

CHAPTER 509

REGISTRATION; MARKS, BRANDS

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NAMES, MARKS, DEVICES

509.01 RECORDING NAME, MARK, OR DEVICE. Any person engaged in, or any corporation or association whose members are engaged in, manufacturing, bottling, or selling soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, Weiss beer, beer, white beer, malt extract, other beverages, milk, cream, ice-cream, or butter in any kind of receptacle having the name of such person, corporation, or association, or other mark or device printed, stamped, engraved, etched, blown, impressed, riveted, or otherwise produced or permanently fixed upon the same, may file in the office of the secretary of state for record a description of the name, mark, or device so used and cause such description to be printed once in each week for three successive weeks in a newspaper published in the county in which the principal place of business of such person, corporation, or association is located, or if the principal place of business of such person, corporation, or association is located in another state, then in the county wherein the principal office or depot within this state is located. It shall be the duty of the secretary of state to issue to the person, corporation, or association so filing for record a description of such name, mark, or device in his office a duly attested certificate of the record of the same for which he shall receive a fee of \$1.00. Such certificate in all prosecutions under sections 509.01 to 509.06 shall be prima facie evidence of the adoption of such name, mark, or device and of the right of the person, corporation, or association named therein to adopt and use the same.

[1905 c. 340 s. 1; 1939 c. 118] (8330)

509.02 UNLAWFUL USE OF CONTAINERS; OBLITERATING NAME; PENALTY. It shall be unlawful for any person other than the one named in the certificate issued by the secretary of state, as provided in section 509.01, without the written consent of the person named in such certificate, to fill any receptacle bearing a name, mark, or device recorded, as provided in section 509.01, with soda water, mineral or aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, Weiss beer, beer, white beer, malt extract, other beverages, milk, cream, ice-cream, or butter, or to deface, erase, obliterate, cover up, or otherwise remove or conceal any such name, mark, or device on any such receptacle, or to buy, sell, give, take, dispose of in any way, or traffic in any receptacle bearing any such name, mark, or device. Any person offending against any provision of this section shall be deemed guilty of a misdemeanor; and upon conviction thereof punished by imprisonment in the county jail for not less than ten nor more than 90 days or by a fine of not less than \$10 or more than \$100 and each such receptacle so unlawfully dealt with as herein set out shall be deemed and held to be a separate offense.

[1905 c. 340 s. 2] (8331)

509.03 RECEPTACLES DELIVERED ON DEMAND; PENALTY. Any person having in possession or under control any receptacle bearing any name, mark, or device recorded as provided in section 509.01, and not holding a written transfer or bill of sale therefor from the person named in the certificate issued by the secretary of state as provided in section 509.01, or other authority in writing from such person, upon demand shall deliver such receptacle to the person named

in such certificate or to the authorized agent of such person; and any person failing or refusing to so deliver the same when demanded shall be deemed guilty of a misdemeanor; and upon conviction thereof be punished by imprisonment in the county jail for not less than ten nor more than 90 days or by a fine of not less than \$10 nor more than \$100.

[1905 c. 340 s. 3] (8332)

509.04 RECOVERY OF RECEPTACLES; SEARCH WARRANT. When any person who has filed for record any such name, mark, or device or who has acquired from such person in writing the ownership of such name, mark, or device or the right to the exclusive use thereof, or anyone representing such person, shall make oath before any magistrate that he has reason to believe and does believe that any receptacle bearing such name, mark, or device is being unlawfully used or filled or had in possession by any person such magistrate shall thereupon issue a search warrant to discover and obtain such receptacle; and may also cause the person in whose possession such receptacle shall be found to be brought before him and shall then inquire into the circumstances of such possession, and if it shall be found that such person is guilty of violation of any provisions of sections 509.01 to 509.06, he shall be punished as herein prescribed and the possession of the property taken upon such warrant shall be awarded to the owner thereof; but the remedy given by this section shall not be held to be exclusive, and offenders against any provision of those sections may also be prosecuted as in case of other misdemeanors.

