroad. Any person violating any of the provisions of this section shall be fined not less than one hundred dollars nor more than one thousand dollars, and be liable for all damages resulting therefrom. Any oil which shall fail to stand the test above described shall be deemed unfit for illuminating or heating purposes, and the barrel, cask, tank, or other package containing the same shall be marked "rejected" as herein after provided.

Section 1421g. It shall be the duty of the superintendent of public property to provide said supervisor, * * * all the necessary instruments and apparatus for examining and testing illuminating oils *and gasoline*, together with the necessary stamps, seals, marks and brands, blank reports, and record books required by the provisions of this act, *and all necessary office equipment and supplies*, which said apparatus, instruments, stamps, seals, marks, brands, blank reports, * * * record books, *and office equipment and supplies*, shall, in case the special fund provided for in section 1421d be insufficient therefor, be paid 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 all gasoline, benzine, or naphtha, or other like products of petroleum under whatever name called*, and if upon examination or test any such oil, *or gasoline, benzine, naphtha, and other like products of petroleum* shall be found to meet the requirements of this * * * act he shall affix to the package, cask, or barrel containing the same, a brand, stamp, seal, or mark or any required combination * * * *thereof*, containing the * * * words "approved for illuminating, heating, or power purposes," and if *gasoline, benzine, naphtha, and other like products of petroleum*, the numerals denoting its actual gravity, with the name and district and the 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 cars, the name of the tank car line, with number of said car, with the number of barrels contained, the commercial name of the oil or gasoline, *benzine, naphtha, and other like products of petroleum* with the test found * * * as to explosive quality * * * and the actual gravity of gasoline, *benzine, naphtha, and other like products of petroleum* and the date of inspection * * *. 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, *gasoline, benzine, naphtha, and other like products of petroleum* shall further contain such numerals indicating the degrees such oils test, * * * 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 such fine and imprisonment.

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 said illuminating oils, *gasoline, benzine, naphtha, and other like products of petroleum*, and if he shall find or discover upon said premises any oil, *gasoline, benzine, naphtha, and other like products of petroleum*, 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. *Every agent and employee of any railway company or other transportation company, or any oil dealer having the custody of books or records showing the shipment or receipt of the oils, gasoline, benzine, naphtha, and other like products of petroleum mentioned in this act shall give and permit the supervisor of inspectors of illuminating oils and his deputies free access to such books and records for the purpose of determining the amount of oils, gasoline, benzine, naphtha, and other like products of petroleum shipped and received. Any such agent or employee of any railroad company or other transportation company, or any oil dealer refusing or neglecting to comply with these provisions shall be guilty of a misdemeanor*

and shall be punished by a fine not to exceed fifty dollars or by imprisonment in the county jail not to exceed sixty days, or by both such fine and imprisonment.

Section 1421i. In all tests of illuminating oils *and gasoline* made under this * * * act the testers known as the Tagliabue open cup or commercial oil tester for *illuminating oils, and the Tagliabue Standard Registered Hydrometer Beaume Scale for gasoline*, shall be used; the oil cup shall be filled to within one-fourth of an inch of the top thereof or as nearly full as is practicable to fill it without causing the oil to overflow in making the test, and in using the tester the oil shall not be heated faster than three degrees Fahrenheit per minute up to one hundred degrees, nor more than two degrees Fahrenheit per minute above one hundred degrees. The taper used in making test shall be such as shall give a clear flame as nearly uniform in size as is practicable. *The method of testing gasoline, benzine, naphtha, and other like products of petroleum will be with a Tagliabue Standard Registered Hydrometer Beaume Scale, calculated at sixty degrees Fahrenheit; the hydrometer to be immersed in the sample and the degree of the Beaume Scale noted, then the temperature should be noted, and for every ten degrees below sixty degrees of Fahrenheit's scale, add one degree of gravity to that noted on the Beaume Scale and for every ten degrees above sixty degrees noted on Fahrenheit's Scale, deduct one degree of gravity from that registered on the Beaume Scale.* The state supervisor shall give such instructions to the deputy inspectors as in his judgment shall be necessary to secure uniformity in the methods of making the tests.

