

No. 291
AN ACT

To amend the act, approved the thirteenth day of May, one thousand nine hundred and nine (Pamphlet Laws, five hundred twenty), entitled "An act relating to food; defining food; providing for the protection of the public health, and the prevention of fraud and deception, by prohibiting the manufacture or sale, the offering for sale or exposing for sale, or the having in possession with intent to sell, of adulterated, misbranded, or deleterious foods; prescribing certain duties of the Dairy and Food Commissioner in reference thereto; and providing penalties for the violation thereof," as amended, further regulating the adulteration and misbranding of food; providing for injunctions against the sale of food in certain cases; and changing penalties.

Section 1. Be it enacted, &c., That section one of the act, approved the thirteenth day of May, one thousand nine hundred and nine (Pamphlet Laws, five hundred twenty), entitled "An act relating to food; defining food; providing for the protection of the public health, and the prevention of fraud and deception, by prohibiting the manufacture or sale, the offering for sale or exposing for sale, or the having in possession with intent to sell, of adulterated, misbranded, or deleterious foods; prescribing certain duties of the Dairy and Food Commissioner in reference thereto; and providing penalties for the violation thereof," is hereby amended to read as follows:

Section 1, act of
May 13, 1909
(P. L. 520),
amended.

Section 1. Be it enacted, &c., That it shall be unlawful for any person, firm, copartnership, limited partnership, joint-stock company, or corporate body, by himself, herself, or themselves, or by his, her, its, or their agents, servants, or employes, to manufacture, sell, offer for sale, expose for sale, or have in possession with intent to sell, any article of food which is adulterated or misbranded within the meaning of this act.

Public health.

The possession of any adulterated or misbranded article of food shall be deemed prima facie evidence of an intent to sell such article of food.

Adulterated or
misbranded food.

Section 2. That section three of said act, as last amended by the act, approved the twenty-second day of May, one thousand nine hundred and thirty-three (Pamphlet Laws, eight hundred ninety-nine) is hereby further amended to read as follows:

Section 3, as
amended by act
of May 22, 1933
(P. L. 899), fur-
ther amended.

Section 3. (a) That for the purpose of this act, an article of food shall be deemed to be adulterated,—

Adulterations.

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

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 be mixed, colored or changed in color, coated, polished, powdered, stained, or bleached, whereby damage or inferiority is concealed, or so as to deceive or mislead the purchaser; or if by any means, it is made to appear better or of greater value than it is.

Fifth. If it contains any added sulphurous acid, sulphur dioxide, or sulphites, benzoic acid or benzoates, or other preservatives, except as hereafter provided, or if it contains any added boric acid or borates, salicylic acid or salicylates, formaldehyde, hydrofluoric acid or fluorides, fluoborates, fluosilicates, or other fluorine compounds [dulcin, glucin] saccharin, [alum, compounds of copper] or other artificial sweetening agents, except as hereafter provided, metallic salts, betanaphthol, hydro-naphthol, abrastol, asaprol, pyroligeneous acid, or other [added] ingredients deleterious to health; or if, in the case of confectionery, it contains any of the substances mentioned in this paragraph, or any mineral substance, or injurious color or flavor, alcoholic liquor, or any other ingredients, not herein mentioned, deleterious to health:

Proviso.

Harmless colors in fruits used in fruit cake.

Providing, That this act shall not be construed to prohibit the use of harmless colors of any kind, in confectionery or in fruits used in fruit cake, when used for coloring, and not for any fraudulent purpose: And provided further, That nothing in this act shall be construed

Proviso.

Salt, sugar, etc.

to prohibit the use of common salt, sugar, pure corn syrup, pure glucose, wine vinegar, cider vinegar, malt vinegar, sugar vinegar, glucose vinegar, distilled vinegar, spices or their essential oils, alcohol (except in confectionery), edible oils, edible fats, wood smoke applied directly as generated, or proper refrigeration: And provided further, That in the manufacture of confectionery the use of alcohol shall be permitted as it may be found in customary alcoholic tinctures or extracts used for flavoring purposes only, and as a solvent for glazes, and that oil of sweet birch, or methylsalicylic ester, may be used as a substitute for oil of wintergreen as a flavor:

Proviso.

Alcohol.

And provided further, That in the preparation of dried fruits and molasses, sulphur dioxide, either free or in simple combination, may be used in the proportion of not in excess of twenty-five hundred (2500) parts a million, and that when any dried fruits and molasses are used in any foods or food products or contain as a part of or as an ingredient in any food, the sulphur dioxide in such dried fruits and molasses shall not exceed the proportion of fifty (50) parts a million; and that sodium benzoate may be used in the preparation of those articles of food in which it has heretofore been generally used in quantities not exceeding one-tenth (1-10) of one per centum, or benzoic acid equivalent thereto: And provided further,

Proviso.

