

# MAINE STATE LEGISLATURE

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NEW DRAFT.

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# SEVENTY-FOURTH LEGISLATURE

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HOUSE.

No. 146

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## STATE OF MAINE.

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

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AN ACT to amend sections three, four, six, seven, eleven, twelve and thirteen of chapter fifteen of the Public Laws of nineteen hundred and seven, relating to the Protection of Trees and Shrubs from the Introduction and Ravages of Dangerous Insects and Diseases.

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*Be it enacted by the People of the State of Maine, as follows:*

Section 1. Section three of chapter fifteen of the Public  
2 Laws of nineteen hundred and seven is hereby amended by  
3 striking out all of said section and inserting in place thereof  
4 the following:

‘Sect. 3. All nurseries or places where trees, shrubs, vines  
6 and plants are grown or offered for sale, shall be inspected

7 at least once a year by the State Entomologist appointed  
8 by the Commissioner of Agriculture, or by some person  
9 acting under the direction of the State Entomologist and  
10 by him deemed competent, and if no dangerous insects or  
11 fungous diseases are found therein a certificate to that effect  
12 shall be given. If such pests are found therein, the owner  
13 of the stock shall take such measures to destroy the same  
14 as the State Entomologist shall prescribe, and no certificate  
15 as aforesaid shall be given until the said Entomologist has  
16 satisfied himself that all such pests have been suppressed.

‘The State Entomologist, either personally or through com-  
18 petent assistants as aforesaid, may inspect any orchard, field,  
19 garden or roadside in public or private grounds, which he  
20 or they may know or have reason to suspect to be infested  
21 with the San Jose scale or any serious pest or infectious  
22 disease, when in his or their judgment such pests or infec-  
23 tious diseases are a menace to adjoining owners; and the  
24 State Entomologist may order the owner, occupant, or per-  
25 son in charge thereof, in writing, to properly spray or give  
26 other suitable treatment, or to cut and destroy any such  
27 diseased trees or shrubs, if in the opinion of the State En-  
28 tomologist such action is necessary. If the owner of such  
29 orchard, field or garden neglects or refuses to comply with  
30 such written order of the said Entomologist, he shall be  
31 fined not less than ten dollars nor more than fifty dollars  
32 for each offence.’

Sect. 2. Section four of said chapter fifteen is hereby  
2 amended by striking out all of said section excepting lines  
3 one to seven and inserting the following: 'The State Entomologist, or his competent assistants as aforesaid, shall have  
4 power to inspect, at the point of destination, all stock coming  
5 into the State, whether under certificate or not, and  
6 should such stock be found to be infested with any injurious  
7 insects or plant diseases, the State Entomologist shall cause  
8 it to be destroyed or returned to the consignor at the consignor's  
9 expense, if he shall so elect.  
10

'All prosecutions under the provisions of this act shall be  
12 instituted by the Commissioner of Agriculture and shall be  
13 directed by him and all penalties and costs recovered for  
14 the violation of any provisions of this act shall be paid into  
15 the State treasury, to be kept as a fund for the use of the  
16 Commissioner of Agriculture in the enforcement of this  
17 act and as an addition to the appropriation made in this  
18 act, to be drawn from the treasury in the same manner as  
19 said appropriation,' so that said section as amended shall  
20 read as follows:

'Sect. 4. All nursery stock shipped into this State from  
22 any other state, country or province shall bear on each box  
23 or package a certificate that the contents of said box or  
24 package have been investigated by a duly authorized inspecting  
25 officer, and that said contents appear to be free  
26 from all dangerous insects and diseases.

‘The State Entomologist, or his competent assistants as  
28 aforesaid, shall have power to inspect, at the point of des-  
29 tination, all stock coming into the State, whether under cer-  
30 tificate or not, and should such stock be found to be infested  
31 with any injurious insects or plant diseases, the State En-  
32 tomologist shall cause it to be destroyed or returned to the  
33 consignor at the consignor’s expense, if he shall so elect.

‘All prosecutions under the provisions of this act shall be  
35 instituted by the Commissioner of Agriculture and shall  
36 be directed by him and all penalties and costs recovered  
37 from the violation of any provision of this act shall be  
38 paid into the State treasury, to be kept as a fund for the  
39 use of the Commissioner of Agriculture in the enforcement  
40 of this act and as an addition to the appropriation made  
41 in this act to be drawn from the treasury in the same man-  
42 ner as said appropriation.’

