

CHAPTER 97.

DAIRY, FOODS AND DRUGS.

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Cross Reference: See definitions in 98.01.

97.01 Definitions. The term "drug" as used in this chapter includes all medicines for internal or external use, antiseptics, disinfectants and cosmetics. The term "food" as used in this chapter includes chewing gum and all articles used for food or drink, or condiment by man, whether simple, mixed or compound, and all articles used or intended for use as ingredients in the composition or preparation thereof. The words "sell," "sale" or "sold" as used in this chapter include delivering, shipping, consigning, exchanging, offering, or exposing for sale, or having in possession with intent to sell.

History: 1951 c. 408.

97.02 Food products; definitions; standards. In all prosecutions arising under the provisions of these statutes relating to the manufacture or sale of an adulterated, misbranded or otherwise unlawful article of food, the following definitions and standards for food products shall be the legal definitions and standards, to wit:

(1) **MEATS.** Meat, flesh, is any clean, sound, dressed, and properly prepared edible part of animals in good health at the time of slaughter, and if it bears a name descriptive of its kind, composition, or origin, it corresponds thereto. The term "animals," as herein used, includes not only mammals, but fish, fowl, crustaceans, mollusks, and all other animals used as food.

Fresh meat is meat from animals recently slaughtered and properly cooled until delivered to the consumer.

Salted, pickled, and smoked meats are unmixed meats preserved by salt, sugar, vinegar, spices, or smoke, singly or in combination, whether in bulk or in suitable containers.

(2) **MANUFACTURED.** Manufactured meats are meats not included in subsection (1), whether simple or mixed, whole or comminuted, in bulk or in suitable containers, with or without the addition of salt, sugar, vinegar, spices, smoke, oils, or rendered fat. If they bear names descriptive of kind, composition, origin, they correspond thereto, and when bearing such descriptive names, if force or flavoring meats are used, the kind and quantity thereof are made known.

Sausage, sausage meat, is a comminuted meat from neat cattle or swine, or a mixture of such meats, either fresh, salted, pickled or smoked, with added salt and spices and with or without the addition of edible animal fats, blood and sugar, or subsequent smoking. It contains no larger amount of water than the meats from which it is prepared contain when in their fresh condition, and if it bears a name descriptive of kind, composition or origin, it corresponds to such descriptive name. All animal tissues used as containers, such as casings, stomachs, etc., are clean and sound and impart to the contents no other substance than salt.

Blood sausage is sausage to which has been added clean, fresh blood from neat cattle or swine in good health at the time of slaughter.

Canned meat is the cooked, fresh meat of fowl, neat cattle or swine, preserved in hermetically sealed packages.

Corned meat, cured meat, is meat, cured or pickled with dry salt or in brine, with or without the addition of sugar or syrup and saltpeter.

Potted meat is comminuted and cooked meat from those parts of the animal ordinarily used for food in the fresh state, with or without salt and spices, and inclosed in suitable containers hermetically sealed.

Meat loaf is a mixture of comminuted cooked meat, with or without spices, cereals, milk and eggs, and pressed into a loaf. If it bears a descriptive name, it corresponds thereto.

Mince, mince meat, is a mixture of not less than ten per cent of cooked, comminuted meat, with chopped suet, apple and other fruit, salt and spices, and with sugar, syrup, or molasses, and with or without vinegar, fresh, concentrated, or fermented fruit juices or spirituous liquors.

(3) EXTRACTS. Meat extract is the product obtained by extracting fresh meat with boiling water and concentrating the liquid portion by evaporation after the removal of fat, and contains not less than seventy-five per cent of total solids, of which not over twenty-seven per cent is ash, and not over twelve per cent is sodium chlorid (calculated from the total chlorin present), not over six-tenths per cent is fat, and not less than eight per cent is nitrogen. The nitrogenous compounds contains not less than forty per cent of meat bases and not less than ten per cent of kreatin and kreatinin.

Fluid meat extract is identical with meat extract except that it is concentrated to a lower degree and contains not more than seventy-five and not less than fifty per cent of total solids.

Bone extract is the product obtained by extracting fresh, trimmed bones with boiling water and concentrating the liquid portion by evaporation after removal of fat, and contains not less than seventy-five per cent of total solids.

Fluid bone extract is identical with bone extract except that it is concentrated to a lower degree and contains not more than seventy-five and not less than fifty per cent of total solids.

Meat juice is the fluid portion of muscle fiber, obtained by pressure or otherwise, and may be concentrated by evaporation at a temperature below the coagulating point of the soluble proteids. The solids contain not more than fifteen per cent of ash, not more than two and five tenths (2.5) per cent of sodium chlorid (calculated from the total chlorin present), not more than four nor less than two per cent of phosphoric acid (P_2O_5), and not less than twelve per cent of nitrogen. The nitrogenous bodies contain not less than thirty-five per cent of coagulable proteids and not more than forty per cent of meat bases.

Peptones are products prepared by the digestion of proteid material by means of enzymes or otherwise, and contain not less than ninety per cent of proteoses and peptones.

Gelatin (edible gelatin) is the purified, dried, inodorous product of the hydrolysis, by treatment with boiling water, of certain tissues, as skin, ligaments, and bones, from sound animals, and contains not more than two per cent of ash and not less than fifteen per cent of nitrogen.

(4) LARD. Lard is the rendered, fresh fat from hogs in good health at the time of slaughter, is clean, free from rancidity, and contains, necessarily incorporated in the process of rendering, not more than one per cent of substances other than fatty acids and fat.

Leaf lard is lard rendered at moderately high temperatures from the internal fat of the abdomen of the hog, excluding that adherent to the intestines, and has an iodine number not greater than sixty.

Neutral lard is lard rendered at low temperatures.

(5) MILK. (a) Milk is the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, excluding that obtained within 15 days before and 5 days after calving, or such longer period as may be necessary to render the milk colostrum-free. Milk shall contain not less than 3 per cent of milk fat, and not less than 8.25 per cent of milk solids not fat. Milk may be standardized by the addition or removal

of cream or by the addition of skim milk. When so standardized milk shall contain not less than 3.3 per cent of milk fat, and not less than 8.25 per cent of milk solids not fat.

(b) Modified milk is milk modified in its composition so as to have a definite and stated percentage of one or more of its constituents.

Note: Par. (b) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(ba) Dry whole milk or whole milk powder is milk from which substantially all of the water has been removed and contains not less than 26 per cent milk fat and not more than 5 per cent of moisture. It may be adjusted before dehydration by the addition or removal of cream or skim milk or by the addition of concentrated skim milk.

(bb) Evaporated milk is the liquid food product made by evaporating milk to such a point that it contains not less than 7.9 per cent of milk fat and not less than 25.9 per cent of total milk solids; it may contain one or both of the following optional ingredients: Disodium phosphate or sodium citrate or both, or calcium chloride, added in total quantity of not more than one-tenth of one per cent by weight of the finished product. If represented as vitamin D enriched, the vitamin content shall be not less than 7.5 U. S. P. units per avoirdupois ounce of finished product. It may be homogenized. It is sealed in a container and processed by heat so as to prevent spoilage. It may be adjusted before or after evaporation by the addition or removal of cream or skim milk or by the addition of concentrated skim milk. Concentrated milk and plain condensed milk conform to the foregoing except that they are not heat sterilized, the containers may be unsealed, and the optional ingredients (other than vitamin D) are not used.

(c) Skim milk is milk from which a sufficient portion of cream has been removed to reduce its milk fat percentage to less than 3 per cent and contains not less than 8½ per cent milk solids. It may be sold as "fat free milk" if the milk fat content does not exceed 25 hundredths of one per cent.

Note: Par. (c) is amended by ch. 443, Laws 1957, effective July 1, 1959 to read:

(c) Skim milk is milk from which a sufficient portion of cream has been removed to reduce its milk fat percentage to less than 3 per cent and contains not less than 8½ per cent milk solids.

(d) Powdered skim milk is skim milk from which a part or all of the water has been removed and contains not over 5 per cent by weight of moisture nor over 1½ per cent by weight of milk fat.

Note: Par. (d) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(e) Plain condensed skim milk or concentrated skim milk is skim milk from which a part of the water has been removed and contains not less than 28 per cent of milk solids and not more than one-half of one per cent of milk fat.

(ea) Nonfat dry milk solids or defatted milk solids is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins, and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 per centum by weight of moisture. The fat content is not over 1½ per centum by weight unless otherwise indicated.

Note: Par. (ea) is amended by ch. 443, Laws 1957, effective July 1, 1959, to read:

(ea) Nonfat dry milk is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 per cent by weight of moisture. The fat content is not over 1½ per cent by weight unless otherwise indicated.

(f) Sweetened evaporated skim milk, sweetened condensed skim milk or sweetened concentrated skim milk is skim milk from which a part of the water has been removed and to which sugar (sucrose) has been added, and contains not less than 28 per cent of milk solids nor more than one-half of one per cent of milk fat.

(h) Sterilized milk is milk that has been heated at the temperature of boiling water or higher for a length of time sufficient to kill all organisms present.

(i) Condensed milk, evaporated milk, concentrated milk, is the product resulting from the evaporation of a considerable portion of water from milk; and contains not less than twenty-six and fifteen hundredths per cent of milk solids, and not less than eight per cent of milk fat, with an allowable tolerance or variation therefrom as to the per cent of milk solids and the per cent of milk fat, which shall in no case be lower, all tolerances or variations being allowed, than the standards therefor latest promulgated by the United States department of agriculture.

Note: Par. (i) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(j) Sweetened condensed milk, sweetened evaporated milk, sweetened concentrated milk, is the product resulting from the evaporation of a considerable portion of the water from milk, and to which sugar (sucrose) has been added, and contains not less than twenty-eight per cent of milk solids, and not less than eight per cent of milk fat, with an allowable tolerance or variation therefrom as to the per cent of milk solids and the per cent of milk fat, which shall in no case be lower, all tolerances or variations being allowed,

than the standards therefor latest promulgated by the United States department of agriculture.

(k) Buttermilk is the product that remains when butter is removed from milk or cream in the process of churning.

(l) Powdered buttermilk is buttermilk from which a part or all of the water has been removed and contains not over 5 per cent by weight of moisture nor less than $4\frac{1}{2}$ per cent by weight of milk fat.

(m) Evaporated buttermilk, condensed buttermilk or concentrated buttermilk is buttermilk from which a part of the water has been removed and contains not less than 28 per cent of milk solids and not more than one per cent of milk fat.

(ma) Cultured buttermilk is a product obtained by ripening pasteurized milk or pasteurized skim milk by means of lactic acid producing culture, or made from reconstituted skim milk. It contains not less than 8.25 per cent of milk solids not fat. Butter-fat granules, sodium citrate, salt or milk solids not fat may be added.

Note: Par. (ma) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(n) Goat's milk, ewe's milk, et cetera, are the fresh, clean lacteal secretions, free from colostrum, obtained by the complete milking of healthy animals other than cows, properly fed and kept, and conform in name to the species of animals from which they are obtained.

Note: Par. (n) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(o) Malted milk beverage is a product made with milk, ice cream or ice cream mix, and malted milk, with or without flavoring, and shall contain not less than 5 per cent by weight of malted milk. Milk shake or dairy shake is a beverage prepared with milk and ice cream or ice cream mix and may contain eggs, fruit, fruit syrup, fruit juice or other natural flavor.

(p) Malted milk is the product made by combining whole milk with the liquid separated from a mash of ground barley malt and wheat flour, with or without the addition of sodium chloride, sodium bicarbonate, and potassium bicarbonate, and with or without the addition of chocolate or cocoa or any true fruit flavor, in such manner as to secure the full enzymatic action of the malt extract, and by reducing the water. The resulting product contains not less than seven and five-tenths per cent of milk fat and not more than three and five-tenths per cent of moisture.

(q) Powdered, evaporated and condensed (whether sweetened or not) products in which milk fats and milk solids not fat are important ingredients and which have been manufactured for special uses in the processing of other foods, and which do not meet the requirements of the foregoing definitions, may be sold under their own distinct names or under coined names if so labeled, branded or tagged as plainly to show their true character and composition, and invoiced under said names.

(r) Chocolate milk or chocolate flavored milk is milk sweetened and flavored with chocolate or cocoa. It may contain added salt, milk solids not fat and stabilizers approved by the department, and contains not less than 3.3 per cent milk fat.

Note: Par. (r) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(s) Chocolate drink, chocolate flavored drink, or chocolate dairy drink is skimmed milk, sweetened and flavored with chocolate or cocoa. It may contain added salt, milk solids not fat, and stabilizers approved by the department. The product shall be labeled "made with skim milk", or "made with defatted milk solids".

Note: Par. (s) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(6) CREAM. (a) Cream is that portion of milk, rich in milk fat, which rises to the surface of milk on standing, or is separated from it by centrifugal force, is fresh and clean, and contains not less than 18 per cent of milk fat.

(b) Whipping cream or heavy cream is cream which contains not less than 30 per cent of milk fat.

Note: Par. (b) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(c) The product commonly known as half and half is a mixture of cream and milk or skim milk, and contains not less than 12 per cent of milk fat. Milk solids not fat may be added.

Note: Par. (c) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(d) Plastic cream is cream which contains not less than 75 per cent of milk fat.

(e) Dry cream is cream from which substantially all of the water has been removed and contains not less than 70 per cent of milk fat and not more than 2.5 per cent of moisture.

(f) Cultured cream, soured cream, salad cream or cultured sour cream, is a product obtained by ripening pasteurized cream or pasteurized homogenized cream by means of a lactic acid producing culture. Sodium citrate salt or milk solids not fat may be added.

Note: Par. (f) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(7) MILK FAT. Milk fat, butter fat, is the fat of milk and has a Reichert-Meissl number not less than twenty-four and a specific gravity of not less than nine hundred five

thousandths (0.905) at forty degrees Centigrade compared with water at the same temperature.

(8) BUTTER. Butter is the clean, nonrancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt or added coloring matter, and contains not less than 80 per cent of milk fat.

Renovated butter, process butter, is the product made by melting butter and reworking, without the addition or use of chemicals or any substances except milk, cream or salt, and contains not more than 16 per cent of water and at least 80 per cent of milk fat.

(9) CHEESE. (a) Cheese is the sound, solid and ripened product made from milk or cream by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of ripening ferments or seasoning or added coloring matter. Purified calcium chloride may be added in a quantity of not more than two-hundredths of one per cent (calculated as anhydrous calcium chloride) of the weight of milk used. Milk used in making cheese may be standardized by separating part of the milk fat therefrom, or by adding thereto cream or skim milk, concentrated skim milk, nonfat dry milk solids and sufficient water to reconstitute any concentrated skim milk or nonfat dry milk solids used.

(b) Skim milk cheese for manufacturing is the sound, solid and ripened cheese product not conforming to any other state or federal cheese standard made from skim milk, by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of ripening ferments or seasoning or added coloring matter. It is coated with blue colored paraffin or other tightly adhering coating, colored blue, and shall bear a label.

(c) Cheese known as American or Cheddar cheese is made by the American, Cheddar, Granular, Colby, or Washed Curd process from milk and contains, in the water-free substance, not less than 50 per cent of milk fat, and contains not more than 39 per cent of moisture, with an allowance or tolerance of not to exceed one per cent in excess, so that in no case shall the moisture content of said cheese exceed 40 per cent.

(d) Cheese known as Brick cheese is made from milk, and contains, in the water-free substance, not less than 50 per cent of milk fat and contains not more than 43 per cent of moisture, with an allowance or tolerance of not to exceed one per cent in excess, so that in no case shall the moisture content of said cheese exceed 44 per cent.

(e) Cheese known as Muenster cheese is made from milk, and contains, in the water-free substance, not less than 50 per cent of milk fat, and contains not more than 43 per cent of moisture, with an allowance or tolerance of not to exceed one per cent in excess.

(f) Cheese known as Limburger cheese is made from milk, and contains in the water-free substance, not less than 50 per cent of milk fat.

(g) Emmenthaler cheese, commonly known as domestic Swiss cheese, is made from milk and contains, in the water-free substance, not less than 45 per cent of milk fat with an allowance or tolerance of 2 per cent so that in no case or event shall the milk fat content in the water-free substance of such cheese fall below 43 per cent.

(h) Process cheese is the food product produced by mixing, blending and uniting with the aid of heat, cheese of one or more lots of different quality, make, flavor, age, size, weight, shape, of like or different milk fat or moisture content, so as to produce a uniform mass readily makable into desired forms, shapes, sizes and weights; and may contain cream, added seasoning, added harmless coloring matter, harmless emulsifying agents as disodium phosphate, sodium citrate, sodium and potassium tartrate or mixtures of the same or other harmless emulsifying chemicals in quantities not exceeding 3 per cent; and contains in the water-free substance not less than 50 per cent of milk fat; and process American cheese not more than 39 per cent of moisture, with an allowance or tolerance of one per cent in excess, so that in no case shall the moisture content of said process American cheese exceed 40 per cent; and process Brick cheese not more than 42 per cent of moisture, with an allowance or tolerance of one per cent in excess, so that in no case shall the moisture content of said process Brick cheese exceed 43 per cent; and process Emmenthaler cheese or process domestic Swiss cheese shall contain not more than 40 per cent of moisture, with an allowance or tolerance of one per cent in excess, so that in no case shall the moisture content of said process Emmenthaler cheese or process domestic Swiss cheese exceed 41 per cent; except that process Emmenthaler cheese or process domestic Swiss cheese shall contain in the water-free substance not less than 45 per cent of milk fat with an allowance or tolerance of 2 per cent so that in no case or event shall the milk fat content in the water-free substance of such cheese fall below 43 per cent; provided, that such allowance or tolerance shall not be effective unless and until the federal bureau of standards provides a like tolerance for such cheese.

(i) Goat's milk cheese, ewe's milk cheese, et cetera, are the sound, ripened products made from the milks of the animals specified by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of ripening ferments and seasoning.

Note: Par. (1) is repealed by ch. 443, Laws 1957, effective July 1, 1959.

(k) Cottage cheese is the soft uncured cheese made from sweet pasteurized skim milk or from plain, condensed skim milk or concentrated skim milk or from nonfat dry milk solids by the following procedure: Calcium chloride may be added in quantity not more than 0.02 per cent (calculated as anhydrous calcium chloride) of the weight of such skim milk; harmless lactic acid producing bacteria, with or without rennet, are added and it is held until it becomes coagulated. The coagulated mass may be cut; it may be warmed; it may be stirred; it is then drained. The curd may be washed with water and further drained; it may be pressed, chilled, worked, seasoned with salt. The finished cheese contains not more than 80 per cent of moisture.

(l) Creamed cottage cheese is the soft uncured cheese prepared by mixing cottage cheese with pasteurized cream or a pasteurized mixture of cream with milk or skim milk or both. Such cream or mixture is used in such quantity that the milk fat added thereby is not less than 4 per cent by weight of the finished creamed cottage cheese. The finished creamed cottage cheese contains not more than 80 per cent of moisture.

(11) WHEY. Whey is the product remaining after the removal of fat and casein from milk in the process of cheesemaking.

Whey cream is that portion of whey rich in milk fat which is separated from whey by centrifugal force, is fresh and clean and contains not less than eighteen per cent of milk fat.

Kumiss is the product made by the alcoholic fermentation of mare's milk or cow's milk.

(12) GRAIN. (a) Grain is the fully matured, clean, sound, air-dry seed of wheat, maize, rice, oats, rye, buckwheat, barley, sorghum, millet or spelt.

(g) Rice is the hulled, or hulled and polished grain of *Oryza sativa*.

(h) Oatmeal is meal made from hulled oats, and contains not more than twelve per cent of moisture, not more than one and five tenths (1.5) per cent of crude fibre, not less than two and twenty-four hundredths (2.24) per cent of nitrogen, and not more than two and two tenths (2.2) per cent of ash.

(i) Rye flour is the fine, clean, sound product made by bolting rye meal, and contains not more than thirteen and one-half (13.5) per cent of moisture, not less than one and thirty-six hundredths (1.36) per cent of nitrogen, and not more than one and twenty-five hundredths (1.25) per cent of ash.

(j) Buckwheat flour is bolted buckwheat meal and contains not more than twelve per cent of moisture, not less than one and twenty-eight hundredths (1.28) per cent of nitrogen, and not more than one and seventy-five hundredths (1.75) per cent of ash.

(n) Macaroni is the shaped and dried doughs prepared by adding water to one or more of the following: Semolina, farina, wheat flour. It may contain added salt. In the finished product the moisture content does not exceed thirteen (13) per cent. Various shapes of macaroni are known under distinguishing names, such as spaghetti, vermicelli.

