

ADULTERATIONS.

CHAPTER 7.

[H. B. No. 28—Dickinson.]

ADULTERATING FORMALDEHYDE.

AN ACT to Prevent Fraud in the Sale of Formaldehyde Used as a Fungicide, Prescribing a Penalty for the Violation, Providing for the Inspection and Analysis of Same, and Charging the North Dakota Government Agricultural Experiment Station With the Duty Thereof, and Charging the State's Attorney With the Enforcement Hereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DUTY OF MANUFACTURERS AND DEALERS.] It shall be the duty of each and every manufacturer of formaldehyde (the aldehyde of methyl alcohol) to be used as a fungicide within the state, and of every dealer of original packages of said formaldehyde manufactured outside of this state, before the said formaldehyde is offered or exposed for sale, or sold within this state as a fungicide, or for fungicidal purposes, to submit to the director of the North Dakota government agricultural experiment station at Fargo, samples of said formaldehyde, and a written or printed statement setting forth the brand or brands of said formaldehyde to be sold, the number of pounds contained in each retainer or container in which it is put on the market for sale, the name or names of the manufacturers and the place of manufacturing the same.

Second. The statement shall set forth in per cent by weight, the amount of formaldehyde contained in the said solution of formaldehyde, and the statement so furnished shall be considered as constituting a guarantee to the purchaser that every quantity, sold or offered for sale, shall contain not less than the amount of formaldehyde expressed in per cent as set forth in the said statement.

§ 2. RIGHT TO SELL IN THE STATE, HOW OBTAINED.] Every purchaser of said formaldehyde in original packages, which is manufactured outside of this state, who intends to sell or expose the same for sale, and every manufacturer of said formaldehyde within this state shall, after filing the statement above provided for, with the director of the North Dakota government agricultural experiment station at Fargo, receive from the said director a certificate stating that he has complied with the foregoing statement, which certificate shall be furnished without charge therefor; said certificate when furnished shall authorize the party when receiving the

same to deal in this state in the said formaldehyde. Any person who fails to comply with the terms of section 1 of this act shall not be entitled to such certificate and it shall not be construed as applying to retail dealers selling formaldehyde which has already been labeled and guaranteed.

§ 3. LEGAL STRENGTH.] Formaldehyde when sold, offered or exposed for sale, as a fungicide, in this state, shall contain at least forty per centum by weight of formaldehyde, and if it falls below thirty-eight per cent it shall be deemed adulterated within the meaning of the terms of this act.

§ 4. DUTY OF THE DIRECTOR.] The director of the North Dakota government agricultural experiment station at Fargo shall secure different brands of formaldehyde sold, offered or exposed for sale within the state, and shall have said samples of formaldehyde analyzed, and for this purpose he may appoint such agent or agents as he may deem necessary, for the enforcement of the act, and such agent or agents shall have free access and egress at all reasonable hours, for the purpose of examining into any place wherein it is suspected any formaldehyde may be kept, and such agent or agents may take from any person, firm or corporation samples of said formaldehyde for analysis and when said goods are found on analysis to be in violation of this law the said director shall report the said fact to the state's attorney for the district wherein the offense is committed.

§ 5. CERTIFICATES AS EVIDENCE.] Every certificate duly signed and acknowledged by the chemist of the North Dakota government agricultural experiment station at Fargo relating to the analysis of any formaldehyde shall be presumptive evidence of the facts therein stated.

§ 6. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the state's attorney to prosecute all persons violating any of the provisions of this act when the evidence thereof has been presented by the North Dakota government agricultural experiment station as provided for in sections 4 and 5 of this act.

§ 7. WHAT CONSTITUTES VIOLATION.] The doing of anything prohibited by this act shall be evidence of the violation of the provisions of this act relating to the things so prohibited and the omission to do anything directed to be done shall be evidence of a violation of the provisions of this act relative to the things so directed to be done, and any person who shall sell any unbroken package of formaldehyde or any part thereof which has not been labeled as herein provided, shall be guilty of a misdemeanor, and shall be fined not less than ten dollars nor more than one hundred dollars, together with the costs of the suit in an action caused to be brought by the director of the North Dakota government agricultural experiment station in the name of the people of the state of North Dakota.

