

FIRE WARDEN, CREATING A SYSTEM TO PREVENT FOREST FIRES

Act of May. 13, 1909, P.L. 781, No. 601

Cl. 32

AN ACT

To create a system of fire-wardens to preserve the forest of the Commonwealth, by preventing and suppressing forest fires, and prescribing penalties for the violation thereof; providing for the compensation of the fire-wardens and those who assist in extinguishing fire, and making an appropriation therefor.

Section 1. Be it enacted, &c., That there be hereby instituted and created a system of fire-wardens, within this Commonwealth, whose duty it shall be to protect forests, farmers' woodlots, and wild lands by preventing and suppressing fires.

Section 2. The Commissioner of Forestry and the Deputy Commissioner of Forestry shall be, respectively, the Chief Fire Warden and the Deputy Chief Fire Warden of this Commonwealth, for the enforcement of the provisions of this act. They shall have immediate supervision and control of the whole system of fire-wardens hereby created, and, as such, shall have full power and authority to carry the same into effect.

Section 3. As soon after the approval of this act as may be convenient, the Commissioner of Forestry shall appoint in each borough and township in this Commonwealth, if in his judgment necessity exists for such appointment, a suitable and competent person, who shall be known as the district fire-warden of the particular borough or township wherein he shall be appointed. The persons appointed district fire-wardens shall be expressly chosen to carry out the provisions of this act, by reason of their physical fitness and their good reputation for sobriety, honesty, and ability to perform the duties herein demanded and required.

Section 4. Every district fire-warden and every assistant fire-warden, appointed or provided for under the provisions of this act, shall procure, at his own expense, and wear and be known by, an appropriate badge of authority, to be approved by the Commissioner of Forestry, which shall be produced and shown on all proper occasions, whenever demanded.

Section 5. Whenever fire is discovered in or approaching woodlots, forests, or wild lands, whether the same be owned by individuals, corporations or by the Commonwealth, it shall be the duty of the fire-warden, immediately, to take such measures as are necessary for the extinguishment of the fire. He shall have authority to employ such other persons as, in his judgment, may be necessary to render assistance in extinguishing fire; and when ever it shall not otherwise be possible for him to secure a sufficient number of persons to assist in extinguishing fire, he is hereby given the power and authority to compel the attendance of, and the rendering of assistance by, persons, in the extinguishing of fire under the penalties prescribed in this act. The district fire-warden, while engaged in performing the duties imposed by this act, shall receive as compensation twenty-five (25¢) cents per hour, and his actual, necessary expenses incurred; and the persons so employed, or compelled to assist the warden, in the extinguishment of fire, shall receive as compensation for their services fifteen (15¢) cents per hour.

Section 6. The employes of the Department of Forestry shall be exofficio fire-wardens, whose duties and powers shall be the same as, by this act, are vested in the district fire-wardens appointed by the Commissioner of Forestry; but they shall not

receive any compensation other than the regular pay allowed as an employe of the Department of Forestry, and the necessary expenses by them incurred in the performance of their duties as fire-wardens.

Section 7. Nothing in this act shall be so construed as to relieve the owner or lessee of lands, upon which fires may burn or be started, from the duty of extinguishing such fire so far as may lie within his power. No such owner or lessee, nor any person in the employ of such owner or lessee, shall receive any compensation under this act for extinguishing fire upon the lands of such owner or lessee.

Section 8. In each township and borough the district fire-wardens, appointed by the Commissioner of Forestry, may appoint, by and with the consent of the Commissioner of Forestry, suitable persons, to be known as assistant fire-wardens, who shall possess the same qualifications demanded by this act for the district fire-wardens, and who are hereby vested with the same power and authority. They shall receive, as compensation for their services so to be performed, the sum of twenty (20¢) cents per hour, and the necessary expenses incurred in the actual performance of their duty. They shall make their reports to the district fire-warden, and be under his immediate supervision and control, subject to the supervision of the Commissioner of Forestry.

