

# MAINE STATE LEGISLATURE

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FOODS AND DRUGS

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CHAPTER 551

PURE FOODS AND DRUGS GENERALLY

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SUBCHAPTER I

FOODS

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**§ 2151. Short title**

This subchapter shall be known and may be cited as the "Maine Food Law."

R.S.1954, c. 32, § 216.

**§ 2152. Definitions**

As used in this subchapter, the following words and phrases shall have the following meanings:

**1. Advertisement.** "Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food.

**2. Contaminated with filth.** "Contaminated with filth" applies to any food not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

**3. Federal Act.** "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U.S.C. 301 et seq.; 52 Stat. 1040 et seq.).

**4. Food.** "Food" means articles used for food or drink for man or other animals, chewing gum and articles used for components of any such article.

**5. Immediate container.** "Immediate container" does not include the package liners but in the case of bottles shall include crowns or caps affixed thereto.

**6. Label.** "Label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made by or under authority of this subchapter, that any word, statement or other information appear on the label shall not be considered to be complied with unless such word, statement or other information appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

**7. Labeling.** "Labeling" means all labels and other written, printed or graphic matter upon an article or any of its containers or wrappers, or accompanying such article.

If an article is alleged to be misbranded because the labeling is misleading or if an advertisement is alleged to be false be-

cause it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound or in any combination thereof, but the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

**8. Selling of food.** This subchapter regarding the selling of food shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale; and the sale, dispensing and giving of any such article, and the supplying or applying of any such articles in the conduct of any food establishment.

R.S.1954, c. 32, § 217.

### § 2153. Powers of commissioner

The authority to promulgate regulations for the efficient enforcement of this subchapter is vested in the Commissioner of Agriculture. The commissioner is authorized to make the regulations promulgated under said subchapter conform in so far as practicable with those promulgated under the Federal Act.

Hearings authorized or required by this subchapter shall be conducted by the commissioner or such officer, agent or employee as the commissioner may designate for the purpose.

Before promulgating any regulations contemplated by section 2154 and section 2157, subsection 10, the commissioner shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so promulgated shall become effective on a date fixed by the commissioner, which date shall not be prior to 30 days after its promulgation. Such regulation may be amended or repealed in the same manner as is provided for its adoption, except that in the case of a regulation amending or repealing any such regulation the commissioner, to such an extent as he deems necessary in order to prevent undue hardship, may disregard the provisions regarding notice, hearing or effective date.

R.S.1954, c. 32, § 227.

**§ 2154. Regulations**

Whenever in the judgment of the Commissioner of Agriculture such action will promote honesty and fair dealing in the interest of consumers, the commissioner shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, or reasonable standard of quality or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the commissioner shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as practicable to the definitions and standards promulgated under authority of the Federal Act.

R.S.1954, c. 32, § 223.

**§ 2155. Prohibitions**

The following acts within this State are prohibited:

1. **Adulterated or misbranded food.** The manufacture, sale or delivery, holding or offering for sale of any food that is adulterated or misbranded;
2. **Adulteration or misbranding.** The adulteration or misbranding of any food;
3. **Receipt in commerce or delivery.** The receipt in commerce of any food that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise;
4. **False advertisement.** The dissemination of any false advertisement;
5. **Inspection refusal.** The refusal to permit entry or inspection, or to permit the taking of a sample as authorized in section 2164;
6. **False guaranty.** The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the United States from whom he received in good faith the food;
7. **Removal of embargoed article.** The removal or disposal of a detained or embargoed article in violation of section 2159;
8. **Alteration, etc. of label.** The alteration, mutilation, destruction, obliteration or removal of the whole or any part of the

labeling of, or the doing of any other act with respect to a food, if such act is done while such article is held for sale and results in such article being misbranded;

**9. Forging, etc. of label.** Forging, counterfeiting, simulating or falsely representing, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by regulations promulgated under this subchapter.

R.S.1954, c. 32, § 218.