§ 8. EMERGENCY.] Whereas, an emergency exists in that there is no law regulating the sale of formaldehyde for fungicidal purposes, therefore this act shall take effect immediately after its passage and approval.

Approved February 17, 1905.

CHAPTER 8.

[S. B. No. 49—McArthur.]

ADULTERATION OF PAINTS.

AN ACT to Prevent the Adulteration of and Deception in the Sale of White Lead and Mixed Paints.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. PERSONS MANUFACTURING, SELLING OR OFFERING FOR SALE WHITE LEAD OR PAINTS MUST ADOPT CERTAIN LABEL, SHOWING MINERAL CONSTITUENTS. ADULTERATION CONSTITUTES A MISDEMEANOR. PENALTY. EXCEPTION.] Every person, firm or corporation who manufactures for sale or exposes for sale, or sells within this state, any white lead, paint or compound intended for use as such, shall label the same in clear and distinct open gothic letters upon a white background and show the true per cent of each mineral constituent contained in said paint, or if other than linseed oil is used in its preparation, the names of such oils or substitutes shall be shown together with the percentage thereof, and every person, firm or corporation who manufactures for sale, or exposes for sale or sells within this state any mixed paint or compound intended for use as such, which contains any ingredients other than pure linseed oil, pure carbonate of lead, oxide of zinc, turpentine, Japan dryer and pure colors, shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for each offense, be punished by a fine of not less than twenty-five and not more than one hundred dollars and costs, or by imprisonment in the county jail not exceeding sixty days; provided, that any such person, firm or corporation who shall manufacture for sale or expose for sale, or sell within this state any white lead, paint or mixed paint containing ingredients other than those as above enumerated, shall not be deemed guilty of a violation of this act in case the same be properly labeled showing the quantity or amount of each and every ingredient used therein and not specified above, and the name and residence of the manufacturer or person for whom it is manufactured.

§ 2. POSSESSION OF ARTICLES IN VIOLATION OF THIS ACT DEEMED PRIMA FACIE EVIDENCE OF VIOLATION.] The having in possession by any person, firm or corporation dealing in said articles, any articles or substances hereinbefore described and not properly labeled, as

provided by section 1 of this act, shall be considered prima facie evidence that the same is kept by such person or firm in violation of the provisions of this act and punishable under it.

§ 3. DIRECTOR OF NORTH DAKOTA AGRICULTURAL EXPERIMENT STATION CHARGED WITH ENFORCEMENT OF THIS ACT.] The director of the North Dakota government agricultural experiment station is charged with the proper enforcement of all the provisions of this act.

§ 4. DIRECTOR, ASSISTANTS, ETC., TO HAVE ACCESS TO ALL PLACES MANUFACTURING OR SELLING ARTICLES NAMED IN THIS ACT, WITH POWER TO OPEN PACKAGES.] The said director and the assistants, experts, chemists and agents shall be duly authorized for the purpose, and shall have access and ingress to all places of business, factories, stores and buildings used for the manufacture or sale of paints. They shall also have power and authority to open any package, can, jar, tub or other receptacle containing white lead paints that may be sold, manufactured or exposed for sale, in violation of the provisions of this act.

§ 5. ACT IN FORCE JANUARY 1ST, 1906.] This act shall take effect and be in force from and after January 1, 1906.

Approved March 6, 1905.

CHAPTER 9.

[H. B. No. 42—Treat.]

ADULTERATING PARIS GREEN.

AN ACT to Prevent Fraud in the Sale of Paris Green Used as an Insecticide, Prescribing a Penalty for the Violation, Providing for the Inspection and Analysis of Same, and Charging the North Dakota Government Agricultural Experiment Station With the Duty Thereof and Charging the State's Attorney With the Enforcement Hereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. DUTY OF MANUFACTURERS AND DEALERS.] It shall be the duty of each and every manufacturer of Paris green (commercial acetoarsenite of copper) to be used as an insecticide within the state, and of every dealer in original packages of said Paris green manufactured outside of this state, before the said Paris green is offered or exposed for sale, or sold within this state as an insecticide, to submit to the director of the North Dakota government agricultural experiment station of Fargo, samples of said Paris green, and a written or printed statement setting forth: First, the brands or said Paris green, to be sold, the number of pounds contained in each package in which it is put on the market for sale, the name or names of the manufacturers and the place of manufacturing the same; second, the statement shall set forth the amount of combined arsenic which

the said Paris green contains, and the statement so furnished shall be considered as constituting a guarantee to the purchaser that every package of such Paris green contains not less than the amount of combined arsenic set forth in the statement.

