

section (5). The county board at such meeting shall determine the amount to be raised and paid by each such town, village and city to reimburse the county for the money so advanced. Within ten days after such determination the county clerk of each county shall certify to the clerk of and charge to each such town, village and city the amount so advanced. Each such town, city and village shall levy a tax sufficient to reimburse the county for such advances to be collected as other taxes and paid into the county treasury. If any town, city or village shall fail to raise and pay over such money to the county, the county board shall have authority to compel such payment.

SECTION 2. This act shall take effect upon passage and publication.

Approved December 26, 1931.

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No. 13, A.]

[Published December 30, 1931.

### CHAPTER 3.

AN ACT to amend section 98.39 and to create subsection (16) of section 20.60 of the statutes, relating to an occupational tax on dealers in oleomargarine, butterine, and similar substances, and hotels, restaurants, boarding houses, bakeries, and confectioneries using such products, imposing penalties, and making an appropriation.

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

SECTION 1. Section 98.39 of the statutes is amended to read: 98.39 (Created in Chapter 96, Laws of 1931) (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 of oleomargarine, butterine and similar substances, except in interstate commerce. 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.*

(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 confectionery, 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 confectionery* 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 weekly records prescribed by subsection (7), each retail dealer shall pay a tax in the amount of six 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 six 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) 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.

(10) (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.*

\* \* \* (11) (a) 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.

\* \* \* (b) 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 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.

(c) *No person shall be prosecuted under this subsection for the doing of any act for which he has paid a forfeiture under subsection (10), and any person accused under this subsection may upon payment of the forfeiture provided in subsection (10) and the costs of prosecution, have such prosecution dismissed, and the court shall have jurisdiction to determine the amount of such forfeiture.*

(12) *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.*

\* \* \* (13) *As used in this section:*

(a) *“Wholesale dealer” \* \* \* means any person, firm or corporation who sells or offers for sale oleomargarine in the original manufacturer’s package.*

(b) *“Retail dealer” \* \* \* means any person, firm or corporation who sells oleomargarine in lesser quantities than ten pounds at one time.*

(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 98.28.*

(f) "Confectionery" means "confectionary store" or "establishment" as defined in section 98.28.

(14) 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 non-compliance 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.

(15) The provisions of this section as to oleomargarine, butterine, any other similar substance, manufacturers, wholesale dealers, retail dealers, hotels, restaurants, boarding houses, bakeries, confectioneries, license, the 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.

SECTION 2. A new subsection is added to section 20.60 of the statutes to read: (20.60) (16) Annually, beginning January 1, 1932, twenty thousand dollars from the receipts derived from the taxes levied by section 98.39, for the collection of such taxes and the enforcement of said section.

SECTION 3. This act shall take effect January 1, 1932.

Approved December 30, 1931.

No. 24, S.]

[Published December 31, 1931.

#### CHAPTER 4.

AN ACT to provide for the immediate payment of the amounts due on February 1, 1932, to the several towns, cities, and villages under paragraph (a) of subsection (2) of section 20.49