

[No. 60, S.]

[Published March 25, 1880.]

CHAPTER 269.

AN ACT to provide for the inspection of illuminating oils manufactured from petroleum or coal oils and to regulate the sale thereof, and to repeal section four thousand three hundred and fifty-nine of chapter one hundred and eighty-one, revised statutes of 1878.

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

SECTION 1. The governor of this state shall, by and with the advice and consent of the senate, appoint a suitable person, who shall be a resident of this state and not pecuniarily interested, either directly or indirectly, in the manufacture, refining, sale or vending of illuminating oils from petroleum or other sources or material, who shall perform the duties of state supervisor of inspectors of illuminating oils as hereinafter provided. The state supervisor so appointed shall hold his office for a term of two years, from the first day of April in the year of his appointment and until his successor shall have been duly appointed and qualified, unless sooner removed from office by the governor; and in case of vacancy in this office from any cause, the governor shall fill the vacancy for the balance of the term.

Governor and senate to appoint supervisor.

SECTION 2. It shall be the duty of the said supervisor faithfully to supervise all inspectors of illuminating oils in this state, instruct them in performing the duties of their office, keep a record of the local inspectors reports to him. He shall prepare or cause to be prepared suitable and uniform designs for brands or stencil plates, to be used under the provisions of this act, and he may furnish such brands or stencil plates to all inspectors of oils at their proper cost and expense. Every inspector of illuminating oils appointed as hereinafter provided shall, on the first day of each month, report to the state supervisor of inspectors a full statement of the number of barrels of oil inspected, the results of such inspection, and an account of the actual receipts of his office, and he shall at the same time mit the sum of two cents for each barrel of oil he has tested during the preceding month, which payment shall be the salary of the supervisor of inspectors of illuminating oils, and no other allowance shall be made for the expenses of his office. Every inspector shall faithfully comply with all instructions issued by the supervisors of inspectors of illuminating oils, and shall furnish to him full information regarding

Duty of supervisor.

Duty of inspectors.

any accident or explosion that may come to his knowledge from the use of illuminating oils, and the said supervisor shall report to the governor annually, in October of each year.

Appo'intment of
inspectors.

SECTION 3. The state supervisor of inspectors of illuminating oils shall appoint, in accordance with the provisions of this act, inspectors of illuminating oils, who shall examine and test all illuminating oils offered for sale or for use in this state, by any person whatsoever, and shall demand and receive all fees in payment for such examining and testing, and who shall be liable to all the penalties hereinafter provided for any neglect or for any willful misconduct or malfeasance in the discharge of the duties aforesaid; and the said state supervisor shall have power at any time to remove any inspector so appointed upon reasonable notice or for reasonable cause. And the said supervisor, and all inspectors appointed under the provisions of this act, shall, before entering upon the duties of their respective offices, take an oath or affirmation faithfully to discharge the duties of the same as prescribed by the constitution and laws of this state, and the said supervisor shall execute a bond to the people of the state, in the sum of two thousand dollars, conditioned for the faithful performance of all the duties imposed by this act, said bond to be filed in the office of the secretary of state; and every inspector appointed under this act shall execute a bond to the people of the state, in the sum of two thousand dollars, conditioned as aforesaid, such bond to be filed in the office of the clerk of the county wherein the inspector executing the same shall reside, and a duplicate copy thereof, duly certified by the county clerk, shall be filed in the office of the surveyor; and all bonds executed under the provisions of this act shall be for the use of all persons aggrieved by the acts or neglect of the state supervisor or of the inspectors respectively executing the same. The sureties on the bond of the state supervisor shall be approved by the secretary of state, and the sureties on the bonds of the inspectors shall be approved by the judge of probate in the counties in which the inspectors executing the same shall respectively reside: *provided*, that the said state supervisor shall, on request of the city council of any city of not less than six thousand (6,000) inhabitants, appoint any suitable person whom such council shall nominate inspector of illuminating oils for said city, and for such territory adjacent to said city as the said state supervisor of inspectors shall determine. It shall

Oath of supervisor and inspectors, and bond of supervisor.

City council may nominate inspector.

be the duty of every inspector appointed under the provisions of this act, to provide at his own cost and expense all the necessary instruments and apparatus for examining, testing and branding illuminating oils, under the provisions of this act, and promptly to examine or test when called upon for that purpose, any oils offered for sale or for use for illuminating purposes, and if upon such examination or test such oil shall be found to meet the requirements of this act, he shall affix to the package, cask or barrel containing the same, a brand or device containing the word "approved," with the date of testing, over his official signature upon the package, cask or barrel containing the same, and it shall be lawful for any person to sell the same as an illuminating oil within this state, but if the oil so tested shall not meet the aforesaid requirements, he shall brand in plain letters on the package, cask or barrel containing the same, over his official signature, the words "rejected for illuminating purposes in the state of Wisconsin," with the date of testing thereof, and it shall be unlawful for the owner thereof to sell such oil for illuminating purposes.

