

## CHAPTER 106.

[S. F. 84.]

AUTHORIZING JUDGES OF DISTRICT COURTS TO ADMINISTER  
OATHS.

AN ACT Authorizing the Judges of the District Courts to Administer Oaths.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. DISTRICT JUDGE MAY ADMINISTER OATHS.] Each judge of the district court is hereby authorized to administer oaths in addition to the officers and persons now authorized by law to administer oaths.

§ 2. EMERGENCY.] There being no law now in force authorizing the judges of district courts to administer oaths, an emergency is hereby declared to exist, and this act shall take effect and be in force from and after its passage and approval.

Approved February 20, 1890.

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OIL INSPECTION.

## CHAPTER 107.

[S. F. 142.]

## PRESCRIBING THE DUTIES OF OIL INSPECTOR.

AN ACT to Provide for the Inspection of Illuminating Oils Manufactured from Petroleum or Coal Oils.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. INSPECTOR, HOW APPOINTED—REMOVAL.] There shall be appointed by the Governor, by and with the advice and consent of the Senate, a suitable person, resident of this State, who is not interested in manufacturing, dealing or vending any illuminating oils manufactured from petroleum, as State Inspector of Oils, whose term of office shall be two years from the date of his appointment or until his successor shall be appointed and qualified;

*Provided*, That the first inspector appointed under the provisions of this act shall be appointed for the term of one year. The Governor shall have power to remove such person from office whenever it shall appear to him from good and sufficient evidence that such officer is guilty of malfeasance or nonfeasance in the performance of his duty, and may fill any vacancy arising from such removal, from resignation, death or removal from the State, by a new appointment.

§ 2. OILS, HOW INSPECTED.] It shall be the duty of said State Inspector of Oils to examine and test, as provided in this act, the quality of all mineral or petroleum oil or any oil, fluid or substance which is a product of petroleum or into which petroleum or any product of petroleum enters or is found as a constituent element, whether manufactured within this State or not, before the same is offered for sale or sold for consumption for illuminating purposes within the State; and such inspection shall be conducted as herein provided, in the following manner: The test shall be made in a test cup known as the "Foster cup" or "Foster's automatic oil tester;" and it is lawful to sell for illuminating purposes any oil or oils herein described to be consumed within the State, which bear a flash test of 100 degrees Fahrenheit, as shown by said apparatus.

§ 3. DEPUTIES—BONDS—DUTIES AND POWERS OF INSPECTORS—STATE INSPECTOR'S DECISION FINAL.] The person appointed State Oil Inspector shall, before he enters upon the duties of his office, take an oath or affirmation prescribed by the laws of this State, and shall execute a bond to the State of North Dakota in the sum of \$5,000, with such sureties as shall be approved by the Governor of this State, conditioned for the faithful performance of his duties under this act, which bond so approved shall be filed with the Secretary of State. The State Inspector, when so appointed and qualified, is empowered to appoint a suitable number of deputies who are not interested in manufacturing, dealing in or vending any illuminating oil manufactured from petroleum, who are empowered to perform the duties of inspection of oils and are liable to the same penalties as the State Inspector, and the State Inspector may remove any of the deputies for reasonable cause and appoint others in their place. Each deputy inspector appointed shall, before entering upon the duties of his office, take a like oath or affirmation, and execute a bond as aforesaid of not less than \$1,000 nor more than \$5,000, as may be directed by the State Inspector, which bond, with such sureties as shall be approved by the judge of probate, be, with his approval thereon, filed in the office of the clerk of the district court for the county to which such deputy inspector is appointed. Such State Inspector and his deputies are hereby empowered to and shall, upon application and the tender of fees herein provided, enter into any store, shop or warehouse in which such illuminating oils as are hereinbefore mentioned are kept for sale, and in-

spect and test such oils, branding the barrels in which the same are contained as provided in this act. Such State Inspector and his deputies are hereby empowered to, and shall upon application and the tender of fees herein provided, during business hours inspect and test all illuminating oils standing upon a railway track in what is known as a tank railroad car, in which it is shipped into this State, and the same shall not be drawn off into a warehouse tank or unloaded until so inspected, and no oil subject to test as herein provided shall be drawn off or removed from the tank, cask, barrel or other vessel in which it has been shipped into this State, until the same has been tested as herein provided. When said oil in the tank, railroad car, or in the cask, barrel or other vessel in which it has been shipped, has been inspected as provided above, no other inspection shall be necessary, but the inspector and his deputies shall, when such oil is put into barrels, brand the same as provided in this act without charge. The inspector and his deputies shall be authorized and empowered in case they, or either of them, shall find on the premises of any person, firm or corporation any illuminating oils which appear to be uninspected, to duly inspect the same, and shall charge therefor the fees allowed by this act, and shall have a lien on such oils so inspected for such fees, which lien may be enforced as provided in cases of liens on personal property. The decision of any deputy inspector on any barrel of oil shall be subject to appeal to the State Inspector, whose decision shall be final.

