

No. 314

AN ACT

To amend the title and certain sections of, and to add new sections to the act, approved the thirtieth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 1154), entitled "An act to prohibit the manufacture and sale of oleomargarine or butterine and other similar products when colored in imitation of yellow butter; to provide for license fees to be paid by manufacturers, wholesale and retail dealers, and by proprietors of hotels, restaurants, dining-rooms, and boarding-houses; for the manufacture or sale of oleomargarine, butterine or other similar products not colored in imitation of yellow butter; to regulate the manufacture, sale and advertising of oleomargarine, butterine or other similar products, not colored in imitation of yellow butter; and prevent and punish fraud and deception in such manufacture, sale and advertising as an imitation butter; to prescribe penalties; and punishment for violation of this act and the means and method of procedure for its enforcement; to regulate certain matters of evidence in such procedure; and to prescribe certain powers and duties of the Department of Agriculture," by permitting the manufacture and, except in certain cases, the sale of colored oleomargarine, butterine and similar products.

Oleomargarine.

Title, act of
June 30, 1947,
P. L. 1154,
amended.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act, approved the thirtieth day of June, one thousand nine hundred forty-seven (Pamphlet Laws 1154), entitled "An act to prohibit the manufacture and sale of oleomargarine or butterine and other similar products when colored in imitation of yellow butter; to provide for license fees to be paid by manufacturers, wholesale and retail dealers, and by proprietors of hotels, restaurants, dining-rooms, and boarding-houses; for the manufacture or sale of oleomargarine, butterine or other similar products not colored in imitation of yellow butter; to regulate the manufacture, sale and advertising of oleomargarine, butterine or other similar products, not colored in imitation of yellow butter; and prevent and punish fraud and deception in such manufacture, sale and advertising as an imitation butter; to prescribe penalties; and punishment for violation of this act and the means and method of procedure for its enforcement; to regulate certain matters of evidence in such procedure; and to prescribe certain powers and duties of the Department of Agriculture," is hereby amended to read as follows:

Amended title.

AN ACT

To [prohibit] *regulate* the manufacture, [and] sale, *transportation, possession, use and advertising* of oleomargarine, [or] butterine and other similar products, *and to prohibit the sale, possession or use thereof in*

certain cases; [when colored in imitation of yellow butter;] to provide for license fees to be paid by manufacturers, wholesale and retail dealers, and by proprietors of hotels, restaurants, dining-rooms, and boarding-houses; [for the manufacture or sale of oleomargarine, butterine or other similar products not colored in imitation of yellow butter; to regulate the manufacture, sale and advertising of oleomargarine, butterine or other similar products, not colored in imitation of yellow butter; and] to prevent and punish fraud and deception in such manufacture, sale, use and advertising [as an imitation butter]; to prescribe penalties and punishment for violation of this act, and the means and method of procedure for its enforcement; to regulate certain matters of evidence in such procedure; and to prescribe certain powers and duties of the Department of Agriculture.

Section 2. Sections 1, 2, 3 and 4 of said act are hereby amended to read as follows:

Section 1. Definitions.—

The following words and terms as used in this act shall be construed as follows:

“Department” means the Department of Agriculture of the Commonwealth of Pennsylvania, its agents, employees, attorneys and representatives;

“Secretary” means the Secretary of the Department of Agriculture of the Commonwealth of Pennsylvania;

“Wholesale dealer” means all persons, firms and corporations who shall sell to dealers, and persons who shall buy to sell again, and all persons, firms and corporations, who make sales in quantities of ten pounds and over at any time;

“Retail dealer” means all persons, firms and corporations, who shall sell in quantities of less than ten pounds;

“Hotel, restaurant, dining-room or boarding-house” shall mean any public restaurant, lunch room, public institution, or other place where food is served to the public, inmates or *employees for a consideration, whether such consideration be in the form of cash, service, or otherwise;

“Serve or use” shall not only include the serving of oleomargarine or butterine, but shall include its use in the preparation of food in eating places, as herein defined;

“Premises” shall mean and include all buildings or structures used for the preparation, storage, or serving of food.

Section headings shall not be construed to affect in any manner the scope or meaning of any section of this act.

Sections 1, 2, 3
and 4, said act,
amended.

* “employees” in original.

The singular shall be construed to include the plural. The masculine shall be construed to include the feminine and the neuter, and conversely the neuter shall be construed to include the masculine and the feminine.