Sect. 3. Section six of said chapter fifteen is hereby  
2 amended by striking out all of said section and inserting  
3 in place thereof the following:

‘Sect. 6. Agents or other parties excepting growers who  
5 wish to sell nursery stock shall make application for an  
6 agent’s license and shall file with the State Entomologist  
7 the names and addresses of nurseries or parties from which  
8 they purchase their stock. On receipt of such application  
9 the State Entomologist shall issue an agent’s license valid  
10 for one year in such form and with such provisions as the  
11 Commissioner of Agriculture may prescribe. Such license

12 may be revoked at any time for failure to report names and  
13 addresses of nurseries from which stock is purchased or  
14 for such other causes as may in the opinion of the Com-  
15 missioner of Agriculture be deemed sufficient. Any viola-  
16 tion of this requirement shall be fined not less than ten  
17 dollars nor more than fifty dollars for each offence.

‘For the purpose of this act the term nursery stock is here-  
19 by applied to all fruit and ornamental trees, shrubs and  
20 vines, and includes currant, gooseberry, blackberry and rasp-  
21 berry bushes, also strawberry plants.’

Sect. 4. Section seven of chapter fifteen is hereby amend-  
2 ed by striking out the words “with the advice and consent of  
3 the Governor and Council,” in the fourteenth and fifteenth  
4 lines of said section; by striking out lines nineteen, twenty  
5 and twenty-one, with the exception of the word “necessary”  
6 and inserting the following: ‘If the amount thus expended  
7 during one full year shall exceed one-twentieth of one per  
8 cent of the tax valuation of said city or town then the city  
9 or town shall be reimbursed according to section eleven;’  
10 by striking out the words “one-tenth of” in the fortieth  
11 line of said section, and by inserting at the close of line  
12 forty-two the following: ‘If the expense incurred by the  
13 town in the performance of the above named duties shall  
14 exceed the above named amount the town shall be reim-  
15 bursed by the Commissioner of Agriculture by an amount  
16 equal to this excess, providing the work has been done

17 according to the provisions of this act;’ so that said section  
18 as amended shall read as follows:

‘Sect. 7. Should any person in the State suspect the pres-  
20 ence of the brown-tail moth or San Jose scale preying upon  
21 trees, shrubs or vines in his possession or within his knowl-  
22 edge he shall forthwith notify the Commissioner of Agri-  
23 culture to that effect; and it shall be the duty of said Com-  
24 missioner to cause the said trees, shrubs or vines to be  
25 inspected. If sufficient cause be found the Commissioner  
26 of Agriculture shall forthwith notify the municipal officers  
27 of the city or town where such pests have been found.  
28 Municipal officers thus notified shall immediately cause to  
29 be destroyed such of the above named insects in their dif-  
30 ferent stages as may be found within the limits of the public  
31 streets and parks. Said limit to extend to the distance of  
32 sixty feet from the center of the public streets of highways  
33 and include all trees and shrubbery growing thereon. Should  
34 such municipal officers neglect or fail within a reasonable  
35 time to perform the duties herein imposed upon them, then  
36 the Commissioner of Agriculture shall order such city, town  
37 or plantation to proceed to destroy the above named insects  
38 in accordance with methods to be prescribed by him and  
39 to spend such an amount in the above named work as he  
40 shall deem necessary. If the amount thus expended during  
41 one full year shall exceed one-twentieth of one per cent of  
42 the tax valuation of said city or town, then the city or town  
43 shall be reimbursed according to section eleven.

If any city, town or plantation shall fail to comply with  
45 the directions of said commissioner in the performance of  
46 said work and the expenditure of such money within the  
47 time specified by him, then the Commissioner of Agricul-  
48 ture shall cause the said work to be done and shall charge  
49 the actual expense of the same to said city or town; such  
50 amount to be collected as a State tax and credited to this  
51 appropriation.

Whenever a city, town or plantation is notified by the  
53 Commissioner of Agriculture of the presence of the brown-  
54 tail moth or San Jose scale, the mayor of each city, the  
55 selectmen of each town and the assessors of each plantation  
56 shall notify each owner of real estate located therein, re-  
57 quiring him to destroy the above named insects in his or-  
58 chard and shade trees within a specified time. If the owner  
59 fails to destroy the above named insects before the specified  
60 time, then the city, town or plantation subject to the ap-  
61 proval of the Commissioner of Agriculture, shall destroy  
62 them, and shall assess upon such aforesaid real estate the  
63 actual cost of so doing, to an amount, however, not exceed-  
64 ing one per cent of the assessed valuation of the above named  
65 property. The amount so assessed shall be collected in the  
66 form of a tax. If the expense incurred by the town in the  
67 performance of the above named duties shall exceed the  
68 last above named amount, the town shall be reimbursed  
69 by the Commissioner of Agriculture by an amount equal to



70 this excess, providing the work has been done according  
71 to the provisions of this act.

‘It shall be the duty of the Commissioner of Agriculture  
73 to disseminate information concerning the brown-tail and  
74 gypsy moths, San Jose scale and other injurious insects.

