

MAINE STATE LEGISLATURE

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NEW DRAFT.

SEVENTY-THIRD LEGISLATURE

SENATE.

No. 264

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND SEVEN.

AN ACT to regulate the sale and analysis of food and drugs.

*Be it enacted by the Senate and House of Representatives in
Legislature assembled, as follows:*

Section 1. It shall be unlawful for any person within this
2 state to manufacture, sell, transport, or offer for sale or
3 transportation, any article of food or drug which is adulter-
4 ated or misbranded within the meaning of this act.

Sect. 2. The term "drug," as used in this act, shall include
2 all medicines and preparations recognized in the United
3 States Pharmacopoeia or National Formulary for internal or
4 external use, and any substance or mixture of substances
5 intended to be used for the cure, mitigation, or prevention
6 of disease of either man or other animals. The term "food,"

7 as used herein, shall include all articles used for food, drink,
8 confectionery, or condiment by man or other animals, whether
9 simple, mixed or compound.

Sect. 3. For the purposes of this act an article shall be
2 deemed to be adulterated:

In case of drugs: .

First. If, when a drug is sold under or by a name recog-
5 nized in the United States Pharmacopoeia or National For-
6 mulary, it differs from the standard of strength, quality or
7 purity, as determined by the test laid down in the United
8 States Pharmacopoeia or National Formulary official at the
9 time of investigation: Provided, that no drug defined in
10 the United States Pharmacopoeia or National Formulary
11 shall be deemed to be adulterated under this provision if the
12 standard of strength, quality, or purity be plainly stated upon
13 the bottle, box or other container thereof although the
14 standard may differ from that determined by the test laid
15 down in the United States Pharmacopoeia or National For-
16 mulary.

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

In the case of confectionery:

If it contains terra alba, barytes, talc, chrome yellow, or
21 other mineral substances of poisonous color or flavor, or
22 other ingredient deleterious or detrimental to health, or any
23 vinous, malt, or spirituous liquor or compound or narcotic
24 drug.

In the case of food:

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

Second. If any substance has been substituted wholly or in
30 part for the article.

Third. If any valuable constituent of the article has been
32 wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, or
34 stained in a manner whereby damage or inferiority is con-
35 cealed.

Fifth. If it contain any added poisonous or other added
37 deleterious ingredient which may render such article injuri-
38 ous to health: Provided, that when in the preparation of food
39 products for shipment they are preserved by any external
40 application applied in such manner that the preservative is
41 necessarily removed mechanically, or by maceration in water,
42 or otherwise, and directions for the removal of said preserva-
43 tive shall be printed on the covering of the package, the pro-
44 visions of this act shall be construed as applying only when
45 said products are ready for consumption.

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

Sect. 4. The term "misbranded," as used herein, shall
2 apply to all drugs, or articles of food, or articles which enter
3 into the composition of food, the package or label of which
4 shall bear any statement, design, or device regarding such
5 article, or the ingredients or substances contained therein
6 which shall be false or misleading in any particular, and to
7 any food or drug product which is falsely branded as to the
8 state, territory or country in which it is manufactured or pro-
9 duced.

For the purposes of this act an article shall also be deemed
11 to be misbranded:

In case of drugs:

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

Second. If the contents of the package as originally put up
16 shall have been removed, in whole or in part, and other con-
17 tents shall have been placed in such package, or, except in
18 the case of a physician's prescription compounded by a phy-
19 sician or a registered pharmacist, if the package fail to bear
20 a statement on the label of the quantity or proportion of any
21 alcohol, morphine, opium, cocaine, heroin, alpha or beta
22 eucaine, chloroform, cannabis indica, chloral hydrate or ace-
23 tanilide or any derivative or any preparation of any such sub-
24 stances contained therein.

In the case of food:

First. If it be an imitation of or offered for sale under the
27 distinctive name of another article.

Second. If it be labeled or branded so as to deceive or
29 mislead the purchaser, or purport to be a foreign product
30 when not so, or if the contents of the package as originally
31 put up shall have been removed in whole or in part and other
32 contents shall have been placed in such package, or if it fail
33 to bear a statement on the label of the quantity or proportion
34 of any morphine, opium, cocaine, heroin, alpha or beta
35 eucaine, chloroform, cannabis indica, chloral hydrate, or
36 acetanilide, or any derivative or preparation of any of such
37 substances contained therein.

Third. If in package form, and the contents are stated in
39 terms of weight or measure, they are not plainly and cor-
40 rectly stated on the outside of the package.

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

First. In the case of mixtures or compounds which may
50 be now or from time to time hereafter known as articles of
51 food, under their own distinctive names, and not an imita-
52 tion of or offered for sale under the distinctive name of
53 another article, if the name be accompanied on the same label

54 or brand with a statement of the place where said article has
55 been manufactured or produced.

Second. In the case of articles labeled, branded, or tagged
57 so as to plainly indicate that they are compounds, imitations,
58 or blends, and the word "compound," "imitation," or "blend,"
59 as the case may be, is plainly stated on the package in which
60 it is offered for sale: Provided, that the term blend as used
61 herein shall be construed to mean a mixture of like sub-
62 stances, not excluding harmless coloring or flavoring ingre-
63 dients used for the purpose of coloring and flavoring only:
64 And provided further, that nothing in this act shall be con-
65 strued as requiring or compelling proprietors or manu-
66 facturers of proprietary foods which contain no unwhole-
67 some added ingredient to disclose their trade formulas,
68 except in so far as the provisions of this act may require to
69 secure freedom from adulteration or misbranding.

