1940 Supplement

To

Mason's Minnesota Statutes

1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

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CHAPTER 21
Inspection of Food and Other Articles

3780. Unlawful to sell certain food.
Section creates a tort liability in favor of a person injured by eating of unwholesome, poisonous, or deleterious food. Said liability is independent of any showing of culpability or negligence, and recovery may be had for death from unwholesome food without proof of negligence. Doherty v. S., 227 Wis. 278, 278 NW 437.

3794. Salaries of dairy and food commissioner and employees.
Commissioner of agriculture may appoint inspectors for purpose of inspecting and examining premises where meat is sold and to determine whether dairy and food laws of state are complied with, but has no authority to appoint a regular meat inspector to inspect home slaughtered and ready dressed meat of a cooperative association to relieve such association of difficulty arising for purpose of inspecting and examining premises where premises unless inspected by registered inspector. Op. Atty. Gen. (136a-5), Jan. 24, 1935.

3798. Right of inspection.
Inspector or division of hotel inspection of Department of Health has right to issue order that all persons handling food and catering to public in a bakery shall keep his or her person clean and sanitary. Op. Atty. Gen. (233J), July 16, 1936.

3801. Price not collectible.
Seller of infected hogs held not entitled to directed verdict for price. 180 M78, 230 NW 258.

3806. Labelling.

3810. Disposition of receipts.

3811. Milk and cream.

3813. Milk and Cream—Sales licensed.—No person shall sell milk or cream without being licensed by the dairy and food commissioner, and the fee for such license shall be $1.00 for each place or vehicle from which sale is made. Every such license shall expire May 1st, next after its issue; shall be given only to a person owning or leasing the vehicle or place from which sales are to be made, and shall not be transferable. Each license shall be numbered and shall contain the name, residence and place of business of the licensee, the names of all employees authorized to act thereunder, and the number of vehicles and places to be used. The name and number of the license shall be plainly inscribed on both sides of each vehicle in use for the purpose aforesaid, and the license shall be conspicuously posted in each place where such milk or cream is sold, and the making of every sale from the vehicle not so inscribed or from a place where such license is not so posted, shall be deemed the commission of a misdemeanor. Provided that any person may sell or peddle the products of the farm for personal use, and at a place or place not intended to be used without obtaining a license therefor. And provided that no permit, inspection, or other authorization shall be required of such person unless the cost thereof is paid by the municipality, agency or board requiring the same. (21, c. 495, §24; Apr. 20, 1935, c. 217."

The title of the act calls for the amendment of "section 3813," but the enacting part calls for the amendment of "section 3812." At the beginning of the section the identification number "3813" appears.

This section as amended does not affect or supersede Wilmar City Ordinance No. 225, except as to the ordinance applies to sellers of milk and cream who are required to obtain license under this section. Op. Atty. Gen. (290-6), June 26, 1935.

Municipalities may require retail places, plants or vehicles where sales are carried on to pay license fees to cover expense, except as to producers selling their own milk or cream. Op. Atty. Gen. (290-6), Oct. 2, 1935.

Section applies to all municipalities, whether operating under a home rule charter or not.
Government and the milk industry. 22 Minn. Law Rev. 789.

3815. Milk and cream sold and purchased by weight, etc.

A cooperative creamery association may be prosecuted for violation of state dairy and food law, and employee thereof violating law may also be prosecuted. A cooperative creamery association may not be the officer of corporation should not be taken into custody by officers serving summons, corporation, and not officers being prosecuted. Op. Atty. Gen. (445-10), Jan. 8, 1932.

3820. Local inspection.
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 require retail places, plants or vehicles where sales are made to pay license fees to cover expense, except as to producers selling their own milk or cream. Op. Atty. Gen. (290-6), Oct. 2, 1935.
Fees Imposed under §8335*3 should be paid into the city treasury. Id.
A cooperative creamery association may be prosecuted in connection with municipal regulations designed to protect public health may not be substritted to excess of act of cost of inspection, registration, testing, etc., necessarily incurred. Op. Atty. Gen. (477b-17), July 9, 1937.

Charging a local resident within five miles of village a fee of $1 and requiring a license fee of $25 from persons who live more than five miles from village is an unreasonable and arbitrary distinction, rendering ordinance invalid. Id.

Prohibit of municipality to exclude sale of milk from outside places under municipal health ordinances. 18 Minn. Law Rev. 784.

3821. Butter fat content of butter.—No person shall manufacture, for sale, or sell, or have in possession with intent to sell, any dairy or creamery butter which contains less than 80 per cent butter fat by weight. (As amended Mar. 2, 1937, c. 55, §1.)

3821-5. Commissioner of agriculture to audit books in all 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 a 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 or an expert in accounting methods and practices and the handling of books and accounts of creameries. Such audit shall be made for the purpose.
Chapter 284 of the Laws of 1933 (§§6114 to 6117), contains, all tolerances allowed for, not less than 30.5 der or dry ice cream mix and is the product resulting with the above definition of ice cream mix. When diluted according to directions, it shall comply from the removal of water from ice cream mix and contain such relative amounts of ingredients, that ice cream mix in concentrated or condensed form shall contain not less than the following ingredients: egg yolk, sugar, dextrose and honey, with or without flavoring and coloring, and with or without edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains not more than one-half of one per centum by weight of edible gelatin or vegetable stabilizer, not less than twice per centum by weight of milk fat, and not less than twenty per centum by weight of total milk solids; except when fruits, nuts, cocoa or chocolate, maple syrup, cakes or confections are used for the purpose of flavoring, then it shall contain not less than five and one-half pounds per gallon by weight of milk fat and not less than sixteen per centum by weight of total milk solids. In no case shall any ice cream contain less than one and six-tenths pounds of total food solids per gallon or weigh less than four and one-half pounds per gallon.

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

(g) "Ice Milk" means the pure, clean, frozen product made from a combination of milk products and one or more of the ingredients: sugar, dextrose and honey with flavoring, but without coloring, and with or without edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains not more than one-half of one per centum by weight of edible gelatin or vegetable stabilizer, not less than twelve per centum by weight of milk fat, and not less than twenty per centum by weight of total milk solids. In no case shall any ice milk contain less than one and four-tenths pounds of total food solids per gallon or weigh less than four and one-half pounds per gallon.

