

remains a member of said fire department, and no person receiving such pension shall be entitled to other relief from such association.

Sec. 2. AMENDMENT.) That Section 4001 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

Sec. 4001. ASSOCIATION TO REDUCE SUCH AMOUNT OF PENSIONS.) Every such Association shall at all times have and retain the right to reduce the amount of pensions or to increase them whenever the amount of funds on hand or for other good reasons, such reductions or increase seems advisable or proper to such relief association, but said pension shall not exceed the amount of Eighty Dollars per month to any pensioner or to any one family.

Sec. 3. EMERGENCY.) This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved February 5th, 1923.

FOOD COMMISSIONER AND CHEMIST

CHAPTER 220.

(S. B. No. 335—Lynch.)

FOOD COMMISSIONER AND CHEMIST.

An Act to create the office of State Food Commissioner and Chemist; Providing for his appointment, Term of Office, Removal and salary; defining his powers and duties; defining the powers and duties of the State Board of Administration relating thereto; creating a state regulatory fund and providing for payments therefrom and repealing Acts and parts of Acts in conflict with this Act and especially repealing Sections 2 and 5 of Chapter 200 of the Session Laws of 1915.

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

Sec. 1. STATE FOOD COMMISSIONER AND CHEMIST, CREATION OF OFFICE, ASSISTANTS.) The office of the State Food Commissioner and Chemist is hereby created. It shall be the duty of the State Board of Administration, or such other body as may hereafter by law be designated as the governing body of the North Dakota Agricultural College, to appoint the said State Food Commissioner and Chemist. The term of office of such appointee shall be two years but shall be subject to removal for cause

without appeal by the governing body of the North Dakota Agricultural College. The said State Food Commissioner and Chemist shall receive an annual salary of Four Thousand (\$4,000.00) dollars and shall qualify by taking an oath of office, the same to be filed in the office of the Secretary of State and by furnishing a bond in the sum of Ten Thousand (\$10,000.00) dollars conditioned for the faithful performance of the duties of his office. The said State Food Commissioner and Chemist may require any person employed by or responsible to him to furnish a bond for the faithful performance of his duties. The premiums on all such bonds shall be charged against the State Regulatory Fund hereinafter created.

The State Food Commissioner and Chemist shall, with the approval of the State Board of Administration, employ and fix compensation of such other chemists, scientific experts, agents, inspectors and employees; provide for adequate laboratories and offices, supplies and equipment for the same and provide such other facilities as may be necessary for the proper enforcement of any acts of which he may by law be charged. When in this Act the term "agents" of the State Food Commissioner and Chemist or similar terms are used, said terms shall be construed to refer to the chemists, scientific experts, agents, inspectors and employees provided for in this section.

The compensation and all necessary expenses of the State Food Commissioner and Chemist and all other persons herein referred to for services rendered in connection with the enforcement of the provisions of any act, of which he may by law be charged, shall be paid out of the State Regulatory Fund and shall be apportioned among the various individual funds, making up the State Regulatory Fund, in proportion to the service rendered under each act and such apportionment shall be approved by the State Board of Administration.

The State Board of Administration shall annually and on or before the first day of July of each year, prepare an annual budget covering the expenditures to be made during the next ensuing year from each of the several funds comprising the State Regulatory Fund, and such budget, as so made, shall be adhered to during such ensuing year.

The State Food Commissioner and Chemist shall keep records showing the amount of money derived as fees under the provisions of each act under his enforcement and said records shall show the apportionment of all approved items of expense chargeable to the funds derived from each individual act.

Sec. 2. STATE FOOD COMMISSIONER AND CHEMIST, POWERS AND DUTIES.) The duties of the State Food Commissioner and Chemist shall be such as may be prescribed by law. Wherever in the laws of the State of North Dakota the Food Commissioner, the

State Food Commissioner, Director of the North Dakota Government Agricultural Experiment Station, Director of the Regulatory Division of the North Dakota Agricultural College, Director of the Experiment Station, Food Commissioner and State Chemist, Inspector of Oils, Inspector of Hotels, or Chief Sanitary Inspector or similarly designated officers shall be granted any powers or charged with the performance of any duties in connection with the enforcement of any of the laws hereinafter specified or any acts amendatory thereof, said powers so vested in said officers shall be vested in the State Food Commissioner and Chemist, and he shall perform all the duties required by these laws to be performed by any of said officers in connection with the enforcement of any of the following acts:

- Chapter 200 of the Session Laws of 1915.—Pure Food Law.
- Chapter 38, Article 48, Political Code, Compiled Laws of 1913; Sections 2939 to 2951, inclusive.—Drug Law.
- Chapter 38, Article 46, Political Code, Compiled Laws of 1913; Sections 2926 to 2932, inclusive.—Formaldehyde Law.
- Chapter 38, Article 53, Political Code, Compiled Laws of 1913; Sections 2962 to 2971, inclusive.—Sanitary Inspection Law.
- Chapter 38, Article 78, Political Code, Compiled Laws of 1913; Sections 3149 to 3161, inclusive.—Cold Storage Law.
- Chapter 216 of the Session Laws of 1917; Sections 1 to 5, inclusive.—Soda Fountain Law.
- Chapter 72, Article 1, Penal Code, Compiled Laws of 1913; Sections 9989 to 9991, inclusive.—False and Misleading Advertising Law.
- Chapter 38, Article 60, Political Code, Compiled Laws of 1913; Sections 3010 to 3013, inclusive.—Net Weight Lard and Bread Law.
- Chapter 60, of the Session Laws of 1921; Sections 1 to 9, inclusive.—Egg Law.
- Chapter 85, Article 1, Penal Code, Compiled Laws of 1913; Sections 10155 to 10169, inclusive.—Beverage Law.
- Chapter 37, of the Session Laws of 1921; Sections 1 to 13, inclusive.—Feeding Stuffs Law.
- Chapter 97, Article 1, Penal Code, Compiled Laws of 1913; Sections 10210 to 10224, inclusive.—Insecticide and Fungicide Law.

- Chapter 38, Article 41, Political Code, Compiled Laws of 1913; Sections 2890 to 2897, inclusive.—Fertilizer Law.
- Chapter 91, Article 1, Penal Code, Compiled Laws of 1913; Sections 10180 to 10183, inclusive.—Snuff Law.
- Chapter 185 of the Session Laws of 1919; Sections 1 to 25, inclusive.—Oil Inspection Law.
- Chapter 38, Article 45, Political Code, Compiled Laws of 1913; Sections 2923 to 2925, inclusive.—Paint Law.
- Chapter 1 of the Session Laws of 1921; Sections 1 to 6, inclusive.—Varnish Law.
- Chapter 38, Article 57, Political Code, Compiled Laws of 1913; Sections 2979 to 2994, inclusive; and Chapter 133 of the Session Laws of 1917; Sections 1 and 2.—Hotel Inspection Law.

