

## CHAPTER 31

## FOODS; FOODS AND FROZEN FOODS

**31.01 DEFINITIONS.**

**HISTORY.** 1921 c. 495 ss. 3, 5, 84; G.S. 1923 ss. 3790, 3792; M.S. 1927 ss. 3790, 3792, 3871; 1937 c. 101 s. 1; M. Supp. s. 3827-6; 1941 c. 62 s. 1.

**31.02 UNLAWFUL TO SELL CERTAIN FOODS.**

**HISTORY.** 1921 c. 495 s. 2; G. S. 1923 s. 3789; M. S. 1927 s. 3789.

In an action to recover damages for injuries to plaintiff caused by eating impure food purchased at defendant's bakery, there was a proper recovery. *Cermak v Sevcik*, 211 M 432, 1 NW(2d) 399; 215 M 203, 9NW(2d) 508.

Sale by farmer. A farmer who sells a steer to another who he knows intends to butcher it for food cannot be prosecuted for selling deleterious food when the animal is later found to be tubercular. 1924 OAG 101.

Since the adoption of the federal rules of civil procedure a complaint is not defective merely because it joins causes of action in tort and in contract. Federal Rules Service, Page 238.

Brief at length on constitutionality of delegation of power by the legislature permitting the commissioner to make rules and regulations having the force and effect of law. 1942 OAG 85, Feb. 18, 1942 (135-B-1).

While the provisions of sections 31.02 to 31.17 and 31.28 to 31.43 broaden the duties of the county attorney, he is not required to act as a police officer or detective or to institute criminal proceedings unless evidence or information is furnished to him. 1942 OAG 189, Nov. 10, 1942 (121B-7).

The offering for sale of confectionery labeled "gems, rum and butter", which was artificially flavored, but contained no rum or butter, is illegal. OAG June 9, 1944 (135b-5).

Liability of manufacturer to sub-purchaser for breach of express warranty. 25 MLR 98.

**31.03 FOOD, WHEN DEEMED ADULTERATED.**

**HISTORY.** 1921 c. 495 s. 4; G. S. 1923 s. 3791; 1925 c. 167 s. 1; M. S. 1927 s. 3791.

The statute is not directed against the quantity or degree of adulteration but against all adulteration that lessens the quality of food. The state is not bound to adhere to the standards federal agencies set up for foods. *State v Eidsvold Cry. Co.* 156 M 27, 194 NW 17.

**31.04 RIGHT OF INSPECTION.**

**HISTORY.** 1921 c. 495 s. 9; G. S. 1923 s. 3798; M. S. 1927 s. 3798.

**31.05 SEIZURE, SEARCH WARRANTS.**

**HISTORY.** 1921 c. 495 s. 10; G. S. 1923 s. 3799; M. S. 1927 s. 3799.

The supreme court has upheld the summary seizure and destruction of milk sold in violation of law. *Nelson v City of Mpls.* 112 M 16, 127 NW 445; 1934 OAG 680, Mar. 15, 1933 (412a-24).

**31.06 EXECUTION OF WARRANT; DISPOSITION OF FOOD SEIZED.**

**HISTORY.** 1921 c. 495 s. 11; G. S. 1923 s. 3800; M. S. 1927 s. 3800.

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Courts may refrain from exercising power to render an in personam judgment against parties before court in an in rem proceeding if by doing so it would impair substantial rights, but where it will further the ends of justice and eliminate multiplicity of actions, and save expense to the parties, the power should be invoked. *United States v 184 Barrels of Dried Eggs*, 53 F. Supp. 652.

### 31.07 PRICE NOT COLLECTIBLE.

HISTORY. 1921 c. 495 s. 12; G. S. 1923 s. 3801; M. S. 1927 s. 3801.

### 31.08 ADDITIONAL POWERS AND AUTHORITY.

HISTORY. 1921 c. 495 s. 13; G. S. 1923 s. 3802; M. S. 1927 s. 3802.

### 31.09 COMMISSIONER TO RENDER CERTAIN FOOD UNSALABLE.

HISTORY. 1921 c. 495 s. 14; G. S. 1923 s. 3803; M. S. 1927 s. 3803.

