

Sec. 2 **Effective date.** This act is effective upon its final enactment.

Approved March 23, 1961.

CHAPTER 144—H. F. No. 57

[Coded in Part]

An act relating to food; providing penalties; amending Minnesota Statutes 1957, Sections 17.36, Subdivision 3; 31.01, Subdivisions 1 and 5; 31.02; 31.03; 31.04; 31.05; 31.06; 31.07; 31.08; 31.09; 31.10; 31.11; 31.12; 31.13; 31.14; 31.15; 31.185, Subdivision 2, as amended, and subdivisions 5 and 6; 31.29; 31.31; 31.36; 31.38; 31.39; 31.40; 31.41; 31.43; 31.435, Subdivision 4; 31.44, Subdivisions 1, 4, and 5; 32.384; 32.398, Subdivision 1; 32.491, Subdivision 3; 33.18; 34.01, Subdivision 3; 34.08; 34.13, Subdivision 1; Laws 1959, Chapter 606, Sections 1; 2, Subdivision 1; 3; 5; 6; 7; 8; and 9; and repealing Minnesota Statutes 1957, Sections 31.42; 616.07; and 616.08.

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

ARTICLE I

Section 1. Minnesota Statutes 1957, Section 31.01, Subdivision 1, is amended to read:

31.01 Definitions. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in this section, *subdivisions 2 to 5, and in Minnesota Statutes, Section 31.03*, shall for the purposes of this chapter *and for Minnesota Statutes, Sections 17.36, 24.02, Subdivision 4, 24.19, 24.20, and 24.21, and 24.23, Subdivision 3*, ~~be given~~ have the meanings ~~subjected given~~ to them.

Sec. 2. Minnesota Statutes 1957, Section 31.01, Subdivision 5, is amended to read:

Subd. 5. **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.

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

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

(2) 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 proportion of any morphine, opium, heroin, or alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acentanilide, or any derivative or preparation of any of such substances contained therein;

(3) 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 ~~in accordance with the provisions of sections 31-10 to 31-12;~~ *by the commissioner in the manner provided by law;* and, provided, further, that the commissioner shall have full authority to determine when food is in package form;

(4) If the package containing it, or its label, 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.

Sec. 3. Minnesota Statutes 1957, Section 31.03, is amended to read:

31.03 Adulterated. ~~For the purpose of Sections 31-01 to 31-44, as amended,~~ An article shall be deemed to be adulterated:

In the case of confectionery;

If it contains terra alba, barytes, coal tar dye, except those colors certified as harmless for use in foods under the United States food and drug act, or the rules and regulations for its enforcement, or saccharine, *except for saccharine used as provided in Minnesota Statutes, Section 31.023,* chrome yellow, or other mineral substance or any other poisonous or

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injurious coloring or flavoring matter, or any substance or ingredient deleterious or detrimental to health, or any vinous, malt or spirituous liquor or compound or narcotic drug;

In case of food:

(1) If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength;

(2) If any substance has been substituted, wholly or in part, for the article;

(3) If any valuable constituent of the articles has been, wholly or in part, abstracted;

(4) If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed;

(5) If it contain any added boric acid or borates, salicylic acid or salicylates, formaldehyde, sulphurous acid or sulphites, except such nominal percentage of sulphurous acid or sulphites as the process of manufacture may necessitate, hydrofluoric acid or fluorides, coal tar dye or color, except that such coal tar dyes or colors as are certified as harmless for use in foods by the secretary of the United States department of agriculture under the United States food and drug act, or the rules and regulations for its enforcement, may be used in still or carbonated beverages, candies, and such other food products as may be permitted and authorized under the rules and regulations promulgated by the commissioner, saccharine, *except for saccharine used as provided in Minnesota Statutes, Section 31.023*, or any added poisonous or other added deleterious ingredient which may render such article unwholesome, injurious, or detrimental to health.

(6) If it consist, in whole or in part, of a filthy, decomposed, or putrid animal or vegetable substance, of any portion of any animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

Sec. 4. [32.55] Definitions; frozen dairy foods.
Subdivision 1. For the purposes of Minnesota Statutes, Sections 31.01, Subdivisions 6 to 17, 31.19 to 31.27, and 31.44, Subdivisions 2 and 3, and acts amendatory thereof, the terms defined in Minnesota Statutes, Section 31.01, Subdivisions 6 to 17, and acts amendatory thereof, have the meanings given them.

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ARTICLE II

Section 1. Minnesota Statutes 1957, Section 31.02, is amended to read:

31.02 Unlawful to sell certain food. It shall be unlawful for any person to manufacture, sell, use, transport, offer for sale or transportation, or have in possession with intent to use, sell, or transport, any article of food which is adulterated, misbranded, insufficiently labeled, unwholesome, poisonous, or deleterious ~~within the meanings of sections 31.01 to 31.44.~~

Sec. 2. Minnesota Statutes 1957, Section 31.04, is amended to read:

31.04 Right of inspection. For obtaining information regarding suspected violations of law, the commissioner, his assistants, inspectors, appointees, agents and employees, shall have access to all places where any article of food, or other article, the manufacture, sale, use or transportation of which is now or hereafter restricted, regulated, or prohibited by any law of this state, is or may be manufactured, prepared, stored, sold, used, transported, offered for sale or transportation, or had in possession with intent to use, sell, or transport, or where cows or other animals are pastured or stabled, to cars or other carriages used for transportation of such articles or animals, and to places where food is or may be cooked, prepared, sold, or kept for sale to or for the public or distributed as a part of the compensation of servants or agents, including public and private hospitals, lumber and railroad camps, inns, boarding and eating houses, drinking places, dining cars, boats, and other places where any of these articles may be manufactured, sold, used, offered for sale or transportation, or had in possession with intent to use, sell, or transport, and they may inspect any package, receptacle, or container found therein apparently containing any article of food or ingredient thereof, or any other article the manufacture, use, sale, or transportation of which is *now or hereafter* restricted, regulated, or forbidden by any law of this state, and may take samples therefrom for analysis. Any person obstructing such entry or inspection, or failing upon request to assist therein, shall be guilty of a misdemeanor.

Sec. 3. Minnesota Statutes 1957, Section 31.05, is amended to read:

31.05 Seizure, search warrants. The commissioner may seize all food, the manufacture, transportation, sale, or

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X use of which is *now or hereafter* prohibited by sections ~~31.01 to 31.44~~, law, or which is manufactured, sold, used, transported, kept or offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport, in violation of any provision of sections ~~31.02 to 31.17 and 31.28 to 31.43~~ law, or in violation of any rule, regulation, definition, standard, or ruling made, ~~adopted, and published under sections 31.02 to 31.17 and 31.28 to 31.43~~, *thereunder*, in the manner provided by law, and for this purpose he and his several assistants, inspectors, agents, and employees shall have the powers of a constable. Such seizure may be made without a warrant, but in such case, as soon as practicable, he shall cause the person suspected of such violation of law to be arrested and prosecuted therefor. When necessary, a search warrant may be issued, as in the case of stolen property, the form of the complaint and of the warrant being adapted to the purposes of sections ~~31.02 to 31.17 and 31.28 to 31.43~~ *this section*.

Sec. 4. Minnesota Statutes 1957, Section 31.06, is amended to read:

31.06 Execution of warrant; disposition of food seized. The search warrant shall be directed to the sheriff or any constable of the county, and to the chief of police, or any police officer or marshal of any municipality, and may be executed by the commissioner, or any of his agents or employees. No security for costs shall be required thereon or upon any prosecution under sections ~~31.01 to 31.44~~ *for violation of any law now or hereafter enacted relating to food*. All food seized, whether with or without warrant, shall be safely kept by the officer or person seizing the same, so long as it may be needed for evidence, and, if found upon trial to have been manufactured, sold, used, transported, kept or offered for sale, use, or transportation, or had in possession with intent to use, sell, or transport in violation of *any law now or hereafter enacted*, it shall be forfeited to the state and shall be disposed of as directed by the court.

Sec. 5. Minnesota Statutes 1957, Section 31.07, is amended to read:

31.07 Price not collectible. No action shall be maintained for the purchase price or value of any food, the sale of which is *now or hereafter* prohibited by sections ~~31.01 to 31.44~~, law or which is manufactured, used, sold, transported, kept or offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport, in violation of *any law now or hereafter enacted*; nor shall any person be

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liable for the price or value of food or board furnished in violation of sections ~~31.01 to 31.44~~ *any such law*.

Sec. 6. Minnesota Statutes 1957, Section 31.08, is amended to read:

31.08 Additional powers and authority; food in transit. The commissioner, by himself, or any of his assistants, inspectors, agents, or employees, in addition to the authority and powers otherwise conferred by law, is authorized and empowered to have and to take access to any and all trucks, aeroplanes, airships, vehicles, and railroad cars of every sort and nature transported or being within this state, all railroad stations, storage houses, warehouses, express offices, or other places wherein at any time there may be food transported or shipped into from without this state, whether or not such food has been manufactured, sold, or given away without the state; provided, that such food was manufactured, sold, or given away with the intent that it be delivered, had, or used within this state; and the commissioner shall have the same power and authority to open any package, car, or vessel containing food so transported or shipped into from without the state, which contains, or which he has reason to believe contains, any such food; to inspect the contents thereof and to take samples for analysis and examination, all after the same manner and with the same procedure as obtains by law in reference to similar good manufactured, sold, transported, offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport within this state. If it shall appear that any such food is adulterated, misbranded, insufficiently labeled, unwholesome, poisonous, or deleterious, the commissioner shall have the same rights and remedies and shall enforce the same in the same manner as in the case of food manufactured, sold, transported, offered for sale, use, or transportation, or had in possession with intent to sell, use, or transport within this state. On receiving notice from the commissioner, or any authorized agent or employee, that he desires to inspect the contents of any such package, can, or vessel, it shall be the duty of any common carrier, storage man, warehouseman, or their employees, or other person having the same in his possession or under his control, to withhold the same from delivery within this state for such period of time as may be reasonably necessary for the inspection, examination, and analysis thereof. It is further made the duty of all such persons to render to the commissioner and his agents and employees all the assistance in their power when so required to effectuate the purposes of sections ~~31.01 to~~

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~~31.44~~ *laws now or hereafter enacted relating to food.* In case such inspection, examination, or analysis of any such food shall disclose it to be adulterated, misbranded, insufficiently labeled, unwholesome, poisonous, or deleterious ~~within the meaning of sections 31.01 to 31.44~~, such persons shall, on demand, disclose to the commissioner the names and addresses of the consignor and consignee of the package, can, or vessel containing the same, and the commissioner, before proceeding further, shall notify such consignor and consignee, in writing, at their respective addresses, of the result of the inspection, examination, or analysis as so disclosed. Any common carrier, warehouseman, storage man, employee, or other person having such food in his possession or under his control, failing or refusing to comply with any of the provisions of ~~sections 31.01 to 31.44~~ *this section* shall be guilty of a misdemeanor.

