

men, or other employes of fire departments, and of all fire alarm operators and fire box inspectors in the bureaux of electricity, in all cities of the second and third class wherein such officers and employes are paid.

APPROVED—The 31st day of May, A. D. 1933.

GIFFORD PINCHOT

No. 273

AN ACT

Declaring it to be a misdemeanor for accountants or auditors to issue, or permit to be issued, false financial statements.

Accountants or auditors.

False financial statements.

Misdemeanor.

Penalty.

When effective.

Section 1. Be it enacted, &c., That any person or persons practicing as accountants, public accountants, auditors, or certified public accountants in this State, who shall wilfully issue, or permit the issuance of, any false statement of the financial transactions, standing, or condition of any corporation, partnership, or individual business undertaking, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be fined not more than two thousand dollars, or imprisoned for a period of not less than ninety days nor more than one year, or subjected to both said fine and imprisonment, in the discretion of the court.

Section 2. This act shall become effective immediately upon its approval by the Governor.

APPROVED—The 31st day of May, A. D. 1933.

GIFFORD PINCHOT

No. 274

AN ACT

For the protection of the public health and to prevent fraud and deception in the manufacture, sale, offering for sale, exposing for sale, and having in possession with intent to sell, of adulterated or deleterious ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, ice and fruit ice, including coated ice cream and the coating thereof; fixing standards for ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, ice and fruit ice, and to prevent the sale of imitation ice cream and defining said imitation ice cream; providing penalties for the violation thereof; and providing for the enforcement thereof.

Ice cream and other similar frozen products.

"Ice cream," defined.

Section 1. Be it enacted, &c., That for the purpose of this act, "ice cream" is defined as any frozen sweetened milk product which is agitated during the process of freezing, and includes every frozen milk product which contains more than five per centum (5%) by weight of total milk solids, or skim milk solids, and which in any

manner simulates the texture or characteristics of ice cream, no matter under what coined or trade name it may be sold. Ice cream shall be made from a combination of one or more of the following ingredients, viz., cream, milk, condensed milk, sweetened condensed milk, dried milk, skimmed milk, condensed skimmed milk, sweetened condensed skimmed milk, or dried skimmed milk, and with or without one or more of the following ingredients — butter, water, sugar, flavor, stabilizer, harmless color which does not conceal, damage or inferiority, any one and all of which ingredients shall be wholesome, edible material, and the finished products shall contain not less than ten per centum (10%) of butter fat by weight, except when fruits or nuts, or both, are used for flavoring, when it shall contain not less than eight per centum (8%) of butter fat by weight.

For the purpose of this act, "custard ice cream," "french ice cream," "french custard," and "frozen custard" shall conform to the definition and standards hereinbefore defined for "ice cream" no matter under what trade or coined name it may be sold or offered for sale, and, furthermore, it shall contain not less than five (5) dozen clean, wholesome egg yolks, or the equivalent of such egg yolks in any wholesome form, for each ninety (90) pounds of finished product.

"Custard ice cream," "french ice cream," etc., defined.

For the purpose of this act, "sherbet" is defined as any frozen sweetened fruit flavored product containing five per centum (5%) or less by weight of total milk solids, or skim milk solids, the process of manufacture of which is similar to the process of manufacture of ice cream, no matter under what trade or coined name it may be sold or offered for sale. It shall be made from milk or milk products, including ice cream mix, with one or more of the following ingredients, viz., sugar, water, stabilizer, or harmless color which does not conceal, damage or inferiority, and fruit or fruit flavoring material, and the finished product (except vanilla and chocolate flavors) shall contain not less than thirty-five hundredths of one per centum (0.35%) of harmless organic acid as determined by titration with standard alkali and calculated as lactic acid, and derived in whole or in part from the fruit or fruit flavoring material or by the addition of citric, tartaric or lactic acid.

"Sherbet," defined.

"Sherbet," when sold or offered for sale under any coined or trade name, shall be plainly and distinctly marked as "a sherbet" in addition to the said coined or trade name designation and in juxtaposition thereto.

