

CHAPTER 32

DAIRY PRODUCTS

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32.01 DEFINITIONS. Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the words defined in this section, shall for the purposes of this chapter, have the meanings given to them.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 3. **Department.** "Department" means the department of agriculture.

Subd. 4. **Person.** "Person" means an individual, firm, partnership, association, or corporation.

Subd. 5. [Repealed, 1961 c 147 art 3 s 3]

Subd. 6. **Dairy plant.** "Dairy plant" means any place where a dairy product is manufactured, processed, or handled and includes milk-receiving stations, creameries, cheese factories, condenseries, milk plants, transfer stations, cream stations, marketing organizations not operating dairy plants, but purchasing milk and cream directly from producers for resale, and other establishments, as those terms are used in chapters 17, 27, 31, 32, 32A, 32B, and 33; but does not include a dairy farm or an establishment where no dairy products are processed, but dairy products are sold at wholesale or retail only.

Subd. 7. **Babcock test.** "Babcock test" means the official Babcock test for milk and cream as set forth in section 32.25.

Subd. 8. Overrun. "Overrun" is the difference between the weight of any given amount of pure butterfat and the weight of the butter manufactured therefrom; and this difference, ascertained in any case, divided by the given amount of pure butterfat in such case and multiplied by 100, is the "percentage of overrun" in the manufacture of butter.

Subd. 9. Milk-receiving station. "Milk-receiving station" means any dairy plant where raw milk for pasteurization or for manufacture is received, handled, or prepared for processing or for resale as unpasteurized milk or fluid milk products.

Subd. 10. Dairy product. "Dairy product" means milk, cream, any product or by-product of either, or any commodity among the principal constituents or ingredients of which is one or a combination of two or more of them, as determined by standards, grades, rules, or regulations duly adopted by the commissioner.

Subd. 11. Adulterated. "Adulterated" has the meaning given it in section 31.01, subdivision 19, and acts amendatory thereof.

Subd. 12. Misbranded. "Misbranded" or "misbranding" has the meaning given in section 31.01, subdivision 5, and acts amendatory thereof.

[1921 c 495 s 84; 1927 c 162 s 1; 1927 c 169 s 1; 1935 c 61 s 1; 1949 c 192 s 2; 1949 c 196 s 1; 1955 c 146 s 1-4; 1961 c 113 s 1; 1961 c 147 art 1 s 1-3; 1967 c 219 s 1; 1971 c 339 s 25] (3821-1, 3871, 3873-1, 3928-4)

ENFORCEMENT OF CHAPTER

32.02 [Repealed, 1949 c 196 s 3]

32.021 DUTIES AND POWERS OF COMMISSIONER. Subdivision 1. The commissioner shall be charged with the enforcement of the provisions of this chapter.

Subd. 2. For the purpose of enforcing the provisions of chapter 32 and amendatory acts the commissioner, his assistants, agents, and employees, shall have the power and authority granted under the provisions of sections 31.02 to 31.171.

[1935 c 61 s 8; 1949 c 192 s 2; 1961 c 147 art 2 s 1; 1974 c 84 s 37] (3928-11)

LICENSING OF MILK AND CREAM TESTERS

32.03 [Repealed, 1949 c 196 s 3]

32.04 [Repealed, 1949 c 196 s 3]

32.05 [Repealed, 1949 c 196 s 3]

32.06 [Repealed, 1949 c 196 s 3]

32.07 [Repealed, 1949 c 176 s 10; 1949 c 196 s 3]

32.071 MILK AND CREAM BUYER AND TESTER, LICENSE. No person shall operate a milk or cream testing apparatus for the purpose of determining the percentage of butterfat in milk or cream, and no person shall grade milk or cream either by apparatus or by an organoleptic method for the purpose of purchasing the same either for himself or others without first securing a license from the commissioner as hereinafter provided.

[1949 c 176 s 1]

32.072 APPLICATION FOR LICENSE. Any person desiring to secure such license shall make application therefor on forms to be prepared and provided by the commissioner, and before a license is issued the commissioner shall determine that the applicant is competent and qualified to use such testing apparatus and to make accurate tests with them, and to make accurate organoleptic tests. No person who is not a resident of the United States shall be licensed under the provisions of sections 32.071 to 32.078.

[1949 c 176 s 2]

32.073 LICENSES; EXAMINATIONS, QUALIFICATIONS. A grading and testing license shall be issued by the commissioner to a person making application therefor, after the commissioner has determined that the applicant is competent and qualified to grade and test milk and cream, and that the applicant understands and is familiar with the provisions of sections 32.01 to 32.532. Any conviction for violating sections 32.01 to 32.532 or the standards, grades, rules, and regulations adopted by the commissioner shall be taken into consideration in determining whether or not the applicant is competent and qualified.

[1949 c 176 s 3; 1955 c 835 s 1]

32.074 LICENSED DAIRY PLANT; LICENSED PERSON TO GRADE AND TEST. Every milk and cream buyer shall maintain at each licensed dairy plant

where milk and cream is purchased, a licensed person to grade and test milk and cream. Any person gathering cream or milk and transporting it by bulk pickup and not in individual containers from farm to plant shall have a license to grade and sample such milk and cream.

[1949 c 176 s 4; 1953 c 679 s 1]

32.075 TERM OF LICENSE; TRANSFERABILITY; FEES AND PENALTIES.

Every license issued by the commissioner shall be for a period ending on the thirty-first day of December next following, and shall not be transferable. The fee for each such annual license or renewal thereof shall be \$5 and shall be paid to the commissioner before any license or renewal thereof is issued. If a license renewal is not applied for on or before January 1 of each year a penalty of 25 percent of the license fee shall be imposed. A person who does not renew his license within one year following its December 31 expiration date, except those persons who do not renew such license while engaged in active military service, shall be required to prove his competency and qualification pursuant to section 32.073, before a license is issued. The commissioner may require any other person who renews his license to prove his competency and qualification in the same manner. All license fees and penalties received by the commissioner shall be paid into the state treasury.

[1949 c 176 s 5; 1955 c 820 s 5; 1959 c 19 s 3; 1963 c 102 s 1; 1963 c 123 s 4; 1969 c 1148 s 9]

32.076 OFFENSES. The grading or testing of each lot of milk and cream by an unlicensed person shall constitute a separate offense.

[1949 c 176 s 6]

32.077 PENALTY. Any person violating any of the provisions of sections 32.071 to 32.078 shall be guilty of a misdemeanor.

[1949 c 176 s 7; 1971 c 23 s 2]

32.078 SUSPENSION OR CANCELATION. The commissioner is empowered to suspend or cancel any license issued pursuant to the provisions of sections 32.071 to 32.077 after a hearing upon written notice containing the grounds therefor, which notice shall be served personally upon the licensee or his agent at least five days prior to such hearing.

[1949 c 176 s 8]

32.08 [Repealed, 1961 c 147 art 4 s 2]

DAIRY PLANT LICENSING AND INSPECTION

32.09 [Repealed, 1971 c 339 s 27]

32.10 LICENSES; SUSPENSION, REVOCATION. When any person licensed under sections 28A.04 and 32.10 shall have been convicted of a violation of any provision of any law of this state relating to the manufacture or sale of butter or cheese or other dairy products, or the operation of dairy plants, or other establishments in which dairy products or goat milk, as defined in section 32.391, subdivision 1, are manufactured, processed, or handled, or for transportation, or of any provision of any rule or regulation of the commissioner made and promulgated under the provisions of law or there has been a continued course of conduct by such licensee or any agent, representative or employee of such licensee which deceives or defrauds producers or consumers, his license (1) may be suspended for the time stated in order of suspension, (2) may be revoked or canceled by the commissioner, or (3) upon application for a renewal license, the commissioner may refuse to issue the same, upon ten days' written notice with opportunity to be heard. The commissioner shall promulgate procedural rules and regulations governing the notice, hearing, evidence, findings, order, and record to be kept in such hearings, in the manner provided by law. Upon conviction of a second or any subsequent offense, the commissioner may revoke and cancel such license with or without notice of hearing, in his discretion, and in such case the commissioner shall not issue another license for the operation of such plant or establishment for a term of one year from the date of such cancelation or revocation.

[1927 c 187 s 3; 1955 c 608 s 1; 1961 c 147 art 3 s 2; 1963 c 101 s 2; 1973 c 35 s 11] (3935-3)

32.101 PENALTY. Any person who shall violate any of the provisions of sections 28A.04 and 32.10 shall be guilty of a misdemeanor; and, upon conviction, punished by a fine of not less than \$25, or by imprisonment for not less than 30

days; and for each subsequent offense, by a fine of not less than \$50, or by imprisonment for not less than 60 days.

[1927 c 187 s 2; 1973 c 35 s 12] (3935-2)

32.102 PROSECUTIONS. It shall be the duty of every prosecuting officer to whom the commissioner shall report any violation of sections 28A.04 and 32.10 to cause appropriate proceedings to be instituted and to be prosecuted in the proper courts, without delay, for the enforcement as in such cases therein provided. All fines imposed and paid thereunder shall be paid into the state treasury.

[1927 c 187 s 5; 1973 c 35 s 13] (3935-5)

32.103 INSPECTION OF DAIRIES. At such time as he may deem proper, the commissioner shall cause to be inspected all places where dairy products are made, stored, or served as food for pay, and all places where cows are kept by persons engaged in the sale of milk or cream, and shall require the correction of all insanitary conditions and practices found therein.