Sec. 7. Minnesota Statutes 1957, Section 31.09, is amended to read:

31.09 Commissioner to render certain food unsalable. The commissioner, his assistants, inspectors, agents, and employees, shall also have power and authority, in their discretion, to render unsalable for use as food, any food the sale or use of which is *now or hereafter* prohibited by ~~sections 31.01 to 31.44~~ *law*, or which is manufactured, sold, used, transported, offered for sale or transportation, or had in possession with intent to use, sell, or transport in violation of any provision thereof, or in violation of any provision of any rule, regulation, definition, standard, or ruling made, adopted, and published thereunder, and the commissioner and his several assistants, inspectors, agents, and employees shall be exempt from liability for any such action. The test of the condition of any such food shall be its condition at the time of discovery. Any reasonable and necessary means may be adopted for rendering such food unsalable for use as food.

Sec. 8. Minnesota Statutes 1957, Section 31.10, is amended to read:

31.10 Standards, definitions; promulgation. For the purpose of ~~securing uniformity, so far as practicable, between the laws of this state and those of the federal government now enacted to prevent~~ *preventing* fraud and deception in the manufacture, use, sale, and transportation of food, ~~frozen food, milk products, mix, ice cream mix, mix base and ice cream mix base, and to protect and preserve~~ *or for the purpose of protecting and preserving* the public health, it shall

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be the duty of the commissioner to fix, adopt, and publish, from time to time, by rulings or regulations, in writing, definitions and standards of quality, purity, identity, composition, analysis, content and strength of articles of food, ~~frozen food, milk products, mix, ice cream mix, mix base, or ice cream mix base~~, for which no definitions and standards are prescribed by law, and such definitions and standards so fixed, adopted, and published by the commissioner shall be the lawful definitions and standards thereof before all courts; provided that when definitions and standards have been or may be fixed by the secretary of the department of agriculture, or the secretary of the department of health, education and welfare of the United States, except in cases where definitions or standards otherwise are prescribed by law, they may be accepted by the commissioner and if accepted, published as definitions or standards for Minnesota. All definitions and standards promulgated and adopted by the commissioner shall be done in accordance with sections ~~15.041 and 15.049~~ *the manner provided by law*. Until such definitions and standards are promulgated and adopted in the manner stated, the definitions and standards heretofore prescribed by law or promulgated and adopted by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall manufacture, use, sell, transport, package, offer for sale or transportation, or have in possession with the intent to sell, package, repackage, offer for sale or transportation, or use, or transport, any article of food, ~~frozen food, milk products, mix, ice cream mix, mix base or ice cream mix base~~, which does not conform to such definitions or standards so fixed, adopted, and published, shall be guilty of a violation of this chapter *misdemeanor*.

Sec. 9. Minnesota Statutes 1957, Section 31.11, is amended to read:

31.11 Rules and regulations. For the purposes of section ~~31.10~~ *purpose of preventing fraud and deception in the manufacture, use, sale, and transportation of food, or for the purpose of protecting and preserving the public health*, it shall also be the duty of the commissioner to make and publish uniform rules and regulations, not inconsistent with law, for carrying out and enforcing the provisions of sections ~~31.01 to 31.44~~ *laws now or hereafter enacted relating to food*; which rules and regulations shall be approved by the attorney general as to form and legality and shall be made and published and affidavits of publication made and filed in the manner specified in section ~~31.10~~ *in the manner provided by law*.

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From and after the tenth day succeeding the date of the last such publication, such rules and regulations shall have the force and effect of law. The affidavit of publication, or a duly certified copy thereof, shall be prima facie evidence of the facts therein contained and of the due making and publishing of the rules and regulations therein set forth. Until such rules and regulations are made and published, the rules and regulations heretofore made by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall manufacture, use, sell, transport, offer for use, sale or transportation, or have in possession with intent to use, sell or transport, any article of food contrary to the provisions of any such rule or regulation, or who shall fail to comply with any such rule or regulation, shall be guilty of a violation of sections ~~21.01 to 21.44~~ *misdemeanor.*

Sec. 10. Minnesota Statutes 1957, Section 31.12, is amended to read:

31.12 Labeling. For the purposes of section ~~21.10~~ *purpose of preventing fraud and deception in the manufacture, use, sale, and transportation of food, or for the purpose of protecting and preserving the public health,* it shall be the duty of the commissioner, by rulings not inconsistent with law, to require that any article of food, or the package, receptacle, or container thereof, before it be sold, transported, used, offered for sale or transportation, or had in possession with intent to use, sell or transport within this state, shall be labeled, stamped, stenciled, marked, or branded in such manner as to plainly exhibit to the purchaser any or all of the following data or information: The percentages and true composition of such food article, its quality, strength, quantity, source of its manufacture or production or the person by or for whom the same is manufactured, produced, packed, or shipped. The commissioner shall also have authority to prescribe by such rulings the date on which the same shall take effect and be in force, and also the form, size, style, and wording of, and the place, time, method, means and manner of use of all such labels, stamps, stencils, brands, and markings, which rulings shall be made and published, and affidavits of publication made and filed, in the manner specified in section ~~21.10~~ *provided by law.* From and after the tenth day succeeding the date of the last such publication, unless a later date be fixed in the ruling for the taking effect thereof, and in such case from and after such date so fixed, the rulings shall have the force and effect of law.

The affidavit of publication, or a duly certified copy there-

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of, shall be ~~prima facie~~ evidence of the facts therein contained, and of the due making and publishing of the ruling or rulings therein set forth. Until such rulings are made and published and in effect as aforesaid, the rulings heretofore made by the commissioner shall remain in full force and effect, except as otherwise prescribed by law. Any person who shall fail to comply with such ruling or rulings shall be guilty of a violation of sections ~~31.01 to 31.44~~ *misdemeanor*.

Sec. 11. Minnesota Statutes 1957, Section 31.13, is amended to read:

31.13 Analysis; evidence. It shall be the duty of the chief chemist and assistants to make analyses and examinations of such articles as shall be furnished to them by the commissioner, for the purpose of determining from such examination whether such articles are adulterated, misbranded, insufficiently labeled, unwholesome, poisonous, or deleterious ~~within the meaning of sections 31.01 to 31.44~~, and whether such articles have been manufactured, used, sold, transported, offered for use, sale, or transportation, or had in possession with intent to use, sell, or transport in violation of any ~~provision thereof~~ *law now or hereafter enacted relating to food*, or of any definition, standard, rule, regulation, or ruling made and published thereunder, and to certify the result of such analysis and examination to the commissioner. A copy of the result of the examination or analysis of any such article, duly authenticated, by the chemist making such analysis or examination, under oath of such chemist, shall be prima facie evidence in all courts of the matters and facts therein contained.

Sec. 12. Minnesota Statutes 1957, Section 31.14, is amended to read:

31.14 Duty to prosecute. It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of sections ~~31.01 to 31.44~~, *laws now or hereafter enacted relating to food* to cause appropriate proceedings to be commenced and prosecuted in the proper courts, without delay, for the enforcement of the penalties as in such case therein provided.

Sec. 13. Minnesota Statutes 1957, Section 31.15, is amended to read:

31.15 Disposal of receipts. In all prosecutions under sections ~~31.01 to 31.44~~, *Minnesota Statutes, Section 31.14*, save as therein specifically provided, the fine or fines collect-

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ed by and under the same shall be forthwith transmitted by the officer collecting the same to the state treasurer, to the credit of the general revenue fund, and all other fees and payments made to the commissioner, except as aforesaid, shall be accounted for and disposed of in the same manner.

Sec. 14. Minnesota Statutes 1957, Section 31.29, is amended to read:

31.29 Removal of insanitary conditions. If, in the opinion of the commissioner, his assistants, inspectors or agents, or either of them, after an investigation thereof, any bakery, confectionery, creamery, dairy, dairy barn, milk depot, laboratory, hotel, restaurant, cafe, dining room, or eating house, fruit box, receptacle, fruit stand, or vehicle of any kind, packing or slaughter-house, ice-cream plant, or any place where any fruit or any food products are manufactured, packed, stored, deposited, collected, prepared, produced, served or sold for any purpose whatever, is operated in violation of section 31.28, the commissioner, his assistants, inspectors, or agents shall notify, in writing, the proprietor, owner, or manager of such bakery, confectionery, creamery, dairy, dairy barn, milk depot, laboratory, hotel, restaurant, cafe, dining room or eating house, fruit box or receptacle, fruit stand, or vehicle of any kind, packing or slaughter-house, ice-cream plant, or any place where any fruit or any food products are manufactured, packed, stored, deposited, collected, prepared, produced, served, or sold for any purpose, to place the same in a clean and sanitary condition within a reasonable time to be stated in the notice, which time so stated shall in no case be less than two days, and failure to comply with such notice within the time so stated shall be deemed a violation of the provisions of sections ~~31.01 to 31.44~~ *31.28 to 31.30*.

Sec. 15. Minnesota Statutes 1957, Section 17.36, Subdivision 3, is amended to read:

Subd. 3. Enforcement. The commissioner of agriculture, dairy, and food shall enforce the provisions of this section, including the standards and grades so adopted, ~~and for such purposes shall have all the power and authority granted him under Laws 1921, Chapter 495, and any amendments thereto.~~

Sec. 16. Minnesota Statutes 1957, Section 31.185, Subdivision 5, is amended to read:

Subd. 5. Enforcement. The commissioner, his in-

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spectors, assistants and employes, shall enforce the provisions of this section; and in so doing shall have all the powers and authority with relation thereto that is conferred upon them and each of them by Mason's Minnesota Statutes of 1927, Sections 3788 to 3873, as amended.