Section 9. Whenever a forest, woodlot or wild-land fire shall have been combatted or extinguished, by the means provided for in this act, the district fire-warden shall prepare a correct statement, showing the date of the fire, the number of men employed to extinguish the fire, the number of hours each was employed, and the actual amount of expense incurred, verified by oath or affirmation, and shall forward the same at once to the Commissioner of Forestry. It shall be the further duty of the district fire-warden thoroughly to investigate the cause or origin of the fire, to collect such evidence as may be discovered relating thereto, and make a report thereon to the Commissioner of Forestry, together with a statement showing the area burned over and damage done by the fire. The assistant fire-wardens shall render their accounts, under oath or affirmation, to the district fire-warden, who shall thoroughly investigate the facts therein stated, and, if he find them correct, shall transmit the same to the Commissioner of Forestry. The above reports and accounts shall be made upon uniform blanks to be furnished by the Commissioner of Forestry.

Section 10. Upon receipt of bills for extinguishing forest fires, the Commissioner of Forestry is hereby authorized and directed carefully to audit the same. He shall not approve any bill until he has first satisfied himself of its correctness, and that the services therein claimed were actually rendered, or the expense actually incurred. If the Commissioner of Forestry approve an account so rendered, he shall transmit the same to the Auditor General of the Commonwealth; who shall first satisfy himself of its correctness, and shall then draw his warrant, against the fund hereinafter appropriated to pay for the extinguishment of forest fires, and in favor of the respective district fire-wardens, as directed by the Commissioner of Forestry. Said warrants shall be delivered to the Commissioner of Forestry, for transmission to the district fire-wardens, who are hereby then required to pay the several sums so transmitted to the persons lawfully entitled thereto, taking proper receipts and vouchers for each payment so made, which vouchers shall be filed with the Commissioner of Forestry.

Section 11. At the end of each calendar year, after the bills for the extinguishment of forest fires shall have been presented for that year, the Auditor General of the Commonwealth shall prepare a statement showing the expenditure made for the extinguishment of fires in each of the counties of the State, and shall transmit to the Commissioners of each county a copy of the statement relating to their respective county. The Auditor General shall, at the same time, state an account with each of the said counties, and collect from each county an amount equal to one-fifth of the amount expended by the Commonwealth for the extinguishment of forest fires in that particular county. The county commissioners of each county shall, immediately upon receipt of the stated account of the Auditor General, forward to him, for the use of the Commonwealth, the amount of money so found to be due and owing by the county for the extinguishment of forest fires. In case the said account is not settled within thirty days after its receipt by the county commissioners, the Auditor General is hereby authorized, empowered, and required to collect the amount of the then delinquent account stated, in manner provided by existing law for the collection of accounts due the Commonwealth.

Section 12. The said fire-wardens shall not be limited in their jurisdiction, as such, to the boroughs, townships, or counties for or within which they may be appointed; but shall have power and authority to enter adjacent or other boroughs, townships, or counties, and there exercise the authority and perform the duties conferred upon them by this act: Provided, That when, for the purpose of extinguishing fire, a fire-warden shall enter adjacent or other territory than that for or within which he shall have been appointed, the local warden, if present, shall be in command and direct the work of the various fire-fighting crews.

Section 13. Whenever any fire-warden, or person employed by him, shall have rendered service in the extinguishment of fire which may have burned within two or more counties, the district fire-warden shall render to the Commissioner of Forestry his report, as hereinbefore required, relating to each of the said counties, in order that the expense of extinguishing fire may be rightly and properly distributed between or among the counties in which fire may have burned.

Section 14. Whenever any fire-warden, by reason of physical disability, or unavoidable absence from home during the fire season, or for any good and sufficient cause, shall be unable to perform the duties required by this act, he is hereby empowered, with the consent of the Commissioner of Forestry, to employ a suitable person to act in his stead; which said person, so appointed, shall have all the qualifications demanded of the fire-warden, and for services so rendered, in the absence of the fire-warden, he shall receive the same compensation: Provided, That the reports hereinbefore required to be made to the Commissioner of Forestry shall be made by the district fire-warden. In case the death of the district fire-warden should occur before making the report herein required, or in case of his total physical disability, the said report may be made by an assistant fire-warden, after first ascertaining the facts; and in making such examination or investigation, such assistant fire-warden is hereby empowered to examine persons, under oath or affirmation to be administered by himself.

