

CHAPTER 211.

[H. B. 270.]

ADULTERATION OF FOODS, DRINKS AND DRUGS
PROHIBITED.

AN ACT to provide against the adulteration of foods, drinks and drugs, 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 the violation thereof; making an appropriation and repealing chapter XCIV of the Laws of 1901 as amended by chapter 51 of Laws of 1905, being an act entitled, "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 the violation thereof; making an appropriation, declaring an emergency, and repealing 'An act to provide against the adulteration of food,' approved March 13, 1899," approved March 16, 1901.

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

Sale of
adulterated
articles
prohibited.

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 or drug which is adulterated or misbranded within the meaning of this act.

Definition
of terms.

SEC. 2. That the term "drug," as used in this act, 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 to be used for the cure, mitigation or prevention of disease of either man or other animals. The term "food," as used herein, shall include all articles used for food, drink, confectionery or condiment by man or other animals, whether simple, mixed or compound.

Articles
deemed
adulterated.

SEC. 3. That for the purposes of this act an article shall be deemed to be adulterated:

In the case of drugs:

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 investigation: *Provided*, That no drug defined in the United States Pharmacopoeia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated upon the bottle, box or other container thereof, although the standard may differ from that determined by the test laid down in the United States Pharmacopoeia or National Formulary.

Second.—If its strength or purity fall below the professed standard or quality under which it is sold:

In case of confectionery:

Confectionery.

If it contains terra alba, barytes, talc, chrome yellow or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt or spiritous liquor or compound or narcotic drug.

In case of food:

Food.

First.—If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

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 or stained in a manner whereby damage or inferiority is concealed.

Fifth.—If it contains any added poisonous or other added deleterious ingredient which may render such article injurious to health: *Provided*, That when in the preparation of food products for shipment they are preserved by any external application applied in such manner that the preservative is necessarily removed mechanically or by maceration in water, or otherwise, and directions for the removal of said preservatives shall be printed on the covering or the package, the provisions of this act shall be

construed as applying only when said products are ready for consumption.

Sixth.—If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal unfit for food, whether manufactured or not, or if it is in the product of a diseased animal, or one that has died otherwise than by slaughter.

Misbranded
articles.

SEC. 4. That the term "misbranded," as used herein, shall apply to all drugs, or articles of food, 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 the state, territory or country in which it is manufactured or produced.

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

Drugs.

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, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta encaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any such substances contained therein.

Food.

In the case of food:

First.—If it be an imitation of or 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, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin,

alpha, or beta encaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any substances contained therein.

Third.—If the net weight or net measure of such package, bottle or container be given, and it shall not be the true net weight or net measure.

Fourth.—If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular: *Provided*, That an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

Articles not deemed adulterated or misbranded, when.

First.—In the cases of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second.—In the case of articles labeled, branded or tagged so as plainly to indicate that they are compounds, imitations or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale: *Provided*, That the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring and flavoring ingredients used for the purpose of coloring and flavoring only: *And provided further*, That nothing in this act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose their trade formulas, except in so far as the provisions of this act may require to secure freedom from adulteration or misbranding.

SEC. 5. No dealer shall be prosecuted under the provisions of this act if he shall prove a written guaranty of purity in a form approved by the Dairy and Food Com-

Guaranty of purity.

missioner: *Provided*, That the guarantor is a resident of the State of Washington. The guaranty referred to 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
prima facie
evidence.

Seizure of
articles.

SEC. 6. Possession by any person, firm or corporation of any article of food or drug, the sale of which 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 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 to dispose of or sell the same and apply the proceeds of the same 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 guaranty as required in section 5: *Provided, however*, That the Dairy and Food Commissioner shall first give notice to the person, firm or corporation in whose possession such goods are found, if in the possession of a common carrier, then the consignee of such food or drug, notifying such person, firm or corporation that he has seized such foods or drugs, 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 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 said petition the affidavits or oral testimony may be introduced to establish the contention of the respective parties. Hearing, however, may be had at an earlier date by mutual consent of the parties to said application.

SEC. 7. 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 or drug included in the provisions of this act, shall furnish to the Dairy and Food Commissioner or any of his deputies or any person authorized by him and 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.

Samples to be furnished for analysis.

SEC. 8. The State Dairy Commissioner shall also be 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 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. He shall appoint one of his deputies to be known as Deputy State Drug Inspector; such Deputy State Drug Inspector shall be a graduate and registered pharmacist under the laws of this State and shall receive as compensation one hundred dollars per month and necessary traveling expenses.

State Dairy Commissioner—compensation.

Deputies.

SEC. 9. 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.

Chemist at Agricultural Experiment Station to make analysis.

SEC. 10. It shall be the duty of the Attorney General and the prosecuting attorneys in the counties of this State to prosecute all cases arising under the provisions of this act.

Attorney General, duty of.

SEC. 11. 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 hospital, asylum,

Commissioner may enter restaurants, hotels, etc.

school, eleemosynary or penal institution, where foods or drugs are served or used, and take for analysis any article of food or drug, or ingredients which enter into the composition of food or drugs, there used. Any article of food, drugs or ingredients which enter into the composition of foods or drugs 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, patients 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 or drugs shall be deemed to have such adulterated food or drugs contrary to the provisions of this act.

Penalties.

SEC. 12. 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 five hundred dollars (\$500), or, in case of second offense, to be imprisoned not less than 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 or drug 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 or drugs, 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: *And provided further*, That the dealers having goods in stock on the passage of this act, which do not comply with its provisions relating to branding or labeling, may inventory the same and stamp them with a mark for identification, and shall have the

right thereafter to sell the goods so inventoried and marked, in ordinary course of business until disposed of: *And provided further*, That this act shall go into effect on the first day of October, 1907.

SEC. 13. The State Board of Dairy and Food 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."

State
Board of
Dairy and
Food Com-
mission.

SEC. 14. 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.

Expenses—
how paid.

SEC. 15. 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 and drugs found to be adulterated, and the necessary expense, if any, of said publication, shall be defrayed as provided in section 14 of this act.

Report of
Commis-
sioner.

SEC. 16. An act entitled "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," being chapter XCIV of the Laws of 1901, as amended by chapter 51 of the Laws of 1905, is hereby repealed.

Repeal.

Passed the House March 13th, 1907.

Passed the Senate March 13th, 1907.

Approved by the Governor March 15th, 1907.