

CHAPTER 97.

DAIRY, FOODS AND DRUGS.

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97.01 Foods and drugs; 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 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. [1935 c. 550 s. 196]

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.** Milk is the fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, excluding that obtained within eight days before and four days after calving, and contains not less than eight and one half (8.5) per cent of solids not fat, and not less than three per cent of milk fat.

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

Skim milk is milk from which a part or all of the cream has been removed, and contains not less than nine per cent of milk solids.

Pasteurized milk is milk that has been heated below boiling but sufficiently to kill most of the active organisms present and immediately cooled to fifty degrees Fahrenheit or lower.

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.

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.

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.

Condensed skim milk is skim milk from which a considerable portion of water has been evaporated.

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

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.

Malted milk beverage is a pure, clean product served on the premises where prepared, and is made with whole milk, ice cream and standard dry malted milk with or without flavoring, and shall contain not less than five per cent by weight of standard dry malted milk. Milk shake, dairy shake and other similar beverages, without limitation, are sweetened or unsweetened, flavored, chilled, agitated beverages prepared with whole milk and may contain ice cream, eggs, fruit, fruit syrup, fruit juice or other natural flavor.

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.

(6) CREAM. 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 eighteen per cent of milk fat.

Evaporated cream, clotted cream, is cream from which a considerable portion of water has been evaporated.

(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 eighty-two and five tenths (82.5) per cent of milk fat with an allowance or tolerance of not to exceed two and five tenths (2.5) per cent of said butter or mass so that in no case or event shall the milk fat content of said butter or mass be less than eighty (80.0) per cent.

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 sixteen per cent of water and at least eighty-two and five tenths (82.5) per cent of milk fat with an allowance or tolerance of not to exceed two and five tenths (2.5) per cent of said renovated butter or process butter so that in no case or event shall the milk fat content of said renovated butter or process butter be less than eighty (80.0) per cent.

(9) **CHEESE.** (a) Cheese is the sound, solid and ripened product made from whole milk or cream by coagulating the casein thereof with rennet, pepsin or lactic acid, with or without the addition of ripened ferments or seasoning or added coloring matter.

(b) Skim milk cheese is the sound, solid and ripened product made from skim milk, or milk from which any of the fat originally contained therein has been removed, 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.

(c) Cheese known as American or Cheddar cheese is made by the American, Cheddar, Granular, Colby, or Washed Curd process from whole milk and contains, in the water-free substance, not less than fifty per cent of milk fat, and contains not more than thirty-nine 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 forty per cent.

(d) Cheese known as Brick cheese is made from whole milk, and contains, in the water-free substance, not less than fifty per cent of milk fat and contains not more than forty-three 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 forty-four per cent.

(e) Cheese known as Muenster cheese is made from whole milk, and contains, in the water-free substance, not less than fifty per cent of milk fat, and contains not more than forty-three 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 whole milk, and contains in the water-free substance, not less than fifty per cent of milk fat.

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

(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 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 three per cent; and contains in the water-free substance not less than fifty per cent of milk fat; and process American cheese not more than thirty-nine 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 forty per cent; and process Brick cheese not more than forty-two 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 forty-three per cent; and process Emmenthaler cheese or process domestic Swiss cheese shall contain not more than forty 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 forty-one per cent; except that process Emmenthaler cheese or process domestic Swiss cheese shall contain in the water-free substance not less than forty-five per cent of milk fat with an allowance or tolerance of two per cent so that in no case or event shall the milk fat content in the water-free substance of such cheese fall below forty-three 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.

(10) **ICE CREAM.** (a) Ice cream is a frozen or partially frozen product made from cream, or milk and cream, and sugar, and may contain added milk solids, added milk fat, eggs, natural flavoring, edible gelatin or harmless vegetable gum, and shall contain not less than thirteen per cent of milk fat, nor more than one-half of one per cent of the said gelatin or gum, or a mixture of the said gelatin and gum. The volume of ice cream after being melted shall be not less than one-half the volume of the ice cream as manufactured and sold.

(b) Fruit ice cream is a frozen or partially frozen product made from cream, or milk and cream, sugar and sound, clean, mature fruit, and may contain added milk solids, added milk fat, eggs, natural flavoring, harmless color, edible gelatin or harmless vegetable gum, and shall contain not less than eleven per cent of milk fat, nor more than one-half

of one per cent of the said gelatin or gum, or a mixture of the said gelatin and gum. The volume of fruit ice cream after being melted shall be not less than one-half the volume of the fruit ice cream as manufactured and sold.

(c) Nut ice cream is a frozen or partially frozen product made from cream, or milk and cream, sugar, and sound, nonrancid nuts, and may contain added milk solids, added milk fat, eggs, natural flavoring, harmless color, edible gelatin or harmless vegetable gum, and shall contain not less than eleven per cent of milk fat, nor more than one-half of one per cent of the said gelatine or gum, or a mixture of the said gelatin and gum. The volume of nut ice cream after being melted shall be not less than one-half the volume of the nut ice cream as manufactured and sold.

(d) Chocolate or cocoa ice cream and caramel ice cream are frozen or partially frozen products made from cream, or milk and cream, sugar, chocolate or cocoa, caramel, and may contain added milk solids, added milk fat, eggs, natural flavoring, edible gelatin or harmless vegetable gum, and shall contain not less than eleven per cent of milk fat, nor more than one-half of one per cent of the said gelatin or gum, or a mixture of the said gelatin and gum. The volume of chocolate or cocoa ice cream or caramel ice cream after being melted shall be not less than one-half the volume of the chocolate or cocoa ice cream or caramel ice cream as manufactured and sold.

(e) Orange ice cream, lemon ice cream and wintergreen ice cream are frozen or partially frozen products made from cream, or milk and cream, sugar and orange flavoring, lemon flavoring or wintergreen flavoring, and may contain added milk solids, added milk fat, eggs, harmless color, edible gelatin or harmless vegetable gum, and shall contain not less than thirteen per cent of milk fat, nor more than one-half of one per cent of the said gelatin or gum, or a mixture of the said gelatin and gum. The volume of orange ice cream, lemon ice cream, caramel ice cream or wintergreen ice cream after being melted shall be not less than one-half the volume of the orange ice cream, lemon ice cream, caramel ice cream, or wintergreen ice cream as manufactured and sold.

(f) Maple ice cream is a frozen or partially frozen product made from cream, or milk and cream, sugar, and maple sugar, or maple syrup, and may contain added milk solids, added milk fat, eggs, harmless color, edible gelatin or harmless vegetable gum, and shall contain not less than eleven per cent of milk fat, nor more than one-half of one per cent of the said gelatin or gum, or a mixture of the said gelatin and gum. The volume of maple ice cream after being melted shall be not less than one half the volume of the maple ice cream as manufactured and sold.

(g) Custard ice cream, frozen custard (New York ice cream) is a frozen or partially frozen product made from cream, or milk and cream, sugar, eggs or egg powder or egg yolk; and may contain added milk solids, added milk fat, a natural flavoring, edible gelatin or harmless gum, harmless color, and shall contain not less than thirteen per cent of milk fat and five egg yolks or their equivalent in egg powder or egg yolk powder in each gallon, nor more than one-half of one per cent of said gelatin or gum, or a mixture of said gelatin or gum. The volume of custard ice cream (New York ice cream) after being melted shall be not less than one-half the volume of the custard ice cream (New York ice cream) as manufactured and sold.

(h) Malted milk ice cream is a frozen or partially frozen product made from cream, or milk and cream, sugar, and malted milk, and may contain added milk solids, added milk fat, eggs, natural flavoring, edible gelatin or harmless vegetable gum, and shall contain not less than eleven per cent of milk fat, nor more than one-half of one per cent of the said gelatin or gum, or a mixture of the said gelatin and gum. The volume of malted milk ice cream after being melted shall be not less than one-half the volume of the ice cream as manufactured and sold.

(i) Malted ice cream is a frozen or partially frozen product made from cream, or milk and cream, sugar, and malt extract, malt sugar, or malt syrup, and may contain added milk solids, added milk fat, eggs, natural flavoring, harmless color, edible gelatin or harmless vegetable gum, and shall contain not more than one-half of one per cent of the said gelatin or gum, or a mixture of the said gelatin and gum, and shall contain not less than thirteen per cent of milk fat unless flavored with chocolate or fruit, in which case it shall contain not less than eleven per cent of milk fat. The volume of malted ice cream after being melted shall be not less than one-half the volume of the malted ice cream as manufactured and sold.

