

# MAINE STATE LEGISLATURE

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SEVENTH REVISION

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REVISED STATUTES

OF THE  
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## CHAPTER 42.

## Regulation of Sale of Milk.

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## Duties of Commissioner of Agriculture.

**Sec. 1. Duty of commissioner of agriculture to enforce law; to have access to all places of business.** R. S. c. 37, §§ 1, 4. 1919, c. 204. The commissioner of agriculture shall inquire into and investigate the production, manufacture, transportation, storage, and sale of milk, cream, butter, and all other dairy products, substitutes therefor, or imitations thereof. The said commissioner shall have access at all reasonable hours to all places of business, factories, or carriages, cans or other vessels used or which he believes to be used in the production or handling of milk or any other dairy product, substitute therefor, or imitation thereof; and upon tendering the market price of a sample of milk or other dairy product, substitute therefor, or imitation thereof, may take such sample from any person, firm, corporation, association, or society; and shall cause all samples so taken to be analyzed.

The commissioner of agriculture shall enforce the laws relating to the production, manufacture, transportation, storage, and sale of milk and all other dairy products, substitutes therefor, or imitations thereof, including oleomargarine and renovated butter, and the laws relating to the sealing of cans, bottles, and other vessels used in the purchase and sale of milk and cream, the protection thereof against mutilation, and the cleansing and sterilizing thereof before use or before being forwarded to producers or distributors of milk. The said commissioner may seize without warrant such cans, bottles, or other vessels used in the purchase or sale of milk or cream, as may, in his judgment, be needed as evidence of violation of the laws referred to above.

For the purpose of this chapter the commissioner of agriculture may act in person or by his duly authorized agents or assistants; and may employ such agents, assistants, chemists, counsel, and clerks, and may purchase such samples of milk, cream, and other dairy products, substitutes therefor, or imitations thereof, and such stationery, postage, printed matter, and other supplies incidental thereto, as may be necessary.

See c. 140, §§ 3, 6-10.

**Sec. 2. Penalty for obstructing commissioner in performance of duty.** R. S. c. 37, § 2. Whoever hinders, obstructs, or in any way interferes with the commissioner of agriculture, his agents, or assistants, in the performance of his or their duty by refusing entrance to any place where he is authorized to enter, or access to any receptacle to which he is authorized to have access, or by refusing to deliver to him, his agents, or assistants, a sample of milk or any other dairy product, substitute therefor, or imitation thereof, sold, offered, or exposed for sale by the person to whom such request is made if the value thereof is tendered, or in any other manner hinders, obstructs, or interferes

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with said commissioner, his agents, or assistants, in the performance of any of their said duties, shall be punished by a fine of one hundred dollars for the first offense and two hundred dollars for each subsequent offense.

**Sec. 3. Publication of results of analyses.** R. S. c. 37, § 3. 1919, c. 66, § 1. The commissioner of agriculture may, in his discretion, publish the results of all analyses with the names of the persons, firms, corporations, associations, and societies from which the samples analyzed were taken, together with such suggestions as he may deem advisable, in the regular or special bulletins issued by the department of agriculture. He may also, in his discretion, issue each month a report of the results of all analyses, for distribution to such newspapers in the state as may request a copy.