Sec. 3. STATE REGULATORY FUND, CREATION OF, EXPENSES, HOW PAID.) All fees and monies received by the State Food Commissioner and Chemist under the provisions of any acts with the enforcement of which he may by law be charged, shall be properly recorded by him as herein provided and forwarded monthly to the Treasurer of the State of North Dakota as provided by law. The State Treasurer shall upon receipt thereof enter such funds and carry them in a special revolving fund to be designated the "State Regulatory Fund." All salaries and items of expense of whatever nature incurred in the enforcement of any act, as herein provided, shall be paid out of said State Regulatory Fund. Vouchers for all expenses, pay rolls and other items of expense of whatever nature incurred by the State Food Commissioner and Chemist in carrying out and enforcing the provisions of any act, shall be approved by said State Food Commissioner and Chemist and shall be forwarded monthly to the State Board of Administration for audit and approval, and the same shall be certified to the State Auditor who shall draw warrants upon the State Treasurer for all pay rolls, expenses and bills so audited and approved. The State Treasurer shall thereupon pay such expenses and accounts out of the State Regulatory Fund.

Sec. 4. REPEALS.) All acts and parts of acts in conflict with this Act, and especially Sections two and five of Chapter 200 of the Session Laws of North Dakota of 1915, are hereby repealed.

Approved March 8th, 1923.

CHAPTER 221.

(S. B. No. 373—Lynch.)

BEVERAGES.

An Act To Prevent Fraud and Deception in the Manufacture and Sale of Beverages; to Prevent Adulteration and Misbranding Thereof; to Provide Licensing, Payment and Disposition of License Fees; to Define the Duties of the State Food Commissioner and Chemist; to Provide for the Enforcement of the Provisions of the Act and to Provide Penalties for Violations Thereof and to Repeal Existing Laws Relating Thereto.

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

Sec. 1. NAME OF ACT.) The following Act shall be known and may be cited as the North Dakota Beverage Inspection Act.

Sec. 2. CERTAIN BEVERAGES UNLAWFUL TO SELL.) It shall be unlawful for any person, firm or corporation, their agents or employees to sell, offer or expose for sale or to have in their possession with intent to sell within this State, any beverage of whatever nature that contains any ingredient or ingredients injurious to health or is adulterated, misbranded, insufficiently or improperly labeled within the meaning of the Food and Drugs Act of this State, or that is not licensed as hereinafter provided.

Sec. 3. LABEL, STANDARDS.) The requirements for labeling and standards of purity and quality of all beverages included in this Act shall be the same as those required under the Food and Drugs Act of this State, together with such other standards, rules and regulations as the State Food Commissioner and Chemist is herewith empowered to make to carry out the intent of this Act, and such standards, rules and regulations shall have the force and effect of law.

Sec. 4. WHAT IS INCLUDED.) There shall be included as coming under the provisions of this Act all beverages, as soda water, carbonated and non-carbonated, ginger ale, root beer, aromatic flavors, cereal or malt beverages, apple cider, grape juice and other fruit juices, imitations or compounds of any of these, concentrated extracts and essences from which beverages are made and mineral or spring water sold under private label.

Sec. 5. LICENSE REQUIRED.) Before any beverage, concentrate or essence from which any beverage is to be made can be sold, exposed for sale or held with intent to sell within this State, the manufacturer, importer, jobber or retailer shall submit a suitable sample of each and every product to the State Food Commissioner and Chemist for inspection and chemical analysis. If, after examination, it shall be found to comply with all require-

ments of law it shall be licensed and may then be sold within this State. If it does not meet all requirements of law, the State Food Commissioner and Chemist shall refuse to license it and prevent its sale. Said sample shall be submitted to the State Food Commissioner and Chemist and the license fee paid annually during the month of December of every year or prior to placing such beverage on the market, and said license shall expire December 31 next following its issuance. If the manufacturer or jobber secures a license for a product, subsequent sellers, including retailers and dispensers, need not again secure a license for the same product, and no dispenser shall be required to secure a license for a product prepared for his own use from a product already licensed. At the time of submitting the sample for analysis there shall be paid to the State Food Commissioner and Chemist a license fee according to the following schedule :

Soda Water, Ginger Ale, Root Beer, Pop—Brand or Class,	\$10.00
Concentrated Extracts, Essences, Nectars, Cordials—Brand or Class	50.00
Fruit Juices, Apple Cider, Grape Juice, True Brand	20.00
Fruit Juices, Apple Cider, Grape Juice, Imitation Brand	10.00
Cereal Beverages and Malts—Brand	50.00
Mineral and Spring Water—Brand	20.00

Sec. 6. FEES, DISPOSITION OF, EXPENSES, HOW PAID.) All fees received by the State Food Commissioner and Chemist as provided for in this Act shall be properly recorded by him and forwarded monthly to the Treasurer of the State of North Dakota. The State Treasurer shall upon receipt thereof enter such funds and carry them in a special revolving fund to be designated the "State Regulatory Fund." All salaries and items of expense of whatever nature incurred in the enforcement of this Act shall be paid out of said State Regulatory Fund. Vouchers for all expenses, pay rolls and other items of expense of whatever nature, incurred in the enforcement of this Act shall be approved by the State Food Commissioner and Chemist and be forwarded monthly to the State Board of Administration for audit and approval and when so audited and approved shall be certified to the State Auditor who shall draw warrants upon the State Treasurer for all pay rolls, expenses and bills so audited and approved. The State Treasurer shall thereupon pay such expenses and accounts out of the State Regulatory Fund.

Sec. 7. STATE FOOD COMMISSIONER AND CHEMIST TO ENFORCE.) The State Food Commissioner and Chemist, his agents and inspectors, as provided for in the Food and Drugs Act of this State, is hereby, charged with the enforcement of all the provisions and intent of this Act and is hereby authorized to inspect and collect samples of the various beverages as defined under the pro-

visions of this Act and on sale in this State or being shipped into the State at such times and places and to such extent as he may determine. The State Food Commissioner and Chemist and his agents, inspectors and deputies shall have access, ingress and egress to all places of business, factories, buildings, carriages, cars, vessels and containers used in the sale or transportation of beverages coming under the provisions of this Act. He shall have power and authority to open any package, container or vessel containing such article and upon paying or offering to pay the value thereof may take suitable samples for analysis therefrom, and shall have the authority to prevent the sale or manufacture of products not complying with the provisions of this Act.

Sec. 8. FACTS, HOW TRANSMITTED.) Whenever said State Food Commissioner and Chemist shall find by analysis or otherwise that adulterated, misbranded, insufficiently labeled or an unlicensed product is being sold in violation of this Act, he shall forthwith transmit the facts so found to the State's Attorney of the county in which the product was found and it shall be the duty of said State's Attorney to institute appropriate proceedings in the proper court of jurisdiction.

Sec. 9. PENALTIES FOR VIOLATION.) Any person, firm or corporation violating any of the provisions of this Act or any rule or regulation issued pursuant thereto shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five (\$25.00) Dollars and not more than One Hundred (\$100.00) Dollars at the discretion of the court.