(10a) **SHERBET, ICE MILK.** Sherbet, milk sherbet, ice milk, is a frozen product made from milk, water and sugar with or without fruit juice, true fruit flavoring and harmless coloring, with or without edible gelatine or harmless vegetable gum and shall contain not more than two and one-half per cent by weight of milk fat nor more than five per cent by weight of milk solids and shall contain not less than thirty-five one-hundredths of one per cent of citric acid or tartaric acid or mixtures of said acids and shall contain not less than

thirty-five one-hundredths of one per cent of acidity. Citric acid, tartaric acid, lactic acid or mixtures of said acids may be used.

(10b) MILK SHERBET. Milk sherbet is a frozen product made from whole milk or its constituent parts, water, with or without fruit juice, true fruit flavoring and harmless coloring, with or without edible gelatine or harmless vegetable gum and starches, eggs, sugar or honey or both, and shall contain not more than three and one-half per cent of butter fat and not more than ten per cent by weight of milk solids, and must contain not less than thirty-five one-hundredths of one per cent of citric or tartaric acid or mixtures of said acids. Citric acid, tartaric acid, lactic acid, or mixtures of said acids may be used. All containers, packages, or wrappers used in connection with the sale of milk sherbet shall bear the words "Milk Sherbet," also the words "Maximum Butter Fat 3½ Per Cent," clearly and distinctly on each package, receptacle or container in which the article is offered for sale, sold or stored.

(10c) FRUIT ICE, WATER ICE. Ice, fruit ice, water ice is a frozen product made from fruit juices or juices, water and sugar, with or without natural fruit flavoring and may contain added harmless color, edible gelatine or harmless vegetable gum, citric acid, tartaric acid, lactic acid or mixtures of the same and shall conform in names to the fruit juices or juices or the natural flavoring used.

(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.

(b) Meal is the clean, sound product made by grinding grain.

(c) Flour is the fine, clean, sound product made by bolting wheat meal and contains not more than thirteen and one-half (13.5) per cent of moisture, not less than one and twenty-five hundredths (1.25) per cent of nitrogen, not more than one per cent of ash, and not more than fifty hundredths (0.50) per cent of fibre.

(d) Graham flour is unbolted wheat meal.

(e) Gluten flour is the clean, sound product made from flour by the removal of starch, and contains not less than five and six tenths (5.6) per cent of nitrogen and not more than ten per cent of moisture.

(f) Maize meal, corn meal, Indian corn meal, is meal made from sound maize grain, and contains not more than fourteen per cent of moisture, not less than one and twelve hundredths (1.12) per cent of nitrogen, and not more than one and six tenths (1.6) per cent of ash.

(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.

(k) Purified middlings is the granular product obtained in the commercial process of milling wheat, and is that portion of the endosperm retained on ten XX silk bolting cloth. It contains no more flour than is consistent with good commercial practice, nor more than fifteen (15) per cent of moisture.

(l) Semolina is the purified middlings of durum wheat.

(m) Farina is the purified middlings of hard wheat other than durum.

(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.

Canned vegetables are sound, properly matured and prepared fresh vegetables, with or without salt, sterilized by heat, with or without previous cooking in vessels from which they take up no metallic substance, kept in suitable, clean, hermetically sealed containers, are sound and conform in name to the vegetables used in their preparation.

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.

Catchup (ketchup, catsup) is the clean, sound product made from the properly prepared pulp of clean, sound, fresh, ripe tomatoes, with spices and with or without sugar and vinegar; mushroom catchup, walnut catchup, et cetera, are catchups made as above described, and conform in name to the substances used in their preparation.

(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.

Massecuite, 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 massecuite, 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 hydrolyzing 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 hydrolyzing 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.

(19) CANDY. Candy is a product made from a saccharine substance or substances with or without the addition of harmless coloring, flavoring, or filling materials, and contains no terra alba, barytes, tale, chrome yellow, or other mineral substances, or poisonous

colors or flavors, or other ingredients deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound or narcotic drug.

(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 levorotatory, 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* Lamarck.

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 materials 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 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 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 chlorids ($CaCl_2$ and $MgCl_2$), nor more than one tenth (0.1) per cent of matters insoluble in water. [1931 c. 290; 1933 c. 14, 82, 147; 1933 c. 319 s. 2; 1933 c. 464 s. 1, 2; 1935 c. 550 s. 197; 1937 c. 278, 414; 1939 c. 63, 167, 173, 300, 471]

97.025 Imitation ice cream or ices. No person, firm, or corporation shall manufacture, sell or solicit or accept orders for, ship, consign, offer or expose for sale, or have in possession with intent to sell for use or consumption in this state any article, product or compound made wholly or partly out of milk, cream, sugar, flavoring, with or without coloring or eggs, which shall be in imitation of ice cream, sherbet or ices as defined by section 97.02 of the statutes. 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 any of the varieties of ice cream, sherbets or ices defined and standardized in section 97.02 of the statutes. [1939 c. 471]

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 and section 97.05 [Stats. 1937] 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.

(5) Each such license shall be subject to revocation by the department upon reasonable written notice that the licensee has violated regulations prescribed by the department, or has violated any of the laws of the state relating to milk or cream, or milk or cream products.

(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. [1935 c. 550 s. 198; 1939 c. 183]

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.

(4) Cheesemakers' licenses effective when this section takes effect shall remain in effect, unless sooner revoked, until August 31, 1939, and may be renewed as master cheesemakers' licenses without examination by application and payment of the fee not less than thirty days before that date and proof that the applicant has been engaged for the preceding two years in the making of Limburger cheese.

(5) A license or permit may be denied, suspended or revoked, not as a penalty or forfeiture, but when it is not shown that the applicant or licensee or permit holder is qualified or when he has violated any law or any order or regulation of the department pertaining to Limburger cheese, or has misrepresented or intentionally failed to disclose a material fact in applying for or seeking a license or permit. When license or permit has been denied or revoked because of such violation, misrepresentation, or failure to disclose, no license or permit may be issued for the same or next license period to the applicant

or licensee. The department may follow the procedure for special orders provided in section 93.18, or the applicant or licensee may within five days of notice of denial, suspension or revocation, demand such procedure. License or order may be conditioned upon pertinent circumstances or act. Judicial review shall be as provided in chapter 102, so far as applicable. [1939 c. 183]

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.

(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.

(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, sherbet, milk sherbet, ice, fruit ice or water ice, all as defined in section 97.02.

(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.

(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 97.24, 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.

(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, 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 two hundred fifty thousand pounds or less, five dollars; for each additional two hundred fifty thousand pounds or major fraction thereof of butterfat intake for such period, five dollars.

(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.

(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) As soon as practicable after the effective date of this section 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.

(8) (a) The license may be limited, denied, suspended or revoked, not as a penalty or forfeiture, but when the applicant, permit holder or licensee is not shown to be fit and equipped for the business, or has misrepresented or intentionally failed to disclose a material fact in applying for or seeking a license. In determining whether an applicant or licensee is fit and equipped, the department shall consider, among other things, his character and conduct, including past compliance or noncompliance with the law. The department may follow the procedure for special orders provided in section 93.18, or the applicant, permit holder or licensee may within five days after

service on him as provided in subsection (5) of said section of notice of limitation, denial, suspension or revocation, demand such procedure. The license may be conditioned upon pertinent circumstance or act. When a license has been denied or revoked because of violation of law, no license may be issued for the same or next license period to the applicant, permit holder or licensee, nor to any applicant with whom is to be connected or by whom is to be employed anyone determined at the time of denial or revocation to have been culpable; but this does not limit the grounds for denial of license, including a subsequent finding of personal culpability.

(b) All orders of the department shall be accompanied by written reasons from which it can be ascertained that the department arrived at necessary findings upon disputed facts. The provisions for judicial review shall be as prescribed in section 102.23 so far as applicable, and the court, in the review action, shall have concurrent jurisdiction under subsection (9).

(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.