[1905 c. 340 s. 4] (8333)

509.05 RECEPTACLE AND OTHER TERMS DEFINED. As used in sections 509.01 to 509.06, the term "receptacle" includes not only bottles, siphons, tins, kegs, one-eighth barrels, quarter barrels, half barrels, barrels, boxes, cans, and tubs, but all other receptacles used for holding any of the commodities in those sections mentioned; the term "person" may include corporation; and the requirement for a written transfer, bill of sale, authority, or consent means that it shall be signed by the person named in the certificate issued by the secretary of state, as provided by section 509.01, or by a transferee claiming under a written transfer signed by such person or by an agent whose authority is in writing signed by such person or such transferee.

[1905 c. 340 s. 5] (8334)

509.06 TAKING DEPOSIT. The requiring or taking of any deposit for any purpose upon such receptacle shall not be deemed nor held to be a sale either optional or otherwise in any proceeding under sections 509.01 to 509.06.

[1905 c. 340 s. 6] (8335)

BRANDS

509.07 PERSON OR PERSONS. The word "person" or "persons," as used in sections 509.08 to 509.10, means persons, firms, corporations, copartnerships, associations, or agents of any of them.

[1931 c. 366 s. 1] (8335-1)

509.08 BRANDS TO BE REGISTERED. Whoever operates a creamery, cheese factory, ice-cream factory, or cream buying station, or if upon the farm or elsewhere produces milk or cream or any dairy product to be sold for human consumption or to be manufactured into any product or kind of human food, or any dealer in dairy products having in his possession any cans, ice-cream containers, or other receptacles shall at all times keep all buildings on the premises surrounding or adjacent thereto and all cans, pails, and other receptacles, cream separators and other mechanical contrivances used in handling such dairy products or used in the production of such on the farm, in a clean and sanitary condition, and shall not consign for transportation by common carrier empty cans or ice-cream containers in an unsanitary condition. All persons, companies, and corporations engaged in the purchase of milk or cream, or in the manufacture of ice-cream, shall adopt a mark or marks of ownership to be stamped or marked on any can, cask, keg, barrel, or other receptacles used in the handling and transportation of any of these products and file in the office of the commissioner of agriculture, dairy, and food, without charge, upon a suitable blank to be furnished by him a description of the name or mark so used by them, or either of them, and the use to be made of any such

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can, cask, barrel, or other receptacle. The brand or mark so selected and adopted as herein provided may consist of a name, design, mark or marks, or some particular color of paint or enamel used upon the can, cask, keg, barrel, or other receptacle, or any part thereof. It shall be unlawful for any person, company, or corporation to adopt or use any brand or mark which has already been designated, appropriated, or obtained under the provisions of sections 509.07 to 509.10. It shall be unlawful for any persons other than the rightful owner thereof, or his lawful agent, to use any can, cask, keg, barrel, or other receptacle marked or branded as herein provided. Any person other than the owner, or his lawful agent, having in his possession any such can, cask, keg, barrel, or other receptacle marked or branded as herein provided shall be deemed guilty of having violated the provisions of sections 509.07 to 509.10. Nothing in this section shall apply to transportation companies or their agents during the time that such can, cask, keg, barrel, or other receptacle marked or branded as herein provided is being transported to and from the owner or his lawful agent. It shall be unlawful for any other person than the rightful owner, or his lawful agent, to deface or remove any such brand, mark, or stamp put upon any such can, cask, keg, barrel, or other receptacle as herein provided.

[1931 c. 366 s. 2] (8335-2)

509.09 VIOLATIONS; PENALTIES. Any person who shall violate any provision of sections 509.07 to 509.10 shall be deemed guilty of a misdemeanor; and upon conviction thereof before a court having jurisdiction in such cases fined for each and every offense in the sum of not less than \$15 nor more than \$100.

[1931 c. 366 s. 3] (8335-3)

509.10 ENFORCEMENT. The commissioner of agriculture, dairy, and food is charged with the proper enforcement of all of the provisions of sections 509.07 to 509.10.

[1931 c. 366 s. 4] (8335-4)