§ 2. RIGHT TO SELL IN THE STATE AND HOW OBTAINED.] Every purchaser of said Paris green in original packages, which is manufactured outside of this state, who intends to sell or expose the same for sale, and every manufacturer of said Paris green within this state, shall, after filing the statement above provided for, with the director of the North Dakota government agricultural experiment station at Fargo, receive from the said director a certificate stating that he has complied with the foregoing statement, which certificate shall be furnished without charge therefor; said certificate when furnished shall authorize the party when receiving the same to deal in this state in the said Paris green. Any person who fails to comply with the terms of section 1 of this act shall not be entitled to such certificate and it shall not be construed as applying to retail dealers selling Paris green which has already been labeled and guaranteed.

§ 3. LEGAL STRENGTH.] Paris green, when sold, offered or exposed for sale, as an insecticide, in this state, shall contain at least fifty per centum of arsenious oxid, and shall not contain more than four per centum of the same in the uncombined state.

§ 4. DUTY OF THE DIRECTOR.] The director of the North Dakota government agricultural experiment station at Fargo shall examine or cause to be examined different brands of Paris green sold, offered or exposed for sale within the state, and cause samples of the same to be analyzed, and for this purpose he may appoint such agent or agents as he may deem necessary for the enforcement of this act, and such agent or agents shall have free access at all reasonable hours, for the purpose of examining into any place wherein it is suspected any Paris green may be kept, and such agent or agents may take from any person, firm or corporation, samples of said Paris green for analysis and when said goods are found on analysis to be in violation of this law the said director shall report the said facts to the state's attorney for the district wherein the offense is committed.

§ 5. CERTIFICATES AS EVIDENCE.] Every certificate duly signed and acknowledged by the chemist of the North Dakota government agricultural experiment station at Fargo relating to the analysis of any Paris green shall be presumptive evidence of the fact therein stated.

§ 6. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the state's attorney to prosecute all persons violating any of the provisions of this act when the evidence thereof has been presented by the North Dakota government agricultural station, as provided for in sections 4 and 5 of this act.

§ 7. WHAT CONSTITUTES VIOLATION.] The doing of anything prohibited by this act shall be evidence of the violation of the pro-

visions of this act relating to the things so prohibited, and the omission to do anything directed to be done shall be evidence of a violation of the provisions of this act relative to the things so directed to be done, and any person who shall sell or dispose of any package of Paris green or any part thereof which has not been labeled as herein provided, shall be guilty of a misdemeanor, and shall be fined not less than ten dollars nor more than one hundred dollars, together with the costs of the suit in an action caused to be brought by the director of the North Dakota government agricultural experiment station in the name of the people of the state of North Dakota.

§ 8. EMERGENCY.] Whereas, there is now no law adequately governing the sale of Paris green in this state, an emergency exists, therefore this act shall take effect and be in force from and after its passage and approval.

Approved February 18, 1905.

CHAPTER 10.

[H. B. No. 27—Sweet.]

PURE DRUG LAW.

AN ACT to Prevent the Adulteration, Misbranding and Selling of Adulterated and Insufficiently Labeled Drugs or Medicines, Prescribing a Penalty for the Violation Hereof, Providing for the Inspection, Testing and Analyzing of Said Drugs and Medicines, Charging the North Dakota Experiment Station With the Duty Thereof, and Charging the State's Attorney With the Enforcement Hereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ADULTERATING AND LABELING DRUGS.] It shall be unlawful for any person, his agent or servant, or while acting as agent or servant of any other person or corporation to manufacture for sale, offer for sale, or sell within this state any drug which is adulterated within the meaning of this act.

§ 2. DRUGS DEFINED.] The term "drug" as used in this act shall include all medicines for internal or external use, antiseptics, disinfectants and cosmetics.

§ 3. WHAT CONSTITUTES ADULTERATION.] A drug shall be deemed to be adulterated:

First. If, when sold under or by a name recognized in the United States pharmacopœia, it differs from the standard of strength, quality or purity prescribed therein, unless the order therefor requires an article inferior to such standard or unless such difference is made known or so appears to the purchaser at the time of the sale.

