

CHAPTER 32

BUTTER, CHEESE, CREAM, MILK

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32.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the words defined in this section shall, for the purposes of this chapter, be given the meanings subjoined to them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture, dairy and food.

Subd. 3. **Department.** "Department" means the department of agriculture, dairy, and food.

Subd. 4. **Person.** "Person" means an individual, firm, partnership, association, or corporation.

Subd. 5. **Cream-buying station.** "Cream-buying station" means any place other than a dairy plant where deliveries of cream are weighed, sampled, or tested for purchase on a butterfat basis.

Subd. 6. **Dairy plant.** "Dairy plant" means any place where a dairy product is manufactured, processed, or handled and includes milk-receiving stations, creameries, cheese factories, condenseries, milk plants, and other establishments, as those terms are used in chapters 17, 27, 31, 32, and 33; but does not include a dairy farm or an establishment where no dairy products are processed, but dairy products are sold at retail only.

Subd. 7. **Babcock test.** "Babcock test" means the official Babcock test for milk and cream as set forth in section 32.25.

Subd. 8. **Overrun.** "Overrun" is the difference between the weight of any given amount of pure butterfat and the weight of the butter manufactured therefrom; and this difference, ascertained in any case, divided by the given amount of pure butterfat in such case and multiplied by 100, is the "percentage of overrun" in the manufacture of butter.

Subd. 9. **Milk-receiving station.** "Milk-receiving station" means any dairy plant where raw milk for pasteurization or for manufacture is received, handled, or prepared for processing or for resale as unpasteurized milk or fluid milk products.

Subd. 10. **Dairy product.** "Dairy product" means milk, cream, any product or by-product of either, or any commodity among the principal constituents or ingredients of which is one or a combination of two or more of them, as determined by standards, grades, rules, or regulations duly adopted by the commissioner.

[1921 c 495 s 84; 1927 c 162 s 1; 1927 c 169 s 1; 1935 c 61 s 1; 1949 c 196 s 1; 1955 c 146 s 1-4] (3821-1, 3871, 3873-1, 3928-4)

32.02-32.06 [Repealed, 1949 c 196 s 3]

32.07 [Repealed, 1949 c 176 s 10; 1949 c 196 s 3]

32.071 MILK AND CREAM BUYER AND TESTER, LICENSE. No person shall operate a milk or cream testing apparatus for the purpose of determining the percentage of butterfat in milk or cream, and no person shall grade milk or cream either by apparatus or by an organoleptic method for the purpose of purchasing the same either for himself or others without first securing a license from the commissioner as hereinafter provided.

[1949 c 176 s 1]

32.072 APPLICATION FOR LICENSE. Any person desiring to secure such license shall make application therefor on forms to be prepared and provided by the commissioner, and before a license is issued the commissioner shall determine that the applicant is competent and qualified to use such testing apparatus and to make accurate tests with them, and to make accurate organoleptic tests. No person who is not a resident of the United States shall be licensed under the provisions of sections 32.071 to 32.078.

[1949 c 176 s 2]

32.073 LICENSES; EXAMINATIONS, QUALIFICATIONS. A grading and testing license shall be issued by the commissioner to a person making application therefor, after the commissioner has determined that the applicant is competent and qualified to grade and test milk and cream, and that the applicant understands and is familiar with the provisions of sections 32.01 to 32.532. Any conviction for violating sections 32.01 to 32.532 or the standards, grades, rules, and regulations adopted by the commissioner shall be taken into consideration in determining whether or not the applicant is competent and qualified.

[1949 c 176 s 3; 1955 c 835 s 1]

32.074 LICENSED DAIRY PLANT; LICENSED PERSON TO GRADE AND TEST. Every milk and cream buyer shall maintain at each licensed dairy plant where milk and cream is purchased, a licensed person to grade and test milk and cream. Any person gathering cream or milk and transporting it by bulk pickup and not in individual containers from farm to plant shall have a license to grade and sample such milk and cream.

[1949 c 176 s 4; 1953 c 679 s 1]

32.075 LICENSES NON-TRANSFERABLE; FEES. Every license issued by the commissioner shall be for a period ending on the thirty-first day of December next following, and shall not be transferable. The fee for each such annual license or renewal thereof shall be \$3 and shall be paid to the commissioner before any license or renewal thereof is issued. All license fees received by the commissioner shall be paid to the state treasurer and deposited in the general revenue fund.

[1949 c 176 s 5; 1955 c 820 s 5]

32.076 OFFENSES. The grading or testing of each lot of milk and cream by an unlicensed person shall constitute a separate offense.

[1949 c 176 s 6]

32.077 PENALTY. Any person violating any of the provisions of sections 32.071 to 32.078 shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not exceeding \$100, or by imprisonment for not to exceed three months.

[1949 c 176 s 7]

32.078 SUSPENSION OR CANCELTION. The commissioner is empowered to suspend or cancel any license issued pursuant to the provisions of sections 32.071 to 32.077 after a hearing upon written notice containing the grounds therefor, which notice shall be served personally upon the licensee or his agent at least five days prior to such hearing.

[1949 c 176 s 8]

32.08 CREAM CANS, STERILIZATION. All persons receiving, buying, or handling cream for use, either locally or after shipment, in the manufacture of butter or cheese, in cans or other receptacles which are to be returned to the senders

or sellers, shall thoroughly sterilize all such cans and receptacles with live steam under pressure, before returning them to the senders or sellers.

[1923 c 173 s 1] (3929)

32.09 CREAMERIES, CONDENSERIES, MILK PLANTS, CHEESE FACTORIES; LICENSES. No creamery, cheese factory, condensery, or milk plant for the manufacture of butter or other dairy products, or any cream station maintained for the purpose of purchasing, collecting, or storing cream or milk to be used in the manufacture of butter or cheese or other dairy products or for transportation, shall be operated in this state unless a license therefor shall be issued and be in force, as provided in sections 32.09 and 32.10. The owner, operator, or lessee of any such creamery, cheese factory, condensery, milk plant, or cream station shall apply to the commissioner for such license upon such form and shall furnish such information as he may require. The application shall be accompanied by a fee which shall be based upon the butterfat intake of the applicant during the year ended on the last day of the month next preceding the date of application, as follows: If the butterfat intake for such period is 200,000 pounds or less, \$10; if the butterfat intake for such period is more than 200,000 pounds, \$25 for each place to be licensed, which shall be paid into the state treasury. If the commissioner finds that such applicant maintains a proper place, with sufficient and proper machinery and equipment for the manufacture of butter or cheese or other dairy products, or for maintaining a cream station as required by law in this state and the rules and regulations of the commissioner, he shall issue the license so applied for. All such licenses shall expire on June thirtieth, of each year, unless sooner revoked as provided in section 32.10. A separate license shall be required and the prescribed fee shall be paid for each such creamery, cheese factory, condensery, milk plant, or cream station.

