

DAIRY PRODUCTS

CHAPTER 90.

[H. B. No. 132—Cunningham]

MANUFACTURE AND SALE OF DAIRY PRODUCTS.

AN ACT to Regulate the Manufacture and Sale of Dairy Products and Imitations and Substitutes Therefor, Prescribing Penalties for Violations, to Create the Office of Assistant Dairy Commissioner, Prescribing His Duties and Fixing His Salary, and to Repeal Sections 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105 and 2106 of the Revised Codes of 1905.

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

§ 1. ASSISTANT DAIRY COMMISSIONER. SALARY. DUTIES.] In order to secure the better enforcement of the provisions of this article, and to promote the improvement of the products of the dairy, the commissioner of agriculture, by and with the advice and consent of the governor, shall appoint one deputy in his department to be known officially as assistant dairy commissioner, which assistant dairy commissioner shall have a practical knowledge of and experience in the manufacture of dairy products. Said assistant dairy commissioner shall hold office during the term of the commissioner of agriculture, subject to removal from office for inefficiency, neglect or violation of duty. The said assistant dairy commissioner shall receive a salary of one thousand five hundred dollars per annum, and his actual and necessary expenses in the discharge of his duties under this act. It shall be the duty of the assistant dairy commissioner to enforce, under the direction of the commissioner of agriculture, all laws that now exist, or that may hereafter be enacted in this state regarding the production, manufacture and sale of dairy products, their imitations and substitutes. It shall be the duty of the assistant dairy commissioner to inspect every creamery, cheese factory or renovating, or "process-butter" factory, at least once each year; to assist the buttermakers, cheesemakers and managers of such factories and patrons of the same in order to improve the quality of the dairy products sold to, or manufactured in said factories; and to co-operate with and instruct the dairymen in testing their dairy herds, both individually and collectively. The sum of two thousand five hundred dollars per annum is hereby appropriated, to which shall be added the amount collected from the sale of licenses, hereinafter provided for in this article, to be paid for such purpose out of any moneys

in the treasury, not otherwise appropriated. All charges, accounts and expenses authorized by this article shall be paid by the state treasurer of the state upon the warrant of the state auditor. The entire expenses of the said assistant dairy commissioner shall not exceed the sum appropriated for the purpose of this article.

§ 2. COMMISSIONER OF AGRICULTURE TO MAKE DETAILED REPORT.] The annual reports of the commissioner of agriculture shall contain a detailed report of the work and proceedings, together with an account of expenses and disbursements of said assistant dairy commissioner, in regard to the production, manufacture and sale of dairy products, and such suggestions as he may regard of public importance connected therewith.

§ 3. POWERS AND DUTIES OF ASSISTANT DAIRY COMMISSIONER.] The said assistant dairy commissioner and such persons as shall be duly authorized for the purpose, shall have access, ingress and egress to all places of business, factories, farms, buildings, carriages, cars, vessels and cans used in the sale of any dairy product, or any imitation thereof. They shall also have power and authority to open any package, can or vessel containing such article which may be manufactured, sold or exposed for sale in violation of the provisions of this act, and may inspect the contents therein, and may take samples therefrom for analysis. They shall also have authority to prevent the sale or manufacture into any food product cream that is filthy or putrid, or milk that has been drawn from cows diseased or fed on unwholesome food. All clerks, bookkeepers, express agents, railroad officials, employes or common carriers shall render to them every assistance in their power when so requested, in tracing, finding or discovering the presence of any prohibited article named in this act. The assistant dairy commissioner and such persons as shall be duly authorized for the purpose, shall have free access to any barn or stable where any cow is kept or milked, or to any factory, building, dairy premises or creamery where any dairy products are manufactured, handled or stored when the milk or cream from such cow or product is to be sold or shipped to any creamery or cheese factory in the state, and may enforce such measures as are necessary to secure perfect cleanliness in and around the same, and of any utensils used therein.

§ 4. PENALTY FOR OBSTRUCTING COMMISSIONER.] Whosoever shall refuse to allow the inspection herein provided for, or shall in any way hinder or obstruct the proper officers performing their duties hereunder shall be subject on conviction to fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days.

