

OIL INSPECTION

CHAPTER 171.

[H. B. No. 108—Sorlie]

INSPECTION OF OIL AND GASOLINE.

AN ACT Providing for the Inspection of Refined Petroleum, Oils and Gasoline, Defining Ports of Entry, Appointment of Oil Inspector and Deputies and Fixing the Salary of the Same.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. INSPECTOR APPOINTED. SALARY. DEPUTIES AND SALARY OF.] The governor shall by and with the advice and consent of the senate, appoint a suitable person, a citizen of this state, who is not engaged directly or indirectly in the manufacturing, dealing or vending of illuminating oils, whose title shall be state inspector of oils, and whose term of office shall be two years, commencing on the first Tuesday in April succeeding his appointment, or until his successor shall be appointed and shall qualify. Said inspector may appoint deputy inspectors at all points where oil carrying roads enter the state, whose salaries shall be as hereinafter provided. The said state inspector of oils and his deputies shall have the right, and it shall be his duty to enter into or upon the premises of any manufacturer, dealer, vendor of these refined petroleum oils or gasoline, at any time, for the inspection of such oils or gasoline, and to inspect any books or papers of such manufacturers, dealers, vendors or railway company pertaining to the shipment or sale of such oils or gasoline, and all receptacles in which such oils are or may be contained. Such inspector shall receive an annual salary of two thousand five hundred dollars, payable monthly, and each of said deputies shall receive salaries as follows:

At ports of entry where the total number of barrels inspected is in excess of eight thousand per annum, the salary shall be fifty dollars per month.

At ports of entry where the total number of barrels inspected is in excess of fifteen thousand per annum, the salary shall be seventy-five dollars per month.

At ports of entry where the total number of barrels inspected is in excess of twenty-five thousand per annum, the salary shall be one hundred dollars per month; provided, that the salary of deputy oil inspectors at the designated points of entry shall be based on the

last annual report of the state oil inspector as to the amount of barrels of oil inspected. All other deputies shall receive a salary of not less than ten dollars per month nor more than thirty dollars per month, as in the judgment of the state inspector of oils is just compensation for services performed. The state inspector of oils shall make and file with the state auditor, monthly statements, under oath, of all fees collected under the provisions of this article, and pay the amount so collected to the state treasurer on or before the tenth day of each month, taking the state treasurer's receipt therefor, and file such receipt with the state auditor on or before the fifteenth day of each month; the money so received by the treasurer to be kept in a separate fund to be known as the "Oil Inspection Fund."

§ 2. OATH OF OFFICE. BOND.] The state inspector of oils and his deputies shall each, before entering upon the discharge of his duties, take oath or affirmation, according to the constitution of this state and the laws thereof, and shall file the same with the secretary of state. The state inspector of oils shall execute a bond to the state of North Dakota in the penal sum of five thousand dollars, with such surety as shall be approved by the governor of the state, conditioned for the faithful performance of the duties herein imposed, which bond shall be for the use of the state of North Dakota and of all persons aggrieved by the act or failure to act of the state inspector of oils, and the same shall be filed with the secretary of state. Each of said deputy inspectors of oils shall, before entering upon the discharge of his duties, execute a bond to the state of North Dakota in the penal sum of not less than one thousand dollars, nor more than five thousand dollars, as the state inspector of oils shall prescribe, which bond shall be approved by the governor and shall be filed with the secretary of state; and such bond shall be conditioned for the faithful performance of the duties herein imposed and shall be for the use of the state of North Dakota and all persons aggrieved by the act or failure to act of said deputy inspectors of oils.

§ 3. INSPECTION APPARATUS PROVIDED. CHEMIST EMPLOYED.] The state inspector of oils shall, immediately upon the appointment and qualification of the deputies named in section one, procure and furnish to such deputies such apparatus as may be necessary to carry out the provisions of this article. He may also purchase from time to time the apparatus for making tests of illuminating oils and gasoline as hereinafter provided, and pay the necessary office, travel and other expenses of the department. For the purpose of making chemical and photometric tests, as hereinafter provided for, there shall be set aside from the general funds two thousand dollars, which sum or so much thereof as is necessary, may be used under the direction of the state oil inspector in the employment of a competent chemist at the agricultural college and university. Such funds shall be taken from the general fund.

