

CHAPTER 21

SEEDS; POTATOES

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- 21.01 Subdivisions 1-13. [Repealed, 1951 c 552 s 1]
- Subdivisions 14-17. [Repealed, 1951 c 465 s 1]
- Subdivision 18. [Superseded, 1951 c 552 s 1 subd 4]
- Subdivisions 19-24. [Repealed, 1951 c 552 s 1]

- 21.02-21.101 [Repealed, 1951 c 552 s 1]
- 21.11-21.20 [Repealed, 1951 c 465 s 1]
- 21.21-21.24 [Repealed, 1945 c 543 s 12; 1951 c 552 s 1]

21.111 **DEFINITIONS.** Subdivision 1. **Terms.** When used in sections 21.111 to 21.122 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. **Inspected.** "Inspected" means that the potato plants are examined in the field and that the harvested potatoes produced by such plants are examined by the commissioner, or under his authority.

Subd. 3. **Certified.** "Certified" means that the potatoes were inspected while growing in the field and again after being harvested, and were thereafter duly certified by the commissioner, or under his authority, as provided in sections 21.111 to 21.122, and as provided by rules or regulations adopted and published by the commissioner.

R Subd. 4. **Registered.** "Registered" means that the potatoes are of an approved and known variety which is the progeny of a seed potato and which is not more than the third generation from such seed potato selected on a basis of plant and tuber characters, such characters being designated and prescribed by the commissioner. Otherwise "registered" potatoes shall conform to the requirements of "certified" seed potatoes, as herein provided.

Subd. 5. **Seed potatoes.** "Seed potatoes" mean potatoes used, sold, offered or exposed for sale, or held with intent to sell or as a sample representing any lot or stock of potatoes offered or exposed for sale or held with intent to sell within this state, for the purpose of planting

Subd. 6. **Persons.** "Person" includes an individual, partnership, corporation, company, society, association, and firms.

[1951 c 465 s 2]

21.112 **COMMISSIONER, DUTIES; SEED POTATOES.** Subdivision 1. **Duties, employees.** The commissioner is hereby authorized and it is made his duty to provide the means and direct the work for the inspection, certification, promotion of quality, and creation of demand and sale of seed potatoes. The commissioner may enter into contracts and ground leases for planting and growing potatoes outside of the state for experimental and research purposes. He shall provide such forms as are necessary and keep a record of the work performed, and shall appoint, designate, or employ such officers, inspectors, and employees as may be deemed necessary and fix their compensation.

Subd. 2. **Advisory seed potato certification committee.** He shall appoint an advisory seed potato certification committee to consist of six members, each of whom shall be a grower in Minnesota of certified seed potatoes, and shall serve without compensation, except he shall receive his traveling expenses and other expenses necessary in attending committee meetings. The term of each committee member shall be three years from July 1 following his appointment, except that of the first committee to be appointed, two members shall serve one year, two members shall serve two years and two members shall serve three years. Vacancies shall be filled by the commissioner for the balance of the vacant term. Said committee shall hold at least one meeting each year and other meetings when deemed necessary by the commissioner.

[1951 c 465 s 3]

**21.113 CERTIFICATES OF INSPECTION.** The commissioner shall cause certificates of inspection to be issued only when seed potatoes have been inspected while growing in the field and again after being harvested. Such certificates shall show the varietal purity and the freedom from disease and physical injury of such potatoes and shall contain such other information as may be prescribed by rules and regulations adopted and published under sections 21.111 to 21.122.

[1951 c 465 s 4]

**21.114 BOND.** The commissioner shall require a bond in the sum of \$5,000, to the state of Minnesota, to be given by the person appointed or designated by him to receive the fees herein provided for, the cost of such bond to be paid from the seed potato inspection fund.

[1951 c 465 s 5]

**21.115 FEES; SEED POTATO INSPECTION FUND.** The commissioner shall fix the fees for all inspections and certifications in such amounts as from time to time may be found necessary to pay the expenses of carrying out and enforcing the purposes of sections 21.111 to 21.122, with a reasonable reserve, and shall require the same to be paid before such inspections or certifications are made. All moneys collected as fees or as penalties for violations of any of the provisions of such sections shall be paid into the state treasury and therein credited to the seed potato inspection fund of the commissioner, which fund is hereby created and appropriated for carrying out the purposes of such sections. Interest, if any, received on deposits of these moneys shall be credited to such fund, and there shall be paid into this fund any sum provided by the legislature for the purpose of carrying out the provisions of such sections.

[1951 c 465 s 6]

**21.116 EXPENSES.** All necessary expenses incurred in carrying out the provisions of sections 21.111 to 21.122 and the compensation of officers, inspectors, and employees appointed, designated, or employed by the commissioner, as provided in such sections, together with their necessary traveling expenses, together with the traveling expenses of the members of the advisory seed potato certification committee, and other expenses necessary in attending committee meetings, shall be paid from, and only from, the seed potato inspection fund, on order of the commissioner and auditor's voucher warrant.

[1951 c 465 s 7]

**21.117 APPLICATIONS FOR INSPECTIONS; WITHDRAWALS.** Any person may make application to the commissioner for inspection or certification of his seed potatoes growing or to be grown. Upon receiving such application and the required fee and such other information as may be required, the commissioner shall cause such potatoes to be inspected or certified in accordance with the provisions of sections 21.111 to 21.122 and the rules and regulations adopted and published thereunder.

If a grower wishes to withdraw his field after having made application for inspection and such withdrawal is requested before the field inspection has been made, the fee which he has paid shall be refunded to said grower.

[1951 c 465 s 8]

**21.118 RULES.** It shall be the duty of the commissioner to promulgate reasonable rules and regulations for carrying out the purposes and enforcing the provisions of sections 21.111 to 21.122.

[1951 c 465 s 9]

**21.119 USE OF CERTAIN TERMS FORBIDDEN.** It shall be unlawful to use or employ the term "certified" or the term "inspected" or the term "registered," or any term or terms conveying a meaning substantially equivalent to the meaning of

any of these terms, either orally or in writing, printing, marking or otherwise in reference to or in connection with, or in advertising or characterizing or labeling seed potatoes or the containers thereof, unless such potatoes shall have been duly inspected, registered, and certified pursuant to the provisions of sections 21.111 to 21.122.