(11) It is intended that each provision of this section, without regard to whether or not more than one provision is incorporated in the same subsection, paragraph, sentence, clause, phrase or word, shall be severable, except provisions that necessarily are so dependent the one upon the other that the one cannot stand without the other; particularly, but without limitation, each exception and limitation, express or implied, is severable from each other provision, including each other exception and limitation; and if any exception or limitation be invalid this section shall be in force without such exception or limitation; and if any provision, exception or limitation shall be invalid as to any person, thing or circumstance, the provision, exception or limitation shall be construed to except such person, thing or circumstance from its terms. [1931 c. 25; 1935 c. 550 s. 199; 1939 c. 471; 1941 c. 186]

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) Subsections (6), (7), (8), (9), (10) and (11) of section 97.04 shall apply to this section. [1935 c. 550 s. 200; 1939 c. 61, 471]

97.06 Cannery licenses. (1) No person shall operate a cannery without a license therefor from the department. "Cannery" as used in this section does not include a plant where only dairy products as defined in section 97.03 [97.04] are canned.

(2) An application for a new or renewal license shall give in writing such pertinent information in such form as the department shall require, and be accompanied by a fee of twenty-five dollars, which shall be retained whether or not license or permit is issued. Upon receiving an application for license to operate a cannery other than a cannery of farm produce, and payment of the fee, the department shall issue a license 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.

(3) As soon as convenient after receiving an application the department shall investigate the conditions of such cannery to determine whether a license shall be granted.

(4) (a) Licenses shall expire on the thirty-first day of March of each year. A license to operate a cannery other than a cannery of farm produce may be renewed without inspection of the premises upon application and payment of the fee before expiration. An application for a new or renewal license to operate a cannery of farm produce must be filed by March first for the license year beginning the next April first, and such renewal before expiration may be issued without inspection of the premises; provided that if the applicant shows adequate reason for the delay, the department may permit later application upon payment of additional fee of ten dollars.

(b) No new license to operate a cannery of farm produce shall be granted unless the applicant shall satisfy the department of his financial responsibility to meet obligations to growers. No such license shall be renewed unless the licensee shall either certify that all growers who have supplied or contracted to supply farm produce to the licensee after May 1, 1939, have been fully paid in cash its fair market value, or post with the department a surety bond, in such form and amount as the department may prescribe, conditioned upon such payment within such time as the department determines to be reasonable.

(c) The department may determine an applicant to be a successor to a licensee if a substantial portion of the ownership, management, or control of the applicant's business is in the same person or persons who owned, managed, or controlled a substantial portion of the business of such licensee. No license to operate a cannery of farm produce shall be granted to a successor except upon the conditions that would be applicable to the renewal of the predecessor's license.

(5) 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 certificate thereof shall thereupon be surrendered to the department immediately.

(6) The department, after reasonable notice, may deny, revoke, or suspend the license for failure to comply with this section or with an applicable order or regulation of the department, or when the applicant, permit holder or licensee has misrepresented or intentionally failed to disclose a material fact in applying for or seeking a license. In denying, revoking or suspending a license and in determinations under paragraph (b) of subsection (4) the department may follow the procedure for special orders provided in section 93.18, or the applicant, permit holder or licensee may within five days after service upon him as provided in subsection (5) of said section demand such procedure. The license or order may be conditioned upon pertinent circumstance or act. The orders shall be accompanied by written reasons from which it can be ascertained that the department arrived at necessary findings upon disputed facts, and the provisions for judicial review shall be as prescribed in section 102.23 as far as applicable. [1939 c. 471]

97.07 [Repealed by 1939 c. 471]

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. [1933 c. 453; 1935 c. 550 s. 205; 1939 c. 218]

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 first obtaining a license therefor from the department as hereinafter provided. 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 an application blank furnished by the department upon request and shall state the applicant's name and address and the exact location of the factory for which such 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) Licenses to engage in the manufacture or bottling of any soda water beverage shall expire on the thirty-first day of December next following the date of issue but may be renewed without inspection on or before the first of January of each year upon the application of the licensee and upon the payment of five dollars to the department. This act shall not apply to any person, firm or corporation, or to any manufacturing plant engaged wholly or partially in the manufacture of malt liquors or beverages.

(5) Licenses to engage in the manufacture or bottling of any soda water beverage shall be deemed void and shall be surrendered to the commissioner when the person, firm or corporation to whom it was granted discontinues to use the building, room or apartment wherein such beverage is manufactured or bottled, or when another person, firm or corporation becomes owner, manager or operator of such establishment.

(6) The department is authorized, after reasonable notice, to revoke any license if the licensee fails to comply with any of the provisions of this section or with any rule or regulation promulgated and issued by the department relating to manufacture or bottling of such beverages, and it shall restore to full force and effect any license when the licensee fully complies with all of the provisions of this section and the said rules and regulations.

(7) Any person engaged in the manufacture or bottling of any soda water beverage, whose license has been refused or revoked, being dissatisfied with such order of the department, may commence an action in the circuit court for the county in which such person resides against the department to restore such license on the ground that the refusal or revocation of the license is unlawful or unreasonable, and the procedure in such action shall be as prescribed by section 97.07 [1937 Stats.]

(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. [1931 c. 79 s. 18; 1935 c. 117, 352, 550 s. 206; 1941 c. 216]

Revisor's Note, 1935: The last sentence of (9) of 98.12, Stats. 1933, has been left out because it contains an exception which has been declared unconstitutional in *Fitger Co. v. Kremer*, 199 W 338, 226 NW 310. (Bill No. 454 S, s. 206)

Licenses to sell soda water beverages are governed by the same rules as to location

of premises, term of license and review as apply to licenses for manufacture and bottling of such beverages. 19 Atty. Gen. 539. Application for renewal of licenses must be made before January first; otherwise regular fee of fifty dollars must be paid. 25 Atty. Gen. 41.

97.10 Bakeries and confectionaries; licenses; revocation. No building, room, or apartment shall be used for the purpose of establishing or operating a bakery or confectionary establishment for the manufacture of bread and other food products, unless a license is secured as provided in sections 97.10 to 97.24, inclusive. Application for a license shall be made to the department, by any person, firm or corporation desiring to establish or conduct a bakery or confectionary for the manufacture of bread, confectionery, and other food products of such establishments. Such application shall be made in such form as the department may determine. Blank applications therefor shall be prepared and furnished by the department. Said application shall describe the construction and condition of the building, rooms, or apartments in regard to the provisions of law for the regulation of such bakery and confectionary establishments in which it is desired to establish or operate such bakery or confectionary establishment; and if said building or room conforms to the provisions of law, the department shall grant a license permitting the use of such building, room, or apartments for the purpose of establishing and conducting a bakery and confectionary therein to the person, firm or corporation having made application. The license so issued 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 building, room, or apartment to which it applied as a bakery or confectionary establishment, or when another person, firm, or corporation becomes owner, manager, or operator of such bakery or confectionary establishment. Such license may also be revoked by an order of the court upon a second or any subsequent conviction of any violation of or failure to comply with any provisions of sections 97.10 to 97.24, inclusive. All licenses shall expire on the twenty-eighth day of February following the date of issue and shall be renewed upon the application of the licensee. [1935 c. 550 s. 207]

97.11 Law enforcement; inspection. The department and the boards of health shall enforce the provisions of sections 97.10 to 97.24. The department shall ascertain the sanitary conditions of the bakery and confectionary establishments of the state and of rooms or buildings, for which application for license to operate a bakery or confectionary establishment therein has been filed, and shall examine plans and specifications for buildings or rooms to be occupied as bakery or confectionary establishments, submitted to it with reference to the laws for their sanitary regulation, and shall require such action as may be needed to have bakery and confectionary establishments conform to the provisions of law. The department and the state board of health may employ jointly experts, inspectors or other assistants. [1935 c. 550 s. 208]

97.12 Bakery and confectionary; buildings. All bakeries and confectionary establishments, and all buildings or rooms connected with, or part of such bakeries or confectionary establishments and used for storage of goods that are intended to be used in the preparation of the products of such establishments or for storage of the products of such establishments shall be sanitary, and all plumbing therein shall be constructed in accordance with well established sanitary principles and regulations and of good workmanship; and the rooms used for the manufacture, storage or sale of food products, or for the storage of goods that are intended to be used in the preparation of such food products, shall be light, dry and airy, and so arranged that the floors, shelves and all other facilities for storing same can be easily and perfectly cleansed. The rooms used for the manufacture or storage of food products in bakeries and confectionary establishments shall have floors and side walls which exclude rats, mice and other vermin. Said floors shall be smooth and be impermeable and may be constructed of wood, cement or tile laid in cement. All rooms used for the manufacture of flour or meal food products, if deemed necessary by the department, shall have an impermeable floor of hardwood properly saturated with linseed oil. [1935 c. 550 s. 209]