§ 4. PACKAGES BRANDED.] Every person, firm or corporation offering for sale to the trade or manufacturing within the state, such illuminating oils or gasoline, shall stamp or brand every package, barrel or cask containing such illuminating oils, with the name of the brand of the oil contained in such package, cask or barrel. Every package, cask or barrel which contains gasoline, shall be branded before being shipped into the state, "unsafe for illuminating purposes."

§ 5. MANNER OF TESTING.] It shall be the duty of the oil inspector, or his deputies, to examine and test within this state, all oil and gasoline held or offered for sale by any manufacturer, vendor, or by any person or corporation in this state, as follows:

For oil: All illuminating, fuel or coke refined oil, a product of petroleum, shall be inspected as follows:

1. The color shall be water white when viewed by transmitted light through a layer of oil four inches long.

2. After being subjected to inspection as herein provided, and having withstood all inspection tests, any such so inspected oil having a gravity of forty-eight degrees or better, may be colored red.

3. It shall not give a flash test below one hundred and five degrees Fahrenheit, closed cup test, Elliott cup, and shall not have a fire test below one hundred and twenty-five degrees Fahrenheit, Elliott cup.

4. The gravity test shall not be less than forty-six degrees, measured by the Baume hydrometer; provided, that illuminating oil produced from petroleum of low gravity, shall be labeled and sold as low gravity oil, and such illuminating oil shall have a gravity test of forty-two degrees (Baume), or higher, and said oil shall conform in other respects, to the tests as laid down in this act.

5. All such low gravity oil shall, when sold in packages, or from tank wagons, be plainly marked forty-two degrees gravity oil, and such marks or labels shall conform approximately to the following descriptions, viz: The words "forty-two degrees gravity oil," and such marks or labels, shall, when appearing on barrels or any container other than tank wagons, be made up of letters not less than two inches square each, and the same words shall appear on tank wagons from which such specified oil is sold in letters not less than three inches square each, and such sign or label shall be so placed on such tank wagon as to be plainly readable from both sides of tank wagon on which it may appear; further, provided, that the marks or labels herein described shall not appear on any container, barrel or tank wagon, unless such container, barrel or tank wagon shall contain the particular grade of oil for which this particular mark or label is intended.

6. It shall not contain water or tarlike matter, nor shall it contain more than a trace of any sulphur compound.

7. All storage receptacles from which illuminating oils subject to inspection under the provisions of this act are sold at retail shall have labels attached to the spout or faucet from which such oils are drawn, which labels shall plainly designate the approximate gravity of the oils so drawn as either forty-two degrees or forty-six degrees or forty-eight degrees as the case may be.

8. It shall be the duty of the state inspector of oils or his deputies, to at least once in each ninety days have a chemical test made at the state university and the state agricultural college, demonstrating whether or not such oils contain more than four per cent residum, after being distilled at a temperature of five hundred and seventy degrees Fahrenheit, and shall not contain more than six per cent of oil distilling, three hundred and ten degrees Fahrenheit; when one hundred cubic centimeters of the oil are distilled from a side necked distilling flask two and three-quarter inches in diameter and with a neck two and one-half inches in length, to the side necked tube, said flask to be covered with a closely adhering jacket of asbestos paper. Also a determination of the amount of sulphur compounds in said oils, together with such burning tests as may be necessary to determine the photometric value of the oils, which shall not be in the photometric test, when burning under normal conditions, show a fall of more than twenty-five per cent in candle power in a test for not less than six, nor more than eight hours' duration, consuming ninety-five per cent of the oil. The result of such chemical tests shall be included in the state oil inspector's annual report to the governor. The failure of the oil inspector to have the above tests made shall render him liable to a fine of one hundred dollars for each offense. If, upon such testing and examining, such oils shall meet the requirements as to the various tests mentioned and included in tests "1," "3" and "4," such oils shall be marked upon the package, barrel or cask containing the same, "approved," giving the date of such inspection and the name of the inspector or deputy. If, upon such examination and testing, such oil shall not meet the requirements as to color, fire and gravity tests herein specified, such oils shall be marked upon the barrel, package or cask containing the same, "rejected for illuminating purposes," giving the date of such examination and the official signature of the inspector or deputy making such inspection; and it shall be unlawful for any person or persons, or corporations, to sell any such oil so rejected for illuminating purposes for consumption in this state. In case any corporation, company or individual, manufacturer or vendor, has or offers for sale refined oils which do not comply with the tests under the heading "chemical tests," the state inspector of oils may exclude such oils from the state or cause them to be destroyed and the offending officers of any such corporation or company, or the manufacturer, vendor or individual having or offering for sale such oils shall be deemed guilty of a misdemeanor.

