

No. 352, A.]

[Published May 27, 1905.]

CHAPTER 260.

AN ACT to provide for liens upon horses and other animals for the cost of shoeing the same.

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

Lien for shoeing animals. SECTION 1. Any person who shall shoe or cause to be shod by his employees any horse, mule, ox or other animal shall have a lien upon such animal or animals for the amount due or to become due for such labor or services, which lien shall take precedence of all other claims, liens or incumbrances thereon made or filed after the time of doing such work, labor or service.

Petition for lien. SECTION 2. No debt or demand for such labor or services shall become a lien upon the animals mentioned in the preceding section unless a petition therefor in writing shall be made and signed by the claimant and verified by him or by some one in his behalf under oath, setting forth the nature of the debt or demand for which the lien is claimed, the amount claimed to be due, a description of the property upon which such lien is claimed and an averment that the petitioner claims a lien thereon pursuant to law. Such petition shall be filed in the office of the clerk of the circuit court of the county in which the owner of such animal or animals resides within six months after the performance of such labor or services. Such labor or services shall be deemed continuous notwithstanding a change of ownership in the property in which such lien is claimed. The clerk with whom such petition for a lien is filed shall receive twenty-five cents for filing the same.

Successive liens on same animal. SECTION 3. Any person may file successive liens upon the same animal for charges for shoeing the same, and he may include in any one claim of lien his charges for any number of times of shoeing such animal; provided, however, that no lien shall be had for any shoeing of any animal done more than six months prior to the filing of the notice of lien.

Actions to enforce lien. SECTION 4. All actions to enforce such lien may be brought before any municipal court or justice of the peace having jurisdiction of the amount claimed in the county in which such petition is filed. Actions may be commenced to enforce and foreclose any such lien, if the amount owing for such labor or services shall then be due, immediately after the filing of such petition for lien, and such claim for labor or services shall cease to be a lien on the property described in such petition unless an action to foreclose such lien be commenced within four months after the filing of such petition. If the claim be not due at the time of filing such petition the time when the same shall become due shall be stated therein, and in such case such claim shall not cease to be a lien on the property described in the petition until thirty days after the claim shall have become due; provided, that such claim shall continue a lien upon the property so described in all cases for four months after the filing of such petition. Where the property subject to such lien has been transported or taken from the county where such work was done, the person in whose favor such lien exists may bring an action to foreclose the same in any county where said property may be found. In all actions brought to foreclose such liens the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant. And any person claiming to own or have any interest in such property may be also made a defendant, but shall not be held personally liable for any costs unless he defends the action. In actions appealed from municipal or justice court no change of venue shall be allowed for prejudice of the judge or of the people.

Attachment of property; affidavit, undertaking, writ, return, service upon non-residents. SECTION 5. The plaintiff in such action may have the remedy by attachment of the property upon which the lien is claimed as in personal actions; such attachment may be issued, served and returned and like proceeding had thereon, including the release of any attached property, upon giving an undertaking in such sum as may be fixed by the court or judge for the payment of the amount which may be finally determined to be a lien on the property. The affidavit for the attachment must state that the defendant, who is personally liable to the plaintiff therefor, is indebted to him in the sum named, over and above all legal set-offs, for such labor or services done or performed as entitles the plaintiff to a lien thereon, describe the property on which it is claimed such work was done or services were performed and aver that the plaintiff

has filed his petition for a lien pursuant to law; but no other fact need be stated therein. No undertaking upon such attachment or security for costs in actions hereunder before municipal courts or justices of the peace need be given unless upon application of some defendant in the action showing by affidavit that he has a good and valid defense to the plaintiff's claim, and no order shall be made by any circuit court or any judge thereof requiring the giving of an undertaking or security for costs except upon ten days' notice to the plaintiff. The writ of attachment shall direct the officer to whom it is issued to attach the property described or so much thereof as shall be necessary to satisfy the sum claimed to be due thereon and to hold the same subject to further proceedings in the action. The officer executing such writ shall make return thereon of his doings in the premises, but it shall not be necessary for him to make and serve an inventory or appraisal of the property. In actions brought in justice's or municipal court hereunder where defendants cannot be found the provisions of law relating to service of attachments upon non-residents or persons who cannot be found in other actions in such courts, shall govern and apply to such action to foreclose a lien.

Assignment of claim. SECTION 6. When more than one person has a claim for a lien upon the same property any person having such claim may have assigned to him in writing the debt or claim of the other, subject the set-offs to said claim against the original owner, and may file a petition for his own lien and for the claims for liens so assigned to him and bring an action to enforce the same in his own name; but such petition shall allege such assignment.

Return of attachment. SECTION 7. The attachment issued by any justice of the peace shall be returned as an ordinary summons and shall be approximately in the same form as prescribed in section 3334 of the statutes of 1898.

Taking of a promissory note for services not to discharge lien. SECTION 8. The taking of a promissory note or other evidence of debt for any such labor or services done or performed shall not discharge the lien therefor hereby given unless expressly received in payment therefor and so specified.

