

1969 Assembly Bill 24

Date published:
December 27, 1969

CHAPTER 286, LAWS OF 1969

AN ACT to repeal 97.022, 97.023, 97.024, 97.025, 97.04 (3) (b), 97.25, 97.26, 97.275, 97.29 to 97.33, 97.34 (1), 97.38, 97.40, 97.45, 97.49 to 97.52, 97.54, 97.57, 97.59, 97.60, except 97.60 (4), 97.61 to 97.63, 97.66 and chapter 713, laws of 1951, section 4; to renumber 97.03, 97.035, 97.04, except 97.04 (3) (b), 97.045, 97.046, 97.05, 97.06, 97.07, 97.08, 97.09, 97.10, 97.11, 97.12, 97.20, 97.21, 97.36, 97.37, 97.41, 97.43, 97.46 (2), 97.55, 97.555, 97.64, 97.65, 97.67, 97.71, 97.72 (3) and 97.73; to renumber and amend 97.27 (3), 97.34 (2) to (4), 97.46 (1), 97.60 (4), 97.685 and 97.72 (4); to amend 77.52 (1) (a) 15; 97.20 (1) (f) and (3) (a), 97.26 (1) and (3) and 97.52, as renumbered; 139.60 (1) (a) and 151.02 (7) (a); to repeal and recreate chapter 97 (title), 97.01, 97.02; and to create 97.03, 97.05 (5) and (6), 97.07, 97.09, 97.10, 97.12 and 97.15 of the statutes, relating to broadening state food regulations, granting rule-making powers and establishing penalties.

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

SECTION 1. 77.52 (1) (a) 15 of the statutes is amended to read:

77.52 (1) (a) 15. Soda water beverages as defined in s. ~~97.09~~ 97.38 (8), when sold for consumption off the premises; bases, concentrates and powders intended to be reconstituted by consumers to produce soft drinks; and fruit drinks and ades not defined as deemed fruit juices in s. ~~97.09~~ (27).

SECTION 2. Chapter 97 (title), 97.01 and 97.02 of the statutes are repealed and recreated to read:

CHAPTER 97.

FOOD REGULATION.

NOTE: The following is a table of contents of ch. 97 as revised by this bill:

97.01	Definitions.
97.02	Standards: adulterated food.
97.03	Standards: misbranding.
97.05	Exceptions.
97.07	Interpretation.
97.09	Rules.
97.10	Prohibited acts.
97.12	Enforcement.
97.13	Sale of fish food regulated.
97.15	Injunction.
97.16	Counter freezers licensed.
97.17	Buttermaker and cheesemaker license.

- 97.19 Limburger cheese: improving quality.
- 97.20 Dairy plants and receiving stations.
- 97.22 Licensing of Grade A milk distributors.
- 97.24 Grade A milk and Grade A milk products.
- 97.26 Counter freezers licensed.
- 97.28 Food processor's license.
- 97.30 Slaughter houses.
- 97.32 Special dairy and food inspectors.
- 97.34 Regulation of soda water business.
- 97.36 Bakery license.
- 97.38 Confectionary license.
- 97.39 Dairy products, adding foreign fats; oleomargarine permitted.
- 97.40 Bakery and confectionary license requirements.
- 97.42 Compulsory inspection of animals, poultry and carcasses.
- 97.44 Identification of meat for animal feed; registration and records of buyers.
- 97.50 Adulterated insanitary milk.
- 97.52 Insanitary or adulterated milk and cream; sale; inspection; delivery prohibited.
- 97.56 Kosher meat.
- 97.72 Penalties.
- 97.01 DEFINITIONS. In this chapter, unless inconsistent with context:

- (1) "Department" means the department of agriculture.
- (2) "Food" means:
 - (a) Articles used for food or drink by man.
 - (b) Chewing gum.
 - (c) Articles used for components of matters specified in pars. (a) and (b).
- (3) "Package" means any container or wrapper in which any food is enclosed for use in the delivery or display of that food to retail purchasers, but does not include:
 - (a) Shipping containers or wrappings used solely for the transportation of any food in bulk or in quantity to manufacturers, packers or processors, or to wholesale or retail distributors.
 - (b) Shipping containers or outer wrappings used by retailers to ship or deliver any food to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity.
- (4) "Label" means a display of written, printed or graphic matter upon the immediate container of any article. A requirement made under this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement or other information also appears on the outside container or wrapper if any, of the retail package of such article, or is easily legible through the outside container or wrapper. "Immediate container" does not include package liners.
- (5) "Labeling" means all labels and other written, printed or graphic matter 1) upon an article or any of its containers or wrappers, or 2) accompanying such article.
- (6) "Contaminated with filth" applies to any food not securely protected from dust, dirt and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.
- (7) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.
- (8) "Food additive" means any substance, the intended use of which results or may be reasonably expected to result, directly or indi-

