

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundred and First Legislature

OF THE

STATE OF MAINE

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The Knowlton and McLeary Company
Farmington, Maine
1963

PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the One Hundred and First Legislature

1963

Chapter 257

AN ACT Relating to Non-alcoholic Drink Products and Beverages.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., c. 32, §§ 277-A to 277-J, additional. Chapter 32 of the Revised Statutes is amended by adding 10 new sections, 277-A to 277-J, to read as follows:

Beverages.

Sec. 277-A. Definitions. As used in sections 277-A to 277-J, the following terms shall have the following meanings:

I. Beverage. "Beverage" means any non-alcoholic flavored carbonated drink, soda water, non-alcoholic still drinks, diluted fruit or vegetable juices whether sweetened or unsweetened, seasoned or unseasoned with salt or spice, or still or carbonated mineral waters used as a drink. The term shall not include undiluted concentrated fruit or vegetable juice nor such juice when reconstituted to its original volume.

II. Beverage plant. "Beverage plant" means any place, premise or establishment, or any part thereof, where beverages are assembled, processed, manufactured, bottled or converted into form for distribution or sale and such rooms or premises where beverage product manufacturing equipment and containers are washed, sanitized and stored.

III. Bottling. "Bottling" means filling, capping, packaging and enclosing in bottles or other containers.

IV. Non-nutritive sweeteners. "Non-nutritive sweeteners" mean saccharin, saccharin salt, sodium cyclamate, calcium cyclamate and such other artificial sweetening agents as may be permitted in regulations promulgated by the commissioner.

V. Sweetening ingredient. "Sweetening ingredient" means cane sugar, beet sugar, dextrose, corn syrup, in liquid or dried form, honey or any syrup made from any such sugars or any combination of such sugars.

Sec. 277-B. Licenses. No person within this State shall manufacture or bottle for sale any beverage without first having filed with the commissioner an application for a license accompanied with a fee of \$15 and having been issued a license to operate a beverage plant. Upon receipt of such application containing information required by the commissioner and being satisfied that the applicant has complied with sections 277-A to 277-J and regulations promulgated thereunder, the commissioner shall issue the applicant a license to manufacture and sell beverages.

No person manufacturing or bottling any beverage outside of the State for retail sale within the State shall sell or offer to sell the same within the State

unless such person shall have made application and secured a license to sell beverages from the commissioner upon payment of \$15. The commissioner may issue a license to sell beverages manufactured or bottled outside of the State upon being satisfied from inspection by an inspector of his department or from a statement from the agency having enforcement of the beverage law in the state where such beverage establishment is located, that such establishment complies with the requirements of sections 277-A to 277-J and regulations promulgated thereunder, and upon his approving such establishment on the basis of such inspection or statement.

All such licenses shall run for the current year until the 30th day of June following the date of the issuance, on which date they shall terminate unless sooner revoked as provided in section 277-G, and shall be renewed annually thereafter subject always to such revocation.

Sec. 277-C. Plant. Every beverage plant used for the preparation, manufacture and bottling of any beverage shall be adequately lighted and ventilated and all floors shall be constructed of cement, concrete or tile laid in cement or other material impervious to water, and shall have sufficient pitch to insure drainage; walls and ceilings shall be varnished or painted in light color and kept clean; doors, windows and other openings of any room in which beverages or the ingredients of such beverages shall be prepared shall be screened. Wash basins, sinks and toilets shall be provided for employees. No toilet shall open directly into any room used for the preparation or bottling of any beverage. The syrup room shall be separately enclosed, well ventilated and lighted, provided with sinks and taps for hot and cold water, thoroughly protected against vermin, flies, dirt and dust and so constructed as to be easily cleaned.

Every beverage plant shall be equipped with mechanical container-washing apparatus and machinery, and with mechanical and sanitary machines for bottling and for carbonating, if carbonated beverages are manufactured.

All machines, apparatus, vessels, fountains, tanks or other equipment, caps and ingredients used in the manufacture of beverages shall be kept in a sanitary condition. No vessels or tanks shall be used for syrup mixing or for storing such mixed syrup unless they are of glass or stainless steel, porcelain lined, block tin lined or made of some other suitable impervious material.

Beverage plants shall be located in buildings so constructed that the bottling operation is performed in separate rooms, but such construction shall allow for modern practices in the loading or unloading of trucks in the same rooms, and for modern practices in the use of conveyor systems or other means of mechanical handling.

Sec. 277-D. Rules and regulations. The commissioner shall, after investigation and public hearing, adopt and promulgate rules and regulations to supplement and give full effect to sections 277-A to 277-J. Such rules and regulations shall establish sanitary regulations for manufacture and bottling of beverages, including the construction, sanitary conditions of buildings, grounds and equipment, sanitary conditions of persons in direct contact with the beverage or its ingredients. Such rules and regulations shall, among other things,

establish standards of identity and composition, including a maximum standard of content for any substance that may be deleterious and minimum standards of composition for the proper enforcement of sections 277-A to 277-J and for the protection of the public health and welfare. Such rules and regulations shall be filed and open for public inspection at the office of the commissioner and shall have the force of law.