97.13 Water-closets and ash pits; gases and odors. No water-closet, earth closet, privy, urinal or ash pit shall be within the bake room or any other room used in the manufacture of bread or other food products in any bakery or confectionary establishment. All water-closets, urinals or privies connected with, part of, or within any building used as a bakery or confectionary shall be so arranged that gases or odors out of said closets, urinals, or privies cannot enter into any room used in the production or storage of food in any bakery or confectionary, and such closets, privies, or urinals shall be equipped with efficient natural or mechanical means of removing all odors or gases into the outer air. [1935 c. 550 s. 210]

97.14 Toilet facilities; cleansing of persons and quarters. All bakeries and confectionaries shall be provided with ample toilet facilities apart from the utensils used in the preparation of said foods to enable the workmen employed therein to keep their persons clean. Said bakeries and confectionaries shall also be provided with a separate place to enable the workmen to change their clothes and keep the same in a proper condition. The walls and ceilings of such rooms used for the manufacture or storage of bread or other food products, or for the storage of goods that are intended to be used in the preparation of such bread or other food products, shall be plastered or wainscoted and shall be whitewashed at least as often as once in six months, or in lieu of such whitewashing, walls or ceilings may be painted once in two years and scrubbed at least once in six months; and the floors and side walls shall at all times be free from moisture and kept in a good state of repair. The floors, utensils, and furniture of such room as are used for the manufacture, storing, or sale of said food products and the wagons used for the delivery of said food products shall at all times be kept in a sanitary, clean condition. The furniture and utensils of such rooms shall also be so arranged so that the same can be easily and perfectly cleaned. The air within such bakery or confectionary establishment shall at all times be kept pure and free from noxious odors and harmful gases. [1935 c. 550 s. 211]

97.15 Rooms not to be used for habitation. No room used as a bakery or confectionary shall be used as a habitation or sleeping place by any person, and such rooms used as bakeries or confectionaries shall not be used for any purpose except those incidental to the manufacture, storage or sale of the products of such bakery or confectionary establishments, and those incidental to the preparation of foods for sale and consumption in restaurants duly licensed under chapter 160 of the statutes and operated in connection with such bakery or confectionary. [1935 c. 550 s. 212]

97.16 Clothing. All persons engaged in the manufacture of bread or other food products in bakery or confectionary establishments shall provide themselves with caps and slippers or shoes and an external suit of washable material, and wear these garments while engaged in the preparation, packing, or handling of food in or about bakeries or confectionaries, said garments to be used for that purpose only and to be kept at all times in a clean condition. [1935 c. 550 s. 213]

97.17 Filth, disease, decay and vermin. No food shall be prepared, handled, or cared for in any unclean manner or near any filthy object in any bakery or confectionary establishment, nor by any person wearing filthy clothing, nor by any person afflicted with a loathsome or venereal disease. No goods that are decayed or have been contaminated by exposure to disease or filth, nor any goods to which vermin have had access, or which vermin have partly consumed or devoured, nor goods which have become unclean in any manner shall be used in the preparation of any product of a bakery or confectionary establishment. No person shall defoul any room or any utensil used in the preparation of food in any bakery or confectionary establishment. [1935 c. 550 s. 214]

97.18 Communicable diseases. No person shall work or be employed in or about any bakery or confectionary establishment for the manufacture of food products during the time in which a case of contagious or infectious disease exists in the house in which such person resides, and not thereafter until such house has been properly disinfected; provided that such persons may be employed if the local board of health issue a certificate in writing that no danger of public contagion or infection would result from the employment of said person in such establishment. [1935 c. 550 s. 215]

97.19 Height of rooms. No new bakery or confectionary establishment shall be established or operated in a room the floor of which is more than five feet below the level of the street, sidewalk or adjacent ground, nor in any room the ceiling of which is less than eight feet high from the floor, provided that the department may, if all the other provisions of law for the regulation of a bakery or confectionary establishment are complied with, limit the distance from floor to ceiling to seven feet nine inches, and no bake-shop nor confectionary shall be reopened in such a room where the same has not been used for a period of over six months. [1933 c. 136; 1935 c. 550 s. 216]

97.20 Alterations required by law; limitation of time. (1) If in the opinion of the department it is necessary to have some action taken or that alterations, additions or changes are required in or upon any premises occupied and used, or for which application for license to be occupied and used as bakeries or confectionaries, has been filed, in order to conform to the provisions of law for the regulation of bakeries and confectionary establishments, it shall serve a written notice, either personally or by registered mail upon the owner of, manager, or officer operating such bakery or confectionary establishment, requiring such action to be taken or such alterations, changes or additions to be made within thirty days. Provided, however, that if the required alterations cannot be made with

reasonable diligence within thirty days, the department shall extend the time for making such alterations, changes or additions such reasonable time as may be required to complete the additions, changes or alterations if due diligence is used, such extension of time in no case to exceed ninety days from receipt of notice, however.

(2) It shall be the duty of every occupant, whether owner or lessees of any premises used as a bakery or confectionary establishment for the manufacture of food products to carry out the provisions of sections 97.10 to 97.24, inclusive, and make, or cause to be made, all changes, additions and alterations necessary therefor. [1935 c. 550 s. 217]

97.21 Definition of terms. (1) The terms "bakery" and "bakeshop" as used in sections 97.10 to 97.24, inclusive, are defined to be any room or place where bread, crackers, cakes, 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, however, that the terms "bakery" and "bakeshop" shall not be deemed to include any restaurant, hotel, cafe, boarding house, or other public eating place wherein such products are prepared to be used, and are used exclusively at meals, and served in such restaurants, hotel, cafe, boarding house, or other public eating place.

(2) The term "new bakery" as used in said sections is defined to be a bakery established in a room not theretofore used for baking purposes, or in a room constructed for baking purposes after July 10, 1907; provided that any bakery or bakeshop established before July 10, 1907, the ceiling of which is less than eight feet high from the floor, and which has not been out of use continuously for a period of over six months, need not be altered so as to make the ceiling eight feet from the floor.

(3) The terms "confectionary" and "confectionary establishment" as used in said sections are defined to be any room or place where candy, sweetmeats, or any other food products, of which sugar, molasses, chocolate, or nutmeats are the principal ingredients, are prepared, mixed, cooked, dried, formed, coated, or cooled to be sold as food and any room used for any process incidental thereto.

(4) The term "new confectionary" as used in said sections is defined to be a confectionary established in a room not theretofore used for confectionary purposes, or in a room constructed for confectionary purposes after July 10, 1907; provided, that any confectionary established before and which has not been out of use continuously for a period of over six months immediately preceding said date, and the ceiling of which is less than eight feet high from the floor, shall not be required to be altered to make the ceiling eight feet high from the floor. [1933 c. 464 s. 1; 1935 c. 550 s. 218]

97.22 Bakeries; confectionaries. (1) All stores and other places where products of a bakery or baking establishment or of a confectionary or confectionary establishment are sold or exposed or offered for sale, and all cases, pans, boxes, baskets or containers used for storing, shipping or delivering any such products, shall at all times be kept in clean and sanitary condition.

(2) All show cases, shelves, counters, in or upon which any such products are kept or stored for the purpose of sale, shall at all times be well ventilated and kept free from dust and dirt.

(3) The inspectors and agents of the department shall have authority and are authorized to inspect any place where any such products are sold or offered for sale and are charged with the duty of enforcing the provisions of this section. [1935 c. 550 s. 219]

97.23 Health regulations in sale of bakery products. (1) The sale and delivery of bakery products shall be so conducted as to prevent the distribution of contamination, infection or disease among consumers and to protect the food supply of the state against waste.

(2) For the purpose of this section the term "person" shall mean and include any and all persons, firms or corporations engaged in the business of manufacturing, buying, selling or dealing in bakery products within the state. The term "bakery products" shall mean and include bread, rolls, crackers, cakes, pies or any other food products of which flour or meal is the principal ingredient. The term "delivered" shall include the placing of bakery products into any store, or upon the premises or in the custody of any person.

(4) The delivery, keeping on the premises for sale or storing of bakery products in containers or under conditions which do not protect them against contamination, dust, vermin, insects, animals at large or other means, is prohibited.