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

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

(i) "Frozen Malted Milk" means the pure, clean, semi-frozen product made from the combination of milk products, malted milk and one or more of the following ingredients: eggs, sugar dextrine and honey, with or without flavoring and coloring, and with or without edible gelatin or vegetable stabilizer; and in the manufacture of which, freezing has been accompanied by agitation of the ingredients. It contains not more than one-half of one per centum by weight of edible gelatin or vegetable stabilizer, not less than seven per centum by weight of milk fat, not less than one and three-tenths pounds of total food solids per gallon or weigh less than four and one-half pounds per gallon.

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

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

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

§3827-7. Manufacturers of frozen foods to obtain license.—No person shall manufacture frozen foods, ice cream mix or ice cream mix base, as defined herein, for resale, without first having obtained a license therefor from the Department of Agriculture, Dairy and Food which is charged with the duty and power, of administering and enforcing the provisions of this act and which in so doing shall have all the powers and authority with relation thereto that is conferred upon it by Mason's Minnesota Statutes of 1927, Sections 3788 to 3873, inclusive, as amended. Nothing in this act shall apply to educational institutions or to associations of cities or other groups of municipalities, and nothing herein shall apply to the Department of Agriculture, Dairy and Food as provided in Section 1 hereof, shall apply to the Department of Agriculture, Dairy and Food for use in any plant or establishment for the manufacture of frozen foods, as defined herein, outside of the state, for sale within the state, shall apply for registration with the Department of Agriculture, Dairy and Food in such form and furnish such information as the department may require. Samples of all frozen foods, ice cream mix or ice cream mix base, so manufactured for sale and sold within this state shall be submitted. Each application shall be accompanied by a fee of $5.00 which shall constitute the registration fee in case certificate of registration is granted. If the Department of Agriculture, Dairy and Food shall find that the samples so submitted are not electric, and otherwise comply with the laws of this state, then the department shall issue a certificate of registration. (Mar. 25, 1937, c. 101, §5.)

§3827-11. Expiration of licenses.—Such license or certificate of registration shall expire on the 31st day of December following its issue, and no license or certificate of registration shall be issued for a longer term than one year, and shall not be transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. (Mar. 25, 1937, c. 101, §6.)

§3827-12. Licenses may be revoked.—The Department of Agriculture, Dairy and Food shall have the power to revoke any license or certificate of registration granted, for just cause, and to comply with the provisions of this act, or rules and regulations thereunder, as provided in Mason's Minnesota Statutes of 1927, Section 3814. (Mar. 25, 1937, c. 101, §7.)

§3827-13. All containers shall be labeled.—(a) All cans or containers used in the sale or distribution of ice cream mix or ice cream mix base shall bear a label attached to same giving the following information:

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

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

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

No person shall sell or offer or expose for sale any imitation ice cream.

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

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

(e) No person shall sell, offer for sale or advertise for sale any frozen food, ice cream mix or ice cream mix base, as defined in this act, if the brand name of the frozen food, ice cream mix or ice cream mix base or label upon it or the advertising accompanying it shall give a false indication of origin, character, composition, name of manufacturer, or in otherwise false or misleading in any particular. (Mar. 25, 1937, c. 101, §8.)

§3827-14. Plants must be kept sanitary.—Any plant or establishment for the manufacture of frozen foods, as defined herein, operated under the provisions of this act shall be inspected, constructed and equipped so that it may be kept in a clean and sanitary condition. (Mar. 25, 1937, c. 101, §9.)

§3827-15. Milk must be pasteurized.—All milk, and/or milk products used as constituents of frozen foods, ice cream mix or ice cream mix base, as defined herein, shall be pasteurized. Pasteurization is
§3827-16. Violation a misdemeanor.—Any person violating any of the provisions of this act or any regulations made hereunder or now in force, shall be guilty of a misdemeanor and be punished by a fine of not less than $15.00 or by imprisonment in the county jail for not less than 20 days for each subsequent offense. (Mar. 25, 1937, c. 101, §11.)

3827-17. Provisions severable.—If any section, subdivision, sentence or clause in this act shall, for any reason be held unconstitutional, such decision shall not affect the validity of any other portion of this act. (Mar. 25, 1937, c. 101, §12.)

3827-18. Law repealed.—Mason's Minnesota Statutes of 1927, Section 3827, and Laws 1931, Chapter 75, are hereby repealed. (Mar. 25, 1937, c. 101, §13.)

3827-19. Effective 30 days after passage.—This act shall take effect and be in force from and after 30 days after the first day of its passage. (Mar. 25, 1937, c. 101, §14.)

3853. Commercial canneries—Supervision and regulation by commissioner—Inspection, etc. A movable cannery mounted on a trailer taken from farm to farm where he received cash for his service in canning and package in which the same is kept for sale or sold, shall be subject to examination at any time by the commissioner of agriculture, dairy and food, who shall advise the purchaser and consumer of its real character; nor unless the said article, product, or compound thereof 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 or of butter of any 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 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 prescribe 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, shall have securely affixed upon the side thereof, a white or yellow label of characters of not less than 15-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 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 the animal or vegetable from which such fats or oils are derived. (Act Apr. 25, 1931, c. 344, §3.)


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, by a placard or by a slipper label, which shall be securely attached to the oleomargarine for 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 have upon it, kept free from all coloration or ingredients causing it to look like, be in imitation 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 or of butter of any 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.)

3855-5. 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, shall have securely affixed upon the side thereof, a white or yellow label of characters of not less than 15-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 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 the animal or vegetable from which such fats or oils are derived. (Act Apr. 25, 1931, c. 344, §3.)


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, by a placard or by a slipper label, which shall be securely attached to the oleomargarine for 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
such oleomargarine in the same manner and in a conspicuous position, a placard with the word "oleomargarine" printed or stamped thereon in English in letters not less than eight-point bold-faced gothic capitals, the words "oleomargarine" and "made in the United States" printed in English upon every bill of fare if one be used; and in case no bill of fare be used, and in letters not smaller than eight-point bold-faced gothic capitals, the words "oleomargarine, a substitute for butter, or as a substitute thereof, any oleomargarine containing less than 65% of animal fats and/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 fats, oils or oleaginous substances, except those derived from any member of the pea or bean family, whether in any manner in this state shall be packed in firkins, tubs, or other wooden or paper packages the bare 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 hereina 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 the purpose of enforcing the provisions of this Act. The payment of the inspection fee and tax and the stamping and cancellation of stamps on containers, cartons and packages 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.)

