

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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stamp without first thoroughly cancelling, defacing or removing such seal, brand, stamp, mark or other combination thereof, shall be guilty of a misdemeanor.

Charging a higher price for gasoline drawn from one pump than from another at the same place, shall be prima facie evidence that the higher priced product is sold as a better quality gasoline for the purpose for which it is to be used.

(a) Any gasoline that shows, or for which is claimed high test and/or anti-knock characteristics equal to Octane Number 65 or better of the knock rating system adopted by the United States Bureau of Standards, shall be colored by the use of any harmless dye. Any gasoline not showing high test and/or anti-knock standard as specified herein must be sold without the addition of any foreign coloring matter, and no claims of high test and/or anti-knock characteristics may be made for such.

(b) The method used to determine whether a gasoline meets this requirement shall be the one adopted by the U. S. Bureau of Standards or recognized by said Bureau as being the most satisfactory. (Act Apr. 27, 1929, c. 425, §16; Apr. 21, 1933, c. 365, §6.)

3787-17. Construction.—Neither this act nor any of the provisions hereof shall apply to or be construed to apply to foreign or interstate commerce ex-

cept insofar as the same may be applied under the constitution and laws of the United States. (Act Apr. 27, 1929, c. 425, §17.)

3787-18. Violation of misdemeanor.—Every person who fails or refuses to comply with any provisions of this act shall, except as herein otherwise provided, be guilty of a misdemeanor. (Act Apr. 27, 1929, c. 425, §18.)

3787-19. Provision severable.—If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional or invalid such decision shall not affect the validity of the remaining portions of this act. (Act Apr. 27, 1929, c. 425, §19.)

3787-20. Chief oil inspector to be under direction of department head.—The chief oil inspector in the performance of his duties shall at all times be subject to the control of and supervision of the directing head of the department of which the oil inspection division has been made a part by law. The provisions of this act shall be subject to the provisions of Chapter 426, Laws 1925, [§§53-1 to 53-52] or any amendments thereto. (Act Apr. 27, 1929, c. 425, §20.)

3787-21. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby repealed. (Act Apr. 27, 1929, c. 425, §21.)

CHAPTER 21

Inspection of Food and Other Articles

3801. Price not collectible.

Seller of infected hogs held not entitled to directed verdict for price. 180M78, 230NW259.

3806. Labeling.

Label on bag of sugar may be a tag. Op. Atty. Gen., Mar. 27, 1933.

Bags of sugar must contain labels showing weight, kind of sugar and name and address of manufacturer or distributor. Op. Atty. Gen., Mar. 27, 1933.

3811. Milk and cream.

Gelatin may not be added to sour cream and butter-milk, even though label declares addition of foreign product. Op. Atty. Gen., May 4, 1933.

Individual selling milk to erosion camp located within city limits must comply with local ordinances. Op. Atty. Gen., July 27, 1933.

3820. Local inspection.

Municipality may impose license on producers and dealers selling milk in its limits, except as power may be affected by Const., Art. 1, §18. Op. Atty. Gen., Dec. 11, 1929.

Ordinances may provide for inspection both as to producers and dealers in milk sold in municipality and require payment of inspection fee. Op. Atty. Gen., Dec. 11, 1929.

City of Albert Lea may require milk producers to pay part of expense of inspections, but it may not prohibit sale of milk in city by producers outside of specified inspection zone. Op. Atty. Gen., May 13, 1932.

Municipalities may by ordinance provide for inspection of milk, cream and butter sold within their limits. Op. Atty. Gen., July 10, 1933.

3821-5. Commissioner of agriculture to audit books in certain cases.—Whenever complaint shall be made to the Commissioner of Agriculture that any person, firm or corporation is violating the provisions of Chapter 162 of the Laws of 1927, [§§3821-1 to 3821-4], and/or whenever the Commissioner of Agriculture shall have reason to believe that any person, firm or corporation is violating the provisions of said chapter, the Commissioner of Agriculture may cause the books and records of the person, firm or corporation alleged to be violating said chapter to be examined and audited by a competent accountant familiar with creamery practices and the handling of books and accounts of creameries. Such audit shall be made for the purpose of aiding in determining whether or not there has been a violation of said Chapter 162 of the Laws of 1927. (Act Apr. 25, 1931, c. 414, §1.)

