

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

NEW DRAFT.

---

---

# SEVENTY-THIRD LEGISLATURE

---

---

HOUSE.

No. 148

---

---

## STATE OF MAINE.

---

IN THE YEAR OF OUR LORD ONE THOUSAND NINE  
HUNDRED AND SEVEN.

---

AN ACT to provide for the Protection of Trees and Shrubs  
from the introduction and ravages of dangerous insects and  
diseases.

---

*Be it enacted by the Senate and House of Representatives in  
Legislature assembled, as follows:*

Section 1. Chapter twenty-nine of the Public Laws of  
2 1905, entitled An Act to provide for the protection of trees  
3 and shrubs from the introduction and ravages of dangerous  
4 insects and diseases, is hereby repealed.

Sect. 2. For the purposes of this act the gipsy and brown-  
2 tail moths in their different stages, are hereby declared  
3 public nuisances, and their suppression is authorized and

4 required, but no owner or occupant of real estate infested  
5 by such nuisance shall by reason thereof be liable to an  
6 action civil or criminal except to the extent and in the  
7 manner and form herein set forth.

Sect. 3. All nurseries or places where trees, shrubs, vines  
2 and plants are grown or offered for sale, shall be inspected  
3 at least once a year by the State Entomologist appointed  
4 by the Commissioner of Agriculture; and if no dangerous  
5 insects or diseases are found, a certificate to that effect shall  
6 be issued by the said Commissioner of Agriculture; said  
7 certificate shall be signed by the entomologist and bear the  
8 date when said examination is made. The entomologist  
9 employed for this purpose shall report in writing immedi-  
10 ately the results of his examination.

Any proprietor or owner of nurseries or places where trees,  
12 shrubs, vines and plants are found to be infected with dan-  
13 gerous insects or diseases shall be notified of the same by  
14 the Commissioner of Agriculture at once; such proprietor,  
15 owner or his agents are hereby prohibited selling or offering  
16 for sale such trees, shrubs or plants unless the same have  
17 been fumigated or otherwise treated under the direction of  
18 the Commissioner of Agriculture and such trees, shrubs or  
19 plants shall bear a certificate of the same. Any violation  
20 of this requirement shall be fined not more than fifty dollars  
21 for each and every offense.

Sect. 4. All nursery stock shipped into this State from  
2 any other state, country or province shall bear on each box

3 or package a certificate that the contents of said box or  
4 package have been investigated by a duly authorized inspect-  
5 ing officer, and that said contents appear to be free from  
6 all dangerous insects or diseases. In case nursery stock is  
7 brought into the State without such certificate the consignee  
8 shall at once notify the consignor; provided, however, that  
9 any box or package bearing a certificate of fumigation which  
10 shall be an affidavit made before a justice of the peace, that  
11 all stock sold by the consignor has been fumigated in a  
12 manner approved by the State Nursery Inspector of the  
13 state from which said nursery stock is shipped, the same  
14 may be accepted as though bearing a proper certificate of  
15 inspection.

Sect. 5. Any transportation company that shall bring into  
2 this State any nursery stock such as trees, shrubs, vines,  
3 cuttings or buds, or any transportation company, owner or  
4 owners of nursery stock or persons selling nursery stock as  
5 thus defined, who shall transport such stock or cause it to  
6 be transported within the State the same not having attached  
7 to each box or package an unexpired official certificate of  
8 inspection or an affidavit of fumigation which shall meet  
9 the requirements specified in section two of this act, shall  
10 be guilty of a misdemeanor and on conviction thereof be  
11 subject to a fine not exceeding one hundred dollars for each  
12 offence.

Sect. 6. Any nursery stock shipped into this State which  
2 may be infected with brown-tail, gipsy moth, San Jose scale

3 or other injurious insects or diseases, whether bearing a  
4 certificate or not, may be seized by the State Entomologist  
5 who shall apply to any municipal or police court or trial  
6 justice in the county where such seizure is made for process  
7 to cause the same to be destroyed. If the owner is known  
8 a copy of such application shall be served upon him in hand  
9 by an officer qualified to serve civil processes, with an order  
10 of court to appear at a time and place named to show cause  
11 why such property should not be destroyed, and its value  
12 fixed. If the owner is not known, then the court shall order  
13 notice to be posted in two public and conspicuous places in  
14 the town where such seizure is made, stating the case in  
15 substance and giving forty-eight hours notice of a hearing  
16 thereon. At such hearing if it appears that such property  
17 is infected with brown-tail, gipsy moth, San Jose scale or  
18 other injurious insects or diseases the court shall determine  
19 the value of such property and shall issue process directing  
20 the officer to destroy the same.

Sect. 7. Should any person in the State suspect the pres-  
2 ence of the brown-tail moth or San Jose scale preying upon  
3 trees, shrubs or vines in his possession or within his knowl-  
4 edge he shall forthwith notify the Commissioner of Agri-  
5 culture to that effect; and it shall be the duty of said Com-  
6 missioner to cause the said trees, shrubs or vines to be  
7 inspected. If sufficient cause be found the Commissioner  
8 of Agriculture shall forthwith notify the municipal officers  
9 of the city or town where such pests have been found.

10 Municipal officers thus notified shall immediately cause to  
11 be destroyed such of the above named insects in their differ-  
12 ent stages as may be found within the limits of public streets  
13 and parks. Should such municipal officers neglect or fail  
14 within a reasonable time to perform the duties herein im-  
15 posed upon them then the Commissioner of Agriculture,  
16 with the advice and consent of the Governor and Council,  
17 shall order such city or town to proceed to destroy the above  
18 named insects in accordance with methods to be prescribed  
19 by him and to spend such an amount in the above named  
20 work as he shall deem necessary, not exceeding, however,  
21 during any one full year, one-twentieth of one per cent of  
22 the tax valuation of said city or town for the proceeding  
23 year.

