

pany to the village to waive governmental immunity to the extent of the coverage in the policy. The waiver of defense of governmental immunity made pursuant to such provision in the policy of insurance shall not subject the village to liability in excess of the insurance coverage provided by the policy.

Sec. 4. Minnesota Statutes 1957, Section 412.591, is amended to read:

412.591 Optional plan "A"; duties of clerk. *Subdivision 1.* The village clerk shall perform all the duties imposed on the clerk in villages generally but he shall not be a member of the council, except that when Optional Plan A is first adopted in any village, the incumbent clerk shall continue to be a member of the council until the expiration of his term. The duties of the village treasurer and assessor shall not be affected by adoption of Optional Plan A.

Subd. 2. *Villages operating under Optional Plan A may, by an ordinance effective after the expiration of the term of the incumbent treasurer at the date of adoption of Optional Plan A, combine the offices of clerk and treasurer in the office of clerk-treasurer and thereafter the duties of the treasurer as prescribed by this chapter shall be performed by the clerk-treasurer. The offices of clerk and treasurer may be re-established by ordinance. If the offices of clerk and treasurer are combined as provided by this section, the council shall provide for an annual audit of the village's financial affairs by the public examiner or a public accountant in accordance with minimum procedures prescribed by the public examiner.*

Approved April 10, 1961.

CHAPTER 231—S. F. No. 238

[Coded]

An act relating to paints and varnishes and the distribution and sale of same; providing penalties for violation of act; repealing Minnesota Statutes 1957, Section 24.02, Subdivision 5, and Sections 24.13, 24.14, 24.15, 24.16, and 24.17.

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

Section 1. **[24.131] Minnesota paint and varnish**

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

law. Sections 1 to 10 may be cited as the Minnesota Paint and Varnish Law.

Sec. 2. [24.135] **Definitions.** Subdivision 1. As used in sections 1 to 10, the terms defined in this section have the meanings given them.

Subd. 2. "Paint" means any mixture of a pigment and some suitable liquid which will form a solid, adherent, protective or decorative covering when spread upon a surface. It includes liquid, semipaste and solid substances or any mixture of such substances. The term "paint" includes enamels, lacqers, water paints and any substitute for these products but does not include artist's colors, waxes, wood fillers, polishes, stains, plaster, stucco and waterproofing compounds.

Subd. 3. "Varnish" means any liquid or semi-liquid substance or mixture of substances, or any liquid or semi-liquid solution or suspension of substances intended for use as a protective or decorative or impregnating coating when spread upon a surface. The term "varnish" does not include artist's varnishes, waxes, polishes, and stains.

Subd. 4. "Solvent" means any volatile liquid or mixture of volatile liquids, including but not limited to turpentine, intended for use in, or with, any paint or varnish.

Subd. 5. "Paint oil" means any oil, or mixture of oils and other liquids used or intended for use in paint.

Subd. 6. "Person" means any individual, firm, corporation, partnership, association, trust, joint stock company or unincorporated organization.

Subd. 7. "Commissioner" means the commissioner of the department of agriculture, dairy and food of the state of Minnesota.

Subd. 8. "Label" means the written, printed or graphic matter on the immediate container of the article or on the article itself and also on the outside container or wrapper, if any there be, of the individual consumer package of such article.

Subd. 9. "Labeling" means all labels and other written, printed or graphic matter, (1) upon any article or any of its containers or wrappers, (2) accompanying such article, or (3) to which reference is made on the label or literature accompanying such article.

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Subd. 10. "Adulterated" means any paint, varnish, paint oil or solvent if its strength or purity falls below the professed standards of composition under which it is sold, if any substance has been substituted wholly or in part for the article, or if any valuable constituent of the article has been wholly or in part abstracted.

Subd. 11. "Misbranded" means any paint, varnish, paint oil or solvent if: (1) its labeling bears any statement, design, or graphic representation relative to the article or its ingredients, which is false or misleading in any particular; or (2) if the label accompanying the article does not contain adequate instructions for use; or (3) if it be an imitation or offered for sale under the name of another article; or (4) if its label fails to bear the ingredient statement plainly and correctly. "Misbranded" also means any paint, varnish, paint oil or solvent if the label does not specify the general purpose for which the product is intended.

Subd. 12. "Ingredient statement" means a statement of the chemical name and percentage by weight of each ingredient.

Subd. 13. "Professed standards" means the strength, purity, or representation of composition under which the product is sold.

Sec. 3. [24.141] **Illegal acts; labeling requirements.**

(a) It is unlawful for any person to sell, offer or expose for sale or to have in his possession with intent to sell within this state any paint, varnish, paint oil or solvent, of whatever nature, that is adulterated, misbranded, insufficiently or improperly labeled within the meaning of sections 2 to 10 or the rules or regulations adopted by the commissioner. The label shall contain the following information: (1) the name, brand or trade-mark of the product; (2) the name and address of the manufacturer, distributor, or the person for whom the product was manufactured; (3) the net weight or measure, as the case may be, which is contained in the package; (4) a complete ingredient statement. Whenever it is not possible or practical to use the chemical name, the commissioner may approve the use of other names or terms in the ingredient statement. Tinting colors not exceeding 5 percent by weight need not be declared on the label.