3821-6. To employ accountant.—The investigation herein provided for shall be made by an accountant

or accountants employed by the Commissioner of Agriculture pursuant to the terms and provisions of Chapter 284 of the Laws of 1933 [§§6114 to 6117], but any such investigation shall be made at the sole cost and expense of the State. (Act Apr. 25, 1931, c. 414, §2.)

3826-1. Wrongful advertisement of meats prohibited.—A person, who, with intent to defraud sells or exposes for sale any meat or meat preparation and falsely represents the same to be kosher, whether such meat or meat preparation be raw or prepared for human consumption, or as having been prepared under and of a product or products sanctioned by the orthodox Hebrew religious requirements; or falsely represents any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language; or sells or exposes for sale in the same place of business both kosher and non kosher meat or meat preparations, either raw or prepared for human consumption, who fails to indicate on his window signs and all display advertising, in block letters at least four inches in height, "kosher and non kosher meat sold here"; or who exposes for sale in any show window or place of business both kosher and non kosher meat or meat preparations, either raw or prepared for human consumption, who fails to display over each kind of meat or meat preparation so exposed a sign in block letters at least four inches in height reading "kosher meat," or "non kosher meat," as the case may be, is guilty of a misdemeanor and shall be punished accordingly. (Act Apr. 26, 1929, c. 398, §1.)

Commissioner may prescribe rules and regulations with reference to labeling of fowls for kosher trade. Op. Atty. Gen., Oct. 2, 1933.

3826-2. Department of agriculture to enforce Act.—The Department of Agriculture of this state shall be charged with the duty of enforcing the provisions of this act. (Added to Laws 1929, c. 398 by Act Apr. 10, 1933, c. 206.)

3827-1. Definitions.—The word "person" as used in this act shall mean persons, firms, corporations, co-partnerships, associations or agents of any of them. (Act Mar. 19, 1931, c. 75, §1.)

3827-2. Unlawful to manufacture certain products.

—It shall be unlawful for any person to manufacture for sale, sell or offer or expose for sale in this state any frozen product made in imitation or in semblance of ice cream and having the general appearance of ice cream, or calculated or intended to be dispensed, sold or used in the same manner as ice cream, in the preparation of which frozen product a substantial amount of one or more milk products has been used, unless it conforms to the butterfat standards for ice cream as fixed by law in this state; provided, however, that if such frozen product contains fruit or nuts, or both, then it shall conform to the butterfat standard fixed by law in this state for fruit and nut ice cream. (Act Mar. 19, 1931, c. 75, §2.)

3827-3. Scope of statute.—Products shall be considered as coming within the meaning of this act when they consist of a mixture of sugar or sugars, suitable flavor, and/or egg or egg yolk, and is a substantial amount of one or more of the following milk products: milk, cream, skim milk or buttermilk, whether or not condensed, evaporated, concentrated, powdered, dried or desiccated, or any of the fluid derivatives of any of them, with or without other edible food materials. (Act Mar. 19, 1931, c. 75, §3.)

3827-4. Commissioner to enforce provisions.—The agriculture, dairy and food commissioner shall enforce the provisions of this act. He may by himself, his inspectors or assistants, exercise in the enforcement of the act all the authority and power now granted under the dairy and food laws of the State of Minnesota. (Act Mar. 19, 1931, c. 75, §4.)

3827-5. Penalty.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall be for each offense punished by a fine or not less than fifteen dollars or by imprisonment for not less than twenty days, and for each subsequent offense by a fine of not less than fifty dollars or by imprisonment for not less than sixty days. (Act Mar. 19, 1931, c. 75, §5.)

3851-3855. [Repealed].