rectly, in its becoming a component or otherwise affecting the characteristics of any food, (including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting or holding food; and including any source of radiation intended for any such use), if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures (or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food) to be safe under the conditions of its intended use; except that such term does not include a pesticide chemical in or on a raw agricultural commodity, or a pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity, or a color additive, or any substance used in accordance with a sanction or approval granted prior to the enactment of the food additives amendment of 1958, pursuant to the federal act.

(9) "Color additive" includes as colors black, white and intermediate grays and means a material which is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated or otherwise derived, with or without intermediate or final change of identity from a vegetable, animal, mineral or other source and which, when added or applied to a food or any part thereof, is capable, alone or through reaction with other substance, of imparting color thereto; except that such term does not include any material which has been or hereafter is exempted under the federal act.

(10) "Pesticide chemical" means any substance which, alone, in chemical combination, or in formulation with one or more other substances is a "pesticide" within the meaning of s. 94.67 (1) and which is used in the production, storage or transportation of raw agricultural commodities.

(11) "Sell", "sale" or "sold" includes delivering, shipping, consigning, exchanging, offering or exposing for sale, or having in possession with intent to sell.

(12) "Butter" means the clean, nonrancid product made by gathering in any manner the fat of fresh or ripened milk or cream into a mass, which also contains a small portion of the other milk constituents, with or without salt or added coloring matter, and contains not less than 80% of milk fat. Renovated or process butter is the product made by melting butter and reworking, without the addition or use of chemicals or any substances except milk, cream or salt, and contains not more than 16% of water and at least 80% of milk fat.

(13) "Milk" means the whole, fresh, clean, lacteal secretion obtained by the complete milking of one or more healthy cows. Milk shall contain not less than 3% of milk fat, and not less than 8.25% of milk solids not fat. Milk may be standardized by the addition or removal of cream or by the addition of skim milk. When so standardized milk shall contain not less than 3.3% of milk fat, and not less than 8.25% of milk solids not fat.

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

(15) "Whey cream" means 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 18% of milk fat.

(17) "Federal act" means the federal food, drug and cosmetic act, as amended (Title 21 USC 301 et seq.) or the federal wholesome meat act, as

amended (Title 21 USC 71 et seq.), or the federal poultry products inspection act, as amended (Title 21 USC 451 et seq.), or the federal fair packaging and labeling act (Title 15 USC 1451 et seq.) which may be applicable.

97.02 STANDARDS; ADULTERATED FOOD. A food is adulterated:

(1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this paragraph if the quantity of such substance in such food does not ordinarily render it injurious to health.

(2) If it bears or contains any added poisonous or added deleterious substance, other than one which is a pesticide chemical in or on a raw agricultural commodity, a food additive or a color additive, which is unsafe within the meaning of the federal act or any deleterious substance not a necessary ingredient in its manufacture.

(3) If it is a raw agricultural commodity and it bears or contains a pesticide chemical which is unsafe within the meaning of the federal act.

(4) If it is or it bears or contains any food additive which is unsafe within the meaning of the federal act, but where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under the federal act and such raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding ss. 97.01 to 97.15, not be deemed unsafe if such residue in the processed food when ready-to-eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(5) If it is or bears or contains any color additive which is unsafe within the meaning of the federal act or ss. 97.01 to 97.15.

(6) If it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food.

(7) If it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health.

(8) If it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse.

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

(10) If any valuable constituent has been in whole or in part omitted or abstracted therefrom.

(11) If any substance has been substituted wholly or in part therefor.

(12) If damage or inferiority has been concealed in any manner.

(13) If any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength or make it appear better or of greater value than it is.

(14) If it is confectionary, and

(a) Has partially or completely imbedded therein any non-nutritive object: provided, that this clause shall not apply in the case of any non-nutritive object if, in the judgment of the department as provided by regulations, such object is of practical functional value to the confectionary product and would not render the product injurious or hazardous to health;

(b) Bears or contains any alcohol in excess of one-half of one per cent by volume derived solely from the use of flavoring extracts; or

(c) Bears or contains any nonnutritive substance; provided, that this

clause shall not apply to a safe nonnutritive substance which is in or on confectionary by reason of its use for some practical functional purpose in the manufacture, packaging, or storing of such confectionary if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of this act: and provided further, that the department may, for the purpose of avoiding or resolving uncertainty as to the application of this clause, issue rules allowing or prohibiting the use of particular nonnutritive substances.