[1951 c 465 s 10]

21.12 [Repealed, 1951 c 465 s 1]

**21.121 VIOLATIONS; REPORTS, PROSECUTIONS.** It shall be the duty of every prosecuting officer, to whom the commissioner shall report any violation of sections 21.111 to 21.122, to cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties in such case as provided in such sections.

[1951 c 465 s 11]

**21.122 PENALTIES.** Any person violating any provision of sections 21.111 to 21.121 or any rule or regulation promulgated by the commissioner thereunder shall be guilty of a misdemeanor; and upon conviction for a first offense shall be punished by a fine of not less than \$25 nor more than \$100 or by imprisonment for not less than 10 days nor more than 90 days; and for each second and subsequent offense such persons shall be guilty of a gross misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than 30 days nor more than six months. Upon conviction for such second offense the commissioner shall refuse the violator the privilege of handling in any way certified seed potatoes during the season in which such second offense was committed.

[1951 c 465 s 12]

21.13 [Repealed, 1951 c 465 s 1]

21.14-21.20 [Repealed, c 465 s 1]

21.21-21.22 [Repealed, 1951 c 552 s 1]

21.23 [Repealed, 1945 c 543 s 12]

21.24 [Repealed, 1951 c 552 s 1]

21.31 [Unnecessary]

**21.32 DECLARATION OF POLICY.** Subdivision 1. It is hereby declared that the production, preparing for market, and marketing of Irish potatoes in Minnesota is important to the health, peace, safety, and general welfare of the people of the State of Minnesota. Economic waste is being fostered in the potato industry in Minnesota by lack of better methods of production, processing, and marketing of potatoes and by lack of advertising and promoting better markets for potatoes produced in the state; and the inability of individual producers, processors, and shippers to develop better methods and new and larger markets for Minnesota potatoes; resulting in unreasonable and unnecessary waste of the agricultural and human resources of the state. Such conditions and the accompanying waste jeopardize the future continued production of an important food supply for the people of the state and jeopardize the future and continued employment of local human resources within the state and prevent potato producers and people they employ from obtaining a fair return for their labor, their farms, and the potatoes which they produce. As a consequence, the purchasing power of potato producers, processors, potato shippers, and the persons within their employ has been and may continue to be in the future, unless such conditions are remedied, low in relationship to that of persons engaged in other gainful occupations within the state. Potato producers, potato processors, and shippers and the persons within their employ are thereby prevented from maintaining a proper standard of living and from contributing their fair share to the support of the necessary governmental and educational functions thus tending to increase unfairly the tax burdens of other citizens of the state.

Subd. 2. These conditions vitally concern the health, peace, safety, and general welfare of the people of this state. It is hereby declared to be the policy of this state to aid potato producers, processors, potato shippers, and the general welfare of the communities within the area in preventing economic waste and unemployment, and in the production, processing and marketing of potatoes, to develop new and better varieties of potatoes, more efficient and equitable methods of producing and marketing of potatoes, and to preserve this opportunity for employment of workers within the producing area, and to aid in restoring and maintaining their purchasing power at a more adequate, equitable, and reasonable level.

Subd. 3. The production, processing, and marketing of potatoes within this state is hereby declared to be affected with a public interest. The provisions of sections

21.31 to 21.46 are enacted in the exercise of the police powers of this state for the purposes of protecting the health, peace, safety, and general welfare of the people of this state.

[1951 c 543 s 2]

**21.33 DECLARATION OF PURPOSES.** The purposes of sections 21.31 to 21.46 are:

(a) To enable the potato producers, processors, and shippers of this state to better meet the competition from other states who are conducting potato improvement, marketing, and advertising programs.

(b) To establish and promote orderly marketing of potatoes, to provide for potato inspection by the established federal-state inspection service or the use of special permits or identification to permit storage or processing in transit, and to provide methods and means for ascertaining and developing better methods of producing, processing, and marketing potatoes.

(c) To provide means and methods for the development of new and larger markets for potatoes grown within the state.

(d) To eliminate or reduce the economic waste in production, processing, and marketing of potatoes grown within the state.

[1951 c 543 s 3]

**21.34 DEFINITIONS.** Subdivision 1. **Terms.** For the purposes of sections 21.31 to 21.46 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. **Potatoes.** The term "potatoes" means any and all white Irish potatoes produced or handled within the state.

Subd. 3. **Producer.** "Producer" means any person engaged in the business of producing or causing to be produced for market any potatoes within the state.

Subd. 4. **Shipper.** "Shipper" means any person in the business of buying, receiving, selling, or shipping potatoes grown by either himself or another, for profit or remuneration.

Subd. 5. **Person.** "Person" means an individual, partnership, corporation, association, grower, or any other business unit.

Subd. 6. **Grower.** The term "grower" means any person who grows or shares in the ownership of potatoes grown for market on one or more acres.

Subd. 7. **Commission.** "Commission" means the Minnesota Potato Development Commission.

Subd. 8. **Commission's order.** The term "commission's order" means any order issued by the commission pursuant to sections 21.31 to 21.46, prescribing rules and regulations pertaining to the collection of fees and disbursement of funds and restricting or regulating the sale of cull potatoes.

Subd. 9. **Cull potatoes.** The term "cull potatoes" means any potatoes which because of quality, condition, or size, fail to meet any of the standard classifications described in the official United States or Minnesota regulations as applied to potatoes.

Subd. 10. **Processing.** The term "processing" means receiving, grading, packing, or loading potatoes in preparation for marketing or offering on the market.

Subd. 11. **Processor.** The term "processor" means any person engaged within this state in any of the activities set forth in subdivision 10.

[1951 c 543 s 4]

**21.35 MINNESOTA POTATO DEVELOPMENT COMMISSION.** A commission is hereby created to be known as the Minnesota Potato Development Commission and shall consist of five members and shall be appointed by the governor of Minnesota with one member to be appointed from each of the areas as defined in section 21.36, subdivision 1, and who shall be potato growers in that area, the fifth member shall be the commissioner of agriculture, dairy, and food. The term of office of the members of the commission shall be one year from and after the first day of July of each year.

