

No. 30, S.]

[Published May 30, 1943.]

CHAPTER 229.

AN ACT to amend chapters 93 to 100 and various sections of the statutes, for the purpose of making the language conform to the changes made in the law by chapter 85, laws of 1939 (which reorganized the department of agriculture and markets) and by earlier reorganization acts, and simplifying language, correcting errors, supplying omissions, repealing obsolete provisions and renumbering for better location.

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

SECTION 1. Wherever in the statutes the term "state department of agriculture and markets," "department of agriculture and markets," "dairy and food commissioner," "commissioner of agriculture," "department of markets," "department of agriculture," or the equivalent of any of those terms is used (except in section 93.02 and except as otherwise provided in this act), the revisor, in printing the statutes, may substitute the term "state department of agriculture" or the word "department" therefor. Pronouns used for any of the terms or names for which substitution is authorized may be changed by the revisor when necessary to make the statutes grammatical.

SECTION 2. 27.015 (3), (5) and (12) are amended to read:
 (27.015) (3) * * * The *state* department of agriculture * * * shall stimulate interest and disseminate information * * * along lines of rural planning * * * and shall cooperate with county rural planning committees in carrying out their * * * duties as provided by subsection * * * (7)
 * * *

(5) Within 60 days after * * * *August 3, 1919*, the ex officio members of * * * *the* committee shall meet and appoint the balance of the committee, 1 for a term of 2 years, and 1 for a term of 4 years, and thereafter 1 shall be appointed every 4 years for a term of 4 years and until * * * *his* successor * * * is elected and qualified. * * * Terms * * * of appointed members * * * expire on July 1.

(12) The state department of agriculture * * *, the *bureau* of engineering, the state conservation commission and the agricultural extension division of the university of Wisconsin

shall co-operate with the * * * several county rural planning committees in carrying out the provisions of this section.

SECTION 3. The last sentence of 37.30 is amended to read:

(37.30) (last sentence) The courses in agricultural economics to be given in the various schools shall be such as are * * * prescribed from time to time by the state superintendent of public instruction, with the advice of the * * * *state* department of agriculture * * * and the chairman of the department of agricultural economics of the state university.

SECTION 4. 46.24 is amended by substituting the words "state department of agriculture" for the words "immigration commissioner".

SECTION 5. The title of Chapter 93 of the statutes shall read: STATE DEPARTMENT OF AGRICULTURE.

SECTION 6. 93.01 (1) is amended to read:

(93.01) (1) "Department" means the *state* department of agriculture * * * .

SECTION 7. 93.01 (2) is repealed and recreated to read:

(93.01) (2) "Director" means the director of the department.

SECTION 8. 93.02 (10) is amended to read:

(93.02) (10) The department * * * is charged with the execution of all powers, duties and functions vested in the department of agriculture and markets as it existed immediately prior to the creation of this section, and all of said powers, functions and duties so vested in said department of agriculture and markets are assigned and transferred to and vested in the state * * * *department* of agriculture created by this section.

SECTION 9. 93.03 is amended to read:

93.03 The principal office of the department * * * shall be * * * in the state capitol at Madison, but, with the approval of the governor, other offices may be maintained elsewhere in the state as may be necessary for the efficient functioning of the department. Hearings, investigations and meetings necessary to the carrying out of any of the duties of the department may be conducted anywhere within or without the state, as the * * * *department* may determine to be for the best interests of the state and the parties immediately concerned.

SECTION 10. 93.04 is repealed.

SECTION 11. 93.05 (1) is amended to read:

(93.05) (1) The * * * attorney for the department shall be an assistant attorney-general but he shall devote his entire time to the work of the department, except where the department consents to a departure from this requirement. * * * *He* shall be appointed by the * * * *director*, subject to the approval of *the members of the board and the attorney-general.*

SECTION 12. 93.07 (11) and (23) (b) and (c) are amended to read:

(93.07) (11) To superintend and assist in the organization of humane societies in the several counties and to administer and enforce the laws relating to humane education and the prevention of cruelty to animals and for this purpose * * * *the department* and * * * *its* authorized * * * *agents* when engaged in this work shall have the powers of * * * police officers and constables.

(23) (b) To enforce the provisions of sections 95.64 to * * * 95.66, by inspections, chemical analysis and other appropriate methods.

