

[CHAPTER 623.]

AN ACT

To establish and promote the use of standards of classification for tobacco, to provide and maintain an official tobacco inspection service, and for other purposes.

August 23, 1935.
[H. R. 8026.]
[Public, No. 314.]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when used in this Act—

(a) "Person" includes partnerships, associations, and corporations, as well as individuals.

(b) "Secretary" means the Secretary of Agriculture of the United States.

(c) "Inspector" means any person employed, licensed, or authorized by the Secretary to determine and certify the type, grade, condition, or other characteristics of tobacco.

(d) "Sampler" means any person employed, licensed, or authorized by the Secretary to select, tag, and seal official samples of tobacco.

(e) "Weigher" means any person employed, licensed, or authorized by the Secretary to weigh and certify the weight of tobacco.

(f) "Tobacco" means tobacco in its unmanufactured form.

(g) "Auction market" means a market or place to which tobacco is delivered by the producers thereof, or their agents, for sale at auction through a warehouseman or commission merchant.

(h) Words in the singular form shall be deemed to import the plural form when necessary.

(i) "Commerce" means commerce between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; or between points within the same State, Territory, or possession, or the District of Columbia, but through any place outside thereof; or within any Territory or possession, or the District of Columbia. For the purposes of this Act (but not in any wise limiting the foregoing definition) a transaction in respect to tobacco shall be considered to be in commerce if such tobacco is part of that current of commerce usual in the tobacco industry whereby tobacco or products manufactured therefrom are sent from one State with the expectation that they will end their transit, after purchase, in another, including, in addition to cases within the above general description, all cases where purchase or sale is either for shipment to another State or for manufacture within the State and the shipment outside the State of the products resulting from such manufacture. Tobacco normally in such current of commerce shall not be considered out of such current through resort being had to any means or device intended to remove transactions in respect thereto from the provisions of this Act. For the purpose of this paragraph the word "State" includes Territory, the District of Columbia, possession of the United States, and foreign nations.

SEC. 2. That transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; that such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; that the classification of tobacco according to type, grade, and other characteristics affects the prices received therefor by producers; that without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; that such fluctuations constitute a burden upon commerce and make

Tobacco Inspection
Act.
Definitions.
"Person."

"Secretary."

"Inspector."

"Sampler."

"Weigher."

"Tobacco."

"Auction market."

The singular form to
denote plural when
necessary.

"Commerce."

"State."

Declaration of neces-
sity of regulation.

the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

Investigations authorized.

Determination of official standards.

Proviso.
Tentative standards authorized.

Modifications.

Demonstration of official standards, samples, etc.

Proviso.
Charges therefor.

Auction markets; designation of.

Referendum of sellers.

Determination of eligibility to vote.

Inspection and certification of tobacco prior to sale.

Temporary emergency waiver allowed.

Proviso.
Inability to provide inspection.

No inspection fee to be charged.

Right to prevent transactions.

Sampling, inspection, weighing, etc., upon request.

SEC. 3. That the Secretary is authorized to investigate the sorting, handling, conditioning, inspection, and marketing of tobacco from time to time, and to establish standards for tobacco by which its type, grade, size, condition, or other characteristics may be determined, which standards shall be the official standards of the United States, and shall become effective immediately or upon a date specified by the Secretary: *Provided*, That the Secretary may issue tentative standards for tobacco prior to the establishment of official standards therefor, and he may modify any standards established under authority of this Act whenever, in his judgment, such action is advisable.

SEC. 4. That the Secretary is authorized to demonstrate the official standards; to prepare and distribute, upon request, samples, illustrations, or sets thereof; and to make reasonable charges therefor: *Provided*, That in no event shall charges be in excess of the cost of said samples, illustrations, and services so rendered.

SEC. 5. That the Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purpose of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this Act, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this Act shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market.

SEC. 6. That the Secretary, independently or in cooperation with other branches of the Government, State agencies, or persons, whether operating in one or more jurisdictions, is authorized to employ and/or

license competent persons as samplers to take official samples of tobacco, or as weighers to weigh and certify the weight of tobacco, or as inspectors of tobacco to determine and certify, upon the request of the owner or other financially interested person, the type, grade, weight, condition, and/or such other facts as the Secretary may deem necessary.