Section 15. Whenever, in the absence of a fire-warden, a forest, woodlot or wild land fire shall be extinguished or combatted by persons without first having been employed by said

warden, such persons shall receive the compensation allowed by this act: Provided, That after a thorough investigation by the district fire-warden, wherein he shall have power and authority to examine persons under oath or affirmation, administered by himself, he shall have ascertained, as a result of his investigation, the facts hereinbefore required to be included in his report to the Commissioner of Forestry, the truth of which he shall first have fully demonstrated to his own satisfaction: Provided further, That if his investigation shall disclose that any person, so claiming compensation, set the fire, or in any manner, carelessly, negligently, or maliciously, contributed to its burning, such person not only shall not be allowed any compensation, but shall be proceeded against criminally, if in the judgment of the Commissioner of Forestry the evidence shall warrant such prosecution.

Compiler's Note: Section 302(h) of Act 18 of 1995, which created the Department of Conservation and Natural Resources and renamed the Department of Environmental Resources as the Department of Environmental Protection, provided that the Department of Conservation and Natural Resources shall exercise the powers and duties conferred upon the Commissioner of Forestry by section 15.

Section 16. No fire-warden, appointed in accordance with the provisions of this act, shall be personally liable to any person employed or required to combat or extinguish fire, by reason of such employment or requirement; and no action for any compensation alleged or claimed to be due any person for combatting or extinguishing fire shall lie against such fire-warden.

Section 17. If any person shall feel aggrieved by the act of any fire-warden, in allowing or disallowing any sum as compensation for extinguishing fires, such person may appeal to the Commissioner of Forestry, who will examine into the complaint. After hearing the proofs and allegations of the parties, he shall decide as to him shall seem just and right, and his decision shall be final and not subject to review.

Section 18. During the months of April and May and the period from September fifteenth to November fifteenth, in each year, commonly called the fire seasons, in order to prevent fire and provide for its immediate suppression, the fire-wardens may, in the discretion of the Commissioner of Forestry, be required to keep daily patrol in the regions under their care known to be especially hazardous or subject to outbreak of fire. For such services, so to be rendered, the fire-wardens, in addition to the compensation hereinabove allowed, shall be entitled to receive a stated sum, not in excess of twenty-five dollars per month, to be fixed and allowed by the Commissioner of Forestry. The Commissioner of Forestry shall, likewise, designate the fire-wardens for such continuous service, and the places to be patrolled by them, as in his judgment will produce the best results in the prevention or immediate suppression of fire. All sums of money which may thus become due to fire-wardens for continuous patrol service, and all other sums of money which may be earned by them and others in the prevention and suppression of fire, shall be paid, in manner hereinbefore provided, from the fund appropriated for the use of the fire-warden system created by this act.

Section 19. Every fire-warden appointed, or so constituted and designated, in accordance with the provisions of this act, shall have the same powers as by existing law are conferred upon constables and other peace officers, to arrest on view,

without first procuring a warrant therefor, any person detected by them in the act of committing an offence against any of the laws now enacted or hereafter to be enacted for the protection of forests, woodlots, timber or wild lands, or when they shall have a reasonable suspicion that any person is committing or is about to commit some such offence. The said wardens shall have further power to take and convey the offender before a justice of the peace, or other magistrate having jurisdiction, for hearing, trial, or other due process of law.

Compiler's Note: Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 20. If any fire-warden shall fail, or wilfully or negligently refuse, to perform his duty, or shall render a false or fraudulent statement of services alleged to have been performed; or shall fail or refuse to pay promptly the respective amounts due those who have assisted in the extinguishing of said fires, after said amounts have been transmitted to him by the Commissioner of Forestry; such fire-warden shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in a sum not exceeding one hundred dollars, or undergo imprisonment not exceeding three months, either or both, at the discretion of the court.

Section 21. If any fire-warden, being in need of assistance in the suppression of fire, shall call upon any person to render such assistance, and such person shall refuse to render assistance, without a just, fair, and legal excuse, and one which is satisfactory to the fire-warden, he is hereby declared to be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding fifty dollars, or imprisonment not exceeding one month, either or both, at the discretion of the court.

Section 22. That the sum of eighty thousand dollars, or so much thereof as may be necessary, be and the same is hereby specifically appropriated, for the payment of the expenses which may be incurred in the prevention and extinguishment of forest fires, in accordance with the provisions of this act, for the two fiscal years beginning June first, one thousand nine hundred and nine.