(c) To superintend and enforce the collection of all license fees required to be paid to the state under the provisions of * * * *chapter 129*, or of any act * * * relating to truckers, hawkers, peddlers or transient merchants. The agents specially charged with the enforcement of this paragraph shall not be designated by any title that contains the word "treasury."

SECTION 13. 93.08 is amended to read:

93.08 The * * * *department* and * * * *its* authorized * * * *agents* have power to enter, within reasonable hours, any field, orchard, garden, packing ground, building, freight or express office, warehouse, car, vessel, vehicle, room, cellar, storehouse, cold storage plant, packing house, stockyard, railroad yard or any other place, which it may be necessary or desirable for them to enter in performing their duties or in enforcing the laws intrusted to their administration. They have power, for such purposes, to open any box, carton, parcel, package or other receptacle, inspect the contents thereof, and, upon payment or tender of the market value, to take samples of any product contained therein.

SECTION 14. 93.13 (2) is amended to read:

(93.13) (2) The * * * *department*, on or before the first

day of December in each even-numbered year, shall submit to the governor a report of * * * *its* work * * * for the biennium which ended on the last day of June preceding, together with such recommendations as may be deemed of value to the people of the state. * * * *It* shall also make such special reports upon any phase of * * * *its* work * * * as may be called for by the governor, the legislature or either house thereof.

SECTION 15. 93.14 (1) is amended to read:

(93.14) (1) The department * * * or any of *its* authorized * * * agents * * * may, in relation to any matter within the department's power, conduct hearings, administer oaths, issue subpoenas and take testimony.

SECTION 16. 93.15 (2) is amended to read:

(93.15) (2) * * * *The department* or any of *its* authorized * * * agents may have access to and may copy any document, or any part thereof, which is in the possession or under the control of any person engaged in business, if such document, or such part thereof, is relevant to any matter which the department may investigate.

SECTION 17. 94.10 is amended to read:

94.10 The * * * department and the principal officers of the Northern Wisconsin state fair and of any county agricultural or industrial society have full jurisdiction and control of the grounds on which said department or society may exhibit, and all the streets and alleys and other grounds adjacent to the same during all such exhibitions, so far as may be necessary to exclude therefrom all other exhibitions, booths, stands or other temporary places for the retail or sale of any kind of spirituous or fermented liquors or other articles that they * * * deem objectionable: * * * The department, the president of any such society, or, in his absence, any vice-president acting in his stead, may appoint * * * necessary policemen to assist in preserving the peace and * * * *enforcing* the regulations upon the ground and adjacent streets, who, for such purpose, shall have all the powers of a constable and be entitled to similar fees.

SECTION 18. 94.60 (2) (b) is amended to read:

(94.60) (2) (b) Notwithstanding * * * paragraph (a) * * *, the * * * department * * * may enter into

reciprocal agreements with the responsible officers of other states under which nursery stock owned by nurserymen or dealers of such states may be sold or delivered in this state without the payment of a Wisconsin registration fee, provided like privileges are accorded to Wisconsin nurserymen or dealers in such other states, and provided, further, that the * * * department shall find that such other states before issuing their certificates, require inspections equal to those required under the Wisconsin law.

SECTION 19. 94.66 is amended to read:

94.66 * * * *The department shall annually analyze or cause to be analyzed at least one sample of every * * * material used for fertilizing purposes sold or exposed for sale under the 2 preceding sections and enforce their provisions by * * * causing the prosecution of every person who * * * violates them. * * * The department or its authorized agent may * * *, on tendering the value thereof, take a sample, not exceeding 2 pounds, for * * * analysis from any lot or package of * * * any material used for fertilizing purposes which may be in the possession of any manufacturer, importer, agent or dealer in this state * * *. The sample shall be * * * taken in the presence of the person from whom taken or his representative, be taken from a parcel or a number of packages which shall not be less than 10 per cent * * * of the whole lot sampled, be thoroughly mixed and divided into 2 equal * * * parts, placed in glass vessels and carefully sealed and a label placed on each, stating the name or brand of the * * * material sampled, the name of the party from whose stock the sample was * * * taken, and the time and place of * * * taking * * *. The label shall be signed by the * * * department's agent and * * * the person from whom taken or his representative at the * * * time the sample is taken. One of said duplicates * * * shall be retained by the * * * department and the other by the party whose stock was sampled. The sample retained by the * * * department shall be for comparison with the certified statement named in section 94.64. The result of the analysis of the sample * * * so procured shall be reported to the person requesting the analysis and be published in a report or bulletin to be issued within a reasonable time.*

