

Section 1402. Duties of District Attorney; Entry of Nolle Prosequi.—(a) The district attorney shall sign all bills of indictment and conduct in court all criminal and other prosecutions, in the name of the Commonwealth, or, when the Commonwealth is a party, which arise in the county for which he is elected, and perform all the duties which, [now by law are to be] *prior to May 3, 1850, were performed by deputy attorneys general* [, and receive the same fees or emoluments of office]. *The duties herein conferred shall be in addition to all other duties given to the said district attorney by other statutes.*

(b) The district attorney shall not enter a nolle prosequi in any criminal case, either before or after bill found, or discharge a prisoner from custody, without first having obtained the approval of the court in writing.

Section 2. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 5th day of July, A. D. 1957.

GEORGE M. LEADER

No. 276

### AN ACT

For the protection of the public health and welfare, and the prevention of fraud and deception in the manufacture or sale of packaged non-alcoholic drinks; prohibiting the sale, offering or exposing for sale, exchange or giving away thereof unless registered; providing for licensing of places of manufacture; regulating the manufacture, compounding, labeling, sanitation and ingredients of non-alcoholic drinks, and the display of presses of fruit; prohibiting misbranding and adulteration of registered and non-registered non-alcoholic drinks; authorizing promulgation of rules, regulations and standards, and providing for penalties and for injunctions in certain cases, and the disposition of fees and fines.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Packaged non-alcoholic drinks.

Section 1. Definitions as Used in This Act.—The following words, terms and phrases, when used in this act, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Non-alcoholic drink" includes—

(i) All carbonated beverages or still drinks;

(ii) Fruit or vegetable juices which have been diluted, whether sweetened or unsweetened, unseasoned or seasoned with salt or spice;

(iii) Mineral waters when ready for use as a beverage, whether still or carbonated; and

(iv) All other non-intoxicating drinks.

The term shall not include undiluted concentrated fruit or vegetable juice, nor such juice when reconstituted to its original volume, nor flavored or unflavored natural whole milk, unflavored skim milk, unflavored buttermilk, and beverages commonly known as tea or coffee.

Section 2. Sale of Non-Alcoholic Drinks Forbidden Unless Registered.—(a) It is unlawful for any person to sell, offer or expose for sale, or exchange or give away or have in his possession, with intent to sell, any packaged non-alcoholic drink, unless the same has been registered with the Department of Agriculture as hereinafter provided.

(b) It is unlawful for any person to import into this Commonwealth for sale any non-alcoholic drink which is not registered with the Department of Agriculture.

Section 3. Registration; Application; License Fee.—

(a) Any person, whether a resident or non-resident of this Commonwealth, manufacturing, preparing and packaging any non-alcoholic drink within the Commonwealth, or who offers such drink for sale within the Commonwealth, shall register the non-alcoholic drink with the Department of Agriculture by filing an application for the purpose on a form to be prescribed by the Department of Agriculture. The application shall state—

(1) The name and address of the applicant;

(2) The location of his manufacturing plant or place of preparation, mixing or compounding;

(3) The name of each non-alcoholic drink to be registered;

(4) Such other information as may be required by the Secretary of Agriculture for his confidential use.

The application shall be accompanied by a license fee of fifty dollars (\$50.00) for each plant, place or location where non-alcoholic drinks are placed in bottles, cans or other closed containers for delivery, sale or consumption off the premises where manufactured, prepared, mixed or compounded; which license, when issued, shall be valid for one year from the date of issue.

(b) Each license or registration shall expire one year from the issuance thereof, \*unless renewed annually by the payment of the license fee. Certificates of registration shall be issued by the department and shall be posted conspicuously at the location covered by the registration.

\* "unless" in original.