1. Semolina macaroni is macaroni in the preparation of which semolina is the sole farinaceous ingredient.

2. Farina macaroni is macaroni in the preparation of which farina is the sole farinaceous ingredient.

(o) Egg noodles are shaped and dried doughs prepared from wheat flour and eggs, with or without water and with or without salt. The egg ingredient may be whole egg or egg yolk. In the finished product the moisture content does not exceed thirteen (13) per cent and the egg solids content upon the moisture free basis is not less than five and five tenths (5.5) per cent. Noodles are commonly ribbon-shaped.

(p) Plain noodles are shaped and dried doughs prepared from wheat flour and water, with or without salt. In the finished product the moisture content shall not exceed thirteen (13) per cent. Plain noodles are commonly ribbon-shaped.

(13) FRUITS. Fruits are the clean, sound, edible, fleshy fructifications of plants, distinguished by their sweet, acid, and ethereal flavors.

Dried fruit is the clean, sound product made by drying mature, properly prepared, fresh fruit in such a way as to take up no harmful substance, and conforms in name to the fruit used in its preparation; sun-dried fruit is dried fruit made by drying without the use of artificial means; evaporated fruit is dried fruit made by drying with the use of artificial means.

Evaporated apples are evaporated fruit made from peeled and cored apples, and contain not more than twenty-seven per cent of moisture determined by the usual commercial method of drying for four hours at the temperature of boiling water.

Canned fruit is the sound product made by sterilizing clean, sound, properly matured and prepared fresh fruit, by heating, with or without sugar (sucrose) and spices, and keeping in suitable, clean, hermetically sealed containers, and conforms in name to the fruit used in its preparation.

Preserve is the sound product made from clean, sound, properly matured and prepared fresh fruit and sugar (sucrose) syrup, with or without spices or vinegar, and conforms in

name to that of the fruit used, and in its preparation not less than forty-five pounds of fruit are used to each fifty-five pounds of sugar.

Honey preserve is preserve in which honey is used in place of sugar (sucrose) syrup.

Glucose preserve is preserve in which a glucose product is used in place of sugar (sucrose) syrup.

Jam, marmalade, is the sound product made from clean, sound, properly matured and prepared fresh fruit and sugar (sucrose), with or without spices or vinegar by boiling to a pulpy or semisolid consistence, and conforms in name to the fruit used, and in its preparation not less than forty-five pounds of fruit are used to each fifty-five pounds of sugar.

Glucose jam, glucose marmalade, is jam in which a glucose product is used in place of sugar (sucrose).

Fruit butter is the sound product made from fruit juice and clean, sound, properly matured and prepared fruit, evaporated to a semisolid mass of homogeneous consistence, with or without the addition of sugar and spices or vinegar, and conforms in name to the fruit used in its preparation.

Glucose fruit butter is fruit butter in which a glucose product is used in place of sugar (sucrose).

Jelly is the sound, semisolid, gelatinous product made by boiling clean, sound, properly matured and prepared fresh fruit with water, concentrating the expressed and strained juice, to which sugar (sucrose) is added, and conforms in name to the fruit used in its preparation.

Glucose jelly is jelly in which a glucose product is used in place of sugar (sucrose).

Modified-fruits are fruit products obtained from clean, sound, properly matured fruits that have been sulphured and brined and from which substantially all brine and sulphur dioxide have been subsequently removed, together with that portion of the fruit juices unavoidably removed by said treatment, and which have also been treated and preserved by or in a sugar syrup or sugar solution with or without added harmless color or flavor, and conform in name with the fruit or fruits used in their preparation, and which food products shall not contain sulphur dioxide in excess of thirty-five thousandths of one per cent by weight.

(14) VEGETABLES. Vegetables are the succulent, clean, sound, edible parts of herbaceous plants used for culinary purposes.

Dried vegetables are the clean, sound products made by drying properly matured and prepared vegetables in such a way as to take up no harmful substance, and conform in name to the vegetables used in their preparation; sun-dried vegetables are dried vegetables made by drying without the use of artificial means; evaporated vegetables are dried vegetables made by drying with the use of artificial means.

Pickles are clean, sound, immature cucumbers, properly prepared, without taking up any metallic compound other than salt, and preserved in any kind of vinegar, with or without spices; pickled onions, pickled beets, pickled beans, and other pickled vegetables are vegetables prepared as described above, and conform in name to the vegetables used.

Salt pickles are clean, sound, immature cucumbers, preserved in a solution of common salt, with or without spices.

Sweet pickles are pickled cucumbers or other vegetables in the preparation of which sugar (sucrose) is used.

Sauerkraut is clean, sound, properly prepared cabbage, mixed with salt, and subjected to fermentation.

(15) SUGAR. Sugar is the product chemically known as sucrose (saccharose) chiefly obtained from sugar cane, sugar beets, sorghum, maple and palm.

Granulated, loaf, cut, milled and powdered sugars are different forms of sugar, and contain at least ninety-nine and five tenths (99.5) per cent of sucrose.

Maple sugar is the solid product resulting from the evaporation of maple sap, and contains, in the water-free substance, not less than sixty-five hundredths (0.65) per cent of maple sugar ash.

Masseuite, melada, mush sugar, and concrete are products made by evaporating the purified juice of a sugar-producing plant, or a solution of sugar, to a solid or semisolid consistence, and in which the sugar chiefly exists in a crystalline state.

(16) MOLASSES. Molasses is the product left after separating the sugar from masseuite, melada, mush sugar, or concrete, and contains not more than twenty-five per cent of water and not more than five per cent of ash.

Refiners' syrup, treacle, is the residual liquid product obtained in the process of refining raw sugars, and contains not more than twenty-five per cent of water and not more than eight per cent of ash.

(17) SYRUP. Syrup is the sound product made by purifying and evaporating the juice of a sugar-producing plant without removing any of the sugar.

Sugar-cane syrup is syrup made by the evaporation of the juice of the sugar cane or by the solution of sugar-cane concrete, and contains not more than thirty per cent of water and not more than two and five tenths (2.5) per cent of ash.

Sorghum syrup is syrup made by the evaporation of sorghum juice or by the solution of sorghum concrete, and contains not more than thirty per cent of water and not more than two and five tenths (2.5) per cent of ash.

Maple syrup is syrup made by the evaporation of maple sap or by the solution of maple concrete (maple sugar), and contains not more than thirty-five per cent of water and not less than forty-five hundredths (0.45) of one per cent of maple ash and weighs not less than eleven pounds (231 cubic inches) to the gallon.

Sugar syrup is the product made by dissolving sugar to the consistence of a syrup, and contains not more than thirty-five per cent of water.

(18) STARCH SUGAR. Starch sugar is the solid product made by hydrolizing starch or a starch-containing substance until the greater part of the starch is converted into dextrose. Starch sugar appears in commerce in two forms, anhydrous starch sugar and hydrous starch sugar. The former, crystallized without water of crystallization, contains not less than ninety-five per cent of dextrose and not more than eight tenths (0.8) per cent of ash. The latter, crystallized with water of crystallization, is of two varieties—seventy sugar, also known as brewers' sugar, contains not less than seventy per cent of dextrose and not more than eight tenths (0.8) per cent of ash; eighty sugar, climax or acme sugar, contains not less than eighty per cent of dextrose and not more than one and one half (1.5) per cent of ash.

The ash of all these products consists almost entirely of chlorids and sulphates.

Glucose, mixing glucose, confectioner's glucose, is a thick, syrupy, colorless product made by incompletely hydrolizing starch or a starch-containing substance, and decolorizing and evaporating the product. It varies in density from forty-one to forty-five degrees Baume at a temperature of one hundred degrees Fahrenheit, and conforms in density, within these limits, to the degrees Baume it is claimed to show, and for a density of forty-one degrees Baume contains not more than twenty-one per cent and for a density of forty-five degrees not more than fourteen per cent of water. It contains on a basis of forty-one degrees Baume not more than one per cent of ash, consisting chiefly of chlorids and sulphates.

(20) HONEY. Honey is the nectar and saccharine exudations of plants gathered, modified, and stored in the comb by honeybees (*Apis mellifica* and *A. dorata*); is lævo-rotatory, contains not more than twenty-five per cent of water, not more than twenty-five hundredths (0.25) per cent of ash, and not more than eight per cent of sucrose.

Comb honey is honey contained in the cells of comb.

Extracted honey is honey which has been separated from the uncrushed comb by centrifugal force or gravity.

Strained honey is honey removed from the crushed comb by straining or other means.

(21) SPICES. Spices are aromatic vegetable substances used for the seasoning of food and from which no portion of any volatile oil or other flavoring principle has been removed, and which are clean, sound, and true to name.

Allspice, pimento, is the dried fruit of the *Pimenta pimenta* (L) Karst., and contains not less than eight per cent of quercitannic acid as calculated from the total oxygen absorbed by the aqueous extract; not more than six per cent of total ash, not more than five tenths (0.5) per cent of ash insoluble in hydrochloric acid, and not more than twenty-five per cent of crude fibre.

Anise is the fruit of *Pimpinella anisum* L.

Bay leaf is the dried leaf of *Lauris nobilis* L.

Capers are the flower buds of *Capparis spinosa* L.

Caraway is the fruit of *Carum carvi* L.

Red pepper is the red, dried, ripe fruit of any species of *Capsicum*.

Cayenne pepper, cayenne, is the dried ripe fruit of *Capsicum frutescens* L., *Capsicum baccatum* L., or some other small-fruited species of *Capsicum*, and contains not less than fifteen per cent of nonvolatile ether extract; not more than six and five tenths (6.5) per cent of total ash; not more than five tenths (0.5) per cent of ash insoluble in hydrochloric acid; not more than one and five tenths (1.5) per cent of starch, and not more than twenty-eight per cent of crude fibre.

Paprika is the dried ripe fruit of *Capsicum annum* L., or some other large-fruited species of *Capsicum*, excluding seeds and stems.

Celery seed is the dried fruit of *Apium graveolens* L.

Cinnamon is the dried bark of any species of the genus *Cinnamomum* from which the outer layers may or may not have been removed.

True cinnamon is the dried inner bark of *Cinnamomum zeylanicum* Breyne.

Cassia is the dried bark of various species of *Cinnamomum* other than *Cinnamomum zeylanicum*, from which the outer layers may or may not have been removed.

Cassia buds are the dried immature fruit of species of *Cinnamomum*.

Ground cinnamon, ground cassia, is a powder consisting of cinnamon, cassia, or cassia buds, or a mixture of these spices, and contains not more than six per cent of total ash and not more than two per cent of sand.

Cloves are the dried flower buds of *Caryophyllus aromaticus* L., which contains not more than five per cent of clove stems; not less than ten per cent of volatile ether extract; not less than twelve per cent of quercitannic acid as calculated from the total oxygen absorbed by the aqueous extract; not more than eight per cent of total ash; not more than five tenths (0.5) per cent of ash insoluble in hydrochloric acid, and not more than ten per cent of crude fibre.

Coriander is the dried fruit of *Coriandrum sativum* L.

Cumin seed is the fruit of *Cuminum cyminum* L.

Dill seed is the fruit of *Anethum graveolens* L.

Fennel is the fruit of *Foeniculum foeniculum* (L.) Karst.

Ginger is the washed and dried or decorticated and dried rhizome of *Zingiber zingiber* (L.) Karst., and contains not less than forty-two percent of starch; not more than eight per cent of crude fibre, not more than six per cent of total ash, not more than one per cent of lime, and not more than three per cent of ash insoluble in hydrochloric acid.

Limed ginger, bleached ginger, is whole ginger coated with carbonate of lime, and contains not more than ten per cent of ash, not more than four per cent of carbonate of lime, and conforms in other respects to the standard for ginger.

Horse-radish is the root of *Roripa armoracia* (L.) Hitchcock, either by itself or ground and mixed with vinegar.

Mace is the dried arillus of *Myristica fragrans* Houttuyn, and contains not less than twenty, not more than thirty per cent of nonvolatile ether extract, not more than three per cent of total ash, and not more than five tenths (0.5) per cent of ash insoluble in hydrochloric acid, and not more than ten per cent of crude fibre.

Macassar mace, Papua mace, is the dried arillus of *Myristica argentea* Warb.

Bombay mace is the dried arillus of *Myristica malabarica* Lamarek.

Marjoram is the leaf, flower, and branch of *Majorana majorana* (L.) Karst.

Mustard seed is the seed of *Sinapis alba* L. (white mustard), *Brassica nigra* (L.) Koch (black mustard), or *Brassica juncea* (L.) Cosson (black or brown mustard).

Ground mustard is a powder made from mustard seed, with or without the removal of the hull, and a portion of the fixed oil, and contains not more than two and five tenths (2.5) per cent of starch and not more than eight per cent of total ash.

Prepared mustard, German mustard, French mustard, mustard paste, is a paste composed of a mixture of ground mustard seed or mustard flour with salt, spices, and vinegar, and, calculated free from water, fat, and salt, contains not more than twenty-four per cent of carbohydrates, calculated as starch, determined according to the official methods, not more than twelve per cent of crude fibre nor less than thirty-five per cent of protein, derived solely from the material named.

Nutmeg is the dried seed of the *Myristica fragrans* Houttuyn, deprived of its tests, with or without a thin coating of lime, and contains not less than twenty-five per cent of nonvolatile ether extract, not more than five per cent of total ash, not more than five tenths (0.5) per cent of ash insoluble in hydrochloric acid, and not more than ten per cent of crude fibre.

Macassar nutmeg, Papua nutmeg, male nutmeg, long nutmeg, is the dried seed of *Myristica argentea* Warb, deprived of its testa.

Black pepper is the dried immature berry of *Piper nigrum* L., and contains not less than six per cent of nonvolatile ether extract, not less than twenty-five per cent of starch, not more than seven per cent of total ash, not more than two per cent of ash insoluble in hydrochloric acid, and not more than fifteen per cent of crude fibre. One hundred parts of the nonvolatile ether extract contain not less than three and twenty-five hundredths (3.25) parts of nitrogen. Ground black pepper is the product made by grinding the entire berry, and contains the several parts of the berry in their normal proportions.

Long pepper is the dried fruit of *Piper longum* L.

White pepper is the dried matured berry of *Piper nigrum* L. from which the outer coating or the outer and inner coatings have been removed, and contains not less than six per cent of nonvolatile ether extract, not less than fifty per cent of starch, not more than four per cent of total ash, not more than five tenths (0.5) per cent of ash insoluble in hydrochloric acid, and not more than five per cent of crude fibre. One hundred parts of the nonvolatile ether extract contain not less than four parts of nitrogen.

Saffron is the dried stigma of *Crocus sativus* L.

Sage is the leaf of *Salvia officinalis* L.

Savory, summer savory, is the leaf, blossom and branch of *Satureja hortensis* L.

Thyme is the leaf and tip of blooming branches of *Thymus vulgaris* L.

(22) FLAVORING EXTRACTS. A flavoring extract is a solution in ethyl alcohol of proper strength of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation.

The "flavoring extracts" herein described are intended solely for food purposes and are not to be confounded with similar preparations described in the Pharmacopœia for medicinal purposes. The term "flavoring extract" includes solutions sold for food purposes as "flavors," "flavorings," "essences," and "tinctures."

Almond extract is the flavoring extract prepared from oil of bitter almonds, free from hydrocyanic acid, and contains not less than one per cent by volume of oil of bitter almonds.

Oil of bitter almonds, commercial, is the volatile oil obtained from the seed of the bitter almond (*Amygdalus communis* L.), the apricot (*Prunus armeniaca* L.), or the peach (*Amygdalus persica* L.).

Anise extract is the flavoring extract prepared from oil of anise, and contains not less than three per cent by volume of oil of anise.

Oil of anise is the volatile oil obtained from the anise seed.

Celery seed extract is the flavoring extract prepared from celery seed or the oil of celery seed, or both, and contains not less than three tenths (0.3) per cent by volume of oil of celery seed.

Oil of celery seed is the volatile oil obtained from celery seed.

Cassia extract is the flavoring extract prepared from oil of cassia and contains not less than two per cent by volume of oil of cassia.

Oil of cassia is the lead-free volatile oil obtained from the leaves or bark of *Cinnamomum cassia* Bl., and contains not less than seventy-five per cent by weight of cinnamic aldehyde.

Cinnamon extract is the flavoring extract prepared from oil of cinnamon, and contains not less than two per cent by volume of oil of cinnamon.

Oil of cinnamon is the lead-free volatile oil obtained from the bark of the Ceylon cinnamon (*Cinnamomum zeylanicum* Breyn), and contains not less than sixty-five per cent by weight of cinnamic aldehyde and not more than ten per cent by weight of eugenol.

Clove extract is the flavoring extract prepared from oil of cloves, and contains not less than two per cent by volume of oil of cloves.

Oil of cloves is the lead-free volatile oil obtained from cloves.

Ginger extract is the flavoring extract prepared from ginger and contains in each one hundred cubic centimetres the alcohol-soluble matters from not less than twenty grams of ginger.

Lemon extract is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five per cent by volume of oil of lemon.

Oil of lemon is the volatile oil obtained by expression or alcoholic solution, from the fresh peel of the lemon (*Citrus limonum* L.), has an optical rotation at twenty-five degrees Centigrade of not less than sixty degrees in a one-hundred-millimetre tube, and contains not less than four per cent by weight of citral.

Terpeneless extract of lemon is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or by dissolving terpeneless oil of lemon in dilute alcohol, and contains not less than two tenths (0.2) per cent by weight of citral derived from oil of lemon.

Terpeneless oil of lemon is oil of lemon from which all or nearly all of the terpenes have been removed.

Nutmeg extract is the flavoring extract prepared from oil of nutmeg, and contains not less than two per cent by volume of oil of nutmeg.

Oil of nutmeg is the volatile oil obtained from nutmegs.

Orange extract is the flavoring extract prepared from oil of orange, or from orange peel, or both, and contains not less than five per cent by volume of oil of orange.

Oil of orange is the volatile oil obtained, by expression or alcoholic solution, from the fresh peel of the orange (*Citrus aurantium* L.), and has an optical rotation at twenty-five degrees Centigrade of not less than ninety-five degrees in a one-hundred-millimetre tube.

Terpeneless extract of orange is the flavoring extract prepared by shaking oil of orange with dilute alcohol, or by dissolving terpeneless oil of orange in dilute alcohol, and corresponds in flavoring strength to orange extract.

Terpeneless oil of orange is oil of orange from which all or nearly all of the terpenes have been removed.

Peppermint extract is the flavoring extract prepared from oil of peppermint, or from peppermint, or both, and contains not less than three per cent by volume of oil of peppermint.

Peppermint is the leaves and flowering tops of *Mentha piperita* L.

Oil of peppermint is the volatile oil obtained from peppermint, and contains not less than fifty per cent by weight of menthol.

Rose extract is the flavoring extract prepared from otto of roses, with or without red rose petals, and contains not less than four tenths (0.4) per cent by volume of otto of roses.

Otto of roses is the volatile oil obtained from the petals of *Rosa damascena* Mill., *R. centifolia* L., or *R. moschata* Herrm.

Savory extract is the flavoring extract prepared from oil of savory, or from savory, or both, and contains not less than thirty-five hundredths (0.35) per cent by volume of oil of savory.

Oil of savory is the volatile oil obtained from savory.

Spearmint extract is the flavoring extract prepared from oil of spearmint, or from spearmint, or both, and contains not less than three per cent by volume of oil of spearmint.

Spearmint is the leaves and flowering tops of *Mentha spicata* L.

Oil of spearmint is the volatile oil obtained from spearmint.

Star anise extract is the flavoring extract prepared from oil of star anise, and contains not less than three per cent by volume of oil of star anise.

Oil of star anise is the volatile oil distilled from the fruit of the star anise (*Illicium verum* Hook.).

Sweet basil extract is the flavoring extract prepared from oil of sweet basil, or from sweet basil, or both, and contains not less than one tenth (0.1) per cent by volume of oil of sweet basil.

Sweet basil, basil, is the leaves and tops of *Ocimum basilicum* L.

Oil of sweet basil is the volatile oil obtained from basil.

Sweet marjoram extract, marjoram extract, is the flavoring extract prepared from the oil of marjoram, or from marjoram, or both, and contains not less than one per cent by volume of oil of marjoram.

Oil of marjoram is the volatile oil obtained from marjoram.

