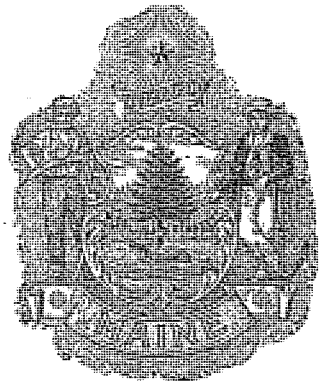
SIXTH REVISION

THE REVISED STATUTES

OF THE

STATE OF MAINE

PASSED SEPTEMBER 29, 1916, AND TAKING EFFECT JANUARY 1, 1917



By the Authority of the Legislature

AUGUSTA
KENNEBEC JOURNAL PRINT
1916

veterinarians in all tuberculin tests and such other agents and employees as he may deem necessary to carry into effect the provisions of this chapter, and may fix the compensation of the person or persons so employed, and terminate such employment at his discretion.

Sec. 22. Payment of expenses. 1911, c. 195, §§ 20, 22. The actual and necessary traveling expenses of the commissioner and his employees, the expense of disinfecting premises, cars, vessels and other places, destroying diseased animals and those exposed to disease, and paying for the same, and all other expenses necessary to properly carry out the provisions of this chapter, shall be paid by the treasurer of state upon vouchers approved by the live stock sanitary commissioner, after the same have been audited by the state auditor. All money received from the sale of hides and carcasses of condemned animals shall be expended for the purposes of this chapter.

CHAPTER 36.

Protection Against Adulterated or Misbranded Goods. Packing of Food. Packing of Apples.

Adulterated or Misbranded Goods.

Sec. 1. Sale of certain adulterated articles prohibited. 1911, c. 119, § 1. No person shall, within this state, manufacture, sell, distribute, transport, offer or expose for sale, distribution, or transportation, any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide which is adulterated or misbranded within the meaning of this chapter.

Sec. 2. Definitions. 1911, c. 119, § 2. The term "agricultural seed" as used in this chapter shall be held to include the seeds of alfalfa, barley, Canadian blue grass, Kentucky blue grass, brome grass, buckwheat, alsike clover, crimson clover, red clover, medium clover, white clover, field corn, Kaffir corn, meadow fescue flax, Hungarian, millet, oats, orchard grass, rape, redtop, rye, sorghum, timothy and wheat.

The term "commercial feeding stuff" as used herein shall be held to include all articles of food used for feeding live stock, and poultry, except hays and straws, the whole seeds, and the unmixed meals made directly from the entire grains of wheat, rye, barley, oats, Indian corn, buckwheat, flaxseed and broom corn.

The term "commercial fertilizer" as used herein shall be held to include all materials used for fertilizing purposes, the price of which exceeds ten dollars a ton.

The term "drug" as used herein shall be held to include all medicines and preparations recognized in the United States pharmacopœia 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.

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

The term "fungicide" as used herein shall be held to include any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all fungi that may infest vegetation, or be present in any environment whatsoever.

The term "insecticide" as used herein shall include Paris green, lead arsenate, and any substance or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any insect which may infest vegetation, man, animals, or houses, or be present in any environment whatsoever.

Sec. 3. Marking of packages of seed. 1911, c. 119, § 3. Every lot or package of agricultural seed which is sold, distributed, transported, offered or exposed for sale, distribution, or transportation for seed, in the state by any person shall have affixed in a conspicuous place on the outside thereof, a plainly written or printed statement clearly and truly giving the name thereof and its minimum percentage of purity and freedom from foreign matter.

