

1971 Assembly Bill 48

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CHAPTER 156, Laws of 1971

AN ACT to renumber 97.05 (5) and 97.10; to renumber and amend 97.05 (1) to (4) and (6) and 97.15; to amend 97.02 (4) and (5), 97.03 (1) (f) and (g) 1 and 2, 97.09 (1), 97.12 (1) (intro.) and (b), 97.20 (1) (i), 97.24 (2) (c), 97.46 (2) and 97.47; and to create 97.10 (2) of the statutes, relating to food standards and labeling requirements, and authorizing injunctive penalties.

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

SECTION 1. 97.02 (4) and (5) of the statutes are amended to read:

97.02 (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 the~~ raw agricultural commodity has been subjected to processing such as canning, cooking, freezing, dehydrating or milling, the residue of ~~such the~~ pesticide chemical remaining in or on ~~such the~~ processed food shall, notwithstanding ~~ss. 97.01 to 97.15 other provisions in this section~~, not be deemed unsafe if ~~such the~~ 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 other provisions in this section~~.

SECTION 2. 97.03 (1) (f) and (g) 1 and 2 of the statutes are amended to read:

97.03 (1) (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~~ s. 97.09 unless it conforms to such definition and standard and its label, except when its label complies with the fed-

eral act, bears the name of the food specified in the definition and standard and the common names of ingredients present in such food.

(g) 1. A food for which a standard of quality has been prescribed under ~~ss. 97.01 to 97.15~~ s. 97.09 and its quality falls below such standard unless its label bears, in ~~such the~~ 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~~ s. 97.09 and it falls below the standard of fill of container applicable thereto, unless its label bears, in ~~such the~~ manner and form as such regulations specify, a statement that it falls below such standard.

SECTION 3. 97.05 (1) to (4) of the statutes are renumbered 97.03 (2) (a), (b), (c) and (d) and amended to read:

97.03 (2) (a) Packages of fresh fruits and vegetables, the contents of which are plainly visible to the purchaser shall be exempt from labeling requirements under ~~ss. 97.01 to 97.15~~ this section 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 the~~ quantity.

(b) A food ~~shall be~~ is exempt from labeling requirements under ~~this chapter s. 97.03~~ if the food, having been received in bulk containers by a retailer, is packaged by ~~such the~~ 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.

(c) Sausage enclosed in a casing ~~shall be~~ is exempt from the labeling requirements under ~~this chapter s. 97.03~~ 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; but if the sausage is weighed at the time of sale a statement of weight ~~shall is~~ is not be required. If encased sausage is placed in another package, labeling requirements of ~~shall s. 97.03~~ s. 97.03 apply.

(d) 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 labeling requirements under ~~this chapter s. 97.03~~ 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 under ~~this chapter s. 97.03~~ s. 97.03.

SECTION 4. 97.05 (5) of the statutes is renumbered 97.10 (3).

SECTION 5. 97.05 (6) of the statutes is renumbered 97.03 (2) (e) and amended to read:

97.03 (2) (e) A food shall be exempt from the labeling requirements under this chapter if the food, in accordance with the practice ~~with of~~ of 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 6. 97.09 (1) of the statutes is amended to read:

97.09 (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 s. 97.03~~. 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.

SECTION 7. 97.10 of the statutes is renumbered 97.10 (1).

SECTION 8. 97.10 (2) of the statutes is created to read:

97.10 (2) It is unlawful to manufacture, prepare for sale, store, or sell food unless the food is protected from filth, flies, dust or other contamination or unclean, unhealthful or insanitary conditions.

SECTION 9. 97.12 (1) (intro.) and (b) of the statutes are amended to read:

97.12 (1) (intro.) For the purpose of enforcing ~~ss. 97.01 to 97.15~~ this chapter, 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:

(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~~ this chapter.

SECTION 10. 97.15 of the statutes is renumbered 97.73 and amended to read:

97.73 In addition to penalties applicable to ~~ss. 97.01 to 97.15 under s. 97.72~~ this chapter, 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~~ provisions of this chapter and rules issued thereunder.

SECTION 11. 97.20 (1) (i) of the statutes is amended to read:

97.20 (1) (i) "Grade A dairy plant" means any dairy plant, including a receiving station, manufacturing, processing or receiving and shipping grade A milk or grade A milk products as defined in s. 97.24 (1), ~~and includes any plant manufacturing or processing and selling certified milk or certified milk products as prescribed in s. 97.046 (2)(e).~~

SECTION 12. 97.24 (2) (c) of the statutes is amended to read:

97.24 (2) (c) This section ~~shall~~ does not apply to incidental sales of milk directly to consumers at the farm where ~~such~~ the milk is produced; ~~or to incidental sales of pasteurized milk and cream at the dairy plant licensed under s. 97.20, or to certified milk and milk products approved by the department as conforming to methods and standards for the production of certified milk (published by the American Association of Medical Milk Commissions, Inc.).~~

SECTION 13. 97.46 (2) of the statutes is amended to read:

97.46 (2) This section shall not be construed to prohibit the sale of dietary foods containing saccharin in containers labeled in accordance with s. 97.03, nor the use of sulphur dioxide or sulphites as anti-oxidants in the processing of potatoes, frozen apples, grape juice, reconstituted lemon juice or reconstituted lime juice provided such foods contain not more than 350 parts per million SO₂; nor the use of sulphur dioxide in molasses or in the processing of dried fruits, ~~dried vegetables or fruit pectin~~ in amounts no more than may be necessary in good manufacturing practice. Any person who refreezes or offers for sale any refrozen fruit containing sulphur dioxide or sulphites as anti-oxidants in not more than 350 parts per million, may be fined not less than \$100 nor more than \$500 or imprisoned not more than 3 months or both, and for each subsequent offense may be fined not less than \$500 nor more than \$1,000 or imprisoned in the county jail not less than 6 months nor more than one year. The department may promulgate rules limiting the quantity therein for any such dried fruit, ~~dried vegetables, fruit pectin~~ or molasses.

SECTION 14. 97.47 of the statutes is amended to read:

97.47 ~~It is unlawful to~~ No person shall sell, offer or expose for sale or have in possession with intent to sell for use or consumption in this state, any meat products, dairy products, sauerkraut, pickles or pickled vegetables, which contain added benzoic acid or benzoates; or any other article of food as defined in s. 97.01 which contains added benzoic acid or benzoates in excess of one-tenth of one per cent. The presence ~~and the amount used~~ shall be stated on the label. 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, this section shall be construed as applying only when said products are ready for consumption.