Section 4. Permitted Ingredients.—(a) No non-alcoholic drink shall be made except from carbohydrates in the form of sucrose, dextrose, invert sugar, corn syrup, any of which may be in dry or syrup form, pure honey, harmless synthetic sweetening agents as hereinafter provided, pure flavoring materials with or without added edible harmless organic acids, orthophosphoric acid or orthophosphates not in excess of one tenth of one per centum potable water, milk or milk products, caffeine not in excess of one-half grain per six fluid ounces of non-alcoholic drink and edible harmless stabilizers, emulsifiers, foam producers or retarders, essential nutrients, bitters or preservatives which the applicant establishes to the department's satisfaction to be safe and which are approved by the Department of Agriculture, or harmless color as hereinafter provided. Except when synthetic sweetening agents are used, non-alcoholic drinks shall contain not less than eight per centum carbohydrate solids by weight, except that this requirement shall not apply to dry ginger ale, dry lime or dry lemon beverages, when labeled as such, nor to mineral waters nor to cereal non-alcoholic drinks made in imitation of beer or similar bitter drinks which contain less than one-half of one per centum of alcohol by volume, nor to milk product non-alcoholic drinks where a specific standard allows for a lesser amount. This section does not prohibit the use of caramel colors or any harmless certified approved synthetic coal tar color or any natural color. The Secretary of Agriculture may adopt and issue standards, rules and regulations governing the use of color in beverages, when the use of the color is likely to mislead the public by imitating, or simulating the appearance of, a natural fruit juice or any ingredient normally a constituent of such non-alcoholic drink unless so labeled.

(b) Non-alcoholic drinks prepared with synthetic sweetening agents shall not contain any added carbohydrate solids in the form of a sugar, nor shall they contain any other carbohydrates in excess of two per centum.

(c) Synthetic sweetening agents, when used as ingredients, shall only be those which the applicant establishes to the department's satisfaction to be safe under the probable condition and duration of use or use in pathological conditions or by children.

(d) Non-alcoholic drinks made in imitation of beer or similar bitter drinks may be either carbonated or still drinks, and shall be made from fermentable carbohydrates, malted or plain malt extract, yeast, hops and potable water. Yeast nutrients may be employed only to the extent necessary when they contain no harmful in-

redient, and caffeine may be present not in excess of one-half grain per six fluid ounces of finished cereal beverage. They may, in addition, contain wholesome, natural or artificial flavor or color.

Section 5. Adulteration.—A non-alcoholic drink shall be deemed to be adulterated, if it contains any added boric acid or borates, salicylic acid or calicylates, formaldehyde, sulphurous acid or sulphites, hydrofluoric acid or fluorides, fluoroborates, fluorosilicates or other fluorine compounds, hydrogen peroxide or peroxides, or perborates, dulcin, glucin, betanaphthol, hydronaphthol, abrastol, asaprol, oxides of nitrogen, nitrous acid or nitrites, compounds of copper, pyroligneous acid or any other substance deleterious to health, or if it contains any synthetic sweetening agent or any other ingredient which may be harmful to health under the conditions of use, or if it contains any ingredient not specified in section 4 if it is not approved by the Secretary of Agriculture. Non-alcoholic drinks may contain not in excess of one-tenth of one per centum of benzoate of soda, or its equivalent in benzoic acid, or such amounts of other preservatives only when the applicant establishes to the department's satisfaction that they are safe and are approved by the Department of Agriculture, provided the bottles, cans or other containers are labeled or capped to show that the non-alcoholic drink contains a preservative and the amount thereof. Nothing herein prohibits the use of treated potable water as furnished by any approved public water supply.

Section 6. Rules, Standards and Regulations.—The Secretary of Agriculture is hereby authorized to adopt and issue rules, regulations and standards, including a maximum standard of content for any substance that may be deleterious and minimum standards of composition, for the proper enforcement of this act and for the protection of the public health and welfare, after public notice, hearing and the publication of the findings in the official bulletin. Such rules, regulations and standards shall have the full force and effect of law as if they had been specifically enacted by the Legislature.

Section 7. Marking, Labeling or Capping.—(a) Every bottle or other container of non-alcoholic drink shall be distinctly marked, labeled or capped, so as to show—

(1) The true name of the non-alcoholic drink contained therein, and

(2) The name and address of the licensed manufacturer or packager as specified on the registration certificate and the name and address of no other manufacturer unless approved by the department.