## § 2156. Adulteration

A food shall be deemed to be adulterated:

### 1. Poisonous or deleterious substance.

**A.** If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this paragraph if the quantity of such substance in such food does not ordinarily render it injurious to health; or

**B.** If it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of section 2158; or

**C.** If it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance or if it is otherwise unfit for food; or

**D.** If it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or

**E.** If it is the product of a diseased animal or an animal which has died otherwise than by slaughter or that has been fed upon the uncooked offal from a slaughterhouse; or

**F.** If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

### 2. Substances added or omitted.

**A.** If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or

**B.** If any substance has been substituted wholly or in part therefor; or

**C.** If damage or inferiority has been concealed in any manner; or

**D.** If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

**3. Substances in confectionery.** If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinuous glaze not in excess of  $\frac{1}{10}$  of 1%, harmless natural wax not in excess of  $\frac{1}{10}$  of 1%, harmless natural gum and pectin. This subsection shall not apply to any confectionery by reason of its containing less than  $\frac{1}{2}$  of 1%, by volume of alcohol derived solely from use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

**4. Coal-tar color.** If it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the Federal Act.

R.S.1954, c. 32, § 224.

## § 2157. Misbranded food

A food shall be deemed to be misbranded:

**1. False or misleading label.** If its labeling is false or misleading in any particular;

**2. Sale under another name.** If it is offered for sale under the name of another food;

**3. Imitation of another food.** If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter the name of the food imitated;

**4. Misleading container.** If its container is so made, formed or filled as to be misleading;

**5. Label for package form.** If in package form, unless it bears a label containing:

**A.** The name and place of business of or sufficient information to identify the manufacturer, packer or distributor;

**B.** An accurate statement of the quantity of the contents in terms of weight, measure or numerical count. Reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the commissioner;

**6. Statements on label placed conspicuously.** If any word, statement or other information, required by or under authority of this subchapter to appear on the label or labeling, is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or devices in the labeling, and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

**7. Conformity with prescribed definition and standard.** If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 2154 unless it conforms to such definition and standard, and, in so far as may be required by such regulations, the common names of optional ingredients, other than spices, flavoring and coloring, present in such food;

**8. Quality below standard.** If it purports to be or is represented as:

**A.** A food for which a standard of quality has been prescribed by regulations as provided by section 2154 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standards; or

**B.** A food for which a standard or fill of container has been prescribed by regulations as provided by section 2154, and it falls below the standard or fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard;

**9. Name of food and ingredients.** If it is not subject to subsection 7, unless it bears labeling clearly giving:

**A.** The common or usual name of the food, if any there be, and

**B.** In case it is fabricated from 2 or more ingredients, the common or usual name of each such ingredient, except that spices, flavoring and colorings, other than those sold as such, may be designated as spices, flavoring and colorings without

naming each. To the extent that compliance with the requirements of this paragraph is impractical or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Commissioner of Agriculture. The requirements of this paragraph shall not apply to a carbonated beverage, the ingredients of which have been fully and correctly disclosed in an affidavit subscribed and sworn to by the manufacturer or bottler thereof and filed with the commissioner;

**10. Dietary properties.** If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the Commissioner of Agriculture determines to be, and by regulation prescribed as necessary in order to fully inform purchasers as to its value for such uses;

**11. Artificial flavoring and coloring.** If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears labeling stating the fact. If the artificial flavoring and artificial coloring declaration does not refer to the entire contents of the package, the words "artificial flavoring" and "artificial coloring" must follow immediately each of the ingredients of the package containing one or more of these substances. The common or usual name of any chemical preservative must be immediately followed by the words "chemical preservation". To the extent that compliance with the requirements of this subsection is impracticable, exemptions shall be established by regulations promulgated by the Commissioner of Agriculture. This subsection, and subsections 7 and 9, with respect to artificial coloring, shall not apply in the case of butter, cheese or ice cream. (1959, c. 272.)

R.S.1954, c. 32, § 225; 1959, c. 272.

### § 2158. Addition of certain substances limited

Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B; but when such substance is so required or cannot be avoided, the Commissioner of Agriculture shall promulgate regulations limiting the quantity therein or thereon to such extent as the commissioner finds necessary for the protection of public health, and any quantity exceeding the limits

so fixed shall be deemed to be unsafe for purposes of the application of section 2156, subsection 1, paragraph B. While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of section 2156, subsection 1, paragraph A. In determining the quantity of such added substance to be tolerated in or on different articles of food, the commissioner shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

R.S.1954, c. 32, § 226.