Second. If, when sold under or by a name not recognized in the United States pharmacopœia, but which is found in some other

pharmacopœia or other standard work on materia medica, it differs materially from the standard of strength, quality or purity prescribed in such work.

Third. If its strength, quality or purity falls below the professed standard under which it is sold; provided, that a drug or medicine shall not be deemed adulterated in the following case: If the standard of strength or purity of any drug has been raised since the issue of the last edition of the United States pharmacopœia, no prosecution relative to it shall be maintained until such change of standard has been published throughout the commonwealth.

§ 4. DRUGS AND MEDICINES TO BE LABELED.] Every proprietary product, drug, medicine or beverage containing more than five per cent of ethyl alcohol, or which contains chloral hydrate, ergot, morphine, opium or any of their compounds or derivatives, cocaine or any of its salts, bromine, iodine or any of their salts, shall be clearly labeled in black open gothic letters printed on a white background showing the name and percentage of each of the foregoing constituents, and said label shall be affixed to each and every package, carton, box or bottle in such a way as to be clearly seen.

§ 5. COCAINE, HOW SOLD.] No sale or gift of cocaine or of its salts shall be made, or delivery thereof made in this state except upon the written prescription of a licensed physician.

§ 6. METHYL ALCOHOL PROHIBITED.] It shall be unlawful to sell, offer or expose for sale, or have in possession any preparation or product, intended for the use of man, either for internal or external purposes, which contains methyl alcohol or "wood spirits."

§ 7. PHYSICIAN'S PRESCRIPTION TO BE FILLED.] Nothing in this act shall be so construed as to in any way interfere with the written prescription of any regularly licensed physician or with the filling of the same by a licensed druggist.

§ 8. PENALTY FOR VIOLATION.] Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall for the first offense be punished by a fine of not less than five dollars or more than one hundred dollars, and all necessary costs, including the expense of analyzing such adulterated articles when said person has been found guilty under this act, and all such adulterated or misbranded articles may by order of the court be seized and destroyed.

§ 9. DUTY OF STATE'S ATTORNEY.] It shall be the duty of the attorney general and state's attorney to prosecute all persons violating any of the provisions of this act when the evidence thereof has been presented by the North Dakota government agricultural experiment station as provided for in sections 11 and 12 of this act.

§ 10. THE NORTH DAKOTA EXPERIMENT STATION TO INSPECT AND ANALYZE DRUGS AND MEDICINES.] The North Dakota government agricultural experiment station shall make analysis of drugs and

medicines found on sale in North Dakota suspected of being adulterated, at such times and places and to such extent as it may determine, and may appoint such agent or agents as it may deem necessary for the enforcement of the provisions of this act, and such agent or agents shall have free access and egress, at all reasonable hours, for the purpose of examining into any place wherein it is suspected any drug or medicine adulterated with any deleterious or foreign ingredient or which falls below the standard of purity or where such ingredients exist, and such agent or agents, upon tendering the market price of said article, may take from any person, firm or corporation samples of any articles suspected of being adulterated as aforesaid.

§ 11. FACTS—HOW TRANSMITTED.] Whenever said station shall find, by its analysis, that adulterated drugs have been on sale in this state or that said drugs are in violation of this act, it shall forthwith transmit the facts so found to the attorney general and the state's attorney of the county in which said adulterated product was found.

§ 12. CERTIFICATES AS EVIDENCE.] Every certificate duly signed and acknowledged by the chemist of the North Dakota government agricultural experiment station at Fargo relating to the analysis of any drug products or medicines, shall be presumptive evidence of the facts therein stated.

§ 13. STATION TO MAKE ANNUAL REPORT.] The said station shall make an annual report to the governor upon the work done under this act and said report may be included in the report which said station is already authorized by law to make to the governor.

§ 14. WHAT GOODS SUBJECT TO THIS ACT; WHAT EXEMPT.] All goods coming into this state after July 1, 1905, shall be subject to the provisions of this act, while those goods within the state prior to that date shall be considered as exempt until January 1, 1906.

Approved February 28, 1905.

CHAPTER 11.

[S. B. No. 27—Hanna.]

PURE FOOD LAW.