Thyme extract is the flavoring extract prepared from oil of thyme, or from thyme, or both, and contains not less than two tenths (0.2) per cent by volume of oil of thyme.

Oil of thyme is the volatile oil obtained from thyme.

Tonka extract is the flavoring extract prepared from tonka bean, with or without sugar or glycerine, and contains not less than one tenth (0.1) per cent by weight of coumarin extracted from the tonka bean, together with a corresponding proportion of the other soluble matters thereof.

Tonka bean is the seed of *Coumarouna odorata* Aublet [*Dipteryx odorata* (Aubl.) Willd.].

Vanilla extract is the flavoring extract prepared from vanilla bean, with or without sugar or glycerine, and contains in one hundred cubic centimetres the soluble matters from not less than ten grams of the vanilla bean.

Vanilla bean is the dried, cured fruit of *Vanilla planifolia* Andrews.

Wintergreen extract is the flavoring extract prepared from oil of wintergreen, and contains not less than three per cent by volume of oil of wintergreen.

Oil of wintergreen is the volatile oil distilled from the leaves of the *Gaultheria procumbens* L.

(23) OLIVE OIL. Olive oil is the oil obtained from the sound, mature fruit of the cultivated olive tree (*Olea europea* L.), and subjected to the usual refining processes; is free from rancidity; has a refractive index at twenty-five degrees Centigrade not less than one and forty-six hundred sixty ten-thousandths (1.4660) and not exceeding one and forty-six hundred eighty ten-thousandths (1.4680); and an iodine number not less than seventy-nine and not exceeding ninety.

Virgin olive oil is olive oil obtained from the first pressing of carefully selected hand-picked olives.

Cotton-seed oil is the oil obtained from the seeds of cotton plants (*Gossypium hirsutum* L., *G. barbadense* L., *G. herbaceum* L.) and subject to the usual refining processes; is free from rancidity; has a refractive index at twenty-five degrees Centigrade not less than one and forty-seven hundred ten-thousandths (1.4700) and not exceeding one and forty-seven hundred twenty-five ten-thousandths (1.4725); and an iodine number not less than one hundred four and not exceeding one hundred ten.

"Winter-yellow" cotton-seed oil is expressed cotton-seed oil from which a portion of the stearin has been separated by chilling and pressure, and has an iodine number not less than one hundred ten and not exceeding one hundred sixteen.

Peanut oil, arachis oil, earthnut oil, is the oil obtained from the peanut (*Arachis hypogaea* L.) and subjected to the usual refining processes; is free from rancidity; has a refractive index at twenty-five degrees Centigrade not less than one and forty-six hundred ninety ten-thousandths (1.4690) and not exceeding one and forty-seven hundred seven ten-thousandths (1.4707); and an iodine number not less than eighty-seven and not exceeding one hundred.

"Cold-drawn" peanut oil is peanut oil obtained by pressure without heating.

Sesame oil, gingili oil, teel oil, is the oil obtained from the seed of the sesame plants (*Sesamum orientale* L. and *S. radiatum* Schum. and Thonn.) and subjected to the usual refining processes; is free from rancidity; has a refractive index at twenty-five degrees Centigrade not less than one and forty-seven hundred four ten-thousandths (1.4704) and not exceeding one and forty-seven hundred seventeen ten-thousandths (1.4717); and an iodine number not less than one hundred three and not exceeding one hundred twelve.

"Cold-drawn" sesame oil is sesame oil obtained by pressure without heating.

Poppy-seed oil is the oil from the seed of the poppy (*Papaver somniferum* L.) subjected to the usual refining processes and free from rancidity.

White poppy-seed oil, "cold-drawn" poppy-seed oil, is poppy-seed oil of the first pressing without heating.

Coconut oil is the oil obtained from the kernels of the coconut (*Cocos nucifera* L.) and subjected to the usual refining processes and free from rancidity.

Cochin oil is coconut oil prepared in Cochin (Malabar).

Ceylon oil is coconut oil prepared in Ceylon.

Copra oil is coconut oil prepared from copra, the dried kernels of the coconut.

Rape-seed oil, colza oil, is the oil obtained from the seeds of the rape plant (*Brassica napus* L.) and subjected to the usual refining processes and free from rancidity.

"Cold-drawn" rape-seed oil is rape-seed oil obtained by the first pressing without heating.

Sunflower oil is the oil obtained from the seeds of the sunflower (*Helianthus annuus* L.) and subjected to the usual refining processes and free from rancidity.

"Cold-drawn" sunflower oil is sunflower oil obtained by the first pressing without heating.

Maize oil, corn oil, is the oil obtained from the germ of the maize (*Zea mays* L.) and subjected to the usual refining processes and free from rancidity.

Cocoa butter, cacao butter, is the fat obtained from roasted, sound cocoa beans, and subjected to the usual refining processes; is free from rancidity; has a refractive index at forty degrees Centigrade not less than one and forty-five hundred sixty-six ten-thousandths (1.4566) and not exceeding one and forty-five hundred ninety-eight ten-thousandths (1.4598); an iodine number not less than thirty-three and not exceeding thirty-eight; and a melting point not lower than thirty degrees Centigrade nor higher than thirty-five degrees Centigrade.

Cotton-seed oil stearin is the solid product made by chilling cotton-seed oil and separating the solid portion by filtration, with or without pressure, and having an iodine number not less than eighty-five and not more than one hundred.

(24) TEA. Tea is the leaves and leaf buds of different species of *Thea*, prepared by the usual trade processes of fermenting, drying, and firing; conforms in variety and place of production to the name it bears; and contains not less than four nor more than seven per cent of ash.

(25) COFFEE. Coffee is the seed of *Coffea arabica* L. or *Coffea liberica* Bull., freed from all but a small portion of its spermoderm, and conforms in variety and place of production to the name it bears.

Roasted coffee is coffee which by the action of heat has become brown and developed its characteristic aroma, and contains not less than ten per cent of fat and not less than three per cent of ash.

(26) COCOA BEANS. Cocoa beans are the seeds of the cacao tree, *Theobroma cacao* L.

Cocoa nibs, cracked cocoa, is the roasted, broken cocoa bean freed from its shell or husk.

Chocolate, plain chocolate, bitter chocolate, chocolate liquor, bitter chocolate coatings, is the solid or plastic mass obtained by grinding cocoa nibs without the removal of fat or other constituents except the germ, and contains not more than three per cent of ash insoluble in water, three and fifty-hundredths (3.50) per cent of crude fibre, and nine per cent of starch, and not less than forty-five per cent of cocoa fat.

Sweet chocolate, sweet chocolate coatings, is chocolate mixed with sugar (sucrose), with or without the addition of cocoa butter, spices, or other flavoring materials, and contains in the sugar- and fat-free residue no higher percentage of either ash, fibre, or starch than is found in the sugar- and fat-free residue of chocolate.

Cocoa, powdered cocoa, is cocoa nibs, with or without the germ, deprived of a portion of its fat and finely pulverized, and contains percentages of ash, crude fibre, and starch corresponding to those in chocolate after correction for fat removed.

Sweet cocoa, sweetened cocoa, is cocoa mixed with sugar (sucrose), and contains not more than sixty per cent of sugar (sucrose), and in the sugar- and fat-free residue no higher percentage of either ash, crude fibre, or starch than is found in the sugar- and fat-free residue of chocolate.

(27) **FRUIT JUICES; FRESH.** Fresh fruit juices are the clean, unfermented liquid products obtained by the first pressing of fresh, ripe fruits, and correspond in name to the fruits from which they are obtained.

Apple juice, apple must, sweet cider, is the fresh fruit juice obtained from apples, the fruit of *Pyrus malus*, has a specific gravity at twenty degrees Centigrade not less than one and four hundred fifteen ten-thousandths (1.0415) nor greater than one and six hundred ninety ten-thousandths (1.0690); and contains in one hundred cubic centimetres at twenty degrees Centigrade not less than six grams, and not more than twenty grams of total sugars, in terms of reducing sugars, not less than twenty-four centigrams nor more than sixty centigrams of apple ash, which contains not less than fifty per cent of potassium carbonate.

Grape juice, grape must, is the fresh fruit juice obtained from grapes (*Vitis* species), has a specific gravity at twenty degrees Centigrade not less than one and four hundred ten-thousandths (1.0400) and not exceeding one and one thousand two hundred forty ten-thousandths (1.1240); and contains, in one hundred cubic centimetres at twenty Centigrade, not less than seven grams nor more than twenty-eight grams of total sugars, in terms of reducing sugars, not less than twenty centigrams and not more than fifty-five centigrams of grape ash, and not less than fifteen milligrams nor more than seventy milligrams of phosphoric acid (P_2O_5).

Lemon juice is the fresh fruit juice obtained from lemon, the fruit of *Citrus Limonum* Risso, has a specific gravity at twenty degrees Centigrade not less than one and thirty thousandths (1.030) and not greater than one and forty thousandths (1.040); and contains not less than ten per cent of solids, and not less than seven per cent of citric acid.

Pear juice, pear must, sweet perry, is the fresh fruit juice obtained from pears, the fruit of *Pyrus communis* or *P. sinensis*.

(28) **STERILIZED.** Sterilized fruit juices are the products obtained by heating fresh fruit juices sufficiently to kill all the organisms present and correspond in name to the fruits from which they are obtained.

(29) **CONCENTRATED.** Concentrated fruit juices are clean, sound fruit juices from which a considerable portion of the water has been evaporated, and correspond in name to the fruits from which they are obtained.

(30) **SWEET.** Sweet fruit juices, sweetened fruit juices, fruit syrups, are the products obtained by adding sugar (sucrose) to fresh fruit juices, and correspond in name to the fruits from which they are obtained.

Sterilized fruit syrups are the products obtained by the addition of sugar (sucrose) to fresh fruit juices and heating them sufficiently to kill all the organisms present, and correspond in name to the fruits from which they are obtained.

(31) **WINE.** Wine is the product made by the normal alcoholic fermentation of the juice of sound, ripe grapes, and the usual cellar treatment, and contains not less than seven nor more than sixteen per cent of alcohol, by volume, and, in one hundred cubic centimetres at twenty degrees Centigrade, not more than one tenth (0.1) gram of sodium chlorid nor more than two tenths (0.2) gram of potassium sulphate; and for red wine not more than fourteen hundredths (0.14) gram, and for white wine not more than twelve hundredths (0.12) gram of volatile acids produced by fermentation and calculated as acetic acid. Red wine is wine containing the red coloring matter of the skins of grapes. White wine is wine made from white grapes or the expressed fresh juice of other grapes.

Dry wine is wine in which the fermentation of the sugars is practically complete and which contains, in one hundred cubic centimetres at twenty degrees Centigrade, less than one gram of sugars and for dry red wine not less than sixteen hundredths (0.16) gram of grape ash and not less than one and six tenths (1.6) grams of sugar-free grape solids, and for dry white wine not less than thirteen hundredths (0.13) gram of grape ash and not less than one and four tenths (1.4) grams of sugar-free grape solids.

Fortified dry wine is dry wine to which brandy has been added, but which conforms in all other particulars to the standard of dry wine.

Sweet wine is wine in which the alcoholic fermentation has been arrested, and which contains, in one hundred cubic centimetres at twenty degrees Centigrade, not less than one gram of sugars, and for sweet red wine not less than sixteen hundredths (0.16) gram of

grape ash, and for sweet white wine not less than thirteen hundredths (0.13) gram of grape ash.

Fortified sweet wine is sweet wine to which wine spirits have been added.

Sparkling wine is wine in which the after-part of the fermentation is completed in the bottle, the sediment being disgorged and in its place supplied by wine or sugar liquor, and which contains, in one hundred cubic centimetres at twenty degrees Centigrade, not less than twelve hundredths (0.12) gram of grape ash.

Modified wine, ameliorated wine, corrected wine, is the product made by the alcoholic fermentation, with the usual cellar treatment, of a mixture of the juice of sound, ripe grapes with sugar (sucrose), or a syrup containing not less than sixty-five per cent of sugar (sucrose), and in quantity not more than enough to raise the alcoholic strength after fermentation to eleven per cent by volume.

Raisin wine is the product made by the alcoholic fermentation of an infusion of dried or evaporated grapes, or a mixture of such infusion or of raisins with grape juice.

Cider, hard cider, is the product made by the normal alcoholic fermentation of apple juice, and the usual cellar treatment, and contains not more than seven per cent by volume of alcohol, and in one hundred cubic centimetres of the cider, not less than two grams nor more than twelve grams of solids, not more than eight grams of sugars, in terms of reducing sugars, and not less than twenty centigrams nor more than forty centigrams of cider ash.

Sparkling cider, champagne cider, is cider in which the after-part of the fermentation is completed in closed containers, with or without the addition of cider or sugar liquor, and contains, in one hundred cubic centimetres, not less than twenty centigrams of cider ash.

(32) VINEGAR. Vinegar, cider vinegar, apple vinegar, is the product made by the alcoholic and subsequent acetous fermentations of the juice of apples, is lævo-rotatory, and contains not less than four grams of acetic acid, not less than one and six tenths (1.6) grams of apple solids, of which not more than fifty per cent are reducing sugars, and not less than twenty-five hundredths (0.25) gram of apple ash in one hundred cubic centimetres at twenty degrees Centigrade; and the water-soluble ash from one hundred cubic centimetres at twenty degrees Centigrade of the vinegar contains not less than ten milligrams of phosphoric acid (P_2O_5), and requires not less than thirty cubic centimetres of decinormal acid to neutralize its alkalinity.

Wine vinegar, grape vinegar, is the product made by the alcoholic and subsequent acetous fermentations of the juice of grapes and contains, in one hundred cubic centimetres at twenty degrees Centigrade not less than four grams of acetic acid, not less than one gram of grape solids, and not less than thirteen hundredths (0.13) gram of grape ash.

Malt vinegar is the product made by the alcoholic and subsequent acetous fermentations, without distillation, and of an infusion of barley malt or cereals whose starch has been converted by malt, is dextro-rotatory, and contains, in one hundred cubic centimetres at twenty degrees Centigrade, not less than four grams of acetic acid, and not less than two grams of solids, and not less than two tenths (0.2) gram of ash; and the water-soluble ash from one hundred cubic centimetres at twenty degrees centigrade of the vinegar contains not less than nine milligrams of phosphoric acid (P_2O_5), and requires not less than four cubic centimetres of decinormal acid to neutralize its alkalinity.

Sugar vinegar is the product made by the alcoholic and subsequent acetous fermentations of solutions of sugar, syrup, molasses, or refiners' syrup, and contains in one hundred cubic centimetres at twenty degrees Centigrade, not less than four grams of acetic acid.

Glucose vinegar is the product made by the alcoholic and subsequent acetous fermentations of solutions of starch sugar or glucose, is dextro-rotatory, and contains, in one hundred cubic centimetres at twenty degrees Centigrade, not less than four grams of acetic acid.

Spirit vinegar, distilled vinegar, grain vinegar, is the product made by the acetous fermentation of dilute distilled alcohol, and contains, in one hundred cubic centimetres at twenty degrees Centigrade, not less than four grams of acetic acid.

(33) SALT. Table salt, dairy salt, is fine-grained crystalline salt containing, on a water-free basis, not more than one and four tenths (1.4) per cent of calcium sulphate ($CaSO_4$), nor more than five tenths (0.5) per cent of calcium and magnesium chlorides ($CaCl_2$ and $MgCl_2$), nor more than one tenth (0.1) per cent of matters insoluble in water.

History: 1951 c. 221, 361, 517, 528; 1953 c. 421, 477, 663; 1955 c. 24, 192, 580; 1957 c. 279, 443.

Accepting the assumption that the materials added to the vegetables permitted by the federal law do not make the product deleterious to health and that the public is not misled to its hurt, the Wisconsin standards law would be invalid and unenforceable since it would be in direct conflict with federal regulation on the subject and must therefore yield to the superior power of congress. 39 Atty. Gen. 532.

97.022 Regulations. Whenever in the judgment of the department such action will promote honesty and fair dealing in the interest of consumers it shall ascertain and by regulation fix for foods, under their common or usual names so far as practicable, reasonable definitions and standards of identity, reasonable standards of quality, and reasonable standards of fill of container. In prescribing a definition and standard of identity for

any food or class of food in which optional ingredients are permitted, the department shall designate the optional ingredients which shall be named on the label. Before such standards shall become effective there shall be a public hearing, notice of which shall be provided as in section 93.18.

History: 1951 c. 713.

Note: Sec. 4 of ch. 713, Laws 1951, creating 97.022 and 97.023, provides: "No standards or regulations promulgated under this section shall take effect prior to July 1, 1953. The department may issue orders to take effect at any time after July 1, 1953. Such orders shall not be effective until approved by joint resolution passed by succeeding legislature at any general or special session thereof. Hearings for the purpose of establishing such standards and regulations may be conducted by the department at any time after the passage and publication of this act."

97.023 Lobbying on food regulations. (1) Whoever practices promoting or opposing the making of regulations under s. 97.022 before the department, its officers, employes or the advisory committee appointed under s. 93.07 (20) or before any member of said committee, shall be deemed a lobbyist and subject to the provisions of 13.66 (1) and (2). The secretary of state shall prepare a special docket for registration of persons so practicing which shall substantially conform to s. 13.65, so far as applicable. The provisions of ss. 13.63 to 13.65, 13.66 (1) and (2), 13.67 to 13.69 and 13.70 (1) shall, so far as applicable and consistent with this section, apply to persons so practicing. For the purposes of this section the reports and statements required by ss. 13.67 and 13.68 shall be made within 10 days after the end of each calendar half year and shall cover the preceding half year period.

(2) For the purposes of this section wherever in the sections referred to in sub. (1) the term:

(a) "Sections 13.61 to 13.71" is used it shall be deemed to mean "13.63 to 13.65, 13.66 (1) and (2), 13.67 to 13.69 and 13.70 (1)".

(b) "Legislation" and "measure" shall be deemed to mean "food regulation under s. 97.022".

(c) "Bills, resolutions or other measures" shall be deemed to mean "food regulations, under s. 97.022".

(d) "Legislature or of either branch thereof or of any committee thereof" shall be deemed to mean "department of agriculture or the committee appointed under s. 93.07 (20)".

(e) "Entire membership of either or both houses of the legislature" and "member of the legislature" shall be deemed to mean "the department, its officers and employes, the advisory committee appointed under s. 93.07 (20) or the members of said committee".

(f) "Before the regular committees thereof" shall be deemed to mean "at a public hearing held pursuant to s. 97.022".

(3) Any person who limits his lobbying solely to appearances at public hearings held pursuant to s. 97.022 and registers his appearance with the presiding officer at such hearing shall not be required to be licensed as a lobbyist, pay a license fee, register with the secretary of state or make any reports of expenditures.

History: 1951 c. 713.

97.025 Imitation ice cream or ices. (1) No person shall manufacture or sell any article, product or compound made wholly or partly out of milk, cream, sweetened ingredient, flavoring, with or without coloring or eggs, which shall be in imitation of ice cream, ice milk, sherbet or ices.

(2) No person shall manufacture or sell any form of ice cream mixed with any ice milk, ice or sherbet so that the milk fat content of the mixture is less than that prescribed for ice cream.

(3) No person shall manufacture or sell any food similar to malted milk beverage, milk shake, ice cream cone, ice cream bar, ice cream soda or ice cream sundae in which ice milk, ice or sherbet is used with or instead of ice cream unless represented and sold in such manner as will advise the consumer of its real character and contents.

(4) Nothing in this section shall be construed as prohibiting the manufacture and sale of any frozen mixture or compound that is free from coloring, flavoring or sweetening which coloring, flavoring or sweetening would cause it to be in imitation of ice cream, ice milk, sherbets or ices defined and standardized pursuant to s. 97.022.

History: 1953 c. 663; 1955 c. 123.

The manufacture and sale of "Dairy Queen," which is a nutritious and wholesome, semifrozen product containing no element deleterious to health, and composed of the same natural ingredients as ice cream but containing a lower percentage of butterfat and a higher percentage of nonfat milk solids than ice cream, and sold to the public only under its own distinct name and in retail outlets or stores selling no other product and labeling the nonedible containers as "Dairy Queen" and posting signs stating that "Dairy Queen" is not ice cream or sherbet, is not prohibited as an imitation of ice cream and as an adulterated product or sub-standard ice cream. The fact that a product may resemble ice cream in taste, texture and consistency does not neces-

sarily make the product an imitation of ice cream. Dairy Queen of Wisconsin, Inc. v. McDowell, 260 W 471, 51 NW (2d) 34, 52 NW (2d) 791.

in Dairy Queen of Wisconsin, Inc. v. McDowell, (1952) 260 W 471, as they affect enforcement of 97.02 (5) (c), 97.025 and 97.25. 41 Atty. Gen. 135.

