

farmers and fruit-growers, but all the cedar trees on a tract are cut at once. If we were removing the cedars in strict accordance with the law, only those harboring cedar apples or balls could be cut, hence making it necessary to go over the ground year after year to destroy other cedars that have become infected since the previous inspection.

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## A MODEL STATE HORTICULTURAL INSPECTION LAW<sup>1</sup>

By J. G. SANDERS, *Madison, Wis.*

Greater uniformity in legislation of the various states regulating the inspection and transportation of nursery stock and horticultural inspection generally, was discussed in this JOURNAL<sup>2</sup> in 1914.

At the Atlanta meeting of our Association the writer offered for consideration a preliminary draft of a horticultural inspection bill, which would, through its text or by the promulgation of rules and regulations, cover practically all phases of inspection and emergencies which would arise under the inspection work.

The bill was discussed by the inspectors present and also by members of the Legislative Committee of the National Nurserymen's Association, who were invited to attend our meeting. The writer, working in coöperation with members of the Inspectors' Association and the Legislative Committee of Nurserymen, revised and redrafted a bill which was again presented at the Philadelphia meeting. Here various suggestions for improvement were offered and a committee of five was appointed to confer as to the final wording of the bill and having power to act. Various conferences were held with Mr. William Pitkin, Chairman of the Nurserymen's Legislative Committee, and suggested changes for improvement were made in the bill.

In June, 1915, at the Detroit meeting of the National Nurserymen's Association, the bill, as drafted and as is published herewith, was finally adopted.

The great interest manifested in uniform legislation by the nurserymen, and particularly their willingness to adopt a bill so drastic in its power as the present one, is most praiseworthy. A marked change in feeling between the nurserymen and the entomologists and inspectors has taken place, each of the contending parties realizing more keenly the problems of the other. The nurserymen, we feel sure, are coming to realize the importance of more careful and thorough inspection, and to realize the necessity for coöperation and assistance in this work.

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<sup>1</sup> Prepared and adopted by the American Association of Official Horticultural Inspectors and the American Association of Nurserymen.

JOUR. ECON. ENT., vii, p. 102, 1914.

The nurserymen have expressed themselves strongly in favor of more thorough training of inspectors and more careful work to insure clean stock and fewer mistakes in the condemnation of stock without warrant.

The entomologists and inspectors fully appreciate the present situation which is handicapped to a greater or less degree in some states by lack of funds for the employment of better trained and more experienced men.

State laws, which are as nearly uniform as local conditions will permit, will aid wonderfully in the inspection, fumigation, packing and transportation of nursery stock. Hence, we believe that the adoption of this bill, which has been worked over with great care by entomologists and nurserymen with the aid of legal advice, will materially assist in undesirable conditions which now exist where each state has its own provisions differing widely from those of its neighbor. The Uniform Bill as offered should be adopted as nearly as possible in its presented form, when changes are contemplated in state laws. The Nurserymen's Association has offered their assistance through their national body, as well as their state organizations, to further this project, and those interested should feel free to call on them for help.

The bill as offered is not presumed to be perfect, but is thought to cover all possible exigencies which may arise either through the text offered or by the power for promulgation of rules and regulations as provided in section 6.

The writer, as Secretary of the Inspectors' Association, will be glad to aid in the adoption of horticultural laws whenever his assistance is desired.

#### A MODEL STATE HORTICULTURAL INSPECTION LAW

NOTE—The parenthetical words and phrases are to be understood as options suitable to local state conditions and usage.

[Bill No.—, Approved — 19—. Chap. or Sec.—, Laws of——]. Be it enacted by the (Legislature) (people) of the state of — (represented in) (General Assembly) (Senate and Assembly) that,—

*Section 1.*—The following terms as used in (this act) (sections — to —, inclusive) shall be construed as follows:—

1.—The singular and plural forms of any word or term in (this act) (section — to —, inclusive) shall be construed as interchangeable and equivalent within the meaning of the act.

2.—The term "person" shall include corporations, companies, societies, associations, partnerships or any individual or combination of individuals. When construing and enforcing the provisions of (this act) (sections — to —, inclusive) the act, omission, or failure of any officer, agent, servant or other individual acting

for or employed by any person as above defined within the scope of his employment or office, shall in every case be also deemed to be the act, omission or failure of such person as well as that of the individual himself.