For gasoline: All gasoline offered for sale within the state shall be tested for gravity. All gasoline which tests sixty-eight degrees (Baume) or higher shall be branded, "approved for sale," and any gasoline which tests below sixty-three degrees (Baume) shall be marked, "rejected for sale"; provided, that gasoline produced from petroleum of low gravity shall be labeled and sold as low gravity gasoline, and such gasoline shall have a gravity test of sixty-three degrees (Baume), or higher; provided, that all gasoline offered for sale in this state, shall, when one hundred cubic centimeters are subjected to distillation in a flask as described for distilling oil, show not less than three per cent distilling at one hundred and fifty-eight degrees Fahrenheit, and there shall not be more than six per cent residue at two hundred and eighty-four degrees Fahrenheit. All gasoline, whether it is of a required test or not, shall be branded "unsafe for illuminating purposes"; but this clause shall in no way be construed as preventing the sale or use of said gasoline, providing it has been inspected and branded as above, "approved for sale."

§ 6. LISTS OF PORTS OF ENTRY FURNISHED. PENALTY FOR NON-COMPLIANCE BY RAILROAD COMPANY.] It shall be the duty of the state inspector of oils to transmit to each of the railway companies whose lines enter the state a list of the ports of entry which have been created, at once on entering upon the duties of his office, and to report to such companies new ports of entry as they may be established, together with the names of the deputies at each port, and the railway bringing refined oil or gasoline into the state, subject to inspection as herein provided, shall stop and hold for inspection at the port at which it enters, all consignments of such goods, and a failure to do so will be a misdemeanor on the part of the railway company and its representative in charge, and punishable by a fine not to exceed one hundred and fifty dollars, or by imprisonment not to exceed thirty days, or both. Any person, firm, corporation or individual bringing into the state such goods in same manner are subject to same regulations and penalties, except as to notifications of ports of entry and deputies and for their notification, notices shall be posted at every railway station in each port of entry.

§ 7. FEES. MONTHLY REPORTS.] Each and every inspector and deputy inspector who shall inspect any consignment of oils or gasoline, as provided in this article, shall demand and receive from the owner of such oils and gasoline the sum of twenty-five cents for testing a barrel or less quantity. Fifty gallons shall constitute a barrel. Every such inspector and deputy inspector shall keep an accurate record of all the oils inspected, rejected, branded or certified to by him, which record shall state the date of such inspection; the number of packages, barrels, casks or tanks approved; the number rejected; the name of the persons for whom inspected; the name of the person to whom consigned, with his address; the sum of money received for such inspection, and such records shall be open

to all persons interested. On the first day of each and every month every deputy inspector of oils shall transmit to the state inspector of oils all inspection fees received during the preceding month, and shall at the same time forward to the auditor of state and to the state inspector of oils, true copies of said record for the month preceding. The state inspector of oils shall, in the month of January in each year, make and deliver to the governor a report of his acts, and those of his deputies during the year preceding, together with remarks and suggestions for the benefit of the service, which shall include a copy and summary of the reports submitted by the said deputies as provided in this section.

§ 8. INSPECTOR MUST NOT DEAL IN OIL.] It shall be unlawful for the state inspector of oils or his deputies to directly or indirectly while in office traffic in any of the oils which he has been appointed to inspect. Any person violating the provisions of this section shall be subject to a penalty of not exceeding five hundred dollars and be removed from office.

