

or shall be inadequate to pay in full one-half of all old age assistance grants contemplated by this act, then and in such case, and until federal funds are available in full, the county *agency* of each county may reduce each old age assistance grant by an amount equal to such deficiency."

Section 2. This act shall take effect and be in force from and after its passage.

Approved March 25, 1937.

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#### CHAPTER 101—H. F. No. 45

*An act relating to the manufacture and sale of ice cream mix and frozen foods and providing for licenses, penalties and manner of enforcement thereof, and to repeal Mason's Minnesota Statutes of 1927, Section 3827, and Laws 1931, Chapter 75.*

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

Section 1. **Definitions.**—That for the purpose and within the meaning of this act the following definitions shall obtain:

(a) "Frozen Foods" means ice cream, frozen custards, ice milk, milk sherbet, fruit ice or ice sherbet, frozen malted milk, as defined in this act.

(b) "Milk Products" means pure, clean and wholesome cream, pure milk fat, butter, milk, evaporated milk, skimmed milk, condensed milk, sweetened condensed milk, condensed skimmed milk, sweetened condensed skimmed milk, dried milk, dried skimmed milk.

(c) "Mix" or "Ice Cream Mix" means the mixture from which ice cream is frozen, made from a combination of milk products and one or more of the following ingredients: eggs, sugar, dextrose and honey, with or without flavoring and coloring, and with or without edible gelatin or vegetable stabilizer. It contains not more than one-half of one per centum by weight of edible gelatin or vegetable stabilizer, not less than twelve per centum by weight of milk fat, and not less than twenty per centum by weight of total milk solids. Ice cream mix in concentrated or condensed form shall contain such relative amounts of ingredients, that when diluted according to directions, it shall comply with the above definition of ice cream mix.

(d) "Ice Cream Mix Base" means ice cream powder or dry ice cream mix and is the product resulting from the removal of water

from ice cream mix and contains, all tolerances allowed for, not less than 30.5 per centum of milk fat and not less than 64.5 per centum of total solids and not more than five per centum of moisture.

(e) "Ice Cream" means the pure, clean, frozen product made from a combination of milk products and one or more of the following ingredients: Eggs, sugar, dextrose and honey, with or without flavoring and coloring, and with or without edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains not more than one-half of one per centum by weight of edible gelatin or vegetable stabilizer, not less than twelve per centum by weight of milk fat, and not less than twenty per centum by weight of total milk solids; except when fruits, nuts, cocoa or chocolate, maple syrup, cakes or confections are used for the purpose of flavoring, then it shall contain not less than twelve per centum by weight of milk fat and not less than twenty per centum by weight of total milk solids, except for such reduction in milk fat and in total milk solids as is due to the addition of such flavoring, but in no such case shall it contain less than ten per centum by weight of milk fat or less than sixteen per centum by weight of total milk solids. In no case shall any ice cream contain less than one and six-tenths pounds of total food solids per gallon or weigh less than four and one half pounds per gallon.

(f) "Frozen Custard" means French ice cream, French custard ice cream, ice custard, parfaits and similar frozen products. *Frozen custard is a pure, clean frozen product made from a combination of* milk products and one or more of the following ingredients: egg yolk, sugar, dextrose and honey, with or without flavoring and coloring, and with or without edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains not more than one-half of one per centum by weight of edible gelatin or vegetable stabilizer, not less than twelve per centum by weight of milk fat, not less than twenty per centum by weight of total milk solids, not less than five egg yolks or their equivalent in egg powder or egg yolk powder in each gallon of finished product. In no case shall any frozen custard contain less than one and six-tenths pounds of total food solids per gallon or weigh less than four and one-half pounds per gallon.

(g) "Ice Milk" means the pure, clean, frozen product made from a combination of milk products and one or more of the following ingredients: sugar, dextrose and honey with flavoring, but without coloring, and with or without edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains not more than one-half of one per centum by weight of edible gelatin or vegetable

stabilizer, not less than two per centum and not more than twelve per centum by weight of milk fat, and not less than fourteen per centum by weight of total milk solids. In no case shall any ice milk contain less than one and three-tenths pounds of total food solids per gallon or weigh less than five pounds per gallon.