For the purpose of this act, "ice" or "fruit ice" is hereby defined as any frozen sweetened fruit flavored product, the process of manufacture of which is similar to the process of manufacture of ice cream, no matter under what trade or coined name it may be sold or offered for sale, and shall contain no milk solids whatsoever. It shall be made from one or more of the follow-

"Ice or fruit ice," defined.

ing ingredients, viz., sugar, water, stabilizer, harmless color which does not conceal, damage or inferiority, fruit or fruit flavoring material, and the finished product shall contain not less than thirty-five hundredths of one per centum (0.35%) of harmless organic acid as determined by titration with standard alkali and calculated as lactic acid, and derived in whole or in part from the fruit or fruit flavoring material or by the addition of citric, tartaric or lactic acid.

"Imitation ice cream," etc., defined.

For the purpose of this act, "imitation ice cream," "ice cream substitute," or "coated imitation ice cream" is defined as any frozen sweetened product containing milk solids, manufactured in a manner similar to the process of manufacturing ice cream, hereinbefore defined, and which contains less than the per centum of butter fat as hereinbefore adopted for ice cream or more than five per centum (5%) of total milk solids, or skim milk solids.

"Ice cream plant," defined.

For the purpose of this act, an "ice cream plant" shall mean any place, premises or establishment where ice cream, sherbet, ice, fruit ice or similar frozen products are manufactured, prepared or processed for distribution or sale: Provided, however, That the term shall not be construed to include such establishments as hotels, dining rooms, and boarding or eating houses where ice cream, sherbet or ice is produced and consumed only on the premises.

Sales of adulterated or imitation ice cream.

Section 2. It is unlawful for any person, association, partnership, or corporation, by himself, herself, itself or themselves, or by his, her or their agents, servants or employes, to sell, offer for sale, expose for sale, or have in possession with intent to sell, ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, ice or fruit ice, including coated ice cream and the coating thereof, which is adulterated within the meaning of this act, or to sell, offer for sale, or expose for sale, or have in possession with intent to sell, any imitation ice cream, ice cream substitute, or coated imitation ice cream, as defined in this act.

Adulterations.

Section 3. Ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, ice and fruit ice, and the coating thereof, shall be deemed to be adulterated within the meaning of this act—

First. If it contains boric acid, formaldehyde, saccharin, or any other added substance or compound that is deleterious to health.

Second. If it contains salts of copper, iron oxide ochres, or any coloring substance deleterious to health: Provided, That this paragraph shall not be construed to prohibit the use of harmless coloring matter when not used for fraudulent purposes.

Third. If it contains any deleterious flavoring matter or flavoring matter not true to name.

Fourth. If it contains any fats, oils, or paraffin, other than milk fats, added to or blended or compounded with it: Provided, however, That chocolate ice cream and the coating of coated ice cream may contain cocoa butter.

Fifth. If it is an imitation ice cream, ice cream substitute, or coated imitation ice cream, as defined in this act.

Sixth. If it is offered for sale from any container, compartment, or cabinet which contains any article other than ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, ice or fruit ice.

Seventh. If it falls below the standards, or any of them, fixed for the particular product by the definition thereof contained in this act, or is falsely labeled or labeled contrary to the provisions of this act.

Section 4. It is unlawful for any person, association, partnership, or corporation to sell, offer for sale, expose for sale, or have in possession with intent to sell, any ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbets, ices or fruit ices in any container which is falsely labeled or branded as to the name of the manufacturer thereof; or to misrepresent, in any way, the place of manufacture thereof.

Sales in containers falsely labeled.

It is unlawful for any person to use, or cause or allow to be used, any equipment, cabinet, can, or other container belonging to one manufacturer for the purpose of preserving or holding any ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, ice or fruit ice manufactured by another manufacturer; or for any person, manufacturer, or employe or agent of any manufacturer to knowingly supply or place or deposit ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, ice or fruit ice of one manufacturer in any equipment, cabinet, can, or other container belonging to another manufacturer. It is unlawful for any person, other than the owner, to remove, erase, obliterate, cover, or conceal any manufacturer's or owner's name, insignia, device, or distinguishing mark, which may appear or be placed on any ice cream equipment, cabinet, can, or other container.

Use of equipment belonging to another.

Obliteration or concealment of name, etc.

Section 5. Every ice cream plant shall be maintained and operated with strict regard for the purity and wholesomeness of the ice cream, sherbet and ice produced therein. The entire establishment and its appertaining premises, including fixtures, furnishings, machinery, apparatus, implements, utensils, receptacles, and all equipment used in the production, keeping, storing, handling or distributing, shall be maintained and operated in a clean sanitary manner. All equipment and utensils used in the production of ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, ice and fruit ice shall be thoroughly sterilized. The clothing, habits and conduct of the employes shall be conducive to and promote cleanliness and sani-

Sanitary requirements.

tation. There shall be proper, suitable and adequate toilets and lavatories and equipment for cleansing, constructed, maintained and operated in a clean and sanitary manner.