### 31.10 OTHER DEFINITIONS AND STANDARDS PROMULGATED.

HISTORY. 1921 c. 495 s. 15; G. S. 1923 s. 3804; M. S. 1927 s. 3804.

### 31.11 RULES AND REGULATIONS.

HISTORY. 1921 c. 495 s. 16; G. S. 1923 s. 3805; M. S. 1927 s. 3805.

### 31.12 LABELING.

HISTORY. 1921 c. 495 s. 17; G. S. 1923 s. 3806; M. S. 1927 s. 3806.

### 31.13 ANALYSIS; EVIDENCE.

HISTORY. 1921 c. 495 s. 18; G. S. 1923 s. 3807; M. S. 1927 s. 3807.

### 31.14 DUTY TO PROSECUTE.

HISTORY. 1921 c. 495 s. 19; G. S. 1923 s. 3808; M. S. 1927 s. 3808.

While it is the duty of the county attorney to prosecute when furnished with sufficient evidence and information, he need not function as a police officer or detective. 1942 OAG 189, Nov. 10, 1942 (121B-7).

### 31.15 DISPOSAL OF RECEIPTS.

HISTORY. 1921 c. 495 s. 20; G. S. 1923 s. 3810; M. S. 1927 s. 3810.

Fines and forfeitures not specially granted or appropriated by law shall be paid into the treasury of the county where the offense occurred. 1934 OAG 11, Aug. 3, 1934 (135a-4).

### 31.16 PROTECTION OF MEAT.

HISTORY. 1921 c. 495 s. 36; G. S. 1923 s. 3825; M. S. 1927 s. 3825.

### 31.17 VEAL.

HISTORY. 1921 c. 495 s. 37; G. S. 1923 s. 3826; M. S. 1927 s. 3826.

### 31.18 KOSHER AND NON KOSHER NOT TO BE USED WRONGFULLY.

HISTORY. 1929 c. 388 s. 1; M. Supp. s. 3826-1.

### 31.185 FROZEN FOOD LOCKER PLANTS.

HISTORY. 1943 c. 276.

**31.19 MANUFACTURERS OF FROZEN FOODS TO OBTAIN LICENSE.**

HISTORY. 1937 c. 101 s. 2; M. Supp. s. 3827-7.

**31.20 INSPECTION OF FROZEN FOODS.**

HISTORY. 1937 c. 101 s. 3; M. Supp. s. 3827-8.

**31.21 LICENSE FOR EACH PLANT.**

HISTORY. 1937 c. 101 s. 4; M. Supp. s. 3827-9.

**31.22 NON-RESIDENT MANUFACTURERS TO OBTAIN LICENSE.**

HISTORY. 1937 c. 101 s. 5; M. Supp. s. 3827-10.

**31.23 EXPIRATION OF LICENSES.**

HISTORY. 1937 c. 101 s. 6; M. Supp. s. 3827-11.

**31.24 LICENSES MAY BE REVOKED.**

HISTORY. 1937 c. 101 s. 7; M. Supp. s. 3827-12.

**31.25 ALL CONTAINERS SHALL BE LABELED.**

HISTORY. 1937 c. 101 s. 8; M. Supp. s. 3827-13.

This act is intended to eliminate imitation in trade. So imitation ice cream must not be used in mixing cold drinks. OAG Feb. 4, 1944 (136d).

**31.26 PLANTS KEPT SANITARY.**

HISTORY. 1937 c. 101 s. 9; M. Supp. s. 3827-14.

**31.27 MILK MUST BE PASTEURIZED.**

HISTORY. 1937 c. 101 s. 10; M. Supp. s. 3827-15.

**31.28 SANITARY FOOD LAW.**

HISTORY. 1921 c. 495 s. 43; G. S. 1923 s. 3832; M. S. 1927 s. 3832.

The apparent purpose of the federal rule permitting the impleader of a party "who is or may be liable" is to provide suitable machinery whereby the rights of all parties may be determined in one proceeding. In the instant case a restaurateur sued by his patrons because they alleged they were made ill by ham served to them, might bring in Swift & Company as a third party defendant. Jeub v B/G. Foods Inc., 2 FRD 238.