(5) It shall be unlawful for any person to wilfully destroy any bakery products that are fit for human or animal consumption, by burning them or in any way deliberately causing them to become unfit for food. [1935 c. 213, 550 s. 220]

97.24 Power of board of health. The board of health of the city, village or town in which a bakery or confectionary establishment is situated or in which the business regulated by sections 97.10 to 97.23 is carried on may, coordinately with the department, enforce

the provisions of said sections and may cause copies of the same to be printed and posted in all bakeries and places in which such business is carried on within their respective jurisdictions. [1935 c. 550 s. 221]

97.25 Drugs and foods; adulteration. (1) **ADULTERATION.** No person shall sell, exchange, deliver or have in his possession, with intent to sell, exchange, offer for sale or exchange any drug or article of food which is adulterated, or any candy containing intoxicating liquor. An article shall be deemed to be adulterated within the meaning of this section:

(2) **DRUGS.** In the case of drugs: First, if, when sold, or offered or exposed for sale or had in possession with intent to sell, under or by a name recognized in the United States pharmacopœia or national formulary, it differs from the standard of strength, quality or purity laid down in the latest edition thereof, current at the time when such drug is sold or offered or exposed for sale or had in possession with intent to sell; second, if its strength, quality or purity falls below the professed standard under which it is sold; third, if it contains wood alcohol except when intended for external use only and so labeled.

(3) **FOOD.** In the case of food: First, if any substance or substances have been mixed with it, so as to lower or depreciate or injuriously affect its strength, quality or purity; second, if any inferior or cheaper substance or substances have been substituted wholly or in part for it; third, 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; fourth, if it is an imitation of, or sold or offered or exposed for sale under the name of another article; fifth, if it consists of or is manufactured, wholly or in part, from a diseased, contaminated, filthy, decomposed, tainted or rotten animal or vegetable substance or any animal or vegetable substance produced, stored, transported, or kept in a condition that tends to render the article diseased, contaminated or unwholesome, or if it is any part of the product of a diseased animal, or the product of an animal that has died otherwise than by slaughter; sixth, 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; seventh, if it 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 any article of food which is not adulterated under the provisions of the fourth, fifth, sixth and seventh specifications of this section, and which does not contain any filler or ingredient which debases without adding food value, shall not be deemed adulterated in the case 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. And provided further, that 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. [1935 c. 550 s. 222, 223]

Note: Product sold as cordial composed of intoxicating liquor inclosed in chocolate container having high percentage of sugar is candy. 23 Atty. Gen. 380.

Sale of so-called cream puffs as cream puffs with artificially prepared filling containing no cream violates (1) and (3). 27 Atty. Gen. 370.

Article may not be sold as "table spread" if it lacks any of ingredients essential to its use as such. 27 Atty. Gen. 806.

Provisions of 97.27, pertaining to preservatives, do not conflict with 97.25, pertaining to adulteration of food products. 28 Atty. Gen. 661.

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. [1935 c. 550 s. 224]

97.27 Sale of certain foods regulated and restricted. 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, saccharine, dulein, glucin, beta naphthol, abradol, asaprol, fluorides, fluoborates, 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. [1935 c. 550 s. 225]

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, rosefish under the name of sea perch. Such fish may be sold upon proper designation, solicitation or advertisement as rosefish. [1939 c. 358]

97.28 Benzoic acid in foods. It shall be unlawful to sell, offer or expose for sale or have in possession with intent to sell for use or consumption in this state, any article of food as defined in section 97.01, which contains added benzoic acid or benzoates; provided, that 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. [1935 c. 550 s. 226]

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:

(a) 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.

(b) 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. [1935 c. 550 s. 227]

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. [1935 c. 550 s. 228]

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. [1937 c. 414]

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. [1935 c. 550 s. 229]

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 fur-

nishing 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. [1935 c. 550 s. 230]

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. [1935 c. 550 s. 231]

97.34 Access to buildings; samples. The commissioners of the department and any duly authorized employe thereof 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 two 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. [1935 c. 550 s. 232]

97.35 Milk; by-products pasteurized. Every operator of a cheese factory, butter factory or receiving station and every owner or manager of any other place or plant where milk or cream is received and skim milk, whey or buttermilk therein produced is distributed as food for man or domestic animals, shall, before said distribution, pasteurize said buttermilk, whey or skim milk at a temperature of at least one hundred and forty-five degrees Fahrenheit, and hold at the above temperature for at least twenty-five minutes, or when not held at the above temperature for at least twenty-five minutes shall be heated to a temperature of at least one hundred and eighty-five degrees Fahrenheit, or otherwise pasteurized as prescribed by rules or regulations of the department. The provisions of this subsection shall not apply to any cheese factory or butter factory or any of the aforesaid places or establishments that pasteurize in the manner hereinbefore described, the milk or cream prior to manufacture, or at which all milk or cream delivered comes from herds which have passed a clean tuberculin test, upon certification of this fact by the department. [1935 c. 550 s. 233]

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 three per cent of milk fat; or milk containing less than eight and one-half per cent of milk solids, not fat; or milk from which any cream has been removed; 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 fifteen days prior to or after each six month period. [1935 c. 550 s. 234]

Note: As to co-operation with state board sanitary production of milk, cream, etc., see of health regarding regulations concerning note to 140.05, citing 27 Atty. Gen. 516.

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 insanitary 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. [1935 c. 550 s. 235; 1939 c. 492]

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, saltpeter, chlorine, or compounds 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. [1935 c. 550 s. 236; 1939 c. 492]

97.39 Milk, adding foreign fats. (1) It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any condensed or evaporated milk which shall not conform at least to the minimum standards set forth in subsection (5) of section 97.02, and which if contained in hermetically sealed cans does not bear stamped or labeled thereon, the name and address of the manufacturer, or jobber thereof, or dealer therein.

(2) It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to manufacture, sell or exchange, or have in possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat,

either under the name of said products or articles or the derivatives thereof or under any fictitious or trade name whatsoever. Nothing in this section shall be construed to prohibit the manufacture, sale, exchange or possession with intent to sell, of proprietary foods containing milk or skim milk in powdered form, when said proprietary foods are plainly labeled so as to show their composition, and the fact that they are to be sold and used exclusively as prescribed by physicians in the feeding of invalids, infants and young children.

(3) It shall be unlawful for any person, firm or corporation, by himself, his servant or agent, or as the servant or agent of another, to sell or exchange, or expose for sale or exchange, or have in possession with intent to sell or exchange, any condensed or evaporated or powdered skim milk in containers holding less than ten pounds avoirdupois net weight and each said container shall bear the name and address of the manufacturer, distinctly branded, indented, labeled or printed thereon, together with the words "condensed skim milk" or "powdered skim milk," as the case may be, in Roman letters of a size at least as large as any other words or letters appearing on said brand, indentation or label.

(5) Nothing in this section shall be construed to prohibit the shipment into this state from a foreign state and the first sale thereof in this state in the original package intact and unbroken, of any of the products or articles, the manufacture, sale or exchange of which or possession of which, with intent to sell or exchange, is prohibited hereby.

(6) Should any subsection or subsections or any part of a subsection or subsections of this section become or be declared to be inoperative or void for any cause or reason whatsoever, the remainder of the subsections or of such subsections shall be and remain in full force and effect. [1935 c. 550 s. 237]

Note: The Filled Milk Act of Congress of March 4, 1923 (c. 262, 42 Stats. 1486, 21 U.S.C. secs. 61-63) is constitutional. U. S. v. Carolene Products Co., 304 US 144. Preparation of so-called cream puff filling from skim milk base with vegetable fat compounded therewith is in violation of (2). 27 Atty. Gen. 370.

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. [1935 c. 550 s. 238]

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. [1931 c. 148 s. 2; 1935 c. 550 s. 239]

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 regulations 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, without limitation, all fats and fat compounds sufficiently adaptable to a use like an ordinary use of butter, to lead readily to use as an alternative to butter, and to all ingredients of such fats or fat compounds distributed, sold or handled in any manner that may lead readily to their being mixed or combined for such use; but no fat or fat compound shall be included by reason of this provision the melting point of which is below 90 or above 110 degrees Fahrenheit and which is practically white or colorless.

(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 department of agriculture and markets.

(2) Application for such license shall be made in such form as may be prescribed by the department of agriculture and markets. 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 of agriculture and markets may require. If from such application

the department of agriculture and markets 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 of agriculture and markets 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 of agriculture and markets.

(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 of agriculture and markets for fifty cents.

