

CHAPTER 52.

PREVENT DECEPTION IN MANUFACTURE AND SALE OF IMITATIONS
OF BUTTER AND CHEESE, AND CREATE DAIRY COMMISSIONER.

AN ACT to Prevent Deception in the Manufacture and Sale of Im- S. F. 121.
itations of Butter and Cheese.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That for the purposes of this act every article, substance or compound other than that produced from pure milk or cream from the same made in the semblance of butter and designed to be used as a substitute for butter made from pure milk or cream from the same is hereby declared to be imitation butter; and that for the purposes of this act every article, substance or compound other than that produced from pure milk or cream from the same made in the semblance of cheese and designed to be used as a substitute for cheese made from pure milk or cream from the same is hereby declared to be imitation cheese; *provided* that the use of salt, rennet, and harmless matter for coloring the product of pure milk or cream, shall not be construed to render such product an imitation.

SEC. 2. Each person who manufactures imitation butter or imitation cheese shall mark by branding, stamping or stenciling upon the top and sides of each tub, firkin, box or other package in which such article shall be kept and in which it shall be removed from the place where it is produced, in a clear and durable manner, in the english language, the name of the contents thereof as herein designated, in printed letters of plain roman type each of which shall be not less than one inch in length by one-half of one inch in width. Every person who by himself or another violates the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not to exceed two hundred and fifty dollars or by imprisonment in the county jail not to exceed sixty days.

SEC. 3. No person by himself or another shall knowingly ship, consign or forward by any carrier whether public or private any imitation butter or imitation cheese, unless the same be marked as provided by section two of this act; and no carrier shall knowingly receive for the purpose of forwarding or transporting any imitation butter or imitation cheese, unless it shall be marked as hereinbefore provided, consigned, and by the carrier receipted for by its name as designated by this act; *provided* that this act shall not apply to any goods in transit between foreign States and across the State of Iowa.

SEC. 4. No person shall knowingly have in his possession or under his control any imitation butter or imitation cheese un-

- less the tub, firkin, box or other package containing the same be clearly and durably marked as provided by section two of this act; *provided*, that this section shall not be deemed to apply to persons who have the same in their possession for the actual consumption of themselves or family.
- Proviso.** **SEC. 5.** No person by himself or another shall knowingly sell or offer for sale imitation butter or imitation cheese under the name of, or under the pretense that the same is pure butter or pure cheese; and no person by himself or another shall knowingly sell any imitation butter or imitation cheese unless he shall have informed the purchaser distinctly at the time of the sale, that the same is imitation butter or imitation cheese as the case may be and shall have delivered to the purchaser at the time of the sale a statement clearly printed in the english language which shall refer to the article sold and which shall contain in prominent and plain roman type the name of the article sold as fixed by this act and shall give the name and place of business of the maker.
- Selling with-
out being
marked.**
- Hotels, eating-
houses, etc.** **SEC. 6.** No keeper of a hotel, boarding house, restaurant, or other public place of entertainment shall knowingly place before any patron for use as food any imitation butter or imitation cheese unless the same be accompanied by a placard containing the name in english of such article as fixed by this act printed in plain roman type. Each violation of this section shall be deemed a misdemeanor.
- Misdemeanor.**
- Action on con-
tract.** **SEC. 7.** No action can be maintained on account of any sale or other contract made in violation of or with intent to violate this act by or through any person who was knowingly a party to such wrongful sale or other contract.
- Possession
presumes
knowledge.** **SEC. 8.** Every person having possession or control of any imitation butter or imitation cheese which is not marked as required by the provisions of this act shall be presumed to have known during the time of such possession or control the true character and name as fixed by this act of such imitation product.
- Defacing or
removing
marks.** **SEC. 9.** Whoever shall deface, erase, cancel or remove any mark provided for by this act with intent to mislead, deceive or to violate any of the provisions of this act, shall be deemed guilty of a misdemeanor.
- Penalty for
violation.** **SEC. 10.** Whoever shall violate any of the provisions of the third, fourth and fifth sections of this act shall, for the first offense, be punished by a fine of not less than fifty dollars nor more than one hundred dollars, or by imprisonment not exceeding thirty days, and for each subsequent offense shall be punished by a fine of not less than two hundred and fifty dollars nor more than five hundred dollars or by imprisonment in the county jail not less than thirty days nor more than six months, or by both such fine and imprisonment in the discretion of the court.
- Governor to
appoint dairy
commissioner.** **SEC. 11.** The Governor shall within thirty days from the taking effect of this act by and with the *advise* [advice] and consent of

the Executive Council appoint an officer who shall be known as the State Dairy Commissioner who shall have practical experience in the manufacture of dairy products the term of office of such Commissioner shall commence on the first day of May A. D. 1886, and shall continue two years. Said Commissioner shall give an official bond conditioned for the faithful performance of the duties of his office in the sum of ten thousand dollars with sureties to be approved by the Governor. He may be removed from office by the Governor with the approval of the Executive Council for neglect or violation of duty. Any vacancy shall be filled by the appointment of the Governor by and with the advice and consent of the Executive Council.