3855-13. 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 thereof. The Commissioner shall prepare a voucher showing the amount of such unused stamps 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 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 $5.00 nor more than $50.00, 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.)

3857-17. Commissioner of Agriculture to enforce act.—The Commissioner of Agriculture, Dairy and Food shall enforce the provisions of this Act, and 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 sums collected under the provisions of this Act and in his hands on said dates, provided that the Commissioner may use not to exceed one thousand dollars of the funds so obtained 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, §8.)


3860. Eggs—Candling license.—No person shall engage in the business of buying, selling, dealing in or trading in eggs, except those retailers who do not buy direct from the producers and who do not sell in a processor than the case, without first obtaining from the dairy and food commissioner a candling license. Such officer upon receipt of a proper application upon forms such as he may prescribe, accompanied by an annual license fee of $1.00, shall thereupon issue to such person an annual canding license. Each license shall expire on the first day of March next after its issue.

The dairy and food commissioner shall determine the conditions under which such a previously issued license shall be rescinded before sale in order to safeguard the purchaser against buying as a part of a lot, eggs unfit for human food. (As amended Feb. 8, 1937, c. 17, §1.)

3861 to 3864. [Repealed Apr. 22, 1939, c. 441, §49.]

ANNOTATIONS UNDER REPEALED SECTIONS

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 send such resignations and file them with the commissioners. Op. Atty. Gen., Aug. 27, 1931.


3862. Civil service—Board of examiners.

Amended Apr. 11, 1929, c. 164.

3864. Examiners.


MISCELLANEOUS

ANIMAL FEED

3883. Articles included within terms.

Dried yeast and similar products are included in term concentration. (136d), Apr. 12, 1934.

BARBITAL

3906-11. Sale of certain drugs prohibited.—It shall be unlawful for any person, firm or corporation to have in his, or its possession, or to sell, give away, barter, exchange or distribute barbitals, either in the form of a prescription of a doctor of medicine, doctor of dental surgery, or doctor of veterinary medicine, lawfully practicing his profession in this state. (Act Mar. 31, 1939, c. 102, §5.)

3906-12. Definitions.—For the purposes of this Act, the word "barbital" means: barbital and any de-
3928. Sale, etc., of adulterated milk, cream, etc.—Milk and cream made by mixing and heating milk powder, water and butter fat together, and running through a homogenizer, is homogenized milk within regulations of commissioner of agriculture. (Act Mar. 27, 1931, c. 61, §5.)

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 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 or blue, or any article of food to be used for ripening or soured 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 necessary to the enforcement thereof. (Act Mar. 20, 1935, c. 61, §8.)

3928-4. Definitions.—As used in this act, the following words and phrases in this act shall unless the same be inconsistent with the context, be construed as follows:

(a) The term "person" shall mean, "individual," "partnership," "corporation," and "association."

(b) The term "creamery" shall mean any place where cream or butter are weighed, sampled, and/or tested for purchase on a butterfat basis.

(c) The term "creamery" shall mean any place where cream, delivered by two or more persons, is churned into butter for commercial purposes.

(d) The term "Babcock Test" shall mean the official Babcock test for milk and cream as set forth in Chapter 154, Babcock Test Law of 1927. (Act Mar. 20, 1935, c. 61, §1.)

3928-5. Grades of cream and butter fat.—All cream and/or butterfat sold and/or purchased shall be graded and paid for on the basis of the following established grades:

Sweet Cream Grade shall consist of fresh, clean, fine-flavored cream, the acidity of which calculated as lactic acid shall at no time have exceeded .20% in cream.

Grade One shall consist of cream that is clean, free from undesirable odors and flavors, the acidity of which calculated as lactic acid shall at no time have exceeded .60% at the time and place of purchase.

Grade Two shall consist of cream that is too acid to grade as Grade One and/or contains undesirable odors and flavors in a moderate degree.

Lawful Cream shall consist of cream which contains dirt, filth, or other foreign matter which makes it unfit for human consumption. (Act Mar. 20, 1935, c. 61, §3.)

3928-6. To affix condemnation tags.—All licensed cream buyers shall affix to the container of condemned unlawful cream, condemnation tags provided by the Department of Agriculture, Dairy and Food, and shall also place in such unlawful cream a harmless, permanent coloring matter so as to prevent the sale of unlawful cream from being sold for human consumption. (Act Mar. 20, 1935, c. 61, §3.)

3928-7. Cream to be shipped daily.—The cream buyer shall ship all cream purchased by him within 24 hours of the time of purchase of said cream, except where acts of Providence beyond his control prevent compliance with this provision. (Act Mar. 20, 1935, c. 61, §4.)

3928-8. Purchases to be on basis of grades.—All purchases of cream on the basis of the grades hereinafore defined. All purchasers of cream and/or butterfat shall maintain a reasonable price differential for such grades and at no time shall this differential be less than one cent per pound butterfat between grades. The daily current price being paid for each grade shall be posted in a prominent place in each cream buying station or creamery provided, however, that this requirement as to the posting of the daily current price shall not be applied to those creameries or cream buying stations that do not make daily cash purchases. (Act Mar. 20, 1935, c. 61, §5.)

Buyer of cream may not pay daily cash price as posted during a month period and at end of month pay an additional two cents per pound as compensation to further for bringing his cream to station, but this would not be violation of unfair discrimination under §10464. Op. Atty. Gen. (135b-6(f)), Oct. 12, 1936.

3928-9. Monthly test to be made.—A minimum of one sediment test per month must be made of the cream of each producer patron of a creamery or of any cream buyer. If such sediment test is unsatisfactory, then successive tests on future deliveries of cream marketed must be made and must conform to the definition for Sweet Cream, Grade One or Grade Two cream before the marketer of said cream shall be entitled to receive the price being paid for the grade of cream offered. (Act Mar. 20, 1935, c. 61, §5.)

