

tain kinds of fish therein enumerated may be taken during open seasons now extending from a time prior to the 15th day of January to a time after said date, the open seasons for the taking of such fish in all waters forming a common boundary between this state and the state of South Dakota shall hereafter close at the end of the 15th day of January, after which date no such fish may be taken in said waters until the beginning of the next open season as provided by the statutes aforesaid, except as may be permitted under the provisions of Mason's Minnesota Statutes of 1927, Section 5648, and acts amendatory thereof.

**Sec. 2. Inconsistent acts modified.**—All acts and parts of acts inconsistent herewith are hereby superseded, modified, and amended so far as may be necessary to give full force and effect to the provisions of this act. No act hereafter enacted which might be applicable to the taking of such fish in said waters shall be construed to be inconsistent herewith unless it shall be expressly provided therein that this act shall be superseded, modified, amended, or repealed, in whole or in part, or unless such future act shall specifically relate to the taking of such fish in said waters or some part thereof.

Approved April 25, 1931

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#### CHAPTER 394—S. F. No. 1322

*An act defining, licensing and regulating dealers at wholesale in produce as therein defined, imposing certain duties and conferring certain powers upon the commissioner of agriculture, dairy and food in connection therewith, prescribing penalties for violation thereof, and repealing Chapter 427, General Laws, 1927, and all other inconsistent acts and parts of acts.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Dealers at wholesale.**—For the purposes of this act any person who shall buy or sell or contract to buy or sell, or who shall handle in wholesale lots for the purpose of resale, or

who shall handle on account of or as an agent for another, any produce as herein defined, and any person who shall similarly engage in the business of assembling and trucking produce without an established place of business, shall be deemed a dealer at wholesale.

**Sec. 2. Definitions.**—The term “produce” as used in this Act shall mean and include the natural products of the farm, except hay, grain, straw and livestock, other than veal; the natural products of the orchard, vineyard, garden and apiary, raw and manufactured; the raw and finished products of the dairy, creamery, cheese factory, condensory and dry milk factory; the products of livestock, including wool, mohair, skin, hides, and meats; veal; poultry and poultry products; game and fish; and the timber products of the farm produced upon farms and sold as part of the farming operations thereof.

(a) The term “person” shall mean an individual, firm, co-partnership, corporation or association.

(b) The term “Commissioner” shall mean the Commissioner of Agriculture, Dairy and Food of the State of Minnesota.

(c) The term “voluntary extension of credit” shall be construed to mean an agreement between the seller and the licensee wherein the time of payment for the purchase price of produce is extended beyond the due date.

(d) The term “due date” shall mean seven days from the date of delivery of produce by the seller, to the licensee in the case of a sale; in all cases where produce is consigned seven days from the date the sale is made by the broker or handler, except as to creameries where the due date shall mean fifteen days following the monthly day of accounting subsequent to deliveries following the date fixed by each creamery for such accounting.

**Sec. 3. Dealers must be licensed.**—No person shall engage in, or purport to be engaged in, or hold himself out as being engaged in the business of a dealer at wholesale, or as being a dealer at wholesale, as defined in this Act, unless he shall be licensed to carry on such business by the Commissioner.

**Sec. 4. Licenses—fees—bonds.**—License to engage in the business of a dealer at wholesale within the State of Minnesota

shall be issued by the Commissioner to such reputable persons as shall apply therefor, pay the prescribed fee and comply with the conditions herein specified, to-wit:

(a) The application shall be in writing, accompanied by the prescribed fee, and under oath and shall set forth the place or places where the applicant intends to carry on the business for which the license is desired, the estimated amount of business to be done monthly, the amount of business done during the preceding year, if any, the full names of the persons constituting the firm, in case the applicant is a co-partnership, the names of the officers of the corporation and where incorporated, if a corporation, and a financial statement showing the value and character in a general way of the assets and the amount of liabilities of the applicant.