§ 5. CREAMERIES, CHEESE FACTORIES, ETC. LICENSE.] Every person, firm or corporation owning and operating a creamery, cheese factory or renovating or "process-butter" factory in the state shall on the first day of July of each year, or within thirty days thereafter, be licensed by the assistant dairy commissioner,

and shall pay for said license the sum of ten dollars for each and every factory owned and operated by said person, firm or corporation. No license shall be sold or transferred. Each license shall record the name of the owner, firm or corporation, place of business, the location of the factory and the number of the same. All fees for license collected under this act shall be added to the appropriation made for the purpose of carrying out the provisions of this act.

§ 6. STENCIL OR BRAND REQUIRED. REPORT TO COMMISSIONER.] Every creamery, cheese factory, combined creamery and cheese factory or renovating or "process-butter" factory shall procure a stencil or brand, bearing a suitable device and words which shall clearly designate the quality of the product manufactured and the number and location of the factory, and it may contain a special or private brand or name of said factory; every brand shall be used on the outside of the cheese, and also upon the package containing the same, but in the case of butter on the package only; and shall on the first day of July, or within thirty days thereafter, of each year, report to the assistant dairy commissioner the name, location and number of each factory using the same brand, and the name or names of the persons at each factory authorized to use the same, together with a copy of each stencil or brand, and the assistant dairy commissioner shall keep a book in which shall be registered the same; provided, that any creamery, cheese factory or renovating or "process-butter" factory shipping its products to a particular or special market may not be required to use said brand as provided for in this act.

§ 7. BLANKS FOR REPORTS.] The said assistant dairy commissioner shall provide blanks which shall be furnished to all proprietors or managers of creameries, cheese factories and renovating or "process-butter" factories, which shall be licensed under the provisions of this act, for the purpose of making a report of the amount of milk and dairy goods handled, and all owners or managers of such creameries, cheese factories and renovating or "process-butter" factories shall send to the assistant dairy commissioner, not later than the last day of each month, a full and accurate report of the amount of business done during the preceding month as designated under the different headings of such printed blanks.

§ 8. PENALTY FOR SELLING IMPURE, ADULTERATED OR SKIMMED MILK.] If any person shall sell, or expose for sale or exchange, or deliver or bring to another for domestic or potable use, or to be converted into any product of human food, any unclean, impure, unhealthy, adulterated, unwholesome or skimmed milk (except pure skim milk to skim cheese factories), or milk from which has been held back what is commonly known as strippings, or milk taken from an animal having disease, sickness, ulcers, abscess, or running sores, or which has been taken from animals within fifteen days

before or five days after parturition; or if any person shall purchase to be converted into any product of human food, any unclean, unhealthy, adulterated or unwholesome milk or cream, or shall manufacture any such milk or cream into any product of human food; or if any person, having cows for the purpose of producing milk and cream for sale, shall stable them in an unhealthy place, or in a crowded manner, or shall, knowingly, feed them food which produces impure, unwholesome milk, or shall feed them on any substance in a state of putrefaction, or rottenness, or of an unhealthy nature, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 18 of this act.

§ 9. ADULTERATION DEFINED.] For the purpose of this act, the addition of water or any so-called preservative or anything to whole milk or skimmed milk or partially skimmed milk or cream, is hereby declared an adulteration; and milk or cream which is obtained from animals fed on any substance of an unhealthy nature, is hereby declared impure and unwholesome; and milk which has been proved by any reliable method of test or analysis to contain less than twelve per cent of milk solids to the hundred pounds of milk, or less than three pounds of butter fat to the hundred pounds of milk, shall be regarded as skimmed or partially skimmed milk, and every article not containing fifteen per cent or more of butter fat shall not be regarded as cream

§ 10. STANDARD MILK AND CREAM MEASURES AND TESTS.] The state standard milk measure, or pipette, shall have a capacity of seventeen and six-tenths cubic centimeters, and the standard test tubes or bottles for milk shall have a capacity for two cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit between "zero" and ten on the graduated scale on the neck thereof. Cream shall be tested by weight, and the standard unit for testing shall be eighteen grams, and the standard test tubes or bottles shall have a capacity for ten cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit, between "zero" and fifty on the graduated scale on the neck thereof, and it is hereby made a misdemeanor to use any other means of determining the amount of butter fat in milk or cream than the Babcock test, or to use any other size of milk measure, weight, test tubes or bottles except those described herein, where milk or cream is purchased or furnished to cheese factories, and the value of said milk or cream is determined by the per cent of butter fat contained in the same. Any manufacturer, merchant, dealer or agent in this state who shall offer for sale or sell a cream or milk pipette, or measure, test tube or bottle which is not correctly marked or graduated as herein provided, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided in section 18 of this act.