Sec. 17. Minnesota Statutes 1957, Section 31.185, Subdivision 6, is amended to read:

Subd. 6. **Must meet requirements of rules and regulations.** No article of food shall be stored in any refrigerated locker unless it is in a proper condition for storage and meets all the requirements of the Minnesota Dairy and Food Laws law and such rules and regulations as may be established in the manner provided by law by the department of agriculture, dairy and food, with the exception of the labelling requirements.

Sec. 18. Minnesota Statutes 1957, Section 31.435, Subdivision 4, is amended to read:

Subd. 4. **Enforcement.** The commissioner shall enforce the provisions of this section and in so doing shall have all the power and authority granted to him in Mason's Minnesota Statutes of 1927, Sections 3788 to 3873, as amended.

Sec. 19. Minnesota Statutes 1957, Section 32.384, is amended to read:

32.384 **Enforcement.** The commissioner of agriculture, dairy and food shall be charged with the enforcement of sections 32.381 to 32.383 and shall have authority to promulgate in the manner provided by law all such rules and regulations as are necessary to the enforcement thereof. In so doing he shall have all the power and authority granted him under Laws 1921, Chapter 495, as amended.

Sec. 20. Minnesota Statutes 1957, Section 32.398, Subdivision 1, is amended to read:

32.398 **Enforcement and violations.** Subdivision 1. **Enforcement.** The commissioner shall enforce the provisions of sections 32.391 to 32.398 and in so doing shall have all the power and authority granted him under Laws 1921, Chapter 495, as amended.

Sec. 21. Minnesota Statutes 1957, Section 32.491, Subdivision 3, is amended to read:

Subd. 3. **Enforcement.** The commissioner of agriculture
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ture, dairy and food shall enforce the provisions of this section and shall have all the power and authority granted him under Laws 1921, Chapter 495, as amended.

Sec. 22. Minnesota Statutes 1957, Section 33.18, is amended to read:

33.18 Enforcement. The commissioner shall enforce the provisions of this chapter, and, in so doing, shall have all the power and authority granted him under Laws 1921, Chapter 495, as amended.

Sec. 23. Minnesota Statutes 1957, Section 34.01, Subdivision 3, is amended to read:

Subd. 3. Carbonated beverages. A carbonated or still beverage shall be a beverage made of pure cane, beet sugar, or refined corn sugar, or corn syrup or corn syrup solids, with pure water, and pure flavoring materials, with or without fruit acids and harmless coloring materials, and the finished product shall contain not less than seven percent of sugar and less than one-half of one percent of alcohol by volume. *In addition to the requirements of other laws relating to adulteration of food which are administered by the department of agriculture, dairy, and food,* all carbonated or still beverages not conforming to the above requirements, to the provisions of sections 34.02 to 34.11, ~~to Laws 1921, Chapter 495,~~ or to the rules, definitions, and standards made thereunder, shall be deemed to be adulterated.

Sec. 24. Minnesota Statutes 1957, Section 34.08, is amended to read:

34.08 Suspension or revocation of license or certificate; hearings. The commissioner shall have power to suspend or revoke any such license or certificate of registration for failure to comply with the provisions of sections 34.02 to 34.11, or rules and regulations made thereunder, either temporary or permanent, but before any permanent revocation of license or certificate of registration shall be made, the commissioner shall serve upon the licensee or certificate holder, by registered letter containing a copy thereof, an order to show cause why the license or certificate of registration should not be permanently revoked, stating the grounds thereof and the time and place of hearing, which time shall not be less than 15 days after the mailing of the order.

At the appointed time and place, and at such times as the matter may be adjourned to, the commissioner shall hear

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all proper evidence relating to the cause of the proposed revocation and, within a reasonable time thereafter, he shall make and file his decision of the matter and forthwith mail to the licensee or certificate holder a copy thereof.

The commissioner may temporarily suspend the license of any licensee for violations of sections 34.02 to 34.11, regulations made thereunder, or under ~~Laws 1921, Chapter 495,~~ *other laws relating to food which are administered by the commissioner* but no such temporary suspension shall exceed 30 days, in which time steps may be taken by the commissioner for permanent revocation, as above provided.

Any person, whose license or certificate of registration has been so suspended or revoked, shall discontinue the manufacture of, or sale within this state of, any soft drinks or other non-alcoholic beverages, until the suspension is removed or a new license or certificate is granted.

Sec. 25. Minnesota Statutes 1957, Section 34.13, Subdivision 1, is amended to read:

34.13 Enforcement. Subdivision 1. The commissioner, his inspectors, assistants, and employees, shall enforce the provisions of sections 34.02 to 34.11; ~~and, in so doing, shall have all the powers and authority with relation thereto that is conferred upon them, and each of them, by Laws 1921, Chapter 495.~~

ARTICLE III

Section 1. Minnesota Statutes 1957, Section 31.185, Subdivision 2, as amended by Laws 1959, Chapter 19, Section 2, and Laws 1959, Chapter 224, Section 2, is amended to read:

Subd. 2. **Licenses.** Every person engaged in the business of operating a frozen food processing plant, or engaged as a processor, shall apply for a license therefor to the commissioner in such form and shall furnish such information as he may require. Each application shall be accompanied by a fee of \$10. This sum shall constitute the license fee in case license is granted. If the commissioner shall find that the applicant maintains a proper place for the storage of frozen foods, has proper cooling and freezing facilities, maintains a proper place and equipment for processing meats and meat products, and meets all sanitation requirements, the commissioner shall issue to the applicant a license therefor. Such license shall expire on the thirty-first day of December, following its issue and no license shall be issued for a longer term

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than one year, nor 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. If a license is not applied for on or before January 1st of each year or within 30 days after the applicant has operated as a frozen food ~~locker~~ *processing* plant or processor a penalty of 10 percent of the license fee shall be imposed for each month thereafter; provided that in no case shall the penalty exceed the amount of the license fee. The provisions of this subdivision shall not apply to any person, place, or establishment operating under or subject to the Federal Meat Inspection Act of March 4, 1907 (34 U.S. Stat. 1260) and Amendments thereto.

ARTICLE IV

Section 1. Minnesota Statutes 1957, Section 31.31, is amended to read:

31.31 Commercial canneries, regulation. All commercial vegetable and fruit canneries, shall be under the supervision and regulation of the commissioner. For the purpose of sections ~~31.01 to 31.44~~ *31.31 to 31.392*, a commercial cannery is defined to mean any place or building where vegetables, fruits, fish or other food is received in a raw or partly processed form, except meat products processed in commercial canneries which are inspected by the United States bureau of animal industry, for the purpose of canning in hermetically sealed containers, where sterilization by heat is used, or by freezing the same for sale as and for food in any other type of vessel, bottle, can, bag, contained or other type or form of package, and the products placed on the market for general consumption as human food; but shall not include private homes where farmers or others may pack or preserve vegetables, fruits, fish or other food products for their own use. At such times as the commissioner may deem proper, he shall cause all commercial canneries to be inspected, and shall require the correction of all unsanitary conditions or practices found therein, and may search and enter all cupboards, closets, or any other places in such canneries for the purpose of discovering any chemical preservatives or adulterants which he has reason to believe are used or intended to be used in the canning, freezing or preserving of vegetables, fruits, fish or other food products, except meat products processed in commercial canneries which are inspected by the United States bureau of animal industry, and for enforcing the provisions thereof.

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

Sec. 2. Minnesota Statutes 1957, Section 31.36, is amended to read:

31.36 Rules and regulations for canneries. ~~Any and all power and authority in sections 31.01 to 31.44 conferred upon The commissioner shall be applicable for the purpose of prescribing, in the manner provided by law, may prescribe~~ rules and regulations for the operations of canneries, and proper labels, standards, and definitions of grades on products of canneries.

Sec. 3. Minnesota Statutes 1957, Section 31.38, is amended to read:

31.38 Certificate of inspection, commercial canneries; labels, brands. The commissioner shall furnish to each commercial cannery that shall have fully complied with the provisions of sections ~~31.01 to 31.44~~ *31.31 to 31.39*, a certificate of inspection that such cannery has been inspected and has complied with all laws, rules, and regulations applying thereto. The commissioner may authorize the proprietor of such cannery to use the following or similar label or brand on his products: "Packed under regulations of, and in cannery inspected by Minnesota Department of Agriculture, Dairy, and Food," or such other label, trade-mark, device, brand, or guarantee certificate as the commissioner may designate or adopt.

Sec. 4. Minnesota Statutes 1957, Section 31.39, is amended to read:

31.39 Assessments; inspections, services; commercial canneries account. The commissioner is hereby authorized and directed to collect from each commercial cannery an assessment for inspection and services furnished, and for maintaining a bacteriological laboratory and employing a bacteriologist and such assistants as he may deem necessary. The assessment to be made on each commercial cannery, for each and every packing season, shall not exceed one-half cent per case on all foods packed, canned, or preserved therein, nor shall the assessment in any one calendar year to any one cannery exceed \$1,000, and the minimum assessment to any cannery in any one calendar year shall be \$50. The commissioner may, when he deems it advisable, graduate and reduce the assessment to such sum as is required to furnish the inspection and laboratory services rendered. The assessment made and the sums so collected shall be deposited in the state treasury, as other departmental receipts are deposited, but shall constitute a separate account to be known as the com-

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

mercial canneries inspection account, which is hereby created, and together with moneys now remaining in said account, set aside, and appropriated as a revolving fund, to meet the expense of special inspection, laboratory and other services rendered, as provided in sections ~~31.01 to 31.44~~ *31.31 to 31.392*. The amount of such assessment shall be due and payable on or before December 31, of each year, and if not paid on or before February 15 following, shall bear interest after that date at the rate of seven percent per annum and a penalty of ten percent on the amount of the assessment shall also be added and collected.