(7) Every licensed manufacturer, and every licensed wholesale dealer in oleomargarine, butterine, or other similar product shall keep a record of every sale and shipment of such products giving the date of sale and of shipment, the quantity, the person to whom sold and shipped, the place to which shipped, and the name of the transportation company by which shipped. Every licensed retail dealer, hotel, restaurant, boarding house, bakery and confectionary shall keep a record stating the date of the receipt of all purchases of oleomargarine, butterine, or other similar substance, where, when and from whom purchased, and the quantity thereof, and every retail dealer shall also keep an accurate record of his sales of such products and such other information as the department of agriculture and markets shall find to be an aid to the collection of the tax and shall require. The department of agriculture and markets shall prescribe forms for such records. Not later than the tenth day of January, April, July and September, each such licensee shall file such records for the quarter year ending on the last day of the preceding month, verified, with the department of agriculture and markets, retaining a copy thereof, open to inspection, at the licensee's place of business. Mailing by registered mail shall be equivalent to filing at the time of so mailing.

(8) With the filing of the records prescribed by subsection (7), each retail dealer shall pay a tax in the amount of fifteen cents per pound on oleomargarine, butterine and other similar substance sold; each hotel, restaurant, boarding house, bakery and confectionary shall pay a tax in the amount of fifteen cents per pound on such products used in cooking or serving meals for compensation to guests, patrons or boarders, or in the preparation of food to be sold or offered for sale, except such of said products as shall be purchased or received from a licensed retail dealer who is liable for tax hereunder. Payment shall be made to the department of agriculture and markets, and shall be by mail order, certified check or draft. Payments not made at time required shall be increased by one cent per pound.

(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 of agriculture and markets. Applications for such license shall be made in the form to be prescribed by the department of agriculture and markets 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 of agriculture and markets shall issue to the applicant an annual license authorizing said ap-

plicant 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 of agriculture and markets, 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 September, each such licensee shall file such records for the quarter year ending on the last day of the preceding month, verified, with the department of agriculture and markets, retaining a copy thereof, open to inspection by the department of agriculture and markets. 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 of agriculture and markets, by mail order, certified check, or draft. Payments not made at the time required shall be increased by one cent per pound.

(10) Any commissioner or duly authorized employe of the department of agriculture and markets may at all reasonable times inspect the premises of any licensee under this section and examine the records of such licensee.

(11) (a) Failure to file records or to pay the tax as required in this section and at the time required shall automatically suspend the license, which shall not be reinstated except upon payment of the full increased tax, and the giving of an undertaking or bond for the payment of future taxes hereunder, with surety to be approved by the department of agriculture and markets, unless such department finds that such bond is unnecessary to secure the payment of such future taxes.

(b) 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 secretary of state 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 two 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" or "bakeshop" as defined in section 97.21.

(f) "Confectionary" means "confectionary store" or "establishment" as defined in section 97.21.

(15) For the purpose of securing information as to any violation of this section, the department of agriculture and markets 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 of agriculture and markets 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.

(16) The provisions of this section as to oleomargarine, butterine, any other similar substance, manufacturers, wholesale dealers, retail dealers, hotels, restaurants, boarding

houses, bakeries, confectionaries, license, tax therefor, the per pound tax, the keeping of records, the examination of records, the filing of records, exhibition of license, suspension of license, revocation of license, the forfeiture, penalty, increased tax, or remedy of any one affected, are each specifically declared to be separable and no one or more an inducement to any other or others, so that if any provision of this section is held unconstitutional, or the application thereof to any person or circumstances held invalid, the validity of all other provisions of this section and the applicability thereof to other persons or circumstances shall not be affected thereby. [1931 c. 96; *Spl. S. 1931 c. 3*; *Spl. S. 1931 c. 17*; 1935 c. 210, 550 s. 240, 241; 43.08 (2); 1939 c. 432]

Note: Sale of Jelke's Good Luck Veg- Vitamin Fortifier considered with reference to this section. 28 Atty. Gen. 436.

97.43 Imitation cheese and butter. No person shall manufacture, buy, sell, offer, ship, consign, expose or have in possession for sale, any cheese manufactured from or by the use of skim milk to which there has been added any foreign fat nor shall any person manufacture, buy, sell, offer, ship, consign, expose or have in possession for sale within this state, any cheese manufactured from skim milk, except such last mentioned cheese is ten inches in diameter and nine inches in height, nor shall any person render or manufacture, sell or solicit or accept offers for, ship, consign, offer or expose for sale or have in possession, with intent to sell, any article, product or compound made wholly or partly out of any fat, oil or oleaginous substance or compound thereof, not produced from unadulterated milk or cream, and without the addition of any fat foreign to said milk or cream, which shall be in imitation of yellow butter produced from such milk or cream with or without coloring matter. 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. [1935 c. 550 s. 242]

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. [1935 c. 550 s. 243]

Note: See note to 97.46, citing 27 Atty. Gen. 303.

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 deliver 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 man-

ner concealed, but shall be in plain view of the purchaser at the time of the purchase. [1935 c. 550 s. 244]

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 butter fat; provided, that nothing herein shall be construed as prohibiting the use of the term "butter" in connection with a trade name which is the individual property and has been in continuous use by its owner at least one year prior and up to the first day of January, 1931, if immediately after or below such trade name the word "a trade name" shall appear on all reading matter wherein it is used. [1931 c. 113; 1933 c. 159 s. 34; 1935 c. 550 s. 245]

Note: Product known as "honee butur," visions of 97.46 (1) and 97.44. 27 Atty. Gen. designed to be used, among other things, 303.
as substitute for butter, is subject to pro-

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 and 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. [1931 c. 114; 1935 c. 550 s. 246, 247]

97.48 High moisture and low fat cheese. (1) Whenever the department or any of its duly qualified inspectors shall find in any cheese factory or cheese warehouse any cheese which appears to contain, and which the department or the inspectors designated herein shall have reason to believe contains, more than the amount of moisture permitted by law, or less than the minimum quantity of milk fat established by law, they shall obtain fair and representative samples of such cheese marked for identification to be forwarded to the department for analysis. At the time of obtaining the samples they shall notify the owner or custodian of such cheese in writing that the sale thereof appears to be in violation of law.

(2) The department shall cause an analysis to be made and if upon analysis the cheese is found to contain moisture in excess of the tolerance established by law, or fat less than the minimum so established, it shall be liable to be proceeded against in any circuit court in the state and seized and held for trial as provided for in this section.

(3) When there shall be made complaint by the department to any circuit court under the provisions of this section that cheese with excessive moisture or deficient in milk fat is located and may be found upon certain premises described, the court shall issue an order directing the sheriff within its jurisdiction to seize such cheese and assume the custody thereof and use proper care to prevent its deterioration. If at the time of seizure the cheese is stored in a warehouse and under proper conditions as to temperature and sanitation, the cheese may remain in such warehouse so stored, and if it is not stored under proper conditions as to temperature it shall be removed to a warehouse wherein it may be held under proper conditions as to temperature and sanitation, but any storage or transportation charges for such cheese shall be chargeable to the cheese and taxed as costs in the final adjudication of the case.

(4) All such proceedings shall be at the suit of and in the name of the state of Wisconsin and if such cheese is found to contain water in excess of the maximum or fat in deficiency of the minimum established by law, or both, the same shall be disposed of as the

court may direct, to be converted into or used in legal food products or otherwise legally disposed of. Provided, however, that upon payment of the cost of such seizure and other proceedings and the execution and delivery of a good and sufficient bond to the effect that such cheese shall not be sold or otherwise disposed of contrary to law, the court may, by order, direct that such cheese be delivered to the owner thereof and when the department shall certify to the court that the cheese has been disposed of according to the terms of the court order, then said bond may be released. If the department shall for cause refuse to certify to the court that the cheese has been disposed of according to court order, the bond shall be forfeited, collected upon and the proceeds paid into the state treasury.

(5) In case no claimant shall appear for the cheese, or if claimant shall fail to execute a good and sufficient bond as heretofore provided, it shall be sold at the direction of the court upon the condition that it be converted into other and legal food products or otherwise legally disposed of and the proceeds of such sale shall be paid into the state treasury.

(6) In any proceedings under this section defendants shall be entitled to trial by jury and if upon trial of the cheese, it shall be found not to contain moisture in excess of the legal limit or fat in deficiency of the minimum established by law, the cheese shall be released to claimants forthwith.