(b) The applicant shall execute and file with the Commissioner a bond to the State of Minnesota with sureties to be approved by the Commissioner, the amount and form thereof to be fixed by the Commissioner, conditioned for the faithful performance of his duties as a dealer at wholesale, provided that any and all bonds heretofore executed and filed with the commissioner by dealer at wholesale containing substantially the requirements of this act are hereby confirmed and approved, for the observance of all laws relating to the carrying on of the business of a dealer at wholesale, for the payment when due of the purchase price of produce purchased by him when notice of default is given the commissioner within ten days after the due date; provided that the bond shall not cover transactions wherein it appears to the commissioner that a voluntary extension of credit has been given on said produce by the seller to the licensee beyond the due date, for the prompt settlement and payment of all claims and charges due the State of Minnesota for services rendered or otherwise, for the prompt reporting of sales, as required by law, to all persons consigning produce to the licensee for sale on commission and the prompt payment to the persons entitled thereto of the proceeds of such sales, less lawful charges, disbursements and commissions. Such bond shall cover all wholesale produce business transacted in whole or in part within the State of Minnesota, and the license, or a certified copy thereof, shall be kept posted in the office of the licensee at each place within the state where he transacts business. All licenses shall expire May 31 of each year. The fee for each license shall be five dollars, and for each certified copy thereof one dollar. Whenever the licensee shall sell, dispose of or discontinue his business during the

lifetime of his license, he shall at the time such action is taken notify the Commissioner in writing, and shall upon demand produce before the Commissioner a full statement of all assets and liabilities as of the date of transfer or discontinuance of said business.

(c) The applicant shall file with the Commissioner a schedule of his commissions and charges for services in connection with produce handled on account of or as agent for another.

**Sec. 5. Commissioner may require additional bonds.**—The Commissioner, whenever he is of the opinion that any bond theretofore given by any licensee is inadequate for the proper protection of the public, may require the licensee to give additional bonds in such amounts as from time to time he may determine and direct, with sureties to be approved by the Commissioner and conditioned as heretofore set forth. For the purpose of fixing or changing the amount of such bonds the Commissioner may require from a licensee verified statements of his business, and if the licensee fails to furnish such information or to furnish a new bond when directed by the Commissioner so to do, the Commissioner may forthwith suspend and after ten days' notice and opportunity to be heard revoke his license.

**Sec. 6. Aggrieved parties may file complaint with commissioner.**—Any person claiming himself to be damaged by any breach of the conditions of a bond given by a licensee as hereinbefore provided may enter complaint thereof to the Commissioner, which complaint shall be a written statement of the fact constituting said complaint. Upon filing such complaint in the manner herein provided, the Commissioner shall investigate the charges made, and at his discretion order a hearing before him, giving the party complained of notice of the filing of such complaint and the time and place of such hearing. At the conclusion of said hearing the Commissioner shall report his findings and render his conclusion upon the matter complained of to the complainant and respondent in each case, who shall have 15 days following in which to make effective and satisfy the Commissioner's conclusions. And if such settlement is not effected within the time aforesaid, either party, if aggrieved by any condition of the bond may upon first obtaining the approval of the Commissioner commence and maintain an action against the principal and sureties on the bond of the party complained of as in any civil action, provided no action against the bondsmen of a licensee shall in any instance be maintained without

the written approval of the Commissioner, which shall be attached to and made a part of the original complaint in such action. Upon commencing such action a copy thereof shall be filed in the office of the Commissioner. The record of the hearing before the Commissioner shall be competent evidence in any court having jurisdiction. If such licensee has become liable to more than one person by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all persons entitled to the protection of the bond, the penalty of the bond as against the sureties shall be apportioned among the several claimants. In all cases where the liability of the licensee exceeds the amount of his bond, the Commissioner shall commence an action for the recovery of the full amount of said bond and when recovered such amount shall be deposited with the Commissioner who shall in the same action, subject to the approval of the court, pass upon and allow or disallow all claims which may be presented to him for payment or apportioned thereunder, and to effect the purposes herein may employ counsel, the expense thereof to be paid out of the amount recovered on such bond.

**Sec. 7. Commissioner to establish grades.**—The Commissioner shall have power to establish grades on all produce as herein defined, and when deemed necessary, shall provide for inspecting and grading produce subject to sale, at such marketing points within the state as the Commissioner may designate, and provide for the issuing of certificates of inspection showing the grade, quality and conditions of such produce, and may charge and collect a reasonable fee therefor, a schedule thereof to be adopted and published from time to time. Such certificates of inspection shall be prima facie evidence in all courts of this state as to the grade, quality and condition of such produce at the time such inspection was made. Whenever any person having produce desires to have it inspected he may apply to the Commissioner for the service of an inspector or inspectors, and if it shall appear to the Commissioner that the volume of such produce is sufficient to justify such request, he may grant such service upon terms and conditions to be fixed by him, provided, however, that any inspection service so ordered and maintained shall be self-supporting. The Commissioner may require a deposit prior to the establishment of such inspection service in amount equal to the costs thereof as estimated by him, and he may further require that such deposits be renewed from time to time in such manner that a permanent account shall be maintained, sufficient