[1927 c 187 s 1; 1955 c 820 s 6] (3935-1)

32.10 LICENSES; SUSPENSION, REVOCATION. When any person licensed under sections 32.09 and 32.10 shall have been convicted of a violation of any provision of any law of this state relating to the manufacture or sale of butter or cheese or other dairy products, or the operation of creameries, cheese factories, condenseries, milk plants, dairy plants, or cream stations maintained for the purchasing, collecting, or storing of milk or cream to be manufactured into butter or cheese or other dairy products, or for transportation, or of any provision of any rule or regulation of the commissioner made and promulgated under the provisions of law or there has been a continued course of conduct by such licensee or any agent, representative or employee of such licensee which deceives or defrauds producers or consumers, his license may be suspended for the time stated in order of suspension, or may be revoked or canceled by the commissioner upon ten days' written notice with opportunity to be heard. The commissioner shall promulgate procedural rules and regulations governing the notice, hearing, evidence, findings, order, and record to be kept in such hearings, in accordance with sections 15.041 to 15.049. Upon conviction of a second or any subsequent offense, the commissioner may revoke and cancel such license with or without notice of hearing, in his discretion, and in such case the commissioner shall not issue another license for the operation of such creamery, or cheese factory, or condensery, or milk plant, or dairy plant, or cream station for a term of one year from the date of such cancellation or revocation.

[1927 c 187 s 3; 1955 c 608 s 1] (3935-3)

32.11 DISCRIMINATION IN BUYING. Any person, firm, copartnership, or corporation engaged in the business of buying milk, cream or butterfat for manufacture or for sale of such milk, cream, or butterfat, who shall discriminate between different sections, localities, communities, or cities of this state, or who shall discriminate between persons in the same section, locality, community or city of this state, by purchasing such commodity at a higher price or rate from one person or in one locality than is paid for the same commodity by such person, firm, copartnership, or corporation in the same locality or in another locality, after making due allowance for the difference, if any, in the reasonable cost of transportation from the locality of purchase to the locality of manufacture or locality of sale of such milk, cream, or butterfat, shall be deemed guilty of unfair discrimination; and, upon conviction thereof, shall be punished by a fine not exceeding \$100 or by imprisonment in the county jail for not exceeding 90 days.

[1921 c 305 s 1; 1923 c 120 s 1; 1955 c 876 s 1] (3907)

32.12 EVIDENCE OF DISCRIMINATION; COST OF TRANSPORTATION; COMPETITION. Subdivision 1. Proof that any person, firm, copartnership, or corporation has paid a higher price for milk or cream or butterfat in one locality or to one person in the same locality than to another, or to another person in the same locality, after due allowance for the reasonable cost of transportation has been made, shall be prima facie evidence of the violation of section 32.11.

Subd. 2. Wherever the transportation cost actually paid for hauling cream shall be 2 cents or more per pound for butterfat therein contained, and 15 cents per one hundred pounds for transportation of whole milk, such transportation charge shall be deemed a compliance with the terms of section 32.11 as to reasonable cost of transportation.

Subd. 3. It shall not be unfair discrimination for any person to pay, in any section, locality, community, city, or village in this state, a price equal to that actually paid on the same day by any bona fide competitor in such place for milk, cream or butterfat of the same kind, quality and grade, provided such price is paid in a good faith effort to meet such competition, but the burden of proving such facts shall be upon the person charged with violation of section 32.11.

[1921 c 305 s 2; 1955 c 876 s 2] (3908)

32.13 STORAGE ROOMS FOR MILK AND CREAM, CONSTRUCTION AND CONDITION; SHIPPED BY COMMON CARRIERS. Every person, firm, or corporation engaged in the business of buying and shipping milk or cream by common carrier, or operating a milk station where milk or cream is purchased and prepared for shipment by common carrier, shall provide, equip, and maintain at every station where milk or cream is so received for shipment, a clean and sanitary room for the receiving, handling, and storing thereof pending shipment. This room shall be isolated and protected from contaminating surroundings, shall be constructed in a sanitary manner, and provided with screens on all doors and windows, and shall be well lighted and ventilated. The floor thereof shall be constructed of sanitary material, and shall be kept in a sanitary condition. This room shall be equipped so as to maintain a supply of hot water of not less than five gallons or with live steam under pressure in sufficient quantity to meet all requirements, and shall be used exclusively for the receiving, handling, testing, and preparing for shipment of milk and cream.

[1921 c. 306 s. 1; 1927 c. 282 s. 1] (3911)

32.14 STORAGE ROOMS KEPT COOL. Milk or cream stored or kept in any such receiving station awaiting shipment by common carrier shall be kept in a cool condition either by use of ice or a tank cistern or other device using cold water to be approved by the commissioner.

[1921 c. 306 s. 2; 1927 c. 282 s. 1] (3912)

32.15 CANS OR RECEPTACLES TO BE CLEANED. Milk or cream cans or receptacles returned to such receiving stations after use, shall be scalded, washed, and cleaned before being used again.

[1921 c. 306 s. 3; 1927 c. 282 s. 1] (3913)

32.16 STORAGE ROOMS, INSPECTION, COMPLAINTS; TESTING LICENSES REVOKED. It shall be the duty of the commissioner to inspect such milk and cream stations and, when he deems that any such station is not maintained in a sanitary condition, to go before a magistrate and make proper complaint. Upon the conviction of any person of a second offense under sections 32.13 to 32.16, the testing license of such person shall automatically become null and void and no further testing license shall be issued to such person until the period of two years shall have elapsed from the date of conviction of the second offense.

[1921 c. 306 s. 5; 1927 c. 282 s. 1] (3915)

32.17 [Unconstitutional, 125 M 332, 147 NW 107]

32.18 RECORDS, CONTENTS. Every person engaged in the purchase, manufacture, or sale of dairy products, and all owners of skimming stations or other places engaged in the business of purchasing milk or cream, and operators of condenseries, creameries, milk factories, and cheese factories, shall keep in proper books true and full records of all milk, cream, butterfat, and other dairy products manufactured, purchased, received, shipped, stored, or handled by them each day; the number of pounds of butter and the number, weight, style and composition of cheese made each day, and the amount of butterfat used or utilized in the form of other dairy products, the net price received for all butter and cheese sold, the cost per pound for the manufacture of such butter or cheese, the amount of overrun

of butter manufactured from butterfat and cream, the average test of cream and of milk and butterfat purchased, manufactured, sold or handled, and all items of operating cost and expense of such person, owner, or operator, including the salaries, wages, commission, per diem, or other form of compensation, of all employees, officers, directors, and others, and such other information as the commissioner shall specify or require by rules or regulations adopted as required by law.

[1927 c 169 s 2; 1955 c 660 s 1] (3873-2)

32.19 REPORTS; CONTENTS NOT TO BE DIVULGED, PENALTY. Every person, owner, or operator required by section 32.18 to maintain daily records on milk, cream, butterfat and other dairy products shall, within 90 days following the close of each fiscal year and at such other times as the commissioner may fix or require, by rules and regulations adopted as required by law, make and file with the commissioner, on blank forms prepared by him, itemized and verified reports of all business transacted by him, as set out in section 32.18, during the preceding fiscal year. Such reports shall contain such further information as, from time to time, may be required by the commissioner. A duplicate copy thereof shall be retained by such person, owner, or operator in his files, which shall be subject to examination by the commissioner at any time. It shall be unlawful for the commissioner, or any public official or employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any report or return required by this section, or any information concerning the business transacted by any such person, owner or operator so reporting, acquired from his or its records, officers or employees while examining or inspecting any of his or its books or records kept and maintained as required by section 32.18, except as such information is required or authorized to be disclosed in a judicial proceeding by order of the district court. Except as last stated and with the authority there required, any person violating the provision of this section establishing the confidential character of such information and the reports or returns required to be made and filed with the commissioner shall be guilty of a gross misdemeanor.

Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular returns or reports or any item or entry therein contained.