AN ACT to Amend and Re-enact Sections 1, 2 and 3 of Chapter 6 of the Session Laws of 1903, the Same Being an Act to Prevent the Adulteration, Misbranding and Selling of Adulterated and Unwholesome Foods and Beverages, Prescribing a Penalty for the Violation, Providing for the Inspection and Analysis of Foods, Charging the North Dakota Government Agricultural Experiment Station With the Duty Thereof, Charging the State's Attorney With the Enforcement Hereof.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. ADULTERATING AND MISBRANDING FOODS AND BEVERAGES.] It shall be unlawful for any person, either for himself or while acting as agent or servant of any other person or corporation, to manufacture for sale, sell, offer or to have for sale, to solicit orders for, to store or to deliver within the state any article of food or beverage which is unwholesome or adulterated within the meaning of this act. The having in possession of such adulterated article or articles shall be deemed as prima facie evidence of the violation thereof. For the purposes of this act all condiments, extracts, vinegars, or other substances used in the preparation or compounding of foods or food products and beverages shall be deemed as articles of food.

§ 2. WHAT CONSTITUTES ADULTERATION.] Any article of food or beverage shall be considered as unwholesome or adulterated within the meaning of this act:

First. If it contains and form of analine dye or other coal tar dye, or if colored with a harmless vegetable dye and the name thereof is not given on the label.

Second. If it contains formaldehyde, benzoic acid, sulphurous acid, boric acid, salicylic acid, hydrofluoric acid, saccharin, betanaphthol, or any salt or antiseptic compound derived from these products.

Third. If any substance or substances have been mixed with it so as to reduce or lower or injuriously affect its quality or strength or food value so that such article of food or beverage when offered for sale, shall deceive or tend to deceive the purchaser.

Fourth. If any inferior or cheaper substance or substances have been substituted wholly or in part for the article, so that the product when sold shall deceive or tend to deceive the purchaser.

Fifth. If any necessary or valuable constituent of the article has been in whole or in part abstracted.

Sixth. If it be an imitation of or offered for sale under the specific name of another article.

Seventh. If it be labeled, branded, or colored so as to deceive

or mislead the purchaser, or if it be falsely labeled in any respect.

Eighth. If it consists wholly or in part of a diseased, decomposed, filthy or putrid animal or vegetable substance, or if such substance or substances be used in the preparation thereof.

Ninth. If every package, bottle or container does not bear the true net weight, the name of the real manufacturers or jobbers, and the true grade or class of the product, the same to be expressed in clear and distinct English words in black type on a white background; provided, that an article of food or beverage shall not be deemed adulterated in the following cases:

First. If it be a compound or mixture of recognized food products not included in definitions sixth and eighth of this section.

Second. In the case of candies and chocolates, if they contain no terra alba, barytes, talc, chrome yellow or other mineral substances, or analine dyes or other coal tar dyes or other poisonous colors, flavors or products detrimental to health.

Third. If in the case of baking powders or any mixture or compound intended for use as a baking powder they have affixed to each and every box, can or package containing such powder or like mixture or compound, a light colored label upon the outside and on the face of this there is distinctly printed with black ink and in clear legible type the name and address of the manufacturers, the true and correct analysis, and in a form to be prescribed by the North Dakota government agricultural experiment station, of each and all the constituents or ingredients contained in or contributing a part of such baking powders, or mixture or compound intended for use as a baking powder. The label shall bear no advertising or descriptive matters other than the name of the manufacturer, composition as prescribed for above, and directions for use.

Fourth. In the case of perishable goods put up in bulk, sodium benzoate may be used in proportion not to exceed one part in two thousand in such products and under such regulations as may be determined upon and proclaimed by the North Dakota government agricultural experiment station at Fargo. This clause shall not be applicable for goods coming into the state after July, 1907, nor to any case at any time where products can be commercially produced without the use of chemical preservatives. Where the use of preservatives are permitted the fact shall be clearly set forth on this label in the form and manner to be prescribed by the North Dakota government agricultural experiment station at Fargo.

§ 3. PENALTY FOR VIOLATION.] Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor and shall for the first offense be punished by a fine of not less than twenty-five dollars or more than one hundred dollars, and all necessary costs, including the expense of analyzing such adulterated articles, when said person has been found guilty under this act. Products found to be adulterated within the meaning of this act may by order of the court be seized and ordered destroyed.

Approved February 24, 1905.