3.—The terms "insects" and "plant diseases" appearing in (this act) (sections — to —, inclusive) shall be construed to include any stage or stages of development of the aforesaid insects or plant diseases.

4.—The term "nursery stock" shall include all field-grown florist stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit-pits and other seeds of fruit and ornamental trees and shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs and roots.

5.—The term "nursery" shall be construed to mean any grounds or premises on or in which nursery stock is propagated and grown for sale, or any grounds or premises on or in which nursery stock is being fumigated, treated, packed or stored.

6.—The term "nurseryman" shall mean the person who owns, leases, manages or is in charge of a nursery.

7.—The term "dealer" shall be construed to apply to any person not a grower of nursery stock who buys nursery stock for the purpose of reselling and reshipping, independently of any control of a nursery.

8.—The term "agent" shall be construed as applying to any person selling nursery stock under the partial or full control of a nurseryman, or of a dealer or other agent. This term shall also apply to any person engaged with a nurseryman, dealer or agent in handling nursery stock on a cooperative basis.

*Section 2.*—There is hereby created a board which shall be known as the "Horticultural Inspection Board" of (State), hereinafter called the Board, consisting of three (five) members, two (four) members of which shall be ex-officio members. The third (fifth) member shall be appointed by the Governor for a term of four years. Such third (fifth) member shall be a nurseryman actively engaged in the growing of nursery stock. A majority of the members of the Board shall constitute a quorum. Vacancies occurring from death, resignation, removal or inability to act shall be filled in like manner for the unexpired term. The members of said board shall elect a chairman and shall serve without compensation, but shall receive their actual and necessary traveling expenses incurred in the discharge of their official duties within the provisions of (this act) (sections — to —, inclusive). This board is hereby vested with all powers necessary to carry out the provisions of (this act) (sections — to —, inclusive).

#### APPOINTMENT

*Section 3.*—The Board shall appoint some person qualified by scientific training and practical experience to be state nursery inspector, hereinafter called the inspector who shall hold his office during the pleasure of the Board, and shall strictly enforce the provisions of (this act) (sections — to —, inclusive) as a police regulation of the (state) (commonwealth) under the direction and control of the Board.

#### BOND

*Section 4.*—The inspector shall file with the Board a bond with security to be approved by the Board in the sum of one thousand dollars, conditioned on faithful performance of his duty. Any person suffering loss occasioned by reason of an act or omission of the inspector and deputies which is deemed to be unjustifiable, may maintain an action upon said bond against the inspector and sureties thereon

for such loss not to exceed the amount of said bond. Indemnity bonds with sufficient sureties running to the inspector and the sureties upon his bond may be required of deputy inspectors.

#### APPOINTMENT OF DEPUTIES

*Section 5.*—The Board is hereby authorized to appoint or dismiss on the recommendation of the inspector (deputies) (county horticultural inspectors) (district horticultural inspectors) who shall strictly enforce the provisions of (this act) (sections — to —, inclusive) under the direction of the Board, and they are hereby endowed with the same police power as the inspector, and shall be furnished with official badges or other insignia of authority, which shall be carried while on duty.

*Section 6.*—The Board shall have the power to prescribe, modify and enforce such reasonable rules, regulations and orders as may be needed to carry out the provisions of this act, and may publish an annual report describing the various phases of the inspection work, or may publish such other information as may seem desirable concerning the inspection and such insects and diseases as are covered by (this act) (sections — to —, inclusive). Such rules and regulations shall be printed from time to time and furnished free to interested parties.

#### INSPECTOR'S DUTIES AND POWERS

*Section 7.*—The Board through the inspector or deputies shall at least once each year inspect all nurseries and other places in which nursery stock is kept for sale. For this purpose such inspector or deputies shall have free access, within reasonable hours, to any field, orchard, garden, packing ground, building, cellar, freight or express office, warehouse, car, vessel, or other place, which it may be necessary or desirable for him to enter in carrying out the provisions of this act. It shall be unlawful to deny such access to the inspector or deputies or to hinder, thwart or defeat such inspection by misrepresentation or concealment of facts or conditions or otherwise.