[1927 c 169 s 3; 1947 c 290 s 1; 1955 c 660 s 2] (3873-3)

32.20 INSPECTION OF BOOKS AND RECORDS. The books and records of all persons, owners, and operators coming within the provisions of section 32.18 shall be open for the inspection of the commissioner and his deputies and employees at all times, who shall make such examination thereof as is desired or deemed necessary by the commissioner.

[1927 c. 169 s. 4] (3873-4)

32.21 MILK AND CREAM. No person shall sell or knowingly buy unwholesome or adulterated milk or cream. Milk or cream that has not been well cooled and aerated, or to which a preservative has been added; milk drawn from cows kept in crowded conditions or in places not well ventilated or lighted, or which from any cause are filthy or insanitary, or from unclean or diseased cows, or those fed with garbage or any filthy, decayed, putrid, or unwholesome animal or vegetable substance; milk drawn from cows within 15 days before, or five days after, calving; and milk or cream which has been kept in any place where bad air exists, and cream taken from unwholesome or adulterated milk, shall be deemed unwholesome and adulterated within the meaning of sections 32.21 to 32.31 and 32.36 to 32.42. Milk from which any normal ingredient has been abstracted, or milk containing any substance not a normal constituent thereof, or containing less than three and one-fourth percent of butterfat, and cream in which there is less than 20 percent of butterfat, or which contains any foreign thickening or coloring substance, or any abnormal ingredient whatsoever, shall be deemed adulterated; nor shall any article of food be manufactured from unwholesome or adulterated milk or cream except as provided in section 32.22.

[1921 c. 495 s. 22] (3811)

32.211 (Expired 60 days following cessation of hostilities, World War II. 'Proclamation No. 2714.)

32.22 SKIMMED MILK. Notwithstanding the provisions of section 32.21, milk from which the cream has been removed, if such milk is otherwise wholesome and unadulterated, may be sold as such to makers of skimmed milk cheese, and by licensed dealers; but in the latter case only from vessels legibly marked "skimmed

milk" in plain, common black letters upon a light colored background, each letter being at least one inch high and one-half inch wide, and these words being placed on the top or side of such vessel. These requirements shall not apply to skimmed or separated milk delivered to any patron of a creamery who furnishes milk thereto, but all skimmed milk from creameries and all whey from cheese factories so delivered to patrons shall first be pasteurized at a minimum temperature of 145 degrees Fahrenheit for not less than 30 minutes, or at a minimum temperature of 180 degrees Fahrenheit for continuous flow pasteurization.

[1921 c. 495 s. 23] (3812)

32.23 SALES LICENSED. No person shall sell milk or cream without being licensed by the commissioner, and the fee for such license shall be \$1 for each place or vehicle from which sale is made. Every such license shall expire May first 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 transferred. 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 these purposes, and the license shall be conspicuously posted in each place where such milk or cream is sold, and the making of every sale from a vehicle not so inscribed or from a place where such license is not so posted, shall be deemed the commission of a misdemeanor. Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor. 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.

[1921 c. 495 s. 24; 1935 c. 217 s. 1] (3813)

32.24 LICENSES REVOKED. The commissioner may withhold a license from any applicant therefor, under any provision of sections 32.21 to 32.31 and 32.36 to 32.42, whom he may deem unworthy, and may revoke any license issued by him to any licensee who has violated the terms thereof, or who has failed to comply with any requirement thereof, or refused or failed to obey his lawful request or direction; and every conviction of the licensee for an offense punishable thereunder shall be a sufficient ground for such revocation.

[1921 c. 495 s. 25] (3814)

32.25 MILK AND CREAM BOUGHT BY WEIGHT. Subdivision 1. **Milk-fat basis of payment.** All milk and cream purchased from two or more producers for the purpose of manufacture into butter or cheese, or for the purpose of condensing or drying the same, or for the purpose of resale, shall be purchased by weight and payment shall be made therefor upon the basis of milk-fat therein contained; provided, that in purchasing whole milk from which the milk-fat or cream is to be separated and the skimmed milk sold or processed separately, the purchaser shall pay for such skimmed milk by weight in addition to the amount paid for milk fat, computing the skimmed milk at 80 percent of the weight of the whole milk, or the purchaser of such whole milk may pay for same on the basis of the fat and the non-fat solids contained therein.

The percentage of milk-fat in such milk and cream shall be determined by the Babcock test and by employing a standard official method for operating this test, which method shall be that adopted, prescribed, and set forth, with specifications in detail, in the rules and regulations from time to time made and published by the commissioner under and pursuant to authority therefor conferred by the Minnesota Dairy and Food Law for the purpose of carrying out and enforcing the provisions thereof, which authority hereby expressly is declared to be applicable in the premises.

Subd. 2. Apparatus to conform to specifications. All glassware, test-bottles, pipettes, acid measures, chemicals, scales, and other apparatus used in the operation of this test shall conform to the specifications set forth in that method.

Subd. 3. Penalties for violations. Any person who shall use any appliances other than the standard Babcock glassware for measuring or testing milk or cream sold or purchased at prices determined upon the basis of milk fat therein contained, or who shall manufacture or sell Babcock glassware which is not constructed or graduated in accordance with these specifications, or who shall employ any test other than the Babcock test, or any method other than the standard official method for determining the milk-fat content of milk or cream or who shall

underread or otherwise falsify or manipulate the reading of the test, or who shall falsely state, certify, or use in the purchase or sale of milk or cream a misreading of such test, whether the test or actual reading shall have been made by such person or by any other person, shall be guilty of a misdemeanor.

[1921 c 495 s 26; 1927 c 154 s 1; 1941 c 327 s 1; 1945 c 164 s 1; 1947 c 461 s 1; 1955 c 521 s 1]

32.26 CANS OR VESSELS CLEANSED. Every person delivering milk, cream, ice cream, or other dairy product to any other person, in cans or other vessels shall have such cans or vessels free from any deleterious substance, filth, or rust, and in a wholesome condition for containing such milk, cream, ice cream, or other dairy product. Every person receiving milk, cream, ice cream, or other dairy product in cans or vessels which are to be returned to the sender or seller shall cause such cans or vessels to be promptly emptied, thoroughly cleansed, and immediately returned.

[1921 c 495 s 27; 1957 c 119 s 1] (3816)

32.27 CUSTOM FACTORIES; RECORDS. No person engaged in making butter or cheese for others out of cream or milk furnished by them shall withhold, or permit to be withheld, any part of the cream or milk so furnished, or any product thereof, without the knowledge and consent of the owner. Every maker shall keep a record of all quantities of milk and cream received each day, from whom received, and the disposition thereof, also of the weight of all cheese and butter made each day and of the number and aggregate weight of all packages of cheese and butter delivered to those furnished milk and cream for manufacture or otherwise disposed of. These records shall be exhibited on request of the commissioner and his employees and to all persons furnishing milk and cream to such maker.

[1921 c. 495 s. 28] (3817)

32.28 [Repealed, 1957 c 91 s 1]

32.29 INSPECTION OF DAIRIES. At such time as he may deem proper, the commissioner shall cause to be inspected all places where dairy products are made, stored, or served as food for pay, and all places where cows are kept by persons engaged in the sale of milk or cream, and shall require the correction of all insanitary conditions and practices found therein.

Every refusal or neglect to obey any lawful direction of the commissioner, or his agent, given in carrying out the provisions of this section, shall be deemed a misdemeanor.

