

AZ. GOV. DOCS.

AHC 1.5

S71

929

Agriculture & horticult

B

FILE ARIZONA ROOM

ARIZONA COLLECTION
STATE UNIVERSITY LIBRARY

Published by the

Arizona Commission

of

Agriculture and Horticulture
NON CIRCULATING

Phoenix, Arizona

STATE OF ARIZONA
PUBLICATIONS

OFFICE OF STATE ENTOMOLOGIST

EFFECTIVE JULY 1, 1929

ARIZONA STATE UNIVERSITY



A15041494217

*ARIZONA COMMISSION OF
AGRICULTURE AND HORTICULTURE*

OFFICE OF STATE ENTOMOLOGIST

*P. O. Box 2006
Phoenix, Arizona*

STATE OF ARIZONA
ARIZONA COMMISSION OF AGRICULTURE
AND HORTICULTURE

Office of
State Entomologist

CHAPTER 5

REVISED STATUTES OF ARIZONA 1928
AGRICULTURE AND HORTICULTURE

ARTICLE 1. COMMISSION OF
AGRICULTURE AND HORTICULTURE

Sec. 127. Commission Created; Members, Qualifications and Appointment. There is hereby established the Arizona Commission of Agriculture and Horticulture, to consist of three members to be appointed by the governor, and to receive a salary of three hundred dollars each per annum. Each member shall be a qualified elector and the owner of either a commercial orchard or otherwise improved agricultural land within the state and whose principal occupation and business shall be fruit growing or farming, provided that one member shall be identified with the cotton growing industry. If any member shall cease to possess any qualification above specified then his office is automatically vacated. The term of each member shall be six years beginning July 1st and ending June 30th six years thereafter, to be so appointed that the term of one member expires every even numbered year. Each commissioner shall take and file the oath of office, and give a bond to the state, to be approved by the governor, in the sum of five hundred dollars. Any commissioner may be removed from office by the governor for cause. (Sec. 2, Ch. 27, L. '12; 3304 R. S. '13, am.: Ch. 137 L. '19; 3314, R. S. '13, cons. and rev.)

Sec. 128. Meetings; Election of Officers; Annual Report. The said commission shall hold a meeting within fifteen days after July 1st of each even numbered year at which meeting they shall elect from their own members a chairman who shall hold office for the ensuing two years, and shall also elect a secretary who shall give bond to the State of Arizona in the sum of five hundred dollars to be approved by the governor. The commission may hold such further meetings as necessary and as be fixed by the commission. Special meetings may be held upon call of the chairman or of any two members. At the close of each fiscal year the commission shall make an annual report to the governor. (Sec. 3305, am., Ch. 137 L. '19; 3306-7, R. S. '13, cons. and rev.)

Sec. 129. State Entomologist; Definition of Terms; Powers of Commission. The commission shall appoint an entomologist qualified by scientific training and practical experience, with the official title of state entomologist of Arizona, and at such salary as the commission may fix.

When used in this article, unless otherwise shown by the context, the words "crop pests" shall mean and include all insects, mites, spiders, and every other animal organism which shall be found to be injurious, or likely to become injurious, in Arizona to any domesticated or cultivated plant, or to the product of any such plant, and which shall be listed in the Arizona list of dangerous plant pests and plant diseases; "crop diseases" shall mean and include all fungus, bacteria, or other organism of every kind, and any unknown cause which is or may be found to be injurious, or likely to be or to become injurious, in Arizona to any domesticated, or cultivated plant, or to the product of any such plant, and which shall be likewise listed; "plant" shall mean and include every kind of vegetation, wild or domesticated, and any part thereof, as well as the seed, fruit, or

any other natural product of such vegetation. The entomologist and the commission shall cooperate with the secretary of agriculture of the United States and his representatives in interstate matters pertaining hereto.

