

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

OF THE

SEVENTY-FOURTH LEGISLATURE

OF THE

STATE OF MAINE

1909

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Published by the Secretary of State, agreeably to Resolves of  
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PUBLIC LAWS

OF THE

STATE OF MAINE

As Passed by the Seventy-fourth  
Legislature

1909

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## CHAP. 33

**Chapter 33.**

An Act relating to special contracts between Employers and Employees.

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

Special  
contracts  
prohibited.

No person shall, by a special contract with his employees, exempt himself or another person from liability which he may be under to them for injuries suffered by them in his employment and resulting from the negligence of the employer or such other person, or of a person in his employ.

Approved March 3, 1909.

**Chapter 34.**

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.

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

Section 3,  
chapter 15,  
public laws  
1907,  
amended.

Section 1. Section three of chapter fifteen of the public laws of nineteen hundred and seven is hereby amended by striking out all of said section and inserting in place thereof the following:

Nurseries to  
be inspected  
annually.

‘Section 3. 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 entomologist appointed by the commissioner of agriculture, or by some person acting under the direction of the state entomologist and by him deemed competent, 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 entomologist shall prescribe, and no certificate as aforesaid shall be given until the said entomologist has satisfied himself that all such pests have been suppressed.

State  
entomologist  
may inspect  
orchards,  
etc.

‘The state entomologist, either personally or through competent assistants as aforesaid, 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 entomologist may order the owner, occupant, or person in charge thereof, in writing, to properly spray or give other suitable treatment, or

—diseased  
trees or  
shrubs to be  
destroyed  
by owner.

to cut and destroy any such diseased trees or shrubs, if in the opinion of the state entomologist such action is necessary. If the owner of such orchard, field or garden neglects or refuses to comply with such written order of the said entomologist, he shall be fined not less than ten dollars nor more than fifty dollars for each offense.'

—penalty.

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

Section 4,  
chapter 15,  
amended

'All prosecutions under the provisions of this act shall be instituted by the commissioner of agriculture and shall be directed by him and all penalties and costs recovered for the violation of any provisions of this act shall be paid into the state treasury, to be kept as a fund for the use of the commissioner of agriculture in the enforcement of this act and as an addition to the appropriation made in this act, to be drawn from the treasury in the same manner as said appropriation,' so that said section as amended shall read as follows:

'Section 4. 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.

Nursery  
stock ship-  
ped into  
state shall  
bear certifi-  
cate of in-  
spection.

'The state entomologist, or his competent assistants as aforesaid, shall have power to inspect, at the point of destination, all stock coming into the state, whether under certificate or not, and should such stock be found to be infested with any injurious insects or plant diseases, the state entomologist shall cause it to be destroyed or returned to the consignor at the consignor's expense, if he shall so elect.

State  
entomologist  
may inspect,  
and cause to  
be destroyed  
infested  
stock.

'All prosecutions under the provisions of this act shall be instituted by the commissioner of agriculture and shall be directed by him and all penalties and costs recovered from the violation of any provision of this act shall be paid into the state treasury, to be kept as a fund for the use of the commissioner of agriculture in the enforcement of this act and as

Prosecu-  
tions, by  
whom insti-  
tuted and  
directed.

## CHAP. 34

an addition to the appropriation made in this act to be drawn from the treasury in the same manner as said appropriation.'

Section 6,  
chapter 15,  
amended.

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

Agents  
shall be  
licensed.

'Section 6. Agents or other parties excepting growers who wish to sell nursery stock shall make application for an agent's license and shall file with the state entomologist the names and addresses of nurseries or parties from which they purchase their stock. On receipt of such application the state entomologist shall issue an agent's license valid for one year in such form and with such provisions as the commissioner of agriculture may prescribe. Such license may be revoked at any time for failure to report names and addresses of nurseries from which stock is purchased or for such other causes as may in the opinion of the commissioner of agriculture be deemed sufficient. Any violation of this requirement shall be fined not less than ten nor more than fifty dollars for each offense.

