

Auditor to
draw warrant
therefor.

state for the sum of \$250 in favor of S. W. Maxey and the State Treasurer is hereby authorized and directed to pay the same out of the general fund of this state.

Passed the Senate March 4, 1901.

Passed the House March 13, 1901.

Approved by the Governor, March 16, 1901.

CHAPTER XCIV.

[S. B. No. 120.]

PROVIDING AGAINST THE ADULTERATION OF FOOD AND FRAUD IN THE SALE THEREOF.

AN ACT to provide against the adulteration of food and fraud in the sale thereof; creating a State Board of Food Commission, defining their duties and providing for the appointment of an officer to be known as the State Dairy and Food Commissioner; providing for the enforcement of the law and fixing a penalty for violation thereof; making an appropriation, declaring an emergency, and repealing "An act to provide against the adulteration of food," approved March 13, 1899.

Be it enacted by the Legislature of the State of Washington:

Unlawful
to sell if
adulterated.

SECTION 1. No person, firm or corporation shall, within this state, sell, offer for sale, have in his possession with intent to sell, or manufacture for sale, any article of food which is adulterated within the meaning of this act.

Term "food."

SEC. 2. The term "food" as used herein shall include all articles used for food, drink and condiment by men, whether mixed, simple or compound. The term "misbranded" as used herein includes all articles of food or articles which enter into the composition of food or condiments, the package or label of which shall bear any statement purporting to name any ingredient or substances not contained in such article, which statement shall be false in any particular, or any statement purporting to name the substance of which such article is made, which statement shall not fully give the names of all the substances contained in the article in any measurable quantities, or which names as a single

article of food any mixture or compound. The term "drink" as used herein, shall not include liquids containing two per cent. or more of alcohol.

Term "drink."
What constitutes adulteration of food.

SEC. 3. That for the purpose of this act an article shall be deemed adulterated in the case of foods or drinks—

(1st). If any substance or substances has or have been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength so that such product when offered for sale shall deceive or tend to deceive the purchaser.

Grade or quality lowered or injured.

(2nd). If any inferior or cheaper substance or substances has or have been substituted wholly or in part for the article so that the product when sold shall deceive or tend to deceive the purchaser.

Cheaper articles substituted.

(3rd). If any valuable constituent of the article has been wholly or in part abstracted so that the product when sold shall deceive or tend to deceive the purchaser.

Constituents abstracted.

(4th). If it be an imitation of or sold under the specific name of any other article.

Imitation of another article.

(5th). If it be mixed, colored, coated, powdered or stained in a manner whereby damage or inferiority is concealed, so that such product when sold shall deceive or tend to deceive the purchaser.

Colored, etc.

(6th). If it contains any added poisonous ingredients or any ingredients which may render such article injurious to the health of the persons consuming it.

Poisonous ingredients.

(7th). If it be misbranded, labeled or branded so as to mislead or deceive the purchaser.

Misbranded so as to deceive.

(8th). If it consists of the whole or any part of a diseased, filthy, decomposed, or putrid animal or vegetable substance or any portion of any animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal or of any animal that has died otherwise than by slaughter: *Provided*, That an article of food which does not contain any added poisonous ingredient shall not be deemed to be adulterated in the following cases: First, in the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food under coined names and

Diseased or decomposed substance.

Proviso.

Coined names. not included under definition four of this section. Second, in the case of articles labeled, branded or tagged so as to plainly indicate that they are mixtures, compounds, combinations, imitations or blends: *Provided*, Labeled. etc. That the same shall be labeled, branded or tagged so as to show the character and constituents thereof. Third, when any article or ingredient has been added to foods Articles added. because the same is required for the preparation or production thereof as an article of commerce, in a state fit for carriage, consumption, and not fraudulently to increase the bulk, weight or measure of the food, or conceal the inferiority thereof: *Provided, further*, that no Proviso. dealer shall be convicted under the provisions of this act if he shall prove a written guaranty of purity in a form approved by the Dairy and Food Commissioner: Proviso. *And provided further*, That the guarantor is a resident of the State of Washington. Fourth, when food is inevitably mixed with some extraneous substance in the Extraneous substances. process of collection or preparation.

Guaranty—to contain what. SEC. 4. The guaranty referred to in sub-division eight of section 3 herein, shall contain the full name and address of the person, firm or corporation making the sale to the dealer, and such person, firm or corporation shall be held liable to all prosecutions, fines and other penalties which would attach to the dealer under the provisions of this act.

Possession of, prima facie evidence. SEC. 5. Possession by any person, firm or corporation of any article of food, the sale of which is prohibited by this act, or being the consignee thereof, shall be *prima facie* evidence that the same is kept or shipped to the said person, firm or corporation in violation of the provisions of this act, and the Dairy and Food Commissioner is hereby authorized to seize upon Commissioner authorized to seize such food. and take into his possession such articles of food and thereupon apply to the superior court of the county in which such food is seized for an order directing him Order of court. to dispose of or sell the same and apply the proceeds to the general fund, less the amount required to reimburse the purchaser for actual loss as shown by the bill, provided he or they have a guarantee as re-