(b) If artificial colors (except caramel color) or flavors are used in the manufacture of non-alcoholic drinks, the bottle or other container shall be distinctly marked, labeled or capped "artificially colored," "artificially flavored" or "artificially colored and flavored," as the case may be. All beverages made in imitation of a natural product shall be distinctly marked, labeled or capped with the word "imitation," followed by the name of the natural product imitated, and the word "imitation" shall be in similar type at least one-half the size of the name of the product imitated and on the same contrasting background.

(c) Non-alcoholic drinks sweetened by the use of synthetic sweetening agents shall be conspicuously labeled "artificially sweetened," immediately preceding the name of the non-alcoholic drink, in similar type at least one-half the size of the type used to name the non-alcoholic drink on the same contrasting background, and the name of the non-alcoholic drink shall be immediately followed by an informative statement as prescribed by the Department of Agriculture providing, among other requirements, information as to the use and purpose of the contents, the name of the synthetic sweetening agents and any carbohydrate, and the per centum by weight of each, the number of calories contributed by any carbohydrate and the total calories, both in terms of per fluid ounce and per unit of customary use or serving.

Section 8. Misbranding.—(a) A non-alcoholic drink shall be deemed to be misbranded—

(1) If it is an imitation of or offered for sale under the distinctive name of another article, or if it is colored or flavored in imitation of the genuine color or flavor of another substance without the label indicating use of artificial color or flavor and that it is an imitation;

(2) If it is labeled or capped or branded or tagged so that it may tend to deceive or mislead the purchaser;

(3) If the bottle, or \*receptacle containing it, or its label or cap bears any statement, design or device regarding the ingredients, or the substances contained therein, which statement, design or device is false or misleading in any particular or if it fails to bear any required statement;

(4) If it is offered for sale or labeled in any manner contrary to the provisions of this act, or if it bears any statement that indicates it is approved by the Pennsylvania Department of Agriculture.

(b) Any non-alcoholic drink which does not contain any substance other than those permitted under section

\* "receptable" in original.

4, providing it is labeled in accordance with the provisions of this act, shall not be deemed to be adulterated or misbranded under the following conditions:

(1) In the case of mixtures or compounds which may be, now or from time to time hereafter, known as non-alcoholic beverages under their own distinctive names and not an imitation of or offered for sale under the name of another article;

(2) In the case of non-alcoholic beverages which are labeled, capped, branded or tagged, so as to plainly indicate that they are imitations, are artificial or are blends and the word "Imitation," "Artificial" or "Blend," as the case may be, is plainly stated on the container in which it is offered for sale. The term "blend" as used herein shall mean a mixture of like substances not excluding harmless coloring or flavoring ingredients not prohibited by this act and used for the purpose of coloring or flavoring only.

Section 9. Sanitation of Plant, Equipment and Ingredients.—(a) It is unlawful for any person to manufacture, prepare, compound or package non-alcoholic drinks in an unclean, insanitary establishment or under unclean, insanitary conditions or to fill or use any ingredient, bottle, can or other container, receptacle or utensil which is unclean or insanitary.

(b) All reusable containers for non-alcoholic drinks, before being filled, shall be cleansed by soaking in a hot caustic solution, containing not less than three per centum caustic or alkali expressed in terms of sodium hydroxide, for a period of not less than five minutes, at not less than one hundred and twenty degrees Fahrenheit: \*Provided, however, That equipment presently in use and maintained in an effective condition may be operated at a temperature not less than one hundred and ten degrees Fahrenheit, or by the use of other cleansing materials by a procedure equivalent in cleansing and germicidal effectiveness when approved by the Secretary of Agriculture, then thoroughly rinsed with potable water. The cleansing solution shall be changed as often as necessary to prevent its becoming foul or insanitary.

(c) No non-alcoholic drink shall be manufactured, mixed, compounded, stored or packaged in any container which may contribute any toxic metal or other toxic material to the non-alcoholic drink or in any unlined wooden \*\*pail, tub or barrel.

