

the custodian. Any moneys received by the state parks committee under any of the authorities herein granted shall be placed in said fund and shall be kept separate and apart from the other funds of the state treasury, and shall be pledged for the purpose of acquiring another tract of land for a state park. The selection of said tract of land shall be made by the state parks committee. All moneys received under this act shall be deposited in a state depository and secured in the same manner as other state funds.

SEC. 4. There is hereby appropriated from the Federation park fund the sum of thirty thousand dollars (\$30,000) or so much thereof as may be necessary to carry out the purposes and provisions of this act. Appropriation.

SEC. 5. This act is necessary for the immediate support of the state government and its existing institutions and shall take effect immediately. Effective immediately.

Passed the Senate February 28, 1939.

Passed the House March 7, 1939.

Approved by the Governor March 12, 1939.

CHAPTER 112.

[S. B. 409.]

CANDY AND CONFECTIONERY PRODUCTS.

AN ACT relating to the manufacture and distribution of candy and other confectionery products, and regulating the same; providing for the protection of public health and the prevention of frauds; defining terms; providing for permits and certificates and the procedure for revocation or suspension thereof; and prescribing penalties.

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

SECTION 1. It is hereby found and declared that the protection of public health and welfare requires Purpose of act.

certain control and regulation of the manufacture and distribution of candy and other confectionery products and of the persons engaged therein, in order that there may be prevented or eliminated insanitary or unhealthful conditions in connection with such manufacture and distribution which endanger public health and jeopardize the public source and supply of a nourishing, healthful food.

SEC. 2. Except where the context indicates a different meaning, terms used in this act shall be construed as defined herein.

"Confection."
SEC. 3. The term "confection" shall mean and include any solid combination of sugar or other saccharine substance, together with fruits, nuts, chocolate, or other flavoring or coloring substances.

"Confectioner."
SEC. 4. The term "confectioner" shall mean any person who prepares, processes, manufactures, sells, or distributes any confection within the State of Washington: *Provided, however,* That this definition shall not be construed to include any person selling confections exclusively at retail in a fixed place or places of business.

"Confectionery."
SEC. 5. The term "confectionery" shall mean any place, premises, or establishment where confections are regularly prepared, processed, manufactured, sold, or distributed, exclusive, however, of any place, premises, or establishment where confections are sold exclusively at retail in a fixed place or places of business.

"Person."
SEC. 6. The term "person" shall include individual, firm, corporation, association, or club.

"Director."
SEC. 7. The term "director" shall mean the Director of Agriculture of the State of Washington.

Permit.
SEC. 8. No confectioner shall operate within this state without a state confectioner's permit. Application for such permit shall be made in writing, and

under oath, to the director upon such forms and with such pertinent information as shall be required by him.

SEC. 9. Each permit issued under this act shall expire on December 31 following its date of issue, unless sooner revoked for cause. Renewal may be obtained annually by surrendering to the director the previous year's permit and paying to the director the required annual permit fee. Such renewal must be obtained on or before the first day of January of each succeeding year. No permit shall be transferable nor shall it be applicable to any location other than that for which it was originally issued.

Expiration
and renewal.

SEC. 10. There shall be paid to the director with each application for a confectioner's permit or for a renewal thereof an annual permit fee of five dollars (\$5), and the funds derived therefrom shall be disbursed by the director for the administration and enforcement of this act.

Fee.

SEC. 11. The director may cancel or suspend any permit issued under this act if upon investigation he determines (1) that the permittee has violated any provisions of this act, or of any other law of this state relating to the manufacture or handling of any confectionery product, or any regulation effective thereunder, or (2) that the confectionery premises or any equipment used therein or in connection therewith is in an insanitary condition and the permittee has failed or refused to remedy such condition within ten (10) days after written notice to do so from the director.

Cancellation
or
suspension.

SEC. 12. No permit shall be revoked or suspended by the director until after a written statement of the grounds therefor has been served upon the permittee and he is given at least ten (10) days within which to answer such charge. For the purpose of

Notice.

making an investigation or of conducting a hearing with reference to such proposed revocation or suspension the Director of Agriculture shall have power to conduct such hearing, administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents and testimony.

Appeal from order of director.

SEC. 13. Within thirty (30) days after an order revoking or suspending a permit under this act is made by the director, any party aggrieved thereby may appeal to the superior court of the county of his residence in this state. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the director. The director shall, within twenty (20) days after receipt of such notice of appeal, serve and file notice of appearance and such appeal shall thereupon be deemed at issue. The proceedings in every such appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. No bond shall be required on such appeal, but such appeal shall not stay proceedings before the director. The trial of said issues shall be by the court, and an appeal shall lie from its judgment as in other civil cases.