3928-10. Must have licensed cream buyer.—A licensed cream buyer, duly qualified to grade and test cream shall be maintained in each creamery and in each cream buying station where cream is purchased. A grading and testing license shall be issued by the Department of Agriculture, Dairy and Food, to such person who shall have passed a satisfactory examination in person and shall have proved by actual demonstration before an inspector or authorized agent of the Department that he is competent and qualified to grade and test cream and that he is fully conversant with all the requirements of this Act. Every such license shall be issued for a period ending on the thirty-first day of December following, and shall not be transferable. The fee for each such annual license shall be One Dollar, and be One Dollar, and be paid to the Department of Agriculture, Dairy and Food, or its agent before such license or renewal thereof is issued. (Act Mar. 20, 1935, c. 61, §7.)

3928-11. Agricultural department to enforce act.—The Department of Agriculture, Dairy and Food shall be charged with the enforcement of the provisions of this Act, and shall have the authority to promulgate such rules and regulations as are necessary to the enforcement thereof. (Act Mar. 20, 1935, c. 61, §8.)
Commissioner may require cream to be brought to creamery or cream station before testing, grading, weighing and transferring. Op. Att'y Gen. (155-6(f)), May 21, 1936.

§3928-12. Violations—penalties.—Any violation of any of the provisions of this Act is hereby declared to be a misdemeanor, and any person, whether individually, or as a member of a partnership, or as an agent or corporation, who shall be convicted of such violation either on his or its own behalf or in the interest of any other individual or corporation, association, or partnership, shall be fined not less than $25.00, nor more than $100.00 and each person's or corporation's license may be revoked on second offense. (Act Mar. 20, 1935, ch. 61, §9.)

§3928-13. Provisions severable.—If any section, subdivision, sentence or clause in this act shall for any reason, be held void or unconstitutional, such decision shall not affect the validity of any portion of the act. (Act Mar. 20, 1935, ch. 61, §10.)

§3929. Milk and cream cans must be sterilized.

Statute is violated if truck driver transfers cream from farmer's container to creamery container and immediately thereafter sterilizes it. Op. Att'y Gen., (135-6(f)), May 21, 1936.

§3930. Certain butter compounds must be labeled.

This section does not supersede §3824. Op. Att'y Gen. (135b-6(f)), July 12, 1935.

§3931-. Licensing and regulating creameries, cheese factories, etc.

A concern operating a large number of cream stations cannot require a department to transfer license to any dealer, from one station to another when a station is discontinued. Op. Att'y Gen., Jan. 15, 1934.

Section does not cover ice cream manufacturing plants unless they can be classified as milk plants. Id.

EGGS AND EGG PRODUCTS

§3935-11. Egg dealers to be licensed.—No person shall engage in the business of buying, selling, dealing in or trading in eggs without first having obtained from the Department of Agriculture, Dairy and Foods, hereinafter called the department, an egg candling license to conduct such business. Such license shall be issued upon proper application and the payment of one dollar as a license fee. All licenses so issued shall expire upon the first day of March next following the issuance thereof, but may be renewed from time to time for additional periods of one year upon presentation of proper application therefor and the payment of a similar license fee. The license shall at all times comply with the rules and regulations of the department in respect to the conduct of such business and any violation of the rules and regulations so established shall be cause for revocation of such license upon notice and after hearing, upon proper charges and specifications, filed with the department and served upon the licensee. (Apr. 26, 1937, c. 471, §5.)

§3935-12. Sale of unfit eggs prohibited.—No person shall sell, offer or expose for sale, or have in his possession for sale, any egg unfit for human food, unless the same is broken and then denatured so that it cannot be used for such purpose, except that eggs in unbroken, artificially colored shells to be sold for animal food only under direct supervision of the department, may be kept for sale and sold for such purposes. For the purposes of this act, an egg shall be deemed unfit for human food if it is addled or moldy, possess a black spot, a white rot, or a blood ring or blood spot; if it has an adherent yolk, or a bloody or green white, or if it be incubated one day or more; or if it consists in whole or in part of a filthy, decomposed product is rendered, or is likely to be rendered, unclean, unsound, unhealthful, unwholesome or otherwise unfit for human consumption, it shall have authority to revoke such license to break eggs for resale until such time as the department is satisfied that such establishment is maintained in a sanitary condition, and, therefore, the department shall establish reasonable rules and regulations, not inconsistent with law, relative to the inspection of all establishments wherein the business of breaking eggs for resale is maintained, and whenever the sanitary conditions of any such establishments are such that the product is rendered, or is likely to be rendered, unclean, unsound, unhealthful, unwholesome or otherwise unfit for human consumption, it shall have authority to revoke such license to break eggs for resale until such time as the department is satisfied that such establishment is maintained in a sanitary condition. Such rules and regulations shall be approved as to form and legality by the attorney general, and the same shall be published twice in a legal newspaper of general circulation published at the capital of this state. From and after the tenth day succeeding the date of last publication such rules and regulations shall have full force and effect. An affidavit of such publication, setting forth the said rules and regulations in full and the dates of such publication thereof shall be made by the publisher of such newspaper or by the manager or agents of such newspaper and shall be kept on file in the office of the department with the original of such rules and regulations. Such affidavit of publication, or a duly certified copy thereof, shall be prima facie evidence of the facts therein contained for the establishment, adoption and publishing of the said rules and regulations. The department shall have the right from time to time to adopt different rules and
regulations in the same manner as herein set forth. (Apr. 26, 1937, c. 471, §6.)

Inspection fees may be collected under §240.15if and it is not necessary to establish a separate regulation under, together with all fines paid for any violation of this act, shall be paid into the state treasury and credited to the Egg Inspection Fund hereby created. (Act Mar. 18, 1931, c. 70, §4.)

The money so derived is hereinafter appropriated to the department to compensate for and meet the expense of inspection and supervision, the cost of publication and of administration, and enforcement generally of this act. (Apr. 26, 1937, c. 471, §7.)

Violate a misdemeanor.—Any person who violates any provision of this act shall be guilty of a misdemeanor. (Apr. 26, 1937, c. 471, §8.)

Inconsistent acts modified or superseded.—All acts or parts of acts now in effect inconsistent of a misdemeanor. (Apr. 26, 1937, c. 471, §7.)

9325. License fees and fines to be credited to egg inspection fund.—All license fees collected hereunder, together with all fines paid for any violation of this act, shall be paid into the state treasury and credited to the Egg Inspection Fund hereby created. (Act Mar. 18, 1931, c. 70, §5.)

9325-18. Violation a misdemeanor.—Any person who violates any provision of this act shall be guilty of a misdemeanor. (Apr. 26, 1937, c. 471, §8.)

9325-19. Inconsistent acts modified or superseded.—All acts or parts of acts now in effect inconsistent with the provisions of this act are hereby superseded, modified or amended to conform to and give full force and effect to the provisions of this act. (Apr. 26, 1937, c. 471, §6.)

Sec. 16 of Act Apr. 26, 1937, cited, provides that the Act shall take effect from its passage.

FAINTS


POTATOES

3945-1. Potatoes to be graded and tagged.—Potatoes when packed for sale in closed packages 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:

<table>
<thead>
<tr>
<th>GRADES</th>
<th>U. S. No. 1, Minnesota Commercial Grade, U. S. No. 2, Unclassified and Minnesota Certified Seed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The U. S. Grades shall conform in all respects to the requirements laid down by the U. S. Department of Agriculture.</td>
<td></td>
</tr>
<tr>
<td>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.</td>
<td></td>
</tr>
</tbody>
</table>
| 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, §17; Jan. 5, 1934, Ex. Ses., c. 41, §1.)
| This act seems to be superseded by Act Apr. 12, 1935, c. 164. See §§245-12 to 245-130. |

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.)


Packed in sacks which are left untied may be sold without being labeled. Op. Atty. Gen., Aug. 23, 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 forcar lots, the certificate of sale, offer or consignment in any manner to impair the freedom of contract between individuals. (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 certificate of an 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 and of the conformity in price 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, §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 be duly 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 fee, duly established to the proper person 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, without 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;
June 20, 1935, c. 164, §3.)

Mason's Stat., §10647, furnishes a means of enforcing
the provisions of this act not covered by penalty provi-
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 sub-
sequent offense, and such conviction may be proper
cause for the suspension or forfeiture or cancella-
tion 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 en-
force the provisions of this Act. (Act Mar. 18, 1931,
c. 70, §11; Jan. 5, 1934, Ex. Ses., c. 41, §4.)

3945-12. Potato grades.—The intent and purpose
of this Act is to regulate the grade of potatoes when
such potatoes are offered for sale by any person, grow-
mer, firm, dealer, trucker, association, organization or
corporation or any other person, either by wholesale
or retail, or in any other manner; provided, however,
that the provisions of this act shall not apply to the
grower when hauling, transporting, delivering, con-
signing, or selling potatoes of his own production and
excepting Minnesota grown potatoes marketed be-
tween July 1st and September 15th. (Act Apr. 13,
1935, c. 164, §1.)

3945-13. Definitions.—The following terms, when-
ever used in this act, or in rules and regulations here-
after promulgated by the Commissioner of Agri-
culture, shall have the meaning as indicated:
(a) "Commissioner" shall mean the Commission-
er of Agriculture, Dairy & Food of the State of Min-
gees.
(b) The term "Potatoes" shall mean all potatoes
offered for sale within the State of Minnesota.
(c) "Package" shall mean cloth, burlap, or fibre
sacks, barrels, boxes, crates, cartons, hampers or
(baskets.
(d) "Person" as used herein shall mean any grow-
er, dealer, shipper, trucker, society, association, or-
ganization, corporation, or agent, or representa-
tives. (Act Apr. 13, 1935, c. 164, §2.)

3945-14. Standard grades.—The standard grades
for Minnesota potato grades shall be the United States
potato grades and shall conform in all respects and
be identical with the latest standards established by
the United States Department of Agriculture for pota-
toes all of which grades and standards are hereby
adopted and shall be used in this state in the grad-
ing of potatoes for sale, provided that potatoes not
conforming to the established United States potato
grades may be sold in this state if labeled, tagged or
branded in the same manner as graded potatoes, ex-
cept that in place of specifying the grade, the word
"ungraded" shall be used; provided further that the
Certified Seed Potatoes inspected and certified under
the authority of the commissioner of agriculture shall
not be affected by this act but shall be graded and
tagged as required under the Seed Potato Certifi-
cation Act, being Laws 1927, Chapter 115 (§§6139-1
to 6139-13). (Act Apr. 13, 1935, c. 164, §3.)

3945-15. All shipments must be tagged.—(a) It
shall be unlawful for any person, firm, trucker, as-
sociation, organization or corporation, or agent, re-
presentative or assistant to any person, firm, trucker,
association, organization, or corporation except those
hereinbefore exempted, to sell, transport, deliver or
consign potatoes or any product or product of potatoes
which have not been graded and branded or tagged
20, 1935.

3945-16. Must not be sold or transported unless
branded.—It shall be unlawful for any person, as de-
Fined in this act, to sell, deliver or consign potatoes
which have not been graded and branded or tagged
to conform to the requirements of the grade declared.
The grade declared shall conform to the provisions of
this act.

It shall be unlawful for any common carrier by
railroad or any person to transport or deliver in any
manner whatever potatoes which have not been taged,
branded, and which tag or brand shall show the
claimed grade of said potatoes; provided, that
this section shall be subject to the conditions of Sec-
tion 1 of this act.

No person shall transport for sale any potatoes on
the highways who is the owner thereof, unless such
potatoes are being transported for the purposes set
forth in Section 1 of this act, unless such potatoes
have been graded and branded to conform to the re-
quirements of the grade declared. The grade de-
clared shall conform to the provisions of this act.
(Act Apr. 13, 1935, c. 164, §5.)

3945-17. Certificate of inspectors.—In determin-
ing 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 fully authorized and
commissioned inspector of the commissioner of agri-
culture of the State of Minnesota shall be prima facie
evidence both of the grade and quality of the pota-
toes offered for sale or tendered in performance of
any such contract. (Act Apr. 13, 1935, c. 164, §6.)

3945-17a. Payment of compensation—Certain acts
to be bribery.—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 pota-
toes offered for sale in the State of Minnesota, other
than the State of Minnesota, whose duly constituted
officers shall be due form and accordance with law
house 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 authorised to receive the same,
but the payment or, the receipt of any gratuity, com-
mission or allowance in addition thereto shall con-
stitute the crime of bribery and shall be punished by
law as such. (Act Apr. 13, 1935, c. 164, §7.)