**31.29 REMOVAL OF INSANITARY CONDITIONS.**

HISTORY. 1921 c. 495 s. 44; G. S. 1923 s. 3833; M. S. 1927 s. 3833.

**31.30 EMPLOYMENT OF DISEASED PERSON.**

HISTORY. 1921 c. 495 s. 45; G. S. 1923 s. 3834; M. S. 1927 s. 3834.

The contract between the cities of Breckenridge and the North Dakota authorities of cooperative milk inspection service, lacked legislative authority. 1942 OAG 237, Dec. 29, 1941 (292-B).

**31.31 COMMERCIAL CANNERIES; SUPERVISION; SANITARY CONDITIONS.**

HISTORY. 1921 c. 495 s. 46; G. S. 1923 s. 3835; 1927 c. 177 s. 1; M. S. 1927 s. 3835.

**31.32 REPORTS; INFORMATION FURNISHED.**

HISTORY. 1921 c. 495 s. 47; G. S. 1923 s. 3836; M. S. 1927 s. 3836.

**31.33 COMMERCIAL CANNERIES LICENSED.**

HISTORY. 1921 c. 495 s. 48; G. S. 1923 s. 3837; 1927 c. 177 s. 3; M. S. 1927 s. 3837.

**31.34 INSPECTOR OF CANNERIES.**

HISTORY. 1921 c. 495 s. 49; G. S. 1923 s. 3838; M. S. 1927 s. 3838.

**31.35 INSPECTORS AT COMMERCIAL CANNERIES.**

HISTORY. 1921 c. 495 s. 50; G. S. 1923 s. 3839; 1927 c. 177 s. 3; M. S. 1927 s. 3839.

**31.36 RULES AND REGULATIONS FOR CANNERIES.**

HISTORY. 1921 c. 495 s. 51; G. S. 1923 s. 3840; M. S. 1927 s. 3840.

**31.37 NOTICE OF INTENTION TO OPERATE.**

HISTORY. 1921 c. 495 s. 52; G. S. 1923 s. 3841; M. S. 1927 s. 3841.

**31.38 CERTIFICATE OF INSPECTION, COMMERCIAL CANNERIES; LABELS, BRANDS.**

HISTORY. 1921 c. 495 s. 53; G. S. 1923 s. 3842; 1927 c. 177 s. 4; M. S. 1927 s. 3842.

**31.39 ASSESSMENTS FOR INSPECTIONS AND SERVICES; COMMERCIAL CANNERIES INSPECTION ACCOUNT; PENALTY FOR NON-PAYMENT.**

HISTORY. 1921 c. 495 s. 54; G. S. 1923 s. 3843; 1927 c. 177 s. 5; M. S. 1927 s. 3843.

**31.40 CONSTRUCTION.**

HISTORY. 1921 c. 495 s. 78; G. S. 1923 s. 3865; M. S. 1927 s. 3865.

**31.41 EVIDENCE OF INTENT; ACT OF AGENT THAT OF PRINCIPAL.**

HISTORY. 1921 c. 495 s. 84; G. S. 1923 s. 3871; M. S. 1927 s. 3871.

**31.42 NOT TO AFFECT THE FEEDING STUFF CONTROL LAW.**

HISTORY. 1921 c. 495 s. 80; G. S. 1923 s. 3867; M. S. 1927 s. 3867.

**31.43 CERTAIN LAWS NOT REPEALED.**

HISTORY. 1921 c. 495 s. 81; G. S. 1923 s. 3868; M. S. 1927 s. 3868.

**31.435 SALE OF HORSE MEAT.**

HISTORY. 1943 c. 446 ss. 1 to 4.

**31.44 VIOLATIONS; PENALTIES.**

HISTORY. 1921 c. 495 ss. 20, 55; 1923 c. 379 s. 1; G. S. 1923 ss. 3809, 3844; 1925 c. 385 s. 1; 1927 c. 177 s. 6; M. S. 1927 ss. 3809, 3844; 1937 c. 101 s. 11; M. Supp. s. 3827-16.