§ 9. FURNISH INFORMATION TO STATE'S ATTORNEY.] It shall be the duty of the state inspector of oils or any of his deputies, or any person having cognizance of violation of the provisions of this article to forthwith make complaint to the state's attorney for the county in which the offense is alleged to have been committed against the person or persons so offending, and it is hereby made the duty of such state's attorney to represent and prosecute on behalf of the people in his county all cases of offense arising under the provisions of this article. Any inspector or state's attorney who wilfully refuses or neglects to carry out the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be removed from office.

§ 10. UNLAWFUL TO SELL OIL OR GASOLINE NOT INSPECTED.] It shall be unlawful for any person, firm or corporation, whether vendor, dealer or manufacturer, to knowingly have, use, sell, attempt to sell or deliver to any person in this state any of the illuminating oils or gasoline hereinbefore mentioned until the same shall have been inspected and approved according to the provisions of this article. It shall be unlawful for any person to falsely brand any package, barrel or cask or falsely certify to any tank car containing illuminating oils or gasoline for the purpose of deceiving the purchaser thereof in any manner as to the contents of the same. It shall be unlawful for any person to sell or dispose of any empty barrel, cask or package that has once been used for illuminating oils or gasoline and has been branded in accordance with this article before thoroughly cancelling, removing, or effacing the inspection brand on the same. It shall be unlawful for any person, firm or corporation to adulterate with paraffin, or other substance for the purpose of sale or use any of the illuminating oils and gasoline specified in this article in such manner as to render them unsafe for use, nor shall any person

knowingly use, sell or offer for sale for illumination purposes oil which shall emit a combustible vapor at a temperature less than one hundred and five degrees Fahrenheit according to the test herein prescribed, nor any gasoline which is below sixty-eight degrees gravity (Baume), except as provided for in this act. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a penalty or not exceeding five hundred dollars fine, or imprisonment in the state penitentiary not exceeding one year, or both fine and imprisonment.

§ 11. SELLER LIABLE FOR DAMAGES, WHEN.] Whoever shall knowingly use, sell or cause to be sold unlawfully any of the illuminating oils specified in this article which are below one hundred and five degrees Fahrenheit, as tested by the official test herein described, shall be liable to any person purchasing such oil or to any person injured thereby for any damage to person or property arising from any explosion thereof.

§ 12. DEPUTY'S BOOKS EXAMINED.] It shall be the duty of the state inspector of oils to at least once in ninety days make a thorough examination of the books and other accounts of each of his deputies to determine whether such deputies are fully complying with the law, and to make such other examinations as may be necessary to ascertain, as far as practicable, whether any of the provisions of this article are being violated. When the state inspector of oils shall discover any violation of the provisions of this article he shall at once make complaint and institute prosecution thereunder.

§ 13. GOVERNOR MAY REMOVE INSPECTOR.] It shall be the duty of the governor, whenever he shall find that the state inspector of oils is guilty of refusal or neglect to discharge any of the duties enjoined upon him by this article, to promptly remove him from office. It shall be the duty of the state inspector of oils to promptly remove from office any of his deputies who shall prove himself to be unfaithful or dishonest in the discharge of his duties.

§ 14. PORTS OF ENTRY DESIGNATED.] All illuminating oils and gasoline when shipped into this state shall be inspected on entering the state, the following points being designated as ports of entry: Fairmount, Wahpeton, Fargo, Grand Forks, Hankinson, Oakes, Ellendale, Ardoch, Zeeland, Hettinger or other points where oil carrying roads enter the state or great public necessity requires inspections should be made. For making inspections other than at said points, the inspector or his deputy shall be entitled, in addition to the fees prescribed, to actual traveling expenses, such expenses to be paid by the party for whom the inspection is made.

§ 15. SALARIES PAID FROM GENERAL FUND.] All salaries and expenses of the general department shall be paid out of the general fund on the order of the state inspector of oils.

§ 16. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 18, 1909.