

No. 296, S.]

[Published June 21, 1929.

CHAPTER 200.

AN ACT to create section 98.32 of the statutes, relating to high moisture cheese.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. A new section is added to the statutes to read: 98.32 (1) Whenever the dairy and food commissioner or any of his duly qualified inspectors or any duly qualified inspector of the department of markets shall find in any cheese factory or cheese warehouse any cheese which appears to contain, and which the dairy and food commissioner 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, he shall obtain fair and representative samples of such cheese marked for identification to be forwarded to the dairy and food commissioner for analysis. At the time of obtaining the samples he shall notify the owner or custodian of such cheese in writing that the sale thereof appears to be in violation of law.

(2) The dairy and food commissioner 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 dairy and food commissioner 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 dairy and food commissioner 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 dairy and food commissioner 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 352.03 or sections 352.06 or 352.36 of the statutes.

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

Approved June 19, 1929.