[1921 c. 495 s. 30] (3819)

32.30 LOCAL INSPECTION. The governing authority of any municipal corporation may, by ordinance, provide for the inspection of milk, cream, butter, or other dairy products sold within its limits, and of dairy plants, dairy farms and dairy herds kept for the production of such milk, cream, butter, or other dairy products and may prescribe the terms upon which such sales may be made and fix penalties for violation thereof, but no such ordinance shall conflict with any law of this state, or with any regulation of the commissioner for the inspection of dairy herds or dairy plants or dairy farms or impose any additional requirement for the sale of milk, cream, butter or other dairy products processed outside the corporate limits of the municipality than is imposed by law or by the regulations of the commissioner, or require a duplication of inspection of dairy plants, dairy farms, or dairy herds producing milk, cream, butter or other dairy products sold within its corporate limits, or otherwise interfere with any power or duty of the commissioner or his official subordinates, except a municipal ordinance may fix higher standards on bacterial, chemical, butter fat or physical tests than the minimums fixed by law for milk and milk products sold within the municipality.

[1921 c 495 s 31; 1957 c 885 s 1] (3820)

32.31 BUTTERFAT CONTENT OF BUTTER. Subdivision 1. 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 percent butterfat by weight, or which has been manufactured from milk or cream which has not been pasteurized in accordance with the provisions of sections 32.391 and 32.392.

Subd. 2. Any person violating any provision of this section shall be guilty of a misdemeanor and punished by a fine not exceeding \$100 or by imprisonment not exceeding three months.

[1921 c 495 s 32; 1937 c 55 s 1; 1947 c 104 s 1; 1949 c 193 s 1] (3821)

32.32 OVERRUN IN EXCESS OF 24 PERCENT UNLAWFUL. It shall be, and it is hereby declared to be, unlawful for any person to have or permit a percentage of overrun in excess of 24 percent in butter manufactured by him.

[1927 c. 162 s. 2] (3821-2)

32.33 EVIDENCE FOR PROSECUTIONS. The reports required by law to be made and which are made to the commissioner by persons engaged in the manufacture of butter shall be competent evidence in any prosecution under sections 32.32 and 32.33 against the person making the same, and when such reports, received in evidence upon the trial, show that during a period of one month or more the person on trial and charged with a violation thereof alleged to have been committed on a certain date within that period, has had or permitted an average percentage of overrun in excess of 24 percent in the butter manufactured by him during that period, such showing shall be prima facie evidence of a violation thereof by the person so charged, committed as of the date alleged.

[1927 c. 162 s. 4] (3821-4)

32.34 AUDIT OF BOOKS BY COMMISSIONER. When complaint shall be made to the commissioner that any person, firm, or corporation is violating the provisions of 32.32 and 32.33, or when the commissioner shall have reason to believe that any person, firm, or corporation is violating the provisions thereof, he may cause the books and records of the person, firm, or corporation alleged to be violating sections 32.32 and 32.33 to be examined and audited by a competent accountant familiar with creamery practices and the handling of books and accounts of creameries. This audit shall be made for the purpose of aiding in determining whether or not there has been such a violation.

[1931 c. 414 s. 1] (3821-5)

32.35 [Repealed, 1947 c 55 s 1]

32.36 RENOVATED BUTTER. No person shall sell any butter made by taking original packing stock, or other butter, or both, and melting the same and drawing off or extracting butterfat and mixing such fat with skimmed milk or cream, or other milk product and rechurning or reworking such mixture; or any butter product produced by any process, commonly known as boiled process or renovated butter, unless the words "renovated butter" shall be plainly branded with bold-faced letters, at least three-fourths of an inch in height, on the top and sides of each receptacle, package, or wrapper in which it is kept for sale or sold. If such butter is exposed for sale, uncovered or not, in a receptacle, package, or wrapper, then a placard containing the words "renovated butter," printed in style and manner as aforesaid, shall be attached to the mass of butter in such manner as to be easily seen and read by purchasers.

[1921 c. 495 s. 33] (3822)

32.37 PROCESS BUTTER. No person shall sell any butter made of part cream and part casein and other ingredients by what is known as the "Quinness patent" or process, or that made by other similar process, whereby the casein of milk and other ingredients are made to imitate or resemble genuine butter made from cream, unless each package or receptacle in which the same is kept for sale or sold shall be stamped or marked "patent butter" on the top and sides thereof, with lamp black and oil, in letters at least one-fourth of an inch wide, and one-half of an inch high; and in addition to such marking, the seller, at the time of the sale, shall give to the purchaser a printed card, stating distinctly and correctly the different ingredients contained in the compound.

[1921 c. 495 s. 34] (3823)

32.38 [Repealed, 1955 c 833 s 1]

32.381 CHEESE. The term "cheese" as used in sections 32.381 to 32.385, shall include all varieties of cheese, cheese spreads, cheese foods, cheese compounds, or processed cheese, made or manufactured in whole or in part from cow's, goat's, or sheep's milk.

[1947 c. 184 s. 1]

32.382 MANUFACTURE OF CHEESE, REQUIREMENTS IN PROCESS. No person, firm or corporation shall manufacture, transport, sell, offer, or expose for sale or have in possession with intent to sell, at retail to a consumer any cheese which has not been (a) manufactured from milk or milk products which have been pasteurized in accordance with Minnesota Statutes, Sections 32.391 and 32.392, or (b) subjected to a heat treatment equivalent to pasteurization during the process of manufacture or processing, or (c) subjected to an aging process whereby it has

been kept for at least 60 days after manufacture at a temperature not lower than 35 degrees Fahrenheit; provided, however, the aging process under provisions of sections 32.381 to 32.385 required for limburger and limburger brick cheese, shall be a minimum of 25 days. Any cheese which has been made from unpasteurized milk and which has been repackaged, handled or processed in any manner so as to obliterate or destroy its date of manufacture shall be labeled to show the true date of manufacture or in lieu thereof bear a statement that such cheese is more than 60 days of age.

[1947 c 184 s 2; 1955 c 484 s 1]

32.383 STATEMENT BY MANUFACTURER. Each cheese or packaged cheese sold, offered, or exposed for sale or held in possession with intent to sell at either retail or wholesale, within this state, shall have affixed thereto by the manufacturer a statement clearly setting forth:

(a) The factory number where manufactured, or in states where official factory numbers are not assigned, the name of the manufacturer and address of the plant where manufactured; provided, however, that in case of process cheese, cheese spreads, cheese foods and cheese compounds, the name and address of the jobber or distributor may be substituted for the name of the manufacturer and address of the plant where manufactured;

(b) The name of the variety or the distinctive name of the product and the word "Pasteurized" if made from pasteurized milk;

(c) The name of the variety or the distinctive name of the product and the date of manufacture if made from unpasteurized milk;

(d) The name of the variety or the distinctive name of the product and the word "Pasteurized" if made from milk which is pasteurized in the curd form during the making process.

When a cheese is repackaged or divided into wholesale cuts, the distributor shall affix to each package or cut a label containing the information required in (b) or (c) of this section, which appears on the original cheese, together with the name and address of the distributor. When selling cheese to the consumer, that portion to which the label is affixed shall be sold last.

[1947 c. 184 s. 3]

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

[1947 c. 184 s. 4]

32.385 VIOLATIONS; PENALTIES. Any person violating any of the provisions of sections 32.381 to 32.384 shall be deemed guilty of a misdemeanor.

