

# MAINE STATE LEGISLATURE

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SIXTH REVISION

THE  
REVISED STATUTES

OF THE

STATE OF MAINE

PASSED SEPTEMBER 29, 1916, AND TAKING  
EFFECT JANUARY 1, 1917



By the Authority of the Legislature

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AUGUSTA  
KENNEBEC JOURNAL PRINT  
1916

## CHAPTER 38.

Extermination of Insect Pests. Sale of Pressed Hay. Marking Sheep.  
Record of Stallions.

Sections 1-14	Protection of Trees and Shrubs.
Section 15	Sale of Pressed Hay.
Section 16	Marking Sheep.
Section 17	Record of Stallions.

Protection of Trees and Shrubs.

**Sec. 1. State horticulturist, his appointment; term "nursery stock" defined.** 1907, c. 15, §§ 3, 14. 1911, c. 176, § 4. 1913, c. 120, § 2. The commissioner of agriculture shall appoint a state horticulturist, and the division of the department of agriculture under which such officer performs his duties, shall be known as the bureau of horticulture. The term "nursery stock," as used in the eleven following sections, is therein applied to all fruit and ornamental trees, shrubs and vines, and includes currant, gooseberry, blackberry and raspberry bushes, and strawberry plants.

**Sec. 2. Gipsy and brown-tail moths public nuisances; duty of commissioner; penalty for obstructing commissioner or officer.** 1907, c. 15, §§ 2, 7, 10, 12. 1909, c. 34, § 7. 1911, c. 84, § 2. For the purposes of the ten following sections the gipsy and brown-tail moths in their different stages, are hereby declared public nuisances, and their suppression is authorized and required, but no owner or occupant of real estate infested by such nuisance shall by reason thereof be liable to an action civil or criminal except to the extent and in the manner and form herein set forth. The commissioner of agriculture shall disseminate information concerning brown-tail and gipsy moths, San Jose scale and other injurious insects; and the entire work of suppressing the gipsy moth in all its forms shall be done under the direct charge of the commissioner. Any person who shall purposely resist or obstruct the commissioner or any person or persons under his employ, or any officer or agent of a city or town while engaged in the execution of the purposes of this section and the ten following sections, shall be punished by a fine not exceeding twenty-five dollars for each offense.

**Sec. 3. Nurseries to be inspected annually.** 1907, c. 15, § 3. 1909, c. 34, § 1. 1911, c. 176, § 1. All nurseries or places where trees, shrubs, vines and plants are grown or offered for sale, shall be inspected at least once a year by the state horticulturist or by some competent person acting under his direction, and if no dangerous insects or fungous diseases are found therein a certificate to that effect shall be given. If such pests are found therein, the owner of the stock shall take such measures to destroy the same as the state horticulturist shall prescribe, and no certificate as aforesaid shall be given until the said horticulturist has satisfied himself that all such pests have been suppressed.

**Sec. 4.** State horticulturist may inspect any orchard, field or garden; diseased trees or shrubs to be destroyed. 1907, c. 15, § 3. 1909, c. 34, § 1. 1911, c. 176, § 1. The state horticulturist, either personally or through competent assistants, may inspect any orchard, field, garden or roadside in public or private grounds, which he or they may know or have reason to suspect to be infested with the San Jose scale or any serious pest or infectious disease, when in his or their judgment such pests or infectious diseases are a menace to adjoining owners; and the state horticulturist may in writing order the owner, occupant or person in charge thereof, to properly spray or give other suitable treatment, or to cut and destroy any such diseased trees or shrubs, if in the opinion of the state horticulturist such action is necessary. If the owner of such orchard, field or garden neglects or refuses to comply with such written order, he shall be fined not less than ten, nor more than fifty dollars for each offense.