### Registration of Milk Dealers.

**Sec. 4. Registration of milk dealers; penalty for refusing to register or post certificate.** R. S. c. 37, § 5. 1919, c. 66, § 2. 1925, c. 18. 1927, c. 61. Any person, firm, corporation, association, or society who shall sell or deliver milk or cream as a business to any person from a wagon or other conveyance, depot, or store, or who shall sell or deliver milk to a hotel, restaurant, boarding-house, or any public place, shall be considered a milk dealer within the meaning of this section, and shall on or before the first day of January in each year, apply to the commissioner of agriculture for registration, furnishing such information as may be required, upon blanks issued and furnished by the said commissioner to such persons as may request the same. Every such registration shall expire on the first day of January, next after its issue, and shall be granted only to the milk dealer owning or leasing the vehicle or place from which sales or supplies are to be made, and shall not be transferred. Upon receipt of the application for registration, containing the information required, and upon being satisfied that all milk is being produced and handled in a sanitary way and is from cows free from disease, the said commissioner shall issue to the applicant a certificate of registration, which certificate shall be posted in a conspicuous place in the store or depot from which sale or supply is made, and the number of the certificate of registration for each wagon or other vehicle shall be placed in a conspicuous place on said wagon or other vehicle. The commissioner of agriculture may cancel the certificate of any dealer, who, after due hearing on complaint by the said commissioner or his authorized agent, is found to be selling milk produced or handled under unsanitary conditions or milk from diseased cows. If any person, firm, corporation, association, or society desires to become a milk dealer, as provided by this section, before the first day of January in any year, he or they shall, prior to engaging in the business, register with the commissioner of agriculture in the manner hereinbefore provided, for each place or vehicle from which sale or supply is to be made. Any dealer who neglects or refuses to register with the commissioner of agriculture, or to post certificates of registration in the store or depot from which sale or supply is made, or to post the number of the certificate of registration on the wagon or other vehicle from which sale or supply is made, as provided in this section, or to surrender his certificate to the said commissioner when notified in writing that the same has been canceled, and the reason given for cancelation, or who himself or by his servant or agent, sells or delivers or has in his custody or possession with intent to sell or deliver any milk after having been refused the aforesaid certificate of registration by the commissioner of agriculture, forfeits fifty dollars to be recovered in an action of debt, to be

prosecuted in the name of the state by the county attorney for the county in which such violation has occurred; but the provisions of this section shall not apply to milk or cream delivered to a creamery or butter or cheese factory.

**Sec. 5. Fees to be paid to commissioner of agriculture; how fees may be used.** 1921, c. 132. Each milk dealer when applying for registration as provided for by section four of this chapter shall pay to the commissioner of agriculture a fee of one dollar for each milk depot, vehicle and place from which sales are made. All money received by the commissioner of agriculture under this section shall be paid by him to the treasurer of state, and the same is hereby appropriated for the purposes specified in this chapter, and sections two, three, six, seven, eight, nine, ten, eleven, and twelve of chapter one hundred forty.

**Sec. 6. Municipal officers to prosecute violations.** R. S. c. 37, § 6. The mayor and aldermen, selectmen, assessors, city marshal, chief of police and constables in every city and town shall make complaint and prosecute all violations of the preceding sections, and promptly enforce all laws against illegal sale and transportation of dairy products.

#### Inspection and Sale of Milk.

**Sec. 7. Inspector or agent of state department of health may make inspection of dairy buildings.** R. S. c. 37, § 7. Whenever, in the opinion of any officer or duly authorized inspector or agent of the state department of health, it may be necessary to guard against the spread of any infectious or communicable disease, or to investigate the source of infection of any case or outbreak of said disease, or to facilitate the control of said disease, said officer, inspector, or agent may at all times enter and inspect premises, rooms, carriages, or other places occupied or used in the production, manufacture, storage, sale, transportation, or distribution of milk, cream, ice-cream, or other dairy product, and may inspect all cans and other utensils or things used in, or appertaining to the work or business.

**Sec. 8. Officer may prohibit sale or transportation of infected products; duty of state department of health.** R. S. c. 37, § 8. When any officer, inspector, or duly authorized agent of the state department of health has reason to believe that the milk, cream, ice-cream, or other dairy product from any farm, home, or other place has been or is contaminated or infected by being handled or otherwise exposed to any person who has an infectious or communicable disease, or to any person of whom there is reason to believe that he may be an infection carrier, or that the milk is otherwise infected; said officer, inspector, or agent may issue an order prohibiting the transportation, sale, distribution, or use of such milk or other dairy product from that farm, home, or other place so long as the danger of contamination or infection is believed to exist; but when such order is given, the state department of health shall, so far as possible, determine the time when the danger of transmitting infection has passed, and shall endeavor to shorten the period during which the milk or other dairy product shall be debarred or withheld from transportation, sale, distribution, or use.

**Sec. 9. Officers may take samples to aid in investigation.** R. S. c. 37, § 9. Any officer or authorized inspector or agent of the state department of health, may, upon tendering the market price of a sample of milk, cream, ice-cream, or other dairy product, take such sample from any person, firm, corporation, association, or society, when it is believed that such sample may help in any investigations which it may be thought desirable to make.