The Secretary is authorized to fix and collect such fees or charges in the administration of this section as he may deem reasonable, and the moneys collected, except as provided in this section, shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts. Fees or charges collected under an agreement with a State, municipality, or person, or by an individual licensed to inspect or weigh or sample tobacco under this Act, may be disposed of in accordance with the terms of such agreement or license. Charges for expenses for travel and subsistence incurred by inspectors or weighers or samplers employed by the Secretary when required to be paid by the applicant for service, may be credited to the appropriation, or any other funds authorized in this Act from which they were paid.

This section is intended merely to provide for the furnishing of services upon request of the owner or other person financially interested in tobacco to be sampled, inspected, or weighed and shall not be construed otherwise.

SEC. 7. That the Secretary shall provide for such reinspection or appeal inspection of tobacco as he may deem necessary for the confirmation or reversal of certificates issued under this Act. Each inspection certificate issued under this Act, unless invalidated or superseded in accordance with the regulations of the Secretary, shall be received in all courts and by all officers and employees of the United States as prima facie evidence of the truth of the statements therein contained.

SEC. 8. That warehousemen shall provide space on warehouse tickets or other tags or labels used by them for showing the grade of the lot covered thereby as determined by an authorized tobacco inspector under this Act. The Secretary may prescribe, by regulation, the form in which such certification of grade shall be shown, and may require that a copy of such warehouse ticket, tag, or label shall be furnished to the Secretary.

SEC. 9. That the Secretary is authorized to collect, publish, and distribute, by telegraph, mail, or otherwise without cost to the grower, timely information on the market supply and demand, location, disposition, quality, condition, and market prices for tobacco.

SEC. 10. It shall be unlawful—

(a) For any person to use the words "United States", "Government", or "Federal", or any abbreviation thereof, in, or in connection with, any statement relating to the grade of tobacco when such grade is not, in fact, one of the grades for tobacco according to the standards of the United States.

(b) For any person falsely to make, issue, alter, forge, or counterfeit, or aid, cause, procure, or assist in or be a party to the false making, issuing, altering, forging, or counterfeiting of any certificate, stamp, tag, seal, label, or other writing purporting to be issued or authorized under this Act.

(c) For any person, not an authorized inspector under this Act, to issue a certificate or report stating the type, grade, size, or condition of any lot of tobacco to be in accordance with the standards of the United States therefor which is of such color, size, arrangement, or wording as to be mistaken for a certificate issued under this Act, unless such certificate states in prominent letters in its heading that it is not issued under authority of the United States.

Fees.

Travel, etc., expenses.

Section construed.

Appeal inspections.

Judicial recognition of inspection certificates.

Warehouse tickets. Grade to be shown.

Market news service authorized.

Unlawful acts.

Unauthorized use of designated words.

Counterfeiting, etc.

Issuing deceptive certificates.

Misconduct, etc., of official.

(d) For any person employed, designated, or licensed by the Secretary as an inspector, sampler, or weigher of tobacco under this Act knowingly to inspect, sample, or weigh improperly, or to issue any false certificate under this Act, or to accept money or other consideration, directly or indirectly, for any neglect or improper performance of duty as an inspector, sampler or weigher.

Unduly influencing, resisting, etc., any inspector, etc.

(e) For any person improperly to influence or to attempt improperly to influence or forcibly to assault, resist, impede, or interfere with any inspector, sampler, weigher, or other person employed, designated, or licensed by the Secretary in the execution of his duties under this Act: *Provided, however,* That nothing herein shall operate to prevent the owner of tobacco from appealing or protesting, in accordance with regulations of the Secretary, the grade certified for his tobacco.

Proviso.
Appeal or protest permitted.

False representation.

(f) For any person falsely to represent or otherwise indicate that he is authorized by the Secretary to inspect, sample, or weigh tobacco under this Act.

Substitution, etc., for inspected tobacco.

(g) For any person to substitute, or attempt to substitute, following inspection or sampling or weighing under this Act, other tobacco for tobacco actually inspected or sampled or weighed, or in the case of tobacco inspected in auction warehouses for any person not so authorized by the Secretary to remove any certificate of grade from any lot of tobacco prior to the sale of such lot.

False statements.

(h) For any person falsely to represent that tobacco has been inspected, sampled, or weighed under this Act; or knowingly to have made any false representation concerning tobacco inspected under this Act; or knowing that tobacco is to be offered for inspection or sampling under this Act to load, pack, or arrange such tobacco in such manner as knowingly to conceal foreign matter or tobacco of inferior grade, quality, or condition; or for any person knowing that tobacco has been so loaded, packed, or arranged, to offer it for inspection or sampling without disclosing such knowledge to the inspector or sampler before inspection or sampling.

