

MAINE STATE LEGISLATURE

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E I G H T Y - N I N T H L E G I S L A T U R E

Legislative Document**No. 601**

H. P. 1404

House of Representatives, February 9, 1939.

Referred to Committee on Agriculture. Sent up for concurrence and 1000 copies ordered printed.

HARVEY R. PEASE, Clerk.

Presented by Miss Robinson of South Portland.

S T A T E O F M A I N E

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
THIRTY-NINE

AN ACT to Create a Horticultural Commission.

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

Sec. 1. Horticultural commission created; powers; definitions. Be it enacted by the legislature of the state of Maine, that there is hereby created a Horticultural Commission to be composed of the commissioner of agriculture or his duly authorized representative and 4 members of the floriculturists or horticulturists of the state of Maine to be nominated at a convention of floriculturists, horticulturists and tree surgeons, regularly called, who shall be appointed by the governor and confirmed by the council, to hold office without term; and said commission shall have the power to make rules and regulations governing the qualifications and the practicing of a person engaged in the professional services herein defined; and to make rules and regulations to prevent fraudulent practices in the professional services herein defined:

Professional services are defined as follows:

(a) Entomological work. Receiving fees for advice or prescriptions for the control or eradication of any insect pest. Receiving fees for actual spraying, dusting, fumigation or any other methods used for the control or eradication of any insect pest.

(b) **Pathological work.** Receiving fees for advice or prescriptions for the control or eradication of any plant diseases. Receiving fees for actual spraying or any other methods used for the control or eradication of any plant disease.

(c) **Tree surgery work.** Receiving fees for pruning or cavity work of shrubs and trees or treating shrubs and trees in any manner whatsoever to retard or repair decay, etc., and to prolong life to the shrubs or trees so treated.

(d) **Horticultural and floricultural work.** Receiving fees from the sale of horticultural plants and plant products, and for landscaping and setting of plants.

Sec. 2. Secretary appointed; duty. That the secretary of the commission created by this act shall be the commissioner of agriculture whose duty it shall be to enforce this act and all the rules and regulations made and adopted by the commission.

Sec. 3. Definitions. That for the purpose of this act, the word "person" shall be construed to mean an individual, a partnership or a corporation; that the word "commission" shall be construed to mean the "Horticultural Commission"; that the word "chairman" shall be construed to mean the "Chairman of the Horticultural Commission".

Sec. 4. Licenses; bonds; how issued. That it shall be unlawful for any person to engage in professional services or work as herein defined unless he shall have obtained from the commission a license to engage in such professional work and the application for such license shall be in writing and on such blank forms as may be required. Such application among other matters, shall contain appropriate statements as may be required by the commission. If, in the judgment of the commission, it is necessary, and after the approval by the commission of the application, the applicant shall furnish to the chairman of the commission a surety or fidelity bond in an amount and of tenor and solvency satisfactory to the commission; provided that in no case shall said bond required herein exceed the amount of \$1,000. The condition of said bond shall be that the principal therein named shall honestly conduct said business according to the regulations established by the commission, and said bond shall be filed and duly recorded in the office of the chairman. A copy of said bond, duly certified by the chairman, shall be received as evidence in all of the courts of this state without further proof. Any person having a right of action against such person, may bring suit against the principal and sureties of such bond. Should the surety furnished be unsatisfactory said person shall execute a

new bond, and should he fail to do so it shall be the duty of the chairman to cancel his license and give him notice of said fact, and it shall be unlawful thereafter for such person to engage in said business without obtaining a new license.

Sec. 5. Penalty. That any person violating any of the provisions of this act or the rules and regulations made in accordance therewith shall be deemed guilty of a misdemeanor and upon conviction, shall be fined not less than \$10 nor more than \$100, or be imprisoned for not less than 10 days nor more than 30 days or both in the discretion of the court for any one offense.

Sec. 6. Appeal. That any person who shall have been refused a license to engage in such professional work by said Horticultural Commission shall have a right to enter suit by mandamus or other proper legal proceedings in the district court in and for ————— against said Horticultural Commission and said court shall have jurisdiction to compel said Horticultural Commission to issue a license to said applicant in such cases as the court may find the applicant qualified to do said work within the requirements of the commission.

Sec. 7. Jurisdiction. The act shall not have jurisdiction over outdoor personal home and farm gardens, market garden crops, outdoor and under glass grown where flowers and shrubs are locally grown and produced for sale.

Sec. 8. Compensation; expenses. The commission shall not pay salary to any person but shall have power to expend moneys collected for license fees for expenses of the commission in its operation and for the benefit of the professions here included under this act.

Sec. 9. Saving clause. That all laws or parts of laws in conflict with this act be, and the same are, hereby repealed.