—license  
may be  
revoked.

—fine.

Definition  
of term  
nursery  
stock.

'For the purpose of this act the term nursery stock is hereby applied to all fruit and ornamental trees, shrubs and vines, and includes currant, gooseberry, blackberry and raspberry bushes, also strawberry plants.'

Section 7,  
chapter 15,  
amended.

Section 4. Section seven of chapter fifteen is hereby amended by striking out the words "with the advice and consent of the governor and council," in the fourteenth and fifteenth lines of said section; by striking out lines nineteen, twenty and twenty-one, with the exception of the word "necessary" and inserting the following: 'If the amount thus expended during one full year shall exceed one-twentieth of one per cent of the tax valuation of said city or town then the city or town shall be reimbursed according to section eleven; by striking out the words "one-tenth of" in the fortieth line of said section, and by inserting at the close of line forty-two the following: 'If the expense incurred by the town in the performance of the above named duties shall exceed the above named amount the town shall be reimbursed by the commissioner of agriculture by an amount equal to this excess, providing the work has been done according to the provisions of this act;' so that said section as amended shall read as follows:

Commissioner of agriculture to be notified of presence of insects.

'Section 7. Should any person in the state suspect 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 it shall be the duty of said commissioner to cause the said trees, shrubs or vines to be inspected. If sufficient cause be found the commissioner of agriculture shall forthwith notify the municipal officers of the city or town 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 to extend to the distance of sixty feet from the center of the public streets or highways and include all trees and shrubbery growing thereon. Should such municipal officers neglect or fail within a reasonable time to perform the duties herein imposed upon them, then 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 the amount thus expended during one full year shall exceed one-twentieth of one per cent of the tax valuation of said city or town, then the city or town shall be reimbursed according to section eleven.

—municipal officers to be notified.

—shall cause insects to be destroyed.

—if municipal officers fail to act, commissioner of agriculture shall order insects destroyed.

—when city or town shall be reimbursed.

‘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, then the commissioner of agriculture shall cause the said work to be done and shall charge the actual expense of the same to said city or town; such amount to be collected as a state tax and credited to this appropriation.

When commissioner of agriculture shall cause work to be done.

—expense, how charged and collected

‘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, then 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. If the expense incurred by the town in the performance of the above named duties shall exceed the last above named amount, the town shall be reimbursed by the commissioner of agriculture by an amount equal

Municipal officers shall notify owner of real estate to destroy insects.

—when town shall destroy.

—amount, assessed, how collected.

## CHAP. 34

Duty of commissioner of agriculture.	to this excess, providing the work has been done according to the provisions of this act. ‘It shall be the duty of the commissioner of agriculture to disseminate information concerning the brown-tail and gypsy moths, San Jose scale and other injurious insects.
Towns may raise money	‘Cities and towns may raise the sums necessary to carry out the provisions of this section in the same manner in which money is raised for other necessary municipal purposes.’
Sections 8 and 9, repealed.	Section 5. Sections eight and nine of chapter fifteen are hereby repealed.
Section 11 amended.	Section 6. Section eleven is hereby amended by striking out all beyond line twenty-two and inserting the following: ‘No city or town shall be entitled to reimbursement from the state as aforesaid until it shall have submitted, under oath, to the commissioner of agriculture its itemized, receipted accounts and vouchers showing the amounts expended by it in the process of destroying the above named pests according to the provisions of this act. This act recognizes only the actual expenditure of funds for the extermination of the above named pests in the above named territory, within the limits of the public streets and parks, and does not recognize the bounty system, so called, so that said section as amended shall read as follows:
Reimbursement from state how determined.	‘Section 11. . When any city or town shall have expended in any one calendar year, within its limits, its funds to an amount equal to one-twentieth of one per cent of its assessed valuation of the previous year in destroying or suppressing the brown-tail moth, San Jose scale and similar insects, but not including the gypsy moth, in any of their stages, as herein provided, it shall receive reimbursement from the state as follows:
Towns having valuation of \$750,000 or less.	‘Cities or towns having a total assessed valuation of seven hundred and fifty thousand dollars or less shall receive such sums as may in the judgment of the commissioner of agriculture have been necessarily expended by them in excess of one-twentieth of one per cent of such assessed valuation.
Towns having valuation of \$750,000 to \$1,500,000	‘Cities and towns having a total assessed valuation of more than seven hundred and fifty thousand dollars and not exceeding one million five hundred thousand dollars assessed valuation, shall receive seventy-five per cent of such sum as may in the judgment of the commissioner of agriculture have been expended by them in excess of one-twentieth of one per cent of such valuation.
Towns having valuation	‘Cities or towns having a total assessed valuation of more