(7) Any proceedings under this section shall in no manner bar or affect any proceedings which may be had under subsection (9) of section 97.02 or sections 97.49 or 97.43 of the statutes. [1935 c. 550 s. 248]

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 42 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 paragraphs (c), (d) and (e) of subsection (9) of section 97.02. No firm or corporation shall by themselves, their servant or agent, nor shall any person, 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, remove, or in any way divert any milk fat from milk to be made into cheese by the process known as American, Cheddar, Granular, Colby, Washed Curd cheese, or cheese known as Brick cheese, or cheese known as Muenster cheese, or cheese known as Limburger cheese, nor shall any person mix with or add to such milk any milk from which all or part of the milk fat originally contained therein has been removed. [1933 c. 319 s. 1; 1935 c. 550 s. 249; 1939 c. 63]

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. [1933 c. 239; 1935 c. 550 s. 250]

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. [1935 c. 550 s. 251]

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. [1935 c. 550 s. 252]

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, saltpeter, spices or wood smoke. [1935 c. 550 s. 253]

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 subsection (2) of section 97.02. This act does not prohibit the sale of sausage mixed with not to exceed four per cent of cereals or potato flour and not to exceed ten per cent of added water, as and for "sausage with cereals" or "sausage with potato flour" as the case may be. [1935 c. 550 s. 254]

97.55 Sale of diseased meat; killing diseased animal. No person shall sell or expose for sale, or give away for use as food, or can or pack for the purpose of transportation to and sale in any market or place any unwholesome, stale, emaciated, blown, tainted, putrid or measly meat, or the flesh of any diseased animal or of any animal not slaughtered for the purpose of food, knowing or having good reason to believe that such meat is as above described, or that such flesh is the flesh of a diseased animal or of an animal not slaughtered for such purpose, nor shall any person or corporation owning or operating any slaughter house or packing establishment in this state receive for the purpose of killing, or kill, any diseased animal, or render the carcass of any animal that shall die by disease or in consequence of exposure, or that shall not have been slaughtered for food, knowing or having good reason to believe that such animal was diseased, or had died from disease or in consequence of exposure, or had not been slaughtered for food. [1935 c. 550 s. 255]

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 non-kosher 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 four inches in height "Kosher and Nonkosher Food Served Here." [1935 c. 550 s. 256]

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. [1935 c. 550 s. 257 to 260]

97.58 Milk bread. It shall be unlawful to advertise or offer for sale or sell any bread or rolls as or for milk bread or milk rolls, or as made or prepared with milk, unless all of the fluid used in the preparation of such bread or rolls was milk, or unless in lieu of milk there was added to the ingredients used in the preparation of such bread or rolls milk solids and milk fat in the proportion of not less than ten ounces of milk solids, not fat, and three and one-quarter ounces of milk fat for every six pounds of water used. [1935 c. 550 s. 261]

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. [1935 c. 550 s. 262]

97.60 Foods; false branding of weight, measure, count or contents. (1) No person shall manufacture or solicit or take orders for delivery or sell, exchange, deliver or have in possession with the intent to sell, exchange or expose, or offer for sale or exchange any article of food within the meaning of section 97.01 which is misbranded within the meaning of this section.

(2) The term "misbranded," as used herein, shall apply:

(a) To articles of food, or articles which enter into the composition of food, which, or the package or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular;

(b) To articles of food in package form which do not bear plainly and conspicuously marked on the outside thereof the name and address of the manufacturer, packer or dealer;

(c) To articles of food in package form if the actual quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count; reasonable variations, however, shall be permitted from the stated weight, measure or numerical count, and the department shall establish tolerances for the same by rules and regulations; and

(d) To articles of food in package form if the contents of the package as originally

put up shall have been removed in whole or in part and other contents shall have been placed in such package.

(3) The term "label," as used in this section and in section 97.25, or in any other section of the statutes, relating to the adulteration or misbranding of food, unless otherwise specifically described and provided therein, shall apply to any printed, pictorial, or other matter upon or attached to any package of a food product or any container thereof.

(4) The term "package" as applied to articles of food shall mean a closed receptacle of any kind in which an article of food is kept in stock and which with its contents is sold to the public.

(5) The provisions of paragraphs (c) and (d) of subsection (2) of this section shall not apply to foods in package form when dispensed for consumption on the premises, or when the numerical count of the inclosed units is less than six, or when the net weight of the contents of the package is less than three ounces avoirdupois; or in case of liquids when the contents of the package are less than one fluid ounce; or to fruits and vegetables when such fruits and vegetables are sold by the standard barrel, standard crate, standard box or basket or other standard receptacle as provided in section 98.16. [1935 c. 550 s. 263, 264]

Note: Wrapped bread in form of loaves, 352.08, Stats. 1933. M. Carpenter Baking Co. whether sliced or unsliced, must comply v. Department of Agriculture and Markets, with 125.21, Stats. 1933, and is not within 217 W 196, 257 NW 606.

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. [1935 c. 550 s. 265, 266]

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 materials 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. [1935 c. 550 s. 267]

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 subsection (4) of section 97.72; 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. [1935 c. 550 s. 268]

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. [1935 c. 550 s. 269]

Note: Sections 352.085 and 343.413, Stats. 1933, forbid fraudulent advertising of articles, by advertiser desiring them to be disposed of in some manner to public and do not apply to fraudulent advertising to induce public to sell to advertiser. 20 Atty. Gen. 617.

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 in not less than ten point type. [1933 c. 193; 1935 c. 550 s. 270]

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. [1935 c. 550 s. 271 to 274]

97.67 Linseed oil; standards; sale. (1) No person 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, shall sell, offer or expose for sale or have in possession with intent to sell as and for "raw flaxseed oil" or "raw linseed oil" any oil unless the same is obtained from the seeds of the flax plant and unless the same fulfills all the requirements for linseed oil laid down in the eighth decennial revision of the United States pharmacopoeia; or as and for "boiled linseed oil" or "boiled flaxseed oil" any oil unless the same shall have been prepared by heating pure raw linseed oil with or without the addition of not to exceed four per cent of drier to a temperature not less than two hundred twenty-five degrees Fahrenheit. And for the purpose of this section, it shall also be deemed a violation of this section if said boiled linseed oil does not conform to the following requirements: First, its specific gravity at sixty degrees Fahrenheit must be not less than nine hundred thirty-five thousandths and not greater than nine hundred forty-five thousandths; second, its saponification value (Koettstorfer figure) must not be less than one hundred eighty-six; third, its iodine number must not be less than one hundred sixty; fourth, its acid value must not exceed ten; fifth, the volatile matter expelled at two hundred twelve 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 twenty hours, at a temperature of about seventy degrees Fahrenheit.

(2) Nor shall any person 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, sell, expose or offer for sale or have in possession with intent to sell, any raw or boiled linseed oil unless it is so done under its true name, and each tank car, tank, barrel, keg, can or vessel of such oil has distinctly and durably painted, stamped, stenciled or marked thereon the true name of such oil in ordinary bold-faced capital letters, not less than five-line pica in size, in the words, "Pure Linseed Oil—Raw" or "Linseed Oil—Boiled," as the case may be, and the name and address of the manufacturer thereof.

(3) Linseed oil compounds designed to take the place of raw or boiled linseed oil, whether sold, offered or exposed for sale, under invented proprietary names or titles, or otherwise, shall bear conspicuously upon the containing receptacle in which the same is kept for sale or sold, in ordinary bold-faced capital letters not less than five-line pica in size, 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 less than three-line pica in size, in continuous list with no intervening matter of any kind and shall also bear the name and address of the manufacturer.

(4) Nor shall any person 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, sell, offer or expose for sale or have in possession with intent to sell as and for dry white lead or substance other than basic carbonate of lead or basic sulphate of lead; nor shall any person 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, sell, offer or expose for sale or have in possession with intent to sell 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; nor shall any person 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, sell, offer or expose for sale or have in possession with intent to sell any basic carbonate of lead ground in linseed oil, unless each keg, can or other receptacle containing the same has distinctly and durably painted, stamped, stenciled or marked thereon the words, "white lead, basic carbonate, in oil," and the name and address of the manufacturer or jobber thereof; nor shall any person 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, sell, offer or expose for sale or have in possession with intent to sell any basic sulphate of lead ground in linseed oil, unless each cask, keg or other receptacle containing the same has distinctly and durably painted, stamped, stenciled or marked thereon the words "white lead, basic sulphate, in oil," and the name and address of the manufacturer or jobber thereof; nor shall any person 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, sell, offer or expose for sale or have in possession with intent to sell as and for dry oxide of zinc, or zinc oxide, or zinc white, any substance other than commercially pure oxide of zinc; nor shall any person 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, sell, offer or expose for sale, or have in possession with intent to sell 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; nor shall any person 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, sell, offer or expose for sale, or have in possession with intent to sell any oxide of zinc ground in linseed oil, unless each keg, can or other receptacle, containing the same has distinctly and durably painted, stamped, stenciled or 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 thereof.