*Section 8.*—The Board through the inspector or deputies shall have the authority to inspect any orchard, fruit or garden plantation, park, cemetery, private premises, public place, and any place which might become infested or infected with dangerous or harmful insects or plant diseases. It shall also have the authority to inspect or reinspect at any time or place any nursery stock shipped in or into the state and to treat it as hereinafter provided.

#### DISEASED PLANT MATERIAL ON PREMISES

*Section 9.*—The Board is hereby empowered to prohibit and prevent the removal or shipment or transportation of plant material and any other material from any private or public property, or property owned or controlled by the state, or any area of the state (commonwealth) which in its judgment contains dangerously infested or infected nursery stock or plant or other material of any kind for such periods and under such conditions as in its judgment seems necessary in order to prevent the further spread of the infestation or infection, giving such notice thereof as may be prescribed by the Board; and during the existence of such order no person shall remove or ship from such area any such material whatsoever, except by special permission or direction of the Board.

*Section 10.*—It shall be unlawful for any person in this state knowingly to permit any dangerous insect or plant disease to exist in or on his premises. It shall also

be unlawful to sell or to offer for sale any stock infested or infected with such insect or disease.

*Section 11.*—In case the inspector or deputy shall find present on any nursery or dealer's premises or any packing ground or in any cellar or building used for storage or sale of nursery stock, any injurious insect or plant disease, he shall notify the owner or person having charge of the premises, in writing, to that effect, and the Board shall withhold his certificate hereinafter provided for, until the premises are freed from such injurious insect or plant disease, as hereinafter provided. It shall be unlawful for any person after receiving such notice to ship or deliver or cause to be shipped or delivered any nursery stock from such aforesaid premises.

*Section 12.*—(1) If the inspector or deputy shall find on examination any nursery, orchard, small fruit plantation, park, cemetery, or any private or public premises infested with injurious insects or plant diseases, he shall notify the owner or person having charge of such premises to that effect, and the owner or person having charge of the premises shall within ten days after such notice cause the removal and destruction of such trees, plants, shrubs or other plant material if incapable of successful treatment; otherwise, cause them to be treated as the Board may direct. No damages shall be awarded to the owner for the loss of infested or infected trees, plants, shrubs or other plant material under this act.

(2) In case the owner or person in charge of such premises shall refuse or neglect to carry out the orders of the Board within ten days after receiving written notice, the Board may proceed to treat or destroy the infested or infected plants or plant material. The expense thereof shall be assessed, collected and enforced as taxes are assessed, collected and enforced against the premises upon which such expense was incurred. The amount of such expense when collected shall be paid to and become a part of the fund used to enforce the provisions of (this act) (sections — to —; inclusive).

#### APPLICATION FOR INSPECTION

*Section 13.*—Persons desiring to sell or ship nursery stock shall make application in writing before July 1st of each year to the Board for inspection of their stock. Persons failing to comply with this section shall be liable for extra charges to cover traveling expenses of the inspector.

#### IMPORTED STOCK

*Section 14.*—Every person receiving directly or indirectly any nursery stock from foreign countries shall notify the Board of the arrival of such shipment, the contents thereof and the name of the consignor; and shall hold such shipment unopened until duly inspected or released by the Board. In case any infested or infected stock is discovered in such shipment, the shipment shall be subject to the provisions of (this act) (sections — to —, inclusive).

#### NURSERY CERTIFICATE

*Section 15.*—(1) The Board shall cause to be issued to owners of any nursery in the state after the stock has been officially inspected as previously provided, and found to be apparently free from injurious insects or plant diseases, a certificate signed by the inspector setting forth the fact of such inspection and the number of acres or fraction thereof inspected. Said certificate shall be valid not to exceed one year from (month) 1st.

(2) It shall be unlawful for any person to sell, to offer for sale or to remove or ship from a nursery or other premises, any nursery stock unless such stock has been officially inspected and a certificate or permit has been granted by the Board.

#### DEALER'S CERTIFICATE

*Section 16.*—All dealers within the meaning of this act, located either within or without the state, engaged in selling nursery stock in this state or soliciting orders for nursery stock within this state, shall secure a dealer's certificate by furnishing a sworn affidavit that he will buy and sell only stock which has been duly inspected and certified by an official state inspector; and that he will maintain with the Board a list of all sources from which he secures his stock.