License and registration.

Section 6. It shall be the duty of every person, copartnership, association, and corporation, whether resident or nonresident of this Commonwealth, operating an ice cream plant, to apply to the Department of Agriculture for a license to do so, and to register with the department each and every brand or product produced or manufactured in such plant, on or before the first day of July, one thousand nine hundred and thirty-three, and thereafter before the first day of January of each succeeding year, and pay to the department, at the time such application for registration and license is filed, an annual license fee, as follows: For each ice cream plant producing annually not in excess of one hundred thousand (100,000) gallons, ten dollars (\$10.00); in excess of one hundred thousand (100,000) gallons and not in excess of two hundred and fifty thousand (250,000) gallons, fifty dollars (\$50.00); and in excess of two hundred and fifty thousand (250,000) gallons, one hundred dollars (\$100.00).

License fees.

The license fee from the first day of July, one thousand nine hundred and thirty-three, to the first day of January, one thousand nine hundred and thirty-four, shall be one-half of the above amounts. The application for a license and registration shall be made on a form to be supplied by the department. The application shall have attached thereto the affidavit of the person, or of some member or officer of the association, copartnership, or corporation, applying therefor, stating that the facts set forth therein are true and correct.

Form of application.

Affidavit.

Operation of plant without license.

From and after the first day of July, one thousand nine hundred and thirty-three, it shall be unlawful for any person to operate an ice cream plant unless the same is duly licensed in accordance with the provisions of this act.

Department of Agriculture to issue license and registration certificate.

Upon approval of application for registration and license and payment of required license fee, and also approval of sanitary conditions in an ice cream plant, the Department of Agriculture shall issue to each applicant a license or certificate of registration, which shall expire at the end of each calendar year, and which will authorize the operation of said plant for the calendar year, or portion thereof, for which a license or certificate of registration shall be issued.

Revocation of license.

Section 7. The Department of Agriculture is hereby authorized to revoke any license for cause, and where it shall be properly ascertained that the ice cream plants are not operated in a proper and sanitary condition as hereinbefore provided.

Enforcement.

Section 8. The Department of Agriculture is charged with the enforcement of the provisions of this act.

The department is authorized to adopt and promulgate such rules and regulations as are necessary for the proper enforcement of the provisions of this act.

Rules and regulations.

Section 9. Any person, association, partnership, or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), or, in the case of an individual, or the officers and members of an association, partnership, or corporation, to undergo an imprisonment of not less than thirty (30) days nor more than sixty (60) days, or both.

Violation.

Penalty.

All fines and penalties, imposed and recovered for the violation of any of the provisions of this act, shall be paid to the Department of Agriculture, and, when so collected and paid, shall thereafter be paid into the State Treasury, through the Department of Revenue, for the use of the Commonwealth.

Disposition of fines and penalties.

Section 10. Nothing contained in this act shall be construed to apply to ice cream and similar frozen products manufactured and sold by social, fraternal, charitable, educational, religious or beneficial organizations, nor to a farmer making and selling from the products of his farm ice cream, custard ice cream, french ice cream, french custard, frozen custard, sherbet, or ice, provided that the standards of purity and quality prescribed by this act are maintained in all cases of manufacture and sale permitted by the provisions of this section.

Exceptions to application of act.

Section 11. The act approved the twentieth day of March, one thousand nine hundred and twenty-three (Pamphlet Laws, twenty-five), entitled "An act for the protection of the public health and to prevent fraud and deception in the manufacture, sale, offering for sale, exposing for sale, and having in possession with intent to sell, of adulterated or deleterious ice cream, including coated ice cream and the coating thereof; fixing a standard of butter-fat for ice cream; providing penalties for the violation thereof; and providing for the enforcement thereof," and the amendments thereto, are hereby repealed.

Act of March 20, 1923 (P. L. 25), repealed.

All other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

General repeal.

Section 12. This act shall take effect on the first day of May, one thousand nine hundred and thirty-three.

Effective date.

APPROVED—The 31st day of May, A. D. 1933.

GIFFORD PINCHOT