Sec. 4. Marking of packages of commercial feeding stuff. 1911, c. 119, § 4. Every lot or package of commercial feeding stuff, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the state by any person, shall have affixed in a conspicuous place on the outside thereof, a plainly printed statement, clearly and truly giving the number of net pounds in the package; the name, brand or trade-mark under which the article is sold; the name and principal address of the manufacturer or shipper; a chemical analysis stating the maximum percentage of crude fiber, the minimum percentage of crude fat, and the minimum percentage of crude protein (allowing one per cent of nitrogen to equal six and one-fourth per cent of protein) which it contains, all three constituents to be determined by the methods adopted by the association of official agricultural chemists; if the feeding stuff is a compound feed, the name of each ingredient contained therein; and if artificially colored, the name of the material used for that purpose. If the feeding stuff is sold in bulk or put up in packages belonging to the purchaser, the seller shall upon the request of the purchaser furnish him with a copy of the statements named in this section.

Sec. 5. Sale and manufacture of commercial feeding stuff, regulated; registration fee. 1911, c. 119, § 5. 1913, c. 140, § 1. Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation, in the state, any commercial feeding stuff shall before so doing file with the commissioner of agriculture for each and every commercial feeding stuff bearing a distinguishing name or trade-mark, a certified copy of the statements required by section four. Said certified copy shall be accompanied when said commissioner shall so request, with a sealed package containing not less than one pound of the commercial feeding stuff. The person who shall file said certificate shall pay annually to the commissioner of agriculture a registration fee of ten dollars, this fee to be

assessed on any brand offered for sale, distribution or transportation in the state; provided, however, that a brand of commercial feeding stuff may be re-registered for the following year without the payment of the fee upon the establishment by the person who paid said fee that the total sales within the state during the year for which said fee was paid did not exceed fifty tons. Whenever any person shall have filed such certificate and paid such registration fee, no other person shall be required to file such statement or pay such fee.

Sec. 6. Marking of packages of commercial fertilizer. 1911, c. 119, § 6. Every lot or package of commercial fertilizer, which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the state by any person shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly giving the number of net pounds in the package; the name or trade-mark under which the article is sold; the name and principal address of the manufacturer or shipper and a chemical analysis stating the minimum percentage of nitrogen, or its equivalent in ammonia in available form, of potash soluble in water, of phosphoric acid in available form, soluble and reverted, and of total phosphoric acid, the constituents to be determined by the methods adopted by the association of official agricultural chemists. If the fertilizer is sold in bulk or put up in packages belonging to the purchaser, the seller shall, upon request of the purchaser, furnish the purchaser with a copy of the statements named in this section.

Sec. 7. Lime, marl or wood-ashes classed as a commercial fertilizer; statement of percentages; fee for certificate. 1913, c. 164. Lime, marl or wood-ashes intended for fertilizing purposes, and without regard to the price at which it is sold or offered for sale, shall be classed as a commercial fertilizer within the meaning of this chapter. All the requirements and penalties relative to commercial fertilizers named in this chapter shall apply to any and every lot of lime, marl or wood-ashes intended for fertilizing purposes. In addition to the requirements of section six the label and certificates shall truly state the minimum and maximum percentage of total lime (calcium oxide), the minimum and maximum percentage of total magnesia (magnesium oxide), the minimum and maximum percentage of lime combined as carbonate (calcium carbonate), and magnesium combined as carbonate (magnesium carbonate), and minimum percentage of lime sulphur (calcium sulphate) in gypsum or land plaster. The person filing the certificate shall annually pay to the commissioner of agriculture a registration fee of ten dollars for each brand of lime intended for fertilizing purposes.

Sec. 8. Sale and manufacture of commercial fertilizer, regulated; registration fee. 1911, c. 119, § 7. 1913, c. 140, § 1. Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation in the state any commercial fertilizer shall before so doing file with the commissioner of agriculture for each and every fertilizer bearing a distinguishing name or trade-mark, a certified copy of the

statements named in section six. Said certified copy shall be accompanied when said commissioner shall so request with a sealed package containing not less than two pounds of the commercial fertilizer. The person who shall file said certificate shall pay annually to the commissioner of agriculture a registration fee as follows: Ten dollars each for the nitrogen and the phosphoric acid and five dollars for the potash, contained or said to be contained in the fertilizer, this fee to be assessed on any brand offered for sale, distribution or transportation in the state. Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee.