(h) "Milk Sherbet" means the pure, clean, frozen product made from a combination of milk products and one or more of the following ingredients: eggs, sugar dextrose, and honey with fruit or fruit juice flavoring and coloring, with not less than four-tenths of one per centum of acid (as determined by the Mann Acid Test) and with or without added edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains not less than two per centum by weight of milk fat and not less than four per centum by weight of milk solids and weighs not less than five and one-half pounds per gallon.

(i) "Fruit Ice or Ice Sherbet" means the pure, clean, frozen product made from water, sugar, dextrose and honey with fruit or fruit juice flavoring and coloring, with not less than four-tenths of one per centum of acid (as determined by the Mann Acid Test) and with or without added edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains no milk solids and weighs not less than five and one-half pounds per gallon.

(j) "Frozen Malted Milk" means the pure, clean, semi-frozen product made from the combination of milk products, malted milk and one or more of the following ingredients: eggs, sugar, dextrose and honey, with or without flavoring and coloring, and with or without edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains not more than one-half of one per centum by weight of edible gelatin or vegetable stabilizer, not less than seven per centum by weight of milk fat, not less than fourteen per centum by weight of total milk solids, and not less than three per centum by weight of malted milk. In no case shall frozen malted milk contain less than one and three-tenths pounds of total food solids per gallon or weigh less than four and one-half pounds per gallon.

(k) "Imitation Ice Cream" means any frozen substance, mixture or compound, regardless of the name under which it is represented, which is made in imitation or semblance of ice cream, or is prepared or frozen as ice cream is customarily prepared or frozen, and which is not ice cream, frozen custard, ice milk, milk sherbet, fruit ice or ice sherbet, or frozen malted milk, as defined in this act.

(l) "Person" means any individual, partnership, corporation, or association.

(m) "Manufacture" means processing and/or freezing.

**Sec. 2. Manufacturers of frozen foods to obtain license.**—No person shall manufacture frozen foods, ice cream mix or ice cream mix base, as defined herein, for resale, 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 this act and which in so doing shall have all the powers and authority with relation thereto that is conferred upon it by Mason's Minnesota Statutes of 1927, Sections 3788 to 3873, inclusive, as amended. Nothing in this act 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. 3. Department of agriculture and dairy foods to inspect frozen foods.**—No frozen foods as defined herein not manufactured in this state shall be sold, offered, exposed, exchanged, or held in possession with intent to sell within this state, unless the same are first inspected and registered with the Department of Agriculture, Dairy and Food as provided in Section 5 of this act.

**Sec. 4. Must obtain license for each plant.**—Any person desiring to manufacture frozen foods, ice cream mix or ice cream mix base, as described in Section 1 hereof, shall apply to the Department of Agriculture, Dairy and Food, for a license for each plant or establishment in such form as may be required by said department. Such application shall be accompanied by a fee of \$1.00, which shall be paid into the State Treasury and credited to the general revenue fund. If the Department of Agriculture, Dairy and Food shall find that the applicant maintains a proper place and sanitary equipment, it shall issue to the applicant a license therefor.

**Sec. 5. Non-resident manufacturers to obtain license.**—Any person who manufactures frozen foods, ice cream mix or ice cream mix base, as defined herein, outside of the state, for sale within the state, shall apply for registration with the Department of Agriculture, Dairy and Food in such form and furnish such information as the department may require. Samples of all frozen foods, ice cream mix or ice cream mix base, so manufactured for sale and sold within this state shall be submitted. Each application shall be accompanied by a fee of \$5.00 which shall constitute the registration fee in case certificate of registration is granted. If the Department of Agriculture, Dairy and Food shall find that the samples so submitted are up to the accepted standards, and otherwise comply with the laws of this state, then they shall issue to applicant a certificate of registration.

**Sec. 6. Expiration of licenses.**—Such license or certificate of registration shall expire on the 31st day of December following its

issue, and no license or certificate of registration shall be issued for a longer term than one year, and shall not be transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location.