The commission shall have full power and authority: To deal with crop pests and crop diseases, and with all plants which shall be infested or infected with any crop pests or diseases, or which shall be the host or the carrier or the means of propagating or disseminating any crop pest or disease; to make and enforce all rules, regulations, and orders necessary to carry out the purposes of this article or which the entomologist believes necessary to prevent the introduction of any crop pest or disease into the state, or to prevent the propagation or dissemination of any crop pest or disease from one place or locality within this state to another place or locality therein, or to control, eradicate, or to suppress any crop pest or disease; to make and enforce all rules or regulations recommended by the entomologist, (a) in fixing the terms and conditions upon which plants, or any other article or thing of any nature whatsoever, likely to be infested or infected with or be the carrier of, or the means of propagating or disseminating any crop pest or disease, may be shipped or brought into this state, or moved from one locality or place to another locality or place therein, or (b) in prohibiting any plants, or things, likely to be infected with, or the carrier of, or the means of spreading, propagating, or disseminating any crop pest or disease, from being shipped, or brought into this state, or moved from one locality or place to any other locality or place therein. (Sec. 6, Ch. 87, L. '12; 3308, R. S. '13, am.; 1, Ch. 90, L. '27, rev.)

Sec. 130. Oath, Bond, Powers and Duties of the Entomologist. The entomologist shall take the official oath and furnish bond to the state, to be approved by the governor, in the sum of

twenty-five hundred dollars for the faithful performance of his duties. He shall, with the advice and consent of the commission, appoint and fix the compensation of all clerks, inspectors, and employees necessary to carry out the provisions of this article and the rules, regulations, and orders made pursuant hereto, who shall be under his direction and control. The entomologist shall keep the commission informed concerning dangers to the agricultural and horticultural interests of the state from crop pests and diseases; act as technical and expert adviser to the commission on all matters pertaining to his office and see that the laws and rules, regulations and orders of the commission are faithfully enforced and executed. During the intervals between the meetings of the commission, the entomologist may take all necessary and proper means, by action in court or otherwise, to enforce the provisions of this article, and the rules, regulations, or orders of the commission. (Sec. 5, Ch. 87, L. '12; 3309, R. S. '13, am.; 2, Ch. 90 L. '27, rev.)

Sec. 131. List of Dangerous Plant Pests and Diseases; Distribution. An Arizona list of dangerous plant pests and plant diseases shall be kept on file in the office of the commission and same may be amended by the entomologist when approved by the commission, certified to by the chairman and attested by the secretary thereof. The entomologist shall, within ninety days after its adoption or amendment mail a copy of the same to each common carrier or persons or property shown by the records of the corporation commission to be operating within the state at that time, and to each county and local farm bureau then organized in Arizona. He shall prepare and preserve in his office a record showing the dates and places when and where a copy of each such list or amended list was mailed, and the name and address of each carrier or bureau to which copies were mailed, together with all acknowl-

edgments of receipt of same. He shall at least once a year, prepare and have printed bulletins containing such information as he deems proper, including said list, and the rules, regulations and orders of the commission revised to the date of publication, and mail copies thereof to each said carrier and farm bureau. (Sec. 7, Ch. 87, L. '12; 3310, R. S. '13, am.; 3, Ch. 90, L. '27, rev.)

Sec. 132. Prevention and Suppression of Plant Pests and Diseases; Declared Nuisances. The entomologist is empowered and directed to enter in or upon any premises, or other place, or any train, vehicle, or other means of transportation within, or entering the state, suspected to contain or harbor, or to have present therein or thereon any one or more of the plant pests or plant diseases named in the said list; to make inspections to determine if any such plant pest or disease be present; to open, without unnecessary injury to property, any box, container, or package, and at any time during business or operating hours, and after notifying the owner or person in charge if to be found in the county, to open any car, enclosure or building which he may suspect to contain, harbor or to have present therein or thereon any pest or disease mentioned in the list and to make such examination and inspection of the contents as may be necessary to determine if any such pest or diseases be present. All plants and articles which shall be found to be infested or infected with any pest or disease mentioned in the list or which shall be the host or the carrier or the means of disseminating or propagating any such pest or disease is hereby declared to be a public nuisance, and may be abated, suppressed, controlled, or regulated, as provided in this article, and the rules, regulations, and orders of the commission. (See. 3311, R. S. '13, am.; 4, Ch. 90, L. '27, rev.)