Sec. 10. PUBLICITY.) The State Food Commissioner and Chemist shall have authority to publish analyses of all products coming under the provisions of this Act and to gather useful information for the benefit of the public and users of the articles designated herein.

Sec. 11. PROVISIONS SEVERABLE.) The provisions of this Act and each part thereof and its sections and each part thereof are independent and severable and if any provisions or part thereof or section or part thereof be held unconstitutional or invalid, no other provision or part thereof or section or part thereof shall thereby be impaired or rendered unconstitutional or invalid.

Sec. 12. REPEALS SPECIFIC, REPEALS IMPLIED, SAVING CLAUSE.) The laws hereafter, enumerated shall be expressly repealed and all other acts or parts of acts inconsistent with the provisions of this Act are hereby repealed from and after the taking effect of this Act:

Chapter 85, Compiled Laws of 1913, Sections 10155 to 10169, inclusive.

Approved March 8th, 1923.

CHAPTER 222.

(S. B. No. 371—Lynch.)

FOOD AND DRUGS.

An Act For the Protection of Health and Prevention of Fraud and Deception in Articles of Food and Drugs; For the Prevention of Adulteration and Misbranding thereof; Requiring Labeling thereof; Providing for Sales by Weight, Measure or Numerical Count; Providing for Fixing of Standards of Purity and Quality and Fitness for Consumption; Prescribing the Duties of the State Board of Administration and Providing for the Appointment of a State Food Commissioner and Chemist and Prescribing his Duties and Powers; Providing for the Enforcement of the Provisions of the Act; Defining Certain Offenses in Connection Therewith; Providing Penalties for the Violation Thereof and Repealing Certain Acts Relating Thereto.

B. It Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. NAME OF ACT.) This Act shall be known as the North Dakota Food and Drugs Act and may be so cited in any pleading, complaint, indictment or information.

Sec. 2. THE STATE FOOD COMMISSIONER AND CHEMIST, DUTIES AND POWERS.) The State Food Commissioner and Chemist shall hereby be charged with the enforcement of all the provisions of this Act. He shall be appointed by the State Board of Administration and shall with the approval of said State Board of Administration, employ and fix the compensation of such other chemists, scientific experts, agents, inspectors and employees, provide for adequate laboratories and offices, supplies and equipment for the same, and provide such other facilities as may be necessary for the proper enforcement of this Act. When in this Act the term "agents" of the State Food Commissioner and Chemist or similar terms are used, said terms shall be construed to refer to such chemists, scientific experts, agents, inspectors and employees provided for in this section.

Sec. 3. UNLAWFUL TO SELL CERTAIN FOODS AND DRUGS.) It shall be unlawful for any person to manufacture, sell, offer or expose for sale or delivery or to have in possession for sale or delivery any article of food or drug which is adulterated, misbranded or otherwise violates any provisions of this Act or any rule or regulation issued pursuant thereto.

Sec. 4. DEFINITIONS.) The term "food" as used herein shall include all articles, whether simple, mixed or compound, used for, or entering into the composition of, or intended for use in the preparation of food, drink, confectionery or condiment for man. The term "drug" as used herein shall include all medicines and preparations recognized in the United States Pharmacopoeia or National Formulary for internal or external use,

and any substance or mixture of substances intended or designed to be used for the cure, mitigation, prevention or treatment of disease of either man or other animals.

Sec. 5. ADULTERATION, WHAT CONSTITUTES.) For the purpose of this Act a food or drug shall be deemed to be adulterated:

A. In the case of drugs:

First. If, when a drug is sold under or by a name recognized in the United States Pharmacopoeia or National Formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the United States Pharmacopoeia or National Formulary official at the time of sale of such drug.

Second. If, when a drug is sold under or by a name not recognized by the United States Pharmacopoeia or National Formulary, its strength, quality, or purity falls below the professed standard of strength, quality or purity under which it is sold.

Third. If it contains any methyl alcohol.

B. In the case of Foods:

First. If any substance has been mixed or packed with it so as to lower, reduce or injuriously affect its quality, strength, or fitness for consumption.

Second. If any substance has been substituted wholly or in part for the article.

Third. If any valuable constituent of the article has been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, stained or otherwise treated in a manner whereby damage or inferiority is concealed, or the article is made to appear better than it really is, or if such treatment be for the purpose of imitating another article of recognized quality.

Fifth. If it contains any poisonous or deleterious substance which may render the article injurious or detrimental to health. The word "substance" as used herein shall include ingredients naturally present or added.

Sixth. If it consists in whole or in part of filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, or if it be the product of a diseased animal, or one that has died otherwise than by slaughter.

Seventh. If it does not conform to the standard of purity or quality established for the article.

Sec. 6. MISBRANDING, WHAT CONSTITUTES.) That the term "misbranded" as used herein shall apply to all drugs or foods or articles which enter into the composition of food, the package or label of which shall bear 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 or drug product which is falsely branded as to locality, state or country of origin, or in which it was manufactured or produced, or if the package or label of which does not contain the true name and address of the manufacturer, jobber or other person responsible for its being placed in commerce.

That for the purposes of this Act an article shall also be deemed to be misbranded:

A. In the Case of Drugs:

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

Second. 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.

Third. If the package or label of which fails to bear a statement of the quantity or proportion of alcohol or any narcotic or habit forming drug.

Fourth. If the package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article or any of the ingredients or substances contained therein, which as misleading, false or fraudulent.

B. In the Case of Food:

First. If it be offered for sale under the distinctive name of another article.

Second. 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.

Third. If the label fails to bear the quantity or proportion of alcohol.

Fourth. If, in package form, the name of the article, together with the quantity of the contents in terms of weight, measure or numerical count, be not plainly and conspicuously marked on the outside of the package.

Fifth. If, in package form, the package be not filled with the food it purports to contain, irrespective of whether the quantity of the contents be plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count.

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

Seventh. If it be an imitation of another article and it be not marked with the word "imitation" equally conspicuous with and immediately adjoining the name of the imitated article.

Eight. If it be a compound for which no standard of purity or quality has been established and it be not marked with the word "compound" equally conspicuous with and immediately adjoining the name of the article: Provided, however, That imitations, compounds, blends, mixtures or products sold under their own distinctive names shall, where necessary to prevent fraud or deception or to convey to the purchaser the true nature of the product, bear on the label a plain statement of the ingredients. If such statement of the ingredients alone be insufficient for the purpose herein designated the percentage of each ingredient shall in addition be required.

Sec. 7. LARD, HOW SOLD.) Every lot of lard, or of lard compounds, or of lard substitutes, unless sold in bulk, shall be sold in pails or other containers holding one, three or five pounds net weight, or some whole multiple of these numbers and not any fractions thereof.

