

personal property of that part of the town receiving protection under such agreement sufficient to reimburse the town for the cost thereof.

Approved May 26, 1945.

No. 420, A.]

[Published May 31, 1945.

CHAPTER 226.

AN ACT to repeal and recreate 100.01 and to amend 100.26 (1) of the statutes, relating to marketing of fresh fruits and fresh vegetables and providing a penalty.

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

SECTION 1. 100.01 of the statutes is repealed and recreated to read:

100.01 PRODUCE WHOLESALER LICENSE. (1) When used in this section:

(a) "Person" includes a partnership, corporation, association, trust, and every other form under which natural persons can do business.

(b) "Produce" means any kind of fresh fruit or fresh vegetable, including potatoes and onions intended for planting.

(c) "Commission merchant" means a person engaged in receiving produce for sale for or on behalf of another.

(d) "Dealer" means a person who buys, sells, offers or exposes for sale, or has in possession with intent to sell, any produce except that raised by him and that purchased by him exclusively for his own sale at retail.

(e) "Broker" means a person engaged in negotiating sales or purchases of produce for or on behalf of the seller or the buyer.

(f) "Produce wholesaler" means a commission merchant, dealer or broker.

(2) (a) No person shall carry on business or advertise or hold himself out as a produce wholesaler or as a commission merchant, dealer or broker without an annual license issued in the name under which the business operates.

(b) Application for license shall give such pertinent information, in such form, as the department requires, and be accompanied by the fee.

(c) The annual fee is \$5. No part of a fee shall be returned after the license is issued nor after any investigation has been made on the application.

(d) Every produce wholesaler shall execute and file with the department a bond in such form and with such surety or sureties as it directs, conditioned that he will faithfully perform his obligations and comply with all laws and regulations governing his business. The filing of such bond is a condition of granting license. Whenever the department determines that a bond is insufficient it may require additional bond, which shall be filed within such reasonable time as the department fixes in a written demand. Failure to make timely application or to file bond does not relieve a produce wholesaler of liability for any part of the license fee.

(e) Upon receiving the proper application, fee and bond, the department shall issue to the applicant a license, which shall expire one year after the beginning of the license term unless sooner suspended or revoked; but the license shall be suspended automatically whenever and so long as the required bond is not in effect, provided the department has sent the licensee notice of cancellation of the bond at least 30 days in advance.

(f) The license certificate or a duplicate issued by the department shall be posted in a conspicuous place in each fixed place of business of the licensee. The department shall issue duplicates for \$1 each.

(g) The licensee and each person representing him in buying or selling produce or negotiating therefor elsewhere than at the licensee's fixed place of business shall carry on his person an identification card issued by the department showing his name and that he is such licensee or the representative of the licensee named thereon. The department shall issue such card without charge for the individual licensee or for one member of the partnership or one officer of the corporation licensee, and on request of the licensee, shall issue additional cards for \$1 each.

(h) No action on a bond may be maintained by a person claiming damage because of a breach thereof unless the written approval of the department is attached to and made a part of the complaint. Before commencing action the claimant shall state the facts to the department in writing. Prior to granting approval the department may hold a hearing, giving the party complained of reasonable notice of the charges and of the time and

place of hearing. If a hearing is held, the department shall report its findings and conclusions to both parties. The record of a hearing shall be competent evidence in court.

(i) If a licensee is liable for breach of the bond to more than one person in a total greater than the amount of the bond, the department may commence an action on the bond. The amount collected shall be deposited with the department, and, subject to the approval of the court, if action has been commenced, it shall apportion such amount pro rata among all valid claims presented to the department. The department may employ counsel to carry out this paragraph, but shall pay therefor only out of the amount recovered on the bond.

(3) It shall be unlawful:

(a) For a commission merchant or broker to make a fraudulent charge in respect to produce.

(b) For a dealer to reject or fail to deliver in accordance with the contract, without reasonable cause, produce bought or sold or contracted to be bought or sold by such dealer.

(c) For a commission merchant or broker to discard, dump or destroy without reasonable cause produce received by him.

(d) For a produce wholesaler to make for a fraudulent purpose or for the purpose of depressing the market a false or misleading statement concerning the grade, condition, markings, quality, quantity, market quotations or disposition of any produce or of the condition of the market therefor.

(e) For a commission merchant to fail to render a true itemized statement of the sale or other disposition of a consignment of produce with full payment promptly in accordance with the terms of the agreement between the parties, or, if no agreement, within 15 days after receipt of the produce. Such statement of sale shall clearly express the gross amount for which the produce was sold and the proper, usual or agreed selling charge, and other expenses necessarily and actually incurred or agreed to in the handling thereof.

(f) For a dealer to fail to accept or reject produce promptly. If the dealer fails to notify the seller of rejection by wire or telephone within 24 hours after he receives notice of arrival of the produce, he will be deemed to have accepted it as being in accordance with the contract.

(g) For a produce wholesaler to receive produce from another state or country for sale or resale within this state and give

the buyer the impression that the commodity is of Wisconsin origin.

(h) For a produce wholesaler, for a fraudulent purpose, to remove, alter or tamper with any card, stencil, stamp, tag, certificate or other notice placed upon any container or railroad car containing produce by the original packer or by or under authority of any federal or state inspector and bearing a certificate as to the grower, grade or quality of such produce.

(i) For a produce wholesaler to fail to comply with a state law relating to marketing produce, including grading and marketing requirements.

(4) The state department of agriculture shall enforce this section, and may make regulations necessary for that purpose.

SECTION 2. 100.26 (1) of the statutes is amended to read:

100.26 (1) Any person * * * *who violates* * * * sections 100.17 or 100.18 or * * * section 100.01 (2) (a) or (3) shall be * * * *fined* not less than \$25 nor more than \$100, or * * * *imprisoned* in the county jail not less than 30 * * * nor more than 60 days, or * * * *both* * * *.

Approved May 26, 1945.

No. 529, A.]

[Published May 31, 1945.]

CHAPTER 227.

AN ACT to amend 5.27 (4) (a) of the statutes, relating to nominations for town offices in towns in counties containing cities of the first and second class.

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

5.27 (4) (a) of the statutes is amended to read:

5.27 (4) (a) In counties containing cities of the first and second class and in such towns therein where by a referendum vote the electors have affirmatively approved the same or in any town containing a population of 2,500 or more, where the electors have approved the same either by referendum vote or at the town meeting, every candidate for an elective town office, shall be nominated at a nonpartisan primary conducted as directed in this chapter so far as applicable and more particularly in section 5.26: Provided that nomination papers shall be signed by