

§ 6608. SUMMONS.] The summons may be issued by the judge or clerk of the county court or by the plaintiff or his attorney. If the summons is not issued by the judge or clerk of the county court it must contain the title of the action, specifying the court in which the action is brought, the names of the parties to the action and the name of the county, and shall be subscribed by the plaintiff or his attorney, who must add to his signature his post office address. The summons, if not issued by the judge or clerk of the county court, exclusive of the title of the action and the subscription, must be substantially in the following form, the blanks being properly filled :

“The state of North Dakota to the above named defendant :

“You are hereby summoned to answer the complaint in this action, and to serve a copy of your answer upon the subscriber within ten days after the service of this summons upon you, exclusive of the day of service ; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

“Dated .....

In all cases where the summons is not issued by the judge or clerk of the county court, the complaint must be served at the same time as the summons.

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 All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

Approved February 24, 1905.

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## DAIRY COMMISSIONER.

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### CHAPTER 95.

[H. B. No. 158—Weigel.]

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#### DAIRY COMMISSIONER.

**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.**

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

§ I. OFFICE OF ASSISTANT DAIRY COMMISSIONER CREATED. DUTIES. SALARY.] In order to secure the better enforcement of the provisions of this act, 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, who shall

have a practical knowledge of, and experience in, the manufacture of dairy products, and hold his office during the term of the commissioner of agriculture, subject to removal from office for inefficiency, neglect or violation of duty. The said assistant commissioner shall receive a salary of twelve 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 hereafter may be enacted in this state regarding the production, manufacture and sale of dairy products, their imitation and substitutes; to inspect every creamery, cheese factory or renovating or "process butter factory" at least once each year; to assist the butter makers, cheese makers 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 cooperate with the dairymen in testing their dairy herds both individually and collectively. The sum of two thousand dollars is hereby appropriated to which shall be added the amount collected from the sale of licenses hereinafter provided for in this act, to be paid for such purposes out of any moneys in the treasury not otherwise appropriated. All charges, accounts and expenses authorized by this act shall be paid by the state treasurer of the state upon the warrant of the state auditor. The entire expense of said assistant commissioner shall not exceed the sum appropriated for the purpose of this act.

§ 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 commissioner, since the preceding report, with such facts and statistics in regard to the production, manufacture and sale of dairy products with such suggestions as he may regard of public importance connected therewith.

§ 3. POWERS OF ASSISTANT DAIRY COMMISSIONER.] The said assistant 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 manufacture and sale of any dairy product or in any imitation thereof. They shall also have power and authority to open any package, can or vessel containing such articles 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. 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 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 or dairy or premises where any dairy products are manufactured, handled or stored,

when the milk 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 utensil used therein.

§ 4. CREAMERIES, CHEESE FACTORIES, ETC., REQUIRED TO TAKE OUT LICENSE ANNUALLY. FEES FOR.] 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 number of same. All fees for licenses collected under this act shall be paid, when collected, into the state treasury and shall be added to the appropriation made for the purpose of carrying out the provisions of this act.

§ 5. MUST HAVE STENCIL OR BRAND. WHAT TO CONTAIN. WHERE PLACED.] 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 upon 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 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 a special market, may not be required to use said brand as provided for in this act.

§ 6. BLANKS TO BE FURNISHED FACTORIES.] The said assistant 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 blank.

§ 7. ADULTERATED MILK OR SKIMMED MILK NOT TO BE FURNISHED CREAMERIES OR CHEESE FACTORIES. OTHER CREAM AND MILK

PROHIBITED.] No person by himself or his agents or servants shall sell, supply or bring to be manufactured to any creamery or cheese factory any adulterated milk or cream or skimmed milk, or milk from which has been held back what is commonly known as "strippings" (except pure skim milk to skim cheese factories) or milk taken from an animal having disease, sickness, ulcers, abscess or running sores, or which has been taken from an animal within fifteen days before or five days after parturition; or cream which has been taken from milk, the sale of which has been prohibited; or cream which shall contain less than the amount of butter fat as prescribed in this act.

§ 8. WHAT CONSTITUTES ADULTERATION.] 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 upon 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.

§ 9. STATE STANDARD MILK AND CREAM MEASURES. USE OF OTHER SIZES DECLARED A MISDEMEANOR.] The state standard milk measures or pipettes shall have for milk a capacity of seventeen and six-tenths cubic centimeters, and for cream shall have a capacity of eighteen cubic centimeters, and the state 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 marked on the necks thereof; and the standard test tubes or bottles for cream shall have a capacity of six cubic centimeters of mercury at a temperature of sixty degrees Fahrenheit between "zero" and thirty on the graduated scale marked on the necks thereof, and it is hereby made a misdemeanor to use any other sizes of milk measure, pipette, test tube or bottle to determine the per cent of butter fat, where milk or cream is purchased by or furnished to, creameries or cheese factories, and where 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 17 of this act.

§ 10. UNLAWFUL TO UNDER-READ TESTS.] It shall be unlawful for the owner, manager, agent or any employe of a creamery or cheese factory to manipulate or under-read the Babcock test, or any other contrivance used for determining the quality or value of milk.

§ 11. ADULTERATED BUTTER, ETC., PROHIBITED FROM SALE. OLEO-

MARGARINE EXCEPTED.] No person by himself or his agents or servants shall render or manufacture, sell, offer for sale, expose for sale, take orders 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 in 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 manner as will advise the consumer of its real character free from coloration or ingredient that causes it to look like butter.

§ 12. PROVISIONS REGARDING OLEOMARGARINE, BUTTERINE, ETC.] 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, stamped 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.

§ 13. PROVISIONS REGULATING RENOVATED BUTTER.] No person by himself, or his agents or servants, shall manufacture, sell, offer 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.

§ 14. PROVISIONS REGARDING SKIMMED MILK CHEESE.] No person by himself or his agents or servants shall sell or offer for sale any cheese manufactured from skimmed 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.

§ 15. PROVISIONS REGARDING FILLED CHEESE.] No person, by himself or his agents or servants, shall sell or offer for sale or make or manufacture out of any oleaginous substance or substances or any compound of the same or any other compound other than that produced from unadulterated milk, any article designed 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.

§ 16. CITY COUNCILS MAY 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 of 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.

§ 17. 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 five dollars nor more than fifteen dollars, or by imprisonment of not less than ten days nor more than thirty days, or both.

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

§ 19. EMERGENCY.] This act shall take effect and be in force from and after its passage and approval.

Approved March 16, 1905.

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## DIPPING TANKS.

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### CHAPTER 96.

[H. B. No. 17—Duncan.]

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#### PUBLIC DIPPING TANKS.

**AN ACT** to Provide for the Establishment, Construction and Maintenance of Public Dipping Stations for Live Stock in the Various Counties of the State.

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

§ 1. COUNTY COMMISSIONERS MAY ESTABLISH PUBLIC DIPPING TANKS ON PETITION OF TEN PER CENT OF FREEHOLDERS OF COUNTY.