

House File No. 198.
BY BEEMAN (by request).

Dairy and food.
February 8, 1919.

A BILL FOR AN ACT

To amend the law as it appears in section two thousand five hundred fifteen (2515) of the supplemental supplement to the code, 1915, and relating to the appointment of a dairy and food commissioner, a deputy dairy and food commissioner, state dairy inspector, assistants, a chemist, and a bacteriologist and assistant chemist, define the power and duties of such officers and fix their compensation; and to amend the law as it appears in section two thousand five hundred fifteen-g (2515-g) of the supplement to the code, 1913, relating to penalties for violating the dairy laws enforced by the dairy and food commissioner; and to amend section two thousand five hundred twenty-two (2522) of the supplement to the code, 1913, relating to making of reports by manufacturers of certain dairy products; and to amend section two thousand five hundred twenty-four (2524) of the code relating to salaries of milk inspectors in certain cities; and to amend chapter thirteen (13) of the code by adding thereto a section relating to the registration and use of marks or brands on containers used for handling skimmed-milk, butter-milk, milk, cream and ice cream, also a section relating to the use of the words "butter," "creamery" and "dairy" on substitutes for butter and advertising material pertaining thereto; and to repeal the law as it appears in section two thousand five hundred fifteen-b (2515-b) and two thousand five hundred fifteen-c (2515-c) of the supplement to the code, 1913, and section two thousand five hundred fifteen-d (2515-d) supplement to the code, 1913, as amended by chapter three hundred seventy-seven (377), section one (1), acts of the thirty-seventh general assembly, and to enact substitutes therefor relating to the sale of imitation evaporated milk, imitation ice cream, skimmed milk, milk, cream and other dairy products.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. That the law as it appears in section twenty-

2 five hundred fifteen (2515) supplemental supplement to the
3 code, 1915, as amend by chapter 377, acts of the Thirty-
4 seventh General Assembly, be and the same is hereby amended
5 by striking out of line eleven thereof the words "of each
6 even-numbered year" and inserting in lieu thereof the words
7 "nineteen hundred twenty;" by striking out of line fourteen
8 thereof the words "hold his office for two" and inserting in
9 lieu thereof the words "who shall hold his office for a term
10 of four;" by striking out of line thirty-two thereof the
11 words "twenty-seven" and inserting in lieu thereof the words
12 "thirty-six;" by striking out of line thirty-eight thereof
13 the word "eighteen" and inserting in lieu thereof the words
14 "twenty-six;" by striking out of line thirty-nine thereof
15 the word "sixteen" and inserting in lieu thereof the words
16 "twenty-two;" by striking out of lines forty-two and forty-
17 three thereof the words as amended by chapter 377, section
18 1, acts of the Thirty-seventh General Assembly, "two assis-
19 tants at a salary of sixteen hundred dollars per years, and
20 four assistants at a salary of fifteen hundred dollars for
21 the first year and sixteen hundred dollars per year there-
22 after."; and by inserting in lieu thereof the following,
23 "six assistants whose salaries shall not exceed the follow-
24 ing: eighteen hundred dollars for the first year of service,
25 nineteen hundred dollars for the second year of service,
26 two thousand dollars for the third year of service, twenty-
27 one hundred dollars for the fourth year of service and

28 twenty-two hundred dollars for the fifth and each succeeding
29 year of service,"; and by striking out of line fifty-one
30 thereof the word "shall" and inserting in lieu thereof the
31 word "may"; and by striking out of lines fifty-two to sixty-
32 one inclusive thereof the words "who shall be an expert
33 analytical, food and pharmaceutical chemist, who shall be
34 the official chemist of the dairy and food department.
35 He shall devote his whole time to the duties of such office.
36 He shall receive a salary of twenty-four hundred dollars
36½ per year, to be paid in the same manner as the salaries
37 of other state officers. He shall make all the examina-
38 tions necessary in enforcing the provisions of the various
39 laws enforced by the dairy and food department, shall be
40 allowed actual and necessary traveling expenses, and shall
41 be furnished necessary laboratory, apparatus, supplies, and
42 chemicals, to be paid for in the same manner as the accounts
43 of assistants", and inserting in lieu thereof the following,
44 "at a salary of three thousand dollars a year and a bacter-
45 iologist and assistant chemist at a salary of twenty-six
46 hundred dollars a year. They shall devote their entire
47 time to the duties of such offices. They shall make all
48 the examinations necessary in enforcing the provisions of
49 the various laws enforced by the dairy and food department,
50 shall be allowed actual and necessary traveling expenses,
51 and shall be furnished necessary laboratory, apparatus, sup-
52 plies and chemicals, to be paid for in the same manner as