Proportions of sulphur dioxide in fruits and molasses.

Sodium benzoate.

That when any quantity of sulphur dioxide or sodium benzoate is used in any article of food, the fact that sul-

Proviso.

phur dioxide or sodium benzoate has been used in the preparation thereof shall be plainly stated on each package of such food: And provided further, That any article of food containing saccharin or any artificial sweetening agent may be manufactured, transported or sold if it contains no added sugar, honey or other natural sweetening agent, and the name of the artificial sweetening agent followed by the word "sweetened" is placed upon the label each time the name of the article of food is mentioned, in type no smaller than the largest type on said label. Said label shall also contain such appropriate warning statement as shall be prescribed by the Department of Agriculture.

Sodium benzoate or sulphur dioxide.

Use to be stated on package.

Proviso.

Sixth. If it consists of, or is manufactured in whole or in part from, a diseased, contaminated, filthy, or decomposed substance, either animal or vegetable; or an animal or vegetable substance produced, stored, transported, *exposed*, or kept in a way or manner that [would] *might tend to* render the article diseased, contaminated, or unwholesome; or if it is any part of the product of a diseased animal, or the product of an animal that has died otherwise than by slaughter.

(b) *It shall be unlawful for any person manufacturing articles of food or selling articles of food, whether at wholesale or retail, to have in his possession or to transport any article of food which is adulterated, unless the same has been completely denatured and rendered unfit for food by kerosene or other suitable denaturant prescribed by the Department of Agriculture.*

Adulterated food must be made unfit for use.

Section 4. That clause two of section four of said act is hereby amended to read as follows:

Clause 2, section 4, amended.

Second. If it be labeled or branded so that it may deceive or mislead the purchaser; or purport to be a foreign product, when not so; or if the contents of the package as originally put up shall have been removed, in whole or in part, and other [inferior] contents shall have been placed in such package.

Section 5. That section four of said act is hereby amended by adding thereto clauses five, six, and seven to read as follows:

Clauses 5, 6, and 7, added to section 4.

Fifth. If the package or container containing the article of food or the label thereon shall not bear the name and address of the manufacturer or packer of the contents thereof, or the name and address of the wholesale dealer or distributor, preceded by the words "manufactured by" or "packed by," or "distributed by" or "packed for," as the case may be, or followed by the word "manufacturer" or "packer," or "wholesale dealer" or "distributor," as the case may be.

If package does not contain name and address of packer or jobber.

Sixth. *When the package or container containing the article of food or the label thereon shall not bear the name and address of the manufacturer or packer of the*

When package unmarked and wholesale dealer fails to keep records.

contents thereof preceded by the words "manufactured by" or "packed by," or followed by the word "manufacturer" or "packer," as the case may be, unless the wholesale dealer or distributor in such cases shall keep true and correct records of the name and address of the manufacturer or packer of the contents thereof, which records shall be open at all reasonable times to inspection by the Department of Agriculture or its agents. Such records shall be kept by the wholesale dealer or distributor for a period of five years from the date of the sale of said articles of food by said wholesale dealer or distributor.

When unmarked packages fall to contain code identifying packer or jobber.

Seventh. When the package or container shall not bear the name and address of the manufacturer or packer of the contents thereof, preceded by the words "manufactured by" or "packed by," or followed by the word "manufacturer" or "packer," as the case may be, unless such package or container shall bear a code marking identifying to the wholesale dealer or distributor the name and address of the manufacturer or packer of the contents thereof. Such information shall be kept as part of the records of the wholesale dealer or distributor for a period of five years from the date of the sale of said articles of food by said wholesale dealer or distributor, and such records shall be open at all reasonable times to inspection by the Department of Agriculture or its agents.

Section 6. That sections five and seven of said act are hereby amended to read as follows:

Section 5. When the [Dairy and Food Commissioner] *Department of Agriculture*, or [his] *its* agent, shall obtain an article of food, or a sample or portion thereof, from any person, for the purpose of determining whether the same is adulterated or misbranded within the meaning of this act, and it shall be found that the said article of food is adulterated or misbranded within the meaning of this act, then the [Dairy and Food Commissioner] *Department of Agriculture* shall proceed against the said person, from whose store, warehouse, or other place of business said article, sample, or portion thereof, shall have been obtained, for a violation of the provisions of this act.

Prosecution.

Retail dealer.

But no prosecution shall be sustained, under the provisions of this act, against a retail dealer for the selling, offering for sale, exposing for sale, or having in possession with intent to sell, of any adulterated or misbranded article of food, as defined herein, if the retail dealer from whom the said article of food, sample, or portion thereof, was obtained by the [Dairy and Food Commissioner] *Department of Agriculture* or [his] *its* agent, can establish a guaranty, signed by the manufacturer or wholesale dealer, or jobber or distributor, residing in the

Guaranty.