**Sec. 10.** State department of health may make rules and regulations as to diseases transmitted through milk. R. S. c. 37, §10. The state department of health may make, alter, or modify such rules and regulations as may be thought necessary relating to the diseases which it believes may be carried or transmitted through milk or other dairy products, or relating to the ways and means through which the danger of the spread of infection may be prevented or lessened, and the methods which shall be followed by any officer, inspector, or agent of the state department of health in the performance of his duties in relation thereto.

**Sec. 11.** Penalty for interference with inspector or agent in performance of duty. R. S. c. 37, § 11. Whoever hinders, obstructs, or interferes with any officer, inspector, or duly authorized agent of the state department of health while in the performance of his duties, or violates or disobeys any of the orders, rules, or regulations which may be made or given by the state department of health or any officer, inspector, or agent thereof, shall be punished by a fine of not less than five dollars, nor more than fifty dollars, or by imprisonment for not less than ten days, nor more than thirty days.

**Sec. 12.** Appointment of inspectors. R. S. c. 37, § 12. 1917, c. 190, § 1. The municipal officers of cities and towns containing not less than three thousand inhabitants, and the municipal officers of all other towns on application of ten voters therein, shall appoint annually one or more persons to be inspectors of milk, cream, butter, and all other dairy products, substitutes therefor, and imitations thereof, who before entering upon their duties, shall give notice of their appointment by publishing the same for two weeks in a newspaper published in their towns, if any, otherwise by posting such notice in two or more public places therein; and they may receive such fees as said officers establish.

**Sec. 13.** Duties of inspectors. R. S. c. 37, § 13. 1917, c. 190, § 2. Inspectors appointed by the municipal officers of cities and towns shall keep an office and books for the purpose of recording the names and places of business of all persons selling milk or other dairy products within their jurisdiction. They shall have access at all reasonable hours to all places of business, factories, or carriages, cans, or other vessels used in the production, handling, or sale of milk or any other dairy product, substitute therefor, or imitation thereof, and, upon tendering the market price of a sample of milk or other dairy product, substitute therefor, or imitation thereof, may take such sample from any person, firm, corporation, or association; cause it to be analyzed or otherwise satisfactorily tested, and preserve the result as evidence. The inspectors shall, if the owner of the product inspected so requests, leave with the owner a sealed specimen of the product examined by them, which shall be marked in the same manner as the specimen taken at that time by the inspector; and they shall prosecute for all violations of sections sixteen and twenty-six.

**Sec. 14.** Interference with inspector; penalty. 1917, c. 190, § 3. Whoever in any way interferes with an inspector, appointed under the provisions of section twelve, in the performance of his duties, by refusing entrance to a place he is authorized to enter, or access to a receptacle to which he is authorized to have access, or by refusing to deliver to him a sample which he is authorized to take, or in any other way interferes with said inspector in the performance of his duties, shall be punished by a fine of not less than ten dollars, nor more than fifty dollars, or by imprisonment for not less than ten days, nor more than thirty days.

See c. 140, §§ 2-6.

**Sec. 15.** Standard measure for milk and cream. R. S. c. 37, § 14. All milk and cream bought and sold by measure for consumption within this state shall

be bought and sold by wine measure, the standard for which shall be two hundred and thirty-one cubic inches to the gallon, and for subdivisions of the gallon, in the same proportion.

125 Me. 123.

**Sec. 16. All measures, cans, etc., to be proved and plainly marked; penalty.** R. S. c. 37, § 15. All measures, cans, or other vessels used in the purchase or sale of milk or cream, except glass bottles and jars sealed in accordance with the provisions of sections nineteen and twenty, shall be tried and proved by the standard mentioned in the preceding section, by the sealer of weights and measures of the city or town in which the person, firm, or corporation purchasing or selling such milk or cream resides or has a place of business. The sealer of weights and measures shall, agreeably to such a standard, plainly stamp thereon the quantity which such measures, cans, or other vessels hold, together with the year in which such measures, cans, or other vessels are sealed. Whoever, by himself, clerk, servant, or agent, sells by measure any milk or cream by any other than the measure so tried, sealed, and marked, shall forfeit for each offense the sum of ten dollars. Any measure, can, or other vessel used in the purchase or sale of milk or cream, lawfully sealed, as aforesaid, shall be deemed to be lawfully sealed under the provisions of this section.