Any city or town failing to comply with the directions of  
25 said Commissioner in the performance of said work and  
26 the expenditure of such money within the time specified  
27 by him, then the Commissioner of Agriculture shall cause  
28 the said work to be done and shall charge the actual expense  
29 of the same to said city or town; the amount, however, not  
30 to exceed one-twentieth of one per cent of the total valu-  
31 ation of such city or town, such amount to be collected as  
32 a state tax.

Whenever a city or town is notified by the Commissioner  
34 of Agriculture of the presence of the brown-tail moth or  
35 San Jose scale, the mayor of each city and the selectmen of  
36 each town shall notify each owner of real estate located

37 therein, requiring him to destroy the above named insects  
38 on his orchard and shade trees within a specified time. If  
39 the owner fails to destroy the above named insects before  
40 the specified time, then the city or town, subject to the  
41 approval of the Commissioner of Agriculture, shall destroy  
42 them, and shall assess upon such aforesaid real estate the  
43 actual cost of so doing, to an amount, however, not exceed-  
44 ing one-tenth of one per cent of the assessed valuation of  
45 the above named property. The amount so assessed shall  
46 be collected in the form of taxes.

It shall be the duty of the Commissioner of Agriculture  
48 to disseminate information concerning the brown-tail and  
49 gipsy moths, San Jose scale and other injurious insects or  
50 plant diseases.

Cities and towns may raise the sums necessary to carry out  
52 the provisions of this section in the same manner in which  
53 money is raised for other necessary municipal purposes.

Sect. 8. For the purpose of inspecting any trees, shrubs  
2 or plants supposed to be infected with dangerous insects or  
3 diseases, and for the purpose of exterminating or control-  
4 ling any dangerous insects or diseases that may be found  
5 infecting trees, shrubs or plants, the Commissioner of Agri-  
6 culture and his employees and municipal officers and their  
7 employees shall have the right to enter private and public  
8 grounds.

Sect. 9. The Commissioner of Agriculture shall have the  
2 power to cause any street or highway within the State lead-

3 ing from any neighboring state or province, or from any  
4 infected district, to be patrolled or watched, and all car-  
5 riages, automobiles, or other vehicles examined, and any  
6 brown-tail or gipsy moths, caterpillars or pupæ found there-  
7 on removed before said vehicles may proceed; and may  
8 make such regulations for giving notice of this provision  
9 and for the enforcement of the same as may be necessary.

Sect. 10. Any person who shall purposely resist or  
2 obstruct such Commissioner or any person or persons under  
3 his employ, or any officer or agent of a city or town while  
4 engaged in the execution of the purposes of this act, shall  
5 be punished by a fine not exceeding twenty-five dollars for  
6 each offence.

Sect. 11. When any city or town shall have expended in  
2 any one calendar year, within its limits, its funds to an  
3 amount equal to one-twentieth of one per cent of its assessed  
4 valuation of the previous year in destroying or suppressing  
5 the brown-tail moth, San Jose scale and similar insects, but  
6 not including the gipsy moth, in any of their stages, as  
7 herein provided, it shall receive reimbursement from the  
8 State as follows:

Cities or towns having a total assessed valuation of \$750,000  
10 or less shall receive such sums as may in the judgment of the  
11 Commissioner of Agriculture have been necessarily expended  
12 by them in excess of one-twentieth of one per cent of such  
13 assessed valuation.



Cities or towns having a total assessed valuation of more than \$750,000 and not exceeding \$1,500,000 assessed valuation, shall receive 75 per cent of such sum as may have been expended by them in excess of one-twentieth of one per cent of such valuation.

Cities or towns having an assessed valuation of more than \$1,500,000 shall receive 50 per cent of such sum as may have been expended by them in excess of one-twentieth of one per cent of such valuation.

No city or town shall be entitled to reimbursement from the State as aforesaid until it shall have submitted to the commissioner of agriculture its itemized receipted accounts and vouchers showing the amounts expended by it for the purpose herein specified, nor until such vouchers and accounts have been approved by the commissioner of agriculture.

Sect. 12. Whenever any city or town shall appropriate or raise a sum of money and shall pay the same over to the state treasurer for the purpose of exterminating the gipsy moth within its borders the commissioner of agriculture shall cause such sum to be expended in such city or town as herein provided, together with an equivalent amount from the appropriation hereafter made. Provided, however, if it be found by the commissioner of agriculture unnecessary or impracticable to expend such entire amount during the year following such payment to the state treasurer, one-half of

11 the amount so remaining unexpended shall be reimbursed to  
12 such city or town.

Sect. 13. For the purpose of carrying into effect the pro-  
2 visions of this act the sums of thirty thousand dollars for  
3 the year 1907 and thirty thousand dollars for the year 1908,  
4 or such part thereof as may be necessary, are hereby appro-  
5 priated.

Sect. 14. The subdivision of the department of agriculture  
2 under which the state entomologist performs the duties  
3 required to be done by him, by the provisions of this act,  
4 shall be known as the bureau of entomology.

Sect. 15. In case of violation of this act it shall be the  
2 duty of the commissioner of agriculture to enforce the pen-  
3 alties set down in Sections three and five of this act.

Sect. 16. This act shall take effect when approved.





STATE OF MAINE

---

HOUSE OF REPRESENTATIVES,

Augusta, February 8, 1907.

Reported by Mr. LORING from Committee on Agriculture and  
ordered printed under joint rules.

E. M. THOMPSON, *Clerk*