Repealed by Laws 1931, c. 344, §9.

3855-1. Oleomargarine not to be colored.—That no person, firm or corporation shall by himself, herself or themselves, or by his, her or their agent or servant, nor shall any officer, agent, servant or employe of any person, firm or corporation, manufacture, sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell, oleomargarine or any similar substance, article, product or compound made wholly or in part out of any fats, oils or oleaginous substances or compound thereof, not produced from pure, unadulterated milk, or cream from the same, without the admixture or addition of any fat foreign to said milk or cream, and which shall be in imitation of yellow butter produced from pure, unadulterated milk, or cream of the same, with or without coloring matter; nor unless the said article, product, or compound, so manufactured, shipped, consigned, offered for sale, exposed for sale, or had in possession with intent to sell, shall be made and kept free from all coloration or ingredients causing it to look like butter of any shade of yellow, as hereinafter described; nor unless the same shall be kept and presented in a separate and distinct form and in such manner as will advise the purchaser and consumer of its real character; nor unless such person, firm or corporation shall in all respects comply with and observe the provisions of this act. For the purpose of this act, oleomargarine or similar substances shall be deemed to look like, be in resemblance of, or in imitation of butter of a shade of yellow, when it has a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, as measured in the terms of the Lovibond tintometer scale, or its equivalent. Nothing in this act shall be construed as prohibiting the manufacture or sale of

oleomargarine made in whole or in part from animal fats or oils. (Act Apr. 25, 1931, c. 344, §1.)

3855-2. Must have license to sell.—No person, firm or corporation shall by himself, herself or themselves, or by his, her, or their agent or servant, nor shall any officer, agent, servant, or employe of any person, firm or corporation, manufacture, sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell, oleomargarine, without first having obtained a license granted by the state commissioner of agriculture, dairy and food, who shall provide a suitable blank form of application for the use of the applicant. The fee for such license shall be one dollar and shall expire June 30, next after its issue, and no license shall be issued for a longer term than one year and shall not be transferable from one person to another person, or from the ownership to whom issued to another ownership. A separate license shall be procured for each place from which sale is made, and shall be posted at all times at such place. (Act Apr. 25, 1931, c. 344, §2.)

3855-3. Oleomargarine, Labeling of.—It shall be unlawful for any person to manufacture, sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell, oleomargarine made wholly or partly out of fats, oils, or oleaginous substances or compound thereof unless each receptacle and package in which the same is kept for sale or sold has securely affixed upon the side thereof, a white or light colored label which shall be printed in the English language with black ink in type not smaller than 36-point bold-faced capitals the word "oleomargarine" and immediately thereafter under the same label in the same colors there shall be printed in the English language, in 8-point bold-faced gothic capitals, the name and, with substantial accuracy, the percentage of each ingredient contained in such oleomargarine, giving the name of each animal or vegetable from which such fats or oils are derived. (Act Apr. 25, 1931, c. 344, §3.)

Insertion of slipper label within package is not compliance with section. Op. Atty. Gen., Feb. 10, 1933.

3855-4. Must be stamped or placarded.—It shall be unlawful for any person to sell or offer or expose for sale, or have in possession with intent to sell, any oleomargarine which is not marked and distinguished on the outside of each tub, package, or parcel thereof in a conspicuous place, by a placard with the word "oleomargarine" printed in English thereon; such placard to be placed in a conspicuous position in full view of the purchaser; and the said word "oleomargarine" on such placard shall be printed in plain uncondensed gothic letters, each letter not less than one inch in height, and such placards shall contain no other words thereon; and there shall also be displayed upon each tub, package or parcel containing such oleomargarine in the same manner and in a conspicuous position, a placard with the word "oleomargarine" printed thereon in the same form as above described in this section; and when oleomargarine is sold from such package, or tub, or otherwise at retail, in print, roll, or other form, before being delivered to the purchaser, it shall be wrapped in wrappers plainly stamped on the outside thereof with the word "oleomargarine" printed or stamped thereon in English in letters one-fourth inch square, the quantity sold, and immediately following there shall appear upon the wrapper the name and address of the manufacturer. (Act Apr. 25, 1931, c. 344, §4.)