Sec. 9. Marking of packages of fungicide. 1911, c. 119, § 8. Every lot or package of a fungicide or an insecticide which is manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the state by any person, shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the number of net pounds in the package, the name or trade-mark under which the article is sold, the name and address of the manufacturer or shipper, and a chemical analysis stating the minimum percentage of total arsenic and the maximum percentage of water-soluble arsenic which it contains, the constituents to be determined by the methods adopted by the association of official agricultural chemists.

Sec. 10. Manufacture and sale of fungicides, etc., regulated; registration fee. 1911, c. 119, § 9. 1913, c. 140, § 1; c. 164, § 1. Any person who shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation in the state any fungicide or insecticide shall before so doing file with the commissioner of agriculture for each and every fungicide or insecticide bearing a distinguishing name or trade-mark, a certified copy of the statements made in accordance with the preceding section. Said certified copy shall be accompanied when said commissioner of agriculture shall so request with a sealed package containing not less than one pound of the fungicide or insecticide. The person filing such certificate shall pay annually to the commissioner of agriculture a registration fee of ten dollars, this fee to be assessed on any brand offered for sale, distribution or transportation in the state, except that said fee shall not be assessed for the registration of a fungicide or insecticide consisting of organic matter and not containing any added inorganic matter or mineral chemical, provided that a complete chemical analysis of said fungicide or insecticide is given in, and as part of, the certificate required under this section. Whenever any person shall have filed said certificate and paid said registration fee, no other person shall be required to file such statement or pay such fee.

Sec. 11. Registration may be refused when name or trade-mark is misleading. 1911, c. 119, § 10. 1913, c. 140, § 1. The commissioner of agriculture may refuse to register any commercial feeding stuff or commercial fertilizer, bearing a name, brand or trade-mark which is misleading or deceptive or which would tend to mislead or deceive as to materials of which it is composed, and in the case of commercial feeding stuff when

the specific names of each and all of the ingredients used in its manufacture are not stated. He may also cancel the registration of any feeding stuff, commercial fertilizer, fungicide or insecticide that he deems to be manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in violation of any of the provisions of this chapter. The registration of each brand of commercial feeding stuff, commercial fertilizer, fungicide or insecticide shall terminate on the thirty-first day of December of each year.

Sec. 12. When goods shall be deemed to be adulterated. 1911, c. 119, § 11. For the purpose of this chapter an article shall be deemed to be adulterated:

In case of **agricultural seed:**

First. If its purity falls below its accompanying guaranty.

Second. If it contains the seed of any poisonous plant.

In case of **commercial feeding stuff:**

First. If its weight, composition, quality, strength or purity do not conform in each particular to the claims made upon the affixed guaranty.

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

Third. If it contains any poisonous or deleterious ingredients which may render such article injurious to the health of live stock or poultry.

Fourth. If any milling or manufactured offals or any foreign substance whatever have been added to any whole or ground grain or other commercial feeding stuff, unless the true composition, mixture or adulteration is plainly marked or indicated upon the container thereof.

In case of **commercial fertilizer:**

First. If its weight, composition, quality, strength or purity do not conform in each particular to the claims made upon the affixed guaranty.

Second. If it contains any material deleterious to growing plants.

In case of a **drug:** 1913, c. 140, § 1.

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 laid down in the United States pharmacopœia, or national formulary official at the time of investigation, or as fixed by the commissioner of agriculture: provided, that no drug defined in the United States pharmacopœia, the national formulary or by said commissioner shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated, so as to be understood by the non-professional person, upon the bottle, box or other container thereof, although the standard may differ from that laid down in the United States pharmacopœia, national formulary, or that fixed by said commissioner.

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

In case of **confectionery:**

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

In 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 poisonous or other added deleterious ingredient which may render such article injurious to health.