at all times to pay the costs of such inspection service for a period of not less than 15 days in advance. Moneys placed in the hands of the Commissioner for the purpose aforesaid shall be placed in a separate account to be known as the "Produce Inspection Account" and the sums such persons shall contribute to each account shall be kept separate on the books of the Commissioner. No moneys shall be paid from said account for inspection services rendered to any person in excess of the moneys on hand accredited to his account. Said money shall be deposited in the state treasury in the same manner as other departmental receipts are deposited and shall be credited to the account herein created and shall be paid out only upon order of the Commissioner. Whenever any such agreement shall terminate by action of either party thereto, the Commissioner shall withdraw from such account the full amount of all such bills payable for services rendered, and shall return to the depositor any moneys remaining to his credit at the time such agreement terminates. Any sums deposited in the state treasury under the provisions of this act are hereby appropriated for the purposes set forth herein.

**Sec. 8. Dealers may file brands or labels.**—Any person producing or manufacturing, or handling in this state any of the products mentioned in this act, except cheese and butter, and preparing, packing and offering the same for sale, may file with the commissioner a brand or label which shall thereafter be the exclusive property of said applicant, and he may place upon said brand or label such descriptive or locative matter as shall be approved by the commissioner. The commissioner may issue to such applicant for brands and labels a permit to use the same subject to such regulations and restrictions as to quality of product so branded as the commissioner may determine. Said brand or label shall be recorded in the office of the commissioner, and any person who shall without authority of the commissioner use any such brand or label, or shall brand and label therewith products or commodities of a quality below the standard permitted under the brand or label, shall be subject to the penal provisions of this act.

**Sec. 9. May secure inspection certificate.**—Whenever produce is ready for sale, or is on its way to market, the owner thereof or the conveyor, or the prospective buyer, or any other interested party may call for and shall be entitled to inspection of such produce and to an inspection certificate as provided for in Section 7 of this act.

**Sec. 10. Produce shall be examined in certain cases.**—When even produce is shipped to or received by a dealer at wholesale for handling, purchase or sale in this state at any market point therein giving inspection service as provided for in Section 7 of this act, and said dealer at wholesale finds the same to be in a spoiled, damaged, unmarketable or unsatisfactory condition, unless both parties shall waive inspection before sale or other disposition thereof, he shall cause the same to be examined by an inspector assigned by the commissioner for that purpose, and said inspector shall execute and deliver a certificate to the applicant thereof stating the day and the time and place of such inspection and the condition of such produce and mail or deliver a copy of such certificate to the shipper thereof.

**Sec. 11. Shipments on consignment.**—Whenever any dealer at wholesale to whom produce has been shipped or consigned for sale on a commission basis or on consignment or under any circumstances wherein the title to said produce remains with the shipper, has received the same, he shall within a reasonable time thereafter make a written report to the shipper, which report shall include the exact time of arrival, quantity, quality and price per unit of the produce, and at the same time he shall pay the shipper the net amount due him.

**Sec. 12. Shipper may complain to commissioner.**—Whenever a shipper after demand therefor, shall have received no remittance or report of sale, or shall be dissatisfied with the remittance, sale or report, he may complain in writing to the commissioner, who shall investigate the matter complained of.

**Sec. 13. Commissioner to investigate complaints.**—Said commissioner is authorized to receive complaints against any persons dealing in, shipping, transporting, storing or selling produce, and shall have authority to make any and all necessary investigations relative to the handling of or storing, shipping or dealing in produce at wholesale, and he shall at all times have access to all buildings, yards, warehouses, storage and transportation facilities in which any produce is kept, stored, handled or transacted. For the purpose of enforcing the provisions of this act, the commissioner shall have the authority, upon complaint being filed with him for any alleged violation of the provisions of this act or the regulations issued thereunder, or upon information furnished by an inspector

of the Department of Agriculture, to forthwith suspend and upon ten days' notice and opportunity to be heard, revoke and cancel any license issued by him, and the commissioner shall have the power to revoke or cancel the license of any dealer who shall violate any of the provisions of this act. He shall have and is hereby granted full authority to issue subpoenas requiring the attendance of witnesses before him of books, papers and other documents, articles or instruments, and compel the disclosure by such witnesses of all facts known to them relative to the matter under investigation, and shall have full authority to administer oaths, and to take testimony; and the commissioner shall thereafter give the complainant a written report of the investigation. Such report shall be prima facie evidence of the matters therein contained. All parties disobeying the orders or subpoenas of said commissioner shall be guilty of contempt as in proceedings in district courts of the state and may be punished in like manner.