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, *gasoline, benzine, or naphtha, and such other like products of petroleum* or sample thereof ten cents for every single cask, barrel, package, or sample he shall test, and the said fees shall constitute a lien on the products so inspected. Each deputy may inspect and test illuminating or heating oil *and gasoline, benzine, or naphtha, and such other like products of petroleum*, in a tank or railroad tank car, so called when standing upon a railroad track, and such * * * *products* shall not be transferred into warehouses or storage tanks or otherwise unloaded until so inspected; provided, if any such * * * *products* 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 * * * *prod-*

ucts have been inspected, no other inspection shall be necessary, but the deputy shall, when such * * * *products* are put in stationary tanks or barrels, mark, stamp, seal, or brand them without *extra* 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 * * * as used herein means a quantity not exceeding that contained in an ordinary commercial barrel estimated as fifty gallons. *Provided that when oil or gasoline is shipped to a point outside of the state, after inspection fees have been paid, the shipper shall be given credit for such fees by making an affidavit, setting forth the following: Date of shipment, to whom shipped, to what point shipped, the number of barrels, the kind of product, and by what railroad or boat line; and provided, further, that all such products subject to inspection in this state, that have been inspected in other states where the requirements as to fire tests and branding are as safe as prescribed in this state, may be admitted without additional inspection with the consent of the state supervisor of inspectors, on payment of fees and upon their being labeled with the actual fire test or gravity test as the case may be, the name of the shipper, the kind of oil, gasoline, benzine, or naphtha, and other like products of petroleum contained therein, and the point from where shipped, and the name and title of the officer who made the inspection.*

SECTION 2. Section 1421n of the statutes is repealed.

SECTION 3. Section 1421o of the statutes is designated as section 1421n.

SECTION 4. Section 1421p of the statutes is designated as section 1421o and is amended to read: Section 1421o. Every person dealing at retail or wholesale in gasoline, benzine, or naphtha, and other like products of petroleum in this state, shall * * * deliver the same to the purchaser only in barrels, casks, jugs, packages, or cans, painted vermilion red and having the word "gasoline," "benzine," and the name of such other like products of petroleum, plainly stenciled in English thereon. No such dealer shall deliver kerosene in a barrel, cask, jug, package, or can painted or stenciled as * * * hereinbefore provided. Every person purchasing gasoline, benzine, naphtha, or other like products of petroleum for use or sale shall procure and keep the same only in barrels, casks, jugs, packages, or cans painted and stenciled as * * * herein-

before provided. No person keeping for use or using kerosene shall put or keep the same in any barrel, cask, jug, package, or can painted or stenciled as * * * *hereinbefore provided.* *Provided, however, that in case of gasoline, benzine, and naphtha, or other like products of petroleum being sold in bottles, cans, or packages, or any product that contains gasoline, benzine, or naphtha, or other like products of petroleum is a constituent part thereof, of not more than one quart for cleaning and similar purposes, it shall be deemed sufficient if the contents of such bottles, cans, or packages are so designated by a label securely pasted or attached thereto with the words "gasoline," "benzine," or "naphtha," "unsafe when exposed to heat or fire" printed in bright red ink in letters not less than one-fourth inch in size.* Any person violating any of the provisions of this section shall be punished by a 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. *It shall be the duty of the state supervisor of inspectors and his deputies to enforce the provisions of this act.*

SECTION 5. There is added to the statutes a new section to read: Section 1421p. 1. The supervisor of inspectors of illuminating oils is hereby authorized to appoint a chief deputy oil inspector, from the eligibles under the provisions of chapter 363, laws of 1905 and the amendments thereto, whose duties shall, under the direction of the supervisor of inspectors, be to assist in overseeing all deputy inspectors of illuminating oils, instruct them in the performance of their duties, and perform such other duties as may be prescribed by the supervisor of inspectors.

2. Said chief deputy inspector shall receive an annual salary of twelve hundred dollars and shall be reimbursed for his actual and necessary expenses on approval by the governor and state supervisor of inspectors and audited by the secretary of state. He shall give a bond for the faithful performance of his duties as provided by law for deputy oil inspectors.

SECTION 6. This act shall take effect and be in force from and after its passage and publication.

Approved June 10, 1909: