

CHAPTER 522

COMMISSION MERCHANTS

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522.01 Fruit or produce brokers to make return of account sales.—Any person doing in this state the business of fruit or produce broker or commission merchant, receiving pineapples in carlots or less, grown in this state for shipment or consignment, shall make return of all account sales showing the cost and expenses charged against the returns, together with the name and address of the purchaser, within 10 days of the sale.

History.—s. 1, ch. 6235, 1911; RGS 4938; CGL 7025.

522.02 Persons presumed to be doing business in state.—Any person maintaining an office or soliciting personally or by agent such business in this state shall be presumed to be doing business in this state.

History.—s. 2, ch. 6235, 1911; RGS 4939; CGL 7026.

522.03 Liability of broker for loss by reason of delayed account sales; measure of damages.—Any person doing the business of fruit or produce broker or commission merchant, receiving pineapples in carlots or less, grown in this state for shipment or consignment, and who has not returned an account sales showing the cost and expenses charged against the returns, also the name and address of the purchaser, within 10 days of the sale, shall be liable in damages for any loss by reason of delayed account sales. The loss a shipper or consignee may sustain on cars of pineapples consigned to the said person over what he could have obtained in other markets or by other agencies shall be considered a proximate damage from the delayed account sales. The measure of damages shall be the difference between the prevailing price in the general market at time of receipt by consignee and the price received for such cars or less, of pineapples consigned to said broker or commission merchant between the time the account sales were due and the time received.

History.—s. 4, ch. 6235, 1911; RGS 4940; CGL 7027.

522.04 Liability of broker in case of failure to return account sales.—In any suit for accounting against any

person, doing the business of fruit or produce broker or commission merchant receiving pineapples in carlots or less, grown in this state for shipment or consignment, and who has not returned an account sales showing the cost and expenses charged against the returns, with the name and address of the purchaser, within 10 days of the sale, such person shall be held accountable to the shipper or consignee of said carlots, or less, of fruit for the full market price at the time of the receipt by such person of the said shipment or consignment.

History.—s. 5, ch. 6235, 1911; RGS 4941; CGL 7028.

522.05 Penalty for failure of commission merchant to make returns.—Any person, or agent or servant of such person failing to comply with the provisions of s. 522.01 shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083.

History.—s. 3, ch. 6235, 1911; RGS 5666; CGL 7869; s. 496, ch. 71-136.

522.06 Produce commission merchant to furnish shipper duplicate sales account; shipper to have access to certain records; proviso.—All persons engaged in the business of selling any produce or other article on commission in this state shall, if the produce or other thing of value be shipped to them by any person from any place in the state, when the same is sold by them, issue in duplicate a sales account which shall prescribe the kind, quantity, quality and price received for the produce or article sold, and with check shall cause same to be delivered by mail or otherwise, within 7 days of such sale, to the party furnishing the produce or article for sale, and should such sale be unsatisfactory to the party furnishing said produce or article for sale, then at his request the commission house shall furnish to him, within 5 days, the name or names, and residences of the purchaser of said produce or article; he shall also have access to the original sales papers and books showing the name and address of the purchaser of the produce or article, to the commission house selling said produce or article, and every reasonable assistance extended to him to his satisfaction in the matter; provided, that the provisions of this section shall not apply to any consignment, or part thereof, sold at retail or in less quantity than original packages, nor to produce consigned to retail merchants, nor to lumber or naval stores.

History.—ss. 1, 2, ch. 6921, 1915; RGS 4942; CGL 7029; s. 195, ch. 77-104.

522.07 Violation of regulations as to sale of produce on commissions.—Any person violating any of the provisions of s. 522.06 shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not exceeding \$500, or sentenced to the county jail for a period of not longer than 6 months.

History.—s. 3, ch. 6921, 1915; RGS 5667; CGL 7870.