Altering official samples.

(i) For any person willfully to alter an official sample of tobacco by removing or plucking leaves or otherwise, or for any person knowing that an official sample of tobacco has been so altered, thereafter to represent such sample as an official sample.

Violations may be published.

SEC. 11. The Secretary is authorized to publish the facts regarding any violation of this Act.

Punishment.

SEC. 12. That any person violating any provision of sections 5 and 10 of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

Corporations, etc. Responsibility for acts of employees.

SEC. 13. In construing and enforcing the provisions of this Act; the act;¹ omission, or failure of any agent, officer, or other person acting for or employed by an association, partnership, corporation, or firm, within the scope of his employment or office, shall be deemed to be the act, omission, or failure of the association, partnership, corporation, or firm, as well as that of the person.

Rules and regulations to effectuate purposes of Act.

SEC. 14. That the Secretary is authorized to make such rules and regulations and hold such hearings as he may deem necessary to effectuate the purposes of this Act and may cooperate with any other Department or agency of the Government; any State, territory, district, or possession, or department, agency, or political subdivision thereof; purchasing and consuming organizations, boards of trade, chambers of commerce, or other associations of business men or trade organizations; or any person, whether operating in one or more jurisdictions in carrying on the work herein authorized; and he shall have the power to appoint, suspend, remove, and fix the compensation

Cooperation with other agencies.

Personnel.

¹ So in original.

of all officers, employees, and licensees not in conflict with existing law, except that inspectors and supervisors employed hereunder on a seasonal basis and working for periods of six months or less during any twelve-month period may be appointed without reference to the provisions of the Classification Act of 1923, as amended. The Secretary is authorized to make such expenditures for rent outside of the District of Columbia, printing, binding, telegrams, telephones, books of reference, publications, furniture, stationery, office and laboratory equipment, travel, tobacco for use in preparing and demonstrating standards, and other supplies and expenses, including reporting services, as shall be necessary to the administration of this Act in the District of Columbia and elsewhere, and as may be appropriated for by Congress; and there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for administering this Act.

SEC. 15. That in carrying on the work herein authorized, the Secretary, or any officer or employee designated by him for such purpose, shall have power to hold hearings, administer oaths, sign and issue subpoenas, examine witnesses, and require the production of books, records, accounts, memoranda, and papers. Upon refusal by any person to appear, testify, or produce books, records, accounts, memoranda, and papers in response to a subpoena, the proper United States district court shall have power to compel obedience thereto.

SEC. 16. That if any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 17. That any duties devolving upon the Secretary of Agriculture by virtue of the provisions of this Act may with like force and effect be executed by such officer or officers, agent or agents, of the Department of Agriculture as the Secretary may designate for the purpose.

SEC. 18. That this Act may be cited as "The Tobacco Inspection Act."

Approved, August 23, 1935.

[CHAPTER 624.]

JOINT RESOLUTION

Providing for the preparation and completion of plans for a comprehensive observance of the one hundred and fiftieth anniversary of the formation of the Constitution of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there is hereby established a commission, to be known as the "United States Constitution Sesquicentennial Commission" (hereinafter referred to as the "Commission") for the celebration of the one hundred and fiftieth anniversary of the formation of the Constitution, and to be composed of eighteen commissioners, as follows: The President of the United States; the President of the Senate and the Speaker of the House of Representatives, ex officio; five persons to be appointed by the President of the United States; five Senators to be appointed by the President of the Senate; and five Representatives by the Speaker of the House of Representatives.

SEC. 2. The commissioners shall receive no compensation for their services but shall be paid their actual and necessary traveling, hotel, and other expenses incurred in the discharge of their duties.

U. S. C., p. 85.
Rent.
Expenses authorized.

Post, pp. 1115, 1480.

Hearings, adminis-
tration of oaths, etc.

Subpoenas.

Separability of Act.

Delegation of duties.

Short title.

August 23, 1935.
[S. J. Res. 59.]
[Pub. Res., No. 53.]

United States Con-
stitution Sesquicenten-
nial Commission.
Establishment.
Post, p. 1392.

Composition.

Expenses allowed.