SECTION 20. 94.77 (5) is amended to read:

(94.77) (5) Any person who violates any provision of * * * subsection (1) of section 94.65 or sections 94.67 to 94.71 shall be punished by a fine of not more than \$100 for the first offense; and for each subsequent offense not less than \$100 nor more than \$500, or imprisonment in the county jail not to exceed one year or by both such fine and imprisonment.

SECTION 21. 95.05 is amended to read:

95.05 The certificates of registration shall be for "pure bred," "grade," "scrub," "nonstandard" or "crossbred" stallions, using said designations and shall be in such form, and contain the name of the examining veterinarian and such other matter as the department * * * shall direct, and shall be signed by * * * *the director or authorized agent of the department.*

SECTION 22. 95.23 is amended to read:

95.23 * * * *The department, its authorized agent* or any veterinarian authorized by the department or any health officer may enter * * * any premises or * * * any building or place where he has reason to suspect there are diseased animals, and examine and test * * * *them*, and may call to his aid, if necessary, the sheriff or any constable of the county * * * *where the animals* * * * *are* and * * * such officers, when so called, shall assist in the enforcement of the * * * law relating to contagious and infectious diseases of animals.

SECTION 23. 95.25 (3) is amended to read:

(95.25) (3) At any time after the date fixed to commence the work, * * * *the department, its authorized agents* and all inspectors and persons appointed or authorized to assist in the work of applying the tuberculin test may enter any buildings or inclosures where cattle * * * *are*, for the purpose of making inspection and applying the tuberculin test, and any person who * * * interferes therewith or obstructs them in said work or attempts to obstruct or prevent by force * * * the inspection and the testing (in addition to the penalty prescribed therefor) shall be liable for all damages thereby caused to the state or county or to any person lawfully engaged in the work of inspection and testing.

SECTION 25. 95.52 is amended to read:

95.52 Any person who * * * desires a license to practice veterinary medicine and surgery in this state may appear before

the * * * veterinary examiners of the department at * * * a time * * * and place * * * fixed by the department * * * and be examined in reference to his skill and knowledge in veterinary medicine and surgery.

SECTION 27. 95.64 (1) and 95.68 are amended by substituting "95.66" for "95.67", in the references to "95.64 to 95.67".

SECTION 28. 97.02 (9) (a) is amended to read:

(97.02) (9) (a) Cheese is the sound, solid and ripened product made from whole milk or cream by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of * * * ripening ferments or seasoning or added coloring matter.

SECTION 29. The last sentence of 97.03 (1) is amended to read:

(97.03) (1) (last sentence) This section * * * shall not affect a person making up a product produced on his own farm, nor shall it be unlawful for a licensed cheesemaker employed in a licensed cheese factory to make butter or whey cream butter for the use or consumption only of the patrons thereof.

SECTION 30. The first sentence of 97.04 (7) (a) is amended to read:

(97.04) (7) (a) (first sentence) * * * The department may divide persons required to be licensed under this section into such groups by geographical location, type of operation, or other method of classification as it believes will best promote the economical, effective and convenient execution of this section, and shall determine on what day of each year licenses in each group shall expire.

SECTION 31. 97.06 (1) is amended to read:

(97.06) (1) No person shall operate a cannery without a license therefor from the department. "Cannery" as used in this section does not include a plant where only dairy products as defined in section * * * 97.04 are canned.

SECTION 32. 97.09 (1), (2), (4), (5), (6) and (7) are amended to read:

(97.09) (1) No person, firm or corporation shall engage in the business of manufacturing or bottling or distributing at wholesale or selling at wholesale to retail establishments for the purpose of resale any soda water beverages without * * * a license * * * from the department * * *. *But no li-*

cence shall be required for any of the operations of any person, firm or corporation conducted at any plant engaged wholly or partially in the manufacture of malt beverages. Such license shall be granted under such reasonable rules and regulations as the department may from time to time prescribe pertaining to the proper handling and storing of such beverages and the construction and sanitary condition of buildings and to the proper cleaning and sterilizing of all machinery, bottles or other containers used in or about the factory or premises and all containers in which the product is sold and it may prescribe such standards of purity for all ingredients used in the manufacture of such beverages as will insure a pure and unadulterated product.