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.

Seventh. If in the manufacture, sale, distribution, transportation, or in the offering or exposing for sale, distribution or transportation, it is not at all times securely protected from filth, flies, dust or other contamination, or other unclean, unhealthful or unsanitary conditions.

Eighth. If it does not conform to the standards of strength, quality, and purity, now or hereafter to be established by statute or fixed by the commissioner of agriculture: provided, that a food shall not be deemed to be adulterated under this provision if the standard of strength, quality or purity be plainly stated, so as to be understood by the non-professional person, upon the container thereof, although the standard may differ from that established by statute or fixed by said commissioner.

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

In case of **fungicide or insecticide:**

In the case of **Paris green:**

First. If it does not contain at least fifty per centum of arsenious oxide (As_2O_3).

Second. If it contains arsenic in water-soluble forms equivalent to more than three and one-half per centum of arsenious oxide (As_2O_3).

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

In the case of **lead arsenate:**

First. If it contains more than fifty per centum of water.

Second. If it contains total arsenic equivalent to less than twelve and one-half per centum of arsenic oxide (As_2O_5).

Third. If it contains arsenic in water-soluble forms equivalent to more than seventy-five one-hundredths per centum of arsenic oxide (As_2O_5).

Fourth. If any substances have been mixed and packed with it so as to reduce, lower, or injuriously affect its quality or strength: provided, however, that extra water may be added to lead arsenate if the resulting mixture is labeled lead arsenate and water, the percentage of extra water being plainly and correctly stated on the label.

In the case of **fungicide or insecticide other than Paris green and lead arsenate:**

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

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

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

Fourth. If it is intended for use on vegetation and shall contain any substance or substances injurious to such vegetation.

Sec. 13. Term "misbranded" defined. 1911, c. 119, § 12. The term "misbranded" as used herein, shall apply to all articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide, 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 chapter an article shall also be deemed to be misbranded.

In case of **agricultural seed:**

If any lot or package fail to bear all the statements required by section three.

In case of **commercial feeding stuff:**

First. If any package fails to bear all of the statements required by section four.

Second. If the printed statements required by section four to be affixed to the package differ from the statements required by section five.

Third. If any brand is manufactured, transported, distributed, sold, offered or exposed for sale, distribution, or transportation upon which the registration fee required by section five has not been paid.

In case of **commercial fertilizer:**

First. If any package fail to bear all the statements required by section six.

Second. If the printed statements required by section six to be affixed to the package differ from the statement required by section eight.

Third. If any brand is manufactured, distributed, transported, sold, offered or exposed for sale, distribution or transportation upon which the registration fee required by section eight has not been paid.

In case of a **drug:**

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

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 case of **food:**

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

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 if it fail to bear a statement on the label of the quantity or proportion of each and any added coloring matter, preservative, chemical or drug contained therein.

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

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 whose presence is declared upon the label; provided further, that nothing in this chapter shall be construed as requiring or compelling proprietors or manufacturers of proprietary goods which contain no unwholesome added ingredient to disclose their trade formulas except in so far as the provisions of this chapter may require to secure freedom from adulteration or misbranding.

In case of **fungicide and insecticide:**

First. If any lot or package fail to bear all the statements required by section nine.

Second. If the printed statements required by section nine to be affixed to the lot or package differ from the statements required by section ten.

Third. If any brand is manufactured, transported, distributed, sold or offered or exposed for sale, distribution or transportation upon which the registration fee required by section ten has not been paid.

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

Fifth. If it be labeled or branded so as to deceive or mislead the purchaser, 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 packages.

Sixth. If it consists partially or completely of an inert substance or substances which do not prevent, destroy, repel, or mitigate insects or fungi

and does not have the percentage amount of such inert ingredient plainly and correctly stated on the label.