#### CERTIFICATES TO FIRMS OUTSIDE THE STATE

*Section 17.*—Nurserymen, dealers or other persons residing or doing business outside the state desiring to solicit orders for nursery stock in the state shall, upon filing a certified copy of their original state certificate with the Board obtain a certificate permitting such persons to solicit orders for nursery stock in this state.

#### AGENT'S CERTIFICATE

*Section 18.*—All agents within the meaning of this act selling nursery stock or soliciting orders for nursery stock for any nurseryman or dealer located within the state or outside the state, shall be required to secure and carry an agent's certificate bearing a copy of the certificate held by the principal. Said agent's certificate shall be issued only by the Board to agents authorized by their principal or upon request of their principal. Names and addresses of such agents shall not be divulged by the inspector or the Board.

*Section 19.*—The Board shall at any time have the power to revoke any certificate for sufficient cause, including any violation of (this act) (sections — to —, inclusive) or non-conformity with any rule or regulation promulgated under (this act) (sections — to —, inclusive).

#### MISREPRESENTATION OF STOCK

*Section 20.*—(1) It shall be unlawful for any person to wilfully misrepresent to any other person the grade, character, variety, or quality of stock in a nursery, or of stock offered for sale by any nurseryman, dealer, or agent, or to make a false declaration of acreage or to cause any concealment of stock from inspection.

(2) Every person selling nursery stock in the state shall, if requested, furnish the Board with copies of his order forms, contracts and agreements with his customers, which are furnished for the use of agents or customers or both.

#### CERTIFICATE SHIPPING TAGS

*Section 21.*—Every person who shall engage in the selling and shipping of nursery stock in the state is hereby required to attach on the outside of each package, box, bale, or carload lot so shipped or otherwise delivered, a tag or poster on which shall appear an exact copy of his valid certificate. The use of tags or posters bearing an invalid or altered certificate and the misuse of any valid certificate tag is hereby prohibited.

*Section 22.*—It shall be unlawful for any person to accept for shipment any nursery stock without a valid certificate plainly affixed on the outside of the package, bale, box or car containing the same, showing that the contents have been duly inspected

by an official state or federal inspector. In case any nursery stock is shipped in this state, or into this state from another state, country or province, without the aforesaid valid certificate plainly affixed, the fact must be promptly reported to the Board by the person carrying the same, stating the consignor and the consignee and the nature of the shipment.

#### APPEAL

*Section 23.*—(1) Any person in interest or affected by any order of the Board or inspector may appeal therefrom to the Board within five 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 such appeal the Board 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 petitioner and to such other persons as the Board may direct. Such appeal shall not suspend the operation of the order appealed from unless so ordered by said Board. All hearings of the Board shall be open to the public.

*Section 24.*—Compensation of inspector or deputy inspectors (a local matter).

#### PENALTY FOR VIOLATIONS

*Section 25.*—Any person violating (any section of this act) (any one or more of sections — to —, inclusive) or any rule or regulation promulgated under this act, shall be guilty of a misdemeanor and on conviction thereof shall be fined the sum of not less than \$25.00 nor more than \$500.00 for each offense.

*Section 26.*—It shall be the duty of each (District Attorney) (County Attorney) to whom the Board shall present satisfactory evidence of violation of any provision of (this act) (sections — to —, inclusive) to prosecute without delay such violations in the proper court.

*Section 27.*—Appropriations, fees, gifts or other support of the horticultural inspection service (a local matter).

*Section 28.*—(This act) (sections — to —, inclusive) shall take effect and be in force from and after [passage and approval (and publication)] (date).

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## FOREIGN PESTS RECENTLY ESTABLISHED IN NEW JERSEY

By HARRY B. WEISS, *New Brunswick, N. J.*

During the past couple of years, the following insects were found to be established in varying numbers in different parts of New Jersey. Practically all were introduced on imported nursery stock and their presence is an indication of the impossibility of hoping to keep out all foreign pests by a system of inspection. Insect importations and subsequent establishments will undoubtedly continue just as long as nursery stock is imported inasmuch as the protection afforded by inspection is necessarily only partial and sometimes ineffective depend-