

OLEOMARGARINE

CHAPTER 211

(H. B. No. 96—McDowall, Opdahl, Morgan, and Sundby of McLean.)

SALE, ETC., OF OLEOMARGARINE

An Act defining oleomargarine, requiring the licensing of manufacturers and wholesale and retail dealers in oleomargarine and other substitute for dairy products, fixing the license fees and sale tax for same and providing penalties for the violation of this act.

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

§ 1. That for the purpose of this Act certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "Oleomargarine", namely: All substances heretofore known as Oleomargarine, Oleo, Oleomargarine oil, butterine, lardine, suine and neutral; all mixtures and compounds of Oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat—if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water or other liquid, and containing moisture in excess of 1 per centum. This section shall not apply (1) to puff pastry shortening not churned or emulsified in milk or cream, and having a melting point of one hundred and eighteen degrees Fahrenheit or more, nor (2) to any of the following containing condiments and spices: salad dressing, mayonnaise dressings, or mayonnaise products, nor (3) to pharmaceutical preparations.

§ 2. It shall be unlawful for any person, firm or corporation by himself, his or its servant or agent or as the servant or agent of another to sell, exchange or offer for sale or have in possession with intent to sell or offer for sale or exchange any Oleomargarine in this State without first having obtained a license therefor, which license shall be granted and issued by the State Food Commissioner and shall be in force and effect until July 1st of the second year following the date of issuance unless sooner revoked; said license shall be for a two year period beginning July 1st and ending June 30th of the second year following the issuance thereof. It shall be granted only to a person, firm or corporation owning or operating the place from which or in which oleomargarine shall be manufactured or sold, which place shall be within the territorial limits of the State of North Dakota. Each license shall be numbered and shall show the residence and place of business of the licensee and shall not be transferable. The State Food Commissioner may revoke the license of any person,

firm or corporation violating any of the provisions of this Act. No license shall be issued until the applicant has paid the fee hereinafter provided: Manufacturer, \$10.00; wholesaler or distributor, \$5.00; retail dealer, \$2.00. Each license shall cover but one place of business. All moneys received by the Food Commissioner for licenses shall at the close of each calendar month be transmitted to the State Treasurer and by him credited to the general fund of the State. Upon revocation of any license the State Food Commissioner shall immediately notify the State Treasurer in writing of such revocation.

§ 3. There is hereby imposed and there shall be collected by and paid to the State Treasurer upon the sale of all Oleomargarine sold in this State to consumers, a tax of ten cents per pound. Oleomargarine shall be sold in this State in packages containing not less than one pound, and not to exceed thirty pounds. Whenever a box, carton or other container of Oleomargarine is received by a retailer, there must be forthwith attached to each package a suitable stamp denoting the tax thereon, said stamp to be cancelled under the regulations of the State Food Commissioner. If a manufacturer, wholesaler or distributor shall sell to other than a retail dealer, said manufacturer, wholesaler, or distributor shall attach and cancel the required stamps on such sales.

§ 4. No person shall use or consume within this State any Oleomargarine unless the same shall be taken from a package or container having attached thereto the stamps as hereinbefore provided and required. The penalty for so using or consuming Oleomargarine without having stamps so attached shall be that provided in Section 7 of this Act.

§ 5. Every manufacturer, wholesaler or retail dealer in Oleomargarine shall keep all surplus and open stock in such form as may be prescribed by the State Food Commissioner, and a manufacturer or wholesaler shall keep a record of all sales and a retail dealer shall keep a record of all purchasers, and such records shall include invoices of bills for all such purchases and shall at all times during business hours be subject to inspection by the State Food Commissioner or by any person duly authorized by him.

§ 6. Any keeper or proprietor of any hotel, boarding house, restaurant, lunch counter or other place where meals are served, who uses or serves therein for his guests any oleomargarine as a substitute for butter, the manufacture or sale of which is regulated by this Chapter, shall print plainly and conspicuously on the bill of fare, if there is one, the words "Oleomargarine Used Here", and shall post up conspicuously in different parts of each room where such meals are served, signs in places where they can be easily seen and read, which shall bear the words "Oleomargarine Used Here" in letters at least one inch high and at least one-half inch wide, and so printed as to be easily read by guests or boarders.