3945-18. Commissioner of agriculture to enforce
act.—The Commissioner of Agriculture is hereby
charged with enforcement of this Act and is given
power to do so, both unto himself and to his duly
appointed representatives, and he shall at all times
have access to all building, yards, warehouses, stor-
age, and transportation facilities in which potatoes are
kept, stored, handled or transacted, to inspect the
same as to grade, quality, condition, and packs, tag-
ging, branding and labeling. (Act Apr. 13, 1935, c.
164, §8.)

3945-18a. Violation a misdemeanor.—Whoever
violates this Act or any part or provision thereof,
by not grading potatoes as herein required, or by not tagging or branding containers as herein required, or by removing or altering any tag or brand placed upon or attached to any containers as in this Act required, unless ordered to do so by the Commissioner of Agriculture, or his duly appointed representative or representatives, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than $10.00, nor more than $100.00 or by imprisonment in the county jail of not less than 30 days nor more than three months, or by both such fine and imprisonment in accordance with the discretion of the Court. (Act Apr. 13, 1935, c. 164, §9.)

3945-18h. Acts severable.—If any section, subsection, subdivision, sentence, clause, paragraph or phrase of this Act is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of this Act, so long as sufficient remains of this Act to render the same operative and reasonably effective for carrying out the main purpose and intention of the Legislature in enacting the same, as such purpose and intention may be imposed by this Act. (Act Apr. 13, 1935, c. 164, §10.)

3945-18c. Inconsistent acts repealed.—All acts and parts of Acts inconsistent herewith are hereby repealed. (Act Apr. 13, 1935, c. 164, §11.)

3945-18d. Effective July, 1935.—This Act shall be in full force and effect from and after July 1st, 1935. (Act Apr. 13, 1935, c. 164, §12.)

3945-18e. Potatoes shall be inspected.—That all potatoes offered for sale or shipped for sale by any person in carload lots in the state of Minnesota shall be inspected by an authorized Federal-State inspector to determine the grade, quality and condition of such shipment. Provided, however, that this act shall not apply to Minnesota grown potatoes between July 1st and September 15th of each year. (Apr. 19, 1937, c. 282, §1.)

3945-18f. Place of inspection.—Inspection of carload lots of potatoes shall be made at the point of origin when inspectors are available at such points. In cases where an authorized inspector is not available at such shipping points or adjacent to such shipping points it shall be the duty of the commissioner of agriculture to designate points at which cars of potatoes may be inspected. (Apr. 19, 1937, c. 282, §2.)

3945-18g. Standard grades.—The standard grades for all Minnesota potatoes shall be limited to the US grades except certified seed potatoes produced under the supervision of the Seed Potato Certification Division of the University Farm which shall be graded and tagged as required under the Seed Certification Law. (Apr. 19, 1937, c. 282, §3.)

3945-18h. Commissioner of agriculture to promulgate rules.—The commissioner of agriculture shall promulgate rules and regulations deemed necessary to the proper enforcement of the provisions of this act after hearing given 30 days notice of such action and the publication of such proclamation two times in at least three papers of general circulation within the state. (Apr. 19, 1937, c. 282, §4.)

3945-18i. Commissioner shall enforce Act.—The commissioner of agriculture shall be charged with the enforcement of the provisions of this Act and all the rules and regulations published thereunder. (Apr. 19, 1937, c. 282, §5.)

3945-18j. Fees.—Fees for inspection shall be determined by the commissioner of agriculture. (Apr. 19, 1937, c. 282, §6.)

3945-18k. Definitions.—The following terms when used in this act shall have the meaning as indicated:

(a) "Commissioner" shall mean the commissioner of agriculture, dairy and food of the state of Minnesota.

(b) "Potatoes" shall mean all the potatoes produced within the state of Minnesota and all potatoes offered for sale in carlots within the state of Minnesota.

(c) "Person" as used herein shall mean any growers, dealer, shipper, society, association, organization, corporation or their agents or representatives. (Apr. 19, 1937, c. 282, §7.)

3945-18l. Violation a misdemeanor.—Whosoever shall violate any provisions of this act or any rules or regulations made and published thereunder by the commissioner of agriculture shall be guilty of a misdemeanor. (Apr. 19, 1937, c. 282, §8.)

Sec. 9 of Act Apr. 19, 1937, cited, provides that the Act shall take effect from its passage.

FRUITS

3945-21. Commissioner of agriculture to regulate sale of strawberries and raspberries.—All fresh strawberries and raspberries that are offered for sale, provided 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 governing the sale 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

3957-1. Definitions.

County board in purchasing and selling seed grains to farmers under Seed Loan Act is not governed by this act. Op. Atty. Gen. (86a-44), Mar. 21, 1935.

3957-2. Powers of commissioner of agriculture—Rules and regulations—Investigations—Access to premises—Complaints of violations—Hearings—Procedure—Contempt—State seed laboratory etc.—Sub. division 1. Powers of commissioner of agriculture—Rules and regulations—Investigations—Access to premises, etc.—The commissioner of agriculture is hereby authorized and it shall be his duty to execute this law and to that end he may make and enforce such rules and regulations as in his judgment shall be necessary. He shall investigate the subject of weed seeds and other matters pertaining to seeds and to that end may require information from county agents, dealers in agricultural seeds, transportation companies, local weed inspectors and experiment stations as to the presence of inert matter and of weed seeds or any other foul seeds and their control in the localities where such officials or persons reside or have jurisdiction. He or his agents or assistants may enter and have free access to and examine any premises or structure to make examination of any seeds, whether such seeds are upon the premises of the owner of such seeds or on other premises,
or in the possession of any warehouse, elevator or transportation company and upon the application of the commissioner or his authorized agent or the current value thereof, may take any sample or samples of such seed.

Subd. 2. Complaints of violations—Hearings.—For the purpose of enforcing the provisions of this act, the commissioner shall have the authority either on his own initiative or upon complaint being filed with him or upon information furnished by an inspector of the department of agriculture, to hold hearings and conduct such investigations as he may deem advisable. He shall have and is hereby granted full authority to issue subpoenas requiring the attendance of witnesses before him of books, papers and other documents, articles or instruments and to compel the disclosure by such witnesses of all facts known to them relative to the matter under investigation. He shall have full authority to administer oaths and to take testimony; and may make a report thereon, which shall be prima facie evidence of the matters therein contained. All parties disobeying the orders or subpoenas issued shall constitute a separate act of contempt which shall be guilty of contempt as in proceedings in district courts of the state and may be punished in like manner.