Discussion of opinions of supreme court

97.03 Buttermaker and cheesemaker license. (1) In this section the terms "buttermaker" and "cheesemaker" mean a person employed or who may be employed in a butter or a cheese factory who has charge of and supervision over the actual process of manufacturing butter or cheese, and shall not include a person employed in a butter or cheese factory for the purpose of assisting in the manufacture of such product. This section shall not affect a person making up a product produced on his own farm, nor shall it be unlawful for a licensed cheesemaker employed in a licensed cheese factory to make butter or whey cream butter for the use or consumption only of the patrons thereof.

(2) No person shall engage as a buttermaker or cheesemaker unless he has a license from the department. Such license shall be issued by the department under such regulations as the department shall prescribe relating to the qualifications of applicants for licenses. Such qualifications shall include among other things: Previous record in operating and keeping in sanitary condition the butter or cheese factory in which he has been employed.

(3) Application for a buttermaker's or cheesemaker's license shall be made upon a blank furnished by the department. Upon receipt of such application the department shall issue a permit to such applicant to carry on the work of a buttermaker or cheesemaker. Such permit shall have the force and effect of a license to a buttermaker or cheesemaker until a license shall have been issued to the applicant or until such applicant shall have been notified of the denial of such application. At the time such permit is issued, the department shall furnish him the regulations incident to securing a license and also suggestions relating to the proper method of operating butter or cheese factories.

(4) Each application for such license shall be accompanied by a fee of one dollar payable to the department and no such license shall be issued until such fee is paid. In case license is refused, the fee shall be returned by the department to the applicant with notification of refusal.

(6) Such license shall expire on the first day of January next succeeding its date.

(7) This section shall not apply to the making of Limburger cheese.

97.035 Limburger cheese; improving quality. (1) As used in this section or in any order, rule, or regulation under it:

(a) "Cheese factory" means any building or part thereof in which Limburger cheese is manufactured for commercial purposes, except manufacture by the owner or operator of a farm from milk or cream produced on such farm.

(b) "Master cheesemaker" means a person who has charge and supervision of the manufacture of Limburger cheese in a cheese factory.

(c) "Cheesemaker apprentice" means a person who is learning the making and handling of Limburger cheese by working in a cheese factory under the supervision of a master cheesemaker.

(2) (a) No person shall engage in the manufacture of Limburger cheese as a master cheesemaker without a license from the department.

(b) No person shall engage in the manufacture of Limburger cheese as a cheesemaker apprentice except under supervision of a licensed master cheesemaker.

(c) No cheese factory shall be operated without employing a full-time master cheesemaker who shall have full charge of its operation.

(3) (a) Application for license or renewal of license shall be made in writing, under oath, giving such pertinent information, in such form, as the department shall require, accompanied by a fee of one dollar, which fee shall be retained whether or not license is issued. If the application does not show on its face the requisite qualifications, it shall be rejected. If he appears to be qualified, the examining committee shall determine the fitness of the applicant for new license by oral and written examination and by requiring him to demonstrate his knowledge, skill and ability; on law, rules and regulations pertaining to the dairy industry of Wisconsin and of the United States, the production of lawful milk and cream, testing milk and cream by the Babcock test and any other practical test for determining the percentage of milk fat or solids, testing for adulteration, the methylene blue and fermentation tests, Wisconsin curd test, acid and rennet tests, and other tests of the fitness of milk for cheese making, propagation and use of cultures, the necessary equipment for Limburger cheese making, including the cellar, the proper handling of the cheese on the shelf during the curing process, and principles of cleanliness and sanitation; knowledge of the complete operation of a cheese factory, including keeping of proper records of milk for patrons, making of proper statements, and keeping of a record of costs of manufacture and yield of cheese, and such other matters as the department shall specify.

All licenses shall expire August 31. Renewal of license shall be granted without examination upon application and payment of fee not less than thirty days before expiration of the license or of previous renewal, and upon application and payment of three dollars within one year after expiration. All others shall be new applications.

(b) "Qualified" includes, without limitation, good character and general fitness, and satisfactory work in a cheese factory in Wisconsin under supervision of a licensed master cheesemaker for at least two years as an apprentice cheesemaker. A course in cheesemaking of at least twelve weeks at, and a certificate obtained from the University of Wisconsin department of dairy industry or any other dairy school of equal rating may be accepted as the equivalent of six months of such work as apprentice.

(c) License and renewal of license shall be issued only to a qualified applicant and under rules and regulations the department shall prescribe, and to a new applicant only after he has passed an examination conducted by a committee consisting of three appointed by the department. Each member shall hold office until December 31, and until his successor has been chosen and entered upon his duties. Except as otherwise compensated, each member shall receive ten dollars for each day actually devoted to the work of the committee, and the necessary traveling expenses. Examinations shall be given at least three times a year at such places in the state as the department shall from time to time determine.

History: 1955 c. 10.

97.04 Dairy plants and receiving stations. (1) In this section, unless the context otherwise requires:

(a) "Dairy plant" means any premises where a dairy product is manufactured, processed or handled.

Note: Par. (a) is amended by ch. 443, Laws 1957, effective July 1, 1959, to read:

(a) "Dairy plant" means any premises where a dairy product is manufactured or processed and shall include a receiving station as defined herein.

(b) "Dairy product" means milk, cream, any product or by-product of either or any commodity among the principal constituents or ingredients of which is one or a combination of two or more of them as determined by department regulations.

Note: Par. (b) is amended by ch. 443, Laws 1957, effective July 1, 1959, to read:

(b) "Dairy product" means milk, cream, any product or by-product of either or any commodity among the principal constituents or ingredients of which is one or a combination of 2 or more of them including goat milk.

(c) "Butter factory" means any dairy plant in which butter is manufactured for commercial purposes, except incidental manufacture by the owner or operator of a farm from milk or cream produced only on such farm.

(d) "Cheese factory" means any dairy plant in which cheese, except cottage cheese, is manufactured for commercial purposes, except incidental manufacture by the owner or operator of a farm from milk or cream produced only on such farm.

(e) "Condensary" means any dairy plant in which there is manufactured for commercial purposes condensed milk, evaporated milk, concentrated milk, condensed skim milk, malted milk or ice cream mix, any of them sweetened or unsweetened.

(f) "Ice cream factory" means any dairy plant in which there is manufactured for commercial purposes any variety of ice cream or other frozen dessert as defined by the department under s. 97.022.

(g) "Milk powder factory" means any dairy plant where milk, skimmed milk, butter-milk or whey is dried or powdered for commercial purposes.

(h) "Receiving station" means any premises used in receiving and shipping milk or cream, except to the ultimate consumer, but does not apply to the gathering or collecting of milk or cream by wagon, automobile or other similar vehicle.

(i) "Consumers' milk plant" means any dairy plant where consumers' milk is processed and placed in containers for sale to the public.

Note: Par. (i) is repealed and recreated by ch. 443, Laws 1957, effective July 1, 1959, to read:

(i) "Grade A dairy plant" means any dairy plant manufacturing or processing and selling grade A milk or grade A milk products as defined in s. 97.046 (1), and shall include any plant manufacturing or processing and selling certified milk or certified milk products as prescribed in s. 97.046 (2) (c).

(2) No person shall operate a dairy plant or a receiving station without an annual license from the department for the operation conducted, as defined by department regulations. This subsection does not apply to a business defined in section 97.05, to a bakery or confectionary licensed under sections 97.10 to 97.12, or to the incidental manufacture of butter, cheese or cottage cheese by the owner or operator of a farm from milk or cream produced only on such farm. A separate license is required for each plant and station. The premises shall be suitably located, constructed and equipped for the operation for which the license is issued, and the premises and equipment shall be kept clean and sanitary and operations shall be conducted and materials and products handled and stored in

a sanitary manner in accordance with regulations of the department. The license certificate shall be displayed conspicuously in the plant or station. When a new dairy plant or receiving station is started or an established plant or station is transferred or moved to another location, plans and specifications of the new plant and location shall be submitted to the department for approval before a license shall be issued.

Note: Sub. (2) is amended by ch. 443, Laws 1957, effective July 1, 1959, to read:

(2) No person shall operate a dairy plant without an annual license from the department for the operation conducted, as defined by department rules. This subsection does not apply to a business defined in s. 97.05, to a bakery or confectionary licensed under ss. 97.10 to 97.12, or to a farm from which milk or cream produced on such farm is sold only for manufacturing or processing in a dairy plant. A separate license is required for each plant. The premises shall be suitably located, constructed and equipped for the operation for which the license is issued, the premises and equipment shall be kept clean and sanitary and operations shall be conducted and materials and products handled and stored in a sanitary manner in accordance with rules of the department. The license certificate shall be displayed conspicuously in the plant. When a new dairy plant is started or an established plant is transferred or moved to another location, plans and specifications of the new plant and location shall be submitted to the department for approval before a license shall be issued.

(3) Applications for a new or renewal license shall give in writing the name and address of the applicant, exact location of the premises for which license is desired, operations desired to be conducted, and such other pertinent information, in such form, as the department shall require, and be accompanied by a fee which shall be retained whether or not the license or permit is issued as follows:

(a) For a process cheese plant, whether or not a cheese food compound is also manufactured in it where the annual output is less than 200,000 pounds, \$10; where the annual output is 200,000 pounds or more but less than 400,000 pounds, \$25; where the annual output is 400,000 pounds or more but less than 1,000,000 pounds, \$50, and where the annual output is 1,000,000 pounds or more, \$100;

(b) For a cheese food compound plant, twenty-five dollars;

(c) For an ice cream factory, an amount based upon its production during the year ended on the last day of the month next preceding the date of application, as follows: For the production for such period of one hundred thousand gallons or less, fifteen dollars; for the next one hundred fifty thousand gallons or major fraction thereof, an additional ten dollars; for the next two hundred fifty thousand gallons or major fraction thereof, an additional ten dollars; for the next five hundred thousand gallons or major fraction thereof, an additional ten dollars; and for the next five hundred thousand gallons or more, an additional ten dollars.

(d) For a condensary, if its milk intake during the year ended on the last day of the month next preceding the date of application is seven million pounds or less, a fee of ten dollars; for each additional seven million pounds or major fraction thereof of milk intake for such period a fee of ten dollars.

(e) For a butter factory, cheese factory, receiving station, consumers' milk plant, or any other dairy plant not above mentioned in this subsection, an amount based upon its butterfat intake during the year ended on the last day of the month next preceding the date of application, as follows: If the butterfat intake for such period is 250,000 pounds or less, \$5; for each additional 250,000 pounds or major fraction thereof of butterfat intake for such period, \$5.

Note: Par. (e) is amended by ch. 443, Laws 1957, effective July 1, 1959, to read:

(e) For a butter factory, cheese factory or receiving station, an amount based upon its butterfat intake during the year ended on the last day of the month next preceding the date of application, as follows: If the butterfat intake for such period is 250,000 pounds or less, \$5; for each additional 250,000 pounds or major fraction thereof of butterfat intake for such period, \$5.

(f) For a plant manufacturing other products or by-products, including, without limitation, powdered milk, powdered skim milk, powdered buttermilk, whey powder, casein, an amount based upon the amount of all such production during the year ended on the last day of the month next preceding date of application, whether in one of the plants above mentioned or in a separate plant, as follows: If the amount is five hundred thousand pounds or less, a fee of five dollars; for each additional five hundred thousand pounds or major fraction thereof, a fee of five dollars.

(g) If a plant or station mentioned in paragraph (c), (d), (e) or (f) has not been operated during such year, the fee shall be estimated by the department from pertinent facts, at not less than the minimum fee for such operation. One year after such operation was begun, the licensee shall report to the department the intake or production, as the case may be during the year, the fee shall be computed thereon, and the licensee shall pay the balance due or receive credit upon the fee for the next license period for overpayment.

Note: Effective July 1, 1959, par. (g) is renumbered to be par. (h), and a new (g) is created to read:

(g) For a grade A dairy plant, \$5.

(4) Upon receiving an application and fee for a new license the department, unless it has good reason to believe that an essential requirement is lacking, shall issue a permit to

the applicant to operate, which shall have the effect of a license for three months or until such earlier time as he is issued a license or is notified of the denial of the application.

(5) A dairy plant licensee desiring to conduct during the current license period an operation not covered by his permit or license shall make application therefor similar to the original application for the same license period, accompanied by advance fee of not less than the minimum fee for such operation. A license shall be issued thereon as on a new application, and license shall be issued including the additional operation in the same way and under the same conditions as on any other application.

(6) (a) As soon as convenient after receiving an application the department shall investigate the sanitary condition and the construction and equipment. The license shall be granted when construction, equipment and sanitary conditions are found upon inspection to be in accordance with law and regulations.

(b) If the department at any time determines that an alteration, change or addition is required in premises or equipment, it shall serve as provided in subsection (5) of section 93.18 upon the applicant, permit holder or licensee written notice what alteration, change or addition is required and within what reasonable time it shall be made. The licensee shall promptly comply with such notice.

(c) Each licensee shall make and file with the department such reports and information as it shall require.

(7) (a) The department may divide persons required to be licensed under this section into such groups by geographical location, type of operation, or other method of classification as it believes will best promote the economical, effective and convenient execution of this section, and shall determine on what day of each year licenses in each group shall expire. The department may change such groups or the method of classification from time to time. A licensee, the license period of whose group is shortened by such grouping or change thereof, shall pay only such proportion of the annual fee as the shortened period bears to one year, and receive credit on the fee for the next license year for any overpayment; and if the period of a group is lengthened a permit holder or licensee shall pay additional fees proportionate to the time by which it is lengthened. A license may be renewed without sanitary inspection upon application and payment of fee before expiration.

(b) No license is transferable. A license becomes void and a certificate shall be surrendered to the department when the licensee discontinues use of the premises covered by the license for all operations covered thereby, or when another person becomes owner or operator of the business.

(9) Actions to enjoin violation of this section or any order thereunder may be commenced and prosecuted by the department in the name of the state in any court having equity jurisdiction. This remedy is not exclusive.

(10) No person shall be excused from testifying, from making answer or a report, or from producing any paper, record, document or other evidence, in any examination, inspection, proceeding or requirement in pursuance or enforcement of this section, including civil contempt, on the ground of tendency to incriminate; but no person complying herewith shall be prosecuted in any criminal or forfeiture proceeding for or on account of any transaction, matter or thing as to which he may have testified, answered, reported or otherwise produced evidence tending to incriminate him, except for perjury, false swearing, false report or false answer in such examination, inspection, proceeding or requirement.

History: 1951 c. 261 s. 10; 1951 c. 489; 1955 c. 10; 1957 c. 443.

97.045 Milk pasteurization; licensing of milk dealers. (1) The purpose of this section is to insure the wholesomeness and safety of milk, cream and other milk products in fluid form for human consumption by requiring a license and pasteurization as provided in this section.

(2) As used in this section, unless the context otherwise requires, "consumers' milk" includes any milk, cream, flavored milk, homogenized milk, vitamin fortified milk, skim milk, buttermilk, cultured buttermilk or other milk products sold for use or consumption in fluid form.

(3) (a) No person other than the operator of a consumers' milk plant licensed under section 97.04 shall sell or distribute consumers' milk in this state unless he holds a permit for each vehicle used for that purpose as provided for in (b) hereof.

(b) Consumers' milk distributors without processing facilities in this state subject to license may obtain a permit for each vehicle used in the distribution of such milk upon payment of a fee of \$5. Such permit shall be prima facie evidence of ownership. It shall expire and become void on the July 31 next following the date of issue. The permit shall not be assigned or transferred.

(c) No license or permit shall be required of persons selling or distributing consumers' milk which has been packed by, procured from, and sold under the label of a

licensee or permit holder as herein provided. Such milk dispensed from containers in restaurants for consumption on the premises shall be deemed to be labeled if the dispenser bears the name and address of the licensee or permit holder.

(4) No person shall sell or deliver consumers' milk in this state after January 1, 1950, unless such milk is pasteurized or the fluid milk product is made from pasteurized milk, except that this subsection shall not apply to:

(a) Certified milk and fluid milk products made therefrom.

(b) Milk and fluid milk products made therefrom, produced entirely from an accredited herd.

(5) This section shall not apply to the business of any producer who sells milk only to patrons who come to the place where the milk is produced and there purchase and receive milk for their own consumption, provided that such herd has been tested annually and found free from tuberculosis and Brucellosis.

(6) (a) Pasteurization is the process of heating every particle of milk or milk products to at least 143 degrees Fahrenheit and holding continuously at such temperature for at least 30 minutes; or to at least 161 degrees Fahrenheit and holding continuously at such temperature for at least 15 seconds; provided that nothing contained in this subsection shall be construed as proscribing any other process which has been demonstrated to be equally efficient and is approved by the department.

(b) All consumers' milk after pasteurization shall be cooled immediately to 50 degrees Fahrenheit or less and maintained thereat until delivery.

(c) Efficient pasteurization shall be evidenced by a satisfactory phosphatase test.

(d) At no time after pasteurization and before delivery shall consumers' milk other than buttermilk or cultured buttermilk have a bacterial plate count which exceeds 30,000 per milliliter nor a coliform count exceeding 10 per milliliter; provided that the bacterial plate count of pasteurized cream and half and half shall not exceed 60,000 per milliliter and the coliform count shall not exceed 10 per milliliter.

(7) (a) All pasteurizers shall be equipped with temperature indicating and recording instruments, space heaters and space thermometers.

(b) Recording thermometer charts shall be preserved for a period of 3 months.

(c) High temperature short-time pasteurizers shall be equipped with milk flow stop devices or milk flow diversion valves.

(d) All coolers, holding tanks and pasteurizers shall be constructed of sanitary type material; shall be covered, and all entry ports shall be equipped with protective shields.

(8) All containers in which consumers' milk is sold at retail shall be filled in the plant in which such milk is pasteurized. No person in connection with the sale of consumers' milk shall transfer it from a bulk container to a household container, either by dipping or pouring from one container to another, except that cream and half and half sold for immediate consumption on the premises may be transferred to a serving container from the original container filled in the plant in which such cream or half and half was pasteurized. Notwithstanding the provisions of this subsection, consumers' milk may be sold from bulk tanks or bulk dispensers which meet the following requirements:

(a) All milk contact equipment shall be constructed of sanitary type material.

(b) No surface except the delivery orifice with which milk or milk products come in contact shall, while in use, be accessible to manual contact, droplet infection, dust, flies, rodents or other contamination.

(c) The filling orifice or spout shall be equipped with a protective shield.

(d) All parts of the bulk tanks or bulk dispensers with which milk comes in contact shall be cleaned and subjected to effective bactericidal treatment at the consumers' milk plant.

(e) Bulk tanks or bulk dispensers shall be filled in the consumers' milk plant where the milk is pasteurized and sealed in such manner as to make it impossible to refill without breaking the seal.

(f) The bulk tanks or bulk dispensers shall be refrigerated in such manner that the temperature of the milk shall be 50 degrees Fahrenheit or less at all times.

History: 1951 c. 223, 489; 1953 c. 309; 1955 c. 580; 1957 c. 443.

Note: 97.045 is repealed and recreated by ch. 443, Laws 1957, effective July 1, 1959, to read:

97.045 LICENSING OF GRADE A MILK DISTRIBUTORS. (1) "Grade A milk distributor" is any person who distributes and sells grade A milk or grade A milk products as defined in s. 97.046; except that the term shall not include a grade A dairy plant licensed under s. 97.04, or a person who sells grade A milk or grade A milk products at retail only at a restaurant, store or other fixed location.

(2) No person shall engage as a grade A milk distributor without a license therefor from the department. Such license shall expire annually on July 31. The license fee shall be \$5, which shall accompany each application for license and shall be retained whether or not a license is issued. No license shall be transferable.

Note: Effective July 1, 1959, 97.046 is created to read as follows:

97.046 GRADE A MILK AND GRADE A MILK PRODUCTS. (1) **DEFINITIONS.** The following definitions shall apply to the interpretation and enforcement of this section:

(a) Grade A milk is milk which is produced, processed and distributed as required by this section and the rules issued thereunder. It shall be interpreted to include goat milk.

