

brigade; and of such petty officers and other enlisted men as the commander-in-chief may prescribe.

The total enlisted strength shall be eighty and the minimum fifty-five.

The engineer division shall be a company, subject to all the provisions of this act applying to companies.

The enlisted men in the engineer's division shall fulfill the requirements for enlistment in the volunteer militia, and shall be mechanics, steam fitters, steam engineers, or firemen of such experience as will fit them for their several ratings.

A marine guard shall consist of one first lieutenant, with the rank and pay corresponding to those of first lieutenant of infantry, and such non-commissioned officers and privates as the commander-in-chief may prescribe. The total enlisted strength of the guard shall be thirty-six and the minimum twenty. The marine guard shall be armed, uniformed, equipped, drilled and instructed in the same manner as in the United States marine corps. Marine guard.

The seamen and privates shall receive the same pay as enlisted men in companies of infantry. The duty of the naval brigade may be performed afloat.

SECTION 2. This act shall not affect the rank or pay of the present assistant paymaster and assistant surgeon, but on their death, retirement or resignation, shall take effect as to their successors. Effect of act.

SECTION 3. The two senior assistant surgeons now commissioned shall hereby become passed assistant surgeons without new appointment, and their commissions shall be endorsed accordingly. Assistant surgeons.

SECTION 4. So far as is practicable the regulations for the government of the United States navy shall apply to the naval militia. Certain regulations to apply.

SECTION 5. This act shall take effect upon its passage.

*Approved April 18, 1912.*

AN ACT TO AUTHORIZE THE APPOINTMENT OF A STATE NURSERY INSPECTOR AND TO PROVIDE FOR THE INSPECTION OF NURSERIES. Chap.507

*Be it enacted, etc., as follows:*

SECTION 1. The state board of agriculture shall annually appoint a person qualified by scientific training and practi- State nursery inspectors, etc.

cal experience to be state nursery inspector, and he shall be responsible to the board for the performance of his duties as prescribed in this act. The said inspector may appoint such number of deputies, subject to the approval of the secretary of the state board of agriculture, as he may deem necessary or expedient.

Duties of  
nursery in-  
spectors.

SECTION 2. It shall be the duty of the state nursery inspector, either personally or through his deputies, to inspect at least once each year all nurseries or places in the state where nursery stock is grown, and if no dangerous insects or fungous pests are found therein, a certificate to that effect shall be given by him. If such pests are found therein the owner of the stock shall take such measures to suppress the same as the state nursery inspector shall prescribe, and no certificate shall be given until the said inspector has satisfied himself by subsequent inspections that all such pests have been suppressed.

Agents' li-  
censes, etc.

SECTION 3. Agents or other persons, excepting growers, who desire to sell nursery stock shall make application to the state nursery inspector for an agent's license, and shall file with him the names and addresses of all persons or nurseries from which they purchase their stock. On receipt of such application, the state nursery inspector shall issue an agent's license, valid for one year, in such form and with such provisions as the state board of agriculture may prescribe. The license may be revoked at any time for failure to report the names and addresses of persons or nurseries from which stock is purchased, or for such other cause as may be deemed sufficient by the state nursery inspector and the secretary of the state board of agriculture.

Sale, etc., of  
nursery stock  
regulated.

SECTION 4. It shall be unlawful for any person, firm or corporation to sell, exchange, give away, deliver or ship within the state any trees, shrubs or plants commonly known as nursery stock unless such person, firm or corporation holds a grower's certificate or an agent's license, given under authority of this or of some preceding act, and unless a copy of such certificate or license, or such other evidence as the state board of agriculture may prescribe, shall accompany each car, box, bundle or package sold, exchanged, given away, delivered or shipped, and unless such certificate or license is dated within twelve months of the date of delivery or shipment; but this section shall not be taken to prohibit the selling, giving or exchanging of trees, plants or shrubs by persons who are not growers of or dealers in nursery stock.

SECTION 5. Every person, firm, corporation, transportation company or common carrier, bringing into the state, or receiving for transportation to a point within the state from outside thereof, any car, box, bundle, package or consignment in any form, of living trees, shrubs or plants commonly known as nursery stock, shall immediately notify the state nursery inspector of the fact that such consignments have been received by him or it and give the name and address of the consignee in each case, together with such further report as may be required by the state nursery inspector under other provisions of this act. Failure on the part of any person, firm, corporation, transportation company or common carrier to conform to these requirements shall be deemed a misdemeanor, and shall be punishable by a fine as prescribed in section ten of this act.

Transportation of nursery stock, etc.

SECTION 6. The state nursery inspector shall have power to inspect at its point of destination all nursery stock coming into the state, and should such stock be found to be infested with injurious insects or plant diseases he may cause it to be destroyed, or treated or returned to the consignor at the consignor's expense.

Powers of state nursery inspector, etc.