[1947 c. 184 s. 5]

32.39 [Repealed, 1947 c. 104 s. 2]

32.391 DEFINITIONS; COOLING AFTER PASTEURIZATION. Subdivision 1. **Milk; fluid milk products; goat milk.** Milk is defined as the whole, fresh, clean lacteal secretion obtained by the complete milking of one or more healthy cows, excluding that obtained within 15 days before and five days after calving, or such longer period as may be necessary to render the milk practically colostrum free, and which contains not less than 3.25 percent of milk fat. The name "milk" unqualifiedly means cow's milk.

Fluid milk products shall be taken to mean and include cream, sour cream, half and half, reconstituted half and half, concentrated milk, concentrated milk products, skim milk, nonfat milk, chocolate flavored milk, chocolate flavored drink, chocolate flavored reconstituted milk, chocolate flavored reconstituted drink, buttermilk, cultured buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted cream, reconstituted skim milk, homogenized milk, and any other fluid milk product made by the addition of any substance to milk or to any of the above enumerated fluid milk products, when the same is declared to be a fluid milk product by rule or regulation promulgated by the commissioner.

Goat milk is a whole, fresh, clean lacteal secretion free from colostrum, obtained by the complete milking of one or more healthy goats.

Subd. 2. Pasteurization. The terms "pasteurization," "pasteurized," and similar terms shall be taken to refer (a) to the process of heating every particle of milk, fluid milk products, or goat milk, in properly operated equipment approved by the

commissioner, to a temperature of at least 143 degrees Fahrenheit and holding such temperature for at least 30 minutes, or (b) to the process of heating every particle of milk, fluid milk products, or goat milk, in properly operated equipment approved by the commissioner, to a temperature of at least 161 degrees Fahrenheit and holding such temperature for at least 15 seconds. Nothing contained in this definition shall be construed as excluding any other process which has been demonstrated to be equally efficient and is approved by the commissioner.

Subd. 3 Cooling after pasteurization. Immediately following pasteurization, all milk, fluid milk products and goat milk shall be cooled, in properly operated equipment approved by the commissioner, to a temperature of 50 degrees Fahrenheit or lower, and maintained at 50 degrees Fahrenheit or lower until delivered; provided, however, that if the milk, fluid milk products, or goat milk is to be cultured immediately after pasteurization, then such cooling may be delayed until after the culturing process is completed.

[1945 c 384 s 1, 2; 1953 c 536 s 1]

32.392 APPROVAL OF DAIRY PLANTS. No person shall operate a dairy plant or other establishment in which dairy products, or goat milk are manufactured, processed, or handled in this state unless the establishment, dairy plant, and the equipment, water supply and plumbing system connected therewith shall have been first approved by the commissioner and a permit issued to operate the same, except that these provisions shall not apply to producer dairy farms nor to establishments where no dairy products are processed, but dairy products are sold at retail only. At the time of filing the application for a permit, the applicant shall submit to the commissioner duplicate floor plans of such plant or establishment which shall show the placement of equipment, the source of water supply and method of distribution, and the location of the plumbing system, including the disposal of wastes. All new construction or alteration of any existing plants or establishment shall be made only with the approval of the commissioner and duplicate plans for such construction or alteration shall be submitted to him for approval. Any permit may be revoked by the commissioner for due cause after the holder of the permit has been given the opportunity for a hearing, in which case the holder of the permit shall be notified in writing, at least seven days prior to the date of such hearing, of the time and place of such hearing.

[1945 c 384 s 3; 1949 c 403 s 1; 1953 c 536 s 2; 1955 c 658 s 1]

32.393 LIMITATION ON SALE. Subdivision 1. **Pasteurization.** No milk, fluid milk products, or goat milk shall be sold, advertised, offered or exposed for sale or held in possession for sale for the purpose of human consumption in fluid form in this state unless the same has been pasteurized and cooled, as defined in section 32.391; provided, that this section shall not apply to milk, cream, skim milk, or goat milk occasionally secured or purchased for his personal use by any consumer at the place or farm where the milk is produced.

Subd. 2. Labels. All pasteurized milk, fluid milk products, or goat milk sold, offered or exposed for sale or held in possession for sale shall be labeled or otherwise designated as pasteurized milk, pasteurized fluid milk products, or pasteurized goat milk, and in case of pasteurized fluid milk products the label shall also state the name of the specific product.

[1945 c 384 s 4; 1949 c 403 s 1; 1953 c 536 s 3]

32.394 GRADE A PASTEURIZED MILK. Subdivision 1. Grade A pasteurized milk, fluid milk products and goat milk are Grade A raw milk, fluid milk products and goat milk for pasteurization which have been pasteurized, cooled and prepared for distribution in a plant approved by the commissioner, the bacterial count of which at no time after pasteurization and until delivery exceeds 30,000 bacteria per milliliter, standard plate count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 30,000 bacteria per milliliter if the last individual result is 30,000 bacteria per milliliter or lower, and not more than one of the last four coliform counts of which shall exceed 10 per milliliter unless the last individual result is 10 per milliliter or lower; provided, that the standard plate count standard shall be omitted in the case of sour cream, cultured buttermilk, other cultured fluid milk products and cultured goat milk.

Subd. 2. Grade A raw milk or goat milk for pasteurization purposes is raw milk or goat milk which complies with all the requirements for its production, the bacterial count of which does not exceed 200,000 bacteria per milliliter, standard

plate count or direct microscopic clump count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 200,000 bacteria per milliliter if the last individual result is 200,000 bacteria per milliliter or lower.

Subd. 3. Nothing in this section shall be construed to mean compulsory grading of pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization, or raw goat milk for pasteurization; such grade shall apply only to pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization, or raw goat milk for pasteurization on which the grade is declared on the label.

Subd. 4. The commissioner shall by regulation promulgate production and processing standards for Grade A pasteurized milk, fluid milk products and goat milk, Grade A raw milk for pasteurization and grade A raw goat milk for pasteurization.

Subd. 5. No person shall sell, offer or expose for sale, any milk, milk products or goat milk labeled Grade A, unless the milk, milk products or goat milk have been produced and processed in accordance with the requirements of Minnesota law and regulation. Any processor desiring to use the Grade A label on milk, milk products or goat milk shall make application for a permit to the commissioner on a form prescribed and furnished by the commissioner. The permit shall be issued by the commissioner when he has determined that the applicant has complied with the requirements of Minnesota law and regulation. Permits shall not be transferable with respect to person or location. A permit may be suspended by the commissioner upon failure by the holder of the permit to comply with any of the terms of Minnesota law and regulation or for interference with inspection, and may be revoked by the commissioner for due cause after the holder of the permit has been given the opportunity for a hearing, in which case the holder of the permit shall be given a notice in writing of the time and place of such hearing at least seven days before the date of such hearing.

Subd. 6. To assure compliance with the laws and regulations governing the production, handling, processing, and sale of Grade A milk, Grade A milk products and Grade A goat milk, the commissioner is hereby authorized to provide a service to be performed by trained and duly qualified milk sanitarians, for the inspection of such milk, milk products and goat milk, and of the premises and plants where such milk, milk products and goat milk are produced, handled and processed. Such service shall be for acquainting the processor and producers with the requirements for a Grade A milk supply, for preliminary inspection to determine if a processor has brought his farms and plant to the state of compliance which will qualify his products for the Grade A label, and for continuous inspection to assure that any farms and plants so accepted and all products therefrom so labeled shall remain in compliance. Said Grade A processor shall provide a continuous field service to assist the producers, who sell their milk to his plant, to attain and to maintain compliance with Grade A requirements. Any person who performs such field service for such Grade A processor first shall obtain a permit therefor from the commissioner. Any person desiring to secure such permit shall make application therefor on a form provided by the commissioner, and before a permit is issued the commissioner shall determine that the applicant is competent and qualified to perform such field service. Said permit shall not be transferable and may be revoked for due cause after the holder of the permit has been given the opportunity for a hearing in which case the holder of the permit shall be given a notice in writing of the time and place of such hearing at least seven days before the date of such hearing.