(b) Grade A milk products include cream, sour cream, half and half, whipped cream, concentrated milk, concentrated milk products, skim milk, flavored milk, buttermilk, cultured buttermilk, cultured milk, vitamin and mineral fortified milk or milk products, and any other product made by the addition of any substance to milk, or to any of these products, and used for similar purposes, and produced, processed and distributed as required by this section and the rules issued thereunder, but does not include any product which is heat sterilized and in a hermetically sealed container.

(c) Milk producer is any person who owns or controls one or more cows, a part or all of the milk or milk products from which is sold as grade A milk or grade A milk products.

(d) Milk hauler is any person, other than a milk producer hauling his own milk only, who transports grade A milk or grade A milk products to or from a dairy plant or a collecting point.

(e) Milk distributor is a grade A milk distributor as defined in s. 97.045.

(f) Dairy plant is a grade A dairy plant as defined in s. 97.04 (1) (1).

(2) PROHIBITIONS. (a) No milk or milk products listed in sub. (1) shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments, except grade A milk and grade A milk products which have been pasteurized.

(b) No person shall sell any milk or milk product listed in sub. (1) labeled "Grade A", or otherwise represented in a manner which might induce the purchaser to believe that it is grade A milk or a grade A milk product, if such milk or milk product fails to conform to any of the requirements in ch. 97 or the rules issued under this section.

(c) This section shall not apply to incidental sales of milk directly to consumers at the farm where such milk is produced, to incidental sales of pasteurized milk and cream at any dairy plant licensed under s. 97.04, or to certified milk and milk products approved by the department as conforming to methods and standards for the production of certified milk (published by the American Association of Medical Milk Commissions, Inc.).

(3) PERMITS. Every milk producer and milk hauler shall secure a grade A permit from the department unless he is the holder of a valid "Grade A permit" issued by a governmental unit referred to in sub. (6). Only a person who complies with the requirements of this section and the rules issued thereunder shall be entitled to receive and retain such a permit. Applications for permit shall be on a form prescribed and furnished by the department. A separate milk producer permit shall be required for each dairy farm location. Permits shall not be transferable with respect to persons or locations. Dairy plants and milk distributors shall secure license authority under ss. 97.04 and 97.045, respectively.

(4) RULES. The department, in consultation with the state board of health, shall issue rules governing the production, transportation, processing, pasteurization, handling, identity, sampling, examination, labeling and sale of grade A milk and grade A milk products; the inspection of dairy herds, dairy farms and dairy plants; the issuing and revocation of permits to milk producers and milk haulers, and of licenses to dairy plants and milk distributors. Insofar as permitted by the laws of this state, such rules shall be in reasonable accord with the minimum standards and requirements for milk and milk products currently recommended and published by the U. S. public health service as a milk ordinance and code, except that the requirements for bottling and sterilization of bottles in such standards shall not apply to milk sold by a producer, selling only milk produced by him on his own farm under his own supervision, and selling such milk only in his own milk house, which milk meets the requirements of grade A standards as set forth by the state department of agriculture, to a purchaser who has provided his own container, which has been sanitized in a manner comparable to the sanitizing of the utensils used in the production of said milk by said producer, if said purchaser is purchasing said milk for his own consumption.

(5) INSPECTION FEES. The department shall prescribe uniform fees sufficient to cover the cost of inspecting grade A milk and milk products, and of grade A dairy farms and plants. Such fees shall be paid only by dairy plants which are under the continuous grade A inspection of the department. The department may bring an action to collect such fees, and shall revoke or deny the license of any dairy plant for which such fees have not been paid when due.

(6) LEGISLATIVE PURPOSE; UNIFORMITY; RECIPROCITY. (a) Regulation of the production, processing and distribution of grade A milk and grade A milk products under minimum sanitary requirements which are uniform throughout the state and the United States is essential for the protection of consumers and the economic well-being of the dairy industry, and is therefore a matter of state-wide concern; however, nothing in this section shall impair or abridge the power of any municipality or county to regulate milk or milk products, provided its sanitary requirements and standards are in reasonable accord with those issued under this section.

(b) No sanitary requirement or standard issued under this section or contained in any ordinance shall prohibit the sale of grade A milk or grade A milk products which are produced and processed under laws or rules of any governmental unit, within or without this state, which are substantially equivalent to the requirements of the rules issued under this section, and which are enforced with equal effectiveness, as determined by a milk sanitation rating made or approved by the state board of health, in accordance with the rules issued under this section.

History: 1957 c. 443, 672.

97.05 Counter freezers licensed. (1) No person shall operate premises on which there is manufactured ice cream, sherbet, milk sherbet, ice, fruit ice or water ice, all as defined in section 97.02, or similar frozen or partially frozen food, for commercial purposes, for distribution only at such premises directly to the consumer, without an annual license therefor from the department, except that a license is not required under this section or section 97.04 for the manufacture of such products in a licensed restaurant or hotel, to be used and where they are used exclusively to be served at meals in such restaurant or hotel. A separate license is required for each such place of business. The premises shall be suitably constructed and equipped, and the equipment shall be kept clean and sanitary and operations be conducted and materials and products handled and stored in a sanitary manner in accordance with regulations of the department. The license certificate shall be displayed conspicuously in the place of business.

(2) The application for license shall give in writing such pertinent information in such

form as the department shall require and be accompanied by a fee of five dollars which shall be retained whether or not a license or permit is issued.

(3) Section 97.04 (6), (7), (9) and (10) shall apply to this section.

97.06 Food processor's license. (1) No person shall operate a food processing plant without a license from the department. Such license shall be granted under such reasonable rules and regulations as the department may from time to time prescribe pertaining to the proper handling and storing of food and the construction and sanitary condition of the building and equipment to be so used.

(2) The term "food processing plant" means any place where food is received in a raw or partly processed form for the purpose of canning, extracting, fermenting, distilling, pickling, freezing, drying, smoking, grinding, mixing, stuffing, packing, bottling, or otherwise treating or preserving the same for sale as and for food; but no license under this section shall be required of any person licensed by the department as a bakery, confectionary, soda water bottler, dairy plant or counter freezer as to business covered by such licenses, nor shall such a license be required of retail merchants having a fixed or established place of business in this state if such merchant does not also sell at wholesale any food processed by him.

(3) (a) Application for a license shall be in writing and shall state such pertinent information in such form as the department may require and shall be accompanied by a graduated fee, which shall be retained whether or not a license is issued, and which shall be an amount based on the dollar volume of output for the preceding license year, as follows: For less than \$1,000, a fee of \$1; for \$1,000 or more but less than \$10,000, a fee of \$10; for \$10,000 or more, a fee of \$25. Dollar volume of output shall be determined by gross sales of product processed plus inventory value of any portion of such product not sold.

(b) If the plant of the applicant has not operated during such year, the fee shall be estimated by the department from pertinent facts, at not less than the minimum fee for such operation. One year after the filing of such application the licensee shall report to the department the dollar volume of output, at which time the fee shall be computed thereon and the licensee shall pay the balance due or receive credit upon the fee for the next license period for overpayment.

(4) Before any license is issued to any food processing plant operator who buys or otherwise takes title to farm products from the producer thereof, except by payment to the producer of the full agreed price at the time of obtaining such possession or control, the applicant shall be required to comply with the provisions of section 100.03.

(5) As soon as convenient after the filing of a proper application, the department shall investigate the construction and the sanitary condition of the plant and equipment. A renewal license may be issued before such sanitary inspection is completed. When the application is for a new license and in all cases where such action appears advisable, the department may issue to the applicant an interim permit to operate, and such permit shall have the effect of a license for 3 months or until such earlier time at which the department shall have completed its investigation and issued the license or notified the applicant of the denial of his application. When the application is denied the permit shall be void.

(6) Licenses to processors of farm produce shall expire on March 31 of each year. No such license shall be granted or renewed unless the applicant shall certify that all growers who have supplied or contracted to supply farm produce to the licensee any previous year of operation have been fully paid in cash at the agreed price.

(7) All other licenses shall expire annually. The department may divide persons required to be licensed under this section into such groups by geographical location, type of operation or other method of classification as it believes will best promote the economical, effective and convenient execution of this section and shall determine on what day of each year licenses in each group shall expire. The department may change such groups or the methods of classification from time to time. A licensee, the license period of whose group is shortened by such grouping or change thereof, shall pay only such proportion of the annual license fee as the shortened period bears to one year and receive credit on the fee for the next license year for any overpayment; and if the period of a group is lengthened, a permit holder or licensee shall pay additional fees proportionate to the time by which it is lengthened.

(8) No license shall be transferable. A transfer of the business or the discontinuance of its operation by the licensee in the premises covered by the license voids the license, and the certificate thereof shall thereupon be surrendered to the department immediately.

97.08 Special dairy and food inspectors. (1) Special dairy and food inspectors may be appointed by the department for any factory, plant, receiving station, or group thereof, which buys or receives milk or cream for the purpose of manufacturing, processing or any other purpose whatsoever, upon petition therefor signed by more than two-thirds of the regular patrons of such factory, plant, receiving station, or group thereof, or by the officers of such factory, plant, receiving station or group thereof, or of the officers of any association organized under chapter 185 representing patrons of such factory, plant, receiving station or group thereof, and upon receiving satisfactory proof that such special dairy and food inspectors will be compensated in full for all services rendered and traveling expenses incurred upon and pursuant to such appointment as provided in this section. If the inspector is appointed pursuant to petition signed by the officers of an organization, such compensation and expenses shall be paid by such organization; and any factory, plant, receiving station or group thereof shall pay to the association the check-off as contracted for between the member and the association. If appointed pursuant to petition signed by patrons, each patron of the factory, plant, receiving station or group thereof shall pay such proportion of the total amount of such compensation and expenses as the amount of milk or cream delivered thereto by him bears to the total amount delivered thereto by all patrons. The state shall not be liable for any such compensation or expenses.

(2) Any county agricultural representative or any employe thereof employed with the approval of the county board may be designated by the department as such special dairy and food inspector for any factory, plant or receiving station, but no extra compensation for such service shall be paid to such representative or employe. If so designated, such county agricultural representative or employe thereof shall, upon petition signed by ten or more patrons of any factory, plant or receiving station in the county, make inspections at such factory, plant or receiving station, under the supervision of the department.

(3) Each such special dairy and food inspector shall have all powers conferred by law upon dairy and food inspectors and shall at all times be under the supervision of the department and he shall make such reports to the department as the said department may require. He shall supervise and inspect the weighing and testing of and shall inspect all milk, cream, butter or cheese delivered to such factory, plant, receiving station or group thereof, except that if he be appointed upon petition by an association organized under chapter 185, he shall perform his duties only for its members, and for such purpose he may use any or all weighing or testing apparatus in such factory, plant, receiving station or group thereof. In addition to the duties herein specifically prescribed he shall perform such duties as the patrons or organization compensating him or the department may direct.

(4) An appointment of a special dairy and food inspector may be denied, suspended or revoked by the department as provided in s. 93.06 (7). Rehearing and judicial review shall be as provided in s. 93.19 and ch. 227.

History: 1955 c. 652.

97.09 Regulation of soda water business. (1) No person, firm or corporation shall engage in the business of manufacturing or bottling or distributing at wholesale or selling at wholesale to retail establishments for the purpose of resale any soda water beverages without a license from the department. But no license shall be required for any of the operations of any person, firm or corporation conducted at any plant engaged wholly or partially in the manufacture of malt beverages. Such license shall be granted under such reasonable rules and regulations as the department may from time to time prescribe pertaining to the proper handling and storing of such beverages and the construction and sanitary condition of buildings and to the proper cleaning and sterilizing of all machinery, bottles or other containers used in or about the factory or premises and all containers in which the product is sold and it may prescribe such standards of purity for all ingredients used in the manufacture of such beverages as will insure a pure and unadulterated product.

(2) Each application for such license shall be made upon a blank furnished by the department upon request and shall state the applicant's name and address and the exact location of the factory or other premises for which license is requested and such other information as the department may reasonably require, and the department shall furnish to the applicant the rules and regulations incident to securing a license.

(3) Each application shall be accompanied by a fee of fifty dollars payable to the department, and no license shall be issued until such fee is so paid. In case license is refused, the fee accompanying the application shall be returned by the department to the applicant with notification of refusal.

(4) Such licenses shall expire on December 31 next following the date of issue but may be renewed without inspection each year upon the application of the licensee and upon the payment of \$5 received by the department prior to January 1.

(5) Such license shall be deemed void and shall be surrendered to the department when the person, firm or corporation to whom it was granted discontinues using the premises described in the application therefor, or when another person, firm or corporation becomes owner, manager or operator of such business.

(6) No soda water beverage shall be prepared for sale, sold or offered for sale in bottles or other closed containers unless the name and principal location of the manufacturer, bottler or distributor thereof appears plainly and conspicuously on such container or on the cap thereof; provided that no such beverage the container or cap of which bears the name and address of the actual manufacturer, bottler or dealer shall be deemed to be misbranded because of the permanent imprint on such container of the name or address, or the name and address of any other person, firm or corporation purporting to be the manufacturer, bottler, distributor or container owner if: (a) There is also embossed, impressed or otherwise permanently printed on such container the name, trademark or brand name of a nationally known soda water beverage which is sold only in limited areas by franchised dealers and (b) the product conforms to such name on the container.

(8) The term "soda water beverage" as used in this section means and includes all such beverages commonly known as soft drinks, as soda water, carbonated or uncarbonated or sweetened and flavored, and mineral and spring waters, carbonated or uncarbonated; and shall not include strong, spirituous, vinous, malt, ardent or intoxicating liquors.

(9) No soft drink or other nonalcoholic beverage, except apple cider, not manufactured in this state shall be sold or offered for sale in this state unless the person, firm or corporation manufacturing such drink shall first obtain a regular Wisconsin state license as provided for in this section and shall otherwise comply with all the provisions of this section.

(10) No license shall be imposed upon the sale of soda water beverages in any public park operated by any county, city, town or village when sold by an officer or employe thereof pursuant to any ordinance, resolution, rule or regulation enacted by the governing body of such municipality.

History: 1953 c. 370.

97.10 Bakery license. No person shall operate a bakery without a license from the department as provided in s. 97.12. The term "bakery" means any place where bread, crackers, pies, macaroni, spaghetti, or any other food product of which flour or meal is the principal ingredient are baked, cooked or dried, or prepared or mixed for baking, cooking or drying, for sale as food; provided, that the term "bakery" shall not include a restaurant, hotel or other place wherein such products are prepared and sold exclusively with meals or lunches.

History: 1953 c. 560.

97.10 to 97.24 (Stats. 1951), pertaining to license requirements do not need separate licenses and sanitary regulations of bakeries and confectionaries, are applicable to transient operators using different structures in each move must be licensed for each geographical location. 41 Atty. Gen. 263.

97.11 Confectionary license. No person shall operate a confectionary without a license from the department as provided in s. 97.12. The term "confectionary" means any place where candy, fruit, nut meats or any other food product, except a bakery product defined in s. 97.10, is manufactured from or is coated or filled with saccharine substances for sale as food.

History: 1953 c. 560.

97.12 Bakery and confectionary license requirements. (1) Application for a license to operate a bakery or a confectionary shall be in writing, shall state such pertinent information as the department may require and shall be accompanied by a fee of \$5.

(2) Licenses shall be granted under such reasonable rules and regulations as the department may prescribe pertaining to the proper handling and storing of food and the construction and sanitary condition of the place and equipment to be used.

(3) All licenses shall expire on February 28 following the effective date. No license shall be transferable. A transfer of the business or the discontinuance of its operation by the licensee at the place covered by the license voids the license and the license certificate shall be surrendered to the department immediately.

(4) Sections 97.10 and 97.11 and this section shall apply to any person operating a bakery or a confectionary in a vehicle or in any portable structure at a fair, carnival or other temporary location, but a separate license shall be required for each vehicle or portable structure so used. No such license shall be void on account of operation by the licensee at different locations, providing each location and the period of its occupancy by the licensee is registered with and approved by the department.

History: 1953 c. 560.

97.25 Drugs and foods; adulteration. (1) **ADULTERATION.** No person shall sell any drug or food which is adulterated.

(2) **FOOD.** A food is adulterated: (a) If any substance or substances have been mixed with it, so as to lower or depreciate or injuriously affect its strength, quality or purity;

(b) If any inferior or cheaper substance or substances have been substituted wholly or in part for it;

(c) If any valuable or necessary ingredient has been wholly or in part abstracted from it, or if it is below that standard of quality, strength or purity represented to the purchaser or consumer;

(d) If it is an imitation of, or sold or offered or exposed for sale under the name of another article;

(e) If it consists of or is manufactured, wholly or in part, from a diseased, contaminated, filthy, decomposed, tainted or rotten substance or any substance produced, prepared, packed, transported, or held under insanitary conditions whereby it may have been rendered unfit for food, 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;

(f) If its container is composed, in whole or part, of any poisonous or deleterious substance which may render the contents injurious to health;

(g) If it is mixed, colored, coated, polished, powdered or stained, whereby damage or inferiority is concealed, or so that it tends to deceive or mislead the purchaser or consumer, or if by any means it is made to appear better or of greater value than it really is, or if it is colored or flavored in imitation of the genuine color or flavor of another substance;

(h) If it bears or contains any added substance or ingredient which is poisonous, injurious or deleterious to health, or any deleterious substance not a necessary ingredient in its manufacture; provided that:

1. When the substance is not an added substance, the food is not adulterated if the quantity of such substance does not ordinarily render it injurious to health; and

2. When the addition of a poison or deleterious substance is required in the production thereof or cannot be avoided by good manufacturing practice, the department shall promulgate regulations limiting the quantity therein or thereon to such extent as it finds necessary for the protection of public health;

(i) If it bears or contains a coal-tar color other than one from a batch which has been certified under authority of the federal food, drug and cosmetic act (title 21 U.S.C. ss. 301 et seq.).

(j) If it is confectionery, and it bears or contains any alcohol or nonnutritive article or substance, except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one per cent, natural gum and pectin; provided, this paragraph does not apply to any confectionery by reason of its containing less than one-half of one per cent by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(3) **COMPOUND FOODS.** Any article of food which is not adulterated under the provisions of sub. (2) (d), (e), (f), (g), (h), (i) and (j) and which does not contain any filler or ingredient which debases without adding food value shall not be deemed adulterated in the cases of mixtures or compounds sold under their own distinct names or under coined names, if the same be so labeled, branded or tagged as plainly to show their true character and composition. Nothing in this section shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods to disclose their trade formulas, except as far as may be necessary to secure freedom from adulteration, imitation or fraud.

(4) **DRUGS.** A drug is adulterated: (a) If when sold under a name recognized in the official United States pharmacopoeia or national formulary it differs from the standard of strength, quality or purity prescribed in the latest edition thereof; (b) If its strength, quality or purity falls below the professed standard under which it is sold; or (c) If it contains wood alcohol except when intended for external use only and is so labeled.

History: 1953 c. 421.

See note to 97.025, citing Dairy Queen of Wisconsin, Inc. v. McDowell, 260 W 471, 51 Dowl., (1952) 260 W 471, as they affect enforcement of 97.02 (5) (c), 97.025 and 97.25. Discussion of opinions of supreme court 41 Atty. Gen. 135.

97.26 Foods; manufacture; sale; sanitary regulations. It shall be unlawful to manufacture or prepare for sale food as defined in section 97.01, unless in the process of its manufacture for sale or its preparation for sale it is securely protected from filth, flies, dust or other contamination, or other unclean, unhealthful or insanitary conditions. It shall be unlawful to store or offer or expose for sale or sell food as defined in section 97.01,

unless it is securely protected from filth, flies, dust or other contamination, or other unclean, unhealthful or insanitary conditions.

97.27 Sale of certain foods regulated and restricted. (1) No person, firm or corporation shall, by himself, or by his agents or servants, manufacture, sell, ship, consign, offer for sale, expose for sale or have in his possession with intent to sell for use or consumption within the state, any article of food within the meaning of section 97.01, which contains formaldehyde, sulphurous acid or sulphites, boric acid or borates, salicylic acid or salicylates, saccharin, dulein, glucin, beta naphthol, abrastol, asaprol, fluorides, fluoroborates, fluosilicates or other fluorine compounds, or any other preservatives injurious to health; provided, however, that nothing contained in this section shall prohibit the use of common salt, saltpeter, wood smoke, sugar, vinegar and condimental preservatives, such as turmeric, mustard, pepper and other spices. Nor shall any person, firm or corporation, by himself, or by his agents or servants, manufacture, sell, ship, consign, offer for sale, expose for sale or have in his possession with intent to sell for use or consumption within the state, any article of food within the meaning of section 97.01, containing any added substance, article or ingredient possessing a preservative character or action other than the articles named in the proviso of this act, unless the presence, name and proportionate amount of said added substance, article or ingredient shall be plainly disclosed to the purchaser.