See c. 53, § 28. \*125 Me. 123.

**Sec. 17. Milk cans to be cleansed and sterilized; storage room to be kept in sanitary condition; penalty.** R. S. c. 37, § 18. 1929, c. 182. All persons, firms, and corporations who shall purchase milk or cream for the purpose of reselling the same, either at wholesale or retail, shall thoroughly cleanse and sterilize, by the use of boiling water, steam, or sterilizing agent, all cans, vessels, and other utensils prior to their being used in the manufacture, transportation, storage, and sale of said milk or cream. All persons, firms, and corporations engaged in the business of retailing milk or cream, shall thoroughly cleanse and sterilize, by the use of boiling water, steam, or sterilizing agent, all vessels, jars, cans, and other utensils used in the manufacture, storage, and sale of milk or cream before such vessels, jars, or cans are filled for distribution. And the place or room in which milk or cream is stored, bottled, or otherwise handled shall be kept in a clean and sanitary condition. Any person, firm or corporation violating this section shall be punished by a fine of not more than fifty dollars.

**Sec. 18. Receptacles used for transportation of milk or cream products to be cleansed and sterilized; penalty.** R. S. c. 37, § 19. 1923, c. 189. All cans or other receptacles used in the transportation of milk or cream shall be cleansed and sterilized before being forwarded to the producer or distributor of milk or cream for use. All cans or other receptacles used in the transportation of ice-cream, sherbet, or frozen milk products shall be washed and cleansed with warm or cold water immediately upon the contents thereof being used, and before being returned and forwarded to the producer or distributor of such ice-cream, sherbet, or frozen milk products for use. Whoever by himself, clerk, servant, or agent, ships or transports or causes to be shipped or transported any cans or other receptacles used in the transportation of milk or cream not cleansed and sterilized, or any cans or other receptacles used in the transportation of ice-cream, sherbet, or frozen milk not washed or cleansed as provided in this section shall be punished by a fine of not more than fifty dollars for each offense.

**Sec. 19. Capacity of milk bottles and jars.** R. S. c. 37, § 20. 1927, c. 259, § 1. 1929, c. 192. Glass bottles and jars used for the sale of milk or cream shall be of the capacity of one quart or one pint or five-eighths of one pint, or one-half pint and shall be sealed as full measure under the provisions of section

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fourteen of chapter fifty-three or by the manufacturer, as provided in section twenty of this chapter. The following tolerances will be allowed: Four drams of excess and two drams of deficiency in the quart bottle, three drams of excess and one and one-half drams of deficiency in the five-eighths of one pint, and in the pint, and two drams of excess and one dram of deficiency in the one-half pint. The use, for the distribution of milk or cream to the consumer, of glass bottles or jars of any other capacity than as herein provided is hereby prohibited and declared to be illegal. All dealers in milk or cream who use, for the distribution of milk or cream to consumers, glass bottles or jars which have not been sealed by the manufacturer, shall bring such bottles or jars to the office of their city or town sealer to be sealed as aforesaid. If a bottle or jar has once been sealed by a sealer of weights and measures, or by the manufacturer, it shall not in any case be necessary to have it sealed again at any time while it is used for the distribution of milk or cream to consumers. Glass bottles or jars sealed under the provisions of this section shall not be legal measures except for the distribution of milk or cream.

\*125 Me. 123.

**Sec. 20. Marking of bottles and jars sealed by manufacturer; bond of manufacturer.** R. S. c. 37, § 21. Such bottles or jars as are sealed by the manufacturer shall be marked with the name, initials, or trade-mark of the manufacturer, and designating number, which designating number shall be different for each manufacturer and may be used in identifying the bottles. The designating number and the words "Maine Seal" shall be marked on the outside of the upper half of each bottle. The designating number shall be furnished by the state sealer of weights and measures upon application by the manufacturer, and upon filing by the manufacturer, with the treasurer of state, of a bond payable to the state in the sum of one thousand dollars, with sureties to be approved by the attorney-general, conditioned upon his conforming to the requirements of this section. A record of the bonds furnished, the designating numbers and to whom furnished, shall be kept in the office of the state sealer of weights and measures.