CHAPTER 523

NAVAL STORES

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523.01 Definitions.—When used in this chapter:

- (1) "Naval stores" means spirits of turpentine and rosin.
 (2) "Spirits of turpentine" includes gum spirits of turpentine and wood turpentine.
 (3) "Gum spirits of turpentine" means spirits of turpentine made from gum (oleoresin) from a living pine tree.
 (4) "Wood turpentine" includes steam-distilled wood turpentine, destructively distilled wood turpentine and sulphate wood turpentine.
 (5) "Steam-distilled wood turpentine" means wood turpentine distilled with steam from the oleoresin within or extracted from the wood.
 (6) "Destructively distilled wood turpentine" means wood turpentine obtained in the destructive distillation of the wood.
 (7) "Sulphate wood turpentine" means wood turpentine obtained from the condensates that are recovered in the sulphate process of cooking woodpulp.
 (8) "Adulterated spirits of turpentine" means the substance that is produced by mixing with or adding to spirits of turpentine any foreign substance which affects its weight, specific gravity, or purity.
 (9) "Adulterated gum spirits of turpentine" means gum spirits of turpentine that has been adulterated or mixed in any proportion with any other foreign sub-

stance or adulterants whatever, or with wood turpentine.

(10) "Adulterated wood turpentine" means wood turpentine that has been adulterated or mixed in any proportion with any other foreign substance or adulterants whatever.

(11) "Rosin" includes gum rosin and wood rosin.

(12) "Gum rosin" means rosin remaining after the distillation of gum spirits of turpentine.

(13) "Wood rosin" means rosin remaining after the distillation of steam-distilled wood turpentine.

(14) "Barrel" means any container of naval stores and includes package, drum, tank, tank car or other receptacle.

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

History.—s. 1, ch. 20935, 1941.

523.02 Label required; contents.—Every person who shall hereafter produce or manufacture for sale or shipment, or for other than his own use or consumption, any spirits of turpentine or rosin in the state, shall plainly and conspicuously mark or write on the outside of the barrel containing the same the true nature of the contents of such barrel, in such manner as to indicate whether the same contains gum spirits of turpentine, wood turpentine, adulterated gum spirits of turpentine, adulterated wood turpentine, gum rosin or wood rosin, as defined by the provisions of this chapter. It shall be unlawful for any person to manufacture or produce any gum spirits of turpentine, or wood turpentine, whether pure or adulterated, or any gum rosin or wood rosin for sale, consignment or shipment, or to sell, ship, consign or in any manner dispose of the same, without plainly marking or writing in the manner aforesaid, upon the outside of the barrel containing the same, the words "gum spirits of turpentine," or "wood turpentine," or "adulterated gum spirits of turpentine," or "adulterated wood turpentine," or "gum rosin," or "wood rosin," as the case may be; and any person who shall violate the provisions of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 20935, 1941; s. 497, ch. 71-136.

523.03 Adulterated products; penalty for improper label, etc.—Any person who shall knowingly aid or assist in manufacture or sale, consignment or shipment, of adulterated gum spirits of turpentine or adulterated wood turpentine, which shall be placed or contained in a barrel not marked in the manner provided by law to indicate the character of its contents, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 3, ch. 20935, 1941; s. 498, ch. 71-136.

523.04 Adulterated products; penalty for improper shipping, sale, etc.—It shall be unlawful for any person knowingly to ship, consign, sell, or offer for sale as gum spirits of turpentine, any wood turpentine or adulterated

gum spirits of turpentine, or to ship, consign, sell or offer for sale, as wood turpentine, any adulterated wood turpentine, or to ship, consign, sell or offer for sale as gum rosin any wood rosin; and any person who shall violate the provisions of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 4, ch. 20935, 1941; s. 499, ch. 71-136.

523.05 Adulterated products; penalty for improper receiving, sale, etc.—Any person who shall knowingly purchase or receive, or offer for sale, or sell, any gum spirits of turpentine or wood turpentine, or gum rosin or wood rosin, which has not been marked, branded or stamped in accordance with the provisions of this chapter, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 5, ch. 20935, 1941; s. 500, ch. 71-136.

523.06 Adulterated products; penalty for improper advertising, etc.—Every person hereafter advertising or procuring to be advertised, in this state, any quantity of spirits of turpentine for sale shall plainly specify in such advertisement, in letters of equal size and prominence with the word "turpentine" which of the kinds of turpentine therein enumerated, i.e., whether gum spirits of turpentine or wood turpentine, is so advertised; and any person who shall violate the provisions of this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 6, ch. 20935, 1941; s. 501, ch. 71-136.

523.07 Adulteration of rosin, wood rosin; etc.—It shall be unlawful for any person to pack with rosin any foreign substance, or to pack with gum rosin any wood rosin, and it shall be unlawful for any person to knowingly sell or offer for sale any rosin containing any other substance than pure rosin, or to pack rosin in such manner that the sample withdrawn from the package in the usual manner, will fail to disclose the true grade and condition of the contents of the package. Anyone violating the provisions of this section shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 7, ch. 20935, 1941; s. 502, ch. 71-136.

523.08 Naval stores inspectors; prerequisites to appointment.—The Governor may appoint a supervising inspector of naval stores, one or more inspectors of naval stores at large, and may appoint in each port in this state to which naval stores are, or may be consigned for sale or shipment, a sufficient number of competent inspectors for the business at such port. The supervising inspector, inspector of naval stores at large and inspectors of naval stores, shall be subject to removal by the Governor at any time for cause; and he shall have power at any time to fill vacancies in said offices. A person in order to be eligible to appointment to any of said offices must be a citizen of the state, must be skilled in the inspection of and familiar with the grades of naval stores, and competent to detect adulterations thereof. No person shall be appointed an inspector, inspector at large or supervising inspector of naval

stores who, at the time of his appointment, is a producer or factor; or buyer of, or dealer in naval stores, or employed by or connected in business with any producer, factor, buyer or dealer; and it shall be unlawful and a cause for removal from office for any inspector, inspector at large or supervising inspector of naval stores, during his term of office, to become a producer, factor, buyer of or dealer in naval stores, or to be employed by or connected in business with any such producer, factor, buyer or dealer.

History.—s. 8, ch. 20935, 1941.

523.09 Supervising inspector; powers and duties. The supervising inspector of naval stores of the state shall have general supervision and direction of all inspectors of naval stores appointed under the provisions of this chapter, including the inspectors of naval stores at large, and it shall be his duty to see that they fairly and honestly perform all the duties imposed upon them and in the manner prescribed by this chapter, or otherwise provided by law, and to report to the Governor any delinquencies or irregularity of any such inspector, and shall have power to suspend any inspector for falsely grading or branding spirits of turpentine or rosin, and for failure or neglect to perform the duties imposed on him by the provisions of this chapter, and to investigate complaints made by producers or others, or the conduct of any such inspector in the discharge by him of the duties of his office. The supervising inspector of naval stores shall also have supervision of all naval stores plants, yards, warehouses and other places where naval stores are kept or stored, and it shall be his duty to see that no adulteration of naval stores is permitted in this state, and to collect evidence of any adulteration which may come to his knowledge or be reported to him whenever the same may occur in this state; and to prosecute, or cause to be prosecuted, all persons violating the laws of this state in regard to the inspection, marking, branding or adulteration of naval stores. Said supervising inspector shall also perform such other duties as may be conferred upon him by law, but he shall not perform the duties of an inspector except when necessary to determine the correctness of any inspection made by an inspector. The supervising inspector of naval stores shall visit every yard where naval stores are stored for sale in the state at least twice each year, and shall thoroughly inspect said yards and examine the books and records of the local inspectors.

History.—s. 8, ch. 20935, 1941.

523.10 Inspectors; powers and duties.—The inspectors of naval stores shall have power to make inspections of naval stores at the respective ports for which they are appointed, but the inspector of naval stores at large shall have the power to make inspections at any point in the state. The compensation of the inspector of naval stores at large shall be the same for the like service as that hereinafter provided for inspectors of naval stores at ports. The supervisor of naval stores inspectors shall have his office in the port of this state receiving the largest amount of naval stores for sale or shipment.

History.—s. 8, ch. 20935, 1941.

523.11 Bond of inspector and supervisor.—

(1) The supervising inspector of naval stores shall give bond in the sum of \$2,000 with a surety company qualified to do business in the state as surety, conditioned for the faithful discharge of all the duties of his office, and the said bond, before being accepted, shall be approved by the Department of Banking and Finance of the state and filed in the office of the Department of State.

(2) Before any inspector of naval stores at large or any inspector of naval stores shall be commissioned, he shall qualify and give bond to the state in the sum of \$2,000, with a surety company qualified to do business in this state as surety, conditioned on the faithful discharge by him of the duties of his office, which bond shall be approved in like manner as is provided by general law for the approval of bonds of county officers.

History.—s. 9, ch. 20935, 1941; ss. 10, 12, 35, ch. 69-106.

523.12 Inspectors; recommendations for appointment required.—

No person shall be appointed an inspector of naval stores or inspector of naval stores at large under this chapter who has not been recommended to the Governor in writing for the appointment by the supervising inspector of naval stores and at least two naval stores dealers doing business in this state.

History.—s. 10, ch. 20935, 1941.