[1951 c 543 s 5]

**21.36 AREAS.** Subdivision 1. For the purpose of administration of sections 21.31 to 21.46 the state is divided into four areas. Area number one includes all of the ninth congressional district except the counties of Roseau, Lake of the Woods, Beltrami, and Clearwater. Area number two includes all of the eighth congressional district and, in addition thereto, the counties of Roseau, Lake of the Woods, Clearwater, and Beltrami. Area number three includes all of congressional districts one, two, and seven. Area number four includes all of the remainder of the state.

Subd. 2. Sections 21.31 to 21.46 shall apply to and be in force in any area of the state wherein the commission hereby created shall so determine, after approval by referendum of the potato growers as provided in section 21.37, subdivision 4.

Subd. 3. Upon the filing of a petition with the commission signed by 25 growers residing in one area praying that such sections shall apply in all or a stated part of the area, such commission shall carry two weeks public notice to be published in a legal newspaper in each county affected of the time and place within the area when and where such petition will be heard and determined by the commission. At the time and place so stated the commission shall meet and hear all persons interested for and against the granting of such petition. All growers interested may then appear and be heard upon all matters pertaining to the granting or denial of such petition. Thereupon the commission shall make and file an order finding the proposed area suitable or unsuitable to the application of such sections. Thereupon the commission shall give like published notice of a referendum to be held in such area to such growers and if approved by two-thirds of the growers voting at such referendum such area shall be deemed organized under such sections and such sections shall apply thereto. Such commission shall thereupon file an order finding such facts and such order shall be evidence of the facts so found. Such proceedings shall have no effect beyond the boundaries of the area wherein held.

[1951 c 543 s 6]

**21.37 COMMISSION; POWERS, DUTIES.** Subdivision 1. The commission shall administer and enforce the provisions of sections 21.31 to 21.46 and shall have and may exercise any or all of the administrative powers conferred by such sections, except such as are herein given to the board of control hereinafter provided for in such sections. In order to effectuate the declared purposes of such sections, the commission is hereby authorized to issue, administer, and enforce the provisions of the commission's orders hereunder regulating the shipment of cull potatoes and the collection of fees, which shall not exceed one cent per hundredweight of potatoes shipped, or sold, and the disbursement of funds as provided in such sections.

Subd. 2. Whenever the commission has reason to believe that the issuance of a commission's order will tend to affect the declared policy of such sections with respect to potatoes, it shall give due notice of and an opportunity for a public hearing upon a proposed commission's order.

Subd. 3. Due notice of any hearing called for such purpose shall be given to all persons, who may be directly affected by any action of the commission pursuant to the provisions of such sections, and whose names appear upon lists to be filed by such potato industry with the commission. Such hearing shall be open to the public. All testimony shall be received under oath and a full and complete record of all proceedings at any such hearing shall be made and filed by the commission in the office of the attorney general.

Subd. 4. In order to effectuate the declared policy of such sections, the commission shall have the power, after due notice and opportunity for hearing, to prepare a commission's order and submit same to the potato growers for approval. Such order shall not become effective unless it is approved in a public referendum by at least two-thirds of the potato growers voting in such referendum. The provisions of such commission's order shall be only those provisions provided for in this section.

[1951 c 543 s 7]

**21.38 BOARDS OF CONTROL.** Subdivision 1. Any commission's order issued pursuant to sections 21.31 to 21.46 shall provide for the establishment of a board of control to administer such order in accordance with its terms and provisions. The members of the board of control shall be appointed by the commission from nominations submitted by the growers within the affected area and shall hold office until the expiration of term or until such appointment is withdrawn by the commission for cause. Such board of control shall consist of seven members to be selected by the commission from the nominees submitted by the potato industry, and, in addition the commissioner of agriculture, dairy, and food, the state superintendent of Seed Potato Certification, and the director of the Experiment Station of the University of Minnesota shall be ex officio members. The ex officio members shall meet with the board and act in an advisory capacity but shall have no vote.

The term of office of the appointed members shall be two years from and after July 1, except that of the first seven members appointed, four shall serve for two years and three shall serve for one year.

Subd. 2. Upon organization of the board, the members thereof shall hold their first meeting as soon as possible and shall elect a chairman and such other officers from their membership as they may deem necessary. At the first meeting the board shall establish rules governing its procedure.

Subd. 3. No member of any such board shall receive a salary but each shall be entitled to his actual expenses incurred while engaged in performing his duties herein authorized. The commission may authorize such board to employ necessary personnel, including an attorney approved by the attorney general, fix their compensation and terms of employment, and to incur such expenses, to be paid by the board of control from moneys collected as herein provided, as the commission may deem necessary and proper to enable such board properly to perform such of its duties as are authorized herein. The powers and duties of any such board of control shall be administrative only and shall include the following:

(1) Subject to the approval of the commission to administer such commission's orders.

(2) To recommend to the commission administrative rules and regulations relating to the commission's orders.

(3) To receive and report to the commission complaints of violations of the orders.

(4) To recommend to the commission for its approval an estimated budget of expense necessary for the operation of any commission's order established by authority of this act; and also submit for approval a method of assessing and collecting such funds as the commission may find necessary for the administration of such orders.

(5) To recommend to the commission amendments to the commission's orders.

(6) To assist the commission in the collection of such necessary information and data as the commission may deem necessary to the proper administration of such sections.

[1951 c 543 s 8]

**21.39 ORDERS OF COMMISSION; PROVISIONS; TERMINATION.** Subdivision 1. In accordance with the provisions, restrictions, and limitations set forth herein any order issued by the commission pursuant to sections 21.31 to 21.46 may contain any or all of the following provisions, but no others:

(1) Provisions for entering into contracts with corporations, organizations, or agencies which have facilities, personnel, or knowledge which in the opinion of the board of control would make such corporation, organization, or agency competent to carry out the program or portions thereof outlined by the board of control and recommend to the commission payment for such services from the funds collected by the board under the commission's order.

(2) Provision for the compulsory inspection by the established federal-state inspection service, or special permit or identification to allow for storage or processing in transit.

(3) Provisions for establishment of plans for research and advertising and sales promotion to create new and larger markets for potatoes grown in this state, provided that any such plans shall be directed towards increased sale of potatoes without reference to a particular brand or trade name which is the private property of any person.

