

tions 24.24 to 24.31, and shall have authority to promulgate rules and regulations as provided in section 15.042 by law.

Sec. 17. [31.406] **Enforcement.** *The commissioner shall enforce the provisions of Minnesota Statutes, Sections 24.02, Subdivision 4, 24.19 to 24.21, and 24.23, Subdivision 3.*

Approved March 23, 1961.

CHAPTER 147—H. F. No. 61

[Coded in Part]

An act relating to dairy products; amending Laws 1953, Chapter 157, Section 1; amending Minnesota Statutes 1957, Sections 31.19; 31.24; 31.26; 32.01, Subdivision 1 and adding a subdivision; 32.09; 32.10; 32.21; 32.25, Subdivision 1; 32.26; 32.27; 32.37; 32.397; 32.491, Subdivision 1; 32.51, Subdivision 1; 32.511, Subdivision 2; and 32.533; repealing Minnesota Statutes 1949, Section 32.17; repealing Minnesota Statutes 1953, Section 32.50, Subdivision 9; and Section 32.51, Subdivision 6; repealing Minnesota Statutes 1957, Sections 32.01, Subdivision 5; 32.08; 32.13; 32.14; 32.15; 32.16; 32.394, Subdivision 10; 32.50; Subdivisions 1, 8, and 10; 32.51, Subdivisions 2, 4, 5, and 7; and 32.52, Subdivision 1.

Be it enacted by the Legislature of the State of Minnesota:

ARTICLE I

Section 1. Minnesota Statutes 1957, Section 32.01, Subdivision 1, is amended to read:

32.01 Definitions. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the words defined in this section and in Minnesota Statutes, Section 32.511, Subdivision 2, shall for the purposes of this chapter, and for Minnesota Statutes, Section 31.01, Subdivisions 6 to 17, Sections 31.19 to 31.27, and Section 31.44, Subdivisions 2 and 3, be given have the meanings subjoined given to them.

Sec. 2. Minnesota Statutes 1957, Section 32.01, is amended by adding a subdivision to read:

[Subd. 11.] **Adulterated.** *“Adulterated” has the*

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meaning given it in Minnesota Statutes, Section 31.03, and acts amendatory thereof.

Sec. 3. Minnesota Statutes 1957, Section 32.511, Subdivision 2, is amended to read:

Subd. 2. **Misbranded.** *“Misbranded” or “misbranding”* applies to all articles of food, or articles which enter into the composition of food, the package or label of which bears any statement, design, or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food product which is falsely branded as to the state, territory, or country in which it is manufactured or produced: *has the meaning given in Minnesota Statutes, Section 31.01, Subdivision 5, and acts amendatory thereof.*

An article shall also be deemed to be misbranded, in the case of food:

(a) If it be an imitation of or offered for sale under the distinctive name of another article;

(b) If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or preparation of any morphine, opium, heroin, or alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any of such substances contained therein;

(c) If in package form the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of net weight, measure, or numerical count, provided, that reasonable variations may be permitted, and tolerances, and also exceptions as to small packages may be established, by rules and regulations made by the commissioner; and, provided, further, that the commissioner shall have full authority to determine when food is in package form;

(d) If the package containing it, or its labels, shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular.

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

ARTICLE II

Section 1. Minnesota Statutes 1957, Section 32.51, Subdivision 1, is amended to read:

32.51 Duties of commissioner. Subdivision 1. The ~~department~~ commissioner shall be charged with the enforcement of the provisions of this chapter.

Sec. 2. *Minnesota Statutes 1953, Section 32.51, Subdivision 6, is repealed. Minnesota Statutes 1957, Sections 32.50, Subdivision 10, and 32.51, Subdivisions 2, 4, 5, and 7, are repealed.*

ARTICLE III

Section 1. Minnesota Statutes 1957, Section 32.09, is amended to read:

32.09 Dairy plant licensing. No ~~creamery, cheese factory, condensery, or milk plant for the manufacture of butter or other dairy products, or any cream station maintained for the purpose of purchasing, collecting, or storing cream or milk to be used in the manufacture of butter or cheese or other dairy plant or other establishment in which dairy products or goat milk, as defined in Minnesota Statutes, Section 32.391, Subdivision 1, are manufactured, processed, or handled, or for transportation, shall be operated in this state unless a license therefor shall be issued and be in force, as provided in sections 32.09 and 32.10. The owner, operator, or lessee of any such creamery, cheese factory, condensery, milk plant, or cream station plant or establishment shall apply to the commissioner for such license upon such form and shall furnish such information as he may require. The application shall be accompanied by a fee which shall be based upon the butterfat intake of the applicant during the year ended on the last day of the month next preceding the date of application, as follows: If the butterfat intake for such period is 200,000 pounds or less, \$10; if the butterfat intake for such period is more than 200,000 pounds, \$25 for each place to be licensed, which shall be paid into the state treasury. If the commissioner finds that such applicant maintains a proper place, with sufficient and proper machinery and equipment for the manufacture of butter or cheese or other dairy products, or for maintaining a cream station as required by law in this state and the rules and regulations of the commissioner, he shall issue the license so applied for. All such licenses shall expire on June thirtieth, of each year, unless sooner revoked as provided in section~~

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32.10. A separate license shall be required and the prescribed fee shall be paid for each such ~~creamery, cheese factory, condensery, milk plant, or cream station plant or establishment.~~

Sec. 2. Minnesota Statutes 1957, Section 32.10, is amended to read:

32.10 Licenses; suspension, revocation. When any person licensed under sections 32.09 and 32.10 shall have been convicted of a violation of any provision of any law of this state relating to the manufacture or sale of butter or cheese or other dairy products, or the operation of ~~creameries, cheese factories, condenseries, milk plants, dairy plants, or cream stations maintained for the purchasing, collecting, or storing of milk or cream to be manufactured into butter or cheese or other establishments in which dairy products or goat milk, as defined in Minnesota Statutes, Section 32.391, Subdivision 1, are manufactured, processed, or handled,~~ or for transportation, or of any provision of any rule or regulation of the commissioner made and promulgated under the provisions of law or there has been a continued course of conduct by such licensee or any agent, representative or employee of such licensee which deceives or defrauds producers or consumers, his license may be suspended for the time stated in order of suspension, or may be revoked or canceled by the commissioner upon ten days' written notice with opportunity to be heard. The commissioner shall promulgate procedural rules and regulations governing the notice, hearing, evidence, findings, order, and record to be kept in such hearings, ~~in accordance with sections 15.041 to 15.049, the manner provided by law.~~ Upon conviction of a second or any subsequent offense, the commissioner may revoke and cancel such license with or without notice of hearing, in his discretion, and in such case the commissioner shall not issue another license for the operation of such ~~creamery, or cheese factory, or condensery, or milk plant, or dairy plant, or cream station plant or establishment~~ for a term of one year from the date of such cancelation or revocation.

Sec. 3. *Minnesota Statutes 1949, Section 32.17, is repealed. Minnesota Statutes 1953, Section 32.50, Subdivision 9, is repealed. Minnesota Statutes 1957, Sections 32.01, Subdivision 5, 32.13, 32.14, 32.15, 32.16, and 32.50, Subdivision 8, are repealed.*

ARTICLE IV

Section 1. Minnesota Statutes 1957, Section 32.26, is amended to read:

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32.26 Multi-use dairy product containers. *Subdivision 1. Cleaning. Before being reused, dairy product containers which may be used more than once shall be cleaned in accordance with rules and regulations promulgated in the manner provided by law by the commissioner, except, that in no instance shall such rules serve to eliminate any producers product from the market, whose present method of production, bears no evidence of endangering the health of the consumers. All rules and regulations heretofore adopted by the commissioner relating to the cleaning of dairy product containers which are in effect at the time this section takes effect and which are not in conflict with this section, shall remain in effect until amended, modified, or repealed by the commissioner.*

Subd. 2. Return. Every person delivering milk, cream, ice cream, or other dairy product to any other person, in cans or other vessels shall have such cans or vessels free from any deleterious substance, filth, or rust, and in a wholesome condition for containing such milk, cream, ice cream, or other dairy product. Every person, receiving milk, cream, ice cream, or other any dairy product in cans or vessels containers which may be used more than once and which are to be returned to the sender or seller shall cause such cans or vessels containers to be promptly emptied, thoroughly cleansed as required by rules and regulations promulgated by the commissioner, and immediately returned.

Sec. 2. Minnesota Statutes 1957, Sections 32.08, 32.15, 32.50, Subdivision 1, and 32.52, Subdivision 1, are repealed.