Every refusal or neglect to obey any lawful direction of the commissioner, or his agent, given in carrying out the provisions of this section, shall be deemed a misdemeanor.

[1921 c. 495 s. 30] (3819)

32.104 LOCAL INSPECTION. Notwithstanding any law to the contrary, the governing authority of any municipal corporation or other subdivision of state government may, by ordinance, provide for the inspection of milk, cream, butter, or other dairy products sold within its limits, and of dairy plants, dairy farms and dairy herds kept for the production of such milk, cream, butter, or other dairy products and may prescribe the terms upon which such sales may be made and fix penalties for violation thereof, but no such ordinance shall conflict with any law of this state, or with any regulation of the commissioner for the inspection of dairy herds or dairy plants or dairy farms or impose any additional requirement for the sale of milk, cream, butter or other dairy products processed outside the corporate limits of the municipality than is imposed by law or by the regulations of the commissioner, or require a duplication of inspection of dairy plants, dairy farms, or dairy herds producing milk, cream, butter or other dairy products sold within its corporate limits, or otherwise interfere with any power or duty of the commissioner or his official subordinates.

When a dairy plant is licensed by the commissioner of agriculture, the plant, including all distribution facilities and vehicles, is exempt from the licensing requirements of any subdivision of state government except for licensing requirements which the city in which the plant is located may impose.

[1921 c 495 s 31; 1957 c 885 s 1; 1965 c 118 s 1; 1967 c 313 s 1; 1973 c 123 art 5 s 7] (3820)

DAIRY PRODUCT CONTAINERS; CLEANING, RETURN

32.106 MULTI-USE DAIRY PRODUCT CONTAINERS. Subdivision 1. **Cleaning.** Before being reused, dairy product containers which may be used more than once shall be cleaned in accordance with rules and regulations promulgated in the manner provided by law by the commissioner, except, that in no instance shall such rules serve to eliminate any producers product from the market, whose present method of production, bears no evidence of endangering the health of the consumers. All rules and regulations heretofore adopted by the commissioner relating to the cleaning of dairy product containers which are in effect at the time Laws 1961, Chapter 147, Article 4, Section 1 takes effect and which are not in conflict with this section, shall remain in effect until amended, modified, or repealed by the commissioner.

Subd. 2. **Return.** Every person, receiving any dairy product in containers which may be used more than once and which are to be returned to the sender or seller shall cause such containers to be promptly emptied, thoroughly cleansed as required by rules and regulations promulgated by the commissioner, and immediately returned.

[1921 c 495 s 27; 1957 c 119 s 1; 1961 c 147 art 4 s 1] (3816)

DISCRIMINATION BY PURCHASERS OF DAIRY PRODUCTS

32.11 DISCRIMINATION IN BUYING. Any person, firm, copartnership, or corporation engaged in the business of buying milk, cream or butterfat for manufacture or for sale of such milk, cream, or butterfat, who shall discriminate between different sections, localities, communities, or cities of this state, or who shall

discriminate between persons in the same section, locality, community or city of this state, by purchasing such commodity at a higher price or rate from one person or in one locality than is paid for the same commodity by such person, firm, copartnership, or corporation in the same locality or in another locality, after making due allowance for the difference, if any, in the reasonable cost of transportation from the locality of purchase to the locality of manufacture or locality of sale of such milk, cream, or butterfat, shall be deemed guilty of unfair discrimination, which is a misdemeanor.

[1921 c 305 s 1; 1923 c 120 s 1; 1955 c 876 s 1; 1971 c 23 s 3] (3907)

32.12 EVIDENCE OF DISCRIMINATION; COST OF TRANSPORTATION; COMPETITION. Subdivision 1. Proof that any person, firm, copartnership, or corporation has paid a higher price for milk or cream or butterfat in one locality or to one person in the same locality than to another, or to another person in the same locality, after due allowance for the reasonable cost of transportation has been made, shall be prima facie evidence of the violation of section 32.11.

Subd. 2. Wherever the transportation cost actually paid for hauling cream shall be 2 cents or more per pound for butterfat therein contained, and 15 cents per one hundred pounds for transportation of whole milk, such transportation charge shall be deemed a compliance with the terms of section 32.11 as to reasonable cost of transportation.

Subd. 3. It shall not be unfair discrimination for any person to pay, in any section, locality, community, or city in this state, a price equal to that actually paid on the same day by any bona fide competitor in such place for milk, cream or butterfat of the same kind, quality and grade, provided such price is paid in a good faith effort to meet such competition, but the burden of proving such facts shall be upon the person charged with violation of section 32.11.

[1921 c 305 s 2; 1955 c 876 s 2; 1973 c 123 art 5 s 7] (3908)

32.13 [Repealed, 1961 c 147 art 3 s 3]

32.14 [Repealed, 1961 c 147 art 3 s 3]

32.15 [Repealed, 1961 c 147 art 3 s 3; 1961 c 147 art 4 s 2]

32.16 [Repealed, 1961 c 147 art 3 s 3]

32.17 [Repealed, 1961 c 147 art 3 s 3]

DAIRY INDUSTRY RECORDS AND RELATED REGULATORY LAWS

32.18 RECORDS, CONTENTS. Every person engaged in the purchase, manufacture, or sale of dairy products, and all dairy plant owners or operators shall keep in proper books true and full records of all milk, cream, butterfat, and other dairy products manufactured, purchased, received, shipped, stored, or handled by them each day; the number of pounds of butter and the number, weight, style and composition of cheese made each day, and the amount of butterfat used or utilized in the form of other dairy products, the net price received for all butter and cheese sold, the cost per pound for the manufacture of such butter or cheese, the amount of overrun of butter manufactured from butterfat and cream, the average test of cream and of milk and butterfat purchased, manufactured, sold or handled, and all items of operating cost and expense of such person, owner, or operator, including the salaries, wages, commission, per diem, or other form of compensation, of all employees, officers, directors, and others, and such other information and in such form as the commissioner shall specify or require by rules or regulations adopted as required by law.

[1927 c 169 s 2; 1955 c 660 s 1; 1963 c 91 s 1] (3873-2)

32.19 REPORTS; CONTENTS NOT TO BE DIVULGED, PENALTY. Every person, owner, or operator required by section 32.18 to maintain daily records on milk, cream, butterfat and other dairy products shall, within 90 days following the close of each fiscal year and at such other times as the commissioner may fix or require, by rules and regulations adopted as required by law, make and file with the commissioner, on blank forms prepared by him, itemized and verified reports of all business transacted by him, as set out in section 32.18, during the preceding fiscal year. Such reports shall contain such further information as, from time to time, may be required by the commissioner. A duplicate copy thereof shall be retained by such person, owner, or operator in his files, which shall be subject to examination by the commissioner at any time. It shall be unlawful for the commissioner, or any public official or employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any report or return re-

quired by this section, or any information concerning the business transacted by any such person, owner or operator so reporting, acquired from his or its records, officers or employees while examining or inspecting any of his or its books or records kept and maintained as required by section 32.18, except as such information is required or authorized to be disclosed in a judicial proceeding by order of the district court. Except as last stated and with the authority there required, any person violating the provision of this section establishing the confidential character of such information and the reports or returns required to be made and filed with the commissioner shall be guilty of a gross misdemeanor.

Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular returns or reports or any item or entry therein contained.

[1927 c 169 s 3; 1947 c 290 s 1; 1955 c 660 s 2] (3873-3)

32.20 INSPECTION OF BOOKS AND RECORDS. The books and records of all persons, owners, and operators coming within the provisions of section 32.18 shall be open for the inspection of the commissioner and his deputies and employees at all times, who shall make such examination thereof as is desired or deemed necessary by the commissioner.

[1927 c 169 s 4] (3873-4)

32.201 PENALTY. Any person violating any of the provisions of sections 32.18 to 32.20 shall be guilty of a misdemeanor.

[1927 c 169 s 5] (3873-5)

32.203 OVERRUN IN EXCESS OF 24 PERCENT UNLAWFUL. It shall be, and it is hereby declared to be, unlawful for any person to have or permit a percentage of overrun in excess of 24 percent in butter manufactured by him.

[1927 c. 162 s. 2] (3821-2)

32.204 EVIDENCE FOR PROSECUTIONS. The reports required by law to be made and which are made to the commissioner by persons engaged in the manufacture of butter shall be competent evidence in any prosecution under sections 32.203 and 32.204 against the person making the same, and when such reports, received in evidence upon the trial, show that during a period of one month or more the person on trial and charged with a violation thereof alleged to have been committed on a certain date within that period, has had or permitted an average percentage of overrun in excess of 24 percent in the butter manufactured by him during that period, such showing shall be prima facie evidence of a violation thereof by the person so charged, committed as of the date alleged.

[1927 c. 162 s. 4] (3821-4)

32.205 PENALTY. Any person violating any provisions of sections 32.203 and 32.204 shall be guilty of a misdemeanor, the minimum punishment for which shall be a fine of \$25, or imprisonment for 20 days.