(2) This section shall not be construed to prohibit the sale of dietary foods containing saccharin in containers labeled in accordance with s. 97.60, nor the use of sulphur dioxide or sulphites as antioxidants in the processing of potatoes or frozen apples provided such foods contain not more than 350 parts per million of SO₂; nor the use of sulphur dioxide in molasses or in the processing of dried fruits in amounts no more than may be necessary in good manufacturing practice. Any person who refreezes or offers for sale any refrozen fruit containing sulphur dioxide or sulphites as antioxidants in not more than 350 parts per million, shall be punished as provided in s. 97.72 (2). The department may promulgate rules limiting the quantity therein for any such dried fruit or molasses.

History: 1955 c. 10, 614; 1957 c. 97, 227.

(1) does not prevent fluoridation of water by a city. *Froncek v. Milwaukee*, 269 W 276, 69 NW (2d) 242. municipal water supplies nor to the use of such water in the preparation of food products. 42 Atty. Gen. 160.

(1) has no application of fluoridation of

97.275 Sale of rosefish. It shall be unlawful for any person, firm or corporation to sell, advertise, or solicit orders for shipment or consignment, or offer or expose for sale, or have in possession with intent to sell or market, the fish, *sebastes marinus*, under any name other than rosefish or ocean perch. Such fish may be sold upon proper designation, solicitation or advertisement as rosefish or ocean perch.

History: 1951 c. 403.

This section meets all requirements and is a valid and enforceable regulation. 39 Atty. Gen. 532.

97.28 Benzoic acid in foods. It is unlawful to sell, offer or expose for sale or have in possession with intent to sell for use or consumption in this state, any meat products, dairy products, sauerkraut, pickles or pickled vegetables, which contain added benzoic acid or benzoates; or any other article of food as defined in s. 97.01 which contains added benzoic acid or benzoates in excess of one-tenth of one per cent. The presence and the amount used shall be stated on the label. When in the preparation of food products for shipment they are preserved by any external application of benzoic acid or benzoates in such a manner that the preservative is necessarily removed mechanically, or by maceration in water, or otherwise, and directions for the removal of said preservative shall be printed on the covering or the package, the provisions of this section shall be construed as applying only when said products are ready for consumption.

History: 1955 c. 543.

97.29 Mixed fruits; sale; label. It shall be unlawful to sell, offer or expose for sale, or have in possession with intent to sell any mixed preserves, jams, fruit butters or jellies which contain more than one fruit, or the juices of more than one fruit prepared with sugar, glucose or honey or any two of them or all of them, unless each receptacle containing the same is labeled as follows:

(1) The names of all fruits and fruit juices contained in the product shall be stated on the label in continuous list in the order of their preponderance in type of the same size and style; provided, that if any fruit or fruits or the juices of any fruit or fruits shall be used in the preparation of any of the said products in the proportion of less than twenty-five per cent by weight of the total amount of fruit or fruit juices contained therein, such fruit or fruits or fruit juices shall be designated on the label as a flavor and the word "flavor" shall be printed in type of the same size, color and style as may be employed in the printing of the name of the fruit or fruits.

(2) There shall be printed on the principal label, in continuous list in the order of their preponderance, the names sugar, glucose and honey or any two thereof which are used in the product as sweetening agents; provided, however, that in all such products in which glucose shall be used in excess of seventy-five per cent of the total amount by weight of such sweetening agents, there shall also be conspicuously printed on the principal label the percentage by weight of glucose contained in the mixed product.

97.30 Submission of articles for analysis; evidence. The state board of health, medical officers of local boards of health, town and village boards or common councils may submit to the department samples of water or other drinks, of food or drugs for analysis, and the same shall be examined and reports made of the analysis thereof to the body or officer submitting the same as soon as practicable; such reports shall fully specify the results of the analysis and be signed by such department; they shall be accepted in all courts and places as prima facie evidence of the properties or condition of the articles analyzed.

97.305 Labeling of macaroni and noodles. It shall be unlawful to have in possession with intent to sell, offer for sale or sell within this state any macaroni or noodles unless the same are labeled to show that they are free from artificial color and in the case of egg noodles to show the percentage of egg solids content on the moisture free basis and the term egg noodles shall not be applied to noodles unless they actually contain the minimum percentage of egg solids provided for in subsection (12) of section 97.02. All products are to be labeled with the net weight and with the name and address of the manufacturer, packer or dealer.

97.31 Cleanliness in dairy cows. No person owning or managing a dairy, the product of which is sold for family use, shall feed his cows upon unwholesome food or keep them in unclean stables or handle the milk with unclean utensils.

97.32 Premises, utensils; insanitary conditions prohibited. (1) All premises and utensils used in the handling of milk, cream, and by-products of milk, and all premises and utensils used in the preparation, manufacture, or sale, or offering for sale of any food product for man from milk or cream or the by-products of milk, which shall be kept in an unclean, filthy, or noxious condition are hereby declared to be insanitary.

(2) It shall be unlawful for any person, firm, or corporation engaged in selling, or furnishing milk, cream, or any by-products of milk, intended for use as food for man; and it shall be unlawful for any person, firm, or corporation, engaged in selling or furnishing milk, cream, or any by-product of milk, to any creamery, cheese factory, milk condensing factory, or to any place where such milk, cream, or by-products of milk are manufactured or prepared into a food product for man, and for sale as such; and it shall be unlawful for any milk dealer or an employe of such milk dealer, or any person, firm, or corporation, or the employe of such person, firm or corporation who operates a creamery, cheese factory, milk condensing factory, or who manufactures or prepares for sale any article of food for man from milk, cream, or by-products of milk, or who manufactures, reworks or packs butter for sale as a food product, to maintain his premises and utensils in an insanitary condition.

97.33 Cans, bottles, vessels; cleansing. Any person, firm, or corporation, who receives in cans, bottles, or other vessels any milk, or cream, or other dairy product to be manufactured into food for man, or for the purpose of resale when such cans, bottles, or vessels are to be returned, shall cause the said cans, bottles, or other vessels to be thoroughly washed and cleansed, and shall return or cause the same to be delivered to a common carrier for shipment to the owner thereof, within seventy-two hours after the contents of such container is removed.

97.34 Access to buildings; samples; holding order. (1) The department or any of its authorized agents shall have free access to any barn or stable where any cow is kept or milked, or to any factory, building, dairy or premises where any dairy product is manufactured, handled or stored, when the milk from such cow or such product is to be sold or shipped, and may enforce such measures as are necessary to secure perfect cleanliness in and around the same and of any utensils used therein, and to prevent the sale of milk from cows diseased or fed upon unwholesome food. Either of them may enter any place or building in which there is reason to believe that any food, drink or drug is made, prepared, sold or offered for sale, and may open any package or receptacle of any kind containing, or which is supposed to contain, any article of food, drink or drug, and examine or analyze the contents thereof. Any such article or a sample thereof may be seized or taken for the purpose of having it analyzed; but if the person from whom it is taken shall so request, at the time of taking, the officer shall then and in the presence of such person securely seal up 2 samples of such article, one of which shall be for analysis

under the direction of the department, the other shall be delivered to the person from whom the sample or article was obtained.

(2) Whenever any duly authorized inspector of the department shall have reasonable cause to believe that any food or drug so found and examined by him is adulterated or misbranded and is dangerous to health or misleading to the injury or damage of the purchaser or consumer; he shall issue and deliver to the owner or custodian thereof a holding order prohibiting the sale or movement of such food for any purpose until the analysis or examination of the sample obtained has been completed. Such holding order shall not be effective for a period longer than 14 days from the time of delivery thereof.

(3) No food or drug described in any such holding order so issued and delivered shall be sold or moved for any purpose without the approval of the department until such analysis or examination has been completed within the time specified in subsection (2). In the event the department shall upon completed analysis or examination determine that the food or drug described in such holding order is not adulterated or misbranded, then the owner or custodian thereof shall be promptly so notified in writing, and such holding order shall terminate upon such notification.

(4) Where the analysis or examination shall show that such food or drug is adulterated or misbranded and is dangerous to health or misleading to the injury or damage of the purchaser or consumer, the owner or custodian thereof shall be so notified within the effective time of the holding order. Such notice shall have the effect of a special order issued under section 93.18. Upon receipt of such notice the food or drug subject to the holding order shall not be sold or otherwise moved without the approval of the department and shall only be sold or otherwise moved in a manner authorized by the department or under its direction.

97.36 Adulterated, insanitary milk. (1) **INSANITARY MILK.** Milk which shall be drawn from cows kept in a filthy or unclean condition; or milk drawn from any sick cow or cow having running sores; or milk drawn from cows fed unwholesome food or on refuse or slops from distilleries or vinegar factories, unless such refuse or slop be mixed with other dry sanitary grain or feed to a consistency of thick mash; or milk drawn from cows within eight days before or four days after calving; or milk which shall be drawn from cows that are kept in barns or stables which are not reasonably well lighted and ventilated, or that are kept in barns or stables that are filthy from an accumulation of animal feces and excreta or from any other cause; or milk to which has been added or into which has been introduced any coloring matter or chemical or preservative or deleterious or filthy substance; or milk kept or transported in dirty, rusty or open-seamed cans or other utensils; or milk that is stale, putrescent or putrid; or milk to which has been added any unclean or unwholesome substance; or milk contaminated by being kept in stables or barns occupied by animals, or kept exposed in dirty, foul or unclean places or conditions, is declared to be insanitary milk.

(2) **INSANITARY CREAM.** Cream produced from insanitary milk; or cream produced by the use of a cream separator, which had not been thoroughly cleansed and scalded after last previous use; or cream produced by the use of a cream separator placed or stationed in any unclean or filthy place or in any building containing a stable wherein animals are kept, unless such separator is so shielded by partition from the stable portion of such building as to be free from all foul or noxious air or gases which issue or may issue from such place or stable; or cream that is stale, putrescent or putrid; or cream that is kept or transported in dirty, rusty or open-seamed cans or other utensils; or cream that has been kept exposed to foul or noxious air or gases in barns occupied by animals, or in foul or unclean places or conditions, is hereby declared to be insanitary cream.

(3) **ADULTERATED MILK.** Any insanitary milk or any milk containing less than 3 per cent of milk fat; or milk containing less than 8.25 per cent of milk solids, not fat; or to which has been added or into which has been introduced any foreign substance is adulterated milk.

(4) **ADULTERATED CREAM.** Any insanitary cream or any cream containing less than eighteen per cent of milk fat; or any cream produced from adulterated milk; or any cream to which has been added or into which has been introduced any foreign substance is adulterated cream.

(5) **SALE OF CERTAIN PASTEURIZED MILK OR CREAM NOT PROHIBITED.** This section does not prohibit the sale of pasteurized milk or cream to which viscogen or sucrate of lime has been added solely for the purpose of restoring the viscosity, if the same be distinctly labeled in such manner as to advise the purchaser of its true character.

(6) **SALE OF CERTAIN SKIM MILK NOT PROHIBITED.** This section does not prohibit the sale of skim milk when the same is sold as and for "skim milk."

(7) **SALE OF MILK FROM CERTAIN REACTING COWS NOT PROHIBITED.** This section does not prohibit the sale of milk from cows known as "reactors", when such reacting cows show no external evidence of disease to a competent veterinarian designated by the department to examine the same, and when such milk is pasteurized or sterilized in accordance with the methods prescribed by the department, but such reacting cows shall be examined every six months at the expense of the owner, by a veterinarian approved by the department, and a report of the inspection shall be filed by the owner with the said department. Such inspection may be made 15 days prior to or after each 6-month period.

97.37 Insanitary or adulterated milk and cream; sale; delivery prohibited. It is unlawful to sell or offer for sale, furnish or deliver, or have in possession or under control with intent to sell or offer for sale, or furnish, or deliver as food for man, or to any creamery, cheese factory, milk condensing factory, or milk or cream dealer any adulterated milk or adulterated cream, or any insanitary milk or insantiary cream as defined in section 97.36. The department shall establish standards and prescribe regulations whereby the intake of each producer of milk shall be inspected, sampled and tested by the sediment, methylene blue, or other tests, and insanitary milk or cream shall be rejected as food for man or to be processed or manufactured for food for man, and shall be identified, in a manner that will not prevent its use as food for animals, and regulations for the keeping of the test records, the prevention of further delivery of insanitary milk or cream by such producer, and the correction of the insanitary condition.

97.38 Adding antiseptics to milk. No person shall sell or offer for sale, consign or have in possession with intent to sell any milk, cream, butter, cheese or other dairy products, or deliver to any creamery or cheese factory milk or cream to be manufactured into butter or cheese to which milk, cream, butter, cheese or other dairy products, has been added boracic acid, salicylic acid, nitrates, nitrites, chlorine, hypochlorites, other compounds containing available chlorine, or other mixtures containing any of them, or any other antiseptic, substance, article or ingredient injurious to health or to proper making or maturing, or that tends to conceal without correction the use of insanitary or adulterated milk or cream.

97.39 Dairy products, adding foreign fats. (1) No person shall sell any food which purports to be or is represented as ice cream, ice milk, sherbet, cheese, cottage cheese, process cheese, cheese food compounds, butter, milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives thereof which contains any fat or oil other than milk fat, either under the name of said food or the derivatives thereof or under any fictitious or trade name.

(2) This section does not prohibit the manufacture or sale of proprietary foods containing milk or skim milk to which have been added any fat or oil other than milk fat when such foods are clearly labeled to show their composition and the fact that they are to be sold exclusively for use as directed by physicians for the feeding of invalids and children.

(3) This section does not prohibit the manufacture or sale of oleomargarine in a separate and distinct form and in such manner as will advise the consumer of its real character, and free from coloration or ingredient that causes it to look like butter.

History: 1951 c. 517; 1953 c. 61; 1955 c. 24.

State is without jurisdiction to prosecute violation of (3), when such sale was made Indian for sale of colored oleomargarine in on an Indian reservation. 40 Atty. Gen. 360.

97.40 Insanitary by-products; sale, prohibited. No person shall by himself, his servant, or agent, or as the servant or agent of any other person, or as the servant or agent of any firm or corporation, manufacture for sale any article of food for man from any insanitary milk or from any insanitary cream.

97.41 Butter and cheese manufacturers; accounts accessible. No operator of a butter factory or cheese factory wherein the value of the milk or cream delivered is determined by the sale of the product manufactured shall use or allow any other person unless he is entitled to the benefit thereof to use any milk or cream brought to him, without the consent of the owner thereof, and such operator shall keep or cause to be kept a correct account (which shall be open to the inspection of any person furnishing milk to him and to the department, its chemists, assistants, inspectors and agents) of the amount of milk or cream received daily, and of the number of pounds of butter, and the number and style of cheese made each day, and of the number of cheese cut or otherwise disposed of and the weight of each, and the number of pounds of whey cream sold, with the test.

97.42 Oleomargarine regulations. (1) (a) An occupational tax is hereby assessed, imposed and levied, as hereinafter provided, upon the sale, offering or exposing for sale, or giving or delivering or use of oleomargarine, butterine and similar substances, in this state. The purpose of this section is declared to be the raising of revenue, and the regu-

lations herein imposed are for the purpose of securing the full collection of such revenue, and punishing evasion or attempted evasion of the payment thereof. Oleomargarine, butterine and similar substances include all fats and fat compounds sufficiently adaptable to the ordinary uses of butter, to lead readily to use as an alternative to butter, but this section shall not apply to lard as defined in section 97.02 (4), cream cheese, cheese food compounds as defined in section 97.50, nor to any other dairy product made exclusively of milk solids, with or without added vitamins, if such product is sold or distributed in such manner and form as will clearly distinguish it from butter. Nor shall this section apply to shortenings not churned or emulsified in milk or cream and having a melting point of 112 degrees Fahrenheit or more as determined by the capillary tube method unless there is sold or given away with such shortening any compound which when mixed with such shortening makes oleomargarine, butterine or similar substances as defined by this section.

(b) No person shall by himself, or by his servant or agent, manufacture, sell, exchange, offer or expose for sale, have in possession with intent to sell, or serve to guests, patrons or boarders for compensation in a hotel, restaurant or boarding house, or use in the preparation of food to be sold or offered for sale or to be served or to be offered to guests, patrons or boarders for compensation in a hotel, restaurant or boarding house oleomargarine, butterine, or similar substance, without first securing a license from the state department of agriculture.

(2) Application for such license shall be made in such form as may be prescribed by the state department of agriculture. Such application shall contain an accurate description of the place where the proposed business is intended to be carried on, the name and style under which it is proposed to conduct the said business, and such other information as the department may require. If from such application the department is satisfied that the name and style of the business is not calculated to deceive or mislead the public, and upon payment of the tax specified in subsection (3), the department shall issue to the applicant an annual license authorizing him to manufacture, sell, or serve, as the case may be, oleomargarine, butterine, and similar substances. A separate license shall be required for each separate place of business.

(3) The tax for an annual license issued pursuant to this section shall be as follows:

- (a) To a manufacturer, one thousand dollars;
- (b) To a wholesale dealer, five hundred dollars;
- (c) To a retail dealer, twenty-five dollars;
- (d) To a proprietor of a hotel or restaurant, twenty-five dollars;
- (e) To a proprietor of a boarding house having three or more boarders at any time during the license period, five dollars;
- (f) To a proprietor of a bakery, five dollars;
- (g) To a proprietor of a confectionary, five dollars.

(4) All licenses issued under this section shall expire on the thirty-first day of December of each year, but licenses may be granted to commence on the first day of July for the remainder of the license year, upon payment of one-half the annual license fee. Such licenses shall be transferable upon application in writing to the department.

(5) A license issued under this section shall not authorize the manufacture, sale, offering or exposing for sale, having in possession with intent to sell, or serving to guests or patrons or boarders for compensation, any oleomargarine, butterine or similar substance at any other place than that designated in the application and license.

(6) Every licensee shall display his license or duplicate thereof in a conspicuous place on the walls of each room in which oleomargarine, butterine, or other substance is manufactured, sold, exposed for sale, or served to guests, patrons or boarders. Duplicate licenses shall be furnished by the department for 50 cents.

(7) Every licensed manufacturer, and every licensed wholesale dealer in oleomargarine, butterine or other similar products shall file with the department the name and address of each person to whom such products are sold. Such information shall be filed not later than January 20, May 20 and September 20 and shall in each case cover sales made during the preceding 4 months' period.

(8) (a) An occupational tax to be collected as a stamp tax is assessed, imposed and levied upon the sale, exchange, offering or exposing for sale or exchange, having in possession with intent to sell or exchange, or removal for consumption, exchange or sale other than for shipment in interstate or foreign commerce, of oleomargarine, butterine and other similar substances. The rate of such tax shall be 15 cents per pound on such oleomargarine, butterine or other similar substance.

(b) The payment of the tax herein imposed shall be evidenced by the affixing of oleomargarine tax stamps to the containers in which all oleomargarine, butterine or other similar substances are placed, received, stored, warehoused, shipped or delivered for sale,

(c) The department shall prescribe, prepare and have available for sale, stamps of such denominations and quantities as it may deem necessary for the payment of the tax imposed by this subsection.

(d) Stamps shall be affixed in such a manner as the department promulgates by order. Manufacturers and wholesalers within or without this state may be permitted to purchase stamps and affix them, in the manner prescribed by the department, to containers for oleomargarine to be sold in this state.

(e) No manufacturer or wholesaler shall sell any oleomargarine within this state to any person, except a licensed wholesaler, unless the proper tax stamps have been affixed thereto. No licensee under this section, except a wholesaler or manufacturer, shall purchase, sell, or have in his possession for the purpose of sale or use within this state, any oleomargarine unless the proper tax stamps have been affixed thereto.

(9) (a) In order to prevent evasion of the per pound tax imposed by this section, a tax is hereby assessed, imposed and levied, as hereinafter in this subsection provided, upon the use of oleomargarine, butterine, and similar substances in this state. No person shall in any manner use any oleomargarine, butterine, or similar substances not purchased from a retail dealer in this state, unless he be licensed as hereinbefore provided, without first securing a license from the department. Applications for such license shall be made in the form to be prescribed by the department and shall designate the place at which such oleomargarine, butterine or similar substance is to be used. Such license shall expire on the thirty-first day of December of each year and shall not be transferable. The tax for such annual license shall be one dollar. Upon the receipt of the application and the payment of such tax, the department shall issue to the applicant an annual license authorizing said applicant to use oleomargarine, butterine, or similar substances. On all oleomargarine, butterine or similar substances so used the licensee shall pay a tax in the amount of six cents per pound.