(4) Provisions for prohibiting the sale or offering for sale or shipment of cull potatoes on the commercial market, except such potatoes as carry the official tag or other official designation of the Minnesota Seed Certification Department.

(5) Provisions authorizing the control board to obtain a special mark or insignia and establishing rules and regulations governing its use and making the same available to any and all potato producers, or handlers, who are willing to abide by such rules and regulations. Such mark or insignia may be copyrighted in the name of the control board and can be used only on specific permission granted by the control board.

(6) Provisions for entering into cooperative arrangements with organizations or state and federal agencies, including those of other states, whenever, in the

opinion of the board of control and the commission, such cooperative arrangements will assist in furthering the declared policies of such sections, and to make payment from the funds collected under such sections to such cooperative arrangement.

(7) Provisions fixing fees and the method of collecting the same as hereinafter provided.

Subd. 2. Any order established under such sections may be terminated as under any area by the growers of said area in the following manner; a petition signed not later than July 1 in any year by at least 25 potato growers affected by the order in that area, or such greater number of potato growers affected by the order as may be established by the commission in the order establishing such area, will make it mandatory upon the commission to call a meeting of the growers of that area at a central point therein, if the meeting has a total attendance of at least 50 growers affected by the order in that area, two-thirds of whom vote in favor of a referendum election, the commission shall arrange for such referendum. If the majority of said area voted in such referendum election which favor a termination of the order, the order shall be terminated as under said area, within 30 days after the results of the referendum are determined.

Subd. 3. Upon the issuance of any commission's order, or any suspension, amendment or termination thereof, a notice shall be posted on a public bulletin board to be maintained by the control board at its office and a copy of such notice shall be published in a newspaper of general circulation published in the area to which the order applies and in such other newspaper or newspapers as the commission may prescribe.

No order or any suspension, amendment or termination thereof shall become effective until the termination of a period of five days from the date of such posting and publication. It shall also be the duty of the commission to mail a copy of the notice of said issuance to all persons directly affected by the terms of such order, suspension, amendment or termination, whose names and addresses may be on file in the office of the board of control and to every person who files in the office of the board of control a written request for such notice.

[1951 c 54§ s 9]

**21.40 COSTS, EXPENSES; BUDGET; ASSESSMENTS; STAMPS.** Subdivision 1. For the purpose of providing funds to defray the necessary expenses incurred by the board of control in the formation, issuance, administration, and enforcement of any order issued by the commission hereunder, the board of control shall prepare the necessary budget for the cost of same. Likewise the board shall prepare a budget for administration and operating cost and expenses, including amounts to be spent for research and development work, for advertising, sales promotion, and for contractual operations, whenever in its judgment such contracts are most desirable to carry out the declared provisions of the order. Both budgets, with the provision for collection of such necessary fees, the time and conditions of such payment, and in no case to exceed one cent per hundred weight on any one lot of all potatoes sold or shipped within the area covered by the order, shall be subject to approval by the commission. Each and every person engaged in the production, processing, or shipping of potatoes sold or shipped within the state and directly affected by any order issued pursuant to sections 21.31 to 21.46 shall pay to the control board at such time and in such manner prescribed by the order as adopted an assessment covering the budgets provided by such sections. That fraction which the general budget shall have allocated to advertising and promotion of all fees which are collected upon certified seed potatoes shall be remitted to the State Certified Seed Potato Advisory Committee for disbursement by them for the advertisement and promotion of Minnesota certified seed potatoes.

Subd. 2. The commission shall have the power, if deemed feasible, to provide by order for the issuance of "Potato Promotion Stamps" to be purchased from the board of control and to be affixed or attached to the containers, invoices, shipping documents, inspection certificates, releases or receiving receipts or tickets, or such other containers or records as may adequately provide notice that such tax has been paid, and for the cancellation of such stamps and all regulations to be followed in connection therewith.

Subd. 3. The commission shall prescribe the rules and regulations with respect to the assessment and collection of such funds for such purposes.

Subd. 4. Any money collected by the control board or its authorized employees shall be deposited in a bank approved by the commission and may be disbursed by

the board of control or its authorized representative for the actual expenses incurred in carrying out the provisions of the order. All persons authorized to control, handle, or disburse such funds shall provide bond in such manner and in such amount as required by the commission.

[1951 c 543 s 10]

**21.41 ORDERS OF COMMISSION; APPLICATION.** Orders issued by the commission under sections 21.31 to 21.46 may be limited in their application by prescribing the areas or portions of the areas in which a particular order shall be effective; however, no order shall be issued by the commission unless it embraces all persons of a like class in a given area who are engaged in processing, production, or marketing potatoes.

[1951 c 543 s 11]

**21.42 ADMINISTRATION, ENFORCEMENT.** Subdivision 1. The commission and the board of control shall be responsible for the administration and enforcement of sections 21.31 to 21.46.

Subd. 2. All fees herein provided for shall be collectible by the board of control through civil action; and injunction shall be available as a remedy for the violation or to prohibit future avoidance or violation or any orders issued pursuant to such sections. Violations of such section, or any commission's order issued pursuant thereto, shall be punishable by a fine of not to exceed \$100 or confinement in the county jail for not to exceed 30 days. The county attorney of each county within the affected area shall represent the board of control and assist in the collection of fees and the enforcement of such sections and orders issued pursuant thereto.

Subd. 3. Upon the filing of a verified complaint charging violation of any provisions of such sections or of any provisions of any order issued by the commission thereunder, and prior to the institution of any court proceeding authorized hereinafter, the board of control may in its discretion refer the matter to the attorney general or any county attorney for action pursuant to the provisions of such sections, or call a hearing to consider the charges set forth in such verified complaint. In such case, the board of control shall cause a copy of such complaint, together with a notice of the time and place of hearing of such complaint, to be served personally, or by mail, upon the person named as respondent therein. Such service shall be made at least three days before said hearing shall be held in the city or town in which is situated the principal place of business of the respondent, or in which the violation complained of is alleged to have occurred, at the discretion of the board. At the time and place designated for such hearing the board of control or its agents shall hear the parties to said complaint and shall enter in the office of the attorney general, its findings based upon facts established at such hearing.