[1927 c 162 s 3] (3821-3)

32.206 AUDIT OF BOOKS BY COMMISSIONER. When complaint shall be made to the commissioner that any person, firm, or corporation is violating the provisions of 32.203 and 32.204, or when the commissioner shall have reason to believe that any person, firm, or corporation is violating the provisions thereof, he may cause the books and records of the person, firm, or corporation alleged to be violating sections 32.203 and 32.204 to be examined and audited by a competent accountant familiar with creamery practices and the handling of books and accounts of creameries. This audit shall be made for the purpose of aiding in determining whether or not there has been such a violation.

[1931 c. 414 s. 1] (3821-5)

32.207 BUTTERFAT, NONFAT MILK SOLIDS, SALES IN EXCESS OF PURCHASES. It shall be and it is hereby declared to be unlawful for any person to sell or to permit any of his employees, agents, officers, directors or other representatives to sell butterfat or nonfat milk solids in butter, cheese, milk, cream, or any other dairy products in excess of the number of pounds of butterfat or nonfat milk solids contained in the milk, cream, or other dairy products shown by his books and records as received by such person.

[1955 c 300 s 1; 1965 c 310 s 1]

32.208 CUSTOM FACTORIES; WITHHOLDING OF DAIRY PRODUCT PROHIBITED. No person engaged in making butter or cheese for others out of

cream or milk furnished by them shall withhold, or permit to be withheld, any part of the cream or milk so furnished, or any product thereof, without the knowledge and consent of the owner. Every maker shall keep a record as required by sections 32.18 to 32.20. These records shall be exhibited on request of the commissioner and his employees and to all persons furnishing milk and cream to such maker.

[1921 c 495 s 28; 1961 c 147 art 5 s 3] (3817)

MILK AND CREAM

32.21 PURCHASE OR SALE OF UNWHOLESOME OR ADULTERATED MILK OR CREAM PROHIBITED. No person shall sell or knowingly buy unwholesome or adulterated milk or cream. Milk or cream that has not been well cooled and aerated, or to which a preservative has been added; milk drawn from cows kept in crowded conditions or in places not well ventilated or lighted, or which from any cause are filthy or insanitary, or from unclean or diseased cows, or those fed with garbage or any filthy, decayed, putrid, or unwholesome animal or vegetable substance; milk drawn from cows within 15 days before, or five days after calving; and milk or cream which has been kept in any place where bad air exists, and cream taken from unwholesome or adulterated milk, shall be deemed unwholesome and adulterated within the meaning of sections 32.21 and 32.22. Except where otherwise provided by law, milk from which any normal ingredient has been abstracted, or milk containing any substance not a normal constituent thereof, or containing less than three and one-fourth percent of butterfat, and cream in which there is less than 18 percent of butterfat, or which contains any foreign thickening or coloring substance, or any abnormal ingredient whatsoever, shall be deemed adulterated; nor shall any article of food be manufactured from unwholesome or adulterated milk or cream except as provided in section 32.22.

[1921 c 495 s 22; 1961 c 147 art 5 s 1; 1967 c 219 s 2] (3811)

32.211 [Expired 60 days following cessation of hostilities, World War II. Proclamation No. 2714.]

32.212 MILK HOUSES FOR BULK TANKS. Any producer using a bulk tank for cooling and storage of milk to be used for manufacturing purposes shall have an enclosed milk room which shall conform to the standards provided by sections 32.212 and 32.213. The floor shall be constructed of concrete or other impervious material, maintained in good repair, and graded to provide proper drainage. The walls and ceilings of the room shall be sealed and constructed of smooth easily cleaned material. All windows shall be screened and doors shall be self-closing. It shall be well ventilated and must meet the following requirements:

- (1) The bulk tank shall not be located over a drain or under a ventilator.
- (2) The hose port shall be located in an exterior wall and fitted with a tight self-closing door.
- (3) Each milk room shall have an adequate supply of water readily accessible with facilities for heating the water, to insure the cleaning and sanitizing of the bulk tank, utensils and equipment and the keeping of the milk room clean.
- (4) No lights shall be placed directly over the bulk tank.
- (5) The bulk tank shall be properly located in the milk room for easy access to all areas for cleaning and servicing.
- (6) The milkhouse shall be used only for storage of milk, milk utensils, and supplies incidental to the production of milk.
- (7) Sections 32.212 and 32.213 shall become effective July 1, 1965, for all subsequent installations of bulk tanks for milk produced for manufacturing purposes.
- (8) On and after October 1, 1969, sections 32.212 and 32.213 apply to all bulk tank installations existing prior to July 1, 1965.
- (9) After October 1, 1969, no milk processor shall buy milk from any producer of milk using a bulk tank to be used for manufacturing purposes unless such producer has complied with the provisions of section 32.212.
- (10) After July 1, 1965, no person shall install a bulk tank except in a milk room or milkhouse which complies with the provisions of sections 32.212 and 32.213.
- (11) The enforcement of sections 32.212 and 32.213 shall be administered by the Minnesota department of agriculture.

(12) Any person violating any provisions of sections 32.212 and 32.213 shall be punished by a fine of not more than \$50.

[1965 c 530 s 1; 1967 c 257 s 1; 1969 c 337 s 1]

32.213 INFORMATION ON SALE OF BULK TANKS. No bulk tank designed for the cooling and storage of milk shall be sold to anyone other than a wholesaler or dealer in such bulk tanks after July 1, 1965, without the seller delivering to the buyer an exact copy of sections 32.212 and 32.213 at or prior to the time of delivery of such bulk tank to the buyer.

[1965 c 530 s 2]

32.22 SKIMMED MILK. Notwithstanding the provisions of section 32.21, milk from which the cream has been removed, if such milk is otherwise wholesome and unadulterated, may be sold as such to makers of skimmed milk cheese, and by licensed dealers; but in the latter case only from vessels legibly marked "skimmed milk" in plain, common black letters upon a light colored background, each letter being at least one inch high and one-half inch wide, and these words being placed on the top or side of such vessel. These requirements shall not apply to skimmed or separated milk delivered to any patron of a creamery who furnishes milk thereto, but all skimmed milk from creameries and all whey from cheese factories so delivered to patrons shall first be pasteurized at a minimum temperature of 145 degrees Fahrenheit for not less than 30 minutes, or at a minimum temperature of 180 degrees Fahrenheit for continuous flow pasteurization.

[1921 c. 495 s. 23] (3812)

32.23 [Repealed, 1959 c 606 s 12]

32.24 [Repealed, 1959 c 606 s 12]

32.25 MILK, CREAM, SKIM MILK, AND BUTTERMILK BOUGHT BY WEIGHT; BABCOCK AND ALTERNATIVE TESTS. Subdivision 1. **Milk fat and nonfat solids bases of payment; tests.** All milk and cream purchased from producers, and all milk, cream, skim milk, and buttermilk purchased by one dairy plant from another dairy plant for the purpose of resale as such, or for manufacture into dairy products, shall be purchased by weight and payment shall be made therefor upon the basis of milk fat therein contained in the case of milk and cream, and on the basis of nonfat milk solids contained therein in the case of skim milk and buttermilk; provided, that in purchasing whole milk the purchase price of such milk shall be based upon the declared purchase price of 100 pounds of whole milk (1) calculated at three and one half pounds of milk fat per hundredweight, or (2) calculated at three and one half pounds of milk fat per hundredweight and the nonfat solids contained therein. The latter basis shall be used only after the commissioner has promulgated, as provided in this subdivision, rules and regulations for the testing of nonfat solids. When the milk fat test of such whole milk varies from 3.5 percent, a uniform adjustment in the declared purchase price shall be made for each one tenth of one percent of milk fat above or below 3.5 percent.

The percentage of milk fat in such milk and cream shall be determined as follows: (1) By the Babcock test and by employing a standard official method for operating this test, which method shall be that adopted, prescribed, and set forth, with specifications in detail, in the rules and regulations from time to time made and published by the commissioner in the manner provided by law; or (2) by alternative tests which not only determine the percentage of milk fat but also determine the amount of nonfat solids, when the commissioner is satisfied that these alternative tests are consistently as accurate as the Babcock test in determining the percentage of milk fat. The amount of nonfat milk solids in skim milk and buttermilk shall be determined by methods provided for herein. The tests shall be performed in the manner and with equipment prescribed by rules and regulations promulgated by the commissioner in the manner provided by law.

Subd. 2. **Apparatus to conform to specifications.** All glassware, test-bottles, pipettes, acid measures, chemicals, scales, and other apparatus used in the operation of these tests shall conform to the specifications set forth for the particular test method.

Subd. 3. **Penalties for violations.** Any person

(1) who, when testing by the Babcock test, shall use any appliances other than the standard Babcock glassware for measuring or testing milk or cream.

sold or purchased at prices determined upon the basis of milk fat therein contained, or

(2) who shall manufacture or sell Babcock glassware which is not constructed or graduated in accordance with these specifications, or

(3) who shall employ any test other than the Babcock test or those tests authorized by rule and regulation promulgated by the commissioner, or any methods other than the standard official methods for determining the milk fat content of milk or cream, or

(4) who shall incorrectly sample milk or cream purchased or sold, or

(5) who shall incorrectly weigh milk or cream purchased or sold, or

(6) who shall incorrectly grade milk or cream purchased or sold, or

(7) who shall make a false entry of the weight, or test result, or grade of any milk or cream purchased or sold, or

(8) who shall incorrectly sample, weigh, test, or record or report weights or tests of skim milk or buttermilk purchased or sold, or

(9) who shall underread the tests, or

(10) who shall falsify the reading of the tests, or

(11) who shall manipulate the reading of the tests, or

(12) who shall falsely state, certify, or use in the purchase or sale of milk or cream a misreading of such tests, whether the tests or actual reading shall have been made by such person or by any other person, shall be guilty of a misdemeanor.