Section 2. Manufacture and Sale of Oleomargarine Regulated.—

No person, firm or corporation shall by himself, herself or themselves, or by his, her or their agent or servant, nor shall any officer, agent, servant or employee of any person, firm or corporation manufacture, sell, ship, consign, offer for sale, expose for sale, or have in possession with intent to sell, oleomargarine, butterine or any similar substance, article, product, or compound, made wholly or partly out of any fats, oils or oleaginous substances or compound thereof, not produced from pure *unadulterated milk or cream from the same without the admixture or addition of any fat foreign to the said milk or cream, [and which shall be in imitation of yellow butter produced from pure *unadulterated milk or cream of the same, with or without coloring matter,] unless such person, firm or corporation shall have first obtained a license and paid a license fee, as hereinafter provided, [nor unless the said article, product, or compound so manufactured, shipped, consigned, offered for sale, exposed for sale, or had in possession with intent to sell, shall be made and kept free from all coloration or ingredients causing it to look like butter of any shade of yellow as hereinafter described,] nor unless the same shall be kept and presented in a separate and distinct form and in such manner as will advise the purchaser and consumer of its real character, nor unless such person, firm or corporation shall in all other respects comply with, and observe the provisions of, this act. For the purpose of this act oleomargarine, butterine or similar substance shall be deemed to look like, be in resemblance of, or in imitation of, butter of a shade of yellow, when it has a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red as measured in the terms of the Lovibond tintometer scale or its equivalent.

Section 3. License and Fee [; Prohibition Against Sale of Colored Oleomargarine].—

Every person, firm or corporation and every agent of such person, firm or corporation desiring to manufacture, sell or offer or expose for sale, or have in possession with intent to sell oleomargarine, butterine or any similar substance [not made or colored so as to look like yellow butter] shall make application for a license so to do, in such form as shall be prescribed by the department,

* "unadulterated" in original.

which application in addition to other matters which may be required to be stated therein by the department shall contain an accurate description of the place where the proposed business is intended to be carried on and the name and style under which it is proposed to conduct the said business. If the said application is satisfactory to the department it shall issue to the applicant or applicants a license authorizing him, her or them to engage in the manufacture or sale of oleomargarine or butterine or any similar substance [which shall not contain any coloration or ingredient that causes it to resemble yellow butter] for which said license the applicant or applicants shall first pay, if a manufacturer, if a wholesaler, if a retailer, if a proprietor of a hotel, restaurant or dining-room, and if the proprietor of a boarding-house, the annual sum of two dollars, and the said license fee when received by the department shall be immediately paid into the State Treasury. Such licenses shall not authorize the manufacture, sale, exposing for sale, or having in possession with intent to sell oleomargarine, butterine or any similar substance at any other place than that designated in the application and license, and the said license shall [not] authorize the manufacture, use, sale, exposing for sale, or having in possession with intent to sell, [any] oleomargarine, butterine or any similar substance, *either uncolored or made or colored so as to look like yellow butter [as herein], except as hereinafter provided.*

All licenses under this act shall expire on the thirty-first day of December of each year. Such licenses may be transferred by the department upon the application, in writing, of the person, firm or corporation to which the same has been granted: Provided, That the transferee shall comply with the regulations made by the department in regard to the said transfer, and shall thereafter comply with the provisions of this act.

Section 4. Display of Licenses; Placards and Menu Cards.—

After obtaining the license required by this act the person, firm or corporation obtaining the same shall, before beginning any business under the said license, hang up and display in a conspicuous place on the walls of the room or store in which the oleomargarine, butterine or other similar substance is manufactured, sold or exposed for sale, the license so obtained, as aforesaid. Every proprietor of a hotel, restaurant, dining-room, or boarding-house shall also have placed upon every counter or table at which food, meals or refreshments are served to customers a placard or menu card, plainly printed, stated that *uncolored* oleomargarine is used and served to customers.

Said act amended by adding, immediately after section 4, two new sections 4.1 and 4.2.

Section 3. Said act is hereby amended by adding, immediately after section 4, two new sections to read as follows.

Section 4.1. Unlawful to Serve Colored Oleomargarine, Etc., in Public Eating Places.—It shall be unlawful for any hotel, restaurant, public dining-room or public boarding-house to serve to customers, or to have on the premises, any oleomargarine, butterine or other similar substance, made or colored so as to look like yellow butter as provided by this act.

Section 4.2. Sale of Colored Oleomargarine, Etc.—It shall be unlawful for any person to sell or offer for sale colored oleomargarine, colored butterine or, when colored, other similar substance, unless (a) such oleomargarine, butterine or other similar substance is packaged; (b) the net weight of the contents of any package sold by a retail dealer is one pound or less; (c) there appears on the label of the package (1) the word "oleomargarine" or "butterine" in type or lettering at least as large as any other type or lettering on such label, and (2) a full and accurate statement of all the ingredients contained in the contents of such package; (d) each part of the contents of the package is contained in a wrapper which bears the word "oleomargarine" or "butterine" in type or lettering not smaller than 20-point type.