Sec. 14. Misbranding of food in package form. 1913, c. 164. For the purpose of this chapter an article of food in package form if sold at a greater price than five cents, shall also be deemed to be misbranded if the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count; provided, however, that reasonable variations shall be permitted, and tolerances shall be established by rules and regulations made in accordance with section thirty-five. And further provided that the penalties of this chapter shall not be enforced on account of sale of food not branded in terms of weight, measure, and numerical count, purchased prior to September third, nineteen hundred and fourteen.

Analyses.

Sec. 15. Annual analysis; results of analyses to be published. 1911, c. 119, § 14. 1913, c. 140, § 2. The director of the Maine Agricultural Experiment Station shall annually analyze, or cause to be analyzed, samples of articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide, at such time and to such extent as the commissioner of agriculture may determine. And 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 seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide are manufactured, stored, transported, sold, offered or exposed for sale. He may also, 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 articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide 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.

Sec. 16. Samples of commercial fertilizer may be analyzed. 1911, c. 130, § 1. 1913, c. 140, § 1. Any person within the state may send to the commissioner of agriculture samples of commercial fertilizers sold or offered for sale within the state for the purpose of analysis under the following conditions: Said samples shall be taken in the presence of a witness from not less than five packages of properly stored commercial fertilizer in accordance with directions to be furnished by said commissioner; a copy of all marks upon or affixed to the package, including the brand or trademark, the name of the manufacturer and the guaranteed chemical analysis, shall accompany the sample or be deposited with the secretary of the grange or the selectmen of the town where the sample is taken.

Sec. 17. Analysis and fees. 1911, c. 130, § 2. 1913, c. 140, § 1. On receipt of a sample of commercial fertilizer accompanied with (1) a certified statement signed by the witness that the sample was taken as provided

in the preceding section, (2) a copy of the marks on or affixed to the package from which the sample was procured or a signed statement from the secretary of a grange or a selectman that the copy of the marks upon the package has been deposited with him, and (3) an analysis fee of ten dollars for each sample, the commissioner of agriculture shall make or cause to be made an analysis of the fertilizer and shall forthwith report the results of said analysis to the sender.

Sec. 18. When analysis shall be deemed of public importance, fees shall be returned. 1911, c. 130, § 3. 1913, c. 140, §§ 1, 4. If on receipt of the copy of the marks upon the package from which the sample of commercial fertilizer was taken, it shall be found that not more than one sample of the same brand has been analyzed by said commissioner within the year, or if the actual analysis shall differ materially from the guaranteed analysis, the analysis made by said director shall be deemed to be of public importance, and the analysis fee shall be returned to the person who sent the sample. If the actual analysis agrees reasonably with the guaranteed analysis and more than one sample of the brand from which said sample was taken shall have been examined within the year, said commissioner shall pay said analysis fee to the treasurer of state.

Sec. 19. Analysis of commodities. 1913, c. 140, § 5. The commissioner of agriculture shall have all analyses of commodities 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.

Sec. 20. Certificates signed by director, presumptive evidence. 1911, c. 119, § 20. 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 seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide, shall be presumptive evidence of the facts therein stated.

Sec. 21. Penalty for adulterating or misbranding. 1911, c. 119, § 16. Any person who adulterates or misbrands within the meaning of this chapter, any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide, or any person who manufactures, sells, distributes, transports, offers or exposes for sale, distribution or transportation any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide or insecticide in violation of any provision of this chapter, shall be punished by a fine not exceeding one hundred dollars for the first offense, and by a fine not exceeding two hundred dollars for each subsequent offense.

Sec. 22. Exemption from prosecution. 1911, c. 119, § 17. No person shall be prosecuted under the provisions of the preceding sections of this chapter 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 hereof.

Packing of Food.