[1921 c 495 s 26; 1927 c 154 s 1; 1941 c 327 s 1; 1945 c 164 s 1; 1947 c 461 s 1; 1955 c 521 s 1; 1961 c 147 art 5 s 2; 1963 c 90 s 1; 1965 c 310 s 2, 3] (3815)

32.26 [Renumbered 32.106]

32.27 [Renumbered 32.208]

32.28 [Repealed, 1957 c 91 s 1]

32.29 [Renumbered 32.103]

32.30 [Renumbered 32.104]

32.31 [Renumbered 32.471]

32.32 [Renumbered 32.203]

32.33 [Renumbered 32.204]

32.34 [Renumbered 32.206]

32.35 [Repealed, 1947 c 55 s 1]

32.36 [Renumbered 32.472]

32.37 [Renumbered 32.473]

32.38 [Repealed, 1955 c 833 s 1]

32.381 [Renumbered 32.481]

32.382 [Renumbered 32.482]

32.383 [Renumbered 32.483]

32.384 [Renumbered 32.484]

32.385 [Renumbered 32.485]

32.39 [Repealed, 1947 c 104 s 2]

32.391 DEFINITIONS; PASTEURIZATION; COOLING AFTER PASTEURIZATION. Subdivision 1. **Milk; fluid milk products; goat milk.** Milk is defined as the whole, fresh, clean lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. When prepared for market in fluid form, milk shall contain not less than 8.25 percent milk solids-not-fat and not less than 3.25 percent of milk fat. The name "milk", unqualified, means cow's milk.

Fluid milk products shall be taken to mean and include cream, sour cream, half and half, reconstituted half and half, concentrated milk, concentrated milk products, skim milk, nonfat milk, chocolate flavored milk, chocolate flavored drink, chocolate flavored reconstituted milk, chocolate flavored reconstituted drink, buttermilk, cultured buttermilk, cultured milk, vitamin D milk, reconstituted or recombined milk, reconstituted cream, reconstituted skim milk, homogenized milk, and any other fluid milk product made by the addition of any substance to milk or to any of the above enumerated fluid milk products, when the same is declared to be a fluid milk product by rule or regulation promulgated by the commissioner.

Goat milk is a whole, fresh, clean lacteal secretion free from colostrum, obtained by the complete milking of one or more healthy goats.

Subd. 2. **Pasteurization.** The terms "pasteurization," "pasteurized," and similar terms shall be taken to refer (a) to the process of heating every particle of

milk, fluid milk products, or goat milk, in properly operated equipment approved by the commissioner, to a temperature of least 143 degrees Fahrenheit and holding such temperature for at least 30 minutes, or (b) to the process of heating every particle of milk, fluid milk products, or goat milk, in properly operated equipment approved by the commissioner, to a temperature of at least 161 degrees Fahrenheit and holding such temperature for at least 15 seconds, or (c) to the process of heating every particle of milk, fluid milk products, or goat milk, in properly operated equipment approved by the commissioner, to such temperatures and holding for such times as the commissioner may prescribe by regulation adopted in accordance with law containing standards more stringent than those imposed by this subdivision. Nothing contained in this definition shall be construed as excluding any other process which has been demonstrated to be equally efficient and is approved by the commissioner.

Subd. 3. Cooling after pasteurization. Immediately following pasteurization, all milk, fluid milk products and goat milk shall be cooled, in properly operated equipment approved by the commissioner, to a temperature of 50 degrees Fahrenheit or lower, and maintained at 50 degrees Fahrenheit or lower until delivered; provided, however, that if the milk, fluid milk products, or goat milk is to be cultured immediately after pasteurization, then such cooling may be delayed until after the culturing process is completed; provided further that the commissioner may prescribe by regulation adopted in accordance with law standards more stringent than those imposed by this subdivision.

[1945 c 384 s 1, 2; 1953 c 536 s 1; 1967 c 219 s 3-5]

32.392 APPROVAL OF DAIRY PLANTS. No person shall operate a dairy plant in this state unless the dairy plant, and the equipment, water supply and plumbing system connected therewith shall have been first approved by the commissioner and a permit issued to operate the same. At the time of filing the application for a permit, the applicant shall submit to the commissioner duplicate floor plans of such plant which shall show the placement of equipment, the source of water supply and method of distribution, and the location of the plumbing system, including the disposal of wastes. All new construction or alteration of any existing dairy plants shall be made only with the approval of the commissioner and duplicate plans for such construction or alteration shall be submitted to him for approval. Any permit may be revoked by the commissioner for due cause after the holder of the permit has been given the opportunity for a hearing, in which case the holder of the permit shall be notified in writing, at least seven days prior to the date of such hearing, of the time and place of such hearing.

[1945 c 384 s 3; 1949 c 403 s 1; 1953 c 536 s 2; 1955 c 658 s 1; 1967 c 219 s 6]

32.393 LIMITATION ON SALE. Subdivision 1. **Pasteurization.** No milk, fluid milk products, or goat milk shall be sold, advertised, offered or exposed for sale or held in possession for sale for the purpose of human consumption in fluid form in this state unless the same has been pasteurized and cooled, as defined in section 32.391; provided, that this section shall not apply to milk, cream, skim milk, or goat milk occasionally secured or purchased for his personal use by any consumer at the place or farm where the milk is produced.

Subd. 2. Labels. All pasteurized milk, fluid milk products, or goat milk sold, offered or exposed for sale or held in possession for sale shall be labeled or otherwise designated as pasteurized milk, pasteurized fluid milk products, or pasteurized goat milk, and in case of pasteurized fluid milk products the label shall also state the name of the specific product.

[1945 c 384 s 4; 1949 c 403 s 1; 1953 c 536 s 3]

32.394 GRADE A PASTEURIZED MILK. Subdivision 1. Grade A pasteurized milk, fluid milk products and goat milk are Grade A raw milk, fluid milk products and goat milk for pasteurization which have been pasteurized, cooled and prepared for distribution in a dairy plant approved by the commissioner, the bacterial count of which at no time after pasteurization and until delivery exceeds 30,000 bacteria per milliliter, standard plate count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 30,000 bacteria per milliliter if the last individual result is 30,000 bacteria per milliliter or lower, and not more than one of the last four coliform counts of which shall exceed 10 per milliliter unless the last individual result is 10 per milliliter or lower; provided, that the standard

plate count standard shall be omitted in the case of sour cream, cultured butter-milk, other cultured fluid milk products and cultured goat milk; provided further that the commissioner may prescribe standards, rules, and regulations adopted in accordance with law more stringent than those imposed by this subdivision.

Subd. 2. Grade A raw milk or goat milk for pasteurization purposes is raw milk or goat milk which complies with all the requirements for its production, the bacterial count of which does not exceed 200,000 bacteria per milliliter, standard plate count or direct microscopic clump count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 200,000 bacteria per milliliter if the last individual result is 200,000 bacteria per milliliter or lower; provided that the commissioner may prescribe standards, rules, and regulations adopted in accordance with law more stringent than those imposed by this subdivision.

Subd. 3. Nothing in this section shall be construed to mean compulsory grading of pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization, or raw goat milk for pasteurization; such grade shall apply only to pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization, or raw goat milk for pasteurization on which the grade is declared on the label.

Subd. 4. The commissioner shall by regulation promulgate identity, production and processing standards for milk, milk products and goat milk which are intended to bear the Grade A label.

In the exercise of the authority to establish requirements for Grade A milk, milk products and goat milk, the commissioner may adopt definitions, standards of identity, and requirements for production and processing recommended by the United States public health service, in a manner provided for and not in conflict with law.

Subd. 5. No person shall sell, offer or expose for sale, any milk, milk products or goat milk labeled Grade A, unless the milk, milk products or goat milk have been produced and processed in accordance with the requirements of Minnesota law and regulation. Any processor desiring to use the Grade A label on milk, milk products or goat milk shall make application for a permit to the commissioner on a form prescribed and furnished by the commissioner. The permit shall be issued by the commissioner when he has determined that the applicant has complied with the requirements of Minnesota law and regulation. Permits shall not be transferable with respect to person or location. A permit may be suspended by the commissioner upon failure by the holder of the permit to comply with any of the terms of Minnesota law and regulation or for interference with inspection, and may be revoked by the commissioner for due cause after the holder of the permit has been given the opportunity for a hearing, in which case the holder of the permit shall be given a notice in writing of the time and place of such hearing at least seven days before the date of such hearing.