Sec. 8. BREAD, HOW SOLD.) It shall be unlawful for any person to sell, offer or expose for sale or to have with intent to sell or transport any bread, the loaf of which is not one of the following weights: sixteen ounces; twenty-four ounces avoirdupois or any whole multiple of sixteen ounces avoirdupois. The weights shall apply alike to each unit of twin or multiple loaves. Any loaf shall be of the required weight at any period from the time of baking until twelve hours thereafter. The above required weight standards shall apply alike to wheat bread, white bread, milk bread, rye bread, raisin bread, currant bread, brown bread, graham or whole wheat bread and other similar kinds of farinaceous substances baked in loaves and known and designated by the trade as bread. The average weight of loaves shall be as often above as below any permissible weights; Provided, That the weight standards defined in this section shall not be construed to apply to cake, buns, biscuits and similar small unit products.

Sec. 9. SPECIAL WEIGHTS AND SIZES.) It shall be unlawful for any person, firm or corporation to manufacture, sell or expose for sale, any article of food or drug in any package or container, the size or shape of which may deceive or tend to deceive the purchaser of such product as to the contents of said package or container, and that for the purpose of preventing fraud and deception, the State Food Commissioner and Chemist shall hereby be authorized to establish, publish and enforce rules and regulations relative to the size, weight or style of package or other specific food or drug commodities than those specifically named in Section 7 and Section 8 of this Act, and such rules and regulations shall have the force and effect of law.

Sec. 10. MEATS.) The meat of an animal shall not be sold for human consumption unless it be the product of a healthy animal, and no meat of any animal slaughtered during the period of heat, advance pregnancy or immediately preceding or following parturition shall be sold for human food. The meat of no calf less than four weeks old shall be sold as food. Hogs or other animals to be slaughtered for food shall not be permitted to eat filthy, diseased or decomposed food, nor shall they be kept in a filthy or unsanitary place; Provided, Nothing in this section shall be construed to conflict with the law relating to the sale of affected meat or the rules and regulations issued pursuant thereto by the State Livestock Sanitary Board.

Sec. 11. DAIRY PRODUCTS.) Butter, dairy butter, creamery butter, oleomargarine, butterine, renovated butter or compounds of or substitutes for any of these, whether compounded or prepared from animal or vegetable fats or oils, and homogenized, reconstructed, filled or manufactured products from which the natural butter fat has been abstracted in whole or in part and other animal or vegetable fats or oils substituted therefor, or compounds of or products prepared from any of these shall be appropriately labeled so as to clearly advise the purchaser of the true nature of the product.

Sec. 12. STORAGE. COLD STORAGE PRODUCTS.) For the purpose of this Act a cold storage shall be defined as a place artificially cooled to a temperature of forty degrees Fahrenheit or below, but shall not include such a place within a private home, hotel, restaurant or a refrigerator car. No food shall be sold as fresh when held in storage or cold storage for a longer period than has been shown by good practice to improve the quality of the particular food, or when there is any deterioration in such article, or when the storage product is not as desirable as the fresh. If storage or cold storage or other than fresh products are sold they must be labeled so as to fully advise the purchaser of the nature of the product entering into the transaction. All storage or cold storage products shall be stamped, labeled or tagged with the date when they were received in storage and removed therefrom. Said stamp, tag or label shall not be removed by any subsequent seller.

Sec. 13. SANITATION OF FOOD.) Every building or other structure or vehicle of transportation in which any food or drug or product to be used in the preparation of either of these is manufactured, prepared, held, sold, used or transported, shall at all times be kept and maintained in a clean and sanitary condition. Food at all times shall be kept covered or enclosed or by other means fully protected from avoidable contamination by any agencies that might serve to bring about or hasten its

decomposition or that might render it infectious, poisonous, deleterious, injurious to health or filthy.

All buildings, shelves, counters, storage bins, floors, walls, ceilings, scales, stoves, machines, refrigerators and other facilities used therein for storing, handling, displaying or preparing of food products shall be designed and well adapted for the purpose with strict regard for the principles of sanitation.

The person and clothing of all employes in or about any food establishment shall be clean and when possible the personnel of such places shall be provided with special outer garments, aprons, white coats or other apparel for use during the hours of their employment.

No person shall be employed in or permitted to remain as an employee in any food establishment who is affected with any contagious or infectious disease in a communicable form. For the proper enforcement of this provision any inspector or agent of the State Food Commissioner and Chemist may require a medical examination and certificate of health from any employer for any employee whom he may have reason to suspect is so affected. Such examination shall be made by a physician approved by the State Food Commissioner and Chemist or his agent and the cost thereof shall be borne by the employer of said person. When notified to do so any employer who fails to provide such a health certificate for himself or employee within a reasonable time thereafter, shall be deemed guilty of a misdemeanor.

The provisions for ventilation and lighting, toilet and wash-room facilities, such as towels, washbowls and soap, cuspidors and other facilities for the convenience, health and safety of employees and patrons of such places as herein defined shall be ample therefor and subject to the approval of the State Food Commissioner and Chemist or his agent as to their sufficiency, location and condition.

All doors and windows that may be opened or closed at will shall, during the fly season, be kept properly screened and fly proof. All foods kept, displayed, prepared or offered for sale in any such place shall at all times be protected from contact with flies, roaches, ants, mice, rats and other vermin or household pests, the presence of any of which in any food establishment shall be deemed to render the same unsanitary and the proprietor thereof liable to prosecution under this Act.

No room or rooms used for the storage, display, preparation, use or sale of food shall be used as a sleeping, dressing or living room, nor shall any sleeping, dressing or living room be adjacent to and open into any such place, nor shall dogs, cats or other domestic animals be permitted to occupy such rooms.

Sec. 14. RIGHT OF INSPECTION.) For obtaining information regarding suspected violations of this Act, the State Food Commissioner and Chemist, his assistants, inspectors or agents shall have free access, ingress and egress to all places where articles of food, drug or beverage or other articles designated in this Act are manufactured, sold, exposed for sale or transported or held in possession with intent to use, sell or transport, or where food is prepared, cooked or held in any capacity whatever, except in a private home; and that agents, bookkeepers, transportation officers and other employees shall render all assistance and aid within their power to inspectors to effectuate the provisions of this Act; that said inspectors or agents upon paying or offering to pay to the person entitled thereto the full value thereof, may open any package, receptacle or container containing any article coming under the provisions of this Act and may take a sample therefrom, sufficient for inspection and analysis. Any person obstructing such entry or inspection or failing upon request to assist therein shall be deemed guilty of a misdemeanor.