53 the accounts of assistants. The commissioner, the deputy
54 commissioner, the state dairy inspector, the assistants, the
55 chemist and the bacteriologist and assistant chemist shall
56 be paid in the same manner as the salaries of other state
57 officers;" so that section two thousand five hundred fifteen
58 as amend shall read as follows:

59 "On or before the first day of April of ninteen hundred
60 twenty, the governor shall appoint a dairy and food commission-
61 er, who shall have practical knowledge of, and experience in
62 the manufacture of dairy products, and who shall hold his
63 office for a term of four years from the first day of May fol-
64 lowing his appointment, and until his successor is appointed
65 and qualified, subject to removal by the governor for inef-
66 ficiency, neglect or violation of duty. He shall give bond
67 in the sum of ten thousand dollars conditioned for the faith-
68 ful performance of his duties, with sureties to be approved
69 by and filed with the secretary of state. He shall keep on
70 hand a supply of standard test tubes or bottles and milk
71 measures or pipettes adapted for use by each milk testing ma-
72 chine. He shall furnish to any firm or corporation desiring
73 the same one such tube or bottle, and such milk measure or
74 pipette for each factory, of the kind adapted for the machine
75 operated therein, upon request therefor, certifying it to
76 be reliable, accurate and standard, placing thereon the words
77 (letters) 'D. C.' as a permanent mark, tubes or bottles
78 and pipettes to be furnished at the actual cost thereof. He

79 shall have and keep an office in the capitol, and preserve
80 therein all correspondence, documents, records, and all prop-
81 erty of the state pertaining thereto, and shall have authority
82 to take all proper educational measures to foster and promote
83 the manufacture and sale of pure food and dairy products. The
84 commissioner shall be allowed necessary postage, stationery
85 and office supplies, and shall receive an annual salary of
86 thirty-six hundred dollars and necessary expenses, which shall
87 not exceed forty-five hundred dollars per year including ex-
88 penses, such expenses to be itemized, verified by him, and
89 when examined and approved by the executive council, to be
90 paid by warrant of the state auditor drawn upon the state
91 treasurer. The commissioner may appoint a deputy commissioner
92 at a salary of twenty-six hundred dollars per year, a state
93 dairy inspector at a salary of twenty-two hundred dollars per
94 year. He may also appoint, with the approval of the Iowa state
95 college of agriculture and mechanic arts, the director of the
96 Iowa experiment station and the professor of dairying, six
97 assistants whose salaries shall not exceed the following:
98 eighteen hundred dollars for the first year of service, nine-
99 teen hundred dollars for the second year of service, two
100 thousand dollars for the third year of service, twenty-one
101 hundred dollars for the fourth year of service and twenty-two
102 hundred dollars for the fifth and each succeeding year of
103 service, who shall perform such duties as may be assigned to
104 them by the commissioner. Such deputy, dairy inspector and

105 assistants shall be allowed in addition to their salaries,
106 actual and necessary traveling expenses, when in the perform-
107 ance of their official duties, said expenses to be itemized,
108 verified under oath, and when audited and approved by the
109 executive council to be paid upon warrant of the state audi-
110 tor upon the state treasurer provided that such expenditure
111 shall not exceed the appropriation made for this purpose.
112 The commissioner may, with the approval of the executive
113 council, appoint a state chemist at a salary of three thous-
114 and dollars a year and a bacteriologist and assistant chemist
115 at a salary of twenty-six hundred dollars a year. They shall
116 devote their entire time to the duties of such office. They
117 shall make all the examinations necessary in enforcing the
118 provisions of the various laws enforced by the dairy and
119 food department, shall be allowed actual and necessary travel-
120 ing expenses, and shall be furnished necessary laboratory,
121 apparatus, supplies and chemicals, to be paid for in the same
122 manner as the accounts of assistants. The commissioner, the
123 deputy commissioner, the state dairy inspector, the assistants,
124 the chemist and the bacteriologist and assistant chemist shall
125 be paid in the same manner as the salaries of other state
126 officers. The commissioner shall during his term of office
127 hold no other official position or any professorship in any
128 state educational institution, and on or before the first day
129 of November he shall make annual report to the governor, which
130 shall contain a detailed account of all his doings as commission-

131 er and the receipts and disbursements of his office since the
132 preceding report, with such facts and statistics in regard
133 to the production, manufacture and sale of dairy products,
134 with such suggestions as he may regard of public importance
135 in connection therewith. In the conduct of his office, he
136 shall have power to issue subpoenas for witnesses, enforce
137 their attendance and examine them under oath by him to be ad-
138 ministered, such witnesses to be allowed fees as in justice
139 courts, to be paid by the commissioner as part of the expenses
140 of his office and do such other acts and things as are necessary
141 and proper in the enforcement of the provisions of this chapter.”