§ 4. FEES FOR INSPECTION.] Such State Oil Inspector or deputies shall be entitled to demand or receive from the owner or party calling upon him, or for whom he shall inspect, the sum of forty (40) cents for testing and marking a single barrel; thirty (30) cents each when not exceeding five in number; twenty-five (25) cents each when not exceeding ten in number, and fifteen (15) cents per barrel when the number of barrels is greater than ten submitted at one time for inspection. When the amount contained in any tank, cask or other vessel shall exceed fifty gallons, each fifty gallons shall constitute a barrel within the meaning of this section. The fees herein authorized shall have lien on the oils inspected as provided in Section 3 of this act. All oils in quantities less than fifty barrels shall be inspected at a railroad or river station, unless the party requesting such inspection shall pay the inspector in advance in addition to the compensation heretofore provided by law, ten (10) cents per mile for each mile necessarily traveled in going to and returning from the place where such inspection is to be made; the distance to be computed from the place of residence of such inspector.

§ 5. DUTY TO INSPECT WHEN CALLED ON—PENALTY FOR SELLING REJECTED OILS.] The State Inspector and his deputies shall provide themselves at their own expense with the necessary instruments and apparatus and stencils, brands and stamps for testing and marking the quality of illuminating oils, and when called upon

for that purpose shall promptly inspect all oils herein mentioned, and reject from illuminating purposes for consumption in this State, all oils which, by being adulterated with naphtha, benzine, parafine or other light oils or other substance, or for any other reason will not stand and be equal to the test herein prescribed. The State Inspector shall prepare the forms of all stencils, brands and stamps provided for in this act, and also all necessary regulations and rules for inspection, not inconsistent with the terms and provisions of this act, and such rules and regulations shall be binding on all his deputies in the State. The State Inspector and his deputies are required to test the quality of all mineral or petroleum oils, or any oil or any oil fluid or substance which is a product of petroleum, or into which petroleum or any product of petroleum enters or is found as a constituent element which is offered or intended to be offered, for sale for illuminating purposes in this State, and if upon such testing or examination the same meets the requirements herein specified, the State Inspector or his deputies shall affix by stencil or brand on any cask, barrel or other vessel containing the same, and by a stamp subscribed with his official signature, the word "approved," with the date of such inspection, and it will then be lawful for any manufacturer, vendor or dealer to sell the same to be consumed within this State as an illuminator; but if the oil so tested does not meet such requirements he shall mark by stencil or brand, in plain letters, on any cask, barrel or other vessel, containing the same and by a stamp subscribed with his official signature, the words "rejected for illuminating purposes," giving the date of such inspection, and it is unlawful for the owner thereof to sell oil so branded as rejected to be consumed within the State for illuminating purposes. Any person so selling or disposing of such oil shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be subject to a fine in any sum not exceeding five hundred (500) dollars, or be imprisoned in the county jail for a term not exceeding six months, or both, at the discretion of the court. *Provided*, That the State Inspector or his deputies may, in their discretion, without fee at any time subject such oils to a reinspection as provided in Section 2 of this act, and if on such reinspection any of such oil shall fail to meet the requirements of this act, the inspector or deputy shall erase the brand "approved" from the barrel or other vessel containing such oil, and shall brand thereon the words "rejected for illuminating purposes," and it shall thereafter be unlawful to sell or dispose of such oil, and the person or persons so offending shall be guilty of a misdemeanor and shall be subject to the penalty in this section provided.

§ 6. INSPECTOR TO KEEP RECORD.] It shall be the duty of every deputy inspector to keep a true and accurate record of all oil inspected by him, which record shall state the date of inspection, the number of barrels, so near as they can be ascertained, and the name of the person for whom inspected, and shall make to the

State Inspector at the end of each month a report containing a true transcript of such record, and it shall be the duty of the State Inspector to keep a like record of all oils inspected by him, and at the end of each year to make a report to the Secretary of State of the number of barrels so inspected, and the name of the person for whom inspected, also amount of inferior or unsafe oils for illuminating purposes, with the name of dealer in whose hands found, and from whom received by said dealer. Such record shall be open to the inspection of any and all persons interested.

§ 7. PENALTY FOR SELLING UNINSPECTED OILS, AND FOR FALSE BRANDS.] If any person sells or attempts to sell in this State any such oils to be consumed within the State for illuminating purposes, whether manufactured in the State or not, without first having the same inspected, as provided in Section 2 of this act, he shall be guilty of a misdemeanor, and on conviction thereof shall be fined in any sum not less than one hundred (100) dollars and not exceeding five hundred (500) dollars, and if any person falsely brands any cask, barrel or other vessel as provided in Section 5 of this act, or refills or uses any barrel having the inspection brand thereon without having the oil therein inspected, he shall be deemed guilty of a misdemeanor, and on conviction thereof he shall be subject to a fine in any sum not exceeding five hundred (500) dollars, or to be imprisoned in the county jail for a term not exceeding six months, or both, at the discretion of the court.

§ 8. SAME.] Whoever knowingly uses, sells, or offers for sale for illuminating purposes any oil or product of petroleum, except as hereinafter provided, before the same has been inspected and branded as provided in Section 5 of this act, shall be deemed guilty of a misdemeanor and subject on conviction thereof, to a fine in any sum not exceeding one hundred (100) dollars, or be imprisoned in the county jail for a term not exceeding sixty days, or both, at the discretion of the court.