Insertion of slipper label within package is not compliance with section. Op. Atty. Gen., Feb. 10, 1933.

3855-5. Descriptive matter on packages.—Descriptive matter upon the label shall be free from any statement, design or device that is in itself misleading or that conveys or tends to convey information that the product is derived from other than the ingredients of which it is composed; and it shall be unlawful to label oleomargarine "dairy rolls," "country rolls,"

"Guernsey," "jersey," "Holstein" or other labeling that would indicate that said product is of dairy or creamery origin. The use of any false or misleading statement, design, or device shall not be justified by any statement given as the opinion of any expert or other person appearing on the label, nor by any descriptive matter explaining the use of the false or misleading statement, design or device. (Act Apr. 25, 1931, c. 344, §5.)

3855-6. Oleomargarine, Serving as butter.—It shall be unlawful for the proprietor of any hotel, dining room, dining car, drinking place, cafe, bakery, boat, lumber camp, mining camp, railroad camp, boarding house, or hospital, or any place where guests, boarders or patients are served with food for pay, or for any managing agent or servant of such proprietor, to serve as or for butter, or as a substitute thereof, any oleaginous substance or compound other than that produced wholly from pure, unadulterated milk or cream, unless he or they shall cause to be plainly printed in English upon every bill of fare, if one be used, and in letters not smaller than eight-point bold-faced gothic capitals, the words "oleomargarine used in place of butter" and in case no bill of fare be used the manager or person in charge of such establishment shall cause to be posted upon each side of the dining car or eating room, in a conspicuous position and in letters large enough to be distinctly seen and read from all parts of said room, placards containing on the face thereof the words in the English language "oleomargarine used in place of butter," and such person shall keep such placards continuously posted as aforesaid as long as such butter substitute be kept or used. (Act Apr. 25, 1931, c. 344, §6.)

3855-7. Commissioner of agriculture to enforce act.—The agriculture and dairy and food commissioner shall enforce the provisions of this act and in so doing shall have all the power and authority granted him under Chapter 495, Laws 1921 [§§3788 to 3793], as amended. (Act Apr. 25, 1931, c. 344, §7.)

3855-8. Violations—penalties.—Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, the minimum punishment for which shall be a fine of twenty-five dollars or imprisonment for twenty days. (Act Apr. 25, 1931, c. 344, §8.)

3855-9. Laws repealed.—That Secs. 3851-3852-3853-3854 and 3855 General Statutes of 1923 and Chapter 10, Laws of 1923 are, and the same are hereby repealed. (Act Apr. 25, 1931, c. 344, §9.)

3855-10. Tax on oleomargarine.—There is hereby imposed, levied and assessed an inspection fee and excise tax of ten cents upon each pound of oleomargarine containing less than 65% of animal fats and/or oils and upon each pound of oleomargarine containing any fats or oils other than animal fat and/or oil, milk fat, peanut, cottonseed or corn oil sold, offered or exposed for sale, or given or delivered to a consumer, such fee and tax to be paid to the Commissioner of Agriculture, Dairy and Food prior to any such sale, gift or delivery. For the purposes of this Act any fractional part of a pound contained in a container, package or carton shall be deemed to be a pound. (Act Apr. 8, 1933, c. 175, §1.)

3855-11. Stamps to be affixed to packages.—All oleomargarine offered or exposed for sale or distributed in any manner in this state shall be packed in firkins, tubs, or other wooden or paper packages not before used for that purpose, and in the manner required by the laws of this state and of the United States. Before any container, package or carton containing oleomargarine upon which a fee and tax is imposed by Section One hereof is broken, or is offered or exposed for sale, gift or distribution to a consumer, there shall be securely affixed thereto the stamp or stamps hereinafter provided for in the amount of the fee and tax herein prescribed. Such stamp or stamps

shall be cancelled prior to the removal from said package, container or carton of any oleomargarine, by stamping or writing across the face thereof the date of cancellation and the oleomargarine license number of the seller, if any. The Commissioner of Agriculture, Dairy and Food shall prescribe rules and regulations relative to the handling, keeping, disposal and distribution of oleomargarine and the affixing and cancellation of the stamps required by this Act. (Act Apr. 8, 1933, c. 175, §2.)