523.13 Supervisor; inspection fees and compensation.—

The supervising inspector of naval stores shall receive as compensation for his services one-half cent for each drum or barrel of rosin of approximately 500 pounds each, and for each 50 gallons of spirits of turpentine which may be inspected by inspectors appointed under the laws of this state, upon notice given as provided in s. 523.15, and liability for said fee shall be divided equally between the buyer and seller of such naval stores. In case of naval stores shipped in packages or receptacles other than barrels, his compensation shall be reckoned upon a basis of barrels or fractions thereof in the same manner as is provided for the payment of fees of inspectors under like conditions. The supervising inspector of naval stores shall have the right to recover from any person or corporation liable therefor the fees allowed him under this chapter in an action of assumpsit, or any other appropriate proceedings in any of the courts of this state having jurisdiction thereof.

History.—s. 11, ch. 20935, 1941.

523.14 Adulterated products; forfeiture; procedure.—

Any person who shall knowingly have in his possession, custody or control any spirits of turpentine for sale, consignment or shipment which shall be in any manner adulterated, or any gum rosin or wood rosin that is not marked on the outside of the barrel with the words and in the manner required by this chapter, shall forfeit the same to the state. Upon sworn information thereof from any person, it shall be the duty of the state attorney for the circuit in which such property subject to forfeiture under this section may be found, to proceed forthwith to have the same forfeited and sold in the following manner: He shall file with the circuit court in the jurisdiction in which said property is found an information in the name of the state, setting forth the property whereof for-

feiture is claimed, the owner thereof, or the person in whose possession the same is found, and the grounds for forfeiture; upon the filing of such information a summons and a writ of attachment, returnable to the return date not less than 10 days from the issuance thereof, shall be thereupon issued without bond or affidavit; such summons and writ of attachment shall be served in the manner provided for services of summons and writs of attachment in civil actions at law; the said writ of attachment shall be levied upon the property which it is sought to forfeit. Thereafter the case shall proceed in the same manner as a civil action at law. In case of attachment, and in the event the property shall be adjudged to be forfeited, the same shall be sold as is provided in the case of sales under execution. Any person claiming to own the property attached, or his agent or attorney, may in such proceeding intervene and defend the said proceedings as in case of attachment. All such proceedings shall be governed in other respects by the rules of pleading and practice applicable to suits at law in cases of attachment. The proceeds arising from said sales shall be paid into the registry of the court, to be paid by the clerk under the order of the court as follows, to wit: One-half to the informant, to be paid upon the certificate of the state attorney that the person claiming the same is entitled thereto as the informer, upon whose information said action was begun, and the remainder to be paid to the county treasurer of the county in which the conviction is had as a part of the fine and forfeiture fund. Neither the supervising inspector nor any other inspector shall be permitted to receive any part of the proceeds of any such forfeiture; and if the information be given by any such inspector, the entire proceeds shall be paid into said fine and forfeiture fund. The penalties, punishments and other provisions of this chapter and the enforcement of the same, shall be deemed several, and the enforcement of one shall not preclude or affect the enforcement of any other.

History.—s. 12, ch. 20935, 1941; s. 2, ch. 29737, 1955.

523.15 Inspectors; duty to attend at port on notice.

It shall be the duty of any inspector, upon notice given by any producer or agent of any producer, to attend at such time and place at or near the port for which he is appointed, or elsewhere if he be an inspector at large, as he may be required, for the purpose of inspecting spirits of turpentine and grading and weighing rosin, and to ascertain the true amount and quality thereof, and to mark the same by branding, or in some other durable manner, on each barrel, receptacle or package, and to issue at once in triplicate, sworn certificates of inspection, the original to be furnished to the producer or shipper; and the duplicate and triplicate to the buyer or factor and the supervising inspector of naval stores respectively; and the person for whom such inspection is made shall be at liberty to appeal to the supervising inspector to establish the incorrectness of such inspection. If any such article be fraudulently mixed, it shall be condemned by the inspector and sold as provided by s. 523.14.

History.—s. 13, ch. 20935, 1941.

523.16 Unlicensed persons not to make inspections.—It shall be unlawful for a person other than a

licensed state inspector, or an inspector appointed by the Department of Agriculture of the United States, to measure and inspect or grade, mark or brand, for a fee, or fees, any naval stores in this state. Any person not a licensed inspector in accordance with the provisions of the laws of this state, or not an inspector appointed by the Department of Agriculture of the United States, who shall perform the duties of inspector of naval stores, for a fee or fees, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 14, ch. 20935, 1941; s. 503, ch. 71-136.