§ 9. PENALTY FOR FAILURE TO DESTROY BRAND ON EMPTY CASK.] Any person selling or dealing in illuminating oils produced from petroleum who sells or disposes of an empty cask or barrel, which has been branded by the State Inspector or deputy before cancelling, removing and effacing the inspection brand on the same, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine in any [sum] not exceeding five (5) dollars for each cask or barrel thus sold or disposed of.

§ 10. PENALTY FOR ADULTERATION.] No person shall fraudulently adulterate with any substance whatever for the purpose of sale, or for use for illuminating purposes, any oil obtained from petroleum or obtained from coal in such manner as to render it dangerous to use, nor shall any person knowingly sell or offer for sale any oil obtained from petroleum or from coal, or from the product of either, for illuminating purposes within this State which, by reason of being adulterated, or for any reason whatever,

will flash at a temperature less than 100 degrees Fahrenheit's thermometer, under the test herein prescribed in this act. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and on conviction thereof shall be subject to a fine in any sum not exceeding five hundred (500) dollars, or be imprisoned in the county jail for a term not exceeding six months, or both, at the discretion of the court.

§ 11. LIABILITY FOR VIOLATION OF THIS ACT.] Whoever knowingly sells or keeps for sale to be consumed in the State any illuminating oil manufactured from petroleum or its products, and not inspected as provided in this act, shall be responsible to any party or parties injured for any violation of the provisions of this act by himself or by any clerk or person in his employ in the sale of such oil.

§ 12. COMPLAINTS FOR VIOLATION.] The State Inspector or any deputy who knows of the violation of any of the provisions of this act shall enter complaint before any court of competent jurisdiction against the person so offending, and in case the State Inspector or any deputy having knowledge of the violation of the provisions of this act neglects to enter complaint as required and provided for in this act, he shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not exceeding one hundred (100) dollars, and shall be removed from his office as such State Inspector or deputy inspector.

§ 13. INSPECTORS PROHIBITED FROM DEALING IN OILS.] No State Inspector or deputy inspector shall while in office traffic directly or indirectly, in any article in which petroleum or other product thereof is a constituent part which he is appointed to inspect, and in case of any violation of the provisions of this section, by the State Inspector or any deputy inspector, he shall be deemed guilty of a misdemeanor, and on conviction thereof, he shall be fined in any sum not exceeding five hundred (500) dollars and be removed from his office as such inspector or deputy.

§ 14. FURTHER PENALTY.] Any person violating any of the provisions of this act, for which violation a penalty is not herein expressly provided, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding five hundred (500) dollars or by imprisonment in the county jail for a period not exceeding six months, or by both such fine and imprisonment in the discretion of the court.

§ 15. WHAT EXEMPT FROM THIS ACT.] Nothing in this act shall prevent the use of gas or vapor from oils for illuminating purposes when the oils from which said gas or vapor is generated are contained in closed reservoirs outside of the building illuminated or lighted by said gas, nor shall anything in this act be so construed as to prevent the use in street lamps of lighter products of petroleum, such as gasoline, benzine, benzole and naphtha.

§ 16. PROSECUTIONS.] All prosecutions under this act shall be prosecuted in the name of the State of North Dakota.

§ 17. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Approved March 10, 1890.

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## PHARMACY.

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### CHAPTER 108.

[S. F. 123.]

#### REGULATING THE PRACTICE OF PHARMACY.

AN ACT to Regulate the Practice of Pharmacy, the Licensing of Persons to Carry on Such Practice, and the Sale of Poisons in the State of North Dakota.

*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. WHO MAY COMPOUND.] That it shall be unlawful for any person other than a registered pharmacist to retail, compound or dispense drugs, medicines or poisons, or to institute or conduct any pharmacy, store or shop for retailing, compounding or dispensing drugs, medicines or poisons, unless such person shall be a registered pharmacist, or shall employ and place in charge of said pharmacy, store or shop, a registered pharmacist within the full meaning of this act, except as hereinafter provided for.

§ 2. WHO MAY BE REGISTERED PHARMACISTS.] In order to be registered within the full meaning of this act, all persons must either be graduates in pharmacy, or shall have been engaged in the dispensing of drugs and medicines for a period of not less than four years in the preparation of physician's prescriptions, or shall be licentiates in pharmacy.

§ 3. LICENTIATES IN PHARMACY, WHO QUALIFIED.] Licentiates in pharmacy shall be such persons as have had two successive years' practical experience in drug stores wherein the prescriptions of medical practitioners are compounded, and have sustained a satisfactory examination before the State Board of Pharmacy, hereinafter mentioned. The Board of Pharmacy may grant certificates of registration to graduates in pharmacy who have obtained a diploma from such colleges or schools of pharmacy as shall be approved by said board, or to licentiates or such other state or territorial boards as it may deem proper without further examination.

§ 4. BOARD OF PHARMACY, HOW APPOINTED—VACANCIES, HOW FILLED.] Upon the passage of this act the North Dakota Phar-