Subd. 4. If the commission finds that no violation has occurred, it shall forthwith dismiss such complaint and notify the parties to such complaint.

Subd. 5. If the commission finds that a violation has occurred, it shall so enter its findings and notify the parties to such complaint. Should the respondent thereafter fail, neglect, or refuse to desist from such violation, within the time specified by the commission, the commission may thereupon file a complaint against such respondent in a court of competent jurisdiction as set forth hereinafter.

Subd. 6. Each county attorney may, upon his own initiative, and shall upon any complaint of any person, if, after investigation, he believes a violation to have occurred, bring a criminal action in the proper court in his district in the name of the people of this state against any person violating any provision of such sections or of any order duly issued by the commission hereunder.

Subd. 7. The board of control, upon approval of the attorney general, may, if after investigation he believes a violation to have occurred, bring an action in the name of the people of this state in the proper court for an injunction against any person violating any provisions of such sections or any order duly issued by the commission hereunder.

Subd. 8. The court may issue a temporary restraining order and preliminary injunction as in other actions for injunctive relief and upon trial of such action and, if judgment be in favor of the plaintiff, the court shall permanently enjoin defendant from further violations.

Subd. 9. The judgment, if in favor of the plaintiff, shall provide that the defendant pay to the plaintiff reasonable costs of such suit including attorney's fees incurred by the board of control in the prosecution of such action.

Subd. 10. Any such action may be commenced either in the county where defendant resides, or where any act or omission or part thereof complained thereof occurred.

Subd. 11. The penalties and remedies herein prescribed with respect to any violation mentioned herein shall be concurrent and alternative and neither singly nor combined shall the same be exclusive and either singly or combined the same shall be cumulative with any and all other civil, criminal, or administrative rights, remedies, forfeitures, or penalties provided or allowed by law with respect to any such violation.

[1951 c 543 s 12]

**21.43 ASSESSMENTS.** Any assessment herein levied, in such specified amount as may be determined by the commission pursuant to the provisions of sections 21.31 to 21.46 shall constitute a personal debt of every person so assessed and shall be due and payable to the board of control when payment is called for by the board. In the event of failure of such person to pay any such assessment upon the date determined by the board, the board may file a complaint against such person in a state court of competent jurisdiction for the collection thereof, as provided in section 21.41.

[1951 c 543 s 13]

**21.44 INDIVIDUAL RESPONSIBILITY.** The members of any such board of control duly appointed by the commission, including employees of such board, shall not be held responsible individually in any way to any producer, processor, distributor, or other handler or any other person for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, except for their own individual acts of dishonesty or crime. No such person or employee shall be held responsible individually for any act or omission of any other member of such board. The liability of the members of such board shall be several and not joint and no member shall be liable for the default of any other member.

[1951 c 543 s 14]

**21.45 BOOKS, RECORDS; HEARINGS.** Subdivision 1. The board of control may require any and all processors or distributors subject to the provisions of any marketing order issued pursuant to sections 21.31 to 21.46, to maintain books and records reflecting their operations under said marketing order, and to furnish to the board of control or its duly authorized or designated representatives, such information as may be from time to time requested by them relating to operations under any such order, and to permit the inspection by said board of control or its duly authorized or designated representatives of such portions of such books and records as relate to operations under said marketing order.

Subd. 2. Information obtained by any person hereunder shall be confidential and shall not be by him disclosed to any other person save to a person with like right to obtain the same or any attorney employed to give legal advice thereupon, or by court order.

Subd. 3. For the purpose of carrying out the purposes of such sections, the commission or the board of control may hold hearings, take testimony, administer oaths, subpoena witnesses, and issue subpoenas for the production of books, records, or documents of any kind.

Subd. 4. No person shall be excused from attending and testifying or from producing documentary evidence before the commission or board of control in obedience to the subpoena of the commission or board of control on the ground or for the reason that the testimony or evidence, documentary, or otherwise, required by him may tend to incriminate him or subject him to a penalty or forfeiture. No natural person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may be so required to testify, or produce evidence, documentary or otherwise, before the commission or board of control in obedience to a subpoena issued by him. No natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

[1951 c 543 s 15]

**21.46 DEPOSIT, PAYMENT OF EXPENSE FOR MARKETING ORDER.** Prior to the issuance of any marketing order by the commission, under sections 21.31 to 21.46, the commission may require the applicants therefor to deposit with it such amount as the commission may deem necessary to defray the expenses of pre-

paring and making effective such marketing order. Such funds shall be received, deposited, and disbursed by the commission in accordance with the provisions set forth in section 21.39.

The commission may reimburse the applicant in the amount of any such deposit from any funds received by the commission pursuant to the provisions of section 21.39.

[1951 c 54 § s 16]

**21.47 DEFINITIONS.** Subdivision 1. **Terms.** When used in sections 21.47 to 21.58 the terms defined in this section shall have the meanings ascribed to them.

Subd. 2. **Person.** "Person" includes an individual, partnership, corporation, company, society, association, and firm.

Subd. 3. **Sell.** "Sell," when applying to agricultural seed and screenings and samples thereof, shall be construed as including:

- (a) the act of selling, transferring ownership;
- (b) the offering and exposing for sale, exchange, distribution, giving away, and transportation in, and into, this state;
- (c) the having in possession with intent to sell, exchange, distribute, give away or transport in, and into, this state;
- (d) the storing, carrying and handling in aid of traffic therein, whether done in person or through an agent, employee or others, and
- (e) receiving, accepting and holding on consignment for sale.

Subd. 4. **Label.** "Label" includes tag or other device attached to or written, stamped, or printed on any container or lot of bulk seeds purporting to set forth the kind of seeds therein contained, or any other information in relation thereto, and includes invoices under which any seed is imported into the state.

Subd. 5. **Agricultural seeds.** "Agricultural seeds" includes the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural or field seeds, lawn seeds, and mixtures of such seeds.

Subd. 6. **Weed seeds.** "Weed seeds" includes the seeds of all plants generally recognized as weeds within this state, including noxious-weed seeds.

