

MAINE STATE LEGISLATURE

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PART 2

MARKETING, GRADING AND LABELING

Chap.	Sec.
101. General Provisions	401
103. Products Controlled	531

CHAPTER 101

GENERAL PROVISIONS

Subch.	Sec.
I. Marketing and Advertising Farm Products	401
II. Grades and Standards for Farm Products	441
III. Adulterated or Misbranded Goods	481

SUBCHAPTER I

MARKETING AND ADVERTISING FARM PRODUCTS

Sec.
401. Methods and costs.
402. Advertising of products.

§ 401. Methods and costs

The commissioner is authorized and directed, through such agents as he may appoint for the purpose and in cooperation with such agricultural corporations or associations as he may deem proper, to investigate the existing methods and costs of marketing farm products and purchasing farm supplies and to secure improvement therein.

R.S.1954, c. 32, § 30.

§ 402. Advertising of products

The commissioner may investigate and furnish statements to shippers and other interested parties as to the quality and condition of fruits, vegetables, dairy and other perishable farm products when received within the State for intrastate or interstate commerce, under such rules and regulations as he may

prescribe, including payment of such fees as will be reasonable and as nearly as may be to cover the cost for the service rendered. All such fees and all such money thus collected for such services rendered by the commissioner shall be paid by him to the Treasurer of State, and the aforesaid funds and money are appropriated for the purposes of this Title. Any unexpended balance from such funds thus appropriated shall not lapse, but shall be carried forward to the same fund for the next fiscal year. Statements so issued by the authorized agents of the department shall be received in all courts of this State as prima facie evidence of the truth of the statements therein contained. He may enter into agreements or cooperative arrangements with any person, firm or corporation for the purpose of advertising and increasing the sale and consumption of Maine farm products or disseminating information concerning the same. He may receive, administer and disburse any funds or contributions from such persons, firms or corporations, either independently or in conjunction with state funds allocated to said purpose, provided that funds so contributed shall be used for the purposes set forth only. He may employ such agents and assistants, subject to the Personnel Law, and make such purchases as may be necessary in the proper performance of his duties.

R.S.1954, c. 32, § 31.

SUBCHAPTER II

GRADES AND STANDARDS FOR FARM PRODUCTS

Sec.

- 441. Rules and regulations.
- 442. Hearings.
- 443. Brands, labels and trademarks; revocation.
- 444. Publicity.
- 445. Permits.
- 446. Inspections.
- 447. Access for inspection purposes.

§ 441. Rules and regulations

The commissioner may prescribe rules and regulations for carrying out the purposes of this subchapter, including the fixing of fees as provided in section 402.

R.S. 1954, c. 32, § 37.

§ 442. Hearings

The commissioner may establish and promulgate official grades and standards for farm products, excepting dairy products produced within the State for the purposes of sale, and may from time to time amend or modify such grades and standards. Before establishing, amending or modifying any such grades or standards, the said commissioner shall hold public hearings in such places within the State as shall be most convenient to producers of the commodity under consideration. Notice of such hearings shall be advertised for 3 successive weeks prior thereto, in a newspaper or newspapers of general circulation within the county where the hearing is to be held, and shall specify the date and place of each hearing and that it is to be held for the purpose of obtaining information with a view to establishing grades or standards for farm products.

R.S.1954, c. 32, § 32; 1957, c. 223, § 1.

§ 443. Brands, labels and trademarks; revocation

The commissioner may determine or design brands, labels or trademarks for identifying farm products and sardines packed in accordance with such official grades and standards established as provided by law and may furnish information to packers and shippers as to where such labels and trademarks may be obtained. A written application to the said commissioner requesting permission to use said brands, labels or trademarks, and a written acceptance thereto by the said commissioner or duly authorized assistants, shall be a condition precedent to the use of such brands, labels or trademarks. The said commissioner may revoke or suspend the right to use such brands, labels or trademarks whenever it appears on investigation that they have been used to identify farm products and sardines not in fact conforming to the grade indicated.

R.S.1954, c. 32, § 33; 1959, c. 243, § 2.

§ 444. Publicity

Upon the establishment of the grades or standards, brands, labels or trademarks, the commissioner shall give due publicity through the newspapers of the State, setting forth the grade or grades so established and the date on which such establishment is to become effective, and distribute information explaining the same and their use.

R.S.1954, c. 32, § 34.

§ 445. Permits

After notice of the establishment of grades or standards and the determination of brands, labels or trademarks, it shall be unlawful to use a brand, label or trademark to identify farm products and sardines as being of a grade established before a permit is granted or after the revocation of the right to use such brand, label or trademark by the commissioner. Violations of this section shall be punishable for the first offense by a fine of not more than \$50 and for subsequent offenses by a fine of not more than \$200.

R.S.1954, c. 32, § 35; 1959, c. 243, § 3.

§ 446. Inspections

The commissioner or his duly authorized agents may inspect farm products and sardines, marked, branded or labeled in accordance with official grades or standards established and promulgated by the said commissioner for the purpose of determining and certifying the quality and condition thereof and other material facts relative thereto. Certificates issued in pursuance of such inspection and executed by the inspector shall state the date and place of inspection, the grade, condition and approximate quality of the farm products and sardines inspected and such other pertinent facts as the said commissioner may require. Such a certificate relative to the condition or quality of said farm products and sardines shall be prima facie evidence in all courts of the State of the facts required to be stated therein.

R.S.1954, c. 32, § 36; 1959, c. 243, § 4.