Subd. 6. To assure compliance with the laws and regulations governing the production, handling, processing, and sale of Grade A milk, Grade A milk products and Grade A goat milk, the commissioner is hereby authorized to provide a service to be performed by trained and duly qualified milk sanitarians, for the inspection of such milk, milk products and goat milk, and of the premises and plants where such milk, milk products and goat milk are produced, handled and processed. Such service shall be for acquainting the processor and producers with the requirements for a Grade A milk supply, for preliminary inspection to determine if a processor has brought his farms and plant to the state of compliance which will qualify his products for the Grade A label, and for continuous inspection to assure that any farms and plants so accepted and all products therefrom so labeled shall remain in compliance. Said Grade A processor shall provide a continuous field service to assist the producers, who sell their milk to his plant, to attain and to maintain compliance with Grade A requirements. Any person who performs such field service for such Grade A processor first shall obtain a permit therefor from the commissioner. Any person desiring to secure such permit shall make application therefor on a form provided by the commissioner, and before a permit is issued the commissioner shall determine that the applicant is competent and qualified to perform such field service. Said permit shall not be transferable and may be revoked for due cause after the holder of the permit has been given the opportunity for a hearing

in which case the holder of the permit shall be given a notice in writing of the time and place of such hearing at least seven days before the date of such hearing.

Subd. 7. The aforesaid state service shall be available to all processors who wish to use the Grade A label on their milk, milk products and goat milk and who have not available to them substantially equivalent service, imposed with equal effectiveness by a city within the state.

Subd. 8. Any processor of milk, milk products or goat milk who wishes to acquaint himself and his producers with Grade A requirements may make a request to the commissioner for exploratory inspections and meetings for this purpose. Upon receipt of such request the commissioner at his convenience shall cause such exploratory inspections to be made and such meetings to be held as are necessary to acquaint said processor and producers with such requirements. If after such exploratory inspections are made and such meetings are held and when in his opinion his field service has brought his producers into compliance with said requirements, said processor wishes to avail himself of further inspection service he shall so apply on a form furnished by the commissioner stating the number of farms to be inspected. Such applications shall be accompanied by a fee payable to the state treasurer in an amount of not less than \$50 and not more than \$300, which fee is to be charged for preliminary inspection prior to continuous inspection and assessments over \$50 are to be determined by charging \$1 for each farm over 50 but shall not exceed \$300 if more than 300 farms are inspected; provided that if the plant and farms are accepted for continuous inspection, this charge shall be made only once. If the preliminary inspection discloses that the processor is eligible for use of the Grade A label on his products and before he so labels said products he shall apply for continuous inspection on a form furnished by the commissioner and shall hold a Grade A permit. Such application shall be accompanied by a fee of not less than \$100 nor more than \$300 per plant and of not less than \$15 nor more than \$30 per farm, said fee to be paid annually by the processor. The commissioner as he deems necessary to more nearly meet the cost of the service, annually may adjust the assessments within the limits set herein.

Any processor of milk, milk products or goat milk, other than Grade A who wishes to obtain farm certification, shall make a request to the commissioner for a farm certification inspection. Each processor who requests and receives a farm certification inspection shall pay a fee to the commissioner for the certification of his milk supply. The fee shall be set by the commissioner in an amount that he deems is necessary to meet the cost of the service for farm certification, which fee shall not exceed 50 percent of fees charged for Grade A permits.

Subd. 9. The amount of such assessments shall be payable by the processor on or before July 1, of each year, and if not paid on or before July 31, following, the service shall be discontinued, and permission to use the Grade A label shall be withdrawn; provided, that such processor may terminate such payment and such service without loss of the Grade A label if written notice of such intention is given prior to the due date of the payment of said assessment and if the continuous inspection of said plant and farms is assumed by a city whose milk control ordinance is substantially equivalent to Minnesota law and regulation and is enforced with equal effectiveness. When such written notice is given by the processor on or before December 31 preceding the due date, that portion of the assessment for the period January 1 through June 30, immediately following, shall be refunded to the processor. The fees for services performed by the activities of this section shall be deposited in the state treasury and shall constitute a separate account to be known as the milk inspection service account, which is hereby created, set aside, and appropriated as a revolving fund to be used to help to defray the cost of administration, refunds and expenses of the preliminary and continuous milk inspection services and shall be in addition to and not in substitution for the sums appropriated or otherwise made available for this purpose to the department of agriculture.

Subd. 10. [Repealed, 1961 c 147 art 5 s 7]

[1945 c 384 s 5; 1949 c 403 s 1; 1953 c 536 s 4; 1953 c 752 s 1; 1955 c 379 s 1; 1959 c 400 s 1; 1961 c 113 s 1; 1967 c 219 s 7-11; 1971 c 703 s 1, 2; 1973 c 123 art 5 s 7]

32.395 MILK OTHER THAN GRADE A. Subdivision 1. Pasteurized milk, fluid milk products and goat milk, other than Grade A, are raw milk, fluid milk products and goat milk for pasteurization which have been pasteurized, cooled and

prepared for distribution in a plant approved by the commissioner, the bacterial count of which at no time after pasteurization and until delivery, exceeds 50,000 bacteria per milliliter, standard plate count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 50,000 bacteria per milliliter if the last individual result is 50,000 bacteria per milliliter or lower, and not more than one of the last four coliform counts of which shall exceed 10 per milliliter unless the last individual result is 10 per milliliter or lower; provided that the standard plate count standard shall be omitted in the case of sour cream, cultured butter-milk, other cultured fluid milk products and cultured goat milk.

Subd. 2. Raw milk or raw goat milk for pasteurization purposes, other than Grade A, is raw milk or raw goat milk which complies with all the requirements for its production, the bacterial count of which does not exceed 500,000 bacteria per milliliter, standard plate count or direct microscopic clump count, as determined by averaging the logarithms of the results of the last four consecutive tests of samples taken on separate days, except that such average may be over 500,000 bacteria per milliliter if the last individual result is 500,000 bacteria per milliliter or lower.

Subd. 3. The commissioner is authorized to promulgate by regulation production and processing standards for pasteurized milk, pasteurized fluid milk products, pasteurized goat milk, raw milk for pasteurization and raw goat milk for pasteurization.

Subd. 4. The commissioner in his discretion may authorize, in respect to raw milk or raw goat milk for pasteurization purposes, any other method or methods of determining bacterial count.

[1945 c 384 s 6; 1953 c 536 s 5]

32.396 [Repealed, 1953 c 536 s 6]

32.397 ENFORCEMENT STANDARDS. The standards set forth in sections 32.391 to 32.398 and regulations adopted thereunder by the commissioner shall be the only such standards for use in the state of Minnesota. No municipality or other subdivision of state government shall provide, by ordinance more stringent or comprehensive standards than are contained in sections 32.391 to 32.398 and regulations adopted thereunder by the commissioner.

[1945 c 384 s 9; 1961 c 147 art 5 s 5; 1967 c 219 s 12]

32.398 ENFORCEMENT AND VIOLATIONS. Subdivision 1. **Enforcement.** The commissioner shall enforce the provisions of sections 32.391 to 32.398.

Subd. 2. **Violations and penalties.** Any person violating any of the provisions of sections 32.391 to 32.398 shall be deemed guilty of a misdemeanor.

[1945 c 384 s 8, 10; 1961 c 144 art 2 s 20]

32.40 [Repealed, 1949 c 176 s 10]

32.401 MILK AND CREAM FOR MANUFACTURING. Subdivision 1. **Standards, grades, and price differentials.** In order to protect the public health and welfare, to promote the interests of the dairy industry in Minnesota, and to secure uniformity, the commissioner of agriculture shall adopt standards, grades and price differentials between various grades of milk and cream for milk and cream purchased for manufacturing purposes. Before adopting any standards, grades, or price differentials for milk and cream, the commissioner shall hold a public hearing thereon, as provided by law. Until such standards, grades and price differentials are made and filed, the standards, grades, and price differential heretofore made by the commissioner remain in effect except as otherwise prescribed by law.

Subd. 2. **Statement of purchases furnished to seller.** All milk or cream purchased for manufacturing purposes shall be purchased on the basis of the standards, grades, and price differentials between grades so adopted. Every purchaser of milk or cream for manufacturing purposes shall, at time of payment therefor, furnish the person from whom purchased a statement showing the date of grading, the grade, and the price paid therefor. The statement may be included on the check delivered by the purchaser to the seller in payment of the milk or cream.

Subd. 3. **Enforcement.** The commissioner of agriculture shall enforce the provisions of this section.

Subd. 4. **Penalties.** Any person, firm, or corporation violating any provision of this section or a rule, regulation, standard, or price differential duly adopted by the commissioner is guilty of a misdemeanor.

Subd. 5. Application. This section shall not apply to any action now pending in any of the courts of this state, or to any cause of action arising, or violation which occurred, prior to April 18, 1955.

[1947 c 396 s 1-4; 1949 c 196 s 2; 1953 c 197 s 1; 1955 c 481 s 1; 1961 c 113 s 1; 1961 c 144 art 2 s 21; 1961 c 147 art 5 s 6]

32.41 [Repealed, 1949 c 176 s 10]

32.411 UNIFORM QUALITY STANDARDS FOR MILK, CREAM, FLUID MILK PRODUCTS. Subdivision 1. **Requirements.** For the purpose of maintaining uniform quality standards in the purchase of milk, cream, and fluid milk products for manufacturing purposes or for resale to another for manufacturing purposes, the requirements set forth in subdivision 2 to 4 shall be complied with.