3855-12. Commissioner of Agriculture to furnish stamps.—The Commissioner of Agriculture, Dairy and Food shall prepare and have suitable stamps for use on each container, package or carton, and there shall be sufficient space thereon for the insertion of the name and address of the manufacturer of the oleomargarine in the carton, container or package to which the stamp is to be affixed, and such stamps shall be sold by the Commissioner of Agriculture, Dairy and Food to all persons applying for them. (Act Apr. 8, 1933, c. 175, §3.)

3855-13. Spoiled or unused stamps to be destroyed.—Any spoiled or unused stamps in the possession of the Commissioner of Agriculture, Dairy and Food shall be destroyed upon joint certificate of the Commissioner and the Public Examiner setting forth the number, denomination and face value of the same. Such certificate shall relieve the accountable officer from accountability in the amount thereof. (Act Apr. 8, 1933, c. 175, §4.)

3855-14. Payment by manufacturer or importer.—The payment of the inspection fee and tax and the stamping and cancellation of any container, carton or package of oleomargarine by the manufacturer or importer of any oleomargarine shall exempt all other persons from the requirements of this Act relative to the stamping of and cancellation of stamps on containers, cartons and packages of oleomargarine. (Act Apr. 8, 1933, c. 175, §5.)

3855-15. Redemption of unused stamps.—Upon written request of the original purchaser thereof and the return of any unused stamps, the Commissioner of Agriculture, Dairy and Food shall redeem such stamps and cause a refund to be made therefor. The Commissioner shall prepare a voucher showing the amount of such refund due and the auditor of state shall draw a warrant on the treasurer of state for such amount. (Act Apr. 8, 1933, c. 175, §6.)

3855-16. Violations—penalties.—Any person violating any of the provisions of the preceding sections of this Act, or any rule or regulation prescribed by the Commissioner of Agriculture, Dairy and Food, shall be punished by a fine of not less than \$25.00 nor more than \$100.00, or by imprisonment for not more than thirty days in the county jail, and such violation shall cause for immediate cancellation of any license issued to such person by the Commissioner. (Act Apr. 8, 1933, c. 175, §7.)

3855-17. Commissioner of Agriculture to enforce act.—The Commissioner of Agriculture, Dairy and Food shall enforce the provisions of this Act, and shall on the first day of each month transfer and pay to the treasurer of state for use and benefit of the general fund of the state the funds collected under the provisions of this Act and in his hands on said dates, provided that the Commissioner may use not to exceed 25 per cent of such funds for the administration and enforcement of this Act. (Act Apr. 8, 1933, c. 175, §8.)

3855-18. Effective July 1, 1933.—This Act shall take effect and be in force from and after July 1, 1933. (Act Apr. 8, 1933, c. 175, §9.)

3861. Civil service—Office of dairy and food commissioner.

A resignation in form signed by a dairy and food inspector was not effective as a resignation where all inspectors were required to sign such resignations and file them with the commissioners. Op. Atty. Gen., Aug. 27, 1931.

3862. Civil service—Board of Examiners.—To carry out the provisions of the preceding section of this act, a board of examiners is hereby created consisting of the state dairy and food commissioner, the dean of the agricultural college and the Chief Oil Inspector. In case of death or inability to act as one of three persons herein designated, the governor of the state shall appoint some person temporarily to act in his place. The state dairy and food commissioner shall be secretary of such board and shall keep all the records which shall contain all the proceedings of the board in reference to examinations and of its actions in carrying out the provisions of this act. The secretary of the board shall likewise keep and have open to the inspection of the public, a list of the names of the persons who are eligible to appointment. Two members of the board shall constitute a quorum for the transaction of business. A chairman shall be elected by the board from its number. None of the members of the board shall receive any compensation for the services herein required, except their reasonable and necessary expenses, which shall be paid out of the fund appropriated for the maintenance of the state dairy and food department in the same manner as other charges against such fund are paid. ('21, c. 495, §75; Apr. 11, 1929, c. 164.)

