

shall qualify on or before the first Monday in April next succeeding their election, or within ten days thereafter, and on said first Monday of April, or within ten days thereafter, enter upon the discharge of the duties of their office.

§ 2. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 3. EMERGENCY.] Whereas, an emergency exists in this, that the present law makes no provision for the qualification and entry of county auditors, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 13, 1905.

OIL INSPECTION.

CHAPTER 141.

[S. B. No. 63—Simpson.]

OIL INSPECTION.

AN ACT Concerning the Inspection of Illuminating Oils and Gasoline; for the Appointment of a State Inspector and Deputies of Oils and Gasoline, Prescribing Their Duties, Designating Their Salary, etc.; Providing for the Making of Chemical Tests; Providing Penalties for the Violation of This Act; Requiring the State Inspector and Deputies to Make Reports, Designate Ports of Entry Where Illuminating Oils and Gasoline Shipped Into This State Shall Be Inspected, and Repealing Conflicting Laws.

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

§ I. GOVERNOR TO APPOINT INSPECTOR. DUTIES.] 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 not more than six deputy inspectors, whose salary shall be as hereinafter stated. 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 or vendor of illuminating oils or gasoline at any time for the inspection of such oils or gasoline, and to inspect any books or papers of such manufacturer, dealer or vendor 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), which shall be in full for all his services, and each of said deputies shall receive an annual salary of not less than one hundred dollars, nor more than three hundred dollars, at the discretion of the inspector of oils. He shall make and file with the state auditor monthly statements, under oath, of all fees collected under the provisions of this act, 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 as a separate fund known as the "Oil Inspection Fund."

§ 2. BONDS.] 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 the said deputy inspector of oils.

§ 3. APPARATUS.] The state inspector of oils shall, immediately upon the appointment and qualification of the deputies named in section I of this act, procure and furnish to such deputies such apparatus as may be necessary to carry out the provisions of this act. He may also purchase from time to time the apparatus for making tests of illuminating oils and gasoline as hereinafter provided. The funds for the purchase shall be taken from the oil inspection fund.

§ 4. OILS TO BE INSPECTED.] All mineral and petroleum oils or any fluid or substance which is a product of petroleum, or into which petroleum or any product produced thereof enters as a constituent element, whether manufactured in this state or not, shall be inspected by the state inspector of oils, or his deputies, before being used or offered for sale or consumption in this state.

§ 5. BRANDS REQUIRED.] Every person, firm or corporation offering for sale to the trade, or manufacturing within this 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 this state. "Unsafe for Illuminating Purposes."

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

For oil: All illuminating oil, a product of petroleum, shall be inspected as follows:

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

Second. It shall not give a flash test below one hundred and five degrees Fahrenheit, closed cup test (Elliott or Foster) and shall not have a fire test below one hundred and twenty-five degrees Fahrenheit.

Third. The gravity test shall not be less than forty-six degrees, measured by the Beaume hydrometer.

Fourth. It shall not contain water nor tar-like matter, nor shall it contain more than a trace of any sulphur compound.

Fifth. 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 residuum, 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; 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. 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 oil such oil shall meet the requirements as to the various tests herein specified such oil 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 the flash, fire and gravity tests and the chemical 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.

For Gasoline: All gasoline offered for sale within the state shall be tested for gravity. All gasoline which tests 68 degrees (Beaume) or higher shall be branded "Approved for Sale." And any gasoline which tests below 68 degrees (Beaume) shall be marked "Rejected for Sale." All gasoline, whether it is of 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."

§ 7. RECORDS AND FEES.] Each and every inspector and deputy inspector who shall inspect any consignment of oils or gasoline as provided in this act, shall demand and receive from the owner of such oils and gasoline, at the [time] such inspection is made, the sum of twenty 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: Date of each inspection; the number of packages, barrels, casks or tanks approved; the number rejected; the manufacturer's brand; the name of the person for whom inspected; the name of the person to whom consigned, with his address; the sum of money received for such inspection; and such record 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 of each year, make and deliver to the government 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 report shall include a copy and summary of the reports submitted by the said deputies as provided in this section.

§ 8. INSPECTORS MUST NOT TRAFFIC IN OILS.] It shall be unlawful for the state inspector of oils or any of 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. DUTIES OF INSPECTOR AND DEPUTIES IN CASES OF VIOLATION. PENALTY FOR NEGLECT.] It shall be the duty of the state inspector of oils, or any of his deputies, or any person having cognizance of the violation of the provisions of this act, 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 act. 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. PENALTY.] It shall be unlawful for any person, firm or corporation, whether vendor, dealer or manufacturer, to knowingly 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 act. It shall be unlawful for any person to falsly 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 the provisions of this act 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 parafine or other substance for the purpose of sale, or use any of the illuminating oils and gasoline specified in this act in such manner as to render them unsafe for use, nor shall any person knowingly use, sell or offer for sale for illuminating purposes any oil which shall emit a combustible vapor at a temperature of less than one hundred and five degrees (Fahrenheit) according to the test herein prescribed, nor any gasoline which is below sixty-eight degrees gravity (Beaume). Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall be subject to a penalty of not exceeding five hundred dollars fine, or imprisonment in the state penitentiary not exceeding one year, or both fine and imprisonment.

§ 11. RESPONSIBILITY FOR DAMAGE.] Whoever shall knowingly use, sell or cause to be sold unlawfully any of the illuminating oils specified in this act which are below one hundred and five degrees Fahrenheit, as tested by the official tests herein prescribed, 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. EXAMINATION OF DEPUTIES' ACCOUNTS.] It shall be the duty of the state inspector of oils to at least once in thirty 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 act are being violated. When the state inspector of oils shall discover any violation of the provisions of this act, he shall at once make complaint and institute prosecutions thereunder.

§ 13. REMOVALS.] 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 act, 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.] 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: Farimount, Wahpeton, Fargo, Grand Forks, Hankinson, Oakes and Ellendale. 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.

§ 14a. SALARIES OF INSPECTOR AND DEPUTIES TO TAKE EFFECT APRIL 1, 1906.] The provisions of section 1 of this act in so far as it relates to the salary of the oil inspector and his deputies shall not take effect until April 1, 1906.

§ 15. REPEAL.] All acts and parts of acts in conflict with this act are hereby repealed except as provided therein relating to the fees of the oil inspector and his deputies, and as to such fees the present existing laws shall remain in force until April 1, 1906.

§ 16. EMERGENCY.] Whereas, there is now no adequate law requiring the inspection of gasoline, therefore this act shall take effect and be in force from and after its passage and approval.

Approved March 7, 1905.

OPTOMETRY.

CHAPTER 142.

[S. B. No. 144—Hanna.]

OPTOMETRY.

AN ACT to Amend Sections 1, 2, 4, 5, 8, 13 and 16 of Chapter 130 of the Session Laws of North Dakota of 1903, Regulating the Practice of Optometry.

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

§ 1 AMENDMENT.] Section 1 of chapter 130 of the session laws of North Dakota for the year 1903, is hereby amended to read as follows:

§ 1. DEFINED.] The practice of optometry is defined as follows, namely: The employment of subjective and objective mechanical means to determine the accommodative and refractive states of the eye and the scope of its functions in general, and the applying of lenses as correctives.