Transfer or death of animals during pendency of lien. SECTION 9. If any animal or animals on which a lien is claimed under the foregoing provisions shall, during the pendency of

the claim therefor, be transported out of this state, secreted, killed, sold or incumbered, the owner of such property and every purchaser thereof or person acquiring any interest therein during the pendency of such claim shall be liable to the lien claimant for the amount which may be adjudged to be due him, which amount may be recovered against any such person in a personal action; provided, the petition for a lien is filed in accordance with law and an action to foreclose the same is begun within the time limited therefor.

Complaint. SECTION 10. The complaint in any action to enforce a lien given upon animals shall in addition to ordinary allegations in actions upon contracts allege the filing of the petition for a lien as hereinbefore provided, and such allegation shall be taken to be true unless expressly denied by the defendant or by some one in his behalf in an affidavit or verified answer and shall contain a description of the property upon which a lien is claimed, and if any part of the claim has been assigned to the plaintiff that part shall be alleged.

Findings of court or jury; costs; execution, what to direct; release from attachment. SECTION 11. The court or jury which tries any action hereunder shall, in addition to the sum due the plaintiff find if such be proven, that the same is due for the labor or services performed or some part of therein as alleged in the complaint, and that the same is a lien upon the property or some part thereof described therein, and the judgment shall be in accordance with the findings. Costs shall be taxed and allowed as in personal actions, including an attorney's fee of ten per cent of the claim, but in no case shall such fee exceed ten dollars. The execution, in addition to the directions and commands of ordinary executions upon judgments for money, shall direct that the property upon which the lien is found to exist or so much thereof as may be necessary for such purpose be sold to satisfy said judgment, costs and attorneys fee, including the costs of sale. If the court or jury find that the amount due the plaintiff is not a lien upon any part of such property it shall be released from the attachment if it has been attached. The plaintiff shall, in such case, have judgment for the amount so found due, with costs, as in ordinary civil actions, but he shall not recover the costs of executing such attachment.

Person interested in property may be made defendant; appeal by such person. SECTION 12. In any action for the enforce-

ment of a lien upon any of the property mentioned in section 1 any person not a party thereto may, at any time before or after judgment and before an actual sale of the property upon which a lien is claimed, become a party defendant by filing with the clerk of the court where such action is pending, or with the justice of the peace in actions pending in a justice court, an affidavit made by such person or in his behalf to the effect that he is the owner of or of some interest in the property upon which a lien is claimed and verily believes that said claim for lien is unjust and invalid; upon filing such affidavit he may defend said action so far as a claim for a lien is concerned, and in case judgment has been previously rendered for a lien he may appeal within twenty days after the filing of such affidavit as in other cases; provided, that his right to file an affidavit or take an appeal shall not extend beyond one year from the date of the rendition of the judgment.

Undertaking on appeal; stay of proceedings; judgment of appellate court. SECTION 13. Such appeal shall not stay execution unless the appellant files an undertaking, with two or more sureties, who shall each justify in a sum equal to double the amount of the judgment, conditioned that if the plaintiff establish his right to a lien on such property they will pay the amount of the judgment in his favor with costs; said undertaking shall be approved by the judge of the court to which the appeal is taken; and upon filing it all proceedings upon the judgment appealed from shall be stayed during the pendency of such appeal, and in case execution shall have been previously issued the same shall, upon presenting to the officer in whose custody it may be a certified copy of such affidavit and undertaking and certificate of the justice or clerk of the court that an appeal has been perfected, be returned, and all property in which appellant shall claim an interest that may have been levied upon shall be released from such levy. If upon the trial in the appellate court the plaintiff shall recover judgment of lien upon such property such judgment may be entered against the appellant and his sureties; but if the plaintiff does not establish his right to a lien the appellant shall recover judgment for costs. When the judgment to be appealed from is rendered in justice's court and by reason of the death of the justice who rendered it or any other cause the affidavit and undertaking cannot be presented to him they may, with notice of appeal and affidavit upon appeal, be filed with the clerk of the court to which such appeal is taken within the time aforesaid.

SECTION 14. This act shall take effect and be in force from and after its passage and publication.

Approved May 25, 1905.

No. 250, A.]

[Published May 27, 1905.

CHAPTER 261.

AN ACT to amend section 1 of chapter 243 of the laws of 1901, to prevent the adulteration of meat products.

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

Penalty for use of artificial coloring; antiseptics. SECTION 1. Section 1 of chapter 243 of the laws of 1901 is hereby amended so as to read as follows: Section 1. Any person who by himself or his agent shall * * * offer or expose for sale, take orders for, or sell, *or have in his possession with intent to sell for use or consumption within the state* any sausage or chopped meat compound containing any artificial coloring, * * * or chemical preservative or antiseptic, *except common salt, saltpetre, spices or wood smoke* shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than *twenty-five* dollars nor more than *one* hundred dollars.

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

Approved May 25, 1905.