

No. 416, A.]

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CHAPTER 401.

AN ACT to repeal 94.60 (4), 94.72 (13) (c), 95.02 (3), 95.03 (2), 95.29 (4), 95.65 (2), 97.03 (5), 97.035 (5), 97.04 (8), 97.06 (6), 97.09 (6) and (7), 99.11, 100.01 (2) (d), 100.04 (2), 100.12 (6) and 100.13 (3) (a); to repeal and recreate 93.20 (1); to renumber 95.65 (4) to be 95.65 (3); to renumber and amend 95.03 (1) to be 95.03, 95.29 (5) to be 95.29 (4), and 95.65 (3) to be 95.65 (2); to amend 93.18 (1), (2) and (6), 93.19 (1), 94.42, 94.63, 94.64 (3), 94.72 (8), 95.45, 95.495 (1) and (3), 95.63, 97.05 (3), 97.10 and 100.05 (4); and to create 93.06 (7) and (8) and 97.08 (4) of the statutes, for the purpose of standardizing the procedure in the state department of agriculture for issuing, revoking and amending department orders, standards and regulations, denying, suspending and revoking permits, certificates, registrations and licenses, holding hearings and rehearings, and for judicial review of department orders, standards and regulations.

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

SECTION 1. Two subsections are added to section 93.06, to be numbered and to read:

(93.06) (7) Deny, suspend or revoke any permit, certificate, registration or license if the applicant therefor or holder thereof is not fit, qualified or equipped or has violated or failed to obey any applicable law, order or regulation, or has misrepresented or intentionally failed to disclose a material fact in making his application. In determining whether any person is fit, qualified or equipped, the department shall consider, among other things, his character and conduct, including past compliance or non-compliance with law. The department may follow the procedure provided for special orders in section 93.18, or the applicant or permit holder, certificate holder, registrant or licensee may, within 5 days after notice of denial, suspension or revocation, demand such procedure. Rehearing and judicial review shall be as provided in sections 93.19 and 93.20.

(8) Any permit, certificate, registration or license may be conditioned upon pertinent circumstance or act.

SECTION 2. 93.18 (1), (2) and (6) are amended to read:

(93.18) (1) The department shall publish notice *in the official state paper* of any public hearing * * * *to be held relating to issuing, revoking or amending a general order, standard or regulation.*

(2) The department, in any matter * * * *relating to issuing, revoking or amending a special order or regulation not affecting the general public*, shall serve * * * upon the person *complained against* * * * *a complaint* * * * *in the name of the department and a notice of a public hearing thereon* to be held * * * not sooner than 10 days after such service. The person *complained against* * * * shall be entitled to be heard in person, or by agent or attorney and shall * * * *be entitled to process to compel the attendance of witnesses.*

(6) *The testimony presented and the proceedings at hearings shall be taken in shorthand and transcribed. The director shall, as soon thereafter as possible, make his findings and determination thereon.* The department shall make * * * rules of procedure and practice not inconsistent with * * * any * * * law governing such procedure or practice.

SECTION 3. 93.19 (1) is amended to read:

(93.19) (1) Any person affected by * * * *any standard, order, * * * regulation or other determination made * * * by the director pursuant to section 93.18* may file with the department an application for *review by the board as provided in section 93.02 (6), or for a rehearing upon such standard, order, * * * regulation or other determination.* * * * Such application shall be filed not later than 30 days after *the effective date of such standard, order, * * * regulation * * * or determination, and action granting or denying the application shall be taken within 30 days after the filing thereof.*

SECTION 4. 93.20 (1) is repealed and recreated to read:

(93.20) (1) The determination of the director and the action of the board upon any application for rehearing or review shall be subject to judicial review within 60 days by writ of certiorari brought in the circuit court of Dane county.

SECTION 5. 94.42 is amended to read:

94.42 PERMITS. No person shall sell, offer or expose for sale * * * any agricultural or vegetable seed without * * * *a permit* from the department * * * to engage in such business. A separate permit shall be required for each store or place

of business where such seed is sold * * * or offered for sale for seeding purposes, provided no permit shall be required from persons selling seeds which have been packed and distributed by a seedsman holding * * * a permit as herein provided. No permit shall be required of persons selling, offering or exposing for sale * * * seed of their own production provided that such seed is sold and delivered * * * only on the farm or premises where grown. Such seed shall be otherwise labeled as required by section 94.39. The fee for issuing permits shall be \$1 each. All permits * * * shall expire on July 1 following *the effective date.* * * *

SECTION 6. 94.60 (4) is repealed.

SECTION 7. 94.63 is amended to read:

(94.63) (1) Any person affected by any order of the inspector may * * * *make application for a hearing thereon pursuant to section 93.18* within 5 days of the service of such order upon him, setting forth in writing specifically and in full detail the order on which a hearing is desired, and every reason why such order is deemed to be unreasonable.

(2) On receipt of * * * *the application* the department shall with reasonable promptness order a hearing thereon and consider and determine the matters in question. Notice of the time and place of hearing shall be given to the * * * *applicant* and to such other persons as the department may direct. * * * *The application* shall not suspend the operation of the order appealed from unless so ordered by said department.

SECTION 8. 94.64 (3) is amended to read:

(94.64) (3) Before any person * * * shall sell or offer for sale any pure or mixed culture of micro-organisms or other material to be used for promoting directly or indirectly, the growth of higher plants, he * * * shall file with the department a statement under oath specifying the composition of the substance and the kinds of micro-organisms contained therein which promote the growth of higher plants, and shall secure a permit from the department. * * *

SECTION 9. 94.72 (13) (c) is repealed and 94.72 (8) is amended to read:

(94.72) (8) * * * *No commercial feed shall be accepted for registration* under a brand or trade name which would be misleading or deceptive, or which would tend to mislead or deceive.

as to the materials of which it is composed * * *. The department * * * *may* refuse to allow any manufacturer, importer, jobber, firm, association, corporation or person to lower the guaranteed analysis or change the ingredients of any brand of his or their commercial feeds during the term for which registered, unless satisfactory reasons are presented to the department * * * for making * * * *the* change * * *.