Subd. 2. Record of quality tests. Every licensed purchaser of milk, cream and fluid milk products for manufacturing purposes or for resale to another for manufacturing purposes, herein called licensed purchaser, shall demand and receive with the first milk or cream delivery received from a producer a copy of the record of quality tests of the producer's milk or cream made by a former licensed purchaser during the three months immediately preceding such delivery, unless the producer has not delivered such products to any other purchaser during that period. If the previous purchaser, after receiving a written request for such record from the producer or from the new purchaser, refuses or is unable to comply with such request, the new purchaser shall immediately report such failure or refusal to the commissioner.

Subd. 3. Establishment of new quality records. If a milk or cream producer fails to deliver the quality records or quality tests, the licensed purchaser shall establish a new producer's quality record in lieu thereof, by taking the first four consecutive deliveries from such producer and making on such products all tests required by law and by regulations thereunder relating to milk, cream, and fluid milk products for manufacturing purposes administered by the commissioner of agriculture. The establishment of such records shall be immediately reported to the commissioner by the new purchaser.

Subd. 4. Change of purchasing plants. The changing of purchasing plants for manufacturing purposes to which a producer of milk, cream, and fluid milk products makes delivery, shall not alter the status of such producer's previous quality record for purposes of section 32.401, and rules thereunder administered by the commissioner.

Subd. 5. Penalty. Any licensed purchaser of milk, cream, or fluid milk products who neglects to furnish to any milk or cream producer upon his written request a copy of his record of quality tests and farm inspections, or any licensed purchaser or producer who fails to comply with this section, is guilty of a misdemeanor.

Subd. 6. Commissioner. For the purposes of this section "commissioner" means commissioner of agriculture.

[1955 c 208 s 1, 2; 1959 c 97 s 1, 2; 1961 c 113 s 1]

32.42 [Repealed, 1949 c 176 s 10]

32.43 [Repealed, 1957 c 91 s 1]

32.44 [Repealed, 1957 c 91 s 1]

32.45 [Repealed, 1957 c 91 s 1]

32.46 [Repealed, 1957 c 91 s 1]

32.47 [Repealed, 1957 c 91 s 1]

BUTTER

32.471 BUTTERFAT CONTENT OF BUTTER. Subdivision 1. No person shall manufacture for sale, or sell, or have in possession with intent to sell, any dairy or creamery butter which contains less than 80 percent butterfat by weight, or which has been manufactured from milk or cream which has not been pasteurized in accordance with the provisions of sections 32.391 and 32.392; provided that nothing in this section shall be construed as prohibiting the manufacture, sale, or distribution of butterfat spreads with a lower butterfat content so long as such spreads are packaged and contain all dairy products and labeled so as to disclose the butterfat and other ingredient content and distinguish them from butter, in accordance with regulations of the commissioner.

Subd. 2. Any person violating any provision of this section shall be guilty of a misdemeanor.

[1921 c 495 s 32; 1937 c 55 s 1; 1947 c 104 s 1; 1949 c 193 s 1; 1971 c 23 s 4; 1971 c 565 s 1] (3821)

32.472 RENOVATED BUTTER. No person shall sell any butter made by taking original packing stock, or other butter, or both, and melting the same and drawing off or extracting butterfat and mixing such fat with skimmed milk or cream, or other milk product and rechurning or reworking such mixture; or any butter product produced by any process, commonly known as boiled process or renovated butter, unless the words "renovated butter" shall be plainly branded with bold-faced letters, at least three-fourths of an inch in height, on the top and sides of each receptacle, package, or wrapper in which it is kept for sale or sold. If such butter is exposed for sale, uncovered or not, in a receptacle, package, or wrapper, then a placard containing the words "renovated butter," printed in style and manner as aforesaid, shall be attached to the mass of butter in such manner as to be easily seen and read by purchasers.

[1921 c. 495 s. 33] (3822)

32.473 PROCESS BUTTER. No person shall sell any butter made of part cream and part casein and other ingredients by what is known as the "Quinness patent" or process, or that made by other similar process, whereby the casein of milk and other ingredients are made to imitate or resemble genuine butter made from cream, unless each package or receptacle in which the same is kept for sale or sold shall be plainly stamped or marked "patent butter" on the top and sides thereof, in letters of at least 36 point Gothic capitals; and in addition to such marking, the seller, at the time of the sale, shall give to the purchaser a printed card, stating distinctly and correctly the different ingredients contained in the compound.

[1921 c 495 s 34; 1961 c 147 art 5 s 4] (3823)

32.475 BUTTER, GRADING AND LABELING. Subdivision 1. **Definitions.** As used in this section, score or grade means the grading of butter by its examination for flavor and aroma, body and texture, color, and salt, and by the use of other tests or procedures approved by the commissioner of agriculture, for ascertaining the quality of butter in whole or in part.

Subd. 2. **Minnesota grades.** It is unlawful to sell, offer or expose for sale, or have in possession with intent to sell any butter at retail unless it has been graded and labeled with such grades as follows:

- (a) Grade, Minnesota, AA—93 score
- (b) Grade, Minnesota, A—92 score
- (c) Grade, Minnesota, B—90 score
- (d) Grade, Minnesota, undergrade—all butter below Minnesota B.

For the purposes of this section "sale at retail" shall include all sales to a restaurant or eating establishment that serves butter to its patrons or that uses butter in the preparation of any food which is served to its patrons.

Subd. 3. **United States grades.** United States AA, A and B grades, or as such grades may be amended or as they may be administered by the U. S. Department of Agriculture, shall be accepted in lieu of the corresponding Minnesota AA, A and B grades, but all United States grades below B shall, for the purpose of this section, correspond to Minnesota undergrade.

Subd. 4. **Methods and procedures, promulgation by commissioner of agriculture.** Methods and procedures to be used for ascertaining quality, grades, grading, labeling, and for arbitrating disputes with respect to grades may be promulgated by the commissioner of agriculture.

Subd. 5. **Foreign butter.** Butter from outside of the state of Minnesota sold within this state shall comply with the state grade and labeling standards provided in this section; and, unless marked with United States AA, A, and B grades, shall indicate the grade in a manner equivalent to the requirements for butter manufactured and sold within this state.

Subd. 6. **Advertisement for retail sale, indication of grade.** Any advertisement of butter offered for sale at retail to the public at a given price shall plainly and conspicuously indicate the grade of such butter.

Subd. 7. **Penalty.** Any person violating any provision of this section shall be guilty of a misdemeanor.

[1955 c 219 s 1; 1957 c 145 s 1; 1971 c 23 s 5]

32.48 [Repealed, 1947 c 275 s 1]

CHEESE

32.481 CHEESE. The term "cheese" as used in sections 32.481 to 32.485, shall include all varieties of cheese, cheese spreads, cheese foods, cheese compounds, or processed cheese, made or manufactured in whole or in part from cow's, goat's, or sheep's milk.

[1947 c. 184 s. 1]

32.482 MANUFACTURE OF CHEESE, REQUIREMENTS IN PROCESS. No person, firm, or corporation shall manufacture, transport, sell, offer, or expose for sale or have in possession with intent to sell, at retail to a consumer any cheese which has not been (a) manufactured from milk or milk products which have been pasteurized in accordance with sections 32.391 and 32.392 or (b) subjected to a heat treatment equivalent to pasteurization during the process of manufacture or processing, or (c) subjected to an aging process whereby it has been kept for at least 60 days after manufacture at a temperature not lower than 35 degrees Fahrenheit. Any cheese which has been made from unpasteurized milk and which has been repackaged, handled or processed in any manner so as to obliterate or destroy its date of manufacture shall be labeled to show the true date of manufacture or in lieu thereof bear a statement that such cheese is more than 60 days of age.

[1947 c 184 s 2; 1955 c 484 s 1; 1959 c 29 s 1]

32.483 STATEMENT BY MANUFACTURER. Each cheese or packaged cheese sold, offered, or exposed for sale or held in possession with intent to sell at either retail or wholesale, within this state, shall have affixed thereto by the manufacturer a statement clearly setting forth:

(a) The factory number where manufactured, or in states where official factory numbers are not assigned, the name of the manufacturer and address of the plant where manufactured; provided, however, that in case of process cheese, cheese spreads, cheese foods and cheese compounds, the name and address of the jobber or distributor may be substituted for the name of the manufacturer and address of the plant where manufactured;

(b) The name of the variety or the distinctive name of the product and the word "Pasteurized" if made from pasteurized milk;

(c) The name of the variety or the distinctive name of the product and the date of manufacture if made from unpasteurized milk;

(d) The name of the variety or the distinctive name of the product and the word "Pasteurized" if made from milk which is pasteurized in the curd form during the making process.

When a cheese is repackaged or divided into wholesale cuts, the distributor shall affix to each package or cut a label containing the information required in (b) or (c) of this section, which appears on the original cheese, together with the name and address of the distributor. When selling cheese to the consumer, that portion to which the label is affixed shall be sold last.

[1947 c. 184 s. 3]

32.484 ENFORCEMENT. The commissioner of agriculture shall be charged with the enforcement of sections 32.481 to 32.483 and shall have authority to promulgate in the manner provided by law all such rules and regulations as are necessary to the enforcement thereof.

[1947 c 184 s 4; 1961 c 113 s 1; 1961 c 144 art 2 s 19]

32.485 VIOLATIONS; PENALTIES. Any person violating any of the provisions of sections 32.481 to 32.484 shall be guilty of a misdemeanor.