### § 2159. Articles detained, embargoed and condemned

Whenever a duly authorized agent of the Commissioner of Agriculture finds or has probable cause to believe that any food is adulterated, or so misbranded as to be dangerous or fraudulent, within the meaning of this subchapter, he shall affix to such article a tag or other appropriate marking, giving notice that such article is or is suspected of being adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

When an article detained or embargoed under the preceding paragraph has been found by such agent to be adulterated or misbranded, he shall petition the proper officer of the District Court or Superior Court in whose jurisdiction the article is detained or embargoed for a libel for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree, be destroyed at the expense of the claimant thereof, under the supervision of such agent, and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent. When the adulteration or misbranding can be corrected by proper labeling or processing of

the article, the court, after entry of the decree and after such costs, fees and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the commissioner. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the commissioner that the article is no longer in violation of this subchapter, and that the expenses of such supervision have been paid.

Whenever the commissioner or any of his authorized agents shall find in any room, building, vehicle of transportation or other structure any meat, sea food, poultry, vegetable, fruit or other perishable articles which are unsound or contain any filthy, decomposed or putrid substance or that may be poisonous or deleterious to health or otherwise unsafe, the same being declared to be a nuisance, the commissioner or his authorized agent shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food. In the event that any food found on any vehicle of transportation is detained, embargoed, condemned or destroyed under any of the provisions of this section by the commissioner or his authorized agents, the commissioner shall forthwith notify the consignor, consignee and the carrier of the action taken and the amount and kind of goods detained, embargoed, condemned or destroyed.

R.S.1954, c. 32, § 221; 1963, c. 402, § 64.

### § 2160. Notice

Nothing in this subchapter shall be construed as requiring the Commissioner of Agriculture to report for the institution of proceedings under said subchapter minor violations of said subchapter, whenever the commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

R.S.1954, c. 32, § 222.

### § 2161. Storage and transportation of frozen foods

No person, firm or corporation engaged in the business of freezing, storing or transporting frozen foods shall store or transport such foods within this State unless they are stored or transported under suitable refrigeration which shall insure good keep-

ing qualities and under temperatures and holding conditions approved by the Commissioner of Agriculture.

The commissioner may, after public hearings, make reasonable regulations for the storing and transportation of frozen foods, including temperature control, sanitation and other matters in accordance with recognized standards necessary for the protection of public health and the preservation of such foods in wholesome condition.

Any person, firm or corporation who shall violate this section or any regulation made hereunder shall be punished by a fine of not more than \$100 for the first offense, and by a fine of not less than \$100 nor more than \$500 for each subsequent offense.

Nothing in this section shall be construed to apply to delivery by a retailer to the home of the purchaser.

1963, c. 186.

### **§ 2162. Packing of food; permit; inspection**

The Commissioner of Agriculture shall, upon application for permit and receipt of such fee as he deems necessary from any food packer or processor, inspect all operations of said packer or processor for compliance with this subchapter and shall cause the same law to be diligently enforced. Each such permit shall cover one group of buildings constituting a packing plant in one location.

Only the holder of such a permit may mark or label any food so inspected as packed or processed or inspected and passed under this subchapter.

Said commissioner may cancel any permit whenever there is a lack of compliance with this subchapter. He shall establish such rules and regulations as he deems necessary. He shall make such charges as will be reasonable and as nearly as may be to cover the cost of the service rendered. All such fees and all such money thus collected for services rendered by the commissioner shall be paid by him to the Treasurer of State. Said fees and money are appropriated for the purposes of this section.

The commissioner may employ such agents and assistants, subject to the Personnel Law, and make such purchases as may be necessary in the performance of his duties.

1957, c. 261, § 1.