§ 7. PENALTY.] Any person violating any provision of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall, for a first offense, be punished by a fine of not less than \$25.00 or more than \$100.00, or by imprisonment in the County jail for not to exceed thirty days, or by both such fine and imprisonment; and for the second and each subsequent offense by a fine of not less than \$100.00 nor more than \$500.00, or by imprisonment in the County jail for not less than thirty or more than ninety days, or by both such fine and imprisonment. The enforcement of the penal provisions of this Act is enjoined upon every officer and official whose duty it is to enforce the laws of this State and any such officer failing to enforce the same shall be subject to removal from office in the manner provided by law.

§ 8. It shall be unlawful for any person with the intent to defraud the State to make, alter, forge or counterfeit any license or stamp provided for in this Act, or to have in possession any forged, counterfeited, spurious or altered license or stamp, knowing the same to be forged, counterfeited, spurious or altered, and whoever is found guilty of any violation of this sub-section shall be fined not more than \$1000.00, or be imprisoned in the State prison for not more than three years, or by both such fine and imprisonment.

§ 9. The State Auditor shall prepare and have suitable stamps for use on each kind of package described herein. Upon requisition from the State Treasurer the State Auditor shall deliver to his order the stamps designated in such requisition and shall charge the State Treasurer with the stamps thus delivered, and shall keep an accurate records of all stamps coming into and leaving his hands. The moneys received from the sale of such stamps shall be turned into the general fund of the State. The State Treasurer shall redeem and make repayment for any unused stamps on written request and shall pay for the same out of any funds derived under the provisions of this Act. It shall be unlawful for a dealer to sell or dispose of such stamps to another dealer or to any person whomsoever, except whenever a person owns or operates more than one place of sale, stamps may be distributed to the various places of sale by the main office, but each place of sale must have a separate license and cancellation stamp.

§ 10. The State Treasurer in the enforcement of this Act may call to his aid the Attorney General, any State's Attorney and peace officer and is authorized to employ such clerks and additional help as may be needed to carry out the provisions of this Act.

§ 11. And it is hereby declared that if any of the provisions of the Act, or any section thereof, in any manner contravene the provisions of the constitution, the remaining provisions would have been enacted by this legislative assembly even though such provisions had been eliminated from the Act. Hence, if any of the provisions are

found to be violative of the constitution the remaining provisions shall not be affected by such invalidity, but shall remain in full force and effect.

Approved March 10th, 1931.

PHARMACY

CHAPTER 212

(S. B. No. 79—Porter.)

EXEMPTIONS REGISTRATION OF PHARMACISTS; EMERGENCY MEDICINES

An Act to amend and re-enact Sections 499, 500 and 503 of the Compiled Laws of North Dakota for the year of 1913, relating to who exempt from employing a registered pharmacist and providing for designation by Board of Pharmacy of simple household remedies and providing for sale by certain retailers of emergency medicines and poisons, under license from State Board of Pharmacists, and for designation by State Board of Pharmacy of such emergency medicines and poisons and prescribing penalty for the violation thereof.

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

§ 1. That Section 499 of the Compiled Laws of North Dakota for the year of 1913 be amended and re-enacted to read as follows:

§ 499. WHO EXEMPT.] Nothing in this Act shall apply to, or interfere with any practitioner of medicine who is duly registered as such by the State Board of Medical Examiners of this State, with supplying his own patients, as their physician, with such remedies as he may desire, nor does this act apply to the exclusively wholesale business of any dealer, nor do general dealers come under the provisions of this Act so far as it relates to the keeping for sale and sale of proprietary medicines in original packages, and such simple household remedies as may from time to time be approved for such sale by the State Board of Pharmacy; nor does this Act apply to registered or copy-righted proprietary medicines registered in the United States Patent Office, nor to the manufacture of proprietary remedies or the sale of the same in original packages, by persons other than pharmacists; provided, further, that any person of good moral character, over twenty-one years of age, who conducts a retail business at a place more than five miles from a drug store, employing a registered pharmacist, may procure a license from the Board of Pharmacy upon application and payment to said Board of a fee of Three Dollars (\$3.00) annually which shall permit such retailer to keep for sale and sell in original packages, in addition to the simple household remedies hereinbefore referred to, such other emergency medicines and poisons as may be deemed necessary and in the public interests, and which have been designated by the State Board of Pharmacy as saleable under such license. The license hereinbefore referred to shall