**Sec. 21. Penalty for selling bottles not complying with law; penalty for using such bottles.** R. S. c. 37, § 22. 1927, c. 259, § 2. Any manufacturer who sells milk or cream bottles to be used in this state that do not comply as to size and markings with the provisions of the two preceding sections, shall forfeit five hundred dollars, to be recovered by the attorney-general in an action upon the bond of such manufacturer. Any dealer who uses, for the purpose of selling milk or cream, jars or bottles that do not comply with the requirements of section nineteen as to markings and capacity shall be punished by a fine of not more than fifty dollars for each offense.

See c. 52, § 29.

**Sec. 22. County attorneys to give aid.** R. S. c. 37, § 23. The county attorney for the county in which any violation of the preceding sections has occurred, shall when called upon to do so by the commissioner of agriculture or either of his duly authorized agents or assistants, give all the aid in his power to secure the enforcement thereof, and shall prosecute cases arising thereunder or under other provisions relating to dairy products, substitutes therefor or imitations thereof.

**Sec. 23. Court jurisdiction.** R. S. c. 37, § 24. Trial justices and municipal and police courts shall have original jurisdiction, concurrent with the superior court, of prosecutions for violations of the preceding sections and of all other laws relating to the production, manufacture, transportation, storage, and sale of milk, cream, butter, cheese, and all other dairy products, substitutes therefor or imitations thereof.

See c. 140, §§ 2, 3, 6-12.



**Sec. 24. Milk to be weighed and tested by Babcock test.** R. S. c. 37, § 25. All milk or cream purchased by any person, firm, or corporation, for use in or to be resold by any creamery in this state, shall be weighed and shall be tested by the Babcock test to ascertain the amount of butter-fat per pound therein contained; and the value of the cream or milk thus purchased shall be determined by the amount of butter-fat per pound as thus ascertained. The test herein provided shall be made by the owners or operators of the creamery purchasing as aforesaid; but upon petition in writing, signed by twenty-five per cent or more of the patrons of any creamery and addressed to the commissioner of agriculture, or upon petition in writing signed by the owner or operator of any creamery and addressed to said commissioner, one or more tests shall be made by, or under the direction of said commissioner, and the finding of said commissioner shall be conclusive upon all parties therein concerned; provided, however, that when the total number of patrons of any one creamery exceeds one hundred then the number of petitioners herein required need not exceed thirty. All samples of cream tested by said test shall be weighed and the standard unit for testing shall be eighteen grams.

**Sec. 25. Penalty.** R. S. c. 37, § 26. Any person, firm, or corporation, or the servant or agent of any person, firm, or corporation, who violates the preceding section, shall be punished by a fine of not more than fifty dollars, or by imprisonment for not more than thirty days.

**Sec. 26. Bottles and glasses used to measure milk or cream to be tested for accuracy, and marked.** R. S. c. 37, § 28. All bottles, pipettes, or other measuring glasses used by any person, firm, or corporation, or their agents or employees, at any creamery, butter factory, cheese factory, condensed milk factory, or elsewhere in this state, in determining by the Babcock test or any other test, the value of milk or cream received from different persons at such creameries or factories, shall be tested before such use, for accuracy of measurement and for accuracy of the per cent scale marked thereon. Such bottles, pipettes, or measuring glasses shall bear in marks or characters ineffaceable the evidence that such test has been made by the authority named in the following section. No inaccurate bottles, pipettes, or other glasses shall bear such marks or characters.

See c. 49, § 12.

**Sec. 27. Duty of director of Maine Agricultural Experiment Station, to test and mark all bottles, etc.** R. S. c. 37, § 29. The director of the Maine Agricultural Experiment Station, or some competent person designated by him, shall test the accuracy of all bottles, pipettes, or other measuring glasses used by persons, firms, or corporations in the state buying or pooling milk or cream, or apportioning butter or cheese, made from the same, by the contents of butter-fat contained therein. The said director, or the person designated by him, shall mark such bottles, pipettes, or other measuring glasses as are found correct, with marks or characters which cannot be erased, and which marks or characters shall stand as proof that they have been so tested. The said director shall receive for such service no more than the actual cost incurred, which shall be paid by the persons or corporations for whom it is done.