Service by registered mail.

SEC. 14. Service as required in this act may be made by registered mail, return receipt requested, addressed to the permittee at the address given by him in his most recently filed application for a permit.

Diseased persons.

SEC. 15. No person afflicted with any contagious or infectious disease shall work or be permitted to work or be employed in any confectionery.

SEC. 16. No person shall work or be permitted to work in any confectionery in storing, preparing, mixing, or handling any product or any ingredient

thereof without holding a certificate from a physician, duly accredited for that purpose by the state board of health, certifying that such person has been examined and found free from any contagious or infectious disease. The State Board of Health may fix a maximum fee, not exceeding two dollars (\$2), which may be charged by a physician for such examination. Such certificate shall be effective for a period of six (6) months and thereafter must be renewed following proper physical examination as aforesaid. Where such certificate is required, and provided under municipal ordinance upon examination deemed adequate by the State Board of Health, certificates issued thereunder shall be sufficient under this act.

Health
certificate
required.

SEC. 17. Any certificate issued under section 16 of this act shall be revoked by the State Board of Health at any time the holder thereof is found, after proper physical examination, to be afflicted with any communicable or infectious disease. Refusal of any person employed in a confectionery to submit to proper and reasonable physical examination upon written demand of the State Board of Health shall be cause for revocation of that person's health certificate.

Revocation
of
certificate.

SEC. 18. No person shall prepare, process, manufacture, sell, distribute, or handle any confection containing any wormy, moldy, verminous, noxious, harmful, injurious, or deleterious substances.

Injurious
substances.

SEC. 19. The director shall have the right at such time or times as he may deem advisable to make an inspection of any confectionery for which a permit has been issued under this act to determine whether or not the premises are constructed, equipped, and operated so as to comply with the requirements of this act and of all other laws applicable to either confectioneries or confectionery products, and of all regulations effective thereunder. The director shall

Inspection
of premises.

also have the right to inspect any vehicle used by a confectioner in selling, distributing, or handling confections.

Facsimile of
trade mark
and name.

SEC. 20. Every confectioner shall file with the director a facsimile under oath, and in duplicate, of each trade mark and trade name, before the confection to which the same is applicable is sold, distributed, or handled within this state.

Consignment
unlawful.

SEC. 21. It shall be unlawful for any confectioner to sell confectionery products upon consignment within this state, or to leave or place any confectionery products with any person, firm, or corporation within this state pursuant to an agreement or understanding, either express or implied, that any such confectionery products, or any part thereof, not sold by the person with whom it is left or placed will be taken back, or that the price or other consideration therefor will be returned in whole or in part or that any allowance, credit, commission, rebate, or other thing of value will be given therefor. Nothing in this section shall prohibit a confectioner from making an exchange of confectionery products, or granting a rebate, or allowance, or making any adjustment covering any confectionery products sold, or delivered in a damaged, broken, or unsalable condition: *Provided, however,* That such adjustment must be made within a period of thirty (30) days after date of sale.

Penalty.

SEC. 22. Any person violating any provisions of this act shall be guilty of a misdemeanor. Each day such violation continues shall constitute a separate offense.

Partial
invalidity.

SEC. 23. If any clause, sentence, paragraph, section, or part of this act shall, for any reason, be adjudged or decreed to be invalid by any court of competent jurisdiction, such judgment or decree shall not affect, impair, or invalidate the remainder

of this act, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which said judgment or decree shall have been rendered. The legislature hereby declares that it would have passed this act, and each section, sub-section, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

SEC. 24. All laws or parts of laws in conflict herewith are hereby repealed: *Provided*, That none of the laws of this state pertaining to the state or municipal boards of health, or rules and regulations adopted pursuant thereto, shall be affected by this act. } **Vetoed.**

Passed the Senate March 4, 1939.

Passed the House March 7, 1939.

Approved by the Governor March 12, 1939, with the exception of section 24, which is vetoed.

CHAPTER 113.

[S. B. 422.]

MILITARY LEAVE OF ABSENCE FOR PUBLIC EMPLOYEES.

AN ACT relating to public employees, providing for the granting of military leave, and declaring that this act shall take effect April 1, 1939.

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

SECTION 1. Every officer and employee of the State of Washington or of any county, city or other political sub-division thereof who is a member of the Washington National Guard or of the Army, Navy or Marine Corps Reserve of the United States, or of any organized reserve or armed forces of the