[1947 c 184 s 5]

32.49 [Renumbered 32.5311]

32.491 [Renumbered 32.401]

32.492 [Renumbered 32.411]

32.494 [Renumbered 32.207]

32.50 Subdivision 1. [Repealed, 1961 c 147 art 4 s 2]

Subd. 2. [Renumbered 32.201]

Subd. 3. [Omitted—32.48 Repealed, 1947 c 275 s 1]

Subd. 4. [Repealed, 1949 c 196 s 3]

Subd. 5. [Renumbered 32.205]

Subd. 6. [Renumbered 32.101]

Subd. 7. [Renumbered 32.534]

Subd. 8. [Repealed, 1961 c 147 art 3 s 3]

- Subd. 9. [Repealed, 1961 c 147 art 3 s 3]
- Subd. 10. [Repealed, 1961 c 147 art 2 s 2]
- Subd. 11. [Renumbered 32.90]
- 32.51 Subdivision 1. [Renumbered 32.021 subdivision 1]
- Subd. 2. [Repealed, 1961 c 147 art 2 s 2]
- Subd. 3. [Repealed, 1949 c 196 s 3]
- Subd. 4. [Repealed, 1961 c 147 art 2 s 2]
- Subd. 5. [Repealed, 1961 c 147 art 2 s 2]
- Subd. 6. [Repealed, 1961 c 147 art 2 s 2]
- Subd. 7. [Repealed, 1961 c 147 art 2 s 2]
- 32.511 Subdivision 1. [Renumbered 32.021 subd. 2]
- Subd. 2. [Renumbered 32.01 subd. 12]
- 32.52 Subdivision 1. [Repealed, 1961 c 147 art 4 s 2]
- Subd. 2. [Omitted—32.48 Repealed, 1947 c 275 s 1]
- Subd. 3. [Renumbered 32.102]

FILLED DAIRY PRODUCTS

32.529 CITATION; MINNESOTA FILLED DAIRY PRODUCTS ACT. Sections 32.53 to 32.534 may be cited as the Minnesota filled dairy products act.

[1953 c 157 s 1; 1961 c 147 art 6 s 1]

32.53 DECLARATION OF POLICY. Filled dairy products resemble genuine dairy products so closely that they lend themselves readily to substitution for or confusion with such dairy products, and in many cases cannot be distinguished from genuine dairy products by the ordinary consumer. The manufacture, sale, exchange, transportation, possession, or offering for sale or exchange of filled dairy products creates a condition conducive to substitution, confusion, deception, and fraud, and one which if permitted to exist tends to interfere with the orderly and fair marketing of foods essential to the well being of the people of this state.

It is hereby declared to be the purpose of sections 32.53 to 32.534, to correct and eliminate the condition above referred to; to protect the public from confusion, fraud, and deception; to prohibit practices inimical to the general welfare; and to promote the orderly and fair marketing of essential foods.

[1953 c 157 s 2]

32.531 DEFINITIONS. Whenever used in sections 32.53 to 32.534:

(a) The term "person" includes individuals, firms, partnerships, associations, trusts, estates, corporations, and any and all other business units, devices, or arrangements.

(b) The term "filled dairy product" means any milk, cream, or skimmed milk, or any combination thereof, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, or any food product made or manufactured therefrom, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat so that the resulting product is in imitation or semblance of any dairy product, including but not limited to, milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk; provided, however, that this term shall not be construed to mean or include: (1) any distinctive proprietary food compound not readily mistaken for a dairy product, where such compound is customarily used on the order or advice of a physician and is prepared and designed for medicinal or special dietary use and prominently so labeled; (2) any dairy product flavored with chocolate or cocoa, or the vitamin content of which has been increased, or both, where the fats or oils other than milk fat contained in such product do not exceed the amount of cacao fat naturally present in the chocolate or cocoa used and the food oil, not in excess of .01 percent of the weight of the finished product, used as a carrier of such vitamins; or (3) oleomargarine.

(c) The term "commissioner" means the commissioner of agriculture.

[1953 c 157 s 3; 1961 c 113 s 1]

32.5311 FILLED DAIRY PRODUCTS, RESTRICTIONS AS TO MANUFACTURE, SALE, OR EXCHANGE. It shall be unlawful for any person, firm or corporation, by himself or itself, his or its employee or agent, or as the employee or agent of another, to manufacture, sell, or exchange, or to have in possession a filled dairy product knowing the same to be a filled dairy product and with intent to sell or exchange, any filled dairy product either under the name of any dairy product,

including but not limited to, milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk, or as a labeled imitation thereof, or under any fictitious or trade name. Nothing herein shall be deemed to prohibit the use of filled dairy products in state institutions when approved by the medical director or if there be none, by the superintendent of the institution, for the purpose of conducting medical research limited to the effect of animal fat in the diet of humans.

[1923 c 126 s 1; 1925 c 203 s 1; 1953 c 157 s 4; 1969 c 721 s 1] (3926)

32.532 ENFORCEMENT. The commissioner is authorized and directed to administer and supervise the enforcement of sections 32.53 to 32.534; to provide for such periodic inspections and investigations as he may deem necessary to disclose violations; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution of civil or criminal actions or both. The provisions of these sections may be enforced by injunction in any court having jurisdiction to grant injunctive relief, and filled dairy products illegally held or otherwise involved in a violation of these sections shall be subject to seizure and disposition in accordance with an appropriate court order or any applicable regulation adopted by the commissioner.

[1953 c 157 s 6]

32.533 OPERATION AND EFFECT. Sections 32.53 to 32.534 are supplemental to all other laws relating to filled dairy products not expressly referred to therein, and to all laws relating to the manufacture, sale, exchange or transportation of filled dairy products, or the manufacture or possession thereof, with the intent to sell, exchange or transport the same, either within or without the state of Minnesota, and shall not be construed to modify, repeal or in any wise affect any part or provisions of any such laws not expressly repealed therein.

[1953 c 157 s 8; 1961 c 147 art 6 s 2]

32.534 PENALTY. Any person, whether individually or as a member or employee of a partnership, or as an officer, agent, or employee of a corporation who directs or knowingly permits any violation of any of the provisions of sections 32.53 to 32.534, or who aids or assists therein, either on his own behalf or in the interests of his employer or principal shall, upon the first conviction thereof, be subject to a fine of not more than \$100, or to imprisonment in the county jail for not more than 30 days, or both; and upon each subsequent conviction thereof, shall be subject to a fine of not less than \$1,000 nor more than \$5,000, or to imprisonment in the county jail for not less than six months nor more than one year, or both.

[1923 c 126 s 2; 1953 c 157 s 5] (3927)

FROZEN DAIRY FOODS

32.55 DEFINITIONS; FROZEN DAIRY FOODS. Subdivision 1. **Terms.** For the purposes of subdivisions 2 to 13 and sections 32.56 to 32.645, and acts amendatory thereof, the terms defined in subdivisions 2 to 13, and acts amendatory thereof, have the meanings given them.

Subd. 2. Frozen food. "Frozen foods" means ice cream, frozen custard, French ice cream, French custard ice cream, ice milk, fruit sherbets, water ices, frozen malted milk, frozen milk shakes, frozen malts, or any frozen food for which the commissioner has established a standard of identity, but shall not include frozen vegetables, fruits, meats, poultry, or bakery products.

Subd. 3. Milk products. "Milk products" means pure, clean, and wholesome cream, dried cream, plastic cream—sometimes known as concentrated milk fat, butter, butter oil, milk, concentrated milk, evaporated milk, sweetened condensed milk, superheated condensed milk, dried milk, skim milk, concentrated skim milk, evaporated skim milk, condensed skim milk, superheated condensed skim milk, sweetened condensed skim milk, sweetened condensed part-skim milk, nonfat dry milk, sweet cream buttermilk, condensed sweet cream buttermilk, dried sweet cream buttermilk, whey, concentrated whey, and dry whey, and shall include any of the foregoing products from which lactose has been wholly or partially removed.

Subd. 4. Mix, ice-cream mix. "Mix" means the unfrozen combination of all ingredients of a frozen food with or without fruit, fruit juices, candy, nut meats, flavoring, or coloring. "Ice-cream mix" means the mix from which ice-cream is frozen, made from a combination of milk products and such other ingredients in such quantities as are consistent with such ingredients and quan-

titles in definitions and standards established by the commissioner. Ice-cream mix in concentrated or condensed form shall contain such relative amounts of ingredients that, when diluted according to directions, it shall comply with the definition of ice-cream mix.

Subd. 5. **Mix base; ice-cream mix base.** "Mix base" means mix powder or dry base and is the product resulting from the removal of water from mix and contains not more than five percent of moisture.

"Ice-cream mix base" means ice-cream powder or dry ice-cream mix and is the product resulting from the removal of water from ice-cream mix and contains not more than five percent of moisture.

Subd. 6. [Repealed, 1965 c 119 s 7]

Subd. 7. [Repealed, 1965 c 119 s 7]

Subd. 8. [Repealed, 1965 c 119 s 7]

Subd. 9. [Repealed, 1965 c 119 s 7]

Subd. 10. [Repealed, 1965 c 119 s 7]

Subd. 11. [Repealed, 1965 c 119 s 7]

Subd. 12. **Imitation ice cream.** "Imitation ice cream" means any frozen substance, mixture or compound regardless of the name under which it is represented, which is made in imitation or semblance of ice cream, or is prepared or frozen as ice cream is customarily prepared or frozen and which is not a frozen food as provided for in this section.