Sec. 15. SEIZURE. SEARCH WARRANT.) The State Food Commissioner and Chemist may seize any article of food or drug, the manufacture, transportation, sale or use of which is prohibited by this Act or which is manufactured, sold, used, transported, kept or offered for sale, use or transportation or had in possession with intent to use, sell or transport in violation of any provision of this Act or in violation of any rule, regulation, standard or definition issued pursuant thereto, and for this purpose he and his several assistants, inspectors, agents and employees shall have the powers of a constable. Such seizure may be made without a warrant but in such case as soon as practicable, he shall cause the person suspected of such violation of law to be arrested and prosecuted therefor. When necessary a search warrant may be issued by any magistrate of the State, Justice of the Peace or Police Magistrate whenever probable cause is shown by testimony under oath by way of affidavit or deposition, that any article of food or drug which is adulterated, misbranded, insufficiently or improperly labeled or otherwise in violation of any provisions of this Act or any rule, regulation, standard or definition issued pursuant thereto, or any food which is unwholesome, poisonous, deleterious or detrimental to health, is being kept or is present upon certain premises, particularly describing such premises, or in the possession of any person, naming or describing the person, the said magistrate shall issue a search warrant, signed by him with the name of his office, directed to any Peace Officer in his County, or to the State Food Commissioner and Chemist, or any of his duly authorized agents, commanding him or them to forthwith search the person or place named and to seize all and any articles of food or drug which may be held in violation of any provision of this Act

and to bring such articles of food or drug before the Magistrate. The search warrant issued shall be substantially the form prescribed in Section 11134 of the Code of Criminal Procedure, Compiled Laws of North Dakota, 1913.

The provisions of Article 11 of the Code of Criminal Procedure, Compiled Laws of North Dakota, 1913, as to service of search warrant, return of warrant, hearing, and return to District Court, shall govern in cases of search warrant issued pursuant to the provisions of this Act, except that the testimony of the witnesses need not be reduced to writing, and where the magistrate finds that the property seized is property of the kind described in the search warrant, and that there is probable cause to believe that the grounds on which the search warrant was issued existed, he shall send said property so seized under the search warrant to the District Court, together with his return. In case he shall find there is not probable cause to believe that the grounds on which the search warrant was issued existed, he shall order the property returned to the person from whom it was taken.

Sec. 16. DISPOSITION OF SEIZED ARTICLES.) Any article of food or drug which is adulterated, misbranded, insufficiently or improperly labeled, or any article of food which is poisonous, deleterious or detrimental to health or is held, used or transported in violation of any of the provisions of this Act or of any rule, regulation, standard or definition issued pursuant thereto, is hereby declared to be a nuisance, and the Attorney General, any of his assistants, the State's Attorney of any County or the State Food Commissioner and Chemist may maintain an equitable action in the name of the State for the abatement of any such nuisance. In said action any person in whose possession any such nuisance as herein described may be found or the occupant, tenant, owner, manager or person in charge of any building, vehicle of transportation or other property in which any such nuisance may have been found, shall each or all be made defendant. Said action shall be instituted and tried in the same manner in which other civil, equitable actions are tried. In case judgment is rendered in favor of the plaintiff in an action brought under the provisions of this section, the Court in rendering judgment shall provide for the destruction of such adulterated, misbranded, insufficiently or improperly labeled article of food or drug or article of food which is unwholesome, poisonous, deleterious, or detrimental to health, or make such other judgment and decree with reference to the same as shall be proper in the premises, and such as shall prevent said articles from being used, sold or transported in violation of this Act. In case of perishable food or drugs, the Court may at any time on the motion of any party upon ten days notice to the other parties to the action, in his discretion order the destruction

of the same, or may at any time in his discretion order that said property be returned to the person from whom it was taken upon furnishing a bond conditioned that said article will not be sold, used or transported in violation of any of the laws of this state, and further conditioned for the payment of any judgment for costs which may be entered in said action. In case judgment is rendered in favor of the plaintiff in any action brought under the proceedings in said action, the Court or Judge rendering the same shall also render judgment for a reasonable attorney's fee in said action in favor of the plaintiff and against the defendants therein, which attorney's fee shall be taxed and collected as other costs therein; and when collected paid to the attorney or attorneys of the plaintiff therein; Provided, That if such attorney is the Attorney General, one of his assistants, or the State's Attorney of the County in which the action is instituted, such attorney's fee shall be paid into the County Treasury in the same manner in which other costs in the action are paid.

Sec. 17. AUTHORITY TO RENDER CERTAIN FOODS UNSALABLE.) Whenever the State Food Commissioner and Chemist or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure or place, any meat, sea food, poultry, vegetable, fruit or other perishable articles intended to be sold or used for human consumption which are or contain filthy, decomposed or putrid animal or vegetable substance or that may be unsafe, unwholesome, poisonous, deleterious or detrimental to health, the same being hereby declared to be a nuisance, he shall forthwith seize, condemn and destroy the same or in any other manner render the same unsalable as human food.

Sec. 18. DEFINITIONS, RULES, REGULATIONS AND STANDARDS.) For the purpose of securing uniformity as far as practicable among the laws of this State, municipalities within this State, and the Federal Government, to prevent fraud and deception in the manufacture, use, sale and transportation of food, and to protect and preserve the public health and to carry out the intent of this Act, it shall be the duty of the State Food Commissioner and Chemist to fix, adopt, publish and enforce definitions, rules, regulations and standards of quality, purity and strength of articles of food and drugs for which no definitions, rules, regulations and standards are prescribed by law, and such definitions, rules, regulations and standards so fixed, adopted and published shall be lawful in this State and shall have the force and effect of law.

Sec. 19. ANALYSES, PUBLICATION.) It shall be the duty of the State Food Commissioner and Chemist to make or cause to be made analyses, examinations and inspections of all articles included under the provisions of this Act to determine whether

such articles are adulterated, misbranded, insufficiently or improperly labeled or unwholesome, poisonous or deleterious within the meaning of this Act, and whether such articles have been manufactured, used, sold, transported, offered for sale or transportation or had in possession with intent to use, sell or transport in violation of any provisions of this Act or any definition, standard, rule or regulation issued pursuant thereto and for other reasons, and a copy of the result of the examination or analysis of any such article duly authenticated by the chemist making such analysis or examination when given under oath shall be prima facie evidence in all courts of the matters and facts therein contained. The said State Food Commissioner and Chemist shall have authority to make such analysis, inspection and investigations and to carry on research and to publish the reports of such analysis, inspections and research for the information of the public.

Sec. 20. LOCAL INSPECTION.) The governing authority of any municipal corporation may by ordinance provide for the inspection of milk, cream and butter sold within its limits, and of dairy and dairy herds kept for the production of such milk, cream and butter, and may prescribe the terms upon which such sales may be made, and fix penalties for violation thereof; they may provide for a municipal abattoir, provide for its operation and may prescribe regulations for the slaughtering of animals to be sold as meat, and other sanitary and regulatory provisions as applied to food products, but no such ordinance or ordinances, rules or regulations shall conflict with any law of this State or any standard, rule or regulation fixed pursuant thereto.

Sec. 21. DUTY TO PROSECUTE.) It shall be the duty of any State's Attorney to whom the State Food Commissioner and Chemist or his agent shall report any violation of this Act, to cause, without delay, appropriate proceedings to be instituted in the proper court of jurisdiction for the enforcement of the penalties as, in such case, is herein provided.

Sec. 22. PENALTIES.) Any person violating or failing to comply with any of the provisions of this Act or any rule, regulation, definition or standard issued pursuant thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than Twenty-five (\$25.00) dollars or more than One Hundred (\$100.00) Dollars or by imprisonment for not less than ten days or more than thirty days or both at the discretion of the Court.