SECTION 7. The state nursery inspector, either personally or through his deputies, may inspect any orchard, field, garden, roadside or other place where trees, shrubs or other plants are growing out of doors, either on public or private land, which he may know or have reason to suspect is infested with the San José scale or any serious insect pest or plant disease, when in his judgment such pests or diseases are liable to cause financial loss to adjoining owners; and may serve written notice upon the owner, or owners, occupant or person in charge of trees, shrubs or other plants thus infested, of the presence of such pests or plant diseases, with a statement that they constitute a public nuisance, together with directions to abate the same, giving the methods of treatment for the abatement thereof, and stating a time within which the nuisance must be abated in accordance with the methods given in the notice. If the person or persons so notified shall refuse or neglect so to treat or destroy such trees, shrubs or other plants within the time prescribed, the state nursery inspector may cause such property to be so treated, and may employ all necessary assistants for this purpose, and such assistants shall have the right to enter upon any public or private property, if such entry is necessary for this purpose. Upon the completion of said

Inspection, etc.

treatment the state nursery inspector shall certify in writing to the owner or person in charge of the treated property the amount of the cost of such treatment, and if this be not paid to the secretary of the state board of agriculture within ninety days thereafter, the same may be recovered by suit, together with the costs of suit.

Appeal may be taken, etc.

SECTION 8. In case of objection to the action of the state nursery inspector or his deputy in executing any provision of this act, an appeal may be taken within ten days to the secretary of the state board of agriculture, and the appeal shall act as a stay of proceedings until it has been heard and decided by the secretary of the state board of agriculture, whose decision shall be final.

Powers of the secretary of the state board of agriculture.

SECTION 9. When the secretary of the state board of agriculture has heard an appeal and has rendered a decision that the action of the state nursery inspector from which the appeal was taken is sustained, the state nursery inspector shall notify in writing the owner or owners, occupant or person in charge of the trees, shrubs, or other plants concerned, of the decision of the secretary, and shall direct him or them within a given time to treat or destroy the trees, shrubs or other plants in accordance with a method prescribed in the notice. If the person or persons so notified shall refuse or neglect so to treat or destroy such trees, shrubs or other plants within the time prescribed, the state nursery inspector may cause such property to be so treated and the cost of the treatment to be collected as provided in section seven of this act.

Penalty.

SECTION 10. Any person, firm or corporation violating any provision of this act or offering any hindrance to the carrying out of any part thereof, shall be punished by a fine of not less than ten nor more than one hundred dollars for each offence.

Prosecutions, etc.

SECTION 11. All prosecutions under the provisions of this act shall be instituted by the secretary of the state board of agriculture and shall be directed by him, and all penalties and costs recovered for the violation of any provision of this act shall be paid to the secretary of the state board of agriculture and by him immediately paid into the state treasury, to be kept as a fund for the use of the state nursery inspector in the enforcement of this act and as an addition to the appropriation provided for in this act, to be drawn from the treasury in the same manner as said appropriation.

SECTION 12. The state nursery inspector, with the approval of the secretary of the state board of agriculture, may prohibit for such periods and under such conditions as in his judgment may seem necessary, the delivery within the state of nursery stock from any other state, province or country when in his opinion such nursery stock is liable to be infested with insect pests or diseases not already present in this state. He, with the approval of the secretary of the state board of agriculture, shall have power to prescribe such general requirements as may be needed to carry out the provisions of this act, and may publish information about such insects and diseases as are concerned in this act.

Powers of state nursery inspector.

SECTION 13. No provision of this act shall be considered as applying to the gypsy or brown tail moths or any stage thereof except upon places where nursery stock is grown and upon property immediately adjoining the same.

Not to apply in certain cases.

SECTION 14. The state nursery inspector shall determine the season for inspecting nurseries and the forms of certificates to be given, but in no case shall he issue a certificate which shall continue in force after the first day of July next following the date of inspection. He, or any of his deputies, shall at all times have the right to enter any public or private grounds in the performance of any duty required by this act. The state nursery inspector shall receive five hundred dollars annually for his services under this act and his travelling and other expenses necessarily incurred in his service hereunder. Each of his deputies shall receive a sum to be fixed by the state nursery inspector with the approval of the secretary of the state board of agriculture, but which in no case shall exceed five dollars for each day's service required of him under this act, and his travelling and other expenses necessarily incurred in such service.

Season for inspection.

SECTION 15. A sum not exceeding fifteen thousand dollars may be expended by the state board of agriculture in carrying out the provisions of this act.

Expenditure.

SECTION 16. Chapter four hundred and forty-four of the acts of the year nineteen hundred and nine, and all other acts or parts of acts inconsistent herewith are hereby repealed; but this repeal shall not affect any act done or proceeding begun under any act hereby repealed.

Repeal.

SECTION 17. This act shall take effect on the first day of December, nineteen hundred and twelve.

Time of taking effect.

*Approved April 18, 1912.*