§ 447. Access for inspection purposes

The commissioner, in person or by deputy, shall have free access at all reasonable hours to any building or other place wherein it is reasonably believed that farm products are marked, branded or labeled in accordance with official grades established and promulgated by the said commissioner or are being marketed or held for commercial purposes. He shall have power in person or by deputy to open any bags, crates or other containers containing said farm products and examine the contents thereof and may, upon tendering the market price, take samples therefrom. Whoever obstructs or hinders the said commissioner or any of his duly qualified assistants in the performance of his duties under this subchapter shall be punished by a fine of not less than \$10 nor more than \$100.

R.S.1954, c. 32, § 38.

SUBCHAPTER III

ADULTERATED OR MISBRANDED GOODS

Sec.

- 481. Definitions.
- 482. Manufacture and sale prohibited.
- 483. Adulteration.
- 484. Misbranding.
- 485. Annual analysis.
- 486. Place of analysis.
- 487. Certificates.
- 488. Prohibitions and penalties.
- 489. Exceptions.

§ 481. Definitions

The term "drug" as used in this Title shall be held to 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 man or other animals.

R.S.1954, c. 32, § 181; 1957, c. 331, § 3; 1959, c. 241, § 3.

§ 482. Manufacture and sale prohibited

No person shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any article of commercial feeding stuff, commercial fertilizer, drug or food which is adulterated or misbranded within the meaning of this Title.

R.S.1954, c. 32, § 180.

§ 483. Adulteration

For the purpose of this Title an article shall be deemed to be adulterated:

1. Drug. In case of a drug:

A. 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 laid down in the United States pharmacopoeia or national formulary official at the time of investigation, or as fixed by the commissioner. No drug defined in the United

States pharmacopoeia, the national formulary or by said commissioner shall be deemed to be adulterated under the provision if the standard of strength, quality or purity be plainly stated, so as to be understood by the nonprofessional person, upon the bottle, box or other container thereof, although the standard may differ from that laid down in the United States pharmacopoeia, national formulary or that fixed by said commissioner;

B. If its strength or purity differs from the professed standard or quality under which it is sold.

1957, c. 331, § 7.

2. Meat or meat products. In case of meat or meat products: If any sodium sulphite, sodium bisulphite or any drug, chemical, chemical compound or preservative from which sulphur dioxide can be liberated has been added thereto or mixed therewith. (1957, c. 331, § 7.)

R.S.1954, c. 32, § 189; 1957, c. 331, §§ 6, 7; 1959, c. 241, § 6.

§ 484. Misbranding

The term "misbranded" as used in this Title shall apply to all articles of commercial feeding stuff, commercial fertilizer, drug or 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, or which is falsely branded in any particular.

For the purpose of this Title an article shall be deemed to be misbranded:

1. Drug. In case of a drug:

A. If it be an imitation of or offered for sale under the name of another article;

B. 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 except in the case of a physician's prescription compounded by a physician or a registered pharmacist, if the package fails to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or any preparation of any such substances contained therein. (1957, c. 331, § 9.)

R.S.1954, c. 32, § 190; 1957, c. 331, §§ 8, 9; 1959, c. 241, § 7.

§ 485. Annual analysis

The Director of the Maine Agricultural Experiment Station shall annually analyze, or cause to be analyzed, samples of articles of agricultural or vegetable seed, commercial feeding stuff, commercial fertilizer, drugs, foods and economic poisons at such time and to such extent as the commissioner may determine. Said commissioner, in person or by deputy, shall have free access, ingress and egress at all reasonable hours to any place or any building wherein articles of agricultural or vegetable seed, commercial feeding stuff, commercial fertilizer, drugs, food or economic poisons are manufactured, stored, transported, sold, offered or exposed for sale. He may, in person or by deputy, open any case, package or other container, and may, upon tendering the market price, take samples for analysis. The results of all analyses of agricultural or vegetable seed, commercial feeding stuff, commercial fertilizer, drugs, food and economic poisons made by said director shall be published by him in the bulletins or reports of the experiment station, together with the names of the persons from whom the samples were obtained, the names of the manufacturers thereof and such additional information as to him may seem advisable.

R.S.1954, c. 32, § 208.

§ 486. Place of analysis

The commissioner shall have all analyses of commodities, except milk and cream, examined under the inspection laws of which he is the executive, made at the Maine Agricultural Experiment Station. The director of said station shall analyze or cause to be analyzed all samples submitted to him by said commissioner. Said station shall be compensated to cover the expense of said analyses by said commissioner.

R.S.1954, c. 32, § 212.

§ 487. Certificates

Every certificate duly signed and acknowledged by the Director of the Maine Agricultural Experiment Station, relating to the collection and analysis of any sample of agricultural or vegetable seed, commercial feeding stuff, commercial fertilizer, drug, food or economic poison, shall be presumptive evidence of the facts therein stated.

R.S.1954, c. 32, § 213.

§ 488. Prohibitions and penalties

No person shall adulterate or misbrand, within the meaning of this Title, any commercial feeding stuff, commercial fertilizer, drug, food or vinegar, or manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any article of commercial feeding stuff, commercial fertilizer, drug, food or vinegar in violation of any of the provisions of this Title. Whoever violates said provisions shall be punished by a fine of not more than \$100 for the first offense and by a fine of not more than \$200 for each subsequent offense.

R.S.1954, c. 32, § 214.

§ 489. Exceptions

No person shall be prosecuted under chapter 401, and sections 481 to 488, 640 to 643, 791 to 795, 871, 911 to 913 and 1081 to 1085, when he can establish proof of purchase, and a guaranty signed by the person residing in the United States from whom the purchase was made, to the effect that the article in question is not adulterated or misbranded within the meaning of this Title.

R.S.1954, c. 32, § 215.