Sec. 23. Packing of food in tin or glass regulated; permit; packer shall pay for inspection of product. 1911, c. 151, § 1. 1913, c. 140, § 1. Any person intending to pack food in tin or glass within this state may annually file with the commissioner of agriculture an application for a permit. Said application shall state the location of the factory, the kind of food to be packed, the name of the packer and the date on which it is expected that packing will begin. Within sixty days after the filing of such application for permit, the commissioner shall, upon receipt of one hundred dollars, issue to such applicant a permit for packing said food in conformity with the requirements of this chapter for the calendar year. Such packer shall also pay monthly, not later than the tenth day of each month, the cost of maintaining the inspection of the food packed during the previous month. The one hundred dollars paid by a person for a permit, as aforesaid, shall be credited to him, at the close of the calendar year, as a payment toward the cost of inspecting his product. Said commissioner may, however, cancel any permit whenever the provisions of this chapter have not been complied with.

Sec. 24. Commissioner of agriculture shall see that food is packed in conformity with law; penalty for false marking. 1911, c. 151, §§ 2, 4. 1913, c. 140, § 1. The commissioner of agriculture shall, by adequate inspection, see that the food packed hereunder is in conformity with the requirements of this chapter; and he shall authorize the persons packing a food in conformity herewith to mark the container of said food with a statement certifying that the food contained therein was packed, inspected and passed under the Maine pure food and drug law. Whoever shall falsely mark any container as having been packed in conformity with the requirements of this chapter shall be punished by a fine not exceeding five hundred dollars for each container thus falsely marked.

Packing of Apples.

Sec. 25. Standard barrel for apples; standard bushel box. 1913, c. 156, § 1. The standard barrel for apples shall contain seven thousand cubic inches; provided, however, that a barrel of the following dimensions when measured without distention of parts: length of stave, twenty-eight and one-half inches; diameter of head, seventeen and one-eighth inches; distance between heads, twenty-six inches; circumference of bulge not less than sixty-four inches outside measurement, shall be a lawful barrel. The standard bushel box for apples shall contain two thousand three hundred and fifty cubic inches; provided, however, that a box eighteen inches by eleven and one-half inches by ten and one-half inches, inside measurement, without distention of parts, shall be a lawful bushel box.

Sec. 26. Marks upon barrels and boxes used in shipping apples. 1915, c. 266. Manufacturers of standard barrels and boxes to be used in shipping apples shall mark, in a conspicuous place, on each barrel the words "standard barrel" and on each box the words "standard box." Whoever fails to comply with this section shall be punished by fine not exceeding one hundred dollars. Municipal and police courts, and trial justices shall

have original jurisdiction, concurrent with the supreme judicial court and the superior courts, of prosecutions under this section.

Sec. 27. Standard grades established. 1913, c. 156, § 2. The standard grades for apples when packed in closed packages shall be as follows:

First. Fancy, shall consist of apples of one variety above the average size and color for the variety, and none smaller than two and one-half inches in diameter, sound and free from worm-holes, bruises, scab or any other defect that materially injures the appearance or useful quality of the apples, and shall be properly packed in clean, strong packages.

Second. Number one, or class one, shall consist of well-matured apples of one variety of normal shape and good color for the variety, not less than two and one-quarter inches in diameter, sound and free from all defects such as worm-holes, bruises, scab or any other defect that materially injures the appearance or useful quality of the apple, and shall be properly packed in clean, strong packages.

Third. Number two, or class two, shall consist of well-matured apples of one variety, not less than two inches in diameter, of medium color for the variety and normal shape. Apples two and one-quarter inches in diameter or less, must be sound. Apples more than two and one-quarter inches in diameter may have one defect such as a worm-hole or a bruise if the skin is not broken and shall be properly packed in clean, strong packages.

Fourth. Unclassified. Apples not conforming to the foregoing conditions as to variety, size and other conditions, shall be classed as Unclassified.