‘Cities and towns may raise the sums necessary to carry  
76 out the provisions of this section in the same manner in  
77 which money is raised for other necessary municipal pur-  
78 poses.’

Sect. 5. Sections eight and nine of chapter fifteen are hereby repealed.

Sect. 6. Section eleven is hereby amended by striking out  
2 all beyond line twenty-two and inserting the following: ‘No  
3 city or town shall be entitled to reimbursement from the State  
4 as aforesaid until it shall have submitted, under oath, to the  
5 Commissioner of Agriculture its itemized, receipted ac-  
6 counts and vouchers showing the amounts expended by it in  
7 the process of destroying the above named pests according  
8 to the provisions of this act. This act recognizes only the  
9 actual expenditure of funds for the extermination of the  
10 above named pests in the above named territory, viz., within  
11 the limits of the public streets and parks, and does not recog-  
12 nize the “bounty system,” so called, so that said section as  
13 amended shall read as follows:

‘Section 11. When any city or town shall have expended  
15 in any one calendar year, within its limits, its funds to an  
16 amount equal to one-twentieth of one per cent of its as-

17 sessed valuation of the previous year in destroying or sup-  
18 pressing the brown-tail moth, San Jose scale and similar in-  
19 sects, but not including the gipsy moth, in any of their  
20 stages, as herein provided, it shall receive reimbursement  
21 from the State as follows:

‘Cities or towns having a total assessed valuation of seven  
23 hundred and fifty thousand dollars or less shall receive such  
24 sums as may in the judgment of the Commissioner of Agri-  
25 culture have been necessarily expended by them in excess of  
26 one-twentieth of one per cent of such assessed valuation.

‘Cities or towns having a total assessed valuation of more  
28 than one million five hundred thousand dollars shall receive  
29 fifty per cent of such sum as may have been expended by  
30 them in excess of one-twentieth of one per cent of such val-  
31 uation.

‘No city or town shall be entitled to reimbursement from  
33 the State as aforesaid until it shall have submitted, under  
34 the oath, to the Commissioner of Agriculture its itemized,  
35 receipted accounts and vouchers showing the amounts ex-  
36 pended by it in the process of destroying the above named  
37 pests according to the provisions of this act. This act ap-  
38 plies only to the actual expenditure of funds for the ex-  
39 termination of the above named pests in the above named  
40 territory, viz., “within the limits of public streets and parks,”  
41 and does not apply to the “bounty system” so called.’

Sect. 7. Section twelve of said chapter fifteen is hereby  
2 amended by prefixing the following: ‘In view of the possi-

3 bility of spreading the gipsy moth by careless parties who  
4 do not understand the grave danger involved, the entire  
5 work of suppressing this pest in all its forms shall be done  
6 under the direct charge of the Commissioner of Agricul-  
7 ture and is so considered in this act,' so that said section as  
8 amended shall read as follows :

'Section 12. In view of the possibility of spreading the  
10 gipsy moth by careless parties who do not understand the  
11 grave danger involved, the entire work of suppressing this  
12 pest in all its forms shall be done under the direct charge of  
13 the Commissioner of Agriculture and is so considered in this  
14 act.

'Whenever any city or town shall appropriate or raise a  
16 sum of money and shall pay the same over to the State  
17 treasury for the purpose of exterminating the gipsy moth  
18 within its borders, the Commissioner of Agriculture shall  
19 cause such amount to be expended in such city or town as  
20 herein provided, together with an equivalent amount from  
21 the appropriation hereafter made. Provided, however, if it  
22 be found by the Commissioner of Agriculture unnecessary  
23 or impracticable to expend such entire amount during the  
24 year following such payment to the State treasurer one-half  
25 the amount so remaining unexpended shall be reimbursed to  
26 such city or town.'

Sect. 8. Trial Justices and Municipal Courts are vested  
2 with the original jurisdiction, concurrent with the Supreme

3 and Superior Courts to try, and, upon conviction, to punish,  
4 for offences against the provisions of this act.

Sect. 9. Section thirteen of said chapter thirteen is hereby  
2 amended by striking out all of said section and inserting in  
3 place thereof the following:

'Section 13. For the purpose of carrying into effect the  
5 provisions of this act there shall be appropriated the sum of  
6 thirty-five thousand dollars annually to be expended under  
7 the supervision of the Commissioner of Agriculture upon the  
8 presentation of properly approved bills for the same. Any  
9 part of this appropriation remaining unexpended at the end  
10 of any calendar year may be expended during the following  
11 year.'

Sect. 10. Section fifteen is hereby repealed.

Sect. 11. This act shall take effect when approved.

STATE OF MAINE.

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HOUSE OF REPRESENTATIVES,

Augusta, Feb. 10, 1909.

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

E. M. THOMPSON, *Clerk.*