1 Sec. 2. That the law as it appears in sections two
2 thousand five hundred fifteen-b (2515-b), two thousand five
3 hundred fifteen-c (2515-c), and two thousand five hundred fif-
4 teen-d (2515-d), supplement to the code, 1913, as amended by
5 chapter 377, acts of the Thirty-seventh General Assembly, be
6 and the same are hereby repealed and the following enacted in
7 lieu thereof:

8 “No person shall sell, exchange or expose for sale or ex-
9 change or deliver or bring to another for domestic or potable
10 use or to be converted into any product of human food, any
11 adulterated, or misbranded milk, cream or skimmed milk, and no
12 person shall purchase any such substance to be converted into
13 any human food product or manufacture the same into food product,
14 nor shall any persons offer or expose for sale or have in his
15 possession with intent to sell or sell any skimmed milk unless

16 each receptacle and carrying can containing the same shall be
17 kept plainly marked on the side thereof with the words 'Skimmed
18 Milk' in the English language in plain letters not less than
19 one inch in height, provided that skimmed milk sold in bottles
20 shall be deemed to be properly marked if the cap shall be plain-
21 ly printed with the words 'Skimmed Milk' in letters not smaller
22 than twelve point Gothic caps.

23 For the purpose of this act, milk is the fresh, clean,
24 lacteal secretion obtained by the complete milking of one or
25 more healthy cows, properly fed and kept. For the purpose of
26 this act, cream is the portion of milk, rich in milk fat, which
27 rises to the surface of milk on standing, or is separated from
28 it by centrifugal force, is fresh and clean. For the purpose
29 of this act, skimmed milk is the portion of milk, poor in fat,
30 from which the cream has been removed. The term 'skimmed milk'
31 shall also include the fresh, clean, lacteal secretion of one
32 or more healthy cows and containing less than three per cent
33 (3%) of milk fat or less than eleven and one-half per cent (11½%)
34 of milk solids.

35 For the purpose of this act, milk, cream and skimmed
36 milk shall be deemed to be adulterated:

37 In case of milk, cream and skimmed milk:

38 First. If water or any other substance has been added.

39 Second. If it contains any visable dirt or be contained
40 in any container which is not clean.

41 Third. If it be obtained from any animal having disease,

42 sickness, ulcer, abscess or running sore or which has been ob-
43 tained from a cow within fifteen days before or five days af-
44 ter calving.

45 Fourth. It is be obtained from a cow stabled in an un-
46 healthful place or fed upon any substance in a state of putri-
47 fication or of an unhealthful nature.

48 In the case of milk:

49 If it contains less than three per cent (3%) of milk-
50 fat or less than eleven and one-half per cent (11½%) of milk
51 solids.

52 In the case of cream:

53 If it contains less than sixteen per cent (16%) of
54 milk-fat.

55 For the purpose of this act, milk, cream and skimmed
56 milk shall be deemed to be misbranded:

57 If it be labeled or branded so as to deceive or mislead
58 the purchaser or if the package bears any statement, design
59 or device which is false or misleading in any particular.

60 For the purpose of this act, cheese is the sound, ripen-
61 ed product made from milk or cream by coagulating the casein
62 with rennet or lactic acid with or without the addition of
63 ripening ferments, seasonings and color, and contains not
64 less than thirty per cent (30%) of milk-fat. For the pur-
65 pose of this act, skimmed milk cheese is the sound and rip-
66 ened product made from skimmed milk as defined in this chap-
67 ter, by coagulating the casein thereof with rennet or lactic

68 acid, with or without the addition of ripening ferments,
69 seasoning, and color and containing less than thirty per cent
70 (30%) of milk fat. No person shall offer or expose for sale
71 any skimmed milk cheese without the same being plainly and
72 durably branded or marked on the side or top of both cheese
73 and package in the English language with the words 'Skimmed
74 Milk Cheese' in letters to be not less than one inch in
75 height and one-half inch in width."