Mode of testing oils.

SECTION 4. And to more effectually carry out the provisions of this act, it shall be lawful for any inspector to enter into or upon the premises of any manufacturer, refiner, or vendor of such illuminating oils, and if he shall find or discover, upon said premises, any oil which shall not have been examined or tested and properly marked or branded, under the provisions of this act, to examine or test, and thereafter properly to mark the same as herein provided.

Authority of inspector to enter upon premises.

SECTION 5. Any illuminating oil which, on the application of a well lighted taper, or similar flame, will take fire and burn, or which shall evolve or give off an inflammable vapor or gas, at a temperature below that of one hundred and twenty degrees above zero point of Fahrenheit's thermometer (120° Fah.), or which for any reason whatever shall not remain clear and transparent upon being cooled to a temperature equal to that of twenty degrees above zero point of Fahrenheit's thermometer (20° Fah.), and kept at said temperature for a period not less than ten minutes of time, or which shall deposit any solid particles of paraffine when cooled as aforesaid, shall be deemed unfit for illuminating purposes, and the cask, barrel or other package containing the same shall be marked rejected, as hereinbefore provided.

When oils to be rejected.

Instrument for
making flash
test.

SECTION 6. In all tests of illuminating oils made under this act, the quantity of oil used for making the flash test shall not be less than half a pint, and the instrument or apparatus used in making the examinations and tests herein provided for shall be in all respects in accordance with the instrument heretofore adopted and recommended by the state board of health of the state of Michigan, and now the legal instrument for testing oils used for illuminating purposes in that state, except that the water bath of the instrument shall be made four inches in depth and three and one-half inches in diameter, the supporting cylinder of the instrument being made of such size as freely to admit the same, and in using the tester the oil shall not be heated after it has attained the temperature of one hundred degrees Fahrenheit, and until it attains its highest test temperature, faster than at the rate of three degrees per minute; and the flame of the lamp shall be so adjusted as that the rise in temperature shall be as near to two degrees per minute as it is practicable to make it, and the taper used in making the test shall be such as shall give a clear flame, as nearly uniform in size as it is practicable to secure it; and the state supervisor shall give such instructions to inspectors as shall in his judgment be necessary or desirable to secure uniformity in the methods of making the tests.

Compensation
of inspector.

SECTION 7. Every person appointed as an inspector under the provisions of this act, shall be entitled to demand and receive from the owner or other person for whom or at whose request he shall examine or test any oil or sample thereof, the sum of thirty-five cents for every single cask, barrel, package or sample of oil he shall test, and thirty cents each when not exceeding five in number; twenty-five cents each when not exceeding ten in number, and twenty cents each for each additional barrel, package or cask actually inspected and branded by him in lots less than car loads, and for a car-load of fifty barrels, packages or casks, fifteen cents for each barrel, package or cask so inspected and branded by him, and the said fees for examining or testing shall constitute a lien on the oil so inspected.

Inspectors
recor'd.

SECTION 8. It shall be the duty of every inspector appointed under the provisions of this act to keep a true and accurate record of all casks, barrels or other packages of oil examined or tested by him, which record shall state the time and place of inspection, the number of casks, barrels or other packages of oil then and there examined or tested, the name of the per-

son for whom or at whose request such examination or test was made, the mark or brand affixed to the casks, barrels or other packages, together with any further facts that may seem to him worthy of record, such account to be open to examination by any person who may so desire, and all illuminating oils manufactured or refined in this state shall be inspected, examined and tested as herein provided, before being removed from the premises of the manufacturer or refiner.

SECTION 9. No inspector appointed under the provisions of this act shall during his term of office traffic, either directly or indirectly, in any oil used for illuminating purposes, or be interested in any manner whatever in the manufacture, refining or sale of such oil, and any inspector violating the provisions of this section shall be removed from office immediately upon proof of such violation, and be liable to a penalty of not less than five hundred dollars.

Inspectors not to deal in oils.