**Sec. 28. Persons who manipulate test to be certified by superintendent of dairy school.** R. S. c. 37, § 30. Any person, either for himself or in the employ of any other person, firm, or corporation, who manipulates the Babcock test or any other test, whether mechanical or chemical, for the purpose of measuring the contents of butter-fat in milk or cream for a basis of apportioning the value of such milk or cream, or of the butter or cheese made from the same, shall secure a certificate from the superintendent of the dairy school at the University

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of Maine that he is competent and well qualified to perform such work. The rules and regulations in the application for such certificate and in the granting of the same shall be such as the superintendent of that school may arrange, and the fee for issuing a certificate shall not exceed one dollar, and shall be paid by the applicant.

**Sec. 29. Penalty for using sulphuric acid of less than required specific gravity; penalty for violations of §§ 26, 28. R. S. c. 37, § 31.** Whoever uses, or has in his possession with intent to use, at any creamery, butter factory, cheese factory, or condensed milk factory, any sulphuric acid of less than one and eighty-two hundredths of specific gravity in the process known as the Babcock test or any other test for determining the butter-fat contents of milk or cream, shall be punished by a fine of not more than twenty-five dollars for the first offense, and for a second offense of not more than fifty dollars. Any person, firm, or corporation, violating the provisions of section twenty-six, shall be punished by a fine of not more than fifty dollars for the first offense, and for a second offense by a fine of not more than one hundred dollars; and any person violating section twenty-eight shall be punished by a fine of not more than ten dollars. Every inspector of milk, sheriff, deputy sheriff, and constable shall institute complaint against any person violating said provisions, and one-half of the fines shall go to the complainant and the balance to the state.

#### Protection of Milk Dealers in the Use of Containers.

**Sec. 30. Dealers may file description of name and devices, and publish such description. R. S. c. 37, § 32.** All persons and corporations engaged in buying, selling, or dealing in milk or cream in cans, jugs, bottles, or jars, with their names or other marks or devices, together with the word "Registered," branded, engraved, blown, or otherwise produced in a permanent manner in or upon such cans, jugs, bottles, or jars, may file in the office of the clerk of the city or town in which their principal place of business is situated, and in the office of the secretary of state, a description of the name or names, mark or marks, device or devices so used by them, and cause such description to be published once each week for four weeks successively in a newspaper published in the city or town in which said description has been filed aforesaid; if there is no newspaper published in such city or town, then such publication may be made in any newspaper published in the county in which such city or town is situated.

See c. 49, § 38.

**Sec. 31. Penalty for using any milk can, without consent of owner; possession constitutes prima facie evidence. R. S. c. 37, § 33.** Whoever without the consent of the owner takes, detains, or uses in his business, sells, disposes of, buys, conceals, or traffics in any milk can, jug, bottle, or jar, the owner of which has complied with the provisions of the preceding section, shall be punished for the first offense by a fine of not more than five dollars, or by imprisonment for not more than sixty days, for each can, jug, bottle, or jar so taken, detained, or used in his business, sold, disposed of, bought, concealed, or trafficked in; and for any subsequent offense by a fine of not more than ten dollars, or by imprisonment for not more than six months, for each can, jug, bottle, or jar so taken, detained or used in his business, sold, disposed of, bought, concealed, or trafficked in as aforesaid. Possession by any person in the transaction of his business of any such article the owner of which has complied with the provisions of the preceding section shall constitute prima facie evidence of the unlawful taking, use, detention, possession of, or traffic in the same within the meaning of this section.