(b) All licensees under this section shall keep records, upon forms to be prescribed by the department, stating the date of the receipt of all oleomargarine, butterine or similar substances so used, and from whom purchased. Not later than the tenth day of January, April, July and October, each such licensee shall file such records for the quarter year ending on the last day of the preceding month, verified, with the department, retaining a copy thereof, open to inspection by the department. Mailing by registered mail shall be equivalent to filing.

(c) With the filing of such records, the licensee shall pay the tax levied and required herein, to the department, by mail order, certified check, or draft. Payments not made at the time required shall be increased by one cent per pound.

(10) The department or any of its authorized agents may at all reasonable times inspect the premises and examine the records of any licensee.

(11) The doing of any act herein forbidden to be done without license, if done without such license in full force and effect, or the keeping, making or filing of any false record under this section shall subject the person to a forfeiture of one hundred dollars for each quarter year or part thereof during which any such act shall be done. Such forfeiture shall be recoverable at the suit of the state as for a debt.

(12) Conviction of any licensee for any violation of this section shall operate automatically as a revocation of his license issued under this section, and no new license shall be issued to such person for one year thereafter.

(13) No suit shall be maintained in any court to restrain or delay the collection or payment of any tax herein levied at the suit of the person required to pay such tax, but the aggrieved taxpayer shall pay the tax as and when due, and if paid under protest may at any time within two years from the date of such payment sue the state in an action at law to recover the tax so paid, with legal interest thereon from the date of payment. If it is finally determined that said tax, or any part thereof, was wrongfully collected for any reason, it shall be the duty of the director of budget and accounts to issue his warrant on the treasurer for the amount of such tax so adjudged to have been wrongfully collected, together with interest thereon, and the treasurer shall pay same out of the general fund. A separate suit need not be filed for each separate payment made by any taxpayer, but a recovery may be had in one suit for as many payments as may have been made, and which are not barred by the limitation of 2 years herein imposed.

(14) As used in this section:

(a) "Wholesale dealer" means any person, firm or corporation who sells or offers for sale to a retail dealer.

(b) "Retail dealer" means any person, firm or corporation who sells or offers for sale to a user or consumer.

(c) "Hotel" or "restaurant" includes all places wherein meals or lunches are served transients for compensation.

(d) "Boarding house" includes places where meals are furnished as part compensation for services other than domestic labor.

(e) "Bakery" means bakery as defined in s. 97.10.

(f) "Confectionary" means confectionary as defined in s. 97.11.

(15) For the purpose of securing information as to any violation of this section, the department shall give as wide publicity as possible to the names of licensees hereunder and taxes paid by them and to such other information with reference to compliance or noncompliance with this law as shall contribute to the purpose of this subsection, and it shall be the duty of any person becoming aware of a violation of this section to notify the department thereof, but the said department shall not disclose the source of such information unless it becomes necessary in enforcing the law, and no penalty shall attach to a failure to perform such duty.

History: 1951 c. 261 s. 10; 1953 c. 560, 605.

97.43 Butter; grading; label. (1) It is unlawful to sell, offer or expose for sale, or have in possession with intent to sell, any butter at retail unless it has been graded. Butter shall be graded as follows:

(a) Grade, Wisconsin, AA—93 score;

(b) Grade, Wisconsin, A—92 score;

(c) Grade, Wisconsin, B—91-90 score;

(d) Grade, Wisconsin, undergrade—all butter below Wisconsin B.

(2) United States AA, A, and B grades shall be accepted in lieu of the corresponding Wisconsin AA, A, and B grades, but all United States grades below B shall, for the purpose of this section, correspond to Wisconsin undergrade.

(3) As used in this section, score or grade means the grading of butter by its examination for flavor and aroma, body and texture, color, salt, package and by the use of other tests or procedures approved by the state department of agriculture for ascertaining the quality of butter in whole or in part.

(4) Details for methods and procedures to be used for ascertaining quality, for labeling, and for arbitrating disputes with respect to grades, shall be developed by the supervisory grading service (state department of agriculture) as a result of public hearings to be held at a convenient location in the state.

(5) Butter from outside of the state sold within the state shall be provided with a label which indicates that it complies with the state grade standards as provided in this section and which indicates the grade in a manner equivalent to the requirements for butter manufactured and sold within the state.

(6) Butter which carries the state grade labels shall be graded by approved industry graders under the supervision of the supervisory grading service (state department of agriculture).

(7) No person, for himself, or as an agent, shall advertise the sale of any butter at a tated price, unless the grade of the butter is set forth in such advertisement in not less than 10-point type.

History: 1953 c. 638; 1955 c. 38.

97.44 Notice of sale of imitation butter. Any person who shall sell or offer for sale to any person who asks, sends or inquires for butter, any oleomargarine, butterine or any similar substance made in imitation or semblance of pure butter, not made entirely from the milk of cows, with or without coloring matter, or who shall expose for sale oleomargarine, butterine or any similar substance not marked and distinguished on the outside of each tub, package or parcel thereof by a placard with the word "oleomargarine," and not having also upon every open tub, package or parcel thereof a placard with the word "oleomargarine," such placard in each case to be printed in plain, uncondensed Gothic letters not less than one inch long, and not containing any other words thereon, or who shall sell oleomargarine, butterine or any similar substance from any dwelling, store, office or public mart, without having conspicuously posted thereon the placard or sign, in letters not less than four inches in length, "oleomargarine sold here," or "butterine sold here," which placard or sign shall be approved by the department of this state; or who shall sell or deliver from any cart, wagon or other vehicle, upon the public streets or ways, oleomargarine, butterine or any similar substance, without having on the outside of both sides of said cart, wagon or other vehicle a placard, in uncondensed Gothic letters not less than three inches in length, "licensed to sell oleomargarine," or who shall furnish or cause to be furnished in any hotel, boarding house, restaurant or at any lunch counter, oleomargarine, butterine or any similar substance to any guest or patron thereof, without first notifying such guest or patron that the substance so furnished is not butter, shall be punished as provided in subsection (3) of section 97.72.

97.45 Renovated butter. No person shall, himself, or by his agent or servant, sell, offer or expose for sale, or have in his possession with intent to sell, or exchange or de-

liver renovated butter, or butter which has been melted and its rancidity removed or masked, and which has been regranulated, colored and prepared in imitation or in semblance of genuine creamery butter, unless the substance shall have the words "Renovated Butter" conspicuously stamped, labeled or marked in one or two lines and in plain Gothic letters, at least three-eighths of an inch square, so that the words cannot be easily defaced, upon two sides of each and every tub, firkin, box or package containing said renovated butter; or, if such butter is exposed for sale uncovered, or not in a case or package, a placard containing said words in the same form as above described in this section shall be attached to the mass in such a manner as to be easily seen and read by the purchaser; and when renovated butter is sold from such package or otherwise at retail, in print, roll or other form, before being delivered to the purchaser, it shall be wrapped in wrappers plainly stamped on the outside thereof with the words "Renovated Butter," printed or stamped thereon in one or two lines and in plain Gothic letters at least three-eighths of an inch square, and such wrapper shall contain no other words or printing thereon, and said words "Renovated Butter" so stamped or printed on the said wrapper shall not be in any manner concealed, but shall be in plain view of the purchaser at the time of the purchase.

97.46 **Frauds; substitute for butter; advertisement.** (1) No person, firm or corporation, shall use in any way in connection or association with the sale or exposure for sale or advertisement of any substance designed to be used as a substitute for butter, the word "butter," "cream," "creamery," or "dairy," either alone or in combination with other words, except as required by sections 97.43 and 97.45, or the name or representation of any breed of dairy cattle, or any combination of such word or words and representation, or any other words or symbols or combination thereof commonly used in the sale of butter.

(2) No person, firm or corporation shall use the term "butter" in the name or in connection with the name, designation, advertising or description of any article of food prepared and offered for sale or served with any meal for which a charge is made unless all of the fat contained in such article of food is butterfat; provided, that nothing herein shall be construed as prohibiting any representation that a food is flavored with butter if at least 12 per cent of the fat in such food is butterfat.

History: 1953 c. 369.

97.47 **Imitation dairy products in public institutions.** (1) No state, county, municipal or other institution, no public school, no licensed child welfare agency or maternity hospital, and no hospital, asylum or other institution for the care and relief of sick, infirm, indigent, homeless, insane or feeble-minded persons, or any similar purpose, supported in whole or in part by public funds, shall furnish to its inmates or patrons or use in the preparation of their food, any oleomargarine or other substitute for butter or other dairy product.

(2) No official in charge of public relief to poor or indigent persons, or any employe or agent of such official, shall furnish to any poor or indigent person, or give an order upon any merchant to furnish to any such person, any oleomargarine or other substitute for butter, or any other dairy product, but shall in all cases furnish genuine butter, cheese, and other dairy products, made from whole milk or cream.

(3) No officer or employe of any institution or official in charge of public relief to poor and indigent persons, or employe or agent of such official, shall knowingly be a party to any violation of this section, nor shall any person knowingly sell or offer for sale or furnish to any such institution, or official, their officers or agents, or on their order, any oleomargarine or other substitute for butter or other dairy product.

97.49 **Excess moisture cheese.** No firm or corporation shall, by themselves, their servant or agent, and no person shall, by himself, his servant or agent, or as the servant or agent of another person, or as the servant or agent of any firm or corporation, manufacture for sale or exchange, sell, exchange, offer for sale or exchange, or have in possession with intent to sell or exchange any cheese or process cheese which contains more than the permitted amount of moisture as provided in subsection (9) of section 97.02, except that cheese manufactured by the process known as American, Cheddar, Granular, Colby, Washed Curd, Brick cheese, or Muenster cheese may contain more than such permitted amount if each cheese offered for sale or sold shall be plainly and conspicuously marked or branded in one or more places according to size with the proper moisture content label as listed below in type and numerals at least one-half inch high:

For American, Cheddar, Granular, Colby, or Washed Curd:

Moisture 40 to 42%

Moisture 42 to 44%

Moisture 44 to 46%

Moisture over 46%

For Brick

Moisture 44 to 46%

Moisture over 46%

For Muenster

Moisture 44 to 46%

Moisture over 46%

Such cheese shall not bear the grade marks fixed by the department for cheese as described in section 97.02 (9) (c), (d) and (e).

History: 1951 c. 221.

97.50 Cheese food compounds. (1) Cheese food compounds or mixtures are food products produced by mixing one or more lots of cheese with or without the aid of heat into a homogeneous mass and may contain added solids derived from milk, harmless emulsifying agents, harmless coloring matter, seasonings, relishes, condiments, water and other food as defined by section 97.01; except that fats or oils other than milk fat may not be used.

(2) No person, by himself, his servant or agent or as the servant or agent of another person shall offer for sale, exchange, sell, deliver or have in possession with intent to sell any cheese food compound or mixture unless each package, receptacle or container in which the aforesaid compounds or mixtures are sold shall bear an informative label, plainly separated from other reading matter, showing the name and address of either the manufacturer, packer or dealer and the net weight together with a full and complete statement plainly showing the kind or variety of cheese or cheeses used and the presence of any of the ingredients provided in subsection (1), including a statement showing the maximum percentage of moisture and the minimum percentage of milk fat. For the purpose of this act a reasonable tolerance for the moisture and fat content from the declared statement is permitted and declared to be one per cent in excess of the stated percentage of moisture and one per cent in deficiency of the stated per cent of milk fat.

(3) Any cheese food compound or mixture, the label or package of which shall bear any statement, design or device which shall be deceptive or misleading in any particular is declared to be misbranded.

97.51 Cheese boxes must be clean. (1) It shall be unlawful for any person, his agent or servant, to place any cheese in any cheese box for the purpose of marketing or transporting such cheese unless said box is clean and free from mold, and no cheese shall be placed in any box that has been used theretofore as a container for cheese unless the interior and exterior of such box has been thoroughly cleaned and is free from adhering material, objectionable odors and molds.

97.52 Fraud in labeling cheese. No person shall sell, offer for sale, ship or consign cheese labeled with a false brand or label as to the quality of the article, or shall use any stencil or label furnished by the department and bearing the words "Wisconsin full cream cheese," otherwise than upon the bandage on the side of full cream cheese and upon the package containing the same.

97.53 Adulteration of meats. No person shall offer or expose for sale, take offers for, or sell, or have in his possession with intent to sell for consumption within the state any sausage or chopped meat compound containing any artificial coloring, or chemical preservative or antiseptic, except common salt, sodium or potassium nitrate, sodium or potassium nitrate, sodium ascorbate, ascorbic acid, spices or wood smoke. Ascorbic acid and sodium ascorbate shall be limited to use in cooked cured comminuted meat food products in the amount of three-fourths of an ounce of ascorbic acid or seven-eighths of an ounce of sodium ascorbate for each 100 pounds of fresh uncured comminuted meat or meat by-products and, when used, they shall be included in the statement of ingredients either as "ascorbic acid" or "sodium ascorbate" as the case may be.

History: 1953 c. 646.

97.54 Sausage; sausage mixture. No person shall sell, offer or expose for sale or have in possession with intent to sell any product as sausage, unless the same complies with the definition and standard prescribed in the second paragraph of s. 97.02 (2). This section does not prohibit the sale of sausage, smoked and cooked, and mixed with not to exceed 3½ per cent, either collectively or individually, of cereals or potato flour and not to exceed 10 per cent of added water, as and for "sausage with cereals" or "sausage with potato flour" as the case may be; or of sausage, smoked and cooked, containing not to exceed 3½ per cent nonfat dry milk solids or whey product not to exceed 10 per cent of added water as and for "sausage with nonfat dry milk solids" or "sausage with whey product" as the case may be.

History: 1953 c. 431.

97.55 Meat from dead or diseased animals. (1) No meat from any diseased animal, or any animal that has died other than by slaughter, shall be sold or used for human consumption, or dismembered or stored at premises where other food is sold or prepared for sale.

(2) No carcass meat or other part of any animal shall be fed to animals used for human consumption unless it has been thoroughly rendered or cooked.

(3) The provisions of sub. (1) shall not apply to meat from animals affected by any disease which does not ordinarily render such meat unfit for human consumption, provided the animals so affected have been slaughtered under the supervision of a veterinary meat inspector at a slaughtering establishment approved by the department to receive such animals.

History: 1953 c. 200.

97.55 does not apply to a sale of meat for use as food for animals since, under 97.01, the term "food" as used in 97.55 means arti- cles used for food by "man." Cohan v. Associated Fur Farms, Inc. 261 W 584, 53 NW (2d) 788.

97.555 Labeling of horsemeat. No person shall sell any horsemeat, unless it is conspicuously labeled, marked, branded or tagged "horsemeat" or, in case horsemeat is used as an ingredient in any animal or human food, unless such food is conspicuously labeled to show the presence of horsemeat.

History: 1953 c. 208.

97.56 Kosher meat. (1) Under this section "kosher" means prepared in accordance with the Jewish ritual and sanctioned by Hebrew orthodox religious requirements.

(2) No person shall, with intent to defraud, sell or expose for sale any meat or meat preparation, whether the same be raw or prepared for human consumption, and falsely represent the same to be kosher, and as having been prepared under and of a product or products sanctioned by the orthodox Hebrew religious requirements; nor shall any person falsely represent any food product or the contents of any package or container to be so constituted and prepared, by having or permitting to be inscribed thereon the word "kosher" in any language; nor shall any person sell or expose for sale in the same place of business both kosher and nonkosher meat or meat preparations, either raw or prepared for human consumption, unless he indicates on his window signs and all display advertising, in block letters at least four inches in height, "Kosher and Nonkosher Meat Sold Here;" nor shall any person expose for sale in any show window or place of business both kosher and nonkosher meat or meat preparations, either raw or prepared for human consumption, unless he displays over each kind of meat or meat preparation so exposed a sign in block letters at least four inches in height reading "Kosher Meat," or "Nonkosher Meat," as the case may be.

(3) No person, with intent to defraud, shall sell or expose for sale in any restaurant or other place where food products are sold for consumption on the premises, any article of food or food preparations and falsely represent the same to be kosher and as having been prepared in accordance with the orthodox Hebrew religious requirements; nor shall any person sell or expose for sale in any such restaurant or other place both kosher and nonkosher food or food preparations for consumption on the premises when not prepared in accordance with the Jewish ritual and not sanctioned by the Hebrew orthodox religious requirements, unless he displays on his window signs and display advertising in block letters at least 4 inches in height "Kosher and Nonkosher Food Served Here."

97.57 Buckwheat flour compound. (1) **ADULTERATION.** No person shall manufacture for sale within this state, or offer or expose for sale, have in possession with intent to sell, or sell or exchange any ground buckwheat containing any product of wheat, corn, rice or other foreign substance, unless each and every package thereof shall be distinctly branded or labeled in letters not less than one-half inch in length with the name of the maker and factory, and the location of such factory, and the words "Buckwheat Flour Compound," together with the words, "This buckwheat flour compound contains the following ingredients and none other," and immediately after the latter words shall appear in the same size letters the true names of each and every ingredient of such mixture or compound. Provided, that this section shall not be construed as prohibiting the manufacture and sale of self-rising buckwheat flour when labeled or branded as such and when the same consists only of pure buckwheat flour, salt, sodium bicarbonate and calcium acid phosphate, cream of tartar or tartaric acid.

(2) **LABELS.** Any brand or label herein required shall be an inseparable part of the general or distinguishing label, and such label shall be that principal and conspicuous sign under which it is sold, and any other label or printed matter upon the package shall not be in contravention of the requirements of this section.

(3) **PRESUMPTION.** The having in possession of any buckwheat flour compound, which is not branded or labeled as hereinbefore required and directed upon the part of any

person engaged in the public or private sale of such article, shall, for the purpose of this section be deemed prima facie evidence of intent to sell the same.

(4) **SALE DEFINED.** The taking of orders or the making of agreements or contract by any person, firm or corporation or by any agent or representative thereof, for the future delivery of buckwheat flour compound shall be deemed a sale within the meaning of this section.

97.59 Impure ice. No person or corporation shall sell or offer for sale or cause the same to be done within this state, for domestic, culinary or drinking purposes, any ice which contains mud, decayed vegetation, animal or foreign matter or malarial substance. Every person or corporation offering ice for sale shall have posted on his or its wagons, in a conspicuous manner, the name of the place from which the ice so offered for sale was cut, harvested or manufactured, and all persons or corporations dealing in or handling impure ice, to be used for cooling purposes only, shall have their wagons so labeled.

97.60 Food; misbranding. (1) (a) "Label" means a display of written or graphic matter on the food package.

(b) "Labeling" means all labels and other written or graphic matter upon or accompanying food at any time.

(c) "Package" means any closed container or wrapper in which food is kept in stock and which with its contents is sold to the public.

(2) No person shall sell any food which is misbranded.

(3) A food is misbranded:

(a) If its labeling is false or misleading in any particular. A label may be misleading by reason (among other reasons) of:

1. The order in which the names of ingredients appear thereon, or the relative prominence otherwise given such names; or

2. Its failure to reveal the proportion of or other fact with respect to, an ingredient, when such proportion or other fact is material in the light of the representation that such ingredient was used in fabricating the food.

(b) If it is sold under the name of another food.

(c) If its container is so made, formed or filled as to be misleading.

(d) If it is represented as a food for which a definition and standard of identity has been prescribed, unless it conforms to such definition and standard.

(e) If it is a food for which a standard of quality has been prescribed by the regulations of the department and approved by the legislature and its quality falls below such standard unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard.

(f) If it is a food for which a standard of fill of container has been prescribed by regulations of the department and approved by the legislature and it falls below such standard unless its label bears in such manner and form as such regulations specify, a statement that it falls below such standard.

(g) If it is in a package unless it bears a label stating:

1. The name and place of business of the manufacturer, packer or distributor. (If a food is not manufactured by the person whose name appears on the label, the connection such person has with such food shall be stated. The principal place of business may be stated in lieu of the actual place where such food is manufactured, packed or distributed, if such statement is not misleading in any particular.)