(5) Nor shall any person 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 sell, offer or expose for sale, or have in possession with intent to sell 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; nor shall any person 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, sell, offer or expose for sale or have in possession with intent to sell 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; nor shall any person 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, sell, offer or expose for sale, or have in possession with intent to sell any oil of turpentine or wood spirits of turpentine unless it is so done under its true name, and each tank car, tank, barrel, keg, can or vessel of such oil has distinctly and durably painted, stamped, stenciled or marked thereon the true name of such oil in ordinary bold-faced capital letters, not less than five-line pica in size the words "Oil of Turpentine" or "Wood Spirits of Turpentine" as the case may be, and the name and address of the manufacturer or jobber thereof.

(6) The department shall enforce the provisions of this section and shall inspect any flaxseed oil or linseed oil or oil of turpentine or wood spirits of turpentine or white lead, dry or in oil or zinc oxide, dry or in oil, made or offered or exposed for sale or had in pos-

session with intent to sell in this state, and any tank car, tank, barrel, keg, can or any vessel containing the same in this state who it may suspect or have reason to believe, fails to comply with the provisions of this section, and shall cause to be prosecuted, any person who it may suspect or have reason to believe, may be violating this section, which prosecution shall be conducted in the manner provided in section 93.22. [1935 c. 550 s. 275, 276]

97.68 Label on vaccine virus, etc. No person shall sell or gratuitously distribute any vaccine virus, therapeutical serum, modified toxins or similar products with the intention that they shall be used in the prophylaxis or treatment of contagious disease, without having his or its name stamped in plain English letters thereon or on the package or bottle containing the same. [1935 c. 550 s. 277]

97.69 Label on poisonous medicine. Any person who shall by himself, his servant or agent or as the servant or agent of any other person, sell, exchange, deliver, or have in his possession with intent to sell or exchange or expose or offer for sale or exchange any medicine known as patent or proprietary, or of which the formula is kept secret by the manufacturer, which contains morphine, strychnine, cocaine or poisonous or narcotic alkaloid or drug, in any quantities which the state board of health shall deem harmful to the life or health of the public, unless the presence of the same be distinctly shown by a label upon the bottle or package and upon the outer wrapper thereof, shall be punished as provided in subsection (4) of section 97.72. [1935 c. 550 s. 278]

97.70 Depositing deleterious drugs on doorstep, etc. Any person who shall by himself, his servant or agent or as the servant or agent of any other person leave, throw or deposit or have in his possession with intent to leave, throw or deposit upon the doorstep or premises owned or occupied by another or who shall deliver to any child under the age of fifteen years, when not accompanied by an adult, any patent or proprietary medicine or any preparation, pill, tablet or drug that contains poison or other ingredients deleterious to health, as a sample or in any quantity whatever for the purpose of advertising or otherwise, shall be deemed guilty of a misdemeanor and shall be punished as provided in subsection (4) of section 97.72. [1935 c. 550 s. 279]

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 (H_2SO_4) in a concentration of ten per centum or more; (3) nitric acid or any preparation containing free or chemically unneutralized nitric acid (HNO_3) in a concentration of five per centum or more; (4) carbolie acid ($\text{C}_6\text{H}_5\text{OH}$), 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 ($\text{H}_2\text{C}_2\text{O}_4$) 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 ($\text{HC}_2\text{H}_3\text{O}_2$) 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 (AgNO_3) in a concentration of five per centum or more, and (12) ammonia water and any preparation yielding free or chemically uncombined ammonia (NH_3), 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. [1935 c. 550 s. 280, 281]

97.72 Penalties. (1) **BAKERY LAW.** Any person who shall use any room, building, or apartment for the purpose of establishing or operating a bakery or confectionary establishment therein without first securing a license permitting him so to do, or who, by himself or his servant or agent, or as the servant or agent for any firm or corporation, shall violate or fail to comply with any of the provisions of sections 97.12 to 97.16, or of sections 97.19 and 97.20, thirty days after notice in writing shall have been served upon him personally, or sent through registered mail to him by the department, requiring such person to take such action or to make or cause to be made such changes, repairs, or alterations in such bakery or confectionary establishment as may be necessary to have such bakery or confectionary establishment conform to the provisions of law for their sanitary regulation, or if the required changes, repairs, or alterations could in the exercise of reasonable diligence not be made or completed within thirty days, after such additional time as may have been necessary to complete the required action, change, repairs, or alterations has expired, not to exceed ninety days, however, from the receipt of notice in any case; or who by himself or his servant or agent, or as the servant or agent of any firm or corporation shall violate or fail to comply with the provisions of section 97.18, after one day's notice in writing has been served upon him by the department to discontinue his employment in or about such bakery or confectionary establishment; or who by himself or his servant or agent, or as the servant or agent of any firm or corporation, shall violate or fail to comply with the provisions of section 97.17, shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty, nor more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or both.

(2) **OLEOMARGARINE LAW.** Any person who shall violate any of the provisions of section 97.42, shall be punished for the first offense by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment in the county jail for not more than three 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 five hundred dollars nor more than one thousand dollars or by imprisonment in the county jail for not less than six 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 subsection (11) of section 97.42, and any person accused under this subsection may upon payment of the forfeiture provided in said subsection (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 sections 97.31, 97.43, 97.44 or 97.62, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by imprisonment in the county jail not less than five days nor more than thirty days, for the first offense; and for each subsequent offense, by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail not less than thirty days nor more than sixty days, or by both such fine and imprisonment.

(4) **GENERAL.** Any person who shall violate any of the provisions of this chapter for which a specific penalty is not prescribed in subsection (1), (2) and (3) of this section, shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, or by both such fine and imprisonment. Any person who shall violate any of the provisions of section 97.03, 97.035, 97.04, 97.05 or 97.09 shall, in addition to the foregoing penalty, suffer a revocation of his license issued under these sections. [1935 c. 550 s. 282 to 285; 1939 c. 183]

97.75 Brewers and maltsters; registration; reports; inspection; penalty. (1) As used in this chapter or in any regulation made pursuant thereto unless the context or subject matter otherwise requires:

(a) "Maltster" means any person, firm or corporation, who engages in buying cereal grains and malting the same for sale or for his own use.

(b) "Brewer" means any person, firm or corporation, who shall manufacture for the purpose of sale, barter, exchange or transportation fermented malt beverages as defined in

subdivision 10 of paragraph (a) of subsection (10) of section 66.05.

(c) "Person" shall include individual, firm, association or corporation.

(d) "Division" means the dairy and food division of the department of agriculture and markets.

(e) "Transportation company" shall include every person, firm or corporation that directly or indirectly transports any barley or malt to or from any maltster or brewer.

(2) Every maltster and brewer doing business in the state shall on or before the first day of April, 1935, and annually thereafter, register with the dairy and food division of the department of agriculture and markets in such manner as the division shall determine.

(3) Within 30 days following such first registration, and thereafter on July 1, October 1, January 1, and April 1 in each year such maltster or brewer shall, in such manner and in such detail as the division may require, file with the division a report showing the source and amount of all barley or malt imported from foreign countries used in its business during the preceding 3 months' period. All reports so filed shall be kept by the division and be subject to examination by the public.

(4) Any duly authorized employe of the division may at all reasonable hours enter in and upon the premises of any maltster, brewer or transportation company and examine the books, papers and records of such maltster, brewer or transportation company for the purpose of inspecting the same, and determining whether the provisions of this section have been fully complied with.

(5) Any person may be compelled to testify in regard to any violation of this section of which he may have knowledge, even though such testimony may tend to incriminate him, upon being granted immunity from prosecution in connection therewith, and upon the giving of such testimony, such person shall not be prosecuted for or because of the violation relative to which he has testified.

(6) Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment. [1935 c. 320, 520; 43.08 (2); 1941 c. 23]