76 "Every article, substitute or compound, save that pro-
77 duced from pure milk of cows and containing no added substance,
78 made in the semblance of or designed to be used for or in the
79 place of evaporated milk, is hereby declared "Imitation Evap-
80 orated Milk' and every article, substitute or compound, con-
81 taining any fat other than the milk-fat of milk cows, made
82 in the semblance of or designed to be used for or in the
83 place of ice cream, is hereby declared 'Imitation Ice Cream.'
84 No person, firm or corporation shall manufacture, have in
85 his possession, offer to sell, or sell, solicit or take or-
86 ders for delivery or ship any such imitation evaporated milk
87 or imitation ice cream, except in the manner and subject to
88 the regulations provided in this section.

89 Imitation evaporated milk and imitation ice cream may
90 be manufactured, kept in possession, offered for sale, or
91 sold, if each can, tub, box, or other package in which same
92 is kept, offered for sale or shipped shall have plain-
93 ly branded on the side or top thereof in the English language

94 in a durable manner, the words 'Imitation Evaporated Milk'
95 or 'Imitation Ice Cream' as the case may be. The letters of
96 the words to be not less than one inch in height and one-half
97 inch in width. Provided, however, that on packages contain-
98 ing less than twenty ounces net of imitation evaporated milk
99 the words 'Imitation Evaporated Milk' may appear plainly
100 printed on the principal label of the package in type not
101 less than one-fourth inch in height and one-eighth inch in
102 width. Imitation evaporated milk and imitation ice cream
103 may be kept, used or served only in case the proprietor or
104 person in charge of the place in which such imitation evap-
105 orated milk or imitation ice cream is used or served, shall
106 display and keep constantly posted a card opposite each table,
107 counter, or other places where the guests or others are
108 served with the same, which card shall be white, at least ten
109 by fourteen inches in size and the words 'Imitation Evaporated
110 Milk Used Here' or 'Imitation Ice Cream Used Here,' as the
111 case may be, printed in black Roman letters not less than
112 three inches in height and two inches in width and no other
113 words or figures shall be printed thereon. Provided, however,
114 that this provision shall not apply to a private residence
115 of a person serving his family or guests. Nothing in this or
116 the preceding section shall be construed to require the lab-
117 eling of nut ice cream or ice cream flavored with chocolate
118 or cocoa, 'imitation ice cream.'"

1 Sec. 3. That the law as it appears in section two.

2 thousand five hundred fifteen-g (2515-g), supplement to the
3 code, 1913, be and the same is hereby amended by striking
4 out of line three thereof the words "twenty-five" and insert-
5 ing in lieu thereof the word "ten" and by striking out of
6 line four thereof the word "less" and inserting in lieu there-
7 of the word "more" so that section two thousand five hundred
8 fifteen-g as amended shall read as follows:

9 "Any person violating any of the provisions of this act
10 shall be guilty of a misdemeanor, and upon conviction there-
11 for shall be punished by a fine of not less than ten nor more
12 than one hundred dollars or by imprisonment for not more than
13 thirty days in the county jail."

1 Sec. 4. That the law as it appears in section two thousand
2 five hundred twenty-two (2522), supplement to the code, 1913,
3 be and the same is hereby amended by inserting after the
4 word "creamery" where it appears in line four thereof the
5 words "milk-plant, cream-station or ice cream," so that sec-
6 tion two thousand five hundred twenty-two as amended shall
7 read as follows:

8 "Every city milk dealer, or every person furnishing milk
9 or cream to such dealer, or the employe of such milk dealer,
10 and every person or corporation, or the employe of such per-
11 son or corporation, who operates a creamery, milk-plant, cream-
12 station or ice cream, cheese or condensed milk factory, or
13 reworks or packs butter, shall maintain his premises and uten-
14 sils in a clean and hygienic condition, and shall make, upon

15 blanks furnished by the dairy commissioner, such reports and
16 statistics as may be required for the purpose of compiling
17 statistics authorized by this chapter, and such dealer, owner,
18 operator or business manager shall make such returns and re-
19 ports within thirty days after receiving the proper blank
20 form from the dairy commissioner and shall certify to the
21 correctness thereof. Whoever shall violate any provision of
22 this section shall be punished by a fine of not less than
23 twenty-five nor more than one hundred dollars, or by imprison-
24 ment in the county jail for not more than thirty days.”

1 Sec. 5. That section two thousand five hundred and
2 twenty-four (2524) of the code be and the same is hereby amend-
3 ed by striking out of line seven thereof the word “three”
4 and inserting in lieu thereof the word “five”, so that sec-
5 tion two thousand five hundred twenty-four as amended shall
6 read as follows:

7 “The commissioner may appoint agents in any city having
8 over ten thousand inhabitants to collect from each dealer,
9 not more than four times each month, samples of milk offered
10 for sale therein. The agent shall make an accurate test of
11 each sample received by him, and keep a true record thereof,
12 with the name and location of the person from whom it was
13 obtained and report his work in detail to the commissioner,
14 the compensation thereof not to exceed five dollars for each
15 day actually employed therein.”