**Sec. 7. Licenses may be revoked.**—The Department of Agriculture, Dairy and Food shall have the power to revoke any license or certificate of registration thus granted, for failure to comply with the provisions of this act, or rules and regulations made hereunder, as provided in Mason's Minnesota Statutes of 1927, Section 3814.

**Sec. 8. All containers shall be labeled.**—(a) All cans or containers used in the sale or distribution of ice cream mix or ice cream mix base shall bear a label attached to same giving the following information:

- (1) Name of product.
- (2) Percentage of milk fat contained in product.
- (3) Percentage of total solids contained in product.
- (4) Statement of net contents.
- (5) Name and address of manufacturer.

Every package of frozen foods packed by the manufacturer shall bear a label. The label shall give the name of the product, the name and address of the manufacturer or distributor and statement of net contents.

(b) No person shall sell, advertise, or expose for sale, or offer for sale a frozen food, ice cream mix or ice cream mix base, as defined in this act, if it contains any fat, oils or paraffin, other than milk fat, except such fats or oils as are naturally contained in the flavor used.

(c) No person shall sell or offer or expose for sale ice milk, unless contained in a package upon which package shall be conspicuously printed the words "Ice Milk". The words "Ice Milk" shall appear in dark ink upon a light background in type not less than 24 point Gothic capitals.

(d) No person shall sell, advertise or offer or expose for sale any imitation ice cream.

(e) No person shall sell, offer for sale or advertise for sale any frozen food, ice cream mix or ice cream mix base, as defined in this act, if the brand name of the frozen food, ice cream mix or ice cream mix base or label upon it or the advertising accompanying it shall give a false indication of origin, character, composition, name of manufacturer, or is otherwise false or misleading in any particular

**Sec. 9. Plants must be kept sanitary.**—Any plant or establishment for the manufacture of frozen foods, ice cream mix or ice cream mix base, as defined herein, operated under the provisions of this act shall be so located, constructed and equipped that it may be kept in a clean and sanitary condition.

**Sec. 10. Milk must be pasteurized.**—All milk, and/or milk products used as constituents of frozen foods, ice cream mix or ice cream mix base, as defined herein, shall be pasteurized. Pasteurization is hereby defined as the process of heating milk and/or milk products to a temperature of not less than 145 degrees F., and holding at that temperature for not less than 30 minutes. After pasteurization such milk and/or milk products shall be immediately cooled to at least 50 degrees F., and held at or below that temperature until frozen.

A recording thermometer record chart, properly dated, of each batch of milk, and/or milk products pasteurized for use in the manufacture of frozen foods, ice cream mix or ice cream mix base, shall be available at the plant of pasteurization at all reasonable times, for inspection by the Department of Agriculture, Dairy and Food.

The bacterial count of frozen foods, ice cream mix or ice cream mix base shall not exceed 150,000 per milliliter as determined by the agar plate method in accordance with the latest standard methods of the American Public Health Association. Such test shall be made of a representative sample of frozen foods, ice cream mix or ice cream mix base, taken from an unbroken package in the possession of the manufacturer, but in the event that no unbroken package is available when sample is requested, then it shall be taken from a broken package in the possession of the manufacturer.

**Sec. 11. Violation a misdemeanor.**—Any person violating any of the provisions of this act or any regulations made hereunder or now in force, shall be guilty of a misdemeanor and be punished by a fine of not less than \$15.00 or by imprisonment in the county jail for not less than ten days for the first offense, and in the sum of not less than \$30.00 or by imprisonment in the county jail for not less than 20 days for each subsequent offense.

**Sec. 12. Provisions severable.**—If any section, subdivision, sentence or clause in this act shall, for any reason, be held void or unconstitutional, such decision shall not affect the validity of any other portion of this act.

**Sec. 13. Law repealed.**—Mason's Minnesota Statutes of 1927, Section 3827, and Laws 1931, Chapter 75, are hereby repealed.

**Sec. 14. Effective 30 days after passage.**—This act shall take effect and be in force from and after 30 days after its passage.

Approved March 25, 1937.