

No. 393, S.]

[Published July 15, 1933.]

CHAPTER 405.

AN ACT to create sections 99.34 to 99.41 of the statutes, relating to grading, sale and purchase of Swiss cheese, providing a penalty, and making an appropriation.

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

SECTION 1. Eight new sections are added to the statutes to read:

99.34 DEALER'S LICENSE. No person, firm, association or corporation engaged in the purchase of Swiss cheese for the purpose of resale other than directly to consumers shall purchase any Swiss cheese from any cheese factory or producer in this state without first obtaining a license from the department of agriculture and markets. Application for such license shall be in such form and shall contain such information as the department shall order, and shall be accompanied by a fee of thirty-five dollars. Upon receipt of such application and fee the department shall issue a license to the applicant to purchase Swiss cheese. Each such license shall be subject to revocation by the department if the licensee is found guilty of violating any law, rule or regulation relating to purchase or sale of Swiss cheese or is found to be engaged in any practice or agreement in restraint of trade, but no license shall be revoked until other procedure to secure compliance shall have failed.

99.35 GRADING OF DRUM SWISS OR BLOCK SWISS CHEESE. (1) No drum Swiss or block Swiss cheese shall be purchased from any cheese factory or cheese producer in this state except upon the basis of the grade of the cheese. Drum Swiss cheese shall be classified by the department of agriculture and markets into the following grades: Fancy A, Fancy B, Fancy C, and Standard. The term Undergrade shall apply to damaged cheese or cheese too poor in quality for the grades.

(2) The department shall fix standards and specifications for each of such grades. The following shall be included as a part of such standards:

(a) That the majority of the eyes in Fancy A cheese shall be not less than thirteen-sixteenths of an inch in diameter.

(b) That cheese of the three top grades shall not weigh less than one hundred twenty-five pounds except to fill special orders or as may be set up by departmental order.

(c) That the four grades above mentioned shall be held by the producer for a period of at least six weeks if produced during the period beginning April first and ending August thirty-first, and for a period of eight weeks if produced at any other time during the year, except that to prevent waste, cheese may be moved from the factory to another storage earlier than herein provided, but such cheese shall not change ownership, leave the state, or be graded or branded for grade before it is of the age specified.

(3) Before issuing rules and regulations relating to such standards and grades the department shall hold regular legal public hearings.

99.36 SUPERVISOR OF SWISS CHEESE GRADERS. For the purpose of supervising the grading of Swiss cheese the department of agriculture and markets shall employ one or more state supervisors of Swiss cheese graders for such periods of the year as may be necessary. Such supervisors shall have had at least five years' experience in the manufacture, sale or purchase of Swiss cheese according to grade. It shall be the duty of such supervisors to inspect Swiss cheese and to supervise the work of state licensed cheese graders in such manner as the department shall direct. Such supervisors shall not be engaged nor interested in any way, in the manufacture or merchandising of cheese. Qualified employes of the department performing other duties may perform the duties of supervisors in sections of the state where the employment of a special supervisor of Swiss cheese graders is not warranted.

99.37 LICENSED CHEESE GRADERS. (1) No person, other than the state supervisors of Swiss cheese graders, shall engage in the grading of Swiss cheese unless he shall have first secured a license from the department of agriculture and markets. Such license shall be issued by the department under such rules and regulations as it shall prescribe relating to the qualifications of applicants. Such qualifications shall include a previous experience of not less than three years in the manufacture, sale or purchase of Swiss cheese according to grade. Application for such license shall be made in such form as the department shall order and shall be accompanied with a fee of eight dollars. If a license is

not granted the fee shall be returned to the applicant. If the department finds the applicant qualified it shall issue a license and at the same time shall furnish the licensee with all rules and regulations relating to grading of Swiss cheese. Each such license shall be subject to revocation by the department if the licensee is found to be incompetent or guilty of violating the laws, rules and regulations relating to grading of Swiss cheese, and in that case any marking device used by such licensee shall be surrendered to the department, but no license shall be revoked until other procedure to secure compliance shall have failed. No cheese maker shall be granted a license to grade any Swiss cheese except that which he produces.

99.38 ARBITRATION COMMITTEE. In case of a disagreement between producers, buyers, graders, or supervisors or any of them, as to the grade of cheese, each party shall select a competent person as an arbitrator, and such two arbitrators shall select a third competent person. The decision of such arbitrators as to the grade of the cheese shall be final and any purchaser who has bargained for such cheese shall make settlement according to the findings of said committee. Failure to make such settlement on this basis shall be deemed a violation of this section and shall subject the person guilty of such violation to penalties provided in section 99.41 and to revocation of the dealer's license. Such arbitrators shall be selected from a list of competent persons compiled by the department after discussion at the hearings to be held pursuant to section 99.35.

99.39 MARKING. (1) All Swiss cheese, before it shall enter retail channels or before shipment from this state, shall be graded and marked with permanent grade marks indicating its grade, except that cheese which is assembled for maturing or storage in this state, may be marked with the regular gauge marks, and shall be re-examined for grade before entering retail channels or removed from the state. All of such markings shall be applied under the direction of a state licensed grader or of a supervising grader.

(2) Nothing in sections 99.34 to 99.40 shall prevent the purchase or sale of Swiss cheese upon a "not-graded" basis, but all such cheese so purchased or sold shall bear permanent marks, applied in at least four places on each cheese, indicating that such cheese is not graded. Every producer and dealer shall sell or buy Swiss cheese exclusively, upon either a "graded" basis or upon

a “not-graded” basis; provided that after a dealer’s license is granted, such dealer shall not be permitted to use the “not-graded” brand, until he has surrendered his license, and all equipment for branding cheese, and until such “not-graded” equipment has been issued to him; and provided further that this subsection shall not prevent any dealer from receiving cheese from any factory unit which may choose to market its cheese exclusively under the brand “not-graded”.

(3) The department of agriculture and markets shall determine and shall issue rules and regulations specifying the manner in which all Swiss cheese markings shall be made and applied.

99.40 BLOCK SWISS CHEESE. (1) The department of agriculture and markets, after giving interested parties a reasonable opportunity to be heard, shall fix such standards for and shall make such rules regulating the purchase and sale of block Swiss cheese as shall be practical in keeping with standards and rules regulating drum Swiss cheese.

(2) Any person, firm or corporation having in their possession, without the approval of the department, equipment that is capable of branding cheese with brands similar to those established by this section, shall be subject to the penalties prescribed in section 99.41.

99.41 PENALTIES. Any person violating any of the provisions of sections 99.34 to 99.40 or any order of the department relating to Swiss cheese, or buying or selling any Swiss cheese which has not been held by the producer in accordance with section 99.35 or which has not been marked in accordance with law or order of the department, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars nor more than five hundred dollars.

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

Approved July 14, 1933.

No. 419, S.]

[Published July 15, 1933.

CHAPTER 406.

AN ACT to amend section 14.72 of the statutes and section 1 of chapter 342, laws of 1933, relating to the emergency board and making an appropriation.

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