Subd. 7. **Noxious-weed seeds.** "Noxious-weed seeds" includes prohibited noxious-weed seeds and restricted noxious-weed seeds as they are defined in subdivisions 8 and 9.

Subd. 8. **Prohibited weed seeds.** "Prohibited weed seeds" are those weed seeds which are prohibited from being present in any agricultural seed. They are the seeds of perennial weeds such as not only reproduce by seed, but also spread by underground reproductive parts such as roots and rootstocks, and above ground reproductive parts such as runners and stolons. The prohibited weed seeds are seeds of Canada thistle (*Cirsium arvense* Scop.), field bindweed (*Convolvulus arvensis* L.), leafy spurge (*Euphorbia esula* L.), perennial pepper grass (*Lepidium draba* L.), perennial sow thistle (*Sonchus arvensis* L.), Russian knapweed (*Centaurea repens* L.) and quack grass (*Agropyron repens* L.), which are highly destructive and difficult to control in this state by ordinary cultural practices.

Subd. 9. **Restricted weed seeds.** "Restricted weed seeds" are those weed seeds which, if present in agricultural seed, shall be named on the label together with the number per ounce or pound of seed specified and which shall not exceed the legal limit. They are seeds of such weeds as are objectionable in fields, lawns and gardens of this state, and can be controlled by good cultural practice and use of herbicides. Restricted weed seeds are seeds of buckhorn plantain (*Plantago lanceolata* L.), dodder (*Cuscuta* spp.), Frenchweed (*Thlaspi arvense* L.), hoary alyssum (*Berterea incana* DC.), horse nettle, (*Solanum carolinense* L.), and wild mustard (*Brassica arvensis* L.).

Subd. 10. **Additions, subtractions.** The commissioner may by regulation add to or subtract from the list of seeds included under the definition set forth in subdivision 8 or in subdivision 9 whenever he finds that such additions or subtractions are within the respective definitions.

Subd. 11. **Kind.** "Kind" means one or more related species or subspecies, which singly or collectively is known by one common name, for example, wheat, oats, sweet clover.

Subd. 12. **Advertisement.** "Advertisement" means any representation, other than on a label, disseminated in any manner or by any means, relating to seed within the scope of this act.

Subd. 13. **Purity.** "Purity" means agricultural seed exclusive of inert matter and all other seeds not of the kind of seed being considered.

Subd. 14. **Germination.** "Germination" means a seed showing growth of a plumule (stem) and radicle (root) which are commonly accepted as evidence that under normal environment would produce a mature plant.

Subd. 15. **Screenings.** The word "screenings" means chaff, florets, immature seed, weed seeds, inert matter and other foreign material removed in any way from any seeds or grains in any kind of cleaning or processing, or obtained from weedy fields or from any other source, which contains less than 50 per cent agricultural seeds or grains.

Subd. 16. **Hybrid seed corn.** "Hybrid seed corn" shall be seed of the first generation of a cross involving two, three, or four different inbred lines of corn or their combinations, and shall be restricted to seed of single crosses, three-way crosses, and double crosses, these in turn being defined as follows:

(1) Single cross. The first generation of a hybrid between two inbred lines.

(2) Three-way cross. The first generation of a hybrid between a single cross and an inbred line.

(3) Double cross. The first generation of a hybrid between two single crosses.

Subd. 17. **Vendor.** The word "vendor" means any person who sells agricultural seed not grown on his own farm.

Subd. 18. **Cereals.** The word "cereals" means and includes seeds of wheat, rye, oats, barley, spelts or emmer, and buckwheat.

[1951 c 552 s 2]

**21.48 CONTAINERS OF AGRICULTURAL SEED, LABELS.** Each container of agricultural seed which is sold for sowing purposes shall bear thereon or have attached thereto in a conspicuous place a plainly written or printed label in the English language, giving the following information:

(1) Commonly accepted name of (A) kind, or (B) kind and variety, of each agricultural seed component in excess of five per cent of the whole, and the percentage by weight of each in the order of its predominance.

(2) Lot number or other lot identification.

(3) Origin, if known, of alfalfa, red clover, and field corn. If the origin is unknown, that fact shall be stated.

(4) Percentage by weight of all weed seeds, which shall not exceed one per cent.

(5) The name and number of each kind of restricted noxious-weed seeds. (A) Per ounce in *Agrostis* species (red top and bent grass), *Agropyron* species (wheat grass), alfalfa, Bermuda grass, brome grass, clovers (Alsike, crimson, red, sweet, ladino, birdsfoot trefoil, and white), Dallis grass, fescues, flax, foxtail, millet, lespedezas, orchard grass, *Poa* species (blue grass), reed canary grass, Rhodes grass, rye grass and other agricultural seeds of similar size and weight, or mixtures within this group and (B) per pound in barley, buckwheat, oats, proso, rye, sorghum, sudan grass, vetches, wheat and other agricultural seeds of a size and weight similar to or greater than those within this group, or any mixtures within this group or between members of this group and members of any other group.

(6) Percentage by weight of agricultural seeds (which may be designated as "other crop seeds") other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed:

(A) Percentage of germination, exclusive of hard seed.

(B) Percentage of hard seed, if present.

(C) The calendar month and year the test was completed to determine such percentages.

(9) Name and address of the person who labeled the seed, or who sells the seed within this state or in lieu thereof a code number which has been registered with the commissioner.

(10) A hybrid seed corn label shall also state:

(A) Whether the corn is the product of a single cross, a three-way cross, or a double cross, or a blend of these.

(B) The state in which it was grown.

(C) The variety name.

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- (D) The number of days as determined by the Minnesota Experiment Station of growing season necessary from emergence of the corn plant of said variety above ground to maturity in the zone or zones in Minnesota to which said variety is adapted.

[1951 c 552 s 3]

**21.49 UNLAWFUL ACTS.** Subdivision 1. **Agricultural seed, sale.** It is unlawful for any person to sell agricultural seed within this state if

(a) The test to determine the percentage of germination required by section 21.48 shall not have been completed within a nine-month period, immediately prior to such sale, exclusive of the calendar month in which the test was completed;

(b) It is not labeled in accordance with the provisions of sections 21.47 to 21.58, or contains a false or misleading label;

(c) False or misleading advertisement has been used in respect to its sale;

(d) It contains prohibited noxious-weed seeds;

(e) It contains restricted noxious-weed seeds in excess of two seeds per ounce, or 25 seeds per pound in those agricultural seeds as set out in section 21.48, clause (5);

(f) It contains more than one per cent by weight of all weed seeds.

