

No. 484, A.]

[Published June 15, 1911.

CHAPTER 325.

AN ACT to create sections 1494—10o to 1494—10w, inclusive, of the statutes, relating to the manufacture, sale or transportation of adulterated or misbranded paris greens, lead arsenates and other insecticides and also fungicides, and for regulating traffic therein.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There are added to the statutes nine new sections to read: Section 1494—10o. It shall be unlawful for any person, firm or corporation to manufacture or compound within the state of Wisconsin any insecticide, paris green, lead arsenate or fungicide which is adulterated or misbranded within the meaning of this act; and any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor, and shall, on conviction thereof, be fined not to exceed two hundred dollars for the first offense, and on conviction for each subsequent offense be fined not to exceed three hundred dollars, or sentenced to imprisonment for not to exceed one year, or both such fine and imprisonment, in the discretion of the court.

(Am. 1911, c. 664, s. 46.)

Section 1494—10p. It shall be unlawful for any person, firm or corporation, to introduce, import, ship, deliver or receive into this state, or to ship or deliver from this state, any insecticide or fungicide which is adulterated or misbranded within the meaning of this act; and it shall likewise be unlawful for any person, firm or corporation to sell or offer for sale, or deliver for pay or otherwise in the state, any such adulterated or misbranded insecticide or fungicide in any form whatsoever. Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor and shall on conviction thereof, be fined not to exceed two hundred dollars for the first offense, and on conviction for each subsequent offense not exceeding three hundred dollars, or be imprisoned not exceeding one year, or both in the discretion of the court.

(Am. 1911, c. 664, s. 46.)

Section 1494—10q. The rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of insecticides and fungicides, manufactured or compounded or introduced or shipped or sold or

offered for sale, in this state, shall be devised and executed under the direction of the director of the agricultural experiment station.

(Am. 1911, c. 664, s. 46.)

Section 1494—10r. It shall be the duty of each district attorney to whom the director of the agricultural experiment station or his deputy shall present satisfactory evidence of violation of any provision or provisions of this act, to institute and prosecute without delay appropriate proceedings in the proper court for the enforcement of the provisions of this act.

(Am. 1911, c. 664, s. 46.)

Section 1494—10s. No dealer or agent shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer or other party residing in the United States, from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer or agent, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties, which would attach in due course to the dealer or agent under the provisions of this act.

(Am. 1911, c. 664, s. 46.)

Section 1494—10t. The term "insecticide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any insects which may infest vegetation, man or other animals, or households, or be present in any environment whatsoever. The term "paris green" as used in this act shall include the product sold in commerce as paris green and chemically known as the aceto-arsenite of copper. The term "lead arsenate" as used in this act shall include the product or products sold in commerce as lead arsenate and consisting chemically of products derived from arsenic acid (H_3ASO_4) by replacing one or more hydrogen atoms by lead. The term "fungicide" as used in this act shall include any substance or mixture of substances intended to be used for preventing, destroying, repelling or mitigating any and all fungi that may infest vegetation or be present in any environment whatsoever.

(Am. 1911, c. 664, s. 46.)

Section 1494—10u. 1. For the purpose of this act an article shall be deemed to be adulterated:

In the case of paris green: first, if it does not contain at least

fifty per cent of arsenious oxide; second, if it contains arsenic in water-soluble forms equivalent to more than three and one-half per cent of arsenious oxide; third, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

2. In the case of lead arsenate: first, if it contains more than fifty per cent of water; second, if it contains total arsenic equivalent to less than twelve and one-half per cent of arsenic oxid (As_2O_3); third, if it contains arsenic in water-soluble forms equivalent to more than seventy-five one hundredths per cent of arsenic oxid (As_2O_3); fourth, if any substances have been mixed and packed with it so as to reduce, lower or injuriously affect its quality or strength; that extra water may be added to lead arsenate (as described in this paragraph) if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

3. In the case of insecticides or fungicides, other than paris green and lead arsenate: first, if its strength or purity fall below the professed standard or quality under which it is sold; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if it is intended for use on vegetation and shall contain any substance or substances which, although preventing, destroying, repelling or mitigating insects, shall be injurious to such vegetation when used.

(Am. 1911, c. 664, s. 46.)

Section 1494—10v. 1. The term "misbranded" as used herein shall apply to all insecticides, paris greens, lead arsenates or fungicides, or articles which enter into the composition of insecticides or fungicides, the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular, and to all insecticides, paris greens, lead arsenates or fungicides which are falsely branded as to the state, territory or country in which they are manufactured or produced.

2. For the purpose of this act an article shall be deemed to be misbranded:

(a) In the case of insecticides, paris greens, lead arsenates and fungicides: first, if it be an imitation or offered for sale under the name of another article; second, if it be labeled or branded so as to deceive or mislead the purchaser, or if the contents of the package as originally put up shall have been re-

moved in whole or in part and other contents shall have been placed in such package; third, if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

(b) In the case of insecticides (other than paris greens and lead arsenates) and fungicides: first, if it contains arsenic in any of its combinations or in the elemental form and the total amount of arsenic present (expressed as per cent of metallic arsenic) is not stated on the label; second, if it contains arsenic in any of its combinations or in the elemental form and the amount of arsenic in water-soluble forms (expressed as per cent of metallic arsenic) is not stated on the label; third, if it consists partially or completely of an inert substance or substances which do not prevent, destroy, repeal or mitigate insects or fungi, and does not have the names and percentage amounts of each and every one of such inert ingredients plainly and correctly stated on the label; that in lieu of naming and stating the percentage amount of each and every inert ingredient the producer may at his discretion state plainly upon the label the correct names and percentage amounts of each and every ingredient of the insecticide or fungicide having insecticidal or fungicidal properties, and make no mention of the inert ingredients, except in so far as to state the total percentage of inert ingredients present.

Section 1494—10w. A fee not to exceed five dollars may be collected for the examination or analysis of each sample of insecticide or fungicide submitted by any manufacturer, wholesaler, jobber or dealer. Such fees shall be paid into the state treasury to constitute a special fund. Expenses in carrying out the provisions of this act shall be paid out of said special fund on approval by the director of the agricultural experiment station.

(Am. 1911, c. 664, s. 46.)

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

Approved June 14, 1911.