Sec. 28. Marks required on outside of package. 1913, c. 156, § 3. Every closed package of apples which is packed, sold, distributed, transported, offered or exposed for sale, distribution or transportation in the state by any person shall have affixed in a conspicuous place on the outside thereof a plainly printed statement clearly and truly stating the size of the package in terms of standard bushel box or standard barrel, the name and address of the owner or shipper of the apples at time of packing, the name of the variety, the class or grade of the apples contained therein, and if the apples were grown in Maine that fact shall be plainly designated.

Sec. 29. Misbranded or adulterated apples shall not be packed. 1913, c. 156, § 4. No person shall, within this state, pack, sell, distribute, transport, offer or expose for sale, distribution, or transportation, apples which are adulterated or misbranded within the meaning of sections thirty and thirty-one of this chapter.

Sec. 30. Term adulterated defined. 1913, c. 156, § 5. For the purpose of sections twenty-five to thirty-four, both inclusive, of this chapter, apples packed in a closed package shall be deemed to be adulterated if their measure, quality, grade or purity do not conform in each particular to the claims made upon the affixed guaranty.

Sec. 31. Misbranded, defined. 1913, c. 156, § 6. For the purpose of sections twenty-five to thirty-four, both inclusive, of this chapter, apples packed in a closed package shall be deemed to be misbranded:

First. If the package fails to bear all statements required by section twenty-eight.

Second. If the package bears any statement, design or device regarding such article or its contents which shall be false or misleading in any particular, or is falsely branded in any particular.

Sec. 32. Commissioner of agriculture shall have access to places where apples are packed. 1913, c. 156, § 8. The commissioner of agriculture, in person or by deputy, shall have free access, ingress and egress, at all reasonable hours to any place or any building wherein apples are packed, stored, transported, sold, offered or exposed for sale, or for transportation. He may also, in person or by deputy, open any box, barrel or other container, and may, upon tendering the market price, take samples therefrom.

Sec. 33. Penalty for adulteration and misbranding. 1913, c. 156, § 10. Whoever adulterates or misbrands apples within the meaning of sections thirty and thirty-one of this chapter, or whoever packs, sells, distributes, transports, offers or exposes for sale, distribution or transportation, apples in violation of any provision of sections twenty-five to thirty-four, both inclusive, of this chapter, shall be punished by a fine not exceeding one hundred dollars for the first offense, and by a fine not exceeding two hundred dollars for each subsequent offense.

Sec. 34. Guaranty as a bar to prosecution. 1911, c. 156, § 11. No person shall be prosecuted under the provisions of the nine preceding sections when he can establish a guaranty signed by the person from whom he received any such article, to the effect that the same is not adulterated or misbranded, within the meaning of sections thirty and thirty-one, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such article to said 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 the nine preceding sections.

Provisions for Enforcement.

Sec. 35. Uniform rules and regulations and standards of purity. 1911, c. 119, § 13; c. 151, § 2. 1913, c. 140, § 1; c. 156, § 7. The commissioner of agriculture shall make uniform rules and regulations for carrying out the provisions of this chapter. He may also 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 agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food, fungicide and insecticide as he may deem to be of public benefit.

Sec. 36. Hearing in case of violation. 1911, c. 119, § 15; c. 151, § 3. 1913, c. 140, § 1; c. 156, § 9. When the commissioner of agriculture becomes cognizant of the violation of any provision of this chapter, he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the findings, 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 commissioner. When the hearing relates to the packing of apples, it shall be held in the county where the inspection was made.

Sec. 37. Enforcement of laws by commissioner. 1911, c. 119, § 19; c. 151, § 6. 1913, c. 140, § 1; c. 156, § 14. The commissioner of agriculture shall diligently enforce all provisions of this chapter, and shall be entitled to, and shall receive the assistance of the attorney-general and of the several county attorneys. He may recover the penalties imposed for violations of this chapter in an action of debt brought in his own name, the venue to be as in other civil cases, and if he prevails in any such action, shall recover full costs; or he may prosecute for violations hereof by complaint or indictment, and such prosecution shall be commenced in the county in which the offense was committed.