Sec. 133. Abatement of Pests and Diseases. Whenever any plant or other thing shall be

found to be infested or infected by or to contain or harbor any such pest or disease, the entomologist shall place thereon a written warning or notice, stating that the same is held under quarantine by the commission, and that all persons are forbidden to remove or otherwise disturb such plant or thing pending further action on the part of the entomologist, and shall, as soon as practical, notify the owner or person in charge of such plant or thing, if to be found in the county, in writing of the fact of the finding of such pest or disease, stating the name thereof, and giving a sufficient description by name, location or otherwise, of the plant or thing to readily identify the same. If, in the opinion of the entomologist, the danger to the agricultural and horticultural interests of the state be eminent, if the nuisance caused by such a plant or thing is not speedily abated or suppressed, and shall find that it is practical to summarily abate said nuisance, either by the destruction of the plant or thing, or by the treatment thereof so as to destroy or eradicate such pest or disease without actually destroying such plant or thing, the entomologist shall in writing direct the owner or person in charge of such nuisance, if to be found in the county, to forthwith, and at his own expense, abate and suppress said nuisance in the manner provided in such written direction. If such owner or person in charge fail or neglect to comply with such direction for a period of five days after the date on which such direction shall have been delivered to, or served upon him, then the entomologist shall summarily abate said nuisance in the manner specified in such written direction. If the owner or person in charge or control of such nuisance is a non-resident of the state or cannot, after reasonable diligence by the entomologist be found within the county where such nuisance exists, the entomologist shall publish the notice and the direction one time in any newspaper published in the county, and shall also post a copy

of same at, on, or in the immediate vicinity of said nuisance, and at the expiration of seven days from the first publication and posting, the entomologist shall abate said nuisance in the manner specified in said direction. When any such nuisance is abated by the entomologist the expense thereof shall be borne by the state, but where the abatement does not involve the destruction of the plant or thing and the same shall have any value after the pest or disease shall have been eradicated therefrom, then the state shall have a first lien and claim thereon for the payment of any expenses incurred in the abatement of the nuisance. The entomologist shall notify the owner or person in charge of the amount of said expenses, and that unless the amount of said expenses is paid within ten days after the date of the service of such notice upon such owner or person in charge, the plant or thing will be sold at public sale, and the proceeds, or so much thereof as may be necessary, applied in the payment of such expenses. Such notice shall be personally served or posted as required herein for notices to abate. If the owner or person in charge of such plant or thing, shall fail to pay said charges within the time specified in such notice, the entomologist shall give public notice of the time and place of sale, with a description of the plant or thing to be sold, and the amount of charges against the same, which shall include all costs of publication, posting, and service of notices. Such notice of sale shall be published and posted as hereinbefore provided for the publication and posting of direction to suppress the nuisance. The owner or person in charge of any plant or thing constituting such nuisance, may, in writing waive services of all directions and notices in connection with the abatement of the same, or of the sale.

If the entomologist believes the danger to the agricultural and horticultural interests of the state be not imminent, or if impractical for

any reason to summarily abate such nuisance, then, the direction shall not require summary destruction, or eradication, but shall set forth the measure required to be taken by the owner or person in charge to control, suppress, or eradicate and shall require such person, at his own expense, to take and comply with said measures as specified in such direction and subsequent directions. Such directions shall be made, given, and served as hereinbefore prescribed for summary abatement, and if the same be not complied with, the entomologist may execute said measures and the expenses thereof shall be charged against the state. If the plant or thing constituting such nuisance, shall consist only of personality, and is not attached to any land or contained in any building enclosure, vehicle, or place belonging to the person, the state shall have the same lien, enforceable in the same manner as is hereinbefore provided in the case of the summary abatement of such nuisance; but if such plant or thing be attached to land, or contained in any building enclosure or vehicle, the property of such person, then such lien shall also attach to such land, building, enclosure or vehicle, and the entomologist shall prepare and file in the office of the recorder where such property is situated, a notice of said lien, setting forth the amount thereof, the name of the owner or person in charge, and stating that the amount of said lien must be paid within thirty days from the filing of such notice, otherwise said property will be subjected to payment of same. Such lien shall be prior to any and all other liens against said property except liens for state and county taxes. If the amount of such lien is not paid within said thirty days, then the county attorney shall, on the written request of the entomologist, foreclose such lien against the property covered thereby as other foreclosures.