Subd. 2. **Miscellaneous violations.** It is unlawful for any person:

(a) To detach, alter, deface, or destroy any label provided for in such sections or in the rules and regulations of the commissioner made pursuant thereto, or to alter or substitute seed, in a manner that many defeat the purposes thereof;

(b) To disseminate any false or misleading advertisement concerning agricultural seed in any manner or by any means;

(c) To hinder or obstruct any authorized person in the performance of his duties thereunder;

(d) To fail to comply with a "stop-sale" order;

(e) To use on any label, advertisement or literature in connection with the name or description of any seed the word "type";

(f) To plant any agricultural seed which the person knows contains weed seeds and noxious-weed seeds in excess of the limits given in such sections for such seed;

(g) To sell to the consumer, or to feed any screenings of any name or nature from threshing machines, seed hullers, seed cleaners, weedy fields, or from any other source which have not been devitalized by grinding sufficiently fine or otherwise devitalized to destroy the weed seeds in excess of allowable limits, except that dealers who are not equipped with the necessary machinery or other facilities to devitalize the screenings as required, may sell whole screenings to consumers for feeding purposes, upon written permit from the commissioner, which shall be issued by the commissioner only if the consumer has the necessary machinery and facilities to devitalize said screenings, and the consumer shall so devitalize such screenings before using them for feed.

[1951 c 552 s 4]

**21.50 SECTIONS 21.48 AND 21.49, WHEN NOT TO APPLY.** Subdivision 1. **Certain seeds.** The provisions of sections 21.48 and 21.49 do not apply

(a) to seed or grain not intended for sowing purposes;

(b) to seed in storage in or consigned to a seed cleaning or processing establishment for cleaning or processing, but any labeling or representation made with respect to the uncleaned or unprocessed seed is subject to the provisions of such sections.

Subd. 2. **Penalties not to apply.** No person is subject to the penalties of such sections by reason of having sold or offered or exposed for sale in this state any agricultural seeds which were incorrectly labeled or represented as to kind, variety, or origin, if such seeds cannot be identified by examination, and if he has obtained an invoice or grower's declaration giving kind, or kind and variety, and origin, if required, and has taken normal precautions to determine the identity of the seed to be as represented.

[1951 c 552 s 5]

**21.51 COMMISSIONER; POWERS, DUTIES.** Subdivision 1. **Enforcement.** The commissioner shall enforce and carry out the provisions of sections 21.47 to 21.58.

Subd. 2. **Test seeds.** The commissioner and his assistants, and county weed and seed inspectors, as directed by him, shall sample, inspect, make analysis of and test agricultural seeds sold within this state for sowing purposes at such time and place and to such extent as he deems necessary to determine whether such seeds

and screenings comply with the provisions of such sections. He shall promptly notify the person, firm, or corporation who transported, sold or offered or exposed such seed or screenings for sale of any violation of the provisions of such sections, or any rule or regulations promulgated thereunder.

Subd. 3. **Rules.** The commissioner shall adopt rules and regulations governing the methods to be used in sampling, inspecting, analyzing, testing, and examining agricultural seed and screenings, and the weed seed tolerances to be followed in the administration of such sections, which shall be in general accord with officially prescribed practice in interstate commerce, and such other rules and regulations as are necessary to secure the efficient enforcement of such sections.

Subd. 4. **Entry upon premises.** For the purpose of carrying out the provisions of such sections, the commissioner and his assistants, and the county weed and seed inspectors under his direction, may enter upon any public or private premises during regular business hours in order to have access to those seeds and screenings which are subject to such sections and the rules and regulations promulgated thereunder.

Subd. 5. **Stop-sale orders.** The commissioner may issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural seed, which the commissioner finds to be in violation of any of the provisions of such sections, which shall prohibit further sale of such seed until the commissioner has evidence that the law has been complied with. Such seed shall be removed from the place in which it is found only upon a release issued by the commissioner, which release shall be issued by him upon a showing that the seed is being removed for the purpose of making it comply with the provisions of such sections, or otherwise destroyed for seeding purposes.

In respect to seeds which have been denied sale, as provided in this subdivision, the owner or custodian of such seeds shall have the right to appeal from such order to a court of competent jurisdiction where the seeds are found, praying for judgment as to the justification of said order and for the discharge of such seed from the order prohibiting the sale in accordance with the findings of the court. The provisions of this clause shall not be construed as limiting the right of the commissioner to proceed as otherwise authorized in sections 21.47 to 21.58.

Subd. 6. **Seed laboratory.** The commissioner shall establish and maintain a seed laboratory for seed testing, employing qualified persons for such work.

Subd. 7. **Purity and germination tests.** The commissioner shall provide for purity and germination tests of seeds and identification of seeds and plants for farmers, dealers and others. He may prescribe rules and regulations governing such testing and identification; and may establish and collect suitable charges for testing and identification in excess of the number of free tests and identifications allowed. Every resident of this state shall be entitled to five free tests and identifications each year.

Subd. 8. **Cooperation with U. S. Department of Agriculture.** The commissioner shall cooperate with the United States Department of Agriculture in seed law enforcement.

[1951 c 552 s 6]

**21.52 COURT, JURISDICTION TO PREVENT USE OF SEED FOR GROWING PURPOSES.** Upon the recommendation of the commissioner any court of competent jurisdiction in the area in which the seed is located shall cause the seizure and subsequent denaturing, processing, or destruction to prevent the use for sowing purposes of any lot of agricultural seed found to be prohibited from sale under the provisions of sections 21.47 to 21.58, or under any rule or regulation adopted thereunder. In no instance shall the denaturing, processing, or destruction be ordered without first having given the claimant of said seed an opportunity to apply to said court for the release of said seed.

[1951 c 552 s 7]

**21.53 STAMPS OR TAGS; PERMITS.** Subdivision 1. **Furnishing stamps or tags.** For the purposes of defraying the costs of inspection of agricultural seeds in this state, the commissioner shall furnish tags or stamps in form and character as shall be adequate for the purposes and in the manner hereinafter described.