**§ 2163. Sale of horsemeat**

No person, firm, corporation or officer, agent or employee thereof within the State shall transport, receive for transportation, sell or offer for sale or distribution any equine meat or food products thereof unless said equine meat is plainly and conspicuously labeled, marked, branded and tagged "horsemeat" or "horsemeat products"; or shall serve, expose or offer for sale or distribution either in any public place or elsewhere, any equine meat or products containing equine meat unless such equine meat is conspicuously branded and labeled and a notice containing the words "horsemeat and horsemeat products sold here" is conspicuously displayed in said place of business to the end that the purchaser may have knowledge of the facts of the article purchased.

Whenever any person, firm or corporation within the State sells, ships or delivers to a purchaser within the State any equine meat or food products thereof, such person, firm or corporation shall deliver to the purchaser an invoice or bill showing thereon the character of such meat. This paragraph shall not apply to sales made at retail.

The Commissioner of Agriculture shall by adequate inspection see that the requirements of this section are carried out.

Any person, firm or corporation who shall violate any of the provisions of this section 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, and the District and Superior Courts shall have concurrent jurisdiction of the offense.

R.S.1954, c. 32, § 255; 1963, c. 402, § 65.

**§ 2164. Access to buildings**

The Commissioner of Agriculture or his duly authorized agent shall have free access at all reasonable hours to any factory, warehouse or establishment in which foods are manufactured, processed, packed or held for introduction into commerce, or to enter any vehicle being used to transport or hold such foods in commerce for the purpose:

**1. Inspection.** Of inspecting such factory, warehouse, establishment or vehicle to determine if any of the provisions of this subchapter are being violated; and

**2. Examination of samples.** To secure samples or specimens of any food after paying or offering to pay for such sample.

It shall be the duty of the commissioner to make or cause to be made examination of samples secured under this section to determine whether or not any provision of this subchapter is being violated.

**3. Notification of samples taken.** In the event that any samples or specimens of food are removed from any vehicle of transport, it shall be the duty of the commissioner to notify the consignor, consignee and the carrier of the action taken and of the amount and kind of sample or specimen taken.

R.S.1954, c. 32, § 228.

### § 2165. Injunctions

In addition to the remedies provided, the Commissioner of Agriculture is authorized to apply to the Superior Court and such court shall have jurisdiction upon hearing and for cause shown, to grant a preliminary or permanent injunction restraining any person from violating any provision of section 2155.

R.S.1954, c. 32, § 219; 1961, c. 417, § 100.

### § 2166. Penalties

Any person who violates any of the provisions of section 2155 shall be punished by a fine of not more than \$100 for the first offense and a fine of not more than \$200 for each subsequent offense. Carriers subject to jurisdiction of the Maine Public Utilities Commission or the Interstate Commerce Commission shall not be subject to section 2155, subsection 3, by reason of their receipt, carriage, holding or delivery of foods in the usual course of business as carriers.

No person shall be subject to the penalties prescribed in the preceding paragraph for having violated section 2155, subsection 1 or 3, if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in this State from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this subchapter, designating said subchapter.

No publisher, radio-broadcast licensee or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused or neglected on the request of the Commissioner of

Agriculture to furnish the commissioner the name and post-office address of the manufacturer, packer, distributor, seller or advertising agency residing in this State who caused him to disseminate such advertisement.

R.S.1954, c. 32, § 220.

## SUBCHAPTER II

### DRUGS

Sec.

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- 2203. Chemical analysis.
- 2204. Sale of poisonous drugs.
- 2205. Preparations containing cocaine.
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- 2207. Prescription of opium to habitual users forbidden.
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#### § 2201. Regulations

The Board of Commissioners of the Profession of Pharmacy, hereinafter in this subchapter called the "board," may from time to time, after notice and hearing, by regulations, designate as potent medicinal substances any compounds of barbituric acid, amphetamines or any other central nervous system stimulants or depressants, psychic energizers or any other drugs having a tendency to depress or stimulate which are likely to be injurious to health if improperly used, and it shall be unlawful for any person, firm or corporation to sell, furnish or give away or to offer to sell, furnish or give away any such potent medicinal substances so designated, except as prescribed in section 2210.

R.S.1954, c. 68, § 25; 1963, c. 332, § 9.