**Sec. 14. Commissioner to make rules and regulations.**—The commissioner shall have power and it shall be his duty from time to time to make and publish uniform rules and regulations, not inconsistent with law, for carrying out and enforcing the provisions of this act and governing the rates charged by and the buying, selling, advertising and trading practices of dealers at wholesale, which rules and regulations shall be filed in the office of the commissioner, and published twice in a legal newspaper of general circulation published at the capital of the state, and from and after the tenth day succeeding the date of the last such publication, such rules and regulations shall have the force and effect of law. An affidavit of such publication shall be kept on file in the office of the commissioner. A copy of such rules and regulations, certified by the commissioner shall be prima facie evidence of the facts therein contained, and of the due making and publication of such rules and regulations.

**Sec. 15. May cooperate with the United States department of agriculture.**—The commissioner may co-operate with the United States Department of Agriculture and with other Federal authorities and with the state and municipal authorities of this and other states, and do and perform such acts and things as may be necessary and proper in carrying out the purpose of this act.

**Sec. 16. Violations—penalties.**—Any person subject to the provisions of this act who shall:

(a) Operate or advertise to operate as a dealer at wholesale without a license; or

(b) Make any false statement or report as to the grade, condition, markings, quality or quantity of produce received or delivered, or act in any manner so as to deceive the consignor or purchaser thereof; or

(c) Refuse to accept any shipment contracted for by him, unless such refusal is based upon the showing of a state inspection certificate secured with reasonable promptness after the receipt of such shipment showing that the kind and quality of produce is other than that purchased or ordered by him; or

(d) Fail to account for produce or to make settlement therefor within the time herein limited; or who shall violate or fail to comply with the terms or conditions of any contract entered into by him for the purchase or sale of produce; or

(e) Purchase for his own account any produce received on consignment, either directly or indirectly, without the consent of the consignor; or

(f) Issue any false or misleading market quotations, or who shall cancel any quotations during the period advertised by him; or

(g) Make or collect any commission or charge in excess of that shown in his schedule filed with the commissioner; or

(h) Increase the sales charges on produce shipped to him by means of "Dummy" or fictitious sales; or

(i) Receive produce from foreign states or countries for sale or resale, either within or without the state, and give the purchaser the impression through any method of advertising or description that the said produce is of Minnesota origin; or

(j) Whoever shall violate any provisions of this Act or any rule or regulation made or published thereunder by the commissioner shall be guilty of a misdemeanor, and his license may be forthwith suspended, revoked or cancelled by the commissioner upon ten days' notice and opportunity to be heard; but upon conviction of any such offense, or upon conviction of any federal court for violation of the federal statutes relative to the fraudulent use of the mails or of other criminal acts pertaining to the conduct of his business, it shall be the duty of the commissioner forthwith to revoke and cancel the license of the person so convicted.

Sec. 17. **Commissioner to enforce act.**—The Commissioner shall be charged with the enforcement of the provisions of this Act and of the rules and regulations made and published thereunder. Upon complaint made it shall be the duty of the county attorney to prosecute all cases arising in his county for violation of this Act or of the rules or regulations made and published thereunder.

Sec. 18. **Law repealed.**—Chapter 427, General Laws, 1927, and all other acts and parts of acts inconsistent with this Act are hereby repealed.

Approved April 25, 1931

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CHAPTER 395—S. F. No. 1328

*An act to appropriate money for the conservation and development of the state's natural resources; for the establishment, maintenance, improvement and enlargement of certain state fish hatcheries, and for land for the same; for maintenance and improvement of state soldiers' home; for the maintenance of Minnesota department, G. A. R.; for expense of burial of soldiers and sailors; for maintenance, improvement and repairs, Minnesota state agricultural society; for county and district agricultural societies; for aid to agricultural agents; for various stock breeders', dairymen's, horticultural and poultry associations and societies, farmers' institutes; for public parks and additions thereto and for the establishment of new public parks; for sheriff's per diem and mileage in certain cases; for wolf bounties; for drainage and highway assessments upon state lands; for vessel tonnage tax; for fees public land collections; for aid to Minnesota tourist bureau; for maintenance Sibley House; for maintenance of various semi-state activities; for the crection of certain monuments; for maintenance of various state departments and for other purposes.*

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Appropriations for state purposes.**—The sums hereinafter named, or so much thereof as may be necessary, are hereby appropriated from any moneys in the State Treasury not