United States, from whom such article of food was purchased or procured, to the effect that the same is not adulterated or misbranded within the meaning of this act designating it, *unless such article of food shall have been adulterated or misbranded while in the possession of such retail dealer.*

Said guaranty to afford protection shall contain the name and address of the manufacturer or wholesale dealer, or jobber or distributor, making the sale of such article of food to such retailer, and in such case the said manufacturer or wholesale dealer, or jobber or distributor, so as aforesaid giving such guaranty, shall be amenable to the prosecution, fines and other penalties which would attach, in due course, to the retailer holding such guaranty under the provisions of this act, for a violation hereof; and every manufacturer or wholesale dealer, or jobber or distributor, giving a guaranty under the provisions of this act shall be held responsible, and shall be proceeded against for the adulteration or misbranding of any article of food sold under said guaranty, and shall be subject to the penalties for the violation of the provisions of this act. No such guaranty shall operate as a defense to prosecution for a violation of the provisions of this act, if the retailer holding such guaranty shall continue to sell the same article of food after written or printed notice from the [Dairy and Food Commissioner] *Department of Agriculture*, or [his] *its* agent, that such article is adulterated or misbranded within the meaning of this act.

Details of guaranty.

Wholesale dealer

When guaranty shall not operate as a defence.

But if said person shall violate the provisions of paragraph six, section three of this act, by having stored, [or] transported, *exposed* or kept said article, in said paragraph mentioned, in a way or manner to render it diseased, contaminated, or unwholesome, said person shall be proceeded against for a violation of the provisions of this act; and it shall not be necessary for conviction that any article, sample, or portion thereof, shall be obtained by the [Dairy and Food Commissioner] *Department of Agriculture*, or [his] *its* agent, as a condition precedent to prosecution.

Improper storing transportation, etc.

Section 7. Any person who shall violate any of the provisions of this act *or any rule, regulation or order made pursuant to this act*, shall, [be guilty of a misdemeanor and] *for the first or second offense*, upon conviction thereof *in a summary proceeding*, [shall] be sentenced to pay a fine of not less than sixty dollars nor more than one hundred dollars *and costs of prosecution*, and, *in default of payment of such fine and costs*, shall be sentenced to undergo imprisonment in the county jail *for not more than thirty days*, and *for a third or subsequent offense*, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to pay a fine of not

Misdemeanor.

less than five hundred dollars nor more than one thousand dollars, or to undergo imprisonment not exceeding one year, or both, in the discretion of the court.

Section 7A added.

Section 7. That said act is hereby amended, by adding thereto after section seven, a new section to read as follows:

Enforcement of the act by the Attorney General.

Section 7A. The Attorney General, at the request of the Department of Agriculture, may, in the name of the Commonwealth, institute proceedings in equity in the court of common pleas of Dauphin County for the purpose of enjoining any person, violating any of the provisions of this act, from selling articles of food in this Commonwealth, and for such purpose, jurisdiction is hereby conferred upon said court. In such cases the Attorney General shall not be required to give bond.

Sections 8 and 9, amended.

Section 8. That sections eight and nine of said act are hereby amended to read as follows:

Enforcement of act.

Section 8. The [Dairy and Food Commissioner] *Department of Agriculture* of the State shall be charged with the enforcement of the provisions of this act and shall make rules and regulations for the proper enforcement thereof, *including rules and regulations setting up definitions and standards of articles of food*, and shall cause such rules and regulations to be published in the official bulletin in the issue immediately following the preparation of the same.

Disposition of fines.

Section 9. All fines and penalties imposed and recovered for the violation of any of the provisions of this act shall be paid [to the Dairy and Food Commissioner or his agent, and by the Dairy and Food Commissioner be paid] into the State Treasury, [for the use of the Commonwealth] *through the Department of Revenue, and credited to the General Fund.*

APPROVED—The 1st day of June, A. D. 1937.

GEORGE H. EARLE

No. 292

AN ACT

To provide for the permanent personal registration of electors in cities of the second class A as a condition of their right to vote at elections and primaries, and their enrollment as members of political parties as a further condition of their right to vote at primaries; prescribing certain procedure for the conduct of elections and primaries and the challenge and proof of qualifications of electors; and prescribing the powers and duties of citizens, parties, political bodies, registration commissions, commissioners, registrars, inspectors of registration and other appointees of registration commissions, county election boards, election officers, municipal officers, departments and bureaus, police officers, courts, judges, prothonotaries, sheriffs, county commissioners, peace officers, county treasurers, county con-