Sect. 5. The director of the Maine Agricultural Experi-
2 ment Station shall make uniform rules and regulations for
3 carrying out the provisions of this act, including the collec-
4 tion and examination of specimens of foods and drugs manu-
5 factured, sold, transported, or offered for sale or transporta-
6 tion within this state, or which may be submitted for exam-
7 ination by any health, food or drug officer of any town, city
8 or county within this state. The said director may also
9 adopt or fix standards of purity, quality or strength when
10 such standards are not specified or fixed by law and shall
11 publish them together with such other information concern-

12 ing articles of food and drugs as may be of public benefit.
13 Such rules, regulations and standards shall, where possible,
14 conform to and be the same as the rules and regulations
15 adopted from time to time for the enforcement of act of
16 congress approved June 30, 1906, and known as "The Food
17 and Drugs Act."

Sect. 6. The director of the Maine Agricultural Experi-
2 ment Station shall analyze, or cause to be analyzed, samples
3 of articles of food and drugs on sale in Maine, and at such
4 times and to such extent as said director may determine.
5 And said director, in person or by deputy, shall have free
6 access at all reasonable hours to any place wherein articles
7 of food or drugs are offered for sale, and upon tendering the
8 market price of any such article may take from any person
9 samples for analysis. The results of all analysis of articles
10 of food and drugs made by said director shall be published
11 by him in the bulletins or reports of the experiment station,
12 together with the names of the persons from whom the
13 samples were obtained, and the names of the manufacturers
14 thereof.

Sect. 7. When the said director becomes cognizant of the
2 violation of any of the provisions of this act he shall cause
3 notice of such fact, together with a copy of the findings, to
4 be given to the party or parties concerned, including those
5 from whom the sample was obtained, and to the party, if
6 any, whose name appears upon the label as manufacturer,
7 packer, wholesaler, retailer or other dealer. The parties so

8 notified shall be given an opportunity to be heard under such
9 rules and regulations as may be prescribed as aforesaid.
10 Notices shall specify the date, hour and place of the hearing.
11 The hearing shall be private and the parties interested there-
12 in may appear in person or by attorney. If the party whose
13 name appears upon the label resides without the state he
14 shall be entitled to reasonable notice by mail at such address
15 as may, with due diligence, be obtained.

Sect. 8. Any person who adulterates or misbrands, within
2 the meaning of this act, any article of food or drugs, or any
3 person who sells, transports, offers or exposes for sale or
4 transportation any adulterated or misbranded article of food
5 or drugs, shall be punished by a fine not exceeding one hun-
6 dred dollars for the first offense and not exceeding two hun-
7 dred dollars for each subsequent offense. Trial justices and
8 municipal and police courts are hereby vested with original
9 jurisdiction concurrent with the supreme judicial and supe-
10 rior courts, to try, and, upon conviction, to punish, for
11 offenses against the provisions of this act.

Sect. 9. No dealer shall be prosecuted under the provi-
2 sions of this act when he can establish a guaranty signed by
3 the wholesaler, jobber, manufacturer, or other party resid-
4 ing in the United States, from whom he purchased such
5 articles, to the effect that the same is not adulterated or mis-
6 branded within the meaning of this act, designating it. Said
7 guaranty, to afford protection, shall contain the name and
8 address of the party or parties making the sale of such arti-

cles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines and other penalties which would attach, in due course, to the dealer under the provisions of this act.

Sect. 10. The director of the Maine Agricultural Experiment Station shall diligently enforce all the provisions of this act, and when after due hearing he is convinced that the provisions of this act have been violated he shall, in his discretion, prosecute all offences against the same.

Sect. 11. There shall be appropriated annually from the state treasury the sum of three thousand dollars in favor of the Maine Agricultural Experiment Station, and the same may be expended in the inspection and analysis of food and drugs. So much of said appropriation shall be paid by the treasurer of state to the treasurer of said experiment station as the director of said station may show by his bills has been expended in performing the duties required by this act. Such payment shall be made quarterly upon the order of the governor and council, who shall draw a warrant for that purpose.

Sect. 12. The word "person" as used in this act shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any

7 corporation, company, society, or association, within the
8 scope of his employment or office, shall in every case be also
9 deemed to be the act, omission, or failure of such corpora-
10 tion, company, society, or association as well as that of the
11 person.

Sect. 13. Chapter 68 of the Public Laws of 1905 and all
2 other acts or parts of acts inconsistent herewith are hereby
3 repealed.

Sect. 14. This act shall take effect as to foods when
2 approved, and as to drugs January 1, 1908, but the penalties
3 of this act shall not be enforced on account of any sale of
4 any goods from stocks purchased prior to this date, viz.:
5 January 1, 1908, provided such medicines be stamped plainly
6 "on hand January 1, 1908."



STATE OF MAINE.

IN SENATE, March 14, 1907.

Reported by Mr. MILLS from Committee on Legal Affairs, and laid
on table to be printed under joint rules.

F. G. FARRINGTON, *Secretary*.