SECTION 3. 97.022, 97.023 and 97.024 of the statutes are repealed.

SECTION 4. 97.025 of the statutes is repealed.

SECTION 6. 97.03 and 97.035 of the statutes are renumbered 97.17 and 97.19, respectively.

SECTION 7. 97.03 of the statutes is created to read:

97.03 STANDARDS; MISBRANDING. (1) A food is misbranded:

(a) If its labeling is false or misleading in any particular.
(b) If it is offered for sale under the name of another food.
(c) If its container is so made, formed or filled as to be misleading.
(d) If in package form, unless it bears a label containing a) the name and place of business of the manufacturer, packer or distributor; and b) an accurate statement of the quantity of the contents in terms of weight, measure or numerical count.

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

(f) If it is represented as a food for which a definition and standard of identity has been prescribed under ss. 97.01 to 97.15 unless it conforms to such definition and standard and its label, except when its label complies with the federal act, bears the name of the food specified in the definition and standard and the common names of ingredients present in such food.

(g) If it is represented as:

1. A food for which a standard of quality has been prescribed under ss. 97.01 to 97.15 and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

2. A food for which a standard or standards of fill of container have been prescribed under ss. 97.01 to 97.15 and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

(h) If it is a food for which no definition or standard of identity has been prescribed unless it bears a label clearly giving the common or usual name of the food if any, and in case it is fabricated from 2 or more ingredients, the common or usual name of each such ingredient; provided that to the extent that compliance with this subdivision is impractical or results in deception or unfair competition, exemptions shall be established by departmental rule.

(i) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral and other dietary properties as the department determines to be, and prescribes as, necessary in order to fully inform purchasers as to its value for such uses.

(k) If it bears or contains any artificial flavoring, artificial coloring or chemical preservative, unless it bears a label stating that fact.

(m) If it is a product intended as an ingredient of another food and when used according to the directions of the purveyor will result in the final food product being adulterated or misbranded.

(n) If it is a color additive unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive prescribed under the federal act.

SECTION 8. 97.04 of the statutes, except 97.04 (3) (b), is renumbered 97.20 and 97.20 (1) (f) and (3) (a), as renumbered, are amended to read:

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

(3) (a) For a *cheese food compound plant* or 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;

SECTION 9. 97.04 (3) (b) of the statutes is repealed.

SECTION 10. 97.045, 97.046, 97.05, 97.06, 97.07, 97.08 and 97.09 of the statutes are renumbered 97.22, 97.24, 97.26, 97.28, 97.30, 97.32 and 97.34, respectively.

SECTION 11. 97.07 of the statutes is created to read:

97.07 INTERPRETATION. If an article is alleged to be misbranded because the labeling is misleading, then in determining whether the labeling is misleading, there shall be taken into account not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling relates under the conditions of use prescribed in the labeling or under such conditions of use as are customary or usual.

SECTION 12. 97.09 of the statutes is created to read:

97.09 RULES. (1) Definitions and standards of identity, composition, quality and fill of container for foods, and amendments thereto, now or hereafter adopted under the federal act are definitions and standards of identity, composition, quality and fill of container under ss. 97.01 to 97.15. However, when such action will promote honesty and fair dealing in the interest of consumers, the department may amend, stay or reject such federal regulations or make rules establishing definitions and standards of identity, composition, quality and fill of container for foods where no federal regulations exist, or which differ from federal regulations.

(2) Temporary permits granted under the federal act for interstate shipment of experimental packs of food varying from the requirements of federal definitions and standards of identity are automatically effective in this state under conditions set forth in such permits.

(3) The department may also issue temporary marketing permits upon a convincing showing of need to continue a market study where the interests of consumers are safeguarded. Such permits are subject to terms and conditions prescribed by departmental rules but may not be issued for a period exceeding 6 months plus one renewal period of 6 months after departmental review.

SECTION 13. 97.10 of the statutes is renumbered 97.36.

SECTION 14. 97.10 of the statutes is created to read:

97.10 PROHIBITED ACTS. The sale of any food that is adulterated or misbranded is prohibited.

SECTION 16. 97.11 and 97.12 of the statutes are renumbered 97.38 and 97.40, respectively.

SECTION 17. 97.12 of the statutes is created to read:

97.12 ENFORCEMENT. (1) For the purpose of enforcing ss. 97.01 to 97.15, the department and its agents shall have free access at reasonable hours to any farm, factory, warehouse or establishment in which foods are manufactured, processed, packed or held for sale, or to enter any vehicle being used to transport or hold such foods in commerce:

(a) To inspect such farm, factory, warehouse, establishment or vehicle.