It shall be unlawful to sell, offer for sale or have in possession with intent to sell any beverage not manufactured or bottled in a beverage plant located in this State and licensed by the commissioner or located without this State and approved by the commissioner pursuant to section 277-B.

Beverages manufactured or bottled in a beverage plant not so licensed or approved shall be deemed to be a misbranded food within the meaning of section 225.

Sec. 277-E. Labeling. Whenever artificial colors or flavors are used in the manufacture of a beverage, the bottle or other container or the crown thereof shall be distinctly labeled "Artificially colored and flavored." Whenever artificial coal tar colors are used, nothing but certified colors as approved by the United States Food and Drug Administration shall be allowed.

All open containers or receptacles that contain artificial color or artificial flavor shall be so labeled, and said labels shall be prominently displayed on container or suitable location so as to be likely to be read by the purchaser.

Sec. 277-F. Cleaning of containers. All reusable glass containers used in the manufacture of beverages shall, before being filled or refilled, be thoroughly cleaned and sanitized by washing in an automatic washing machine in a solution of not less than 3% caustic alkali, at a temperature not lower than 110° F. to be followed by a rinsing in potable water. All other reusable and all single service containers shall be cleaned and sanitized before being filled or refilled by suitable means approved by the commissioner.

Sec. 277-G Revocation of license. The commissioner shall have the power to revoke or suspend any license issued under section 277-B when it is determined by him that any of the provisions of sections 277-A to 277-J, or rules or regulations promulgated thereunder, have been violated. Any person, firm or corporation whose license has been so revoked or suspended shall discontinue the manufacture and sale within the State of beverages until said sections have been complied with and a new license issued, or the suspension removed. The commissioner may revoke or suspend such license temporarily until there is a compliance with said sections as hereinafter provided or permanently for the unexpired period of such license.

Sec. 277-H. Notice prior to revoking license; procedure; appeal. Before revoking or suspending any license, the commissioner shall give written notice to the licensee affected stating that he contemplates the revocation or suspension of the same and giving his reasons therefor. Such notice shall appoint a time of hearing before said commissioner and shall be mailed by registered

mail to the licensee. On the day of the hearing the licensee may, by himself or counsel, present such evidence to the said commissioner as he deems fit and after hearing all the testimony the said commissioner shall decide the question in such manner as to him appears just and right. Any licensee who feels aggrieved or dissatisfied with the decision of the said commissioner may appeal from said decision within 10 days to the Superior Court in the county where the licensee resides, or in the case of a nonresident, to the Superior Court in the County of Kennebec.

Sec. 277-I. Penalty. Any person, firm or corporation who shall violate sections 277-A to 277-J, or shall neglect or refuse to comply with the provisions thereof, 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.

Sec. 277-J. Disposal of fees and fines. All fees received by the commissioner under sections 277-A to 277-J, and all money and fines received by him under sections 277-A to 277-J, by virtue of sections 5 and 9 shall be paid by him to the Treasurer of State for deposit in the General Fund.'

Sec. 2. R. S., c. 32, §§ 277 - 285, repealed. Sections 277 to 285 of chapter 32 of the Revised Statutes are repealed.

Sec. 3. R. S., c. 32, § 3, amended. The first sentence of section 3 of chapter 32 of the Revised Statutes, as last amended by section 92 of chapter 417 of the public laws of 1961, is further amended to read as follows:

'The commissioner shall make uniform rules and regulations for carrying out sections 3 to 9, 32 to 38, 142 to 145, 180 to 215, section 228-A, sections 258 to 272, 274 to 276, 276-A to 276-D and ~~277 to 285~~ 277-A to 277-J.'

Sec. 4. R. S., c. 32, § 4, amended. Section 4 of chapter 32 of the Revised Statutes, as repealed and replaced by section 29 of chapter 378 of the public laws of 1959 and amended by section 93 of chapter 417 of the public laws of 1961, is further amended to read as follows:

'Sec. 4. Hearing in case of violation. When the commissioner becomes cognizant of the violation of any provision of sections 3 to 9, 32 to 38, 142 to 145, 180 to 215, 215-A to 215-J, 216 to 228, 228-A, 229 to 236, 236-A to 236-K, 237 to 247, 258 to 272, 274 to 276, 276-A to 276-D and ~~277 to 285~~ 277-A to 277-J, he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the finding or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, if a resident of the State, who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said commissioner. When the hearing relates to the packing of apples, it shall be held in the county where the inspection was made.'