3864. Examiners.

Commissioner has authority to temporarily fill a vacancy in dairy and food inspector's list. Op. Atty. Gen., June 24, 1933.

MILK, CHEESE AND BUTTER

3920. [Repealed].

Repealed by Laws 1931, c. 344, §9, ante, §3855-9.

3928-1. Butter imitations prohibited.—No person, firm or corporation shall by himself, his servant or agent, or as a servant or agent of another, manufacture, use, sell, distribute, offer or expose for sale or distribution in the State, or have in his possession with intent to use, sell, or exchange any artificial or imitation flavoring preparation to be used in fats, oils, or any article of food to produce a flavor in imitation of that of natural butter, the product of the dairy. Bacterial culture used for ripening or souring or fermenting milk or skimmed milk in the production of any such culture in milk or skimmed milk shall not be considered an artificial or imitation flavoring preparation. (Act Mar. 27, 1931, c. 97, §1.)

3928-2. Violation a misdemeanor.—Any person who shall violate any provision of this act shall be deemed guilty of a misdemeanor. (Act Mar. 27, 1931, c. 97, §2.)

3928-3. Commissioner of agriculture to enforce law.—The Commissioner of Agriculture and Dairy and Food shall cause the provisions of this act to be enforced, and to that end he shall exercise all power and authority conferred upon the then office of Dairy and Food Commissioner by the provisions of chapter 495, Laws 1921 [§§3788 to 3873], known as the "Minnesota Dairy and Food Law." It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of this act, to cause appropriate proceedings to be instituted in the proper courts and prosecuted without delay for enforcement of the penalties herein specified. (Act Mar. 27, 1931, c. 97, §3.)

PAINTS

3936. Linseed oil.

174M496, 219NW764.

POTATOES

3945-1 Potatoes to be graded and tagged.—Potatoes when packed for carload shipments or offered for sale by persons other than the growers or producers thereof in carload lots and potatoes, when packed for

truck-load shipments or offered for sale in Minnesota in truck-load lots, other than by the producer, shall be tagged, labeled, or branded as follows:

GRADES

U. S. No. 1, Minnesota Commercial Grade, U. S. No. 2, Unclassified and Minnesota Certified Seed.

The U. S. Grades shall conform in all respects to the requirements laid down by the U. S. Department of Agriculture.

The Minnesota Commercial Grade shall conform in all respects to the U. S. No. 1 grade but in order to allow for variations incident to proper grading and handling, a tolerance of defect of four per cent, in weight, additional on number one grade may be allowed for this grade, but not to exceed one per cent shall be allowed for potatoes affected by soft rot.

The Unclassified shall consist of all potatoes not meeting the requirements of the foregoing grades, and shall be sold either as such, or on a certificate of inspection duly made by an authorized inspector of the State Department of Agriculture. (Act Mar. 18, 1931, c. 70, §1; Jan. 5, 1934, Ex. Ses., c. 41, §1.)

3945-2. To be labeled.—Every closed package containing potatoes offered or exposed for sale at wholesale or at retail in cities of the first and second class by persons other than the growers thereof, shall bear upon the outside of each package either by brand, tag, or label in plain letters and figures the grade of the potatoes therein contained and the minimum weight when packed. (Act Mar. 18, 1931, c. 70, §2.)

Potatoes from outside the state are required to bear the grade tags and weight specifications. Op. Atty. Gen., Aug. 28, 1931.

Potatoes put in sacks which are left untied may be sold without being labeled. Op. Atty. Gen., Aug. 28, 1931.