**Sec. 5.** Nursery stock shipped into state shall bear certificate of inspection; further inspection; destruction or return of infested stock. 1907, c. 15, § 4. 1909, c. 34, § 2. 1911, c. 176, § 2. All nursery stock shipped into this state from any other state, country or province shall bear on each box or package a certificate that the contents of said box or package have been investigated by a duly authorized inspecting officer, and that said contents appear to be free from all dangerous insects and diseases. The state horticulturist, or his competent assistants, may inspect, at the point of destination, all stock coming into the state, whether under certificate or not, and if such stock is found to be infested with any injurious insects or plant diseases, the state horticulturist shall cause it to be destroyed or returned to the consignor at the consignor's expense, if he shall so elect.

**Sec. 6.** Transportation companies shall not transport uninspected stock; notice to commissioner of agriculture of consignments. 1907, c. 15, § 5. 1913, c. 120, § 1. Any transportation company that shall bring into this state any nursery stock such as trees, shrubs, vines, cuttings or buds, or any transportation company, owner or owners of nursery stock or persons selling nursery stock as thus defined, who shall transport such stock or cause it to be transported within the state, the same not having attached to each box or package an unexpired official certificate of inspection which shall meet the requirements specified in section five, shall be punished by fine not exceeding one hundred dollars for each offense; and all transportation companies shall immediately, upon receiving consignments notify the commissioner of agriculture of the fact that such consignments are in their possession, or en route to some point within the state, and give the names and addresses of the consignor and consignee, destination of each shipment, the name of the transportation company bringing such stock, and the road or roads over which it is brought; and shall also make such further report relative to such shipments as the commissioner of agriculture may from time to time require.

**Sec. 7.** Agents and dealers in nursery stock shall obtain a license; fee. 1907, c. 15, § 6. 1909, c. 34, § 3. 1911, c. 84, § 1; c. 176, § 3. 1913, c. 120, § 2. No person, firm or corporation, excepting growers, shall engage in, continue in, or carry on the business of selling or dealing in nursery stock,

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or solicit purchases of nursery stock within this state, either as owner thereof, or as agent of such owner, without first obtaining a license to carry on and conduct such business in this state. The form of license shall be prescribed by the state horticulturist, and the license shall be issued by him upon proper application therefor, and shall be in force one year from date of issue. The license fee shall be five dollars a year for agents, dealers, salesmen or solicitors. The license shall be issued in the name of the dealer, solicitor, salesman, or agent, as the case may be, and no license shall be assigned or transferred. Licenses of salesmen, dealers, agents, or solicitors shall show the name and location of nursery and place of business of the nurserymen or tree dealers whom they represent or from whom they purchase their stock. Fees obtained from such licenses shall be paid into the state treasury and added to the appropriation of the bureau of horticulture, and shall be used exclusively for the inspection of nursery stock introduced into the state from outside the state. Such license may be revoked at any time for failure to comply with the aforesaid requirements, or for such other causes as may in the opinion of the commissioner of agriculture be sufficient. Any violation of this section shall be punishable by a fine of not less than ten, nor more than fifty dollars for each offense.

110 Me. 264.

**Sec. 8. Notice to commissioner of agriculture of presence of insects; his duties; destruction of insects within public ways and parks. 1907, c. 15, § 7. 1909, c. 34, § 4. 1911, c. 84, § 2. 1915, c. 218.** If any person in the state suspects the presence of the brown-tail moth or San Jose scale preying upon trees, shrubs or vines in his possession or within his knowledge, he shall forthwith notify the commissioner of agriculture to that effect; and said commissioner shall cause the said trees, shrubs or vines to be inspected. If sufficient cause is found, the commissioner of agriculture shall forthwith notify the municipal officers of the city, town or plantation where such pests have been found. Municipal officers thus notified shall immediately cause to be destroyed such of the above-named insects in their different stages as may be found within the limits of the public streets and parks; said limit shall extend to and include all trees whose branches overhang the highway. If the municipal officers neglect or fail to perform the duties herein imposed upon them within a reasonable time, the commissioner of agriculture shall order such city, town or plantation to proceed to destroy the above-named insects in accordance with methods to be prescribed by him and to spend such an amount in the above-named work as he shall deem necessary. If any city, town or plantation shall fail to comply with the directions of said commissioner in the performance of said work and the expenditure of such money within the time specified by him, the commissioner of agriculture shall cause the said work to be done and shall charge the actual expense of the same to said city, town or plantation; such amount shall be collected as a state tax and credited to the appropriation for said purpose.