Subd. 3. No action against commissioner.—No action or claim for damages shall be allowed or shall be maintained against the commissioner or anyone acting for him or by his authority in respect to the enforcement of this section.

Subd. 4. State seed laboratory.—A state seed laboratory shall be maintained for the purpose of examining seeds for specific purity, kinds and amounts of impurities and foreign weed seed in certified samples and for making germation tests and any other seed studies deemed by the commissioner as advisable.

Subd. 5. Samples for examination, etc.—Any person of this state may, in accordance with the rules and regulations of the commissioner and by paying the transportation charges and such fees as hereinafter mentioned, send a sample or samples of seed to the state seed laboratory or to the commissioner for examination, analysis and determination and receive a report of such examination, analysis or determination when completed. Said report shall constitute and be a certificate of the state seed laboratory giving results of such examination, analysis or determination and said certificate shall be presumptive evidence of the facts therein stated.

Subd. 6. Fees for tests.—The commissioner is authorized and it is hereby made his duty to collect a fee or fees as herein provided for making tests, analysis or determinations of seeds and the amount of such fee or fees shall be received by him before any report of seeds examined shall be given to the person sending the same. Except that any person may send as many as five such samples during any one year and receive report of same after examination has been made, without paying the required fee. All fees and moneys collected shall be deposited in the state treasury, as other departmental receipts are deposited, but shall constitute a separate account known as the "seed act account" which is hereby created, set aside and appropriated as a revolving fund to assist in meeting the expense of inspection, laboratory and other services rendered as herein provided.

Subd. 7. Schedule of fees.—The fee or fees to be paid as hereinafter referred to for each and every germination test shall be 25 cents for corn, peas, beans, cereals and all such larger seeds, and 30 cents for alfalfa, clover, timothy and similar seeds, and 40 cents for the blue grass, fescues and similar smaller grass seeds.

For pure-seed analysis and determination the fee or fees shall be:

1) 25 cents each for wheat, oats, barley, rye, emmer, vetch and buckwheat.

2) 50 cents each for millet, sudan grass, alfalfa, red clover, sweet clover, rape, timothy, rye grass, slender wheat grass, alsike clover and all similar seeds.

3) One dollar each for white clover, all mixtures of various species, orchard grass, and wheat grass, and all uncleaned seed.

4) Two dollars each for Kentucky blue grass, red-top, and bent grasses, and all lawn grass mixtures.

For the purpose of carrying out the provisions of this section, the commissioner shall designate the proper charge to be made for seeds not herein mentioned and sent him for test, analysis and determination.

Subd. 8. Violation of law—Hearings—Prosecutions.—When by analysis or otherwise it shall be made to appear that any person has violated any of the provisions of this act or any rule or regulation issued thereunder, it shall be the duty of the commissioner to notify said person in whose possession the seed in question was found or the owner thereof, if known, and designate a time and place for a hearing for receiving evidence as to such alleged violation. After such hearing or upon failure of said person to appear at the time and place fixed therefor, the commissioner may transmit the facts so found to the county attorney of the county in which said violation was committed, whose duty it shall then be to forthwith institute proceedings and prosecute the same against the person charged with such violation. It is hereby made the duty of the county attorney to prosecute any and all such cases submitted to him by the commissioner or the attorney general. (Amended Apr. 20, 1938, c. 367, § 1.)

3957-3. Labels for packages—Contents—Weed seed tolerance.—Subdivision 1. Labels for packages—Contents.—Weed seed tolerance. The owner or person in possession of each and every package, parcel or lot of agricultural seed as herein defined, which contains one pound or more of such agricultural seed, whether in package or in bulk, shall affix thereto in a conspicuous place on the exterior of the container of such agricultural seed a written or printed label in the English language in legible type or copy not smaller than eight point heavy Gothic caps; such label shall contain a statement specifying:

(a) The commonly accepted name of the kind or kinds of such agricultural seed; if the name of a special variety or strain of such seed is used, it must be the true name of such special variety or strain.

(b) The approximate percentage germination test made of such agricultural seed together with the date of said test of germination.

(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, when the total number of any or all of such kinds exceeds ten per pound of agricultural seeds: Quack grass (argypopyron repense), canada thistle (carduus arvensis), perennial sow thistle (cenceus arvensis), dandelion (cuncus sus), leafy spurge (euphorbia esula), ox eye daisy (chrysanthemum leucanthemum), and buckhorn plantain (plantago lanceolata); provided, that whenever such weed seeds are found in numbers not exceeding ten per pound of agricultural seeds, the word "trace" together with the name of each and every kind of weed seeds so found shall appear on the label.

(d) The approximate percentage by weight of the agricultural seed exclusive of inert matter, weed seeds and of other agricultural seeds, which are distinguishable by their appearances.

(e) If such agricultural seed is grown in this state, the words "grown in Minnesota" and in the case
of corn, the name of the county in which grown, and if not grown in this state, the name of the state or countries where such corn was grown, and in the case of clovers and alfalfa seeds, when any portions thereof are from countries other than the United States, the name of the country where grown, and such seeds shall bear the coloring designated by the "federal seed act" of 1912 as amended April 26, 1926. (f) The full name and address of the seedsmen, importer, dealer or agent or other person selling, offering or exposing for sale said agricultural seed. It shall be unlawful for any person to expose for sale any agricultural seed or mixtures of agricultural seeds for seeding purposes when:

(1) Such agricultural seed contains any one or all of the noxious weed seeds named in this section, subdivision 1 (e), in excess of 25 such weed seeds per pound or such agricultural seed contains ten or more seeds of any name or nature that have not been designated by grinding sufficiently fine to destroy all weed seeds, or otherwise devitalized them.

Subd. 3. Commissioner to fix percentage of weed seed allowable.—The commissioner may fix the weed seed content allowable in the case of any agricultural seeds, when in his judgment the character of such seeds preclude the removal of certain weed seeds to a two per cent basis as herein defined. (As amended Apr. 5, 1929, c. 137; Apr. 20, 1939, c. 307, §2.)

Where tag of label attached to a bag or package of seed states kind of seed and that it is 98% pure, such statement is a warranty of purity of seed as so stated. Mallery v. N., 196M129, 264NW273. See Dun. Dig. 8546.