Sec. 23. DISPOSITION OF FUNDS, EXPENSES, HOW PAID.) All monies appropriated or otherwise authorized for the enforcement of this Act shall be entered on the records of the State Food Commissioner and Chemist and the State Treasurer shall enter

such monies and carry them in a special revolving fund to be designated the State Regulatory Fund. All salaries and items of expense of whatever nature incurred in the enforcement of this act, as herein provided, shall be paid out of said State Regulatory Fund. Vouchers for all expenses, pay rolls and other items of expense of whatever nature incurred by the State Food Commissioner and Chemist in carrying out and enforcing the provisions of this act, shall be approved by said State Food Commissioner and Chemist and shall be forwarded monthly to the State Board of Administration for audit and approval and the same shall be certified to the State Auditor who shall draw warrants upon the State Treasurer for all pay rolls, expenses and bills so audited and approved. The State Treasurer shall thereupon pay such expenses and accounts out of the State Regulatory Fund.

Sec. 24. CONSTRUCTION, INTENT OF ACT.) The fact that certain weight, size and style of package are fixed in this Act and that specific forms of adulteration and misbranding are specifically defined and other specific provisions are made in this Act, it shall not be construed to limit the operation of the Act to such forms of adulteration and misbranding as are specifically mentioned, it being the intention of the Act to prevent deception and fraud in all articles of food, drugs, or beverages and to prohibit the manufacture, sale, offering for sale or transportation or having in possession with intent to use, sell or transport any adulterated, misbranded, insufficiently or improperly labeled article of food or drug or any article of food which is unwholesome, poisonous, deleterious or detrimental to health, whether the adulteration, misbranding insufficient or improper labeling, unwholesomeness or poisonous or deleterious qualities are referred to specifically in this Act or not.

Sec. 25. DEFINITIONS, EVIDENCE OF INTENT.) The word "person" as used in this Act shall be construed to import both the singular and plural, as the case demands, and shall include corporation, co-partnerships, companies, societies and associations or two or more individuals having a joint or common interest. No person who shall commit or assist in committing any offense herein defined shall be exempt from conviction and punishment therefor, for the reason that he acted as an agent, employee or representative of another. When construing and enforcing the provisions of this Act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, co-partnership, company, society, or association within the scope of his employment or office shall in every case be also deemed to be the act, omission or failure of such corporation, co-partnership, company, society or association as well as that of the person.

The words "sell" and "sale" as used herein shall be construed as including the keeping, offering or exposing for sale, use, transportation or exchange of the restricted, regulated or prohibited article; the having of any such article in possession with intent to sell, use, transport or exchange the same, and the storing, carrying or handling thereof in aid of traffic therein, whether done or permitted in person or through others; the having in possession of any article, the manufacture, sale, use or transportation of which is restricted, regulated or forbidden by this Act, shall be deemed prima facie evidence of intent to sell, manufacture, transport or use the same in violation of law.

Sec. 26. PROVISIONS SEVERABLE.) The provisions of this Act and each part thereof and its sections and each part thereof are independent and severable, and if any provisions or part thereof or section or part thereof be held unconstitutional or invalid, no other provision or part thereof or section or part thereof shall thereby be impaired or rendered unconstitutional or invalid.

Sec. 27. SPECIFIC REPEALS.) The laws hereafter enumerated shall be expressly repealed from and after the taking effect of this Act.

Chapter 38, Article 40, Political Code of the Compiled Laws of 1913; Sections 2879 to 2889, inclusive.

Chapter 38, Article 53, Political Code; Sections 2962 to 2971, inclusive.

Chapter, 38, Article 48, Political Code; Sections 2939 to 2951, inclusive.

Chapter, 38, Article 46, Political Code; Sections 2926 to 2932, inclusive.

Chapter 216 of the Session Laws of 1917; Sections 1 to 5, inclusive.

Chapter 38, Article 78, Political Code; Sections 3149 to 3161, inclusive.

Chapter 240 of the Session Laws of 1919; Sections 1 to 4, inclusive.

Chapter 38, Article 60, Political Code; Sections 3010 to 3013, inclusive.

Sec. 28. IMPLIED REPEALS, SAVING CLAUSE.) All acts and parts of acts inconsistent with the provisions of this act and not herein expressly repealed are hereby repealed from and after the taking effect of this Act.

Approved March 8th, 1923.

CHAPTER 223.

(S. B. No. 379—Lynch.)

OIL INSPECTION.

An Act to Regulate the Sale of Petroleum Products; To Provide for the Inspection of Kerosene and Gasoline; To Provide Specifications Therefor; To Prevent Adulteration and Misbranding Thereof; To Provide for Inspection Fees, Collection and Disposition of Same; To Define the Duties of the State Food Commissioner and Chemist; To Provide for the Inspection of Lubricating and Power Oils; To Provide for the Enforcement of the Act; To Provide Penalties for the Violation Thereof and to Repeal Existing Acts Relating Thereto.

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

Sec. 1. NAME OF ACT.) That the following Act may be known and cited as the North Dakota Petroleum Products Inspection Act.

Sec. 2. DUTIES AND POWERS OF THE STATE FOOD COMMISSIONER AND CHEMIST.) That it shall be the duty of the State Food Commissioner and Chemist to enforce all the provisions and intent of this Act and for this purpose he shall employ such chemists, deputies, inspectors, assistants and employees and provide office equipment and supplies, chemicals, laboratories, laboratory equipment and supplies and provide other facilities that he shall deem necessary for the proper enforcement of all the provisions and intent of this Act.

The State Food Commissioner and Chemist shall have authority to designate ports of entry of all transportation companies carrying petroleum products into this State for sale or consignment and shall have authority to hold or delay any car or other vehicle of transportation so entering this State carrying petroleum products for sale or consignment until the State Food Commissioner and Chemist or his deputies or inspectors may secure a sample for inspection and analysis and other information regarding said petroleum products contained in such shipment, and the failure on the part of any transportation company or any of its officers or employees to hold for inspection such car or other vehicle of transportation shall be deemed a misdemeanor: Provided, That the State Food Commissioner and Chemist or his deputies shall not hold or delay any shipment or consignment of petroleum products at the port of entry, if the transportation company carrying such products will permit proper inspection and sampling of shipments or consignments at convenient designated points without the State, and permit the inspection of transportation records and provide adequate information regarding the records of such cars carrying petroleum products at division points or other places within or without the

State where such cars in normal practice are stopped and held for switching and re-arrangement or at other points where ample opportunity is provided for proper inspection and sampling.

The State Food Commissioner and Chemist shall at all times be under bond to the benefit of the State of North Dakota and he may require an adequate bond for each or any of his employees. Premiums on such bonds shall be charged as an expense against the funds hereinafter provided.

The State Food Commissioner and Chemist shall have authority to promulgate rules and regulations for the interpretation of the provisions and intent of this Act and the same shall have the force and effect of law.