§ 11. FALSE READING UNLAWFUL.] It shall be unlawful for the owner, manager, agent or any employe of any creamery or cheese factory to manipulate, under-read or over-read the Babcock test, or any other contrivance used for determining the quality or value of milk.

§ 12. SALE OF ADULTERATED PRODUCTS PROHIBITED. OLEOMARGARINE EXCEPTED.] No person by himself or his agents or servants shall render or manufacture, sell, offer for sale for the future delivery of, have in his possession, keep in storage, distribute, deliver, transfer or convey with intent to sell within this state any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream from the same, which shall be an imitation of yellow butter produced from pure unadulterated milk or cream of the same; provided, that nothing in this act shall be construed to prohibit the manufacture or sale of oleomargarine in a separate and distinct form, and in such a manner as will advise the consumer of its real character, free from coloration or ingredient that causes it to look like butter.

§ 13. OLEOMARGARINE, BUTTERINE, ETC., HOW MARKED.] No person by himself or his agents or servants shall sell or expose for sale oleomargarine, butterine or any substance made in imitation or semblance of pure butter, in tubs, firkins or other original packages not distinctly, legibly and durably branded or marked in a conspicuous place with the word "oleomargarine" or "butterine" or "imitation butter," as the case may be, in letters not less than one inch in length and one-half inch in width, or in retail packages not plainly and conspicuously labeled with said words, "oleomargarine" or "butterine" or "imitation butter," as the case may be.

§ 14. RENOVATED BUTTER, HOW MARKED.] No person by himself, or his agents or servants, shall manufacture, sell, offer for sale or expose for sale butter that is produced by taking original packing stock or other butter, or both, and melting the same so that the butter fat can be drawn off, then mixing the said butter fat with skimmed milk or milk or cream, or other milk product, and rechurning the said mixture; or that is produced by any similar process, and is commonly known as boiled or process butter, unless the tub, firkin or other original package in which the same may be put up, be distinctly, legibly and durably branded, stamped or marked in a conspicuous place with the words "renovated butter," in printed letters not less than one inch in length and one-half inch in width; or be in prints, boxes or rolls not plainly and conspicuously labeled on the wrapper thereof with said words "renovated butter," in printed letters not less than one-half inch in length and one-quarter inch in width.

§ 15. SKIMMED MILK CHEESE, HOW MARKED.] No person by himself or his agents or servants shall sell or offer for sale any cheese manufactured from skim milk, or from milk that is partially skimmed, without the same being plainly branded, stamped or

marked on the side or top of both cheese and package in a durable manner, in the English language, the words "skimmed milk cheese," the letters of the words to be not less than one inch in height and one-half inch in width.

§ 16. FILLED CHEESE, HOW MARKED.] No person by himself or his agents or servants shall sell or offer for sale or make, manufacture out of any oleaginous substance or substances or any compound of the same or any other compound than that produced from unadulterated milk, any article to take the place of cheese produced from pure milk, or any article termed "filled cheese," shall stamp each package of the same on the top and side with lampblack and oil the words "filled cheese," or words that shall designate the exact character and quality of the product, in printed letters at least one inch long and one-half inch wide.

§ 17. CITY COUNCILS PROVIDE FOR INSPECTION OF MILK AND DAIRY HERDS.] The council of any city or incorporated town may by ordinance provide for the inspection of milk and of dairies and dairy herds kept for the production of milk within its limits, and issue licenses for the sale of milk within its limits, and regulate the same, and may authorize and empower the board of health to enforce all laws and ordinances relating to the production and sale of milk and the inspection of dairies and dairy herds producing milk for sale within such city.

§ 18. VIOLATION CONSTITUTES MISDEMEANOR. PENALTY.] Whoever violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished for each offense by a fine of not less than fifteen dollars nor more than fifty dollars, and by imprisonment of not less than ten days nor more than ninety days, or both.

§ 19. REPEAL.] All acts and parts of acts inconsistent or in conflict with the provisions of this act are hereby repealed.

Approved March 13, 1907.

DEPENDENT CHILDREN

CHAPTER 91.

[H. B. No. 162—Treat.]

DEPENDENT CHILDREN.

AN ACT Providing for Placing Dependent Children Under Sixteen Years of Age in Family Homes When Parents or Custodians Fail to Support.

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

§ 1. CARED FOR AT PUBLIC EXPENSE. DUTY OF COUNTY COMMISSIONERS.] Any minor child under the age of sixteen years who