(b) To secure samples or specimens of any food after paying or offering to pay for such sample. It is the duty of the department to make examinations of samples thus secured to determine whether or not there is a violation of ss. 97.01 to 97.15.

SECTION 18. 97.15 of the statutes is created to read:

97.15 INJUNCTION. In addition to penalties applicable to ss. 97.01 to 97.15 under s. 97.72, the department may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating ss. 97.01 to 97.15.

SECTION 19. 97.20 and 97.21 of the statutes are renumbered 97.42 and 97.44.

SECTION 20. 97.25 and 97.26 of the statutes are repealed.

SECTION 21. 97.26 (1) and (3) of the statutes, as renumbered, are amended to read:

97.26 (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 s. 97.20~~ 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.

(3) Section ~~97.04~~ 97.20 (6), (7), (9) and (10) shall apply to this section.

SECTION 23. 97.27 (3) of the statutes is renumbered 97.13 and amended to read:

97.13 SALE OF FISH FOOD REGULATED. No person shall sell any food product for human consumption within this state containing whole fish flour, except fish flour made from the normally edible portions of fish or fish protein concentrate. No package containing fish flour or fish protein concentrate shall be sold by any person unless it bears a statement declaring that the contents thereof are made only from the edible portions of fish. ~~Any person violating this subsection shall be penalized as provided in sub. (2).~~

SECTION 24. 97.275 of the statutes is repealed.

SECTION 26. 97.29 to 97.33 of the statutes are repealed.

SECTION 27. 97.34 (1) of the statutes is repealed.

SECTION 28. 97.34 (2) to (4) of the statutes are renumbered 97.12 (2) (a) to (c), respectively, and amended to read:

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

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

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

SECTION 29. 97.36 and 97.37 of the statutes are renumbered 97.50 and 97.52, respectively.

SECTION 30. 97.38 and 97.40 of the statutes are repealed.

SECTION 31. 97.41 and 97.43 of the statutes are renumbered 100.05 and 100.055, respectively.

SECTION 32. 97.45 of the statutes is repealed.

SECTION 33. 97.46 (1) of the statutes is renumbered 100.36 and amended to read:

100.36 No person shall use *the word "butter"* 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"~~. ~~No person shall use~~ terms such as "cream", "creamery" or "dairy", ~~either alone or in combination with other words, except as required by s. 97.45,~~ or the name or representation of any breed of dairy cattle, or any combination of such words and representation, or any other words or symbols or combinations thereof commonly used in the sale of butter ~~shall not be used~~ unless at least 40% of the substitute is butterfat. If the term "butter" is used in connection with the name of any such product, it shall be qualified so as to distinguish it from butter as defined in ~~s. 97.02 (8)~~ *97.01 (11)*.

SECTION 34. 97.46 (2) of the statutes is renumbered 97.03 (3).

SECTION 35. 97.49 to 97.52 and 97.54 of the statutes are repealed.

SECTION 36. 97.52 of the statutes, as renumbered, is amended to read:

97.52 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~~ *dairy plant* any adulterated or ~~insanitary~~ milk or ~~adulterated~~ cream, ~~or any insanitary cream as defined in section 97.36.~~ The department shall establish *sanitary standards for the production, handling and transportation of milk, and prescribe regulations*

rules 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~~ rules 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.

SECTION 37. 97.55 and 97.555 of the statutes are renumbered 95.28 and 95.29, respectively.

SECTION 38. 97.57, 97.59 and 97.60, except 97.60 (4), of the statutes are repealed.

SECTION 39. 97.60 (4) of the statutes is renumbered 97.05 and amended to read:

97.05 EXCEPTIONS. (1) Packages of fresh fruits and vegetables, the contents of which are plainly visible to the purchaser shall be exempt from the labeling requirements of sub. (3) ~~(g)~~ 2 and 3 under ss. 97.01 to 97.15 except that when the quantity of such food is customarily expressed in terms of weight or measure, as distinguished from numerical count, the food shall bear a label declaring such quantity.

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

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

(4) Bakery products enclosed in transparent containers or enclosed in containers which provide a transparent opening to afford a clear view of the product are exempt from the labeling requirements of sub. (3) ~~(g)~~ under this chapter when such products are sold at retail by the bakery operator or his employe direct to the consumer at the baker's own retail bakery service counter operated by the baker who has produced these products, and when displayed to the purchaser with a counter card, sign, or other appropriate device bearing conspicuously the label information required by ~~under this section and if the bakery products are enclosed in transparent containers or enclosed in containers which provide a transparent opening to afford a clear view of the product~~ chapter.