Sec. 5. Minnesota Statutes 1957, Section 31.44, Subdivision 4, is amended to read:

Subd. 4. **Penalty.** Whoever shall, without permission of the commissioner, use any brand, label, or device authorized by the commissioner, or who shall fail to furnish reports containing information required or within the time specified, or who shall fail to obey any lawful direction of the commissioner given by him in carrying out the provisions of ~~this chapter~~ *Minnesota Statutes, Sections 31.31 to 31.392*, or shall use any raw materials, articles, or substances forbidden to be used in canning, packing, or preserving vegetables or fruits, or shall violate, or fail to comply with, any of the provisions of ~~this chapter~~ *Minnesota Statutes, Sections 31.31 to 31.392*, or the rules or regulations made thereunder, shall be guilty of a misdemeanor; ~~and, upon conviction, shall, in the absence of any other penalty provided by law, be punished by a fine of not less than \$100, nor more than \$500, or by imprisonment for not less than 30 days, nor more than three months, or both, for each offense.~~

ARTICLE V

Section 1. Laws 1959, Chapter 606, Section 1, is amended to read:

Section 1. **[31.59] Food handlers license law.** ~~This act~~ *Laws 1959, Chapter 606, Section 1 to 9* shall be known as the food handlers license law.

Sec. 2. Laws 1959, Chapter 606, Section 2, Subdivision 1, is amended to read:

Sec. 2. **[31.60] Definitions.** Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the words, terms, and phrases defined in ~~this act~~ *this section* shall, for the purpose of ~~this chapter~~ *Laws*

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1959, Chapter 606, Sections 1 to 9 be ~~given~~ have the meanings ~~subjoined~~ given to them.

Sec. 3. Laws 1959, Chapter 606, Section 3, is amended to read:

Sec. 3. [31.61] **Licensing, rules and regulations.**
Subdivision 1. Every person doing an annual gross business of more than \$400 and engaged in the business of a food handler, except those who handle only pre-packaged food, shall obtain from the commissioner a license for each establishment or mobile unit which is being operated by a food handler, which license shall state the name and address of the food handler, where such business is being engaged in, or the headquarters of the mobile unit, and the category for which he is being licensed. Applications for licenses shall be made to the commissioner upon such forms as provided by the commissioner, which application shall state the name and address of the applicant, the name and address where such business is being conducted or such mobile unit is headquartered, the nature of the business he is engaged in, and such other pertinent information as the commissioner shall require. Each application shall be accompanied by a fee of \$5; except that applications from licensees who are additionally licensed under the provisions of Minnesota Statutes, Section 157.03 shall be accompanied by a fee of \$1.50. The commissioner and the hotel inspection division under Minnesota Statutes, Section 157.03, may issue a joint license in a manner to be agreed upon to applicants who are licensed under ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9*, and Minnesota Statutes, Section 157.03. The joint license shall be issued upon the payment of the amount of the two licenses under ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9*, and under Minnesota Statutes, Section 157.03. All licenses shall expire annually and no license shall be issued for a term longer than one year. The commissioner may divide persons required to be licensed under this section into such groups by geographical location, type of operation, or other methods of classification, as he believes will best promote the economical, effective, and convenient execution of this section and shall determine on what day of each year licenses in each group shall expire. He may change such groups or methods of classification from time to time. A licensee, the period of whose group is shortened by such grouping or change thereof, shall pay only such proportion of the annual license fee as the shortened period bears to one year and receive credit on the fee for the next license year for any overpayment, and if the period of a group is lengthened, a

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licensee shall pay additional fees proportionate to the time by which it is lengthened. Such license shall be posted or displayed in a conspicuous place at the establishment so licensed. If a license is not applied for on or before the expiration date after such applicant has manufactured, processed, sold or offered for sale, exposed for sale or had in possession with intent to sell food within this state, a penalty of ten percent of the license fee shall be imposed for each month thereafter; provided that in no case shall the penalty exceed the amount of the license fee. All such license fees and penalties collected by the commissioner shall be deposited into the state treasury.

Subd. 2. The commissioner may adopt such rules and regulations in conformity with law as he deems necessary to effectively carry out the provisions of ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9.*

Sec. 4. Laws 1959, Chapter 606, Section 5, is amended to read:

Sec. 5. **[31.63] Violations.** Any person who does not comply with the provisions of ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9,* shall be guilty of a misdemeanor.

Sec. 5. Laws 1959, Chapter 606, Section 6, is amended to read:

Sec. 6. **[31.64] Enforcement.** It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9,* to cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay, for the enforcement of the penalties as herein provided.

Sec. 6. Laws 1959, Chapter 606, Section 7, is amended to read:

Sec. 7. **[31.65] Convictions of related offenses.** When any person licensed under ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9,* shall have been convicted of a violation of any provision of any law of this state relating to manufacture, processing, distribution, handling, or sale of food or of any provision of any rule or regulation made and promulgated by the commissioner under provisions of law, the commissioner shall have the power to suspend or revoke any license issued under provisions of ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9;* or the person licensed under ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9,* and convicted as

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herein specified may be restrained by injunction from operating such establishment or category of the business for which he is licensed by the commissioner. No injunction shall be issued until after the defendant has had at least five days notice of application therefor, and the time fixed for hearing thereon.

Sec. 7. Laws 1959, Chapter 606, Section 8, is amended to read:

Sec. 8. **[31.66] Exclusions; farmers, educational, charitable or religious organizations.** The provisions of ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9*, shall not apply to a producer selling farm products of his own production, or to educational, charitable, or religious organizations not regularly engaged in the business of manufacturing, processing, or selling food.