Subd. 2. **Attaching stamps or tags to seed containers.** It shall be the duty of every vendor selling, offering or exposing agricultural seed, except cereals, for sale in Minnesota to have attached to each original container thereof, except of uncleaned seed, a tag or stamp prescribed and prepared by the commissioner and

sold to the vendor at the prices described in subdivision 3, provided that the cost of all such tags or stamps attached to containers of seed shall be added to the selling price of the seed by all wholesalers thereof. Seed sold by one wholesaler to another wholesaler need not have the sales tag attached.

Subd. 3. **Prices for stamps or tags.** The prices to be paid by vendors for the tags or stamps shall be at the following rates:

- 100 to 160 pound containers—5 cents each
- 60 to 99 pound containers—4 cents each
- 30 to 59 pound containers—3 cents each
- 15 to 29 pound containers—2 cents each
- ½ to 14 pound containers—1 cent each

Subd. 4. **Permits; issuance, revocation.** The commissioner is authorized at his discretion and under such rules and regulations as he may promulgate, to issue permits on application therefor, to any person to sell in Minnesota agricultural seeds which conform to and are labeled under the provisions of sections 21.47 to 21.58, without the use or attachment of tags or stamps purchased from the commissioner; provided such person furnishes to the commissioner quarterly statements of all seeds sold in Minnesota, which statement shall be itemized to show the number of each class of containers referred to in subdivision 3, and such person shall pay the total fee due thereon at the same rate as the cost thereof would be for tags or stamps provided for in subdivision 3. Statements shall be furnished for the quarterly periods ending December 31, March 31, June 30, and September 30 of each year. They shall be delivered to the commissioner not later than 30 days after the end of each of said quarterly periods, and the fees due shall be paid to the commissioner not later than 30 days following the end of each quarterly period. Any person to whom permits are granted shall show as part of their analysis labels on all agricultural seeds the permit number, and such additional information in connection therewith as the commissioner shall require. The commissioner or his authorized agents shall have the right at all reasonable times to examine the records of applicants to verify the correctness of their statements.

[1951 c 552 s 8]

**21.54 CORN, GROWING ZONES.** Subdivision 1. **Established.** It shall be the duty of the director of the Agricultural Experiment Station of the University of Minnesota to determine, establish and number or otherwise identify, corn growing zones of the state and to determine and publish for each zone so established the approximate number of days growing season necessary for corn from emergence of the corn plants above ground after planting to maturity.

Subd. 2. **Field corn varieties; registration fee.** A record of each hybrid seed field corn variety to be tested for days necessary for maturity, or to be sold, including the zone in Minnesota in which it is to be tested or to which it is adapted shall be registered by February 1 of each year by the originator or owner thereof with the commissioner, and for each such registration the commissioner shall collect a fee of \$15. Annually thereafter the originator or owner shall by February 1 apply for and receive from the commissioner a renewal of such registration for a fee of \$15 each for the first two years of renewal, and \$2 each for every year thereafter during which any hybrid seed corn of said varieties is to be sold in Minnesota. The number or name used to designate any hybrid seed field corn in the registration thereof shall be the only variety name of all seed corn covered by or sold under such registration and renewal thereof.

Subd. 3. **Tests of field corn varieties.** After the registration of any variety, the director of the Minnesota Experiment Station shall test the same for one year and annually thereafter at his discretion in the appropriate zones and determine the number of days necessary for maturity. To assist in defraying the expenses of the Experiment Station in making such tests, there shall be transferred annually from the seed act account to the Agricultural Experiment Station the sum of \$9,000.

Subd. 4. **Sale prohibited in.** No variety of hybrid seed corn shall be sold in Minnesota for which the number of days required for maturity has not been determined by the director of the Agricultural Experiment Station by not less than one year's test. The commissioner, with the approval of the director of the Agricultural Experiment Station, may waive for one growing season the requirement of state testing as to new varieties of hybrid seed corn not previously sold in the state, if satisfied as to the correctness of the rating placed thereon by the originator or

owner. No variety shall be barred from sale for which one year's test has been conducted by the experiment station and which has been properly filed with the commissioner.

[1951 c 552 s 9]

**21.55 SEED ACT ACCOUNT.** All fees collected in the seed laboratory under section 21.51, subdivision 7, from the sale of seed sale tags and stamps or from permits issued under section 21.53, and from hybrid seed corn registrations and renewals under section 21.54, subdivision 2, and any other fees and income received in the administration of sections 21.47 to 21.58 shall be deposited in the state treasury as other departmental receipts are deposited, but shall constitute a separate account known as the seed act account which is hereby created and set aside and appropriated for the purpose of defraying the expenses of administering and enforcing such sections.

[1951 c 552 s 10]

**21.56 COMMISSIONER MAY ALTER REQUIREMENTS IN EMERGENCIES.** In the event of acute shortages of any seed or seeds, or the happening of other conditions which, in the opinion of the commissioner, creates an emergency which would make impractical the enforcement of any requirement of sections 21.47 to 21.58 relating to the percentage of purity and weed seed content of any seed or seeds, the commissioner is authorized and empowered to temporarily change and alter any requirement relating to percentage of purity and weed seed content for the duration of such emergency.

[1951 c 552 s 11]

**21.57 RULES.** The commissioner may promulgate all rules and regulations which he deems necessary for the proper enforcement of sections 21.47 to 21.58.

[1951 c 552 s 12]

**21.58 VIOLATIONS, PENALTIES; REPORTS.** Subdivision 1. **Violations, penalties.** Any person violating any of the provisions of sections 21.47 to 21.57 or any of the rules or regulations promulgated by the commissioner thereunder shall be guilty of a misdemeanor for the first offense; and, upon conviction, shall be fined not more than \$100 or by imprisonment for not more than 60 days; upon the second or any subsequent conviction such person shall be guilty of a gross misdemeanor and shall be fined not less than \$50 nor more than \$500 or by imprisonment for not more than six months.

Subd. 2. **Reports of violations.** It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of such sections or of any of the rules and regulations promulgated thereunder to cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties as in such case provided.

[1951 c 552 s 13]