SECTION 39m. 97.05 (5) and (6) of the statutes are created to read:

97.05 (5) No person shall be subject to the penalties of s. 97.72 for having violated s. 97.10, if he establishes a guaranty or undertaking signed by, and containing the name and address of the person residing in this state from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of ss. 97.02 and 97.03.

(6) A food shall be exempt from the labeling requirements under this chapter if the food, in accordance with the practice with the trade, is to be processed, labeled or repacked in substantial quantities by the buyer, on condition that such food is not adulterated or misbranded under this

chapter upon completion of such processing, labeling or repacking by the buyer.

SECTION 40. 97.61 to 97.63 of the statutes are repealed.

SECTION 41. 97.64 and 97.65 of the statutes are renumbered 100.183 and 100.184, respectively.

SECTION 42. 97.66 of the statutes is repealed.

SECTION 43. 97.67 of the statutes is renumbered 100.186.

SECTION 44. 97.685 of the statutes is renumbered 95.235 and amended to read:

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

SECTION 45. 97.71 of the statutes is renumbered 100.37.

SECTION 46. 97.72 (3) of the statutes is renumbered 97.72.

SECTION 47. 97.72 (4) of the statutes is renumbered 95.69 (2) and amended to read:

95.69 (2) ~~Any person who shall violate any provisions of s. 97.55 or 97.555 shall~~ Whoever violates s. 95.28 or 95.29 may be fined not less than \$500 ~~or~~ nor more than \$5,000, or imprisoned not more than 5 years, or both.

SECTION 48. 97.73 of the statutes is renumbered 100.38.

SECTION 49. 139.60 (1) (a) of the statutes is amended to read:

139.60 (1) (a) For the purposes of this section "oleomargarine" or "margarine" includes oleomargarine, margarine, butterine and other similar substances, fats and fat compounds sufficiently adaptable to the ordinary uses of butter, to lead readily to use as an alternative to butter, but this section shall not apply to lard as defined in s. 97.02 (4), cream cheese, cheese food compounds as defined in s. 97.50, nor to any other dairy product made exclusively of milk or milk solids with or without added vitamins, if such product is sold or distributed in such manner and form as will clearly distinguish it from butter. Nor shall this section apply to shortenings not churned or emulsified in milk or cream or having a melting point of 112 degrees Fahrenheit or more as determined by the capillary tube method unless there is sold or given away with such shortening any compound which, when mixed with such shortening, makes oleomargarine, butterine or similar substances. Colored oleomargarine or margarine shall be made of domestic fats or oils and shall not be made of imported oils which include, without restriction because of enumeration, whale oil, coconut oil and palm oil.

SECTION 50. 151.02 (7) (a) of the statutes is amended to read:

151.02 (7) (a) Sale of adulterated drugs as defined in s. 97.25.

SECTION 51. Chapter 713, laws of 1951, section 4 is repealed.

SECTION 52. In the statutory sections listed in column "A" below, the cross references in column "B" are changed to the references shown in column "C".

A Statutory section	B Old cross references	C New cross references
95.235, as renum- bered.....	97.72 (3).....	97.72
97.063 (1) (i), as renumbered.....	97.046.....	97.24
97.064 (1), as re- numbered.....	97.04.....	97.20
97.065, as renum- bered.....	97.04.....	97.20
97.12 (11).....	97.04.....	97.20

CHAPTER 286

A Statute sections	B Old cross references	C New cross references
97.20 (1) (i), as re- numbered	97.046	97.24
(2), as renum- bered	97.05 97.10 to 97.12	97.26 97.35 to 97.40
97.22 (1), as renum- bered	97.046 97.04	97.24 97.20
97.24 (1) (e), as re- numbered	97.045	97.22
(f), as re- numbered	97.04 (1) (i)	97.20 (1) (i)
(2) (c), as re- numbered	97.04	97.20
(3), as renum- bered	97.04 97.045	97.20 97.22
(6), as re- numbered	97.045	97.22
97.34 (11), as re- numbered	97.04 97.045	97.20 97.22
97.36, as renum- bered	97.12	97.40
97.38 (4), as re- numbered	97.10 97.11	97.36 97.38
97.42 (2), as renum- bered	97.06 97.07	97.28 97.30
(4) (g), as re- numbered	97.07	97.30
97.72 (4)	97.55 97.555	95.28 95.29
100.06	97.04	97.20

Approved December 8, 1969.