

taxes become due and payable, and before the same have been fully paid and discharged, shall be guilty of a gross misdemeanor."

Approved April 24, 1941.

CHAPTER 398—S. F. No. 604

An act relating to the purchase of fruits and vegetables for use in a commercial cannery; to provide for the licensing and bonding of purchasers of fruits and vegetables for use in commercial canneries; to prescribe certain powers and duties of the commissioner of agriculture, dairy and food of the State of Minnesota in the administration and enforcement of this act; and to prescribe penalties for the violation of the provisions of this act.

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

Section 1. **Definitions.**—The following terms, whenever used in this Act, shall have the meaning as indicated:

(a) "Commissioner" shall mean the Commissioner of Agriculture, Dairy and Food of the State of Minnesota.

(b) "Person" shall mean any individual, firm, co-partnership, corporation or association.

(c) "Commercial cannery" shall mean a place or building where vegetables and/or fruits are packed in hermetically sealed cans, where sterilization by heat is used, and the products placed on the market for general consumption as human food; but shall not include private homes where farmers and/or others or state or county institutions may pack or preserve vegetables and/or fruits for their own use and make occasional sales of the surplus thereof.

(d) "Producer" shall mean a person engaged in the growing of fruits or vegetables for use in a commercial cannery.

(e) The terms "buy", "purchase" and "sell" shall include production pursuant to a contract or agreement by the terms of which a person undertakes, for a consideration, to grow fruits or vegetables owned by another person.

(f) The compensation payable to any person under a contract or agreement by the terms of which such person under-

takes, for a consideration, to grow fruits or vegetables owned by another person, shall be deemed to be the sale price of such fruits or vegetables.

Sec. 2. Buyers for commercial canners to be licensed—bonds.—On and after April 1, 1941, no person shall buy from producers fruits or vegetables for use in a commercial cannery unless licensed by the commissioner so to do in the manner set forth in this Act. Application upon a form prescribed by the commissioner shall be made on or before March 1 in each year for the license year beginning April 1 following. The applicant shall satisfy the Commissioner of his financial responsibility in seeking to buy fruits or vegetables for use in a commercial cannery in this state. Any applicant who shall file with the commissioner a certificate under oath setting forth that the applicant has been engaged in the business of buying fruits or vegetables for use in a commercial cannery for a period of at least one year in the state of Minnesota, and that all producers from whom he has purchased fruits or vegetables except those whose accounts are in bona fide dispute or in litigation have been paid in full therefor or in lieu of such statement, shall file with the commissioner a bond with sureties approved by the commissioner in the amount of the sum of the unpaid growers' accounts of the applicant for the preceding season, conditioned for the payment of such unpaid growers' accounts within a reasonable time thereafter, shall, for the purposes of this Act, be deemed to be financially responsible. The Commissioner, if so satisfied, shall issue to such applicant, on payment of \$10.00, a license entitling the applicant to buy fruits and vegetables for use in a commercial cannery until the 1st day of April next following. The license shall designate the location of the commercial cannery or canneries where such fruits and vegetables are to be used. The commissioner, if not satisfied with applicant's financial responsibility as in this Section provided, shall require the licensee to file with such application a good and sufficient bond drawn and executed according to the provisions of Section 3 of this Act.

Sec. 3. Form of bond.—The bond required by Section 2 shall be upon a form prescribed by the commissioner and shall be in such amounts as the commissioner may fix and determine; shall be executed by sureties to be approved by the commissioner and shall be conditioned for the faithful compliance by the licensee with the provisions of this Act and for the prompt payment of all amounts due to producers of fruits or vegetables sold by them to such licensee during the license year. The bond shall be approved by the commis-

sioner. Upon default by the licensee in any of the conditions of the bond, if there is reason to believe that the licensee owes for the purchase of fruits or vegetables from the producers, the commissioner shall give reasonable notice for all such producers to file verified claims and may, if he deems it advisable, fix a limit of the time within which such claims must be filed. The commissioner shall examine claims so filed and by certificate determine the amounts due upon them. The commissioner may bring an action upon the bond and for the purposes of such action the certificate determining the amounts due shall be presumptive evidence of the facts therein stated. If the recovery upon the bond is not sufficient to pay all claims as finally determined, then it shall be divided pro rata among them. No suit or action against a surety on any such bond shall be brought later than two years from the accrual of the cause of action thereon.

Sec. 4. Shall keep accurate records.—Every person applying for or holding a license under this Act shall keep accurate records of transactions of the purchase of fruits or vegetables by him for use in a commercial cannery and of the payment or non-payment therefor, and the commissioner shall have access to such records at all reasonable times.

Sec. 5. Commissioner to investigate records.—The commissioner shall have power to investigate the records required to be kept under the provisions of this Act.

Sec. 6. May revoke licenses.—The commissioner may revoke a license already granted when he is satisfied that such license was granted upon fraudulent representations of applicant.

Sec. 7. Shall give notice.—The commissioner, before revoking or determining to revoke any license issued under the provisions of this Act, shall give the licensee ten days notice, personally or by mail, of the time and place of a hearing to determine whether such license shall be revoked. At such hearing the commissioner shall receive evidence and hear the licensee and shall thereafter file an order either dismissing the proceeding or revoking such license.

Sec. 8. Action may be reviewed.—The action of the commissioner in refusing to grant a license or in revoking a license shall be subject to review by writ of certiorari.

Sec. 9. Violation a misdemeanor.—Any person subject to the provisions of this Act who shall violate any of the provisions thereof shall be guilty of a misdemeanor.

Approved April 24, 1941.