Sec. 38. Appointment of deputies. 1913, c. 140, § 7. He may, with the approval of the governor and council, appoint, and fix the compensation of, a chief deputy and such other deputies as in his judgment are required to assist him, and to enable him to carry out the provisions of all laws, the execution of which is entrusted to him. The chief deputy shall hold office during good behavior, and such other deputies during the pleasure of the commissioner; their compensation and expenses shall be paid from any funds appropriated for the use of the commissioner in the execution of said laws.

Sec. 39. Rules of construction. 1911, c. 119, § 18; c. 151, § 5. 1913, c. 156, § 12. The word "person" as used in this chapter shall be construed to import both the singular and the plural, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this chapter, the act, omission or failure of any officer, agent or other person acting for or empowered 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.

Sec. 40. Jurisdiction; disposal of funds. 1911, c. 119, § 19; c. 151, §§ 6, 7. 1913, c. 140, §§ 1, 3; c. 156, § 14. Municipal and police courts and trial justices shall have original jurisdiction, concurrent with the supreme judicial court and superior courts, of actions brought for the recovery of penalties imposed by this chapter, and of prosecutions for violations hereof. All fines received under this chapter by county treasurers shall be paid by them to the commissioner of agriculture; and all money received by the commissioner of agriculture under this chapter shall be paid by him to the treasurer of state, and the same is hereby appropriated for the purposes of this chapter.

Appropriations.

Sec. 41. Appropriation. 1909, c. 115, § 1. 1913, c. 140, § 1. The sum of nine thousand dollars shall be annually appropriated in favor of the commissioner of agriculture, and the same shall be expended by the commissioner in executing the laws relating to the collection, examination, inspection and analysis of agricultural seeds, concentrated commercial feeding stuffs, commercial fertilizer, and foods and drugs. Payments of said appropriation shall be made quarterly upon the warrants of the governor

and council. The commissioner shall annually publish a classified account of all receipts and expenditures under this section.

Sec. 42. Method of expending appropriation. 1913, c. 140, § 8. Any sums of money appropriated to carry out the provisions of chapter forty-eight relating to the duties of the state sealer of weights and measures, shall be added to the funds appropriated to carry out the provisions of this chapter, and expended as a part thereof; or any funds appropriated to carry out the provisions of this chapter, may be expended in carrying out the provisions aforesaid, relating to the duties of the state sealer of weights and measures.

CHAPTER 37.

Regulation of Sale of Milk.

Duties of Commissioner of Agriculture.

Sec. 1. Duty of commissioner of agriculture; shall have access to all places of business. 1909, c. 35, § 1. The commissioner of agriculture shall, either in person or by duly authorized agents and assistants, diligently inquire into and investigate the production, manufacture, transportation, storage and sale of milk, cream, butter and all other dairy products, substitutes therefor or imitations thereof. The commissioner, his agents and assistants, shall have access at all reasonable hours, to all places of business, factories or carriages, cans or other vessels used or which he or they believe to be used in the production or handling of milk or any other dairy product, substitute therefor or imitation thereof, and upon tendering the market price of a sample of milk or other dairy product, substitute therefor or imitation thereof, may take such sample from any person, firm, corporation, association or society; the commissioner shall cause all samples so taken to be analyzed.

Sec. 2. Penalty for obstructing commissioner in performance of duty. 1909, c. 35, § 2. Whoever hinders, obstructs, or in any way interferes with the commissioner of agriculture, his agents or assistants, in the performance of his or their duty, herein above set forth, by refusing entrance to any place where he is authorized to enter, or access to any receptacle to which he is authorized to have access, or by refusing to deliver to him, his agents or assistants, a sample of milk or any other dairy product, substitute therefor or imitation thereof, sold, offered or exposed for sale by the person to whom such request is made if the value thereof is tendered, or shall in any other manner hinder, obstruct or interfere with said commissioner, his agents or assistants, in the performance of any of their said