3945-3. Definitions.—"Closed Package" means any container which shall be either sewed, tied, nailed or otherwise secured. (Act Mar. 18, 1931, c. 70, §3.)

3945-4. Marks and Brands.—The marks and brands prescribed in this Act may be accompanied by additional marks or brands which are not inconsistent with, or more conspicuous than, and which do not in any way obscure the marks and brands prescribed. (Act Mar. 18, 1931, c. 70, §4.)

3945-5. Who may pack and ship.—No person other than the growers thereof shall pack for sale, ship for sale, offer or consign for sale, or sell potatoes in closed packages in carload lots, not branded in accordance with the provisions of this Act; also no person shall pack for sale, ship for sale, offer or consign for sale, or sell in closed packages in truckload lots, other than the producer, which are not tagged, labeled, or branded in accordance with the provisions of this Act. (Act Mar. 18, 1931, c. 70, §5.)

3945-6. Not to impair freedom of contract.—Nothing in this act contained shall be construed in any manner to impair the freedom of contract between individuals relative to the sale and disposal of potatoes between the owners thereof and the persons purchasing the same. When any seller and buyer of potatoes shall by a contract in writing agree to sell and dispose of to any person potatoes in any lots or quantities of the grades and varieties specified herein, or of any other grade and variety or quality concerning which the persons desire to contract, he shall have the legal right to do so and shall be bound by the terms of such contract so entered into, and in case any seller attempts to tender in fulfillment of any such contract potatoes of a lower standard or quality than those specified in such a contract the purchaser of the same shall have the legal right to either reject the same or accept them upon a tolerance basis commensurate in value between the market price of the grade and quality contracted for and the grade and quality of the potatoes tendered in delivery thereon. (Act Mar. 18, 1931, c. 70, §6.)

3945-7. Determination of controversies.—In determining controversies and standards between the parties as to the quality and condition of potatoes offered for sale or tendered in performance of contracts for sale in this state, the certificates of a duly authorized and commissioned inspector of the State of Minnesota shall be prima facie evidence both of the grade and quality of the potatoes offered for sale or tendered in performance of any contract and of the amount of tolerance existing in the designated quantity of said potatoes at the time and place at which said inspection is made. (Act Mar. 18, 1931, c. 70, §7.)

3945-8. Not to pay inspectors.—No person shall directly or indirectly hire, or pay the compensation of any inspector whose duty it is to determine the grade or quality of potatoes offered or exposed for sale in the State of Minnesota, other than the State of Minnesota whose duly constituted officers shall in due form and accordance with law issue commissions to inspectors duly authorizing and empowering them to act as such.

Nothing herein shall prevent any person paying the proper inspection fees, duly established to the proper persons duly authorized to receive the same, but the payment or allowance of any gratuity, commission or allowance in addition thereto shall constitute the crime of bribery and shall be punished by law as such. (Act Mar. 18, 1931, c. 70, §8.)

3945-9. Certain acts unlawful.—It shall be unlawful for dealer or person merchandising potatoes in the State of Minnesota with the intent to deceive, to attach any tag, label or brand to any closed package or carload of potatoes, any grade, certificate, brand or tag, which does not reasonably represent the true and correct grade, quality or standard of the grade, quality or brand of the potatoes contained in said closed package or carload, at the time of attaching the same, and the condition of said carloads and closed packages when said tags, labels, certificates or brands are found attached to them shall be prima facie evidence of the condition of the same at the time of attaching. (Act Mar. 18, 1931, c. 70, §9; Jan. 5, 1934, Ex. Ses., c. 41, §2.)

Mason's Stat., §10047, furnishes a means of enforcing the provisions of this act not covered by penalty provision in the last paragraph of §9. Op. Atty. Gen., Oct. 19, 1931.

3945-10. Same—penalty—cancellation of license.—Any person violating any of the provisions of this act shall be guilty of a simple misdemeanor for the first offense and a gross misdemeanor for each subsequent offense, and such conviction may be proper cause for the suspension or forfeiture or cancellation of any license held by such person so convicted. (Act Mar. 18, 1931, c. 70, §10; Jan. 5, 1934, Ex. Ses., c. 41, §3.)