**Sec. 32. Penalty for defacing or mutilating any can, jug, etc.** R. S. c. 37, § 34. Whoever without the consent of any owner who has complied with the provisions of section thirty wilfully destroys, mutilates, or defaces any can, jug, bottle, or jar bearing such owner's name, mark, or device, or wilfully erases, mars, covers, or changes any word or mark branded, engraved, blown, or otherwise produced, in a permanent manner in or upon any such can, jug, bottle, or jar, shall be punished for the first offense by a fine of not more than five dollars, or by imprisonment for not more than sixty days, for each can, jug, bottle, or jar so destroyed, mutilated, or defaced, or for each can, jug, bottle, or jar upon which any word or mark has been erased, marred, covered, or changed as aforesaid; and for any subsequent offense by a fine of not more than ten dollars, or by imprisonment for not more than six months, for each can, jug, bottle, or jar, so destroyed, mutilated, or defaced, or for each can, jug, bottle, or jar upon which any word or mark has been erased, marred, covered, or changed as aforesaid.

**Sec. 33. Penalty for placing any foul substance into any can, jug, etc.** R. S. c. 37, § 35. 1919, c. 7. Whoever by himself, or by his servant, or agent, or as a servant or agent of any other person, firm, or corporation, sends, ships, returns, or delivers, or causes, or permits to be sent, shipped, returned, or delivered to any producer of, or dealer in milk and cream, any can, jar, bottle, measure, or other vessel used as a container for milk and cream, containing any offal, swill, kerosene, vegetable matter, rotten or putrid milk, or any other offensive material, shall be punished for the first offense by a fine of not less than one dollar nor more than five dollars for each can, jug, bottle, or jar so defiled; and for any subsequent offense by a fine of not less than two dollars nor more than twenty dollars for each can, jug, bottle, or jar so defiled.

**Sec. 34. Search warrant may be issued for vessels held in wrongful possession.** R. S. c. 37, § 36. Whenever any person or corporation having complied with the provisions of section thirty, or the agent of any such person or corporation, shall make oath before the judge of any municipal or police court, or before any trial justice, that he has reason to believe and does believe that any person or corporation has wrongfully in possession, or is secreting any of his or its milk cans, jugs, bottles, or jars, marked and described as provided in section thirty, said judge or trial justice shall, if satisfied that there is reasonable cause for such belief, issue a search warrant to discover and obtain the same, and may also cause to be brought before him the person or an agent or employee of the corporation in whose possession such cans, jugs, bottles, or jars are found, and shall thereupon inquire into the circumstances of such possession; if said judge or trial justice finds that such person or corporation has been guilty of a wilful violation of sections thirty-one, thirty-two or thirty-three, he shall impose the penalty prescribed in the section or sections so violated, and shall also award to the owner possession of the property taken upon such search warrant.

See c. 144, § 14.

**Sec. 35. Sale of condensed or evaporated milk which does not conform to certain standards, prohibited; can must bear name of manufacturer or jobber.** 1925, c. 137, § 1. No person, firm, or corporation shall by himself, his servant, or agent, or as the servant or agent of another manufacture, sell, exchange, distribute, offer, or expose for sale or distribution in the state any condensed or evaporated milk which shall not conform at least to the minimum standards established by regulation by the commissioner of agriculture or established by statute and which if contained in hermetically sealed cans does not bear stamped or labeled thereon the name and address of the manufacturer or jobber thereof.

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Sec. 36. Sale of milk, cream, condensed milk, etc., to which has been added any fat or oil other than milk fat, prohibited. 1925, c. 137, § 2. No person, firm, or corporation shall by himself, his servant, or agent or as the servant or agent of another manufacture, sell, distribute, offer or expose for sale or distribution in the state, or have in possession with intent to sell or exchange any milk, cream, skim-milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim-milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever.

Sec. 37. Containers of condensed, evaporated or powdered skim-milk, how marked and branded. 1925, c. 137, § 3. No person, firm, or corporation shall by himself, his servant or agent, or as the servant or agent of another, sell or exchange, or expose for sale or exchange, or offer or expose for sale or distribution, or have in possession with intent to sell or exchange any condensed or evaporated or powdered skim-milk in containers holding less than ten pounds avoirdupois net weight unless said container shall bear the name and address of the manufacturer distinctly branded, labeled, or printed thereon together with the words "Condensed Skim-Milk" or "Powdered Skim-Milk," as the case may be, in Roman letters of a size at least as large as any other words or letters appearing on said brand or label.

Sec. 38. Penalty. 1925, c. 137, § 4. Whoever violates any of the provisions of the foregoing section shall be punished by a fine of not more than one hundred dollars for the first offense and by a fine of not more than two hundred dollars for each subsequent offense.