SEC. 12. The State Dairy Commissioner shall receive a salary of fifteen hundred dollars per annum, payable monthly and the expenses necessarily incurred in the proper discharge of the duties of his office, *provided* that a complete itemized statement of all expenses shall be kept by the Commissioner and by him filed with the Auditor of State after having been duly verified by (him) before receiving the same. He shall be furnished a room in the Agricultural department of the Capitol at Des Moines, in which he shall keep his office and all correspondence, documents, records and property of the State pertaining thereto all of which shall be turned over to his successor in office. He may, if it is found to be necessary, employ a clerk whose salary shall not exceed the sum of fifty dollars per month. Said salaries and expenses to be paid from the appropriation provided for in section seventeen of this act. The Commissioner provided for by this act shall hold no other official position under the laws of Iowa or a professorship in any of the State institutions.

SEC. 13. It shall be the duty of the State Dairy Commissioner to secure, so far as possible the enforcement of this act. He shall collect, arrange and present in annual reports to the Governor on or before the first day of November of each year, a detailed statement of all matters relating to the purposes of this act, which he shall deem of public importance including the receipts and disbursements of his office, such reports shall be published with the reports of the State Agricultural Society.

SEC. 14. The State Dairy Commissioner shall have power in all cases where he shall deem it important for the discharge of the duties of his office, to administer oaths, to issue subpoenas for witnesses and to examine them under oath and to enforce their attendance to the same extent and in the same manner as a justice of the peace may now do, and such witnesses shall be paid by the commissioner the same fees now allowed witnesses in justices' courts.

SEC. 15. Whoever shall have possession or control of any imitation butter or imitation cheese contrary to the provisions of this act shall be construed to have possession of property with intent to use it as a means of committing a public offense within the meaning of chapter 50 of title XXV, of the Code; *provided*

- that it shall be the duty of the officer who serves a search warrant issued for imitation butter or imitation cheese, to deliver to the State Dairy Commissioner or to any person by such commissioner authorized in writing to receive the same, a perfect sample of each article seized by virtue of such warrant, for the purpose of having the same analyzed and forthwith to return to the person from whom it was taken, the remainder of each article seized as aforesaid. If any sample be found to be imitation butter or imitation cheese it shall be returned to and retained by the magistrate as, and for, the purpose contemplated by section 4648 of the Code, but if any sample be found not to be imitation butter or imitation cheese, it shall be returned forthwith to the person from whom it was taken.
- Samples.**
- Under code, section 4648.**
- Costs.** SEC. 16. It shall be the duty of the court in each action for the violation of this act to tax as costs in the cause, the actual and necessary expense of analyzing the alleged imitation butter or imitation cheese which shall be in controversy in such proceeding provided that the amounts so taxed shall not exceed the sum of twenty-five dollars. It shall be the duty of the district or county attorney, upon the application of the Dairy Commissioner, to attend to the prosecution in the name of the State of any suit brought for violation of any of the provisions of this act within his district, and in case of conviction he shall receive twenty five per cent of the fines collected, which shall be in addition to any salary he may receive to be taxed as costs in the case.
- Proviso.**
- District or county attorney to prosecute.**
- \$20,000 appropriated.** SEC. 17. There is hereby appropriated for the purposes of this act the sum of twenty thousand dollars or so much thereof as shall be necessary not more than one half of which shall be drawn from the State treasury prior to the first day of July A. D. 1887. The amount hereby appropriated shall be expended only under the direction and with the approval of the Executive Council. And all salaries, fees, costs and expenses of every kind incurred in the carrying out of this law shall be drawn from the sum so appropriated.
- Chapter 39, acts 18 G. A., repealed.** SEC. 18. Chapter 39 of the acts of the Eighteenth General Assembly of Iowa and all acts and parts of acts in conflict with this act are hereby repealed.
- Publication.** SEC. 19. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Iowa State Register and Iowa Homestead, newspapers published at Des Moines, Iowa.
- Approved March 27, 1886.

I hereby certify that the foregoing act was published in the *Iowa State Register* March 31, 1886, and the *Iowa Homestead* April 9, 1886.

FRANK D. JACKSON, *Secretary of State.*