#### § 2202. Equipment

There shall be kept in every registered apothecary store a copy of the latest revision of the United States Pharmacopoeia

and the latest revision of the National Formulary, modern prescription scales and weights, necessary graduates, mortars and pestles and such other equipment as the board may from time to time specify when the same has been duly promulgated by said board, and such United States Pharmacopoeia and National Formulary preparations and other commonly used chemicals, drugs and preparations sufficient to compound ordinary prescriptions as dictated by experience in the community where the apothecary store is located.

R.S.1954, c. 68, § 27.

### **§ 2203. Chemical analysis**

The Director of the Maine Agricultural Experiment Station shall make a chemical analysis to determine the composition and quality of any substance mentioned in sections 2205 and 2207, on application of any county attorney, and shall furnish a certificate certifying to the composition or quality thereof. The certificate under seal of the Maine Agricultural Experiment Station, which shall be affixed by the chemist thereof making the analysis, shall be prima facie evidence of the composition and quality of the substance analyzed.

R.S.1954, c. 68, § 21.

### **§ 2204. Sale of poisonous drugs**

Each licensed pharmacist who sells arsenic, carbolic acid, chloroform, corrosive sublimate, cyanide of potassium or sodium, strychnine or its salts shall affix to the package sold by him a label plainly marked with the name and address of the store and the word "POISON" and the name of the poison sold, and shall enter at the time of sale in a permanently bound book to be kept for that purpose the name and residence of the purchaser, the date of sale, the name of the poison and the quantity sold, and the person making the sale shall sign the entry. This section shall not apply to sales on prescription of physicians, dentists, podiatrists or veterinarians, or sales at wholesale to pharmacists or sales to hospitals, colleges or public institutions.

R.S.1954, c. 68, § 15; 1963, c. 332, § 7.

### **§ 2205. Preparations containing cocaine**

No person, firm or corporation shall manufacture any so-called catarrh powder or catarrh cure, or any patent or proprietary preparation containing cocaine or any of its salts, or alpha

or beta eucaine or any of their salts, or any synthetic substitute for them.

R.S.1954, c. 68, § 18.

**§ 2206. Sale of opium'**

No person, except a registered apothecary or a physician of regular standing in his profession, shall furnish, sell or keep for sale any opium, morphine, laudanum or preparations containing opium, morphine or derivative of opium. Whoever violates this section shall be punished by a fine of not less than \$50 nor more than \$1,000, for each offense, to be recovered by complaint or indictment.

R.S.1954, c. 68, § 17; 1963, c. 332, § 8.

**§ 2207. Prescription of opium to habitual users forbidden**

No practitioner of medicine, dentistry or veterinary medicine shall prescribe for the use of an habitual user of the same opium, morphine, heroin, codeine or any salt or compound of the said substances, or any preparation containing any of the said substances or their salts or compounds, or cocaine or its salts, or alpha or beta eucaine or their salts, or any synthetic substitute for them, or any preparation containing the same, or any salt or compound thereof; nor shall any practitioner of dentistry prescribe any of the said substances for any person not under his treatment in the regular practice of his profession; nor shall any practitioner of veterinary medicine prescribe any of the substances for the use of a human being. This section shall not be construed to prevent a lawfully authorized practitioner of medicine from prescribing for the use of any habitual user of hypnotic or narcotic drugs who is under the professional care of such practitioner, such substances as he may deem necessary for treatment, if such prescriptions are given in good faith and not for the purpose of evading this section.

R.S.1954, c. 68, § 19.

**§ 2208. Sale of articles containing wood alcohol, for internal use**

Whoever, by himself, his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers or has in his possession with intent to sell, exchange or deliver, any article of food or drink or any drug intended for internal use,

containing any wood alcohol otherwise known as methyl alcohol, shall be punished by a fine of not less than \$200 or by imprisonment for not more than 30 days, or by both.

R.S.1954, c. 68, § 23.