(d) No non-alcoholic drink shall be made from any ingredient which has been stored in any manner whereby it may become insanitary or which is insanitary, filthy,

\* "Providing" in original.

\*\* "paid" in original.

decomposed, or if it contains any substance which makes it unsafe for use.

**Section 10. Display of Press or Fruit.**—It is unlawful for any person to display any press or fruit at any place where non-alcoholic drinks are being sold or dispensed, unless the press or fruit is actually used in the production of the non-alcoholic drinks being sold or dispensed from bulk at such place and time.

**Section 11. Sale of Artificially Sweetened Non-Alcoholic Drinks Unlawful.**—It shall be unlawful for any person to sell, to offer or expose for sale, or exchange any artificially sweetened non-alcoholic drink, unless it be in an individual prepackaged labeled container.

**Section 12. Enforcement; Disposition of Fees and Fines.**—(a) The Secretary of Agriculture shall have the power and it shall be his duty to enforce the provisions of this act.

(b) All license or registration fees and fines, paid or recovered, under the provisions of this act, shall be paid to the Secretary of Agriculture and shall by him be paid into the State Treasury through the Department of Revenue.

(c) The Secretary of Agriculture and his agents shall have the right to enter, at reasonable times, into any place where non-alcoholic drinks are manufactured, to secure necessary samples and to make the necessary sanitary inspections in order to enforce properly the provisions of this act.

**Section 13. Violations; Penalty; Injunction.**—(a) Any person violating any of the provisions of this act, or interfering with or refusing to give access to the Secretary of Agriculture or any of his agents, shall, upon conviction thereof in a summary proceeding, for the first or second offense, be sentenced to pay a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and costs of prosecution, and in default of the payment thereof, shall be sentenced to undergo imprisonment in the county jail for not less than thirty days nor more than ninety days, and for a third or subsequent offense, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) or to undergo imprisonment not exceeding one year, or both, in the discretion of the court.

(b) The Attorney General, at the request of the Secretary 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 the manufacture and sale of non-alcoholic drinks in this Commonwealth contrary to the provisions of this act, and for the purpose jurisdiction is hereby conferred upon the court. The Attorney General shall not be required to give bond.

Section 14. Act Not to Apply to Certain Other Acts.—This act does not repeal, or in any wise affect, any of the provisions of the act of May 21, 1937 (P. L. 788), entitled “An act for the protection of the public health, and the prevention of fraud and deception, requiring clean, sanitary establishments for the manufacture, preparation or bottling of non-alcoholic drinks and liquid foods, including clean, sanitary ingredients and containers; regulating the maintenance and operation of such establishments, and the use of containers; prescribing penalties; and providing for injunctions in certain cases.”

Section 15. Repeal.—The act of May 14, 1925 (P. L. 730), entitled “An act for the protection of the public health in the manufacture and sale of carbonated beverages and still drinks; providing for the registration thereof; prohibiting the sale, offering or exposing for sale, exchange or giving away thereof in certain cases unless registered; regulating the manufacture, bottling, preparation, mixing, and compounding of carbonated beverages or still drinks, and the sale and dispensing thereof; creating a special fund in the State Treasury; and providing penalties,” and the act of March 11, 1909 (P. L. 15), entitled “An act relating to non-alcoholic drinks; defining the same; and prohibiting the manufacture, sale, offering for sale, exposing for sale, or having in possession with intent to sell, of any adulterated or misbranded non-alcoholic drinks; and providing penalties for the violation thereof, and providing for the enforcement thereof,” are repealed.

Section 16. Effective Date.—This act shall take effect immediately, but any non-alcoholic drink licenses or registrations now in effect shall continue in force until their regular time of expiration.

APPROVED—The 5th day of July, A. D. 1957.

GEORGE M. LEADER

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No. 277

AN ACT

Amending the act of May 1, 1929 (P. L. 905), entitled “An act for the protection of the public safety; regulating the use of highways and the operation of vehicles, tractors, street cars,