(2) Each application for such license shall be made upon * * * a blank furnished by the department upon request and shall state the applicant's name and address and the exact location of the factory *or other premises* for which * * * license is requested and such other information as the department may reasonably require, and the department shall furnish to the applicant the rules and regulations incident to securing a license.

(4) *Such licenses* * * * shall expire on * * * December 31 next following the date of issue but may be renewed without inspection * * * each year upon the application of the licensee and upon the payment of \$5 * * * *received by the department prior to January 1.* * * *

(5) *Such license* * * * shall be deemed void and shall be surrendered to the * * * *department* when the person, firm or corporation to whom it was granted discontinues * * * *using the premises described in the application therefor*, or when another person, firm or corporation becomes owner, manager or operator of such * * * *business.*

(6) The department is authorized, after reasonable notice, to revoke any license if the licensee fails to comply with any of the provisions of this section or with any rule or regulation * * * *of the department relating to* * * * *such beverages*, and it shall restore to full force and effect any license when the licensee fully complies with * * * this section and the said rules and regulations.

(7) Any person * * * whose license has been refused or revoked, being dissatisfied with such order of the department, may commence an action in the circuit court for the county in which such person resides against the department to restore such

license on the ground that the refusal or revocation of the license is unlawful or unreasonable, and the procedure in such action shall be as prescribed by section * * * 102.23.

SECTION 33. The first sentence of 97.34 is amended to read:

(97.34) (first sentence) The * * * department * * * or any * * * of its authorized * * * agents shall have free access to any barn or stable where any cow is kept or milked, or to any factory, building, dairy or premises where any dairy product is manufactured, handled or stored, when the milk from such cow or such product is to be sold or shipped, and may enforce such measures as are necessary to secure perfect cleanliness in and around the same and of any utensils used therein, and to prevent the sale of milk from cows diseased or fed upon unwholesome food.

SECTION 34. 97.42 (10) is amended to read:

(97.42) (10) * * * *The department* or * * * any of its authorized * * * agents may at all reasonable times inspect the premises and examine the records of any licensee * * *.

SECTION 35. 97.49 is amended by substituting "Moisture 44 to 46%" for "Moisture 42 to 46%" in the 18th line of said section.

SECTION 36. 97.54 is amended by substituting "section" for "act" in the last sentence.

SECTION 37. 97.72 (4) is amended to read:

(97.72) (4) Any person who * * * violates any * * * provision * * * of this chapter for which a specific penalty is not prescribed in subsections (1), (2) and (3) of this section shall be punished by a fine of not less than \$25 nor more than \$100, or by imprisonment in the county jail not less than 30 days nor more than 60 days, or by both such fine and imprisonment. Any person who * * * violates any * * * provision * * * of sections 97.03, 97.035, 97.04, 97.05 or 97.09 shall, in addition to the foregoing penalty, suffer a revocation of his license issued under these sections.

SECTION 38. 97.75 (3) and (4) are amended by substituting "department" for "division" wherever that word occurs; 97.75 (1) (d) is repealed; and 97.75 (1) (introductory paragraph) and (2) are amended to read:

(97.75) (1) (introductory paragraph) As used in this * * * *section* or in any regulation made pursuant thereto unless the context * * * otherwise requires:

(2) Every maltster and brewer doing business in the state shall * * * annually * * * *on or before April 1* register with the * * * *state* department of agriculture * * * in such manner as the * * * department determines.