quired in section 4: *Provided, however,* That the said Proviso.
 Dairy and Food Commissioner shall first give notice to
 the person, firm or corporation in whose possession Commissioner shall first give notice.
 such goods are found, or if the same are found in the
 possession of a common carrier then to the consignee
 of such food, notifying such person, firm or corpora-
 tion that he has seized the said foods and the reasons
 therefor, and that he has made an application to the
 superior court for an order to sell or dispose of the
 same, and that he will call up said application for
 hearing on a day certain, which shall not be less than Application—
when called
for hearing.
 ten days from the service of such notice, and that at
 the hearing of said application the said person, firm
 or corporation shall show cause, if any they have, why
 the prayer of the petition should not be granted. Upon
 the hearing of the said petition the affidavits or oral Hearing.
 testimony may be introduced to establish the conten-
 tions of the respective parties. Hearing, however,
 may be had at an earlier date by mutual consent of the
 parties to said application. No seizures shall be made Exception as
to seizures—
when person
resides in this
state.
 as provided herein if the person violating the pro-
 visions of this act resides in the State of Washington.

SEC. 6. Every person selling, exhibiting or offering
 for sale, manufacturing or having in his possession with
 intent to sell or serve or delivering to a purchaser any
 article of food included in the provisions of this act,
 shall furnish to any person demanding the same, who
 shall apply to him for the purpose and shall tender him
 the price at which the article of food is sold a sample
 sufficient for the analysis of any such article of food
 which is in his possession.

SEC. 7. The State Dairy Commissioner shall also be State Dairy
Commissioner
also Food
Commissioner.
 the State Food Commissioner and shall be known as
 the Dairy and Food Commissioner, and he shall receive
 in addition to his salary as State Dairy Commissioner
 \$600 per year as extra compensation for enforcing the Compensation
and powers.
 provisions of this act. He shall also have power to
 appoint such deputies as may be necessary, and pay
 therefor not to exceed three dollars per day: *Provided,* Proviso.
however, That the aggregate services of all deputies em-

ployed by him shall not exceed the appropriation made therefor.

Duty of State Chemist to make analysis and assist in prosecutions.

SEC. 8. It shall be the duty of the chemist of the State Agricultural Experiment Station to analyze any and all substances that the Dairy and Food Commissioner may send to him, and report to the commissioner, without unnecessary delay, the result of any analysis so made and when called upon by the said commissioner, the chemist shall assist in the prosecution of violations of the law by giving testimony as an expert or otherwise.

Duty of Attorney General.

SEC. 9. It shall be the duty of the Attorney General and the prosecuting attorney in any county in this state, when called upon by the Dairy and Food Commissioner, to render any legal assistance in their power to execute the law and prosecute the case arising under the provisions of this act: *Provided*, That the Dairy and Food Commissioner may employ special counsel.

Proviso.

Powers of commissioner and deputies to make examination and analysis.

SEC. 10. The Dairy and Food Commissioner or his deputies, shall have power in the performance of their official duties to enter any restaurant, eating house, hotel, public conveyance, public or private hospitals, asylum, school, eleemosynary or penal institution, where foods are served, and take for analysis any article of food or ingredients which enter into the composition of the food there used. Any articles of food or ingredients which enter into the composition of foods therein used and so taken, if found to be adulterated, shall be *prima facie* evidence that the same is kept to be used or served to patrons, guests, boarders or inmates of such institution, and the person, firm or corporation owning and operating said restaurant, eating house, hotel, public conveyance, public or private hospital, asylum, school, eleemosynary or penal institution, and having in his or its possession adulterated foods, shall be deemed to have such adulterated foods contrary to the provisions of this act.

Prima facie evidence—what constitutes.

Violation of this act and penalty therefor.

SEC. 11. Every person, firm or corporation violating the provisions of this act or refusing to comply upon demand with any of the provisions thereof, shall be guilty of a misdemeanor, and upon conviction shall be

fined not less than twenty-five dollars (\$25) and not to exceed one hundred dollars (\$100), or, in case of second offense, to be imprisoned not less thirty days and not to exceed ninety days, or both such fine and imprisonment. Any person found guilty of selling, offering for sale, having in his possession with intent to sell or serve, or manufacturing for sale any adulterated article of food under the provisions of this act, shall pay in addition to the penalties herein provided for, all necessary costs and expenses incurred in inspecting and analyzing such adulterated articles of food in addition to the costs of such action: *Provided*, That all penalties and costs for the violation of the provisions of this act shall be paid to the Board of State Dairy and Food Commission, or to their agent, and by them paid into the State Treasury and applied to the general fund.

Persons found guilty—additional penalty.

Proviso.

SEC. 12. The State Board of Dairy Commission *ex officio* shall be the State Board of Dairy and Food Commission and said board shall hereafter be known and described as the "State Board of Dairy and Food Commission."

Official title of board.

SEC. 13. All expenses incurred under the provisions of this act shall be paid out of the general fund, and shall be audited by the State Auditor upon bills being presented, appropriately certified by the Board of Dairy and Food Commission, and the State Auditor shall from time to time draw warrants upon the State Treasury [Treasurer] for the amounts thus audited.

Expense to be paid out of general fund.

SEC. 14. The Dairy and Food Commissioner shall publish each month a report of the work of his office, including the brand, name and address of manufacturer, analysis and fines of foods found to be adulterated.

Monthly report.

SEC. 15. An act entitled "An act to provide against the adulteration of food," approved March 13, 1899, is hereby repealed.

Repealing act of 1899.

Passed the Senate February 25, 1901.

Passed the House March 13, 1901.

Approved by the Governor March 16, 1901.