Subd. 7. The aforesaid state service shall be available to all processors who wish to use the Grade A label on their milk, milk products and goat milk and who have not available to them substantially equivalent service, imposed with equal effectiveness by a city, village or borough within the state.

26400 Subd. 8. Any processor of milk, milk products or goat milk who wishes to acquaint himself and his producers with Grade A requirements may make a request to the commissioner for exploratory inspections and meetings for this purpose. Upon receipt of such request the commissioner at his convenience shall cause such exploratory inspections to be made and such meetings to be held as are necessary to acquaint said processor and producers with such requirements. If after such exploratory inspections are made and such meetings are held and when in his opinion his field service has brought his producers into compliance with said requirements, said processor wishes to avail himself of further inspection service he shall so apply

on a form furnished by the commissioner stating the number of farms to be inspected. Such application shall be accompanied by a fee payable to the state treasurer in an amount of not less than \$50 and not more than \$300, which fee is to be charged for preliminary inspection prior to continuous inspection and assessments over \$50 are to be determined by charging \$1 for each farm over 50 but shall not exceed \$300 if more than 300 farms are inspected; provided that if the plant and farms are accepted for continuous inspection, this charge shall be made only once. If the preliminary inspection discloses that the processor is eligible for use of the Grade A label on his products and before he so labels said products he shall apply for continuous inspection on a form furnished by the commissioner and shall hold a Grade A permit. Such application shall be accompanied by a fee of not less than \$50 nor more than \$100 per plant and of not less than \$15 nor more than \$30 per farm, said fee to be paid annually by the processor. The commissioner as he deems necessary to more nearly meet the cost of the service, annually may adjust the assessments within the limits set herein.

Subd. 9. The amount of such assessments shall be payable by the processor on or before July 1, of each year, and if not paid on or before July 31, following, the service shall be discontinued, and permission to use the Grade A label shall be withdrawn; provided, that such processor may terminate such payment and such service without loss of the Grade A label if written notice of such intention is given at least 30 days prior to the due date of the payment of said assessment and if the continuous inspection of said plant and farms is assumed by a city, village or borough whose milk control ordinance is substantially equivalent to Minnesota Law and regulation and is enforced with equal effectiveness. When such written notice is given by the processor on or before December 1 preceding the due date, that portion of the assessment for the period January 1 through June 30, immediately following, shall be refunded to the processor. The fees for services performed by the activities of this section shall be deposited in the state treasury and shall constitute a separate account to be known as the Grade A inspection service account, which is hereby created, set aside, and appropriated as a revolving fund to be used to help to defray the cost of administration, refunds and expenses of the Grade A preliminary and continuous inspection services and shall be in addition to and not in substitution for the sums appropriated or otherwise made available for this purpose to the department of agriculture, dairy and food.

Subd. 10. All rules and regulations heretofore adopted by the commissioner relating to Grade A milk and which are in effect at the time of passage of Laws 1953, Chapter 752, and which are not in conflict therewith shall remain in effect until amended, modified, or repealed by the commissioner.

[1945 c 384 s 5; 1949 c 403 s 1; 1953 c 536 s 4; 1953 c 752 s 1; 1955 c 379 s 1]

32.395 MILK OTHER THAN GRADE A. Subdivision 1. Pasteurized milk, fluid milk products and goat milk, other than Grade A, are raw milk, fluid milk products and goat milk for pasteurization which have been pasteurized, cooled and prepared for distribution in a plant approved by the commissioner, the bacterial count of which at no time after pasteurization and until delivery, exceeds 50,000 bacteria per milliliter, standard plate count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 50,000 bacteria per milliliter if the last individual result is 50,000 bacteria per milliliter or lower, and not more than one of the last four coliform counts of which shall exceed 10 per milliliter unless the last individual result is 10 per milliliter or lower; provided that the standard plate count standard shall be omitted in the case of sour cream, cultured butter-milk, other cultured fluid milk products and cultured goat milk.

Subd. 2. Raw milk or raw goat milk for pasteurization purposes, other than Grade A, is raw milk or raw goat milk which complies with all the requirements for its production, the bacterial count of which does not exceed 500,000 bacteria per milliliter, standard plate count or direct microscopic clump count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 500,000 bacteria per milliliter if the last individual result is 500,000 bacteria per milliliter or lower.

Subd. 3. The commissioner is authorized to promulgate by regulation production and processing standards for pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization and raw goat milk for pasteurization.

Subd. 4. The commissioner in his discretion may authorize, in respect to raw milk or raw goat milk for pasteurization purposes, any other method or methods of determining bacterial count.

[1945 c 384 s 6; 1953 c 536 s 5]

32.396 [Repealed, 1953 c 536 s 6]

32.397 MINIMUM STANDARDS. The standards set forth in Laws 1945, Chapter 384, shall be considered as minimum standards only. Nothing in Laws 1945, Chapter 384, shall be construed to prevent any municipality from providing by ordinance more stringent or comprehensive standards than are contained therein.

[1945 c 384 s 9]

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

Subd. 2. **Violations and penalties.** Any person violating any of the provisions of sections 32.391 to 32.398 shall be deemed guilty of a misdemeanor.

[1945 c 384 s 8, 10]

32.40-32.42 [Repealed, 1949 c 176 s 10]

32.43-32.47 [Repealed, 1957 c 91 s 1]

32.475 BUTTER, GRADING AND LABELING. Subdivision 1. **Definitions.** As used in this section, score or grade means the grading of butter by its examination for flavor and aroma, body and texture, color, and salt, and by the use of other tests or procedures approved by the commissioner of agriculture, for ascertaining the quality of butter in whole or in part.

Subd. 2. **Minnesota grades.** It is unlawful to sell, offer or expose for sale, or have in possession with intent to sell any butter at retail unless it has been graded and labeled with such grades as follows:

- (a) Grade, Minnesota, AA—93 score
- (b) Grade, Minnesota, A—92 score
- (c) Grade, Minnesota, B—90 score
- (d) Grade, Minnesota, undergrade—all butter below Minnesota B.

For the purposes of this section "sale at retail" shall include all sales to a restaurant or eating establishment that serves butter to its patrons or that uses butter in the preparation of any food which is served to its patrons.

Subd. 3. **United States grades.** United States AA, A and B grades, or as such grades may be amended or as they may be administered by the U. S. Department of Agriculture, shall be accepted in lieu of the corresponding Minnesota AA, A and B grades, but all United States grades below B shall, for the purpose of this section, correspond to Minnesota undergrade.

Subd. 4. **Methods and procedures, promulgation by commissioner of agriculture.** Methods and procedures to be used for ascertaining quality, grades, grading, labeling, and for arbitrating disputes with respect to grades may be promulgated by the commissioner of agriculture.

Subd. 5. **Foreign butter.** Butter from outside of the State of Minnesota sold within this state shall comply with the state grade and labeling standards provided in this section; and, unless marked with United States AA, A, and B grades, shall indicate the grade in a manner equivalent to the requirements for butter manufactured and sold within this state.