**Sec. 9. Notice to owners of real estate to destroy insects; owner neglecting, town shall destroy. 1907, c. 15, § 7. 1909, c. 34, § 4. 1911, c. 84, § 2.**

Whenever a city, town or plantation is notified by the commissioner of agriculture of the presence of the brown-tail moth or San Jose scale, the mayor of each city, the selectmen of each town and the assessors of each plantation shall notify each owner of real estate located therein, requiring him to destroy the above-named insects in his orchard and shade trees within a specified time. If the owner fails to destroy the above-named insects before the specified time, the city, town or plantation, subject to the approval of the commissioner of agriculture, shall destroy them, and shall assess upon such aforesaid real estate the actual cost of so doing, to an amount, however, not exceeding one per cent of the assessed valuation of the above-named property. The amount so assessed shall be collected in the form of a tax.

**Sec. 10. Towns may raise money; expenditure.** 1907, c. 15, §§ 7, 12. 1909, c. 34, § 7. Cities and towns may raise the sums necessary to carry out the provisions of the preceding section in the same manner as money is raised for other necessary municipal purposes. Whenever any city or town shall appropriate or raise a sum of money and shall pay the same into the state treasury for the purpose of exterminating the gipsy moth within its borders, the commissioner of agriculture shall cause such amount to be expended in such city or town as herein provided, together with an equivalent amount from the appropriation made therefor; provided, however, that if the commissioner of agriculture finds it to be unnecessary or impracticable to expend such entire amount during the year following such payment to the treasurer of state, one-half the amount so remaining unexpended shall be reimbursed to such city or town.

See c. 4, § 58.

**Sec. 11. Duties of municipal officers as to worthless trees along highways.** 1907, c. 15, § 11. 1909, c. 34, § 6. 1911, c. 84, § 3. The municipal officers of cities and towns shall, before the first day of June of each year, cut, burn and destroy all dead or worthless apple trees, and all wild cherry trees within the limits of the public ways, streets and parks of their respective towns and cities. For neglect or failure to perform the aforesaid duties each of such officers shall be punished by a fine of not less than fifty dollars.

**Sec. 12. Jurisdiction; control of prosecutions.** 1907, c. 15, § 4. 1909, c. 34, §§ 2, 8. 1911, c. 176, § 2. Municipal and police courts and trial justices shall have original jurisdiction, concurrent with the supreme judicial court and superior courts, of prosecutions for violations of the eleven preceding sections. All prosecutions shall be instituted by the commissioner of agriculture and shall be directed by him; all penalties recovered for any violation of said sections shall be paid into the state treasury and are hereby appropriated for the use of the commissioner in the enforcement of said sections in addition to any specific appropriation made therefor, and may be drawn from the treasury in the same manner as such appropriation.

**Sec. 13. Crop pest commission, its membership, duties and authority.** 1915, c. 147, §§ 1, 2. The Crop Pest Commission, heretofore established, consisting of the governor, the attorney-general, the commissioner of agri-

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culture, the pathologist and the entomologist of the Maine Agricultural Experiment Station, may direct the commissioner of agriculture to make such regulations as said commission deem necessary to prevent the introduction into the state, or the dissemination therein, of any insect, pest or plant disease, seriously injurious to vegetation.

Sec. 14. Vegetation and nursery stock, defined. 1915, c. 147, § 3. In the preceding section and in any regulation made under the authority thereof, "vegetation" shall mean any tree, shrub, vine, vegetable or other plant, or the product, or any other portion of the tree, shrub, vine, vegetable or other plant; "nursery stock" shall mean all fruit and ornamental trees, shrubs and vines, and shall include currant, gooseberry, blackberry and raspberry bushes.