2. The quantity of the contents expressed in the terms of weight, measure, numerical count, or a combination of numerical count and weight or measure, which are generally used by consumers to express quantity of such food and which give accurate information as to the quantity thereof. (If no such general consumer usage in expressing accurate information as to the quantity of such food exists, the statement shall be in terms of liquid measure if the food is liquid, or in terms of weight if the food is solid, semisolid, viscous, or a mixture of solid and liquid; except that such statement may be in terms of dry measure if the food is a fresh fruit, fresh vegetable or other dry commodity.) The department shall establish, by regulations, reasonable variations which will be permitted, and exemptions as to small packages.

3. The name of the food. (If a definition and standard of identity have been prescribed the name shall be as specified therein; otherwise, the name shall be the common or usual name of such food, if there is one.)

4. The common or usual name of each ingredient, in case it is fabricated from 2 or more ingredients, but in case a definition and standard of identity have been prescribed, only the common names of the optional ingredients present in such food need be stated as required in such definition and standard; provided, that in either case, spices, flavoring

and coloring, other than those sold as such, may be designated as spices, flavoring and coloring without naming each.

(h) If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, the use of which is not otherwise prohibited in such food, unless it bears labeling stating that fact; except that:

1. A statement of artificial flavoring, artificial coloring or chemical preservative shall not be required for a food which is not in a package and the units thereof are so small that such statement cannot be placed on such units with such conspicuousness as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

2. A statement of artificial coloring shall not be required for butter, cheese, ice cream or frozen desserts.

(i) If it is represented for special dietary uses unless its label bears:

1. A statement of the dietary properties upon which such claim is based in whole or in part. Such statement shall show the presence or absence of any substance, any alteration of the quantity or character of any constituent, and any other dietary property of such food upon which such claim is so based.

2. Adequate directions for use.

3. An adequate analysis showing to what extent the product meets the dietary function and accomplishes the therapeutic purpose for which the product is recommended.

4. Such further information concerning its vitamin, mineral and other dietary properties as the department determines to be, and by regulation prescribes as, necessary in order fully to inform purchasers as to its value for such uses. (If such food is also represented as a food for which a definition and standard of identity have been prescribed it may deviate from such definition and standard only in so far as is necessary to effect its dietary properties.)

(j) If any word, statement or other information required on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices on the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(4) (a) Packages of fresh fruits and vegetables, the contents of which are plainly visible to the purchaser shall be exempt from the labeling requirements of sub. (3) (g) 2 and 3, except that when the quantity of such food is customarily expressed in terms of weight or measure, as distinguished from numerical count, the food shall bear a label declaring such quantity.

(b) A food shall be exempt from the labeling requirements of sub. (3) (g) if the food, having been received in bulk containers by a retailer, is packaged by such retailer and displayed to the purchaser with a counter card, sign or other appropriate device bearing prominently and conspicuously the label information required by this section.

(c) Sausage enclosed in a casing shall be exempt from the label requirements of sub. (3) (g) if it is displayed to the purchaser with a counter card, sign or other appropriate device bearing prominently and conspicuously the label information required by this section; provided, that if the sausage is weighed at the time of sale a statement of weight shall not be required. If encased sausage is placed in another package, as defined in sub. (1) (c), the label requirements of sub. (3) (g) shall apply.

History: 1953 c. 198; 1955 c. 302.

97.61 Labels on canned goods. (1) No person shall sell, exchange, deliver, or have in his possession with intent to sell, or exchange or expose or offer for sale or exchange any canned fruits, vegetables, meats, fish or shellfish, unless each can shall bear a label on which shall be printed the name of the contents and the name and address of the producer or packer or the dealer who sells the same.

(2) No person shall sell, exchange, deliver, or have in his possession with intent to sell or exchange, or expose for sale, or offer for sale or exchange any canned fruits, vegetables, meats, fish, or shellfish containing any artificial coloring, or any bleaching compound, or any article the sale of which as an article of food or as the constituent of an article of food is made a misdemeanor by any statute of this state.

(2), prohibiting the sale of canned fruits, the police power, in the absence of any vegetables, meats, and fish containing any proof to overcome the strong presumption artificial coloring, is held constitutional as of constitutionality. State v. Kerndt, 274 W being a reasonable and lawful exercise of 113, 79 NW (2d) 113.

97.615 Labeling of maple syrup blends. The label on any container of any edible blended syrup in which maple syrup is an ingredient shall state the percentage by weight of pure maple syrup used in such blend; such statement to be in not less than 8-point type.

97.62 Branding bread. (1) Bread, other than wheat or rye bread or milk bread or bread made from a mixture of rye and wheat flour or meal without the addition of ma-

terials imparting color that is sold as and for what it is, and bread advertised as having special, nutritive, healthful or curative properties, or as being preventative of ailments, shall, if a descriptive name is used, be true to its name. When offered for sale in loaves, such bread shall be labeled, banded or wrapped, or otherwise inclosed, and the label, band or wrapper shall state the name of the maker of such bread, and plainly and distinctly the ordinary names of all the ingredients, other than water used in the manufacture of such bread, in the order of their preponderance by weight, and it shall be unlawful to make any statement regarding bread which shall be false, exaggerated, deceptive or misleading in advertising or in any distributed printed or written matter.

97.63 Baking powder to be labeled with name of each ingredient in English. Any person who shall, by himself, his servant or agent or by the servant or agent of any other person, make or manufacture baking powder or any mixture or compound intended for use as a baking powder, or sell, exchange or deliver, or have in his possession with the intent to sell or exchange, or expose or offer for sale or exchange such baking powder, or any mixture or compound intended for use as a baking powder, unless each receptacle or package in which the same is kept for sale or sold, has securely affixed in a conspicuous place upon the side thereof, and plainly separated from other reading matter, a white or light colored label, upon the outside face of which label shall be printed in English language, with black ink, in type not smaller than eight point, bold-faced, Gothic capitals, the name and address of the manufacturer of such baking powder, and the words: "This baking powder is composed of the following ingredients and none other," and immediately thereafter upon the same label, in color, style and manner above specified, the name of each ingredient contained in such baking powder, using the name by which each ingredient is commonly known, shall be punished as provided in s. 97.72 (3); provided, that for the purposes of this section alum in any form or shape or any aluminum salt shall be designated by the term alum.

History: 1953 c. 61.

97.64 Fraud, advertising foods. (1) No person, firm, corporation or association shall, with intent to sell, or increase the consumption thereof, or create an interest therein, make, publish, disseminate, circulate, or place before the public in this state, or cause, directly or indirectly to be made, published, disseminated, or placed before the public in this state, in a newspaper or other publication, or in the form of a book notice, handbill, poster, bill, circular or pamphlet, or in any other manner, an advertisement of any sort regarding articles of food, which advertisement contains any assertion, representation or statement which is untrue, deceptive or misleading.

(2) It shall be unlawful to advertise any dairy or other food product which is of a grade or quality inferior to or less valuable than the usual and ordinary grade established by common understanding or law for such product, or from which a more valuable portion has been removed, without plainly and conspicuously stating that the article advertised is below and inferior to the usual and ordinary grade.

97.65 Advertising foods for sale. No person shall, himself, or by his servant or agent, or as the servant or agent of any other person, advertise for sale any article of food in package form when the retail price is mentioned in such advertisement unless the actual weight or volume of the contents of such package as stated on the label shall be plainly and conspicuously set forth in such advertisement is not less than 5 point type.

History: 1957 c. 625.

97.66 Displayed food and dairy products to be covered. (1) **IN GENERAL.** The display or storing of fruits, vegetables, or other food products on the sidewalk, or outside the place of business is hereby prohibited, unless such fruits, vegetables or other food products are securely covered by glass, wood or metal cases, or inclosed in tight boxes, bags or barrels, and all such cases and containers raised at least two feet above the sidewalk. The provisions of this section shall not apply to fruits or vegetables which are peeled or skinned before being used, or which are stored in tight barrels, boxes or crates.

(2) **DAIRY PRODUCTS.** No dairy or other food product which has been prepared for eating shall be displayed or offered for sale, unless properly protected from flies, dust, dirt or other injurious contamination, by being suitably covered with a glass, wood or metal case or covering.

(3) **BAKERY OR CONFECTIONERY PRODUCTS.** No bread, confectionery, or other food product of a bakery or confectionary establishment, shall be exposed in or about such establishment so that dust of a street or other filth, flies, or other insects or vermin may settle upon it; and while such bread, confectionery, or other food products of bakery or confectionary establishments are distributed in wagons, carts, baskets, boxes, or other containers of such bakery or confectionary establishments, they shall be well covered and protected

from dust, filth, or insects, and shall not be handled in any unclean manner while being distributed.

(4) ENFORCEMENT. The health officer in each town, incorporated village and city, shall co-ordinately with the department, its assistants, or inspectors enforce the provisions of this section.

97.67 Linseed oil, white lead, zinc oxide, turpentine; standards; sale. (1) No person shall sell as and for "raw flaxseed oil" or "raw linseed oil" any oil unless it is obtained from the seeds of the flax plant and unless it fulfills all the requirements for linseed oil laid down in the United States Pharmacopoeia; or as and for "boiled linseed oil" or "boiled flaxseed oil" any oil unless it has been prepared by heating pure raw linseed oil with or without the addition of not to exceed 4 per cent of drier to a temperature not less than 225 degrees Fahrenheit. It is a violation of this section if said boiled linseed oil does not conform to the following requirements: First, its specific gravity at 60 degrees Fahrenheit must be not less than 935 thousandths and not greater than 945 thousandths; second, its saponification value (koettstorfer figure) must not be less than 186; third, its iodine number must not be less than 160; fourth, its acid value must not exceed 10; fifth, the volatile matter expelled at 212 degrees Fahrenheit must not exceed one-half of one per cent; sixth, no mineral or other foreign oil or free rosin shall be present, and the amount of unsaponifiable matter as determined by standard methods shall not exceed two and five-tenths per cent; seventh, the film left after flowing the oil over glass and allowing it to drain in a vertical position must dry free from tackiness in not to exceed 20 hours, at a temperature of about 70 degrees Fahrenheit.

(2) Nor shall any person sell any raw or boiled linseed oil except under its true name, and unless each tank car, tank, barrel, keg, can or vessel of such oil has distinctly and durably marked thereon in ordinary bold-faced capital letters, not smaller than 60-point type, the words "Pure Linseed Oil—Raw" or "Linseed Oil—Boiled," and the name and address of the manufacturer.

(3) Linseed oil compounds designed to take the place of raw or boiled linseed oil, whether sold under invented proprietary names or titles, or otherwise, shall bear conspicuously upon the containing receptacle in which the same is sold, in ordinary bold-faced capital letters not smaller than 60-point type, the word "Compound," followed immediately with the true distinctive names of the actual ingredients in the order of their greater preponderance, in the English language, in plain legible type of the same style, not smaller than 36-point type, in continuous list with no intervening matter of any kind and shall also bear the name and address of the manufacturer.

(4) No person shall sell:

(a) As and for dry white lead any substance other than basic carbonate of lead or basic sulphate of lead;

(b) As and for white lead in oil, any product other than basic carbonate of lead ground in pure linseed oil or basic sulphate of lead ground in pure linseed oil;

(c) Any basic carbonate of lead ground in linseed oil, unless each receptacle containing it has distinctly and durably marked thereon the words, "white lead, basic carbonate, in oil," and the name and address of the manufacturer or jobber;

(d) Any basic sulphate of lead ground in linseed oil, unless each receptacle containing it has distinctly and durably marked thereon the words "white lead, basic sulphate, in oil," and the name and address of the manufacturer or jobber;

(e) As and for dry oxide of zinc, or zinc oxide, or zinc white, any substance other than commercially pure oxide of zinc;

(f) As and for oxide of zinc in oil, or zinc oxide in oil, or zinc white in oil, any product other than commercially pure oxide of zinc ground in pure linseed oil;

(g) Any oxide of zinc ground in linseed oil, unless each receptacle containing the same has distinctly and durably marked thereon the words "oxide of zinc in oil" or "zinc oxide in oil" or "zinc white in oil" and the name and address of the manufacturer or jobber.

(5) No person shall sell:

(a) As and for turpentine, spirits of turpentine or oil of turpentine, any article except pure oil of turpentine distilled from the natural gum, dip or scrape of pine trees and unmixed with kerosene or other mineral oil or other foreign substance;

(b) As and for wood turpentine or wood spirits of turpentine any article except the distillates and spirits prepared directly from or by the distillation of the wood of pine trees, and unmixed with kerosene or other mineral oil or other foreign substance;

(c) Any oil of turpentine or wood spirits of turpentine except under its true name, and unless each tank car, tank, barrel, keg, can or vessel of such oil has distinctly and durably marked thereon in ordinary bold-faced capital letters, not smaller than 60-point type, the words "Oil of Turpentine" or "Wood Spirits of Turpentine" and the name and address of the manufacturer or jobber.

History: 1955 c. 10.

97.685 Sale of certain painted utensils. Any person who sells, for the purpose of feeding livestock, any utensil painted with a substance having a toxic effect upon livestock when taken orally shall be punished as provided in s. 97.72 (3).

History: 1955 c. 81.

97.71 Acid law. (1) This section shall be known and may be cited as the "State Caustic Alkali or Acid Law," and as used herein, unless the context or subject matter otherwise requires.

(a) The term "dangerous caustic or corrosive substance" means each and all of the following acids, alkalis and substances: (1) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl), in a concentration of ten per centum or more; (2) sulphuric acid and any preparation containing free or chemically unneutralized sulphuric acid (H₂SO₄) in a concentration of ten per centum or more; (3) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO₃) in a concentration of five per centum or more; (4) carbolie acid (C₆H₅OH), otherwise known as phenol, and any preparation containing carbolie acid in a concentration of five per centum or more; (5) oxalic acid and any preparation containing free or chemically unneutralized oxalic acid (H₂C₂O₄) in a concentration of ten per centum or more; (6) any salt of oxalic acid and any preparation containing any such salt, in a concentration of ten per centum or more; (7) acetic acid or any preparation containing free or chemically unneutralized acetic acid (HC₂H₃O₂) in a concentration of twenty per centum or more; (8) hypochlorous acid, either free or combined, and any preparation containing the same in a concentration so as to yield ten per centum or more by weight of available chlorine, excluding calx chlorinate, bleaching powder, and chloride of lime; (9) potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and Vienna paste, in a concentration of ten per centum or more; (10) sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye, in a concentration of ten per centum or more; (11) silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate (AgNO₃) in a concentration of five per centum or more, and (12) ammonia water and any preparation yielding free or chemically uncombined ammonia (NH₃), including ammonium hydroxide and hartshorn, in a concentration of five per centum or more.

(b) The term "misbranded parcel, package or container" means a retail parcel, or container of any dangerous caustic or corrosive substance for household use, not bearing a conspicuous, easily legible label or sticker, containing (1) the name of the article; (2) the name and place of business of the manufacturer, packer, seller, or distributor; (3) the word "Poison," running parallel with the main body of reading matter on said label or sticker, on a clear, plain background of a distinctly contrasting color, in uncondensed Gothic capital letters, the letters to be not less than 24 point size, unless there is on said label or sticker no other type so large, in which event the type shall be not smaller than the largest type on the label or sticker, and (4) directions for treatment in case of accidental personal injury by the dangerous caustic or corrosive substance.

(2) No person shall sell, barter or exchange, or receive, hold, pack, display or offer for sale, barter or exchange, any dangerous caustic or corrosive substance in a misbranded parcel, package or container, said parcel, package or container being designed for household use. Provided, that household products for cleaning and washing purposes, subject to this section and labeled in accordance therewith, may be sold, offered for sale, held for sale and distributed by any dealer, wholesale or retail.

(3) The department is authorized to register and approve such brands and labels intended for use under the provisions of this section as may be submitted to it for that purpose, and as may in its judgment conform to the requirements of law; but in any prosecution under this section the fact that any brand or label involved in said prosecution has not been submitted to the department for approval, or if submitted, has not been approved by it, shall be immaterial.

97.72 Penalties. (2) **OLEOMARGARINE LAW.** Any person who shall violate any of the provisions of s. 97.42, shall be punished for the first offense by a fine of not less than \$100 nor more than \$500 or by imprisonment in the county jail for not more than 3 months, or by both such fine and imprisonment; and upon conviction of any subsequent offense, shall be punished by a fine of not less than \$500 nor more than \$1,000 or by imprisonment in the county jail for not less than 6 months nor more than one year. No person shall be prosecuted under this subsection for the doing of any act for which he has paid a forfeiture under sub. (11) of s. 97.42, and any person accused under this subsection may upon payment of the forfeiture provided in said sub. (11), and the costs of prosecution, have such prosecution dismissed, and the court shall have jurisdiction to determine the amount of such forfeiture.

(3) OTHER VIOLATIONS, PENALTIES. Each violation of any of the provisions of this chapter for which a specific penalty is not prescribed shall be fined not to exceed \$200 or imprisoned in the county jail not to exceed 6 months, for the first offense; and for each subsequent offense, fined not less than \$200 nor more than \$500, or imprisoned in the county jail not less than 30 days nor more than 6 months or both.

(4) HORSEMEAT; DISEASED MEAT. Any person who shall violate any provision of s. 97.55 or 97.555 shall be fined not less than \$500 or more than \$5,000, or imprisoned not more than 5 years, or both.

History: 1951 c. 223 s. 9, 10; 1953 c. 208, 560.

97.73 Antifreeze solutions. (1) DEFINITION. As used in this section, "antifreeze" includes all substances and preparations intended for use as the cooling medium, or to be added to the cooling liquid, in the cooling system of internal combustion engines in order to prevent freezing of the cooling liquid or to lower its freezing point.

(2) ADULTERATION. An antifreeze solution shall be deemed to be adulterated if:

(a) It consists in whole or in part of any substance which will render it injurious to the cooling system of an internal combustion engine; or

(b) It will make the operation of an engine dangerous to the user; or

(c) Its strength, quality or purity falls below the standards therefor under which it is sold.

(3) MISBRANDING. Antifreeze shall be deemed to be misbranded if:

(a) Its labeling is false or misleading in any particular; or

(b) When in package form it does not bear a label containing the name and place of business of the manufacturer, packer, seller or distributor together with an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package.

(4) PERMIT REQUIRED. Before any antifreeze solution shall be sold, exposed for sale or held with intent to sell within this state a sample thereof shall be inspected by the department. Upon application of the manufacturer, packer, seller or distributor, accompanied by the payment of a fee of \$20 for each brand of such solution submitted, the department shall make an inspection thereof. If the solution is not adulterated or misbranded and is not in violation of this section, the department shall give the applicant a written permit authorizing the sale of such solution in this state for the antifreeze marketing year beginning July 1 and ending June 30 for which the inspection fee is paid. During the time that such permit is in effect for a particular antifreeze solution any person may sell the same without obtaining an additional or duplicate permit. If the department denies a permit it shall be unlawful to sell, expose for sale or hold with intent to sell such solution within this state. If, after granting a permit, the department finds the solution affected to have been subsequently adulterated or misbranded or that a change has been made in the name, brand or trade-mark under which the solution is sold or offered for sale, or that it otherwise violates the provisions of this section, the department shall notify the applicant and the permit shall be canceled forthwith.

(5) INSPECTION. The department shall enforce the provisions of this section by inspections, chemical analyses or any other appropriate methods and may call upon the division of petroleum products in the department of taxation to render assistance. All samples for inspection or analysis shall be taken from stocks in the state or intended for sale in the state, or the department through its agents or the inspectors of the division of petroleum products may call upon the manufacturer or distributor applying for an inspection of antifreeze to supply such samples thereof for analysis. The department, through its agents, or the inspectors of the division of petroleum products shall have free access during business hours to all places of business, buildings, vehicles, cars and vessels used in the manufacture, transportation, sale or storage of any antifreeze, and may open any box, carton, parcel or package, containing or supposed to contain any antifreeze and may, upon payment or tender of the market value, take therefrom samples for analysis.

(6) ADMINISTRATION AND ADVERTISING. The department may promulgate such rules and regulations as are necessary to enforce effectively the provisions of this section and may furnish upon request a list of the brands and trade-marks of antifreeze inspected by the department during the calendar year which have been found to be in accord with this section. No advertising literature relating to any antifreeze sold or to be sold in this state shall contain any statement that the antifreeze advertised for sale has been approved by the department; but if any antifreeze has been inspected by the department and found not to be in violation of this section such statement may be contained in any advertising literature where such brand or trade-mark of antifreeze is being advertised for sale. Whenever the department shall discover any antifreeze is being sold or has been

sold in violation of this section, the facts shall be furnished to the attorney general who shall institute proper proceedings.

(7) PENALTY. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 and not exceeding \$500 for each offense.

History: 1955 c. 10.