Subd. 6. **Advertisement for retail sale, indication of grade.** Any advertisement of butter offered for sale at retail to the public at a given price shall plainly and conspicuously indicate the grade of such butter.

Subd. 7. **Penalty.** Any person violating any provision of this section shall be guilty of a misdemeanor and punished by a fine not exceeding \$100, or by imprisonment not exceeding three months.

[1955 c 219 s 1; 1957 c 145 s 1]

32.48 [Repealed, 1947 c. 275 s. 1]

32.49 FILLED DAIRY PRODUCTS, RESTRICTIONS AS TO MANUFACTURE, SALE, OR EXCHANGE. It shall be unlawful for any person, firm or corporation, by himself or itself, his or its employee or agent, or as the employee or agent of another, to manufacture, sell, or exchange, or to have in possession a filled dairy product knowing the same to be a filled dairy product and with intent to sell or exchange, any filled dairy product either under the name of any dairy product, including but not limited to, milk, cream, sour cream, butter cream, skimmed milk,

ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk, or as a labeled imitation thereof, or under any fictitious or trade name.

[1923 c 126 s 1; 1925 c 203 s 1; 1953 c 157 s 4] (3926)

32.491 MILK, CREAM; STANDARDS, GRADES, PRICE DIFFERENTIALS.

Subdivision 1. Adoption. In order to protect the public health and welfare, to promote the interests of the dairy industry in Minnesota, and to secure uniformity, the commissioner of agriculture, dairy, and food shall adopt standards, grades and price differentials between various grades of milk and cream for milk and cream purchased for manufacturing purposes. Before adopting any standards, grades, or price differentials for milk and cream, the commissioner shall hold a public hearing thereon, as provided by sections 15.041 to 15.049. Until such standards, grades, and price differentials are made and filed, the standards, grades, and price differentials heretofore made by the commissioner remain in effect except as otherwise prescribed by law.

Subd. 2. Statement of purchases furnished to seller. All milk or cream purchased for manufacturing purposes shall be purchased on the basis of the standards, grades, and price differentials between grades so adopted. Every purchaser of milk or cream for manufacturing purposes shall, at time of payment therefor, furnish the person from whom purchased a statement showing the date of grading, the grade, and the price paid therefor. The statement may be included on the check delivered by the purchaser to the seller in payment of the milk or cream.

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

Subd. 4. Penalties. Any person, firm, or corporation violating any provision of this section or a rule, regulation, standard, or price differential duly adopted by the commissioner is guilty of a misdemeanor.

Subd. 5. Application. This section shall not apply to any action now pending in any of the courts of this state, or to any cause of action arising, or violation which occurred, prior to April 18, 1955.

[1947 c 396 s 1-4; 1949 c 196 s 2; 1953 c 197 s 1; 1955 c 481 s 1]

32.492 UNIFORM QUALITY STANDARDS FOR MILK, CREAM, FLUID MILK PRODUCTS. **Subdivision 1. Requirements.** For the purpose of maintaining uniform quality standards in the purchase of milk, cream, and fluid milk products for manufacturing purposes or for resale to another for manufacturing purposes, the requirements set forth in subdivision 2 to 4 shall be complied with.

Subd. 2. Record of quality tests. Every licensed purchaser of milk, cream, and fluid milk products for manufacturing purposes or for resale to another for manufacturing purposes, herein called licensed purchaser, shall demand and receive with the first milk or cream delivery received from a producer a copy of the record of quality tests of the producer's milk or cream made by a former licensed purchaser during the three months immediately preceding such delivery, unless:

(a) The producer has not delivered such products to any other purchaser during that period; or

(b) The previous purchaser after receiving a written request for such record refuses or is unable to comply with such request in which event the producer shall immediately report such failure or refusal to the commissioner.

Subd. 3. Establishment of new quality records. If a milk or cream producer fails to deliver the quality records or quality tests, the licensed purchaser shall establish a new producer's quality record in lieu thereof, by taking the first four consecutive deliveries from such producer and making on such products all tests required by law and by regulations thereunder relating to milk, cream, and fluid milk products for manufacturing purposes administered by the commissioner of agriculture, dairy and food.

Subd. 4. Change of purchasing plants. The changing of purchasing plants for manufacturing purposes to which a producer of milk, cream, and fluid milk products makes delivery, shall not alter the status of such producer's previous quality record for purposes of Minnesota Statutes, Section 32.491, and rules thereunder administered by the commissioner.

Subd. 5. Penalty. Any licensed purchaser of milk, cream, or fluid milk products who neglects to furnish to any milk or cream producer upon his written re-

quest a copy of his record of quality tests and farm inspections, or any licensed purchaser or producer who fails to comply with this section, is guilty of a misdemeanor.

Subd. 6. **Commissioner.** For the purposes of this section "commissioner" means commissioner of agriculture, dairy, and food.

[1955 c 208 s 1, 2]

32.494 BUTTERFAT, SALES IN EXCESS OF PURCHASES. It shall be and it is hereby declared to be unlawful for any person to sell or to permit any of his employees, agents, officers, directors or other representatives to sell butterfat in butter, cheese, milk, cream, or any other dairy products in excess of the number of pounds of butterfat contained in the milk, cream, or other dairy products shown by his books and records as received by such person.

[1955 c 300 s 1] *Deleted by chapter 32.51*

32.50 VIOLATIONS; PENALTIES. Subdivision 1. Every person who shall violate or fail or refuse to comply with any provisions of section 32.08 shall be guilty of a misdemeanor.

Subd. 2. Any person violating any of the provisions of sections 32.18 to 32.20 shall be guilty of a misdemeanor.

Subd. 3. [Omitted—32.48 Repealed, 1947 c 275 s 1]

Subd. 4. [Repealed, 1949 c 196 s 3]

Subd. 5. Any person violating any provisions of sections 32.32 and 32.33 shall be guilty of a misdemeanor, the minimum punishment for which shall be a fine of \$25, or imprisonment for 20 days.

Subd. 6. Any person who shall violate any of the provisions of sections 32.09 and 32.10 shall be guilty of a misdemeanor; and, upon conviction, punished by a fine of not less than \$25, or by imprisonment for not less than 30 days; and for each subsequent offense, by a fine of not less than \$50, or by imprisonment for not less than 60 days.

Subd. 7. Any person, whether individually or as a member or employee of a partnership, or as an officer, agent, or employee of a corporation who directs or knowingly permits any violation of any of the provisions of sections 32.49, 32.53, 32.531, 32.532, and 32.533, or who aids or assists therein, either on his own behalf or in the interests of his employer or principal shall, upon the first conviction thereof, be subject to a fine of not more than \$100, or to imprisonment in the county jail for not more than 30 days, or both; and upon each subsequent conviction thereof, shall be subject to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment in the county jail for not less than six months nor more than one year, or both.

Subd. 8. Any person, firm, or corporation violating any of the provisions of sections 32.13 to 32.16 shall be guilty of a misdemeanor; and, upon conviction, punished by a fine of not less than \$25 nor more than \$100, or in lieu thereof by imprisonment for not less than 30 nor more than 90 days. Each period of 24 hours, or part thereof, during which a receiving station is maintained in an insanitary condition shall be deemed a separate offense.