than one million five hundred thousand dollars shall receive fifty per cent of such sums as may in the judgment of the commissioner of agriculture have been expended by them in excess of one-twentieth of one per cent of such valuation.

tion of more than \$1,500,000.

'No city or town shall be entitled to reimbursement from the state as aforesaid until it shall have submitted, under oath, to the commissioner of agriculture its itemized, receipted accounts and vouchers showing the amounts expended by it in the process of destroying the above named pests according to the provisions of this act. This act applies only to the actual expenditure of funds for the extermination of the above named pests in the above named territory, namely, "within the limits of public streets and parks," and does not apply to the "bounty system" so called.'

Reimbursement from state, requirements for.

Section 7. Section twelve of said chapter fifteen is hereby amended by prefixing the following: 'In view of the possibility of spreading the gypsy moth by careless parties who do not understand the grave danger involved, the entire work of suppressing this pest in all its forms shall be done under the direct charge of the commissioner of agriculture and is so considered in this act,' so that said section as amended shall read as follows:

Section 12, chapter 15, amended.

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

Entire work to be under direct charge of commissioner of agriculture.

'Whenever any city or town shall appropriate or raise a sum of money and shall pay the same over to the state treasury for the purpose of exterminating the gypsy 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 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 the amount so remaining unexpended shall be reimbursed to such city or town.'

Commissioner of agriculture to expend money raised by towns.

—proviso.

Section 8. Trial justices and municipal courts are vested with the original jurisdiction, concurrent with the supreme and superior courts to try, and, upon conviction, to punish, for offenses against the provisions of this act.

Court jurisdiction.

**CHAP. 35**

Section 13,  
chapter 15,  
amended.

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

Appropriation.

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

Section 15,  
repealed.

Section 10. Section fifteen is hereby repealed.

Approved March 3, 1909.

### Chapter 35.

An Act regulating the duties of the Commissioner of Agriculture in relation to the manufacture, transportation and sale of dairy products and their imitation.

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

Duty of  
commissioner  
of agri-  
culture.

Section 1. The commissioner of agriculture shall, either in person or by duly authorized agent or assistant, diligently inquire into and investigate the production, manufacture, transportation, storage and sale of milk, cream, butter and all other dairy products, substitutes therefor or imitations thereof. And said commissioner, his agents or assistants, shall have access at all reasonable hours, to all places of business, factories or carriages, cans or other vessels used or which he or they believe to be used in the production or handling of milk or any other dairy product, substitute therefor or imitation thereof, and upon tendering the market price of a sample of milk or other dairy products, substitute therefor or imitation thereof, may take such sample from any person, firm, corporation, association or society, and said commissioner of agriculture shall cause all samples taken by authority of this act to be analyzed.

—shall have  
access to all  
places of  
business,  
etc.

Commissioner  
of agri-  
culture, his  
agents and  
assistants,  
shall not be  
obstructed  
in perform-  
ance of  
duty.

Section 2. Any person who hinders, obstructs, or in any way interferes with the commissioner of agriculture, his agents or assistants, in the performance of his or their duty, herein above set forth, by refusing entrance to any place where he is authorized to enter, or access to any receptacle to which he is authorized to have access, or by refusing to deliver to him, his agents or assistants, a sample of milk or any other