SECTION 39. 98.25 (3) is amended to read:

(98.25) (3) * * * Sections 98.01 to 98.24 * * * *do not* prohibit the use * * *, in good faith, of any unsealed weight or measure or weighing or measuring device * * * acquired by * * * *any* person after the * * * sealer's *last visit to him* * * * for the purpose of * * * sealing * * * *his* weights and measures, or *inspecting* any sealed weight or measure or weighing or measuring device in his possession after the expiration of one year next after the last inspection and sealing thereof, provided the * * * person * * * *has* notified the city sealer, in cities subject to the provisions of section 98.04, or, *in all other cases*, the department, * * * in writing, signed by * * * *him*, of the fact that he has such weight or measure or weighing or measuring device, giving the number * * * and a general description * * * *thereof*, and the place where * * * *it* may be found * * *, and * * * *has* received a written *and signed* acknowledgment of said notice * * * *from the city sealer or the department.*

SECTION 40. 99.09 (2) is amended to read:

(99.09) (2) Every person who * * * sells any article of food which has been held in cold storage for * * * 40 days or over shall keep an accurate record of all such articles sold, showing designation or lot number under which * * * *the* article * * * *has* been held in cold storage, date when sold, kind and quantity sold, and name and address of person to whom sold, and such records shall be open and accessible to the * * * department * * * and * * * *its* agents at all reasonable times, * * * *but* nothing herein shall be construed as requiring persons who sell at retail * * * to consumers only to keep the aforesaid records.

SECTION 41. 100.12 is repealed.

SECTION 42. 100.13 is revised to read:

100.13 WAREHOUSEMEN. (1) DEFINITIONS, LICENSES.

(a) "Warehouseman" as used in this section excludes: municipal and railroad corporations; those licensed under sections 99.02 and 126.07; co-operative associations storing farm products and merchandise for members; those who own and use warehouses for storage of manufactured dairy products, or canned produce and dairy products, manufactured by them; and field warehouses. It includes every other person who stores property for hire.

(b) The state department of agriculture may exempt from the operation of this section a warehouse or portion thereof if the operator has a license under the federal bonded warehouse act.

(c) A person desiring a warehouseman's license shall make application on a form furnished by the department and shall set forth the location, size, character and equipment of the building or premises to be used by him, the kinds of goods intended to be stored, the name of each partner, if a partnership, and the names of the officers, if a corporation, and such other facts as the department requires to show that the property proposed to be used is suitable for a warehouse and that the applicant is qualified as a warehouseman. If the property proposed to be used is suitable for a warehouse and the applicant is entitled to a license, he shall be notified of the fact and upon payment of the license fee and giving the bond required a license shall issue.

(2) WAREHOUSEMEN CLASSIFIED. Warehousemen are classified as follows: Warehousemen who have less than 10,000 square feet of floor space constitute class 1; warehousemen who have 10,000 square feet or over but less than 50,000 constitute class 2; warehousemen who have 50,000 square feet or over but less than 100,000 constitute class 3; warehousemen who have 100,000 square feet or over but less than 150,000 constitute class 4; and warehousemen who have 150,000 square feet or over constitute class 5.

(3) LICENSE FEES, TERM. (a) Every warehouseman before he is licensed shall pay into the state treasury an annual fee, as follows: For class 1, \$10; for class 2, \$20; for class 3, \$30; for class 4, \$40; and for class 5, \$50.

(b) No license shall be issued for part of a year for less than the annual fee, and the license is not transferable. The license period expires June 30.

(4) BOND. (a) Every warehouseman, before he is licensed, shall file with the department a bond to the state of Wisconsin,

with one or more sureties, who shall justify in double the amount of such bond, or with a surety company licensed by this state as surety. Such bond must be acceptable to the department and shall be conditioned that the warehouseman will faithfully perform his obligations as a warehouseman. When the department determines that a bond is insufficient, it may require an additional bond, and unless it is given within the time fixed by a written demand therefor the license may be suspended or revoked. Any warehouseman may, in lieu of such bond, file with the department a certified copy of a legal liability insurance policy of like amount which is acceptable to the department and payable to the state for the benefit of the owners of stored property, and which provides that the policy shall not be canceled during the license period except upon 15 days' notice in writing to the department. Failure to keep such bond or policy of insurance in force shall be cause for revoking the license.

(b) The bond or insurance policy shall be in amount as follows: For class 1, \$5,000; for class 2, \$10,000; for class 3, \$15,000; for class 4, \$20,000; and for class 5, \$25,000.

(c) In the case of warehousemen engaged exclusively in storing wearing apparel the department may accept, in lieu of bond, a certified copy of insurance policies protecting the owners of all stored goods against loss or damage by fire, wind, water or theft.