Subd. 9. [Obsolete]

Subd. 10. Any person, firm, corporation, or copartnership who shall use the official stamp, brand, or label mentioned in sections 32.43 to 32.47, or any similar stamp, brand, or label, on any package of manufactured butter, without first having obtained a license therefor from the commissioner, shall be guilty of a gross misdemeanor.

Subd. 11. Any person, firm, corporation, association or copartnership violating any of the provisions of chapter 32 or any amendatory act for which no specific penalty is provided shall be guilty of a misdemeanor and punished by imprisonment not exceeding three months, or by a fine not exceeding \$100.

[1913 c 433 s 2; 1921 c 306 s 4; 1923 c 126 s 2; 1923 c 172 s 1; 1923 c 173 s 2; 1923 c 175 s 2; 1927 c 162 s 3; 1927 c 169 s 5; 1927 c 187 s 2; 1927 c 282 s 1; 1935 c 61 s 9; 1949 c 192 s 1; 1953 c 157 s 5] (3821-3, 3850, 3873-5, 3914, 3916-2, 3927, 3928-12, 3930, 3934, 3935-2)

32.51 ENFORCEMENT. Subdivision 1. The department shall be charged with the enforcement of the provisions of this chapter.

Subd. 2. The commissioner, by himself or by his assistants, chemists, inspectors, or agents, shall be charged with the enforcement of the provisions of section 32.49.

Subd. 3. [Repealed, 1949 c 196 s 3]

Subd. 4. The commissioner, his assistants, inspectors, agents, and employees, shall enforce the provisions of sections 32.11 and 32.12; and, in so doing, shall have all the powers conferred upon them, and each of them, by the provisions of Revised Laws 1905, Chapter 21.

Subd. 5. The commissioner shall cause the provisions of section 32.08 to be enforced.

Subd. 6. [Omitted—32.48 Repealed, 1947 c 275 s 1]

Subd. 7. The commissioner shall enforce the provisions of sections 32.09 and 32.10; and, in so doing, shall have all the power and authority with relation thereto that is conferred upon him by Laws 1921, Chapter 495, and the provisions of section 31.28 shall be deemed a part thereof in the enforcement of sections 32.09 and 32.10 and the accomplishment of the purposes thereof.

[1921 c 305 s 3; 1923 c 126 s 3; 1923 c 173 s 3; 1923 c 175 s 3; 1927 c 187 s 4; 1935 c 61 s 8] (3909, 3928, 3928-11, 3931, 3935, 3935-4)

32.511 ENFORCEMENT; POWERS AND AUTHORITY. Subdivision 1. **Applications of sections 31.02 to 31.15.** For the purpose of enforcing the provisions of Minnesota Statutes 1945, Chapter 32, and amendatory acts the commissioner, his assistants, agents, and employees, shall have the power and authority granted under the provisions of sections 31.02 to 31.15.

Subd. 2. **Misbranding.** "Misbranding" applies to all articles of food, or articles which enter into the composition of food, the package or label of which bears any statement, design, or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food product which is falsely branded as to the state, territory, or country in which it is manufactured or produced.

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

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

(b) If it be labeled or branded so as to deceive or mislead the purchaser, or purport to be a foreign product when not so, or if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, heroin, or alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any of such substances contained therein;

(c) If in package form the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of net weight, measure, or numerical count; provided, that reasonable variations may be permitted, and tolerances, and also exceptions as to small packages may be established, by rules and regulations made by the commissioner; and, provided, further, that the commissioner shall have full authority to determine when food is in package form;

(d) If the package containing it, or its labels, shall bear any statement, design, or device regarding the ingredients or the substances contained therein, which statement, design, or device shall be false or misleading in any particular.

[1949 c 192 s 2]

32.52 PROSECUTIONS. Subdivision 1. It hereby is made the duty of every prosecuting officer to whom the commissioner shall report any violation of or failure or refusal to comply with any of the provisions of section 32.08 to institute and prosecute, without delay, appropriate proceedings in the proper courts for enforcement of the penalties prescribed therefor.

Subd. 2. [Omitted—32.48 Repealed, 1947 c 275 s 1]

Subd. 3. It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of sections 32.09 and 32.10 to cause appropriate proceedings to be instituted and to be prosecuted in the proper courts, without delay, for the enforcement as in such cases therein provided. All fines imposed and paid thereunder shall be paid into the state treasury.

[1923 c 173 s 3; 1923 c 175 s 3; 1927 c 187 s 5] (3931, 3935, 3935-5)

32.53 DECLARATION OF POLICY. Filled dairy products resemble genuine dairy products so closely that they lend themselves readily to substitution for or confusion with such dairy products, and in many cases cannot be distinguished from genuine dairy products by the ordinary consumer. The manufacture, sale, exchange, transportation, possession, or offering for sale or exchange of filled dairy products

creates a condition conducive to substitution, confusion, deception, and fraud, and one which if permitted to exist tends to interfere with the orderly and fair marketing of foods essential to the well being of the people of this state.

It is hereby declared to be the purpose of sections 32.49, 32.50, subdivision 7, 32.53, 32.531, 32.532, and 32.533, to correct and eliminate the condition above referred to; to protect the public from confusion, fraud, and deception; to prohibit practices inimical to the general welfare; and to promote the orderly and fair marketing of essential foods.

[1953 c 157 s 2]

32.531 DEFINITIONS. Whenever used in sections 32.49, 32.50, subdivision 7, 32.53, 32.531, 32.532, and 32.533:

(a) The term "person" includes individuals, firms, partnerships, associations, trusts, estates, corporations, and any and all other business units, devices, or arrangements.

(b) The term "filled dairy product" means any milk, cream, or skimmed milk, or any combination thereof, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or dessicated, or any food product made or manufactured therefrom, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat so that the resulting product is in imitation or semblance of any dairy product, including but not limited to, milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk; provided, however, that this term shall not be construed to mean or include: (1) any distinctive proprietary food compound not readily mistaken for a dairy product, where such compound is customarily used on the order or advice of a physician and is prepared and designed for medicinal or special dietary use and prominently so labeled; (2) any dairy product flavored with chocolate or cocoa, or the vitamin content of which has been increased, or both, where the fats or oils other than milk fat contained in such product do not exceed the amount of cacao fat naturally present in the chocolate or cocoa used and the food oil, not in excess of .01 percent of the weight of the finished product, used as a carrier of such vitamins; or (3) oleomargarine.

(c) The term "commissioner" means the commissioner of agriculture, dairy and food.

[1953 c 157 s 3]

32.532 ENFORCEMENT. The commissioner is authorized and directed to administer and supervise the enforcement of sections 32.49, 32.50, subdivision 7, 32.53, 32.531, 32.532, and 32.533; to provide for such periodic inspections and investigations as he may deem necessary to disclose violations; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution of civil or criminal actions or both. The provisions of these sections may be enforced by injunction in any court having jurisdiction to grant injunctive relief, and filled dairy products illegally held or otherwise involved in a violation of these sections shall be subject to seizure and disposition in accordance with an appropriate court order or any applicable regulation adopted by the commissioner.

[1953 c 157 s 6]

32.533 OPERATION AND EFFECT. Laws 1953, Chapter 157, is supplemental to all other laws relating to filled dairy products not expressly referred to therein, and to all laws relating to the manufacture, sale, exchange or transportation of filled dairy products, or the manufacture or possession thereof, with the intent to sell, exchange or transport the same, either within or without the State of Minnesota, and shall not be construed to modify, repeal or in any wise affect any part or provisions of any such laws not expressly repealed therein.

[1953 c 157 s 8]