Sec. 8. Laws 1959, Chapter 606, Section 9, is amended to read:

Sec. 9. **[31.67] Exclusions; other licensees.** Any person licensed under the provisions of Minnesota Statutes, Sections 19.19, 19.39, 27.04, 28.02, ~~29.05, 29.22, Subdivision 4, 31.185, 31.21, 31.22, 31.33, 31.52, 32.09, 34.04, and 34.05~~ is excluded from the requirements of ~~this act~~ *Laws 1959, Chapter 606, Sections 1 to 9*.

ARTICLE VI

Section 1. Minnesota Statutes 1957, Section 31.40, is amended to read:

31.40 Construction. Any of the provisions of sections ~~31.01 to 31.44~~ *laws relating to food administered by the department of agriculture, dairy, and food*, inconsistent with the existing code of criminal procedure or penal law shall be effective for the purposes of sections ~~31.01 to 31.44~~ *such food laws* only.

Sec. 2. Minnesota Statutes 1957, Section 31.41, is amended to read:

31.41 Evidence of intent; act of agent that of principal. No person who shall commit or assist in committing any offense defined in sections ~~31.02 to 31.17 and 31.28 to 31.43~~ *the laws relating to food administered by the department of agriculture, dairy, and food*, shall be exempt from conviction and punishment therefor for the reason that he acted as the agent, employee, or representative of another. When

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construing and enforcing the provisions thereof, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, copartnership, company, society, or association within the scope of his employment or office, shall, in every case, be also deemed to be the act, omission, or failure of such corporation, copartnership, company, society, or association, as well as that of the person.

The having in possession of any article, the manufacture, sale, use or transportation of which is restricted, regulated, or forbidden thereunder shall be deemed prima facie evidence of intent to sell, manufacture, transport, or use the same in violation of laws.

Sec. 3. Minnesota Statutes 1957, Section 31.43, is amended to read:

31.43 Certain laws not repealed. Nothing in sections ~~31.01 to 31.44~~ *the laws relating to food administered by the department of agriculture, dairy, and food*, shall be construed to affect or repeal sections 616.05 to ~~616.08~~ *or Laws 1915, Chapter 335 and 616.06.*

Sec. 4. Minnesota Statutes 1957, Section 31.44, Subdivision 1, is amended to read:

31.44 Penalties. Subdivision 1. *Save as hereinafter Except where* otherwise specifically provided, any person violating, or failing to comply with, any of the provisions of this chapter *or any act amendatory thereof*, or any of the provisions of any of the rules, regulations, definitions, standards, or rulings made and filed with the secretary of state thereunder, shall be guilty of a misdemeanor. Each separate violation of this chapter, *or any act amendatory thereof*, shall be, unless otherwise specifically provided therein, a separate offense, except that in the case of a violation through continuing failure or neglect to obey the provisions of this chapter, *or any act amendatory thereof*, each day of continuance of such failure or neglect shall be deemed a separate offense.

Sec. 5. Minnesota Statutes 1957, Section 31.44, Subdivision 5, is amended to read:

Subd. 5. In addition to the remedies herein provided, the commissioner may commence proceedings in the district court of any county in which any violation of this chapter, *or any act amendatory thereof*, has occurred or is threatening to occur for a temporary or permanent injunction against any

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person violating or threatening to violate any provision of this chapter, or any act amendatory thereof.

Sec. 6. *Minnesota Statutes 1957, Sections 31.42, 616.07, and 616.08 are repealed.*

Approved March 23, 1961.

CHAPTER 145—H. F. No. 58

An act relating to potato labeling, grading, and inspection; providing penalties; amending Minnesota Statutes 1949, Section 30.19; amending Minnesota Statutes 1957, Sections 30.01, Subdivisions 1, 4, 5, and 6; 30.04; 30.06; 30.10; 30.11; 30.13; 30.14; 30.17; and 30.24, Subdivision 1; repealing Minnesota Statutes 1957, Sections 30.01, Subdivisions 3, 7, and 8; 30.02; 30.03; 30.05; 30.07; 30.09; 30.18; and 30.24, Subdivisions 2 and 3.

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

Section 1. Minnesota Statutes 1957, Section 30.01, Subdivision 1, is amended to read:

30.01 Definitions. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the terms defined in subdivisions 2 and 4 6 shall, for the purposes of sections *30.01, subdivisions 4 and 5, 30.04, 30.06, 30.08, 30.10 to 30.15, 30.16 to 30.20, and 30.24, subdivision 1,* be ~~given~~ *have* the meanings ~~subjoined~~ *given* to them; ~~the words, terms phrases defined in subdivisions 3, 5 and 6, shall, for the purposes of sections 30.16 to 30.18, be given the meanings subjoined to them; and the term defined in subdivision 7 shall, for the purpose of sections 30.02 to 30.09, have the meaning subjoined to it.~~

Sec. 2. Minnesota Statutes 1957, Section 30.01, Subdivision 4, is amended to read:

Subd. 4. **Definition of potatoes.** *For the purposes of Minnesota Statutes, Sections 30.04, 30.06, 30.08, and 30.10 to 30.15, "potatoes" means all potatoes offered for sale within the state of Minnesota.*

Sec. 3. Minnesota Statutes 1957, Section 30.01, Subdivision 5, is amended to read:

Subd. 5. **Definition of potatoes.** *For the purposes of*

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