

Assembly Bill 359

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**CHAPTER 42, LAWS OF 1967**

AN ACT to repeal 97.44 and 97.47; to amend 97.39 (3) and 97.46 (1); to repeal and recreate 139.60; and to create 20.830 (7) (g) of the statutes, relating to the sale of colored oleomargarine, use of dairy terms in connection with butter substitutes and authorizing construction of a dairy and animal science building and animal research center at the university of Wisconsin, providing a penalty and making an appropriation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 20.830 (7) (g) of the statutes is created to read:

20.830 (7) (g) A sum sufficient not to exceed \$5,000,000 for the construction of a dairy and animal science building and animal research center on the Madison campus. Funds under this appropriation shall be made available to the regents at the rate of not more than \$1,000,000 per year.

SECTION 2. 97.39 (3) of the statutes is amended to read:

97.39 (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 or margarine.

SECTION 3. 97.44 of the statutes is repealed.

SECTION 4. 97.46 (1) of the statutes is amended to read:

97.46 (1) No person 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 s. 97.45, or the name or representation of any breed of dairy cattle, or any combination of such words and representation, or any other words or symbols or combination combinations thereof commonly used in the sale of butter unless 40% of the fat used in the substitute is butterfat. If the term "butter" is used in connection with the name of any such product, it shall be qualified so as to distinguish it from butter as defined in s. 97.02 (8).

SECTION 5. 97.47 of the statutes is repealed.

SECTION 6. 139.60 of the statutes is repealed and recreated to read:

139.60 OLEOMARGARINE REGULATIONS. (1) (a) For the purposes of this section "oleomargarine" or "margarine" includes oleomargarine, margarine, butterine and other similar substances, 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 s. 97.02 (4), cream cheese, cheese food compounds as defined in s. 97.50, nor to any other dairy product made exclusively of milk or 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 or 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. Colored oleomargarine or margarine shall be made of domestic fats or oils and shall not be made of imported oils which include, without restriction because of enumeration, whale oil, coconut oil and palm oil.

(b) "Colored oleomargarine" or "colored margarine" is oleomargarine or margarine having a tint or shade containing more than 1-6/10 degrees of yellow or of yellow and red collectively but with an excess of yellow over red, as measured in terms of Lovibond tintometer scales or its equivalent.

(2) (a) An occupational tax is imposed upon the sale, offering or exposing for sale, giving or delivering, of colored oleomargarine or margarine in this state. The rate of this tax shall be 5¼ cents per pound of colored oleomargarine or margarine beginning on July 1, 1967, and ending on June 30, 1972. The tax shall be administered as a stamp tax by the department of taxation.

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

(c) The commissioner of taxation shall prescribe, prepare and have available for sale, stamps of such denominations and quantities as he deems necessary for the payment of the tax imposed by this section.

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

(e) No manufacturer shall sell any colored oleomargarine or margarine within this state to any person, unless the proper tax stamps have been affixed thereto. No person within this state, except a manufacturer, shall purchase, sell or have in his possession, any colored oleomargarine or margarine unless the proper tax stamps have been affixed thereto.

(3) No person shall sell, offer or expose for sale at retail any oleomargarine or margarine unless:

(a) Such oleomargarine or margarine is packaged;

(b) The net weight of the contents of any package sold in a retail establishment is one pound;

(c) There appears on the label of the package 1) the word oleomargarine or margarine in type or lettering at least as large as any other type or lettering on such label in a color of print which clearly contrasts with its background, and 2) a full accurate statement of the ingredients contained in such oleomargarine or margarine; and

(d) Each part of the contents of the package is contained in a wrapper or separate container which bears the word "oleomargarine" or "margarine" in type or lettering not smaller than 20-point type.

(4) The serving of colored oleomargarine or margarine at a public eating place as a substitute for table butter is prohibited unless it is ordered by the customer.

(5) The serving of oleomargarine or margarine to students, patients or inmates of any state institutions as a substitute for table butter is prohibited, except that such substitution may be ordered by the institution superintendent when necessary for the health of a specific patient or inmate, if directed by the physician in charge of the patient or inmate.

(6) Any person who violates any provision of this section may be fined not less than \$100 nor more than \$500 or imprisoned not more than 3 months or both; and for each subsequent offense may be fined not less than \$500 nor more than \$1,000 or imprisoned in the county jail not less than 6 months nor more than one year.

SECTION 7. This act shall take effect July 1, 1967.

Approved May 24, 1967