Subd. 13. **Manufacture.** "Manufacture" means processing or freezing, or both.

[1937 c 101 s 1; 1941 c 62 s 1; 1949 c 658 s 1; 1955 c 538 s 1-3; 1957 c 263 s 1; 1961 c 144 art 1 s 4; 1961 c 533 s 1-9; 1965 c 119 s 1, 2, 3, 6; 1967 c 434 s 1, 2] (3827-6)

32.56 MANUFACTURERS OF FROZEN FOODS TO OBTAIN LICENSE.

No person shall manufacture frozen foods, mix, ice-cream mix, mix base, or ice-cream mix base for resale, without first having obtained a license therefor from the department of agriculture, which is charged with the duty and power of administering and enforcing the provisions of sections 32.56 to 32.64. The commissioner shall establish standards in the manner provided in Minnesota Statutes, Section 31.10, and acts amendatory thereof, for frozen foods for which no Minnesota standards exist. In the exercise of the authority to establish standards for frozen foods, the commissioner shall adopt definitions and standards of identity established pursuant to the Federal Food, Drug and Cosmetic Act insofar as said definitions and standards do not conflict with law. Nothing in sections 32.56 to 32.64 shall apply to educational institutions or to charitable, fraternal or religious organizations not regularly engaged in the manufacture of frozen foods, mix, ice-cream mix, mix base, or ice-cream mix base or to private homes manufacturing for their own use.

[1937 c 101 s 2; 1961 c 113 s 1; 1961 c 147 art 7 s 1; 1965 c 119 s 4] (3827-7)

32.57 **INSPECTION OF FROZEN FOODS.** No frozen foods not manufactured in this state shall be sold, offered, exposed, exchanged, or held in possession with intent to sell within this state, unless the same are first inspected and registered with the department of agriculture, as provided in section 32.59.

[1937 c 101 s 3; 1961 c 113 s 1] (3827-8)

32.58 [Repealed, 1971 c 339 s 27]

32.59 **NONRESIDENT MANUFACTURER, LICENSE.** Any person who manufactures frozen foods, mix, ice cream mix, mix base, or ice cream mix base outside of the state, for sale within the state, shall apply for registration with the department of agriculture in such form, and furnish such information, as it may require. Samples of all frozen foods, mix, ice cream mix, mix base, or ice cream mix base, so manufactured for sale and sold within this state, shall be submitted to the department. Each application for registration shall be accompanied by a fee of \$50, which shall constitute the registration fee in case certificate of registration is granted. If the department of agriculture shall find that the samples so submitted are up to the accepted standards, and otherwise comply with the laws of this state, it shall issue to applicant a certificate of registration.

[1937 c 101 s 5; 1955 c 538 s 6; 1955 c 820 s 4; 1961 c 113 s 1; 1969 c 1148 s 12; 1974 c 2 s 6] (3827-10)

32.60 [Repealed, 1971 c 339 s 27]

32.61 **LICENSES; REVOCATION, SUSPENSION.** The department of agriculture shall have the power to suspend or revoke any license or certificate of regis-

tration thus granted, for failure to comply with the provisions of sections 32.56 to 32.64, or rules and regulations made thereunder.

[1937 c 101 s 7; 1955 c 538 s 7; 1961 c 113 s 1; 1961 c 147 art 7 s 2] (3827-12)

32.62 CONTAINERS, LABELS. Subdivision 1. **Contents of labels.** All cans or containers used in the sale or distribution of mix, ice-cream mix, mix base, or ice-cream mix base shall bear a label attached to the same giving the following information:

- (1) Name of product;
- (2) Percentage of milk fat contained in product;
- (3) Percentage of total solids in products;
- (4) Statement of net contents; and
- (5) Name and address of manufacturer or distributor.

Every package of frozen foods packed by the manufacturer shall bear a label. The label shall give the name of the product, the name and address of the manufacturer or distributor, a statement of the net contents, and such other information as the commissioner may require pursuant to Minnesota Statutes, Section 31.12, and acts amendatory thereof. When the name and address of the distributor is given on the label of mix, ice-cream mix, mix base, ice-cream mix base or frozen foods, the name and address of the manufacturer also shall be given or in lieu of the name and address of the manufacturer an identification number or code assigned by the commissioner of agriculture may be used to represent such manufacturer.

Subd. 2. Frozen foods, restrictions. (1) No person shall sell, advertise or expose for sale, or offer for sale a frozen food, or mix, or mix base therefor, unless it conforms to a standard of identity prescribed by the commissioner in accordance with law.

(2) When ice milk is sold, offered or exposed for sale in a package form, there shall be conspicuously printed thereon in ink upon a contrasting background, in type not less than 24-point Gothic capitals, the words "ice milk." When ice milk is served to a consumer, the owner, operator or manager of such retail establishment shall have signs conspicuously posted on the inside of such retail establishment with lettering large enough to be distinctly seen and read containing the words "ice milk sold here." Such signs shall remain posted so long as ice milk is sold or offered for sale to consumers.

(3) No person shall sell, advertise or offer or expose for sale any imitation ice cream.

(4) No person shall sell, offer for sale or advertise for sale any frozen food or mix, or mix base therefor, if the brand name of the frozen food, or mix, or mix base or label upon it, or the advertising accompanying it, shall give a false indication of origin, character, composition, name of manufacturer, or is otherwise false or misleading in any particular.

[1937 c 101 s 8; 1949 c 229 s 2; 1953 c 518 s 3; 1955 c 538 s 8, 9; 1961 c 533 s 10; 1965 c 119 s 5; 1967 c 434 s 3; 1974 c 170 s 1] (3827-13)

32.63 PLANTS KEPT SANITARY. Any plant or establishment for the manufacture of frozen foods, mix, ice-cream mix, mix base, or ice-cream mix base operated under the provisions of sections 32.56 to 32.64 shall be so located, constructed, and equipped that it may be kept in a clean and sanitary condition, in accordance with the rules and regulations promulgated by the commissioner in the manner provided by law.

[1937 c 101 s 9; 1955 c 538 s 10; 1961 c 147 art 7 s 3] (3827-14)

32.64 PASTEURIZATION. Subdivision 1. All mix or ice cream mix shall be pasteurized. Pasteurization is hereby defined as the process of heating every particle of mix or ice cream mix in properly operated equipment approved by the commissioner to such temperatures and holding for such times as have been recognized by the United States public health service and which have been adopted by the commissioner in accordance with law. Nothing contained in this definition shall be construed as excluding any other process which has been demonstrated to be equally efficient and is approved by the commissioner.

Subd. 2. Immediately after pasteurization such mix or ice cream mix shall be cooled in properly operated equipment approved by the commissioner to such

temperature as the commissioner shall prescribe by regulation and held at or below that temperature until frozen.

Subd. 3. A recording thermometer record chart, properly dated, of each batch of mix or ice-cream mix pasteurized for use in the manufacture of frozen foods, mix base, or ice-cream mix base, shall be available at the plant of pasteurization at all reasonable times, for inspection by the department of agriculture.

Subd. 4. At no time after pasteurization shall frozen foods, mix, ice cream mix, reconstituted mix base, or reconstituted ice cream mix base have a bacterial count or a coliform count exceeding standards set forth in regulations adopted by the commissioner in accordance with law. Such tests shall be made of a representative sample of frozen foods, mix, ice cream mix, mix base, reconstituted mix base, ice cream mix base, or reconstituted ice cream mix base taken from an unbroken package in the possession of the manufacturer, but in the event that no unbroken package is available when sample is requested, then it shall be taken from a broken package in the possession of the manufacturer.

[1937 c 101 s 10; 1955 c 598 s 11; 1961 c 113 s 1; 1963 c 34 s 1; 1967 c 434 s 4-6] (3827-15)

32.645 PENALTIES. Subdivision 1. Any person licensed under the provisions of sections 28A.04, 28A.14, 32.56, and 32.59, who knowingly violates, or who directs or knowingly permits any officer, agent, or employee to violate section 32.62, subdivision 2, clause (1) or clause (3), shall be guilty of a gross misdemeanor and upon conviction thereof, be punished by a fine of not more than \$1,000, or 30 days imprisonment in the county jail, or both. For each subsequent offense, in addition to any fine or imprisonment imposed under this subdivision, upon conviction thereof, the commissioner of agriculture shall revoke or withhold issuing to such offender any license required under the provisions of sections 28A.04, 28A.14, 32.56, and 32.59, and in such case of revocation of license the commissioner shall not issue any license for the operation of such frozen food manufacturing plant for a period of one year from the date of such revocation.

Subd. 2. Any person violating section 32.62, subdivision 2, clause (2) or clause (4), for each first offense shall, upon conviction thereof, be punished by a fine of not less than \$25 nor more than \$100 and for each subsequent offense, upon conviction thereof, by a fine of not less than \$100 nor more than \$250, or 30 days imprisonment in the county jail, or both.

[1937 c 101 s 11; 1953 c 518 s 4; 1973 c 35 s 14] (3827-16)

PENALTIES

32.90 PENALTY. Any person, firm, corporation, association or copartnership violating any of the provisions of chapter 32 or any amendatory act for which no specific penalty is provided shall be guilty of a misdemeanor.

[1949 c 122 s 1; 1971 c 23 s 6]