Subd. 4. Violations.—It shall be unlawful for any person to sell, offer or expose for sale in this state or to have in possession with intent to sow, any agricultural seed or mixtures of agricultural seeds for seeding purposes when:

(1) Such agricultural seed contains any one or all of the noxious weed seeds named in this section, subdivision 1 (e), in excess of 25 such weed seeds per pound or such agricultural seed contains ten or more seeds of any name or nature that have not been designated by grinding sufficiently fine to destroy all weed seeds, or otherwise devitalized them.

Subd. 5. Commissioner to fix percentage of weed seed allowable.—The commissioner may fix the weed seed content allowable in the case of any agricultural seeds, when in his judgment the character of such seeds preclude the removal of certain weed seeds to a two per cent basis as herein defined. (As amended Apr. 5, 1929, c. 137; Apr. 20, 1939, c. 307, §2.)

Where tag of label attached to a bag or package of seed states kind of seed and that it is 98% pure, such statement is a warranty of purity of seed as so stated. Mallery v. N., 196M129, 264NW273. See Dun. Dig. 8546.
The Department of Agriculture, Dairy and Food shall be charged with the enforcement of this Act, and is hereby authorized and directed to procure all the material to be used in said remade or renovated bedding. (Mar. 8, 1937, c. 59, §1.)

§3965-17. Department of Agriculture to enforce act.

CHAPTER 21A

Regulation of Manufactures and Sales

§3973 to §3976. [Repealed.]


§3976-1. Definitions. — That the term "bedding" as used in this act shall be construed to mean any mattress, upholstered, sprung, 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 import the plural and the singular, as the case demands, and shall include individuals, corporations, partnerships, joint-stock companies, or other business associations who are manufacturers or dealers in bedding. The term "new" as used in this act, shall mean any material or article that has not previously been used in the manufacture of bedding articles, or for any other purpose. The term "second hand" shall mean any material or article that has been previously used in the manufacture of bedding or for any other purpose. The word "shoddy" shall mean any material that has been spun into yarn, knit or woven into fabric, and subsequently cut up, torn up, broken up or ground up. (Act Apr. 24, 1929, c. 358, §1.)

The term "bedding," in view of the employment of the word "reclining" has reference to any article of furniture on which a person may sleep or recline, but it does not apply to a straight back chair and probably not to a rocking chair. Op. Atty. Gen. (217B-10), May 2, 1939.

§3976-2. Material must be renovated. — No person shall remodel or renovate any article of bedding unless all the material to be used in said remodel or renovated bedding shall first be thoroughly sterilized and disinfected by the methods set out herein, or by any other approved sterilization method:

(a) Dry heat of a temperature of not less than 160 degrees centigrade temperature for not less than one hour. A thermometer for registering the temperature visible from the outside of the room shall be provided where dry heat is used.

(b) Live steam, with subsequent drying of the material over steam coils with a pressure of not less than 20 pounds of steam for 20 minutes. A gauge for registering steam pressure visible from the outside of the room shall be provided where steam under pressure is used and valves outlets shall be provided near the bottom and also the top of the room in cases where streaming steam is used.

(c) Formaldehyde and sulphur concurrently in a moist atmosphere for a period of not less than 10 hours. Formaldehyde gas shall be generated from the use of one pint of formaldehyde solution, 37% to each 1,000 cubic feet of air space, or through the use of any of the high class commercial fumigators which generate an equivalent quantity of gas. Sulphur shall be from the burning of three pounds of sulphur for each 1,000 cubic feet of air space. The moist atmosphere shall be produced by thorough sprinkling of the floor of the room with warm water just prior to the process of disinfection. The room shall be provided with a separate air inlet and also an exhaust connection, and shall be equipped with tight dampers or closure gates which can be operated from the outside of the room. Rooms for disinfection of bedding materials shall be made gas or steam tight. Shelving for loose bedding materials shall be of lattice or other open construction.

Solid shelves of a type to prevent passage of gas through the materials shall not be permitted. (Act Apr. 24, 1929, c. 358, §4.)

§3976-3. Sale of bedding, etc., forbidden. — No person shall sell, offer for sale, consign for sale, or have in his possession with intent to sell, or consign for sale any bedding used in a private or public hospital or any article of bedding that has been used by or about any person having an infectious or contagious disease. (Act Apr. 24, 1929, c. 358, §3.)

§3976-4. Material must be renovated. — No person shall remodel or renovate any article of bedding unless all the material to be used in said remodel or renovated bedding shall first be thoroughly sterilized and disinfected by the methods set out herein, or by any other approved sterilization method:

(a) Dry heat of a temperature of not less than 160 degrees centigrade temperature for not less than one hour. A thermometer for registering the temperature visible from the outside of the room shall be provided where dry heat is used.

(b) Live steam, with subsequent drying of the material over steam coils with a pressure of not less than 20 pounds of steam for 20 minutes. A gauge for registering steam pressure visible from the outside of the room shall be provided where steam under pressure is used and valves outlets shall be provided near the bottom and also the top of the room in cases where streaming steam is used.

(c) Formaldehyde and sulphur concurrently in a moist atmosphere for a period of not less than 10 hours. Formaldehyde gas shall be generated from the use of one pint of formaldehyde solution, 37% to each 1,000 cubic feet of air space, or through the use of any of the high class commercial fumigators which generate an equivalent quantity of gas. Sulphur shall be from the burning of three pounds of sulphur for each 1,000 cubic feet of air space. The moist atmosphere shall be produced by thorough sprinkling of the floor of the room with warm water just prior to the process of disinfection. The room shall be provided with a separate air inlet and also an exhaust connection, and shall be equipped with tight dampers or closure gates which can be operated from the outside of the room. Rooms for disinfection of bedding materials shall be made gas or steam tight. Shelving for loose bedding materials shall be of lattice or other open construction.

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(b) Live steam, with subsequent drying of the material over steam coils with a pressure of not less than 20 pounds of steam for 20 minutes. A gauge for registering steam pressure visible from the outside of the room shall be provided where steam under pressure is used and valves outlets shall be provided near the bottom and also the top of the room in cases where streaming steam is used.

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Solid shelves of a type to prevent passage of gas through the materials shall not be permitted. (Act Apr. 24, 1929, c. 358, §4.)