ARTICLE V

Section 1. Minnesota Statutes 1957, Section 32.21, is amended to read:

32.21 Purchase or sale of unwholesome or adulterated milk or cream prohibited. No person shall sell or knowingly buy unwholesome or adulterated milk or cream. Milk or cream that has not been well cooled and aerated, or to which a preservative has been added; milk drawn from cows kept in crowded conditions or in places not well ventilated or lighted, or which from any cause are filthy or insanitary, or from unclean or diseased cows, or those fed with garbage or any filthy, decayed, putrid, or unwholesome animal or vegetable substance; milk drawn from cows within 15 days before, or five days after, calving; and milk or cream

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which has been kept in any place where bad air exists, and cream taken from unwholesome or adulterated milk, shall be deemed unwholesome and adulterated within the meaning of sections 32.21 to ~~32.31~~ and ~~32.36~~ to ~~32.42~~ and 32.22. *Except where otherwise provided by law*, milk from which any normal ingredient has been abstracted, or milk containing any substance not a normal constituent thereof, or containing less than three and one-fourth percent of butterfat, and cream in which there is less than 20 percent of butterfat, or which contains any foreign thickening or coloring substance, or any abnormal ingredient whatsoever, shall be deemed adulterated; nor shall any article of food be manufactured from unwholesome or adulterated milk or cream except as provided in section 32.22.

Sec. 2. Minnesota Statutes 1957, Section 32.25, Subdivision 1, is amended to read:

32.25 Milk and cream bought by weight; Babcock test.
Subdivision 1. **Milk-fat basis of payment; Babcock test.** All milk and cream purchased from two or more producers for the purpose of manufacture into butter or cheese, or for the purpose of condensing or drying the same, or for the purpose of resale, shall be purchased by weight and payment shall be made therefor upon the basis of milk-fat therein contained; provided, that in purchasing whole milk from which the milk-fat or cream is to be separated and the skimmed milk sold or processed separately, the purchaser shall pay for such skimmed milk by weight in addition to the amount paid for milk-fat, computing the skimmed milk at 80 percent of the weight of the whole milk, or the purchaser of such whole milk may pay for same on the basis of the fat and the non-fat solids contained therein.

The percentage of milk-fat in such milk and cream shall be determined by the Babcock test and by employing a standard official method for operating this test, which method shall be that adopted, prescribed, and set forth, with specifications in detail, in the rules and regulations from time to time made and published by the commissioner ~~under and pursuant to authority therefor conferred by the Minnesota Dairy and Food Law for the purpose of carrying out and enforcing the provisions thereof, which authority hereby expressly is declared to be applicable in the premises in the manner provided by law.~~

Sec. 3. Minnesota Statutes 1957, Section 32.27, is amended to read:

Changes or additions indicated by *italics*, deletions by ~~strikeout~~.

32.27 Custom factories; withholding of dairy product prohibited. No person engaged in making butter or cheese for others out of cream or milk furnished by them shall withhold, or permit to be withheld, any part of the cream or milk so furnished, or any product thereof, without the knowledge and consent of the owner. Every maker shall keep a record of all quantities of milk and cream received each day, from whom received, and the disposition thereof, also of the weight of all cheese and butter made each day and of the number and aggregate weight of all packages of cheese and butter delivered to those furnished milk and cream for manufacture or otherwise disposed of as required by *Minnesota Statutes, Sections 32.18 to 32.20*. These records shall be exhibited on request of the commissioner and his employees and to all persons furnishing milk and cream to such maker.

Sec. 4. Minnesota Statutes 1957, Section 32.37, is amended to read:

32.37 Process butter. No person shall sell any butter made of part cream and part casein and other ingredients by what is known as the "Quinness patent" or process, or that made by other similar process, whereby the casein of milk and other ingredients are made to imitate or resemble genuine butter made from cream, unless each package or receptacle in which the same is kept for sale or sold shall be *plainly* stamped or marked "patent butter" on the top and sides thereof, with ~~lamp black and oil~~, in letters at least one fourth of an inch wide, and one half of an inch high in letters of at least 36 point Gothic capitals; and in addition to such marking, the seller, at the time of the sale, shall give to the purchaser a printed card, stating distinctly and correctly the different ingredients contained in the compound.