If the plants constituting such nuisance consist of growing crops, orchards, vines or shrub-

bery, and the infestation or infection be by a plant pest or disease of such nature, or if the location of such plants with respect to other plants not infested or infected, but a part of the same crop, or growing immediately adjacent to, the infested or infected plants, that the entomologist believed it impractical to abate the nuisance, suppress, eradicate, or control such pest or disease without destroying the whole of the crop, orchard, vines, or shrubbery of which such infested or infected plants are a part, without serious injury to uninfected or uninfested plants, he may adopt measures proper to control, eradicate and suppress such pest or disease, even though involving a destruction of such crops, trees, vines, and shrubbery, or an injury to uninfected or uninjected plants a part of such crops, trees, vines, or shrubbery. Before proceeding in such case with the abatement of such nuisance or suppressing, eradicating or controlling such pest or disease he shall serve written notice upon the owner or person in charge of the premises on which the same are located, alleging the infestation or infection and directing such person to appear before the commission at a time and place within the county where such nuisance exists, and show cause, if any, why such crop, orchard, vines or shrubbery should not be destroyed in whole or in part. Such notice shall be personally served on such person, if to be found within the county where such nuisance exists, at least five days prior to the hearing. If such person be a non-resident or cannot be found in the county, then such notice shall be published in a newspaper of the county, for at least seven days prior to the hearing. In addition, a copy thereof shall be posted in a conspicuous place on or at the premises involved for a like period. The commission shall meet pursuant to the notice and give a public hearing and any interested party may appear and be heard, either in person or by attorney. The commission shall preserve a record of all evidence in-

troduced, and at the conclusion shall enter on its minutes an order conforming to its findings. Any crop, or portion thereof, the commission destroys, or has destroyed, or forces to be destroyed, shall be paid for out of the general fund. Said payments to be equal to sixty per cent of its value at the time of destruction. If the damages are disputed the commission may settle it by arbitration.

Whenever any pest or disease is discovered within this state, or any section of an adjoining state, or country, which the entomologist believes menaces or threatens serious injury to horticultural or agricultural interests in this state, unless such pest or disease be eradicated and suppressed, or controlled as not to cause such threatened injury, and if the entomologist believes it impractical to prevent such threatened injury except by destruction in whole or in part of uninfested or uninfected plants within this state, which would, if not destroyed or injured, permit such pest or disease to be introduced into this state or of causing its spread and dissemination, either within or without the state, the entomologist shall give public notice of such menace stating the character thereof, its present location, and the crops to which it is injurious. Such notice shall direct all persons interested to appear at the office of the commission at a time therein specified to consider measures for the suppression, eradication, or control of the threatened injury; to show cause, if any there be, why the commission should not order the destruction or injury of all or such portion of the plants, which, if not destroyed or injured, will become the means of such pest or disease being introduced into the state or of spreading it to other places, or show cause why a quarantine zone should not be created. Publication of such notice shall be given by causing it to be published in at least one newspaper for at least one insertion in each county wherein the entomologist deems it

necessary to destroy or injure such plants, and in a newspaper published in Phoenix. Copies of said notice shall be mailed to each common carrier and farm bureau to whom the list is mailed. Such publication and the mailing of said notices shall be at least seven days prior to the hearing. At the time and place fixed for the hearing, the commission shall meet and give a public hearing, at which hearing any interested party may be heard, either in person or by attorney. The commission shall preserve a written record of all evidence introduced at the hearing. If the commission finds a menace exists it may make and enforce rules, orders and regulations and create and fix quarantine zones or districts, to eradicate, suppress, or control the same. Whenever the commission finds the danger causing the creation of a prohibited zone is no longer present, it shall revoke any order creating such zone, and may by order entered in its minutes change or modify its orders prescribing any zone or the regulations applicable thereto without notice or hearing; provided that no additional territory shall by any such subsequent order be added to or included within the boundaries of any such zone, except by notice and hearing as required for the creation of such a zone. After the date on which the commission enters its order fixing any zone, it shall be unlawful to plant, or grow, or cultivate, or to have present in, or to transport from, or into said district any plant of the kind specified in such order except in accordance with the said order, or subsequent orders. If such order prohibits the growing of any plant within such zone, then after the date of the entry of such order it shall be unlawful to plant, grow, cultivate, or have present in any stage of development within such zone, the plant specified therein. (Sec. 8, Ch. 87, L. '12; 3311, R. S. '13, am.; 4, Ch. 90, L. '27, rev.)

Sec. 134. Violations Defined; Penalty. It shall be unlawful to wilfully refuse or know-

ingly neglect to comply with any rule, regulation or order promulgated by the commission for the protection of the agricultural or horticultural interest, or promulgated for the control of any quarantine zone established by the entomologist or the commission. Any person obstructing or conspiring to obstruct the commission, or the entomologist, or any of his representatives, in the performance of their duties; or who violates any provisions of this article shall be guilty of a misdemeanor and fined not less than fifty nor more than five hundred dollars and each separate violation shall be a separate offense. (Sec. 8, Ch. 87, L. '12; 3311, R. S. '13, in part, am.; 4 Ch. 90 L. '27, rev.)

