

CHAPTER 20.

[H. B. 61.]

REGULATING FILLED DAIRY PRODUCTS.

AN ACT to prevent confusion, fraud and deception of the public in connection with the sale of dairy products; to regulate and to make unlawful the manufacture, sale, exchange, transportation, purveying, possession or offering for sale, exchange or purveyance of "filled dairy products" as defined in this act and products wherein filled dairy products are ingredients; to make the Washington state uniform food, drug and cosmetic act applicable to such products; to provide for the enforcement and administration of this act and to prescribe penalties for its violation.

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

**Declaration
of intent.**

SECTION 1. Filled dairy products resemble genuine dairy products so closely that they lend themselves readily to substitution for and confusion with such dairy products and in many cases cannot be distinguished from genuine dairy products by the ordinary consumer. The manufacture, sale, exchange, purveying, transportation, possession, or offering for sale or exchange or purveyance of filled dairy products creates a condition conducive to substitution, confusion, deception, and fraud, and one which if permitted to exist tends to interfere with the orderly and fair marketing of foods essential to the well-being of the people of this state. It is hereby declared to be the purpose of this act to correct and eliminate the condition above referred to; to protect the public from confusion, fraud and deception; to prohibit practices inimical to the general welfare; and to promote the orderly and fair marketing of essential foods.

Definitions.

SEC. 2. Whenever used in this act:

"Person."

(1) The term "person" includes individuals, firms, partnerships, associations, trusts, estates, corporations, and any and all other business units, devices or arrangements.

(2) The term "filled dairy products" means any milk, cream, or skimmed milk, or any combination thereof, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, or any food product made or manufactured therefrom, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat so that the resulting product is in imitation or semblance of any dairy product, including but not limited to, milk, cream, sour cream, skimmed milk, ice cream, whipped cream, flavored milk or skim-milk, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk: *Provided, however,* That this term shall not be construed to mean or include:

"Filled dairy products."

Not included.

(a) Oleomargarine;

(b) Any distinctive proprietary food compound not readily mistaken for a dairy product where such compound is customarily used on the order of a physician and is prepared and designed for medicinal or special dietary use and prominently so labelled;

(c) Any dairy product flavored with chocolate or cocoa where the fats or oils other than milk fat contained in such product do not exceed the amount of cacao fat naturally present in the chocolate or cocoa used; or

(d) Any dairy product in which the vitamin content has been increased and food oil utilized as a carrier of such vitamins provided the quantity of such food oil does not exceed one one-hundredths of one per cent of the weight of the finished dairy product.

(3) The term "intrastate commerce" means any and all commerce within the state of Washington

"Intrastate commerce."

subject to the jurisdiction thereof; and includes the operation of any business or service establishment.

SEC. 3.

Unlawful acts.

(1) It shall be unlawful in intrastate commerce for any person to manufacture, sell, exchange, purvey, transport or possess any filled dairy product or to offer or expose for sale or exchange or to be purveyed any such product;

(2) It shall be unlawful for any person owning or operating a bakery, confectionery shop, factory or other place where food products are prepared or manufactured for sale, exchange or purveyance to the public in intrastate commerce to utilize any filled dairy product as an ingredient in any food product so manufactured or prepared;

(3) It shall be unlawful in intrastate commerce for any person knowingly to sell, exchange, purvey, transport or possess any food product in which any filled dairy product is an ingredient.

Penalties.

SEC. 4. Any person who shall violate any of the provisions of this act, and any officer, agent or employee thereof who directs or knowingly permits such violation or who aids or assists therein, shall, upon conviction thereof, be subject to a fine of not less than twenty-five dollars nor more than one hundred dollars: *Provided, however,* That if such violation is committed after a previous conviction of such person hereunder has become final, such person shall be guilty of a gross misdemeanor and shall be subject to a fine of not less than one hundred dollars nor more than one thousand dollars, or to imprisonment for not more than ninety days, or both. Each separate violation of this act shall be a separate offense, except that in the case of a violation through continuing failure or neglect to obey the provisions of this act, each day of continuance of such failure or neglect shall be deemed a separate offense.

Fine.

Succeeding violation.

Each violation a separate offense.

SEC. 5. The director of agriculture is authorized and directed:

(1) To administer and supervise the enforcement of this act; Supervise.

(2) To provide for such periodic inspections and investigations as he may deem necessary to disclose violations; Inspections.

(3) To receive and provide for the investigation of complaints; Investigations.

(4) To provide for the institution and prosecution of civil or criminal actions, or both. Prosecutions.

SEC. 6. The provisions of this act may be enforced by injunction brought by any private person, firm or corporation or by a municipal corporation or agent or subdivision thereof, in any court having jurisdiction to grant injunctive relief. Filled dairy products illegally held or otherwise involved in a violation of this act shall be subject to seizure and disposition in accordance with an appropriate court order. In addition, all filled dairy products as defined herein and all food products containing filled dairy products as an ingredient are hereby declared to be adulterated for all purposes of law including all the purposes of the Washington uniform food, drug and cosmetic act, sections 69.04.001 to 69.04.850, inclusive, R.C.W., as derived from chapter 257, Laws of 1945, as amended. Injunction.

[R.C.W. 69.04.001 to 69.04.850 is Rem. Supp. 1945, Title 40, Ch. 12-c.] Seizure.

SEC. 7. If any provision of this act, or any part or section thereof, is declared unconstitutional or the applicability thereof to any person, circumstances, or product is held invalid, the validity of the remainder of this act and the applicability thereof to other persons, circumstances or products shall not be affected thereby. Partial invalidity.

Passed the House January 29, 1951.

Passed the Senate February 15, 1951.

Approved by the Governor February 23, 1951.