Sec. 5. Minnesota Statutes 1957, Section 32.397, is amended to read:

32.397 Minimum standards. The standards set forth in ~~Laws 1945, Chapter 384, Minnesota Statutes, Sections 32.391 to 32.398~~ shall be considered as minimum standards only. Nothing in ~~Laws 1945, Chapter 384, Minnesota Statutes, Sections 32.391 to 32.398~~, shall be construed to prevent any municipality from providing by ordinance more stringent or comprehensive standards than are contained therein.

Sec. 6. Minnesota Statutes 1957, Section 32.491, Subdivision 1, is amended to read:

32.491 Milk and cream for manufacturing. Subdivi-

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sion 1. **Standards, grades, and price differentials.** In order to protect the public health and welfare, to promote the interests of the dairy industry in Minnesota, and to secure uniformity, the commissioner of agriculture, dairy, and food shall adopt standards, grades and price differentials between various grades of milk and cream for milk and cream purchased for manufacturing purposes. Before adopting any standards, grades, or price differentials for milk and cream, the commissioner shall hold a public hearing thereon, as provided by sections ~~15.041 to 15.049~~ law. Until such standards, grades and price differentials are made and filed, the standards, grades, and price differentials heretofore made by the commissioner remain in effect except as otherwise prescribed by law.

Sec. 7. *Minnesota Statutes 1957, Section 32.394, Subdivision 10, is repealed.*

ARTICLE VI

Section 1. Laws 1953, Chapter 157, Section 1, is amended to read:

Section 1. [**32.529**] **Citation.** *This act Minnesota Statutes, Sections 32.49, 32.50, Subdivision 7, 32.53, 32.531, 32.532, and 32.533, may be cited as the Minnesota Filled Dairy Products Act.*

Sec. 2. Minnesota Statutes 1957, Section 32.533, is amended to read:

32.533 Operation and effect. *Laws 1953, Chapter 157, Minnesota Statutes, Sections 32.49, 32.50, Subdivision 7, 32.53, 32.531, 32.532 and 32.533 is are supplemental to all other laws relating to filled dairy products not expressly referred to therein, and to all laws relating to the manufacture, sale, exchange or transportation of filled dairy products, or the manufacture or possession thereof, with the intent to sell, exchange or transport the same, either within or without the state of Minnesota, and shall not be construed to modify, repeal or in any wise affect any part or provisions of any such laws not expressly repealed therein.*

ARTICLE VII

Sec. 1. Minnesota Statutes 1957, Section 31.19, is amended to read:

31.19 Manufacturers of frozen dairy foods to obtain license. No person shall manufacture frozen foods, ice-

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cream mix, or ice-cream mix base for re-sale, without first having obtained a license therefor from the department of agriculture, dairy, and food, which is charged with the duty and power of administering and enforcing the provisions of sections 31.19 to 31.27, and which in so doing shall have all the powers and authority with relation thereto that are conferred upon it by sections ~~17.04 to 17.06, 17.08, 17.10, 22.21 to 22.47, and 22.50~~. Nothing in sections 31.19 to 31.27 shall apply to educational institutions or to charitable, fraternal or religious organizations not regularly engaged in the manufacture of frozen foods, ice-cream mix, or ice-cream mix base or to private homes manufacturing for their own use.

Sec. 2. Minnesota Statutes 1957, Section 31.24, is amended to read:

31.24 Licenses; revocation, suspension. The department of agriculture, dairy, and food shall have the power to suspend or revoke any license or certificate of registration thus granted, for failure to comply with the provisions of sections 31.19 to 31.27, or rules and regulations made thereunder, as provided in section ~~22.24~~.

Sec. 3. Minnesota Statutes 1957, Section 31.26, is amended to read:

31.26 Plants kept sanitary. Any plant or establishment for the manufacture of frozen foods, mix, ice-cream mix, mix base, or ice-cream mix base operated under the provisions of sections 31.19 to 31.27 shall be so located, constructed, and equipped that it may be kept in a clean and sanitary condition, in accordance with the rules and regulations promulgated by the commissioner pursuant to section ~~15.042~~ in the manner provided by law.

Approved March 23, 1961.

CHAPTER 148—S. F. No. 105

[Not Coded]

An act relating to the salary of the county auditor and treasurer of Lincoln county.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Lincoln county, auditor and treasurer's salary.** Notwithstanding the provisions of any other law to

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