SECTION 10. Section 95.02 (3) is repealed.

SECTION 11. Section 95.03 (2) is repealed, and 95.03 (1) is renumbered 95.03 and amended to read:

95.03 * * * When a complaint signed by a responsible person is made to the department that a stallion or jack is unsound and, on investigation, an examination is deemed necessary, such examination shall be made by a legally qualified graduate veterinarian deputized by the department * * *.

SECTION 12. 95.29 (4) is repealed and 95.29 (5) is renumbered (4) and amended to read:

95.29 (4) * * * *No person shall use or cause to be used any such label or mark without a permit therefor.* No person shall misuse or imitate the official label or mark furnished by the department, or make any material misstatement in the application for a permit or a renewal thereof.

SECTION 13. 95.45 is amended to read:

95.45 REVOCATION OF PERMIT TO TEST. The tuberculin test shall be applied to cattle only by veterinarians * * * approved by the department. * * * *The veterinarian* applying such test shall tag and brand all reactors in conformity with the rules and regulations of the department. Any * * * *veterinarian* who fails to comply with this section and the rules, regulations and instructions furnished by the department, shall forfeit all right to apply the tuberculin test * * *.

SECTION 14. 95.495 (1) and (3) are amended to read:

(95.495) (1) Where the words "tuberculosis," "tuberculin" or "tuberculin test" appear in *sections 95.38, 95.39 and 95.41 to 95.49, for the purposes of carrying out the intent hereof, such words in those sections* * * * shall be deemed to be substituted by the words "Bang's disease," "Brucella antigen," and "Bang's test," respectively.

(3) Sections 95.30 to 95.35, * * * 95.36 (1) to (7) and (9), and * * * 95.37 shall be applied in carrying out this section;

but indemnity shall be denied * * * on steers; * * * on cattle over 8 months of age treated after April 1, 1939, with any biological product containing *Brucella* organisms; and * * * on all cattle * * * in a herd, * * * in which *any cattle* have been * * * *treated with such product* without previous permit as herein provided * * *. * * * No person shall treat bovine animals with any *biological* * * * product *containing Brucella organisms without a* * * * written permit therefor * * * from the department. Such permit shall be granted to approved veterinarians only, and application therefor shall be acted upon within 30 days after filing completed application. * * * It shall be unlawful to bring or cause to be brought into this state any biological product containing *Brucella* organisms unless such importation is reported to the department within 5 days *by the person acquiring such product*.

SECTION 15. 95.63 is amended to read:

95.63 REVOCATION OF LICENSE; NOTICE. The * * * department may, upon the recommendation * * * of the veterinary examiners, and after a hearing *as provided in section 93.18, suspend or revoke any such license for any professional misconduct, * * * breach of duty or violation of law or rule or regulation of the department* * * *. * * *. Notice * * * of the hearing and * * * *a copy of the complaint shall be served upon the licensee at least 20 days before the day set for hearing.*

SECTION 16. 95.65 (2) is repealed; 95.65 (3) and (4) are renumbered (2) and (3); and 95.65 (2), as renumbered, is amended to read:

(95.65) (2) * * * The department may make regulations governing applications for registration, the submission of samples for analysis and all other matters necessary to give effect to this section, but no such regulation shall impose any requirement for registration other than as provided by this chapter. * * *

SECTION 17. 97.03 (5) is repealed.

SECTION 18. 97.035 (5) is repealed.

SECTION 19. 97.04 (8) is repealed.

SECTION 20. 97.05 (3) is amended to read:

(97.05) (3) Subsections (6), (7), * * * (9), (10) and (11) of section 97.04 shall apply to this section.

SECTION 21. 97.06 (6) is repealed.

SECTION 22. A subsection is added to section 97.08, to be numbered and to read:

(97.08) (4) An appointment of a special dairy and food inspector may be denied, suspended or revoked by the department as provided in section 93.06 (7). Rehearing and judicial review shall be as provided in sections 93.19 and 93.20.

SECTION 23. 97.09 (6) and (7) are repealed.

SECTION 24. 97.10 is amended to read:

97.10 No building, room, or apartment shall be used * * * as a bakery or confectionary * * * without a license * * * as provided in sections 97.10 to 97.24 * * *. Application for a license shall be made * * * on a form furnished by the department * * *. * * *. The application shall describe the construction and condition of the * * * premises to be used. If * * * the premises conform * * * to the * * * law and regulations, the department shall grant to the applicant a license permitting the use * * * thereof as a bakery and confectionary * * *. The license * * * shall be * * * void * * * when the * * * licensee discontinues using the * * * premises as a bakery or confectionary * * *, or when another person * * * becomes owner, manager or operator of * * * the business. Such license may be denied, suspended or revoked as provided in section 93.06 (7), and may also be revoked by an order of the court upon a second or any subsequent conviction of any violation of or failure to comply with any provisions of sections 97.10 to 97.24 * * *. All licenses shall expire on * * * February 28 following * * * the effective date.

SECTION 25. 99.11 is repealed.

SECTION 26. 100.01 (2) (d) is repealed.

SECTION 27. 100.04 (2) is repealed.

SECTION 28. 100.05 (4) is amended to read:

(100.05) (4) Subsections (7), * * * (9), (10) and (11) of section 97.04 shall apply to this section.

SECTION 29. 100.12 (6) is repealed.

SECTION 30. 100.13 (3) (a) is repealed.

Approved June 29, 1943.