Sec. 3. ADULTERATION, MISBRANDING.) It shall be unlawful to sell, offer or expose for sale any kerosene, gasoline or other petroleum product intended to be used as such which is adulterated or misbranded within the meaning of this Act. Kerosene or gasoline shall be deemed to be adulterated if it does not fall within the limits of the standard specifications hereinafter provided. Kerosene or gasoline shall be deemed to be misbranded if it is not labeled as hereinafter required.

Sec. 4. LABELING GASOLINE—KEROSENE.) Every package, barrel, filling station pump and every tank wagon, truck or car containing gasoline for sale or consignment or held with intent to sell or consign within this State or being transported into this State, shall be clearly and distinctly stamped, labeled or tagged with the word "gasoline" and said stamp, label or tag must show that the gasoline therein contained falls within the specifications for North Dakota Class One or Two, as the case may be: Every can, barrel or other container of less than sixty gallons capacity used for storage or delivery of gasoline shall, unless made of glass, be painted bright red and such containers shall not be used for the storage or delivery of kerosene. Every package, barrel, filling station pump and every tank wagon, truck or car containing kerosene for sale or consignment when held within this State or being transported into this State, shall be clearly and distinctly stamped, labeled or tagged with the word "Kerosene" and must show that the kerosene therein contained conforms to North Dakota Class Three.

Sec. 5. SPECIFICATIONS, GASOLINE—KEROSENE.) The following specifications are those prepared, adopted and published by the United States interdepartmental Committee on Specifications for Petroleum Products and adopted by the Federal Specifications Board as official at this time for United States government purchases, and the same shall hereby become the specifications for kerosene and gasoline adopted by the State of North Dakota. If modifications are made in the Federal speci-

fications, the State Food Commissioner and Chemist may, after due publication and notification, incorporate such modifications in the specifications herein contained and the same shall become the specifications for gasoline and kerosene sold in North Dakota.

For the purpose of this Act the Federal Grade known as Aviation Gasoline, Fighting Grade, shall be known as North Dakota Class one, Household Gasoline; the Federal Grade, Motor Gasoline, shall be known as North Dakota Class Two, Motor Gasoline; and the Federal Grade, Water White Kerosene, shall be known as North Dakota Class Three, Kerosene for illuminating and Fuel Purposes.

Class 1. Household Gasoline.

A—The gasoline shall be free from undissolved water and suspended matter.

B—Color—The color shall not be darker than No. 25 Saybolt.

C—Doctor Test—The doctor test shall be negative.

D—Corrosion Test—One hundred c. c. of the gasoline shall cause no gray or black corrosion and the amount of deposit when evaporated in a polished copper dish shall not exceed three milligrams.

E—Unsaturated Hydrocarbons—No more than one per cent of the gasoline shall be soluble in concentrated sulphuric acid.

F—Distillation range—The temperature limits for the distillation are as follows:

When five per cent of the sample has been recovered in the graduated receiver the thermometer shall not read more than 65 degrees C. (149 degrees F.) or less than 50 degrees C. (122 degrees F.)

When 50 per cent has been recovered in the receiver the thermometer shall not read more than 95 degrees C. (203 degrees F.)

When 90 per cent has been recovered in the receiver the thermometer shall not read more than 125 degrees C. (257 degrees F.)

When 96 per cent has been recovered in the receiver the thermometer shall not read more than 150 degrees C. (302 degrees F.)

The end point shall not be higher than 165 degrees C. (329 degrees F.)

At least 96 per cent shall be recovered as distillate in the receiver from the distillation.

The distillation loss shall not exceed 2 per cent when the residue in the flask is cooled and added to the distillate in the receiver.

G—Acidity—The residue remaining in the flask after the distillation is completed shall not show an acid reaction.

Class 2. Motor Gasoline.

A—Color—The color shall not be darker than No. 16 Saybqlt.

B—Corrosion rate—A clean copper strip shall not be discolored when submerged in the gasoline for three hours at 122 degrees F.

C—Distillation range—When the first drop has been recovered in the graduated receiver, the thermometer shall not read more than 55 degrees C. (131 degrees F.)

When 20 per cent has been recovered in the receiver, the thermometer shall not read more than 105 degrees C. (221 degrees F.)

When 50 per cent has been recovered in the receiver, the thermometer shall not read more than 140 degrees C. (284 degrees F.)

When 90 per cent has been recovered in the receiver, the thermometer shall not read more than 200 degrees C. (392 degrees F.)

The end point shall not be higher than 225 degrees C. (437 degrees F.)

At least 95 per cent shall be recovered as distillate in the receiver from the distillation.

Class 3. Kerosene.

A—The oil shall be free from water, glue and suspended matter.

B—Color—The color shall not be darker than No. 21 Saybolt.

C—Flash point—The flash point shall not be lower than 115 degrees F. ("Tag" closed tester.)

D—Sulphur—The sulphur shall not be more than 0.075 per cent.

E—Floc—The floc test shall be negative.

F—Distillation—The end point shall not be higher than 600 degrees F.

G—Cloud point—The oil shall not show a cloud at 0 degrees F.

H—Doctor test—The doctor test shall be negative.

I—Burning test—The oil shall burn freely and steadily for eighteen hours.

When kerosene is tested photometrically the following test shall be made:

After burning for one hour in a lamp fitted with a No. 1 sun hinge burner it shall be tested photometrically. Five hours

later another photometric test will be made to determine any change in intensity of the light; the maximum allowable loss shall be 5 per cent. The flame shall show at least six candle-power when compared photometrically with an incandescent lamp which has been standardized by the Bureau of Standards. The official methods of testing the above petroleum products shall be those adopted by the Federal Interdepartmental Petroleum Specifications Committee.

Sec. 6. FEES, REPORTS REQUIRED.) Every person, firm or corporation shipping or transporting kerosene or gasoline into this State for sale or consignment or with intent to sell or consign the same, shall pay to the State Food Commissioner and Chemist an inspection fee of one-twentieth ($1/20$) cent per gallon for each and every gallon of kerosene or gasoline so shipped or transported into the State, or that is held for sale within this State; Provided, Nothing in this section shall be construed to require the payment of an inspection fee on any shipment or consignment of gasoline or kerosene when such inspection fee has already been paid by another dealer.

On the first day of each calendar month it shall be the duty of each and every receiver or consignee of any of the aforementioned products to send to the State Food Commissioner and Chemist a correct report of all shipments, consignments or receipts during the preceding month, and such report shall include the following: (a) the number of gallons of gasoline or kerosene received; (b) the grade or class of each shipment or consignment; (c) the date received; (d) consignor and (e) the person, firm or corporation transporting or delivering the same to consignee. Such monthly report shall be accompanied by the fees herein required due the State on such gasoline or kerosene. Failure on the part of the consignee or receiver of such gasoline or kerosene to send such report and remittance as above specified shall be a violation of the Act and punishable under it.

Sec. 7. BOND REQUIRED.) Every person, firm or corporation importing any gasoline or kerosene for sale or consignment within this State or having same in his possession with intent to sell, shall, before so doing, deposit with the State Food Commissioner and Chemist a surety bond payable to the State of North Dakota in the penal sum of Five Hundred (\$500.00) Dollars or twice the amount of inspection fees due for any calendar month to guarantee to this State a truthful report of receipts of gasoline and kerosene herein required and the payment of fees herein required in Section 6 of this Act. The said bond shall be approved as to its sufficiency by the State Food Commissioner and Chemist.

