

CHAPTER 33

BUTTER SUBSTITUTES

33.03 BUTTER IMITATIONS PROHIBITED

Laws 1945, Chapter 28, prohibits the manufacture or sale within this state of any article of food containing an artificial flavor in imitation of that of natural butter. 32 MLR 392.

33.04 OLEOMARGARINE NOT TO BE COLORED

Colored oleomargarine purchased by the federal government at a federally licensed point outside the state of Minnesota and shipped to government reservations in Minnesota for use therein, is not subject to the provisions of section 33.04. OAG Sept. 6, 1949 (826-A).

Since the enactment in 1931 of section 33.04, colored oleomargarine has not been manufactured in the State of Minnesota. It is illegal to manufacture such product for sale in Minnesota. As to whether or not a company may manufacture colored oleomargarine for sale outside of Minnesota has never been determined. It would be unsafe to manufacture colored oleomargarine within the state and offer it for sale outside the state without first obtaining a declaratory judgment from the court. OAG May 26, 1953 (826-A).

33.05 MUST HAVE LICENSE TO SELL

Licenses under sections 33.23 and 33.05 are not transferable from one place to another. OAG June 3, 1953 (290-R).

33.06 OLEOMARGARINE, LABELING

Truthful labeling under the Pure Food, Drug and Cosmetic Act; adulteration of food. 32 MLR 831.

Packages for resale to consumers in such original packages must be labeled in accordance with section 33.06; but if the oleomargarine is to be sold by the retailer from a bulk supply, the packages containing the bulk supply and those sold at retail must be labeled in accordance with section 33.07. OAG Jan. 30, 1932 (826-A).

33.10 TAX ON OLEOMARGARINE

Where oleomargarine is shipped from Chicago to the shipper's warehouse in Minneapolis and thereafter sold and reshipped to consumers in North Dakota, the question whether or not the ten cent per pound excise tax is chargeable depends upon whether or not the shipment came to rest in Minnesota. It is a question of continuity of transit. In the instant case it was only after the shipment had been unloaded by the shipper and warehoused in Minneapolis that the goods were sold to consumers in North Dakota. This transaction divested the goods of their interstate status and the tax is chargeable. OAG Feb. 26, 1948 (826-A).

Oleomargarine shipped into Minnesota in containers or boxes for sale and distribution outside of the state and not offered, exposed, given, or delivered to consumers in Minnesota, is not subject to the excise tax. OAG Aug. 4, 1948 (826-A).

A baker is deemed a consumer within the purview of section 33.10. Where a sale is made by a wholesaler in Minnesota and the oleo is shipped direct to the consumer by the manufacturer in Chicago, the sale is subject to tax; but if the consumer in Minnesota orders direct from the manufacturer in Chicago, who

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ships directly to the consumer, the tax is not payable. The fact that oleo is consumed by a sanatorium and prescribed for patients does not effect taxability. OAG Dec. 18, 1950 (826-A).

33.15 REDEMPTION OF UNUSED STAMPS

When stamps have been affixed to cartons, the contents of which spoils before any sale is made, the amount of such stamps may be refunded under the provisions of section 33.15 upon furnishing of proper evidence that the stamps were used and upon return of the stamps. OAG Nov. 28, 1950 (826).

CHAPTER 34

NONALCOHOLIC BEVERAGES

34.01 DEFINITIONS

HISTORY. 1927 c 42 s 3, 9; 1933 c 378 s 1; 1937 c 59 s 1; 1937 c 359 s 1; 1945 c 39 s 1; 1947 c 447 s 1; 1953 c 586 s 1.

34.02 LICENSE; EXCEPTIONS

HISTORY. 1927 c 42 s 1; 1947 c 447 s 2; 1953 c 586 s 2.

34.04 LICENSES; APPLICATIONS, FEES

HISTORY. 1927 c 42 s 4; 1953 c 586 s 3.

34.06 LICENSE OR CERTIFICATE OF REGISTRATION; TERM; TRANSFER; FEE; PENALTY

HISTORY. 1927 c 42 s 6; 1953 c 586 s 4.

34.11 MARKINGS OF CONTAINERS

There is no provision in Chapter 34 prohibiting persons from having in their possession bottles or containers marked as belonging to others. It is only when a manufacturer places his product in a container marked with the name of another company that an offense has been created. OAG Sept. 6, 1946 (135-B-9).

34.13 ENFORCEMENT

There are no mandatory provisions in respect to labeling soft drinks which require the manufacturer in Minnesota to state the place of manufacture or which forbid the manufacturer from placing on the label its principal place of business, which is outside of the state. OAG May 13, 1949 (135-B-5).