523.17 Inspectors to conform to U. S. standards.—

Insofar as any method, standard, type or grade shall have been or may be established by or under the authority of the Department of Agriculture of the United States, the inspection and grading of the quality of rosin and spirits of turpentine, or measuring the quantities thereof, shall conform with such method, standard, type or grade.

History.—s. 15, ch. 20935, 1941.

523.18 Inspectors; inspection fees and compensation.—An inspector of naval stores shall receive for his services in inspecting rosin, including weighing, inspection and cooperage, 6 cents per barrel of approximately 500 pounds, and for inspecting turpentine, including measuring of contents, inspection, bunging and cooperage, 9 cents per barrel of approximately 50 gallons, and no more, to be paid by the owner or party for whom the inspection is made. When any such rosin or turpentine shall be in any receptacle or package other than a barrel, the inspector for inspecting same shall receive for his services, per barrel or fraction thereof, the contents of such receptacle or package, the same fee or amount of compensation hereinbefore allowed for inspecting each barrel. An inspector shall not be obliged to inspect any article or quantity until the fee therefor shall have first been paid.

History.—s. 16, ch. 20935, 1941.

523.19 Penalty for removing or changing inspection marks.—When any inspector or inspector of naval stores at large shall have placed his mark or brand on any barrel, receptacle, or package, as provided by law, it shall be unlawful for any person other than a duly qualified inspector of naval stores, appointed under the provisions of the laws of this state, or inspector appointed by the Department of Agriculture of the United States, to change, remove, alter, erase or in any manner change the same or cause the same to be done, and for each and every violation of this section the person violating the same shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$1,000 or imprisonment in the county jail for not more than 6 months, or by both such fine and imprisonment at the discretion of the court.

History.—s. 17, ch. 20935, 1941.

523.20 Penalty for illegal or false markings by inspector.—If any inspector, or inspector of naval stores at large, shall knowingly and willfully place on any barrel, receptacle, or package of spirits of turpentine or rosin,

any mark or brand falsely indicating the quality or quantity of the contents thereof, he shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 18, ch. 20935, 1941; s. 504, ch. 71-136.

523.21 Inspectors; right to enter premises for inspection.—

The supervising inspector of naval stores, inspector of naval stores at large, or any other inspector of naval stores, if he shall have reason to believe that any gum spirits of turpentine, or wood turpentine, has been or is adulterated in any manner, shall have the right to enter the place where the same is stored or kept, and to open any barrel, or barrels, in which the same may be, and to take therefrom a sufficient quantity, not exceeding a pint from every barrel or package, as a sample for analysis and inspection. Each such sample shall be sealed by the supervising inspector or other inspector of naval stores taking the same, who shall at the time write, mark, or label the same in such manner as to indicate the time and place of taking the same, and the ownership of the barrel from which it is taken, as well as any other fact necessary to identify the sample so taken with the original. The owner claiming or custodian of such spirits of turpentine shall have the right to be present if he desires in person or by agent at such sampling, and to demand and receive of said supervising inspector or inspector of naval stores, a sample in all respects like that taken by such supervising inspector or inspector of naval stores. The analysis of any such sample so taken by such inspector or supervising inspector, sworn to by any witnesses competent to make such analysis, shall be admissible in evidence in any action wherein the grade or quality of the original from which the sample shall have been taken shall be in issue. A certificate of the result of an analysis made and certified by the department shall be prima facie evidence of the nature, composition, and character of the contents of the barrel from which said sample was taken, and of the correctness of such analysis and for such purpose admissible in evidence in any court of this state.

History.—s. 19, ch. 20935, 1941; s. 7, ch. 92-290; s. 99, ch. 92-291.

523.22 Disposition of fees.—All fees or other compensation collected by the supervising inspector, inspectors at large and inspectors of ports under the provisions of ss. 523.10, 523.13 and 523.18 shall be deposited by the inspector collecting same with the State Treasurer and shall be accounted for as other state funds. The State Treasurer shall credit all such receipts to the General Revenue Fund and the Legislature shall provide in its General Appropriations Act sufficient sums for the salaries and expenses including premiums on bonds required of all naval stores inspectors appointed under this chapter.

History.—s. 129, ch. 26869, 1951.