Sections 6, 7 and 8, said act, amended.

Section 4. Sections 6, 7 and 8 of said act are hereby amended to read as follows:

Section 6. Records.—

Every licensed manufacturer of oleomargarine, butterine or other similar product [not in imitation of yellow butter], and every licensed wholesale dealer therein, shall keep a book in which shall be entered accurately every sale and shipment, the quantity, the person to whom sold and shipped, and the place to which shipped, which book shall be kept at the place of business for which the license is issued and which shall always be open to the examination of the department. Every licensed retail dealer in oleomargarine, butterine or similar substance, [not in imitation of yellow butter,] shall keep an accurate account in a book open to the examination of the department in which shall be entered the date of the receipt of all purchases of oleomargarine, butterine or similar substance, made by such retail dealer, stating therein where, when and from whom purchased, and the quantity and the said books so to be kept by manufacturers, wholesale and retail dealers, shall be in such form as the department shall direct. Each licensed wholesale dealer in oleomargarine, butterine or other similar product [not in imitation of yellow butter], shall deliver to the department on or before the

fifteenth of each month a list of sales of oleomargarine for the preceding month, showing the name and address, including the county of each purchaser and the quantity of such sale.

Section 7. Penalty for Violation of Act [; Recovery; Appeal; Disposition of Fines].—

Every person, firm or corporation, and every officer, agent, servant and employee of such person, firm or corporation, who shall manufacture, sell or offer or expose for sale, *or serve to customers*, or have in possession [with intent to sell] oleomargarine, butterine or any similar substance in violation of any of the provisions of this act, or who shall sell oleomargarine, butterine or any similar substance as or for butter, or shall fail to keep a book in accordance with the last preceding section, or who shall in any other respect violate any of the provisions of this act, [shall for every such offense forfeit and pay the sum of one hundred dollars, which shall be recoverable with the costs as debts of like amount are by law recoverable, and justices of the peace and aldermen throughout this Commonwealth, shall have jurisdiction to hear and determine all actions for recovery of said penalties, with the right to either party to appeal to the court of common pleas, as provided in existing laws in suits for penalties; and all penalties imposed and recovered under the provisions of this act shall be paid to the department and by it immediately paid into the State Treasury] *or any rule, regulation or order made pursuant to this act, shall, for the first or second offense, upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than sixty dollars nor more than one hundred dollars and costs of prosecution, and in default of payment of such fine and costs, shall be sentenced to undergo imprisonment in the county jail for not more than thirty days; and for a third or subsequent offense, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to pay a fine of not less than five hundred dollars nor more than one thousand dollars, or to undergo imprisonment not exceeding one year, or both, in the discretion of the court.*

Section 8. [Violation of Act; Penalty.—

In addition to the above penalty, every person, firm or corporation and every officer, agent, servant or employee of such person, firm or corporation, who violates any of the provisions of this act shall also be guilty of a misdemeanor, and upon conviction thereof shall be punished for the first offense by a fine of not less than one hundred dollars nor more than five hundred dollars, or by imprisonment in the county jail for not more than three months or both, at the discretion of the court, and

upon conviction of any subsequent offense shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars, and by imprisonment in the county jail for not less than six months nor more than twelve months.] *Proceedings by Attorney General Based on Violation of Act.—The Attorney General at the request of the Department of Agriculture may, in the name of the Commonwealth, institute proceedings in equity in the court of common pleas of Dauphin County for the purpose of enjoining any person violating any of the provisions of this act from selling oleomargarine, butterine or any similar substance in this Commonwealth; and for such purpose, jurisdiction is hereby conferred upon said court in such cases. The Attorney General shall not be required to give bond.*

Act effective immediately.

Section 5. The provisions of this act shall become effective immediately upon final enactment.

APPROVED—The 24th day of August, A. D. 1951.

JOHN S. FINE

No. 315

AN ACT

To improve local health administration throughout the Commonwealth by authorizing the creation, establishment and administration of single-county or joint-county departments of health in all counties except counties of the first class; exempting certain municipalities from the jurisdiction of single-county or joint-county departments of health; permitting the dissolution of departments or boards of health in certain municipalities; authorizing State grants to counties which establish departments of health and to certain municipalities if they meet prescribed requirements; *conferring powers and duties upon the State Department of Health in connection with the creation, establishment and administration of single-county or joint-county departments of health and administration of the health laws in parts of certain municipalities not subject to the jurisdiction of single-county or joint-county departments of health, and the administration of State grants; and repealing an act which confers health powers upon counties of the first class.

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* "conferring" in original.