1 Sec. 6. That chapter thirteen (13) of the code be

2 and the same is hereby amended by adding thereto the following:

3 “Any person, firm or corporation who buys, sells or
4 transports skimmed-milk, butter-milk, milk, cream, or ice cream,
5 may adopt a distinctive mark or brand, to be placed on any
6 container of such dairy products, owned by it, and may regis-
7 ter such mark or brand with the state dairy and food commis-
8 sioner, and when approved by the commissioner, such mark or
9 brand shall be used only by the registrant thereof. The
10 mark or brand may consist of the owner’s name and address or
11 suitable abbreviations therefor or both.

12 It shall be unlawful for any person, firm or corporation
13 to use any mark or brand which has been so registered by and
14 approved for the use of any other person, firm or corporation.

15 It shall be unlawful for any person, firm or corporation,
16 other than the rightful owner thereof, to use any container,
17 marked or branded as in this section provided, for any other
18 purpose or for the transportation or handling of any other
19 commodity than skimmed-milk, butter-milk, milk, cream or ice
20 cream.

21 It shall be unlawful for any person, firm or corporation,
22 other than the rightful owner thereof to deface, remove, or
23 injure any mark or brand, provided in this section, placed
24 on any container.

25 It shall be unlawful for any person, firm or corporation
26 to use any container marked or branded, as in this section
27 provided, without the consent of the owner thereof.

28 It shall be unlawful for any person, firm or corporation
29 to have in its possession for a longer time than three days
30 any container marked or branded as in this section provided,
31 without the consent of the owner thereof and any person, firm
32 or corporation having in its possession any container not its
33 own property, or sent it by the owner thereof for use, shall
34 immediately return such container or containers, other than
35 milk and cream bottles, to the owner by a common carrier, and
36 a receipt from a common carrier shall be prima facie evidence
37 that such container was returned. Milk and cream bottles,
38 marked or branded as in this section provided, shall be re-
38 turned by delivering them to the owner thereof or his agent
40 or servant in person, or by leaving them where such owner,
41 his agent or servant may pick them up at the time he deliv-
42 ers milk. Provided, that where the person, firm or corpora-
43 tion finds in its possession a container not its own prop-
44 erty nor sent it by the owner thereof for use and not know-
45 ing the name and address of the rightful owner shall immedi-
46 ately notify the state dairy and food commissioner in writ-
47 ing that such container is in its possession, describing
48 to him the size and shape of container and the mark thereon.
49 Upon receipt of shipping instructions from the state dairy
50 and food commissioner he shall immediately forward same by
51 a common carrier collect to the name and address furnished
52 him by the state dairy and food commissioner.

53 The state dairy and food commissioner shall adopt and

54 issue rules and regulations for carrying out the provisions
55 of this section. The term container used in this section
56 shall include cans, bottles, casks, kegs, barrels, packages
56 and other receptacles of like nature.”

1 Sec. 7. That chapter thirteen (13) of the code be
2 and the same is hereby amended by adding thereto the follow-
3 ing:

4 “No person, firm or corporation shall use in any way,
5 in connection or association with the sale or expose for
6 sale or advertisement of any substance designed to be used
7 as a substitute for butter, the word ‘butter’, ‘creamery’,
8 or ‘dairy’, except as required by section twenty-five hun-
9 dred seventeen (2517) of the code, or the name or represen-
10 tation of any breed of dairy cattle, or any combination of
11 such word or words and representation, or any other words
12 or symbols or combination thereof commonly used in the sale
13 of butter.”

1 Sec. 8. “That any person, firm or corporation vio-
2 lating any provision of this act shall be guilty of a mis-
3 demeanor, and upon conviction therefor shall be punished
4 by a fine of not less than ten nor more than one hundred
5 dollars or by imprisonment for not more than thirty days
6 in the county jail.”

1 Sec. 9. “Nothing contained in this act shall in any
2 manner operate to cause a vacancy or remove from office the
3 dairy and food commissioner or his assistants or employes

4 of the dairy and food department who may be serving when
5 this act becomes effective.”

1 Sec. 10. “This act being deemed of immediate im-
2 portance, shall be in force and effect from and after its pub-
3 lication in the Des Moines Register and the Des Moines Capi-
4 tal, papers published at Des Moines, Iowa.”