Sec. 4. [24.145] **Inspection; tests.** For obtaining information regarding the suspected violations of law, the commissioner, his assistants, appointees, agents and em-

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ployees shall have access to all places where any paint, varnish, paint oil, solvent, or other article is manufactured, sold or stored for sale, the manufacture, sale or transportation of which is restricted, regulated or prohibited by sections 2 to 10 or by any law of this state. They may inspect any package, receptacle or container found therein apparently containing any paint, varnish, paint oil, solvent, or ingredients thereof, or any other article, the manufacture, sale or transportation of which is restricted, regulated or forbidden by sections 2 to 10 or by any law of this state and may take samples therefrom for analysis. Any person obstructing such entry or inspection or who fails upon request to furnish information requested by the commissioner, is guilty of a misdemeanor.

Sec. 5. [24.151] **Stop-sale order.** The commissioner shall issue and enforce a written or printed "stop-sale use or removal" order to the owner or custodian of any lot of paint, varnish, paint oil or solvent when the commissioner finds that the product is being offered or exposed for sale in violation of any of the provisions of sections 2 to 10, and his order shall direct that the product shall be held at a designated place until the provisions of sections 2 to 10 have been complied with and the product is released in writing by the commissioner. However, the owner or custodian of such paint, varnish, paint oil or solvent has the right to appeal from such order to a court of competent jurisdiction in the county or city where the product is found, praying for a judgment as to the justification of the order, and for the discharge of the product from the order prohibiting the sale in accordance with the findings of the court. The provisions of this section shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of sections 2 to 10. The commissioner shall release the paint, varnish, paint oil or solvent held under any stop-sale use or removal order when the requirements of sections 2 to 10 have been complied with and upon payment of all reasonable costs and expenses incurred in connection with such order. When the commissioner issues and enforces a "stop sale, use or removal" order against any paint, varnish, paint oil or solvent declared in violation of sections 2 to 10, in possession of any dealer or distributor, such dealer or distributor may return to the person from whom such paint, varnish, paint oil or solvent was purchased all unbroken retail containers affected by such order and such person shall reimburse the dealer or distributor for the full purchase price, including all delivery costs.

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Sec. 6. [24.155] **Seizures.** Any lot of paint, varnish, paint oil or solvent found not to be in compliance with the provisions of sections 2 to 10 shall be subject to seizure on complaint of the commissioner to a court of competent jurisdiction in the area in which said paint, varnish, paint oil or solvent is located. In the event the court finds that the paint, varnish, paint oil or solvent is in violation of the provisions of sections 2 to 10 and orders the condemnation of the product, it shall be disposed of in any manner consistent with the quality of the paint, varnish, paint oil or solvent and the laws of the state. In no instance shall the disposition of paint, varnish, paint oil or solvent be ordered by the court without first giving the claimant an opportunity to apply to the court for the release of the product or for permission to process or relabel the product to bring it into compliance with sections 2 to 10.

Sec. 7. [24.161] **Commissioner's duties; rules.** The commissioner shall enforce all of the provisions of sections 2 to 10, and may prescribe such rules and regulations relating to the sale and distribution of paint, varnish, paint oil or solvent as he may find necessary and proper in his judgment to best carry out the purpose of sections 2 to 10. Such rules and regulations shall be promulgated in the manner provided by law.

Sec. 8. [24.165] **Constitutionality; severability.** If any section, subdivision, clause or phrase of sections 2 to 10 is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of sections 2 to 10. The legislature hereby declares that it would have passed sections 2 to 10 and each section, subdivision, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subdivisions, sentences, clauses or phrases be declared unconstitutional.

Sec. 9. [24.171] **Exceptions to paint law.** The provisions of sections 2 to 10, except section 4, shall not apply to (1) paints, varnish, paint oil or solvent, in transit through the state or in storage within the state intended for and sold outside the state; (2) paints, varnish, paint oil or solvent, in transit or in storage intended for and actually used for manufacturing, processing, mixing or repacking; (3) paint, varnish, paint oil or solvent not packaged for resale and not sold, offered or exposed for sale to the general public, but sold through agreement to any manufacturer, industrial plant, painting or building contractor, or agents of

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the federal government, state of Minnesota or subdivisions thereof or public service corporation for direct use by such purchaser. However, evidence concerning such sale shall be furnished the commissioner upon request.

Sec. 10. [24.175] **Penalties.** Any person convicted of violating any of the provisions of sections 2 to 10 or any regulations made thereunder is guilty of a misdemeanor.

Sec. 11. Minnesota Statutes 1957, Section 24.02, Subdivision 5, and Sections 24.13, 24.14, 24.15, 24.16, and 24.17, and acts amendatory thereof, are hereby repealed.

Sec. 12. Sections 1 to 11 take effect and are in force on and after January 1, 1962, but shall not apply to paint, varnish, paint oil or solvent owned by a dealer or distributor prior to such effective date.

Approved April 10, 1961.

CHAPTER 232—S. F. No. 249

[Coded]

An act relating to grain banks; providing for their establishment and operation; providing penalties.

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

Section 1. [236.01] **Definitions.** Subdivision 1. For the purposes of sections 1 to 9, the following terms shall have the following meanings.

Subd. 2. "Person" includes any individual, partnership, association, corporation, joint venture or combinations thereof.

Subd. 3. "Grain Bank" means a feed-processing plant which receives and stores grain, the equivalent of which, except as is otherwise permitted by section 4, it processes and returns to the owner thereof, in such amounts, at such intervals, and with such added ingredients, as are mutually agreeable to the owner thereof and the person operating the plant.

Subd. 4. "Grain bank receipt" means a non-negotiable receipt issued to the owner of the grain or his agent.

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