### § 2209. Labeling of wood alcohol containers

Whoever, by himself, his servant or agent, or as the servant or agent of any other person, sells, exchanges or delivers any wood alcohol, otherwise known as methyl alcohol, shall affix to the vessel containing the same and shall deliver therewith a label bearing the words "Wood Alcohol, Poison" in red letters of not less than  $\frac{1}{4}$  inch in height. Whoever violates this section shall be punished by a fine of not less than \$50 nor more than \$200.

R.S.1954, c. 68, § 22.

### § 2210. Sale of barbiturates

It shall be unlawful for any person, firm or corporation to sell, furnish or give away or offer to sell, furnish or give away any veronal or barbital, or any other salts, derivatives or compounds of barbituric acid, or any registered, trademarked or copyrighted preparation registered in the United States Patent Office containing the above substance, or any drug designated by the board as a "potent medicinal substance" pursuant to section 2201, except upon the written order or prescription of a physician, surgeon, dentist or veterinary surgeon. These provisions shall not apply to the sale, furnishing or giving away, or the offering to sell, furnish or give away such drugs, by drug jobbers, drug wholesalers and drug manufacturers and their agents and employees to registered pharmacists and the pharmacies registered under Title 32, section 2901, nor to physicians, dentists, veterinary surgeons or hospitals, nor to each other, nor to the sale at retail in pharmacies by pharmacists to each other, nor to physicians, surgeons, dentists, veterinary surgeons or hospitals. Nothing in this section shall be construed to affect the right of a physician, surgeon, dentist or veterinary surgeon in good faith and in the legitimate practice of his profession personally to administer, prescribe or deliver any of the foregoing substances to his own patients.

Nothing in this subchapter shall apply to a compound, mixture or preparation which is sold in good faith by a pharmacy for the purpose for which it is intended and not for the purpose of evading this subchapter if:

**1. Contains other drugs.** Such compound, mixture or preparation contains a sufficient quantity of another drug or drugs to cause it to produce an action other than its hypnotic, somnifacient, stimulating or depressant action; or

**2. Spray or gargle.** Such compound, mixture or preparation is intended for use as a spray or gargle or for external application and contains some other drug or drugs rendering it unfit for internal administration.

R.S.1954, c. 68, § 24; 1957, c. 304, § 14; 1963, c. 332, § 8-A.

### § 2211. Adulterating and selling drugs

Whoever fraudulently adulterates, for the purpose of sale, any drug or medicine or sells any fraudulently adulterated drug or medicine, knowing the same to be adulterated, shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 11 months. Such adulterated drugs and medicines shall be forfeited and destroyed under the direction of the court.

R.S.1954, c. 68, § 13; 1963, c. 332, § 5.

### § 2212. Using drugs not in prescription

Whoever, engaged in the business of an apothecary, knowingly uses any drugs or ingredients in preparing or compounding a written prescription of any physician different from those named in the prescription, shall upon conviction thereof be punished by a fine of not less than \$50 nor more than \$1,000.

R.S.1954, c. 68, § 12; 1963, c. 332, § 4.

### § 2213. Sale by certain methods prohibited

It shall be unlawful for any person to sell, distribute, vend or otherwise dispose of any drug, medicine or pharmaceutical or medical preparation by means of any public exhibition, entertainment, performance, carnival or by vending machines.

R.S.1954, c. 68, § 28; 1963, c. 332, § 11.

### § 2214. Violation of provisions relating to opium or cocaine

Whoever violates any provision of sections 2205 and 2207, or aids or abets another in the violation thereof, shall be punished by a fine of not less than \$50 nor more than \$1,000, or by imprisonment for not more than 11 months, or by both. The county attorney in each county, upon complaint made by any mem-

ber of the board or its inspectors or of the Bureau of Health, shall prosecute all violations of this subchapter. The District Court shall have original and concurrent jurisdiction with the Superior Court of offenses under sections 2205 and 2207.

R.S.1954, c. 68, § 20; 1957, c. 304, § 13; 1963, c. 402, § 103.

**§ 2215. Violations generally**

Whoever violates any provision of sections 2201 and 2210 or is found to be under the influence of any of the substances enumerated in section 2210 in any street, highway or other public place shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 6 months, or by both.

R.S.1954, c. 68, § 26; 1963, c. 332, § 10.