SECTION 10. Any person who shall, either personally or by any clerk or agent, sell or offer for sale, or for use, or who shall in any manner dispose or attempt to dispose of any oil for illuminating purposes, which shall not have been examined or tested under the provisions of this act, or which having so been examined or tested shall have been marked as rejected; or who shall knowingly use or furnish for use for illuminating purposes any oil which shall not have been properly examined or tested as herein provided, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a penalty 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 for use, and any person who shall falsely brand or mark any cask, barrel or other package of oil, or who shall change or alter in any way or manner any brand or mark or device affixed to any cask, barrel or other package of oil by any inspector duly appointed under the provisions of this act, or who shall refill and use any cask, barrel or other package having an inspector's mark or brand thereon, without obliterating the inspector's brand, and having the oil in such cask, barrel or other package properly examined or tested, under the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a penalty of not less than five dollars nor more than

Liability for selling un-inspected or rejected oils.

Penalty for disposing of barrel or cask bearing uncancelled inspector's brand.

five hundred dollars, or to imprisonment in the county jail for a period of not more than six months, or to both such fine and imprisonment, in the discretion of the court. And any person who shall sell, or in any way dispose of any empty cask, barrel or other package bearing an inspector's brand, without first thoroughly cancelling, effacing or removing such brand, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a penalty of not less than five dollars nor more than five hundred dollars, or to imprisonment in the county jail for a term not exceeding six months, or to both such fine and imprisonment in the discretion of the court. And any person who shall wilfully adulterate any illuminating oil by adding thereto benzine, naphtha, paraffine oil or any substance or thing whatever, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by fine or by imprisonment, or by both fine and imprisonment, as hereinbefore provided.

Prosecutions for violation of provisions of this act.

SECTION 11. It shall be the duty of all inspectors appointed under the provisions of this act who shall know of any violations of any part thereof, to notify the district attorney of the same, who shall make complaint before any court of competent jurisdiction, and it shall be the duty of all prosecuting attorneys to represent and prosecute on behalf of the people within their respective counties all cases of offense arising under the provisions of this act, or of any section thereof; and any inspector who shall have knowledge of any violation of this act or of any section thereof, and who shall fail to enter complaint against the person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a penalty not exceeding fifty dollars, and shall be removed from office; and in case the death of any person or persons shall result from the explosion of a lamp or other vessel containing oil sold or used or furnished for use in violation of the provisions of this act, or of any section thereof, the person selling or furnishing said oil for use shall be deemed guilty of manslaughter in the third degree, and upon conviction thereof shall suffer the penalty in that case made and provided by the revised statutes of this state. Nothing contained in the provisions of this act shall be so construed as to prevent merchants in this state from keeping in their warehouses for trans-shipment to other states, or from trans shipping to other states and territories illuminating oils of a grade below the standard test prescribed in this act.

SECTION 12. It is hereby declared to be the true Defining terms. intent and meaning of this act, that the terms oils, illuminating oils, oils used for illuminating purposes, and all similar words, terms and expressions used herein shall be held to mean any mineral or petroleum oil or any fluid, or substance which is the product of such oil, or of petroleum, or in which such oil, or fluid or substance so obtained shall be a constituent part, by whatsoever name or title such oil, fluid or other substance may be known or called.

SECTION 13. All acts or parts of acts, inconsistent Repealed. with or contravening any of the provisions of this act, are hereby repealed.

SECTION 14. This act shall take effect sixty days after its passage and publication.

Approved March 15, 1880.

[No. 141, S.]

[Published March 29, 1880.]

CHAPTER 270.

AN ACT to authorize the commissioners of public lands to loan a portion of the trust funds of the state to the town of Loraine, in the county of Polk.

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

SECTION 1. The commissioners of public lands are Amount of loan \$2,000. hereby authorized to loan a portion of the trust funds of the state, not to exceed two thousand dollars, to the town of Loraine, in Polk county, in this state, and the said town is authorized to borrow a sum not to exceed the amount above named, of said commissioners, and to issue to said commissioners certificates of indebtedness so contracted; said indebtedness shall bear interest at the rate of seven per cent. per annum, and the Rate of interest: payment of principal. said interest shall be paid annually, together with not less than one-fifth of the principal sum loaned, till the whole is paid.

SECTION 2. The secretary of state shall, each year, Duty of secretary of state. until the whole loan is paid, furnish to the county clerk of said county the amount which will be due from such town, at the same time that he furnishes to that officer a statement of the state tax. It shall be the duty of the county clerk, on receiving such statement, to include the amount due from such town in his apportionment of the state taxes to the town, but it shall be carried out in a separate column, and the town clerk of said town shall charge such amount on his tax roll, and the tax shall be collected by the town treasurer,