Sec. 135. Nursery Stock Imported to be Labeled; Certificate of Inspection. All nursery stock shipped into Arizona from any other state or country shall be prominently labeled with the name and address of both the shipper and consignee, and shall be accompanied by a certificate of inspection dated within one year, or a copy of such certificate, by a duly authorized official of the state or country in which said stock was grown; and all shipments of or containing plants, fruits, vegetables, or seeds, not grown in the locality from which shipment was made, must, in addition, specify where such plants or products were grown. Shipments into the state shall conform to rules or regulations promulgated by said commission. (Sec. 9, Ch. 87, L. '12; 3312, R. S. '13, rev.)

Sec. 136. Expenditures, How Paid. All vouchers for the expenditure of money under the provisions of this chapter, must be signed by the chairman and one other member of the commission, and attested by the secretary; and be paid as other claims against the state, out of the appropriation for the commission. (Sec. 10, Ch. 87, L. '12; 3312, R. S. '13, am.; 57 Ch. 35, L. '22, rev.)

Sec. 137. Quarantine Regulations; Powers of Officers. When the commission believes the

importation from designated countries, states or localities, of specified varieties of plants, fruits, vegetables, seeds, agricultural or horticultural products, is dangerous to the agricultural or horticultural interests of Arizona because of the likelihood of infestation with crop pests or diseases, the commission may declare quarantine against all such varieties from such places, and common carriers concerned shall be immediately notified of the declaration of quarantine, and are prohibited from bringing such quarantined articles from such designated places, into the state.

Any person who brings or causes to be brought into the state, any plants, fruits, vegetables, agricultural or horticultural products, shall immediately after the arrival thereof, notify the inspector at the place where the same may be received, and hold the same without unnecessarily moving or placing such articles, where they may be harmful, for the immediate inspection of such inspector, and shall not deliver same until furnished with a certificate of release by the said inspector. The members of said commission, the entomologist, or the inspector, may enter into any place where such products, or articles are received, for the purpose of making the investigation or examination. (Sec. 14, Ch. 87, L. '12; 3317, R. S. '13, rev.)

Sec. 138. Destruction of Infected Shipments. When any shipment or portion of shipment of such products or articles imported or brought into the state is found to be infested by, or to harbor insect or other pests dangerous to the interests of the state, the entomologist shall notify the shipper, consignee, or owner, and shall require the shipper, consignee or owner, immediately to reship from the state, or destroy such shipment, in whole or in part as said inspector deems necessary, at the option of the owner, or agent, and at his expense. In the event that the shipper, consignee, or owner shall

neglect or refuse to reship from the state, or destroy such infested shipment or portion thereof, the entomologist shall destroy such infested shipment or portion of shipment. (Sec. 15, Ch. 87, L. '12; 3318, R. S. '13, rev.)

Sec. 139. Sale or Transportation of Infected Plants Forbidden. It shall be unlawful to offer for sale, sell, give away, or transport, except from the state as provided in the preceding section, any plants, fruits, vegetables, or seeds known to be infested by dangerously injurious insects or plant diseases, or known to harbor any pest whatsoever, provided that in the case of apples or pears infested by the codling moth, plain evidence of injury by this insect to any such fruit or fruits shall constitute a condition of infestation, and whenever the commission believes the protection of horticultural interests requires such action, fruit commonly known as "wormy" together with all other apples or pears in the same container or lot, together with the containers shall be declared a public nuisance by the entomologist, and the offering for sale, selling, giving away, or transporting of such fruit after such declaration shall be unlawful. (Sec. 17, Ch. 87, L. '12; 3319, R. S. '13, rev.)

Sec. 140. "Nursery Stock" and "Shipment" Defined. Wherever in this article the term "nursery stock" is used, it shall be construed to include ornamental or fruit producing trees, shrubs, and perennial vines which are commonly considered and inspected as nursery stock, and the term "shipment" shall, unless otherwise shown by the context, be construed to include anything which may be the host or may contain or carry or may be susceptible of containing, carrying or having present on, in or about it any plant pest or plant disease mentioned in the list brought into the state or transported within the state, by any person. (Sec. 16, Ch. 87, L. '12; 3321, R. S. '13, am.; 6 Ch. 90 L. '27, rev.)

Effective July 1st, 1929.