Sec. 39. Enforcement of §§ 35-38. 1925, c. 137, § 5. The commissioner of agriculture shall be charged with the enforcement of the preceding four sections.

Sec. 40. Commissioner may take samples from creameries, cheese, or condensed milk factories for purpose of testing butter-fat contents; owner may require duplicate test. 1919, c. 170, § 1. The commissioner of agriculture, or his deputy, may enter upon the premises of any creamery, cheese factory, condensary, or receiving station for milk or cream, and may take possession of any or all samples of milk or cream drawn for the purpose of testing their butter-fat contents, which are on the premises or in the possession of any employee, or may take samples from patrons' deliveries, and then and there test the same. The owner, operator, or manager of any creamery, cheese factory, condensary, or receiving station for milk or cream shall, if requested by said commissioner or his deputy, give him full access to all creamery records appertaining to the tests thereof, and said commissioner or his deputy may make transcripts therefrom. The results of the tests made by said commissioner or his deputy may, at the discretion of said commissioner, be communicated to the owner, operator, or manager or to any of the patrons of the creamery, cheese factory, condensary, or receiving station for milk or cream from which such samples have been taken and tested, or to all of them. The owner, operator, or manager of any creamery, cheese factory, condensary, or receiving station for milk or cream at which tests, under the provisions of this section, are made by said commissioner or his deputy, may require said commissioner or his deputy to take duplicate sealed subsamples of all samples thus tested and to promptly forward the same to the Maine Agricultural Experiment Station for further test, in which case no communication of the results of the tests made by said commissioner or his deputy shall be made to the patrons of the creamery, cheese factory, condensary, or

receiving station for milk or cream, unless the same shall substantially agree with the results of the test made by said Maine Agricultural Experiment Station, or unless the commissioner is notified by the Maine Agricultural Experiment Station that the samples were received in a condition unfit to analyze. The owner, operator, or manager of a creamery, cheese factory, condensary, or receiving station for milk or cream, who shall require the taking and forwarding of subsamples shall pay in advance all the carriage charges thereon and said Maine Agricultural Experiment Station for all tests made under the provisions of this section at the rate of ten cents for each milk sample and fifteen cents for each cream sample. The money thus received shall be used to defray the expenses incurred by said agricultural experiment station in connection with this section, but any balance that may remain after paying said expenses shall be paid by the director of said Maine Agricultural Experiment Station to the state treasurer. Said Maine Agricultural Experiment Station shall report in duplicate to the commissioner of agriculture and to the owner, operator, or manager of any creamery, cheese factory, condensary, or receiving station for milk or cream, the results of all tests made by it. If samples are received in poor condition said Maine Agricultural Experiment Station shall not be required to analyze the same, but in such case the advance payments required by this section shall be returned to the persons making the same.

**Sec. 41. Commissioner may inspect testing apparatus and order same condemned.** 1919, c. 170, § 2. The commissioner of agriculture, or his deputy, may enter the premises of any creamery, cheese factory, condensary, or receiving station for milk or cream, and may inspect all apparatus and materials used for making tests for the purpose of determining the accuracy of the same, and for ascertaining whether the provisions of sections twenty-six, twenty-seven, twenty-eight, and twenty-nine are being complied with. Said commissioner of agriculture may order any testing apparatus to be repaired or may condemn the same or any part thereof or any materials used in making tests, and may give such instructions regarding the making of tests as he deems proper.

**Sec. 42. Penalty for false tests or impeding officer.** 1919, c. 170, § 3. Any owner, operator, or manager of a creamery, cheese factory, condensary, or receiving station for milk or cream, wherein milk or cream are bought and paid for on the basis of their butter-fat contents, who credits any patron or patrons delivering milk or cream with a greater or less percentage of fat than is actually contained in the milk or cream so delivered, or who hinders, impedes, or obstructs said commissioner of agriculture, or his deputy, in the discharge of his duty under the preceding two sections or who refuses him access to his testing apparatus or his records of tests, or who neglects to follow the instruction given him by said commissioner of agriculture in accordance with the provisions of said sections shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars for each offense.