

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES
OF THE
SEVENTY-THIRD LEGISLATURE
OF THE
STATE OF MAINE
1907.

Published by the Secretary of State, agreeably to Resolves of
June 28, 1820, February 18, 1840, and March 16, 1842.

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PUBLIC LAWS

OF THE

STATE OF MAINE.

1907.

of which are one inch square in the clear, or greater, are not subject to this section. But no smelts caught in such weirs after the first day of April, shall be sold or offered for sale in this state, nor shall smelts caught in any manner between the first day of April and the first day of October following be offered for sale, sold or shipped from the state under a penalty of twenty-five dollars for each offense; provided, however, that dip nets may be used between the first day of April and the first day of May, and all smelts caught by dip nets between said days may be lawfully offered for sale and sold in this state; provided, further, that this section does not apply to smelts taken in the Androscoggin river above the Merrymeeting bay bridge, or in Narraguagus bay or river between the first days of October and November, nor to smelts taken in the Penobscot river and its tributaries between the first and thirtieth days of April, nor to smelts taken in Casco bay between the fifteenth day of September and the first day of October, nor to smelts taken in Franklin bay between the first day of April and the first day of May, nor to smelts taken in Little Kennebec bay, so called, or in Narraguagus bay or river, in the county of Washington, between the first day of April and the first day of May, nor to smelts taken in West bay and West bay stream, so called, in the town of Gouldsboro, Hancock county, between the first day of April and the first day of May, nor to smelts taken in Passamaquoddy bay, Saint Croix river and Cobscook bay and the coves and inlets tributary to these bays between the first day of September and the first day of October.'

—sale of smelts restricted.

—use of dip nets.

—exceptions.

—Androscoggin river.

—Narraguagus bay.

—Penobscot river.

—Casco bay.

—Franklin bay.

—Little Kennebec bay.

—Narraguagus bay.

—West bay and West bay stream.

—Passamaquoddy bay, Saint Croix river and Cobscook bay.

Section 2. This act shall take effect when approved.

Approved March 26, 1907.

Chapter 124.

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 state to manufacture, sell, transport, or offer for sale or transportation, any article of food or drug which is adulterated or misbranded within the meaning of this act.

Sale and analysis of food and drugs.

Section 2. The term 'drug,' as used in this act, shall include all medicines and preparations recognized in the United States pharmacopoeia or national formulary for internal or external use, and any substance or mixture of substances intended to be used for the cure, mitigation, or prevention of disease of either

Definition of the term 'drug' as used in this act.

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—definition
of the term
'food.'

man or other animals. The term 'food,' as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed or compound.

Adultera-
tion.

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

In case of drugs:

Drugs.

First. If when a drug is sold under or by a name recognized in the United States pharmacopœia or national formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the United States pharmacopœia or national formulary official at the time of investigation: Provided, that no drug defined in the United States pharmacopœia or national formulary shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated upon the bottle, box or other container thereof although the standard may differ from that determined by the test laid down in the United States pharmacopœia or national formulary.

—proviso.

Strength
or purity.

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

In the case of confectionery:

Confection-
ery.

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

In the case of food:

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

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

Third. If any valuable constituents of the article have been wholly or in part abstracted.

Fourth. If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

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

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

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

Section 4. The term 'misbranded,' as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular and to any food or drug product which is falsely branded as to the state, territory, or country in which it is manufactured or produced.

Food.
Definition of
term 'mis-
branded' as
used herein.

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

—mis-
branded.

In case of drugs:

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

Drugs.

Second. If the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or, except in the case of a physician's prescription compounded by a physician or a registered pharmacist, if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide or any derivative or any preparation of any such substances contained therein.

In the case of food:

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

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

Third. If in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package.

Fourth. If the package containing it or its label shall bear any statement, design, or device regarding the ingredients or

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the substances contained therein, which statement, design, or device shall be false or misleading in any particular: Provided, that an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

Food.

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

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

—proviso.

Director of Me. agricultural experiment station shall make rules and regulations.

Section 5. The director of the Maine Agricultural Experiment Station shall make uniform rules and regulations for carrying out the provisions of this act, including the collection and examination of specimens of foods and drugs manufactured, sold, transported, or offered for sale or transportation within this state, or which may be submitted for examination by any health, food or drug officer of any town, city or county within this state. The said director may also adopt or fix standards of purity, quality or strength when such standards are not specified or fixed by law and shall publish them together with such other information concerning articles of food and drugs as may be of public benefit. Such rules, regulations and standards shall, where possible, conform to and be the same as the rules and regulations adopted from time to time for the enforcement of act of congress approved June thirtieth, nineteen hundred and six, and known as 'The Food and Drugs Act.'

—fix standards of purity, etc.

Shall analyze samples of food, etc.

Section 6. The director of the Maine Agricultural Experiment Station shall analyze, or cause to be analyzed, samples of articles of food and drugs on sale in Maine, and at such times and to such extent as said director may determine. And said

director, in person or by deputy, shall have free access at all reasonable hours to any place wherein articles of food or drugs are offered for sale, and upon tendering the market price of any such article may take from any person samples for analysis. The results of all analysis of articles of food and drugs 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, and the names of the manufacturers thereof.

—shall publish results of analysis.

Section 7. When the said director becomes cognizant of the violation of any of the provisions of this act he shall cause notice of such fact, together with a copy of the findings, to be given to the party or parties concerned, including those from whom the sample was obtained, and to the party, if any, whose name appears upon the label as manufacturer, packer, wholesaler, retailer or other dealer. The parties so notified shall be given an opportunity to be heard under such rules and regulations as may be prescribed as aforesaid. Notices shall specify the date, hour and place of the hearing. The hearing shall be private and the parties interested therein may appear in person or by attorney. If the party whose name appears upon the label resides without the state he shall be entitled to reasonable notice by mail at such address as may, with due diligence, be obtained.

Shall give notice of violation to parties concerned.

—parties notified shall be given hearing.

Section 8. Any person who adulterates or misbrands, within the meaning of this act, any article of food or drugs, or any person who sells, transports, offers or exposes for sale or transportation any adulterated or misbranded article of food or drugs, shall be punished by a fine not exceeding one hundred dollars for the first offense and not exceeding two hundred dollars for each subsequent offense. Trial justices and municipal and police courts are hereby vested with original jurisdiction concurrent with the supreme judicial and superior courts, to try, and, upon conviction, to punish, for offenses against the provisions of this act.

Penalty for violation of this act.

Section 9. No dealer shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the United States, from whom he purchased such articles, to the effect that the same is not adulterated or misbranded within the meaning of this act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles 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.

Shall not be prosecuted when guaranty is established.

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Shall enforce provisions of this act.

Section 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 offenses against the same.

Appropriation.

Section 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.

Definition of the word 'person' as used in this act.

Section 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 corporation, company, society, or association, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, or association as well as that of the person.

Chapter 68, public laws 1905, and inconsistent acts repealed.

Section 13. Chapter sixty-eight of the public laws of nineteen hundred and five and all other acts or parts of acts inconsistent herewith, are hereby repealed.

When act shall take effect.

Section 14. This act shall take effect as to foods when approved, and as to drugs January first, nineteen hundred and eight, but the penalties of this act shall not be enforced on account of any sale of any goods from stocks purchased prior to this date, January first, nineteen hundred and eight, provided such medicines be stamped plainly 'on hand January first, nineteen hundred and eight.'

Approved March 26, 1907.