## Sale of Pressed Hay.

Sec. 15. Marking of pressed hay; person receiving hay not marked may defend action for price. R. S. c. 39, § 37. All hay pressed and put up in bundles, except hay pressed by farmers and retailed from their own barns, shall have the first letter of the christian name and the whole of the surname of the person putting up the same, written, printed or stamped on bands or boards made fast thereto, with the name of the state and the place where such person lives. Whoever offers for sale or shipment any pressed hay not marked as aforesaid, except hay pressed by farmers and retailed from their own barns, forfeits one dollar for each bale so offered, to be recovered by complaint. No person who has received hay not marked as provided in this section shall defend any action for the price thereof upon that ground, unless he shall prove that, before the delivery of said hay to him, he requested the person from whom he bought the same to comply with the provisions of this section.

## Marking Sheep.

Sec. 16. Owner of sheep shall have mark, to be recorded. R. S. c. 39, § 40. All owners of sheep shall mark them with some distinctive mark, by a cut in the ears, or a brand on some part of the animal, and cause such mark to be recorded by the clerk of their town in a book kept for that purpose.

## Record of Stallions.

Sec. 17. Record of advertised stallions to be filed and recorded in registry of deeds. R. S. c. 39, § 41. The owner or keeper of any stallion for breeding purposes, before advertising, by written or printed notices, the service thereof, shall file a certificate with the register of deeds in the county where said stallion is owned or kept, stating the name, color, age and size of the same, together with the pedigree of said stallion as fully as attainable, and the name of the person by whom he was bred; and such register shall record such certificate in a book kept for that purpose. Copies of such certificate, duly certified by such register, may be used in evidence, the same as the original, in any court in the state. Whoever neglects to

make and file such certificate, shall recover no compensation for said services, and, if he knowingly and wilfully makes and files a false certificate of the statements aforesaid, he forfeits one hundred dollars, to be recovered by complaint, indictment or action of debt, to the county where the offense is committed.

Penalty for false registration of blooded animal, c. 128, § 14; 87 Me. 150; 89 Me. 264; 97 Me. 38.

## CHAPTER 39.

### Principal, Factors and Agents. Warehousemen. Partnerships.

- Sections 1-3 Authority of Factors and Agents.  
 Sections 4-10 Public Warehouses and Warehousemen.  
 Sections 11-15 Publicity of Mercantile Partnerships.  
 Sections 16-25 Limited Partnerships.

#### Authority of Factors and Agents.

**Sec. 1. How far shipper, factor or agent shall be considered the owner of goods under his control.** R. S. c. 33, § 1. Every person in whose name merchandise is forwarded, every factor or agent entrusted with the possession of any bill of lading, custom house permit or warehouse keeper's receipt for the delivery of such merchandise, and every such factor or agent not having the documentary evidence of title, who is entrusted with the possession of merchandise for the purpose of sale, or as security for advances to be made thereon, shall be deemed the true owner thereof, so far as to give validity to any lien or contract made by such shipper or agent with any other person for the sale or disposal of the whole or any part of such merchandise, money advanced, or negotiable instrument or other obligation in writing, given by such person upon the faith thereof.

1 Me. 179; 4 Me. 543; 11 Me. 418; 15 Me. 343; 31 Me. 411; 57 Me. 64.

**Sec. 2. Title does not extend to prior demands against agent.** R. S. c. 33, § 2. No person, taking such merchandise in deposit from such agent as security for an antecedent demand, shall thereby acquire or enforce any right or interest therein other than such agent could then enforce.

**Sec. 3. Rights of the true owner in such cases.** R. S. c. 33, § 3. But the true owner of such merchandise, upon repayment of the money so advanced, restoration of the security so given or satisfaction of all legal liens, may demand and receive his property, or recover the balance remaining as the proceeds of the legal sale thereof, after deducting all proper claims and expenses thereon.

#### Public Warehouses and Warehousemen.

**Sec. 4. Title to goods in possession of warehouseman passes to purchaser, or pledgee, by indorsement of warehouseman's receipt.** R. S. c. 33, § 4. The title to merchandise stored in a public warehouse, or on the