3945-11. Commissioner to enforce act.—It shall be the duty of the commissioner of agriculture to enforce the provisions of this Act. (Act Mar. 18, 1931, c. 70, §11; Jan. 5, 1934, Ex. Ses., c. 41, §4.)

FRUITS

3945-21. Commissioner of agriculture to regulate sale of strawberries and raspberries.—All fresh strawberries and raspberries that are offered for sale, packed for sale, or shipped for sale by any person

other than the grower thereof in the State of Minnesota shall be handled and sold under rules and regulations made and designated by the Commissioner of Agriculture, Dairy and Food. The grades and the regulations controlling and handling of strawberries and raspberries shall be only determined by the Commissioner of Agriculture, Dairy and Food after due notice and public hearings with the producers of the same have been held. (Act Apr. 22, 1933, c. 420, §1.)

3945-22. Commissioner to enforce rules and regulations.—The Commissioner of Agriculture, Dairy and Food shall be charged with the enforcement of the provisions of this act and all the rules and regulations made and published thereunder. (Act Apr. 22, 1933, c. 420, §2.)

3945-23. May revoke license.—The Commissioner of Agriculture, Dairy and Food may revoke any license issued under his authority upon proof of violation of the provisions of this act and any of such rules and regulations made in pursuance thereof. (Act Apr. 22, 1933, c. 420, §3.)

AGRICULTURAL SEEDS

3957-3. Labels for packages—Contents—Weed seed tolerance. * * *

(c) The approximate total percentage by weight of weed seeds of all species and the name and approximate number per pound of agricultural seeds of each of the kinds of weed seeds hereinafter specified, whenever the total number of any or all of such kinds exceeds ten per pound of agricultural seeds: Quack grass (*Agropyron repenes*), Canada Thistle (*Carduus arvensis*), Perennial Sow Thistle (*sonchus arvensis*), Dodders (*Cuscuta* supp.), Leafy Spurge (*Euphorbia esula*), Ox Eye Daisy (*Chrysanthemum leucanthemum*), and Buckhorn Plantain (*Plantago Lanceolata*); provided, that whenever such weed seeds are found in number not exceeding ten of all kinds in the aggregate per pound of agricultural seeds, the word "trace" together with the name of each and every kind of weeds seeds so found shall appear on the label. (As amended Apr. 5, 1929, c. 137.)

The prohibition of subd. (g) applies to farmer sowing or selling his own seed. Op. Atty. Gen., Apr. 2, 1930.

SOFT DRINKS AND OTHER NON-ALCOHOLIC BEVERAGES

3965-1. Licenses required for manufactures of.

Restaurants, hotels or other places where they are mixing soft drinks, quart or more, are required to have manufacturer's licenses. Op. Atty. Gen., Aug. 7, 1931.

3965-9. Carbonated beverages defined.—A carbonated or still beverage within the meaning of this Act, shall be a beverage made of pure cane, beet sugar, and/or refined corn sugar, 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 per centum of sugar and less than $\frac{1}{2}$ of one per centum of alcohol by volume. All carbonated or still beverages not conforming to the above requirements, this Act, the Minnesota Dairy and Food Law, or the rules, regulations, definitions and standards made thereunder, shall be deemed to be adulterated. ('27, c. 42, §9; Apr. 21, 1933, c. 378.)

CHAPTER 21A

Regulation of Certain Manufactures and Sales

3973 to 3976. [Repealed].

Repealed by Laws 1929, c. 358, §12, post, §3976-12.

3976-1. Definitions.—That the term "bedding" as used in this act shall be construed to mean any mattress, upholstered spring, comforter, pad, cushion or

pillow designed and made for use in sleeping or reclining purposes. The word "person" as used in this act shall be construed to impart the plural and the singular, as the case demands, and shall include, individuals, corporations, partnerships, joint-stock