(5) SIGN POSTED. Every warehouseman shall keep a conspicuous sign posted on the outside of each warehouse, at its main entrance, and another conspicuous sign posted at its main exit which sign shall state clearly the name of the warehouseman, his license number, and that the warehouse is a public warehouse.

(6) REVOCATION AND REFUSAL OF LICENSE. (a) Licenses may be revoked by the department, upon notice and hearing, for violation of law or of any rule or regulation of the department.

(b) The department may forbid the use of any building or premises found unfit for warehouse purposes.

(c) A license may be refused to any warehouseman whose license was revoked during the preceding year.

(7) TRANSACTING BUSINESS WITHOUT A LICENSE. No person shall act or hold himself out as a warehouseman or advertise for or solicit business as a warehouseman without a warehouseman's license, or when his bond has become void or has been found insufficient.

SECTION 43. 100.14 (2) is amended to read:

(100.14) (2) The secretary of state shall, upon application of the * * * *department*, record any such label or trade-mark under sections 132.01 to * * * 132.12. The department shall be entitled to protect such label or trade-mark under said sections and in any other manner authorized by law.

SECTION 44. 100.26 (5) is amended to read:

(100.26) (5) Any person violating section 100.05 or 100.06 or any order or regulation of the department thereunder, * * * or * * * section 100.13 (7), shall be fined not less than \$25 nor more than \$1,000, or imprisoned in the county jail or state prison not more than one year, or both. Each day shall constitute a separate offense.

SECTION 45. 110.07 (1) is amended by striking out "and section 129.11" wherever it occurs, in the clause "the provisions of chapters 85, 110 and 194 and section 129.11."

SECTION 46. 119.72 (3) is amended to read:

(119.72) (3) Seals or locks, or other fastenings employed shall be in accordance with specifications furnished by the department. A warning card shall be posted in a conspicuous place near the seal on each receptacle sealed. Such cards shall contain substantially the following wording:

WARNING

Sealed by authority of the *Wisconsin State* Department of Agriculture * * *. Any person tampering with this seal or removing any grain herefrom shall be subject to fine and imprisonment as provided by law.

State Department of Agriculture * * *

By * * * *Director.*

SECTION 47. A section is added to the statutes to read:

129.001 The word "department" as used in this chapter means the state department of agriculture.

SECTION 48. 129.11 is renumbered to be 110.10 and is amended by substituting the words "this section" for the references to "section 129.11" wherever they occur therein.

SECTION 49. 225.13 (2) is amended by substituting "state department of agriculture" for "commissioner of agriculture" in the first sentence, and by substituting "department" for

“commissioner” and for “commissioner of agriculture” where those terms occur in other places in said subsection.

Approved May 28, 1943.

No. 75, S.]

[Published June 3, 1943.

CHAPTER 230.

AN ACT to amend 32.07 (1) of the statutes, relating to drawing juries in condemnation cases.

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

32.07 (1) of the statutes is amended to read:

32.07 (1) If the application be by a municipal corporation, the filing of the petition under section 32.04 shall be deemed the commencement of an action for the determination of the necessity of the taking. Within 20 days after the service of notice, as provided in section 32.05, any person owning or interested in any property proposed to be condemned, may serve and file an answer. After the expiration of the time for answering the action may be brought on for hearing on a 3 days' notice to all parties who have answered and shall have precedence over all other matters not on trial. The court shall thereupon impanel a jury * * * and the question of the necessity of the taking shall thereupon be tried as a question of fact. *Jurors and trial juries shall be drawn as follows: (a) in circuit courts in the manner provided by sections 255.03 to 255.09; (b) in county courts as to which section 324.17 is applicable, in the manner provided by subsection (5) of that section; and (c) in other county courts in the manner provided by section 255.10.* If no answer to the petition is interposed the trial by jury shall proceed ex parte. Costs in such proceedings shall be paid by the municipality. The court may, in its discretion, submit to a single jury the determination of such necessity as to one or more than one or all of the parcels of land sought to be taken for the same purpose, or for one or more streets or alleys. If the jury find that the taking of such lands is not necessary the owner thereof shall recover from the municipality his necessary disbursements and taxable costs not to exceed \$25.

Approved June 1, 1943.