All inspection fees shall be due on the first of each calendar month for the preceding month, and said fees shall become

delinquent when ten days past due, and the person, firm or corporation bonding such delinquent may, after twenty days, be called upon to make good the bond for the fees so delinquent.

Sec. 8. LUBRICANTS, FUEL AND POWER OILS.) The State Food Commissioner and Chemist shall have authority to collect samples of petroleum products used for lubrication, fuel, power and other purposes and shall have authority to analyze and submit the same to trial tests and publish the results of such investigations for the benefit of the public and users thereof.

Sec. 9. RIGHT OF INSPECTION.) The State Food Commissioner and Chemist, his deputies or inspectors shall have free access, ingress and egress to all places or vehicles of transportation where petroleum products are stored, transported, sold, exposed for sale or held with intent to sell or transport for the purposes of inspection and securing adequate samples of the same for chemical analysis; and agents, bookkeepers, transportation officers and other employees in charge of such places shall render all assistance and aid within their power to inspectors to effectuate the provisions of this Act; that said inspectors or agents may open any package, receptacle or container containing any petroleum product and upon paying or offering to pay to the person entitled thereto the full value thereof, may take a sample therefrom, sufficient for inspection and analysis under whatever condition the inspector may deem proper.

Sec. 10. EVIDENCE OF VIOLATION, COMPLAINT, HOW MADE.) It shall be the duty of the State Food Commissioner and Chemist and his assistant chemists to make analyses and examinations of such articles coming under the provisions of this Act as he shall deem necessary for the purpose of determining from such examinations whether adulterated, misbranded or insufficiently labeled petroleum products are sold, transported, offered for sale or held with intent to sell or transport in violation of the provisions of this Act. It shall be the duty of the State Food Commissioner and Chemist when he finds by chemical examination or otherwise that adulterated, misbranded, insufficiently or improperly labeled petroleum products are being sold within this State or in violation of any of the provisions of this Act or of any rule or regulation issued pursuant thereto, to transmit the evidence so found to the State's Attorney, and it shall be his duty to institute appropriate proceedings in the proper court of jurisdiction.

Sec. 11. PENALTIES.) Any person, firm or corporation violating or failing to comply with any of the provisions of this Act or any rule or regulation issued pursuant thereto, shall be deemed guilty of a misdemeanor and upon conviction thereof

shall be punished by a fine of not less than Twenty-Five (25.00) Dollars and not more than One Hundred (100.00) Dollars or by imprisonment for not less than ten days and not more than thirty days or both at the discretion of the court.

Sec. 12. FEES, DISPOSITION OF, EXPENSES, HOW PAID.) All revenues derived under authority of this Act shall be used for the enforcement of the provisions thereof. All fees received by the State Food Commissioner and Chemist as provided for in this Act shall be properly recorded by him and forwarded to the Treasurer of the State of North Dakota. The State Treasurer shall upon receipt thereof enter such funds and carry them in a special revolving fund to be designated the "State Regulatory Fund," out of which all bills and expenses of whatever nature incurred in the enforcement of this Act shall by said Treasurer be paid.

Vouchers for all expenses of whatever nature incurred by the State Food Commissioner and Chemist in carrying out and enforcing the provisions of this Act when approved by said State Food Commissioner and Chemist shall be forwarded monthly to the State Board of Administration for the audit and approval, and when audited and approved shall be certified to the State Auditor, who shall draw warrants upon the State Treasurer for said expenses, specifying that said warrants are to be paid from the State Regulatory Fund. The State Treasurer shall thereupon pay said expenses out of the State Regulatory Fund.

Sec. 13. DEFINITIONS, EVIDENCE OF INTENT.) The word "person" as used in this Act shall be construed to involve both the singular and plural, as the case demands, and shall include corporations, co-partnerships, companies, societies and associations or two or more individuals having a joint or common interest. No person who shall commit or assist in committing any offense herein defined shall be exempt from conviction and punishment therefor, for the reason that he acted as the agent, employee or representative of another. When construing and enforcing the provisions of this Act, the act, omission or failure of any officer, agent or other person acting for or employed by any corporation, co-partnership, or company within the scope of his employment or office shall also in every case be deemed to be the act, omission or failure of such corporation, co-partnership, company, society and association as well as that of the person. The word "sell" and "sale" as used herein shall be construed as including the keeping, offering or exposing for sale, transportation or exchange of the restricted or prohibited article. The having of any such article in possession with intent to sell, transport or exchange the same and the storing, carrying or handling thereof in aid of traffic therein, whether of any article the sale or transportation of which is restricted or forbidden by this Act,

shall be deemed prima facie evidence of intent to sell or transport the same in violation of this Act.

Sec. 14. PROVISIONS SEVERABLE.) The provisions of this Act and each part thereof and its sections and each part thereof are independent and severable and if any provisions or part thereof or section or part thereof be held unconstitutional or invalid, no other provision or part thereof or section or part thereof shall thereby be impaired or rendered unconstitutional or invalid.

Sec. 15. REPEALS SPECIFIC, REPEALS IMPLIED, SAVING CLAUSE.) The laws hereinafter enumerated shall be expressly repealed and all acts or parts of acts inconsistent with the provisions of this Act are hereby repealed from and after the taking effect of this Act:

Chapter 38, Article 69, Political Code of the Compiled Laws of 1913; Sections 3057 to 3080, inclusive.

Chapter 188 of the Session Laws of 1915; Sections 1 to 25, inclusive.

Chapter 161 of the Session Laws of 1917; Sections 1 to 3, inclusive.

Chapter 162 of the Session Laws of 1917; Section 1.

Chapter 185 of the Session Laws of 1919; 1 to 25, inclusive.

Approved March 8th, 1923.

GAME AND FISH

CHAPTER 224.

(S. B. No. 155—Game and Fish Committee.)

GAME AND FISH.

An Act To Amend and Re-enact Sections 3, 4, 6, 8, 34, 35 and 65, Chapter 161, Session Laws of 1915, and Section 27, Chapter 161, Session Laws of 1915, as Amended by Section 2, Chapter 134, Session Laws of 1919, and Section 36, Chapter 161, Session Laws of 1915 as amended by Section 5, Chapter 134, Session Laws of 1919, and Section 46, Chapter 161, Session Laws of 1915 as Amended by Chapter 134, Session Laws of 1919 and as Amended by Chapter 68, Session Laws of 1921 and Section 80, Chapter 161, Session Laws of 1915 as Amended by Chapter 135, Session Laws of 1919, relating to Game and Fish.

B. It Enacted by the Legislative Assembly of the State of North Dakota:

Sec. 1. AMENDMENT.) That Section 3 of Chapter 161, Session Laws of 1915 is hereby amended and re-enacted so as to read as follows: