

# **OHIO FOOD AND DRUG LAWS, 1908**

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Ohio Food and Drug Laws, 1908 by Renick W. Dunlap

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**RENICK W. DUNLAP**

**OHIO FOOD AND  
DRUG LAWS, 1908**



OHIO  
FOOD AND DRUG LAWS

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Compiled by  
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Dairy and Food Commissioner

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1908



COLUMBUS, OHIO  
FRED. J. HEER, STATE PRINTER  
1908

# LAWS

## REGULATING THE MANUFACTURE AND SALE OF FOOD, DRINK, DRUGS AND LINSEED OIL, PAINTS, AND AGAINST FRAUD AND DECEPTION THEREIN, TOGETHER WITH THE LAW OF PROCEDURE FOR THE VIOLATION OF SUCH LAWS.

### AN ACT

To create the office of dairy and food commissioner, provide for his election, term of office, duties, salaries, expenses, office, disposition of fines collected, annual reports, etc., as amended April 19, 1894 and providing a penalty for resisting inspection by officers, as amended May 9, 1908.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That there is hereby created the office of dairy and food commissioner of the state of Ohio. Said commissioner shall be elected at the general election held on the first Tuesday after the first Monday in November, A. D. one thousand eight hundred and ninety-six. He shall take his office on the first Tuesday following the fifteenth day of February next after his election, and shall serve for two years, and until his successor is elected and qualified. He shall be charged with the enforcement of all laws against fraud and adulteration or impurities in foods, drinks or drugs, and unlawful labeling in the state of Ohio. His salary shall be three thousand five hundred dollars (\$3,500)\* per year, and his necessary and reasonable expense incurred in the discharge in his official duties, to be paid in monthly installments at the end of each calendar month. Provided, however, that said salary and expenses provided for herein shall be in full of all amounts received by said commissioner from all sources whatsoever, and said necessary and reasonable expenses shall not exceed the sum of seven hundred and fifty dollars in any one year.

Bates. (400-7).  
Ohio dairy  
and food  
commissioner;  
election.

Term.

Duties.

Salary and  
expenses.

SECTION 2. It shall be the duty of said commissioner or assistant commissioner to inspect any articles of butter, cheese, lard, syrup or other article of food or drinks made or offered for sale in the state of Ohio, as an article of food or drink, and to prosecute or cause to be prosecuted any person or persons, firm or firms, corporation or corporations engaged in the manufacture or sale of any adulterated article of food or drink, or adulterated in violation of, or contrary to any laws of the state of Ohio.

Bates. (400-8).  
General duties  
of himself  
and assistants.

SECTION 3. The said commissioner, or any assistant commissioner, or any inspector, of the dairy and food department shall have power in the performance of their duty, to enter into any creamery, factory, store, salesroom, drug store or laboratory, or place where they have reason to be-

Bates. (400-9).

Powers.

\* Changed to \$4,000 by general act, 98 O. L. 365.

lieve food or drink or linseed oil are made, prepared, sold or offered for sale, and to examine their books, and to open any cask, tub, jar, bottle or package, containing or supposed to contain any article of food or drink and examine or cause to be examined and analyzed the contents thereof, and it shall be the duty of any prosecuting attorney in any county of the state, when called upon by said commissioner or assistant commissioner, or any inspector, to render him any legal assistance in his power, to execute the laws, and to assist in the prosecution of cases arising under provisions of this act.

Sec. 3a. Any person or persons who refuse to allow said commissioner, or any assistant commissioner or any inspector, or any of his agents entrance to any creamery, factory, store, salesroom, drug store, laboratory, booth, vehicle, steam or electric cars, or place which he desires to enter in the discharge of his official duty; or in any manner interfere with said commissioner, or any assistant commissioner, or any inspector, or agent in the discharge of his official duty; or refuse to deliver to him a sample of any article of food, drug, or linseed oil made, sold, offered or exposed for sale by such person or persons, when the same is requested and when the value thereof is tendered, shall be fined not exceeding two hundred nor less than fifty dollars, for the first offense, and for each subsequent offense shall be fined not exceeding three hundred nor less than one hundred dollars, or imprisoned in the county jail not exceeding one hundred, nor less than thirty days, or both.

Refusing to allow commissioners, inspectors, etc., entrance to creamery, store, etc.

Interfere or refuse to deliver sample, etc.

Penalty.

Bates. (409-10).

SECTION 4. Said commissioner may appoint not to exceed two assistant commissioners, each of whose salaries shall be one thousand dollars per year, and necessary traveling expenses incurred in the discharge of their official duties, to be paid in like manner with the commissioner's and on itemized vouchers approved by said commissioner; the said commissioner shall have power to employ such experts, chemists, agents, inspectors and counsel as may by him be deemed necessary for the proper enforcement of the laws, their compensation to be fixed by the commissioner. And each assistant commissioner and inspector now serving or hereafter appointed shall, before entering upon or continuing in the discharge of his duties, give bond payable to the state in the sum of \$1,000 with sureties to the approval of the dairy and food commissioner conditioned for the faithful performance of his duties, which bond, when so approved, shall be filed with the secretary of state and be open to inspection at all proper times.

Assistant commissioners. Experts, chemists, agents, inspectors and counsel.

Bonds.

Payment of expenses, etc., limitation.

Vacancies in office of commissioner.

All charges, accounts and expenses authorized by this act shall be paid out of the state treasury upon vouchers certified by the commissioner, and upon warrant by the state auditor. The entire expense of said commissioner shall not exceed in one year the amount specifically appropriated for such purposes. All vacancies in the office of dairy and food commissioner shall be filled by appointment of the governor until the next general election, then the same shall be filled as in the original election. All fines, fees and costs assessed

and collected under prosecutions begun, or caused to be begun, by the commissioner, and all fines, fees and costs heretofore assessed and collected under prosecution begun or caused to be begun by the commissioner, shall be paid by the court to the commissioner, and by him paid into the state treasury and be credited to the general revenue fund of the state.

Disposition of fines, fees and costs.

Office, seal, stationery and supplies.

The two most easterly rooms on the north side of the east end of the south corridor of the state house, now occupied by the dairy and food commissioner, are set apart for his use, wherein shall be kept his books, records, or other property of his office.

He shall keep a seal with which to attest official acts and documents, and shall be entitled to stationery and supplies from the secretary of state as are other state officers. The commissioner shall make an annual report to the governor as soon as possible after the 15th day of November of each year, containing itemized statements of all receipts and disbursements, attorney fees in each specified suit brought in this department, and all persons employed by him, together with such statistics and other matter as he may regard of value; said reports to be published as are the other reports of the other state officers.

Annual report.

He shall issue bulletins at such times as he may deem best, giving such information as he may have of the condition of the various products which it is his duty to cause to be inspected and the results of analyses by him caused to be made, and such other information as may be serviceable to the public, which said bulletins shall be immediately published by the state and distributed by the commissioner.

Bulletins.

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#### AN ACT

To authorize the dairy and food commissioner of Ohio to employ a clerk.

SECTION 1. That the dairy and food commissioner of Ohio be and is hereby authorized to employ a clerk for his office whose compensation shall not exceed \$1,200 per annum. 97 O. L. 31; 90 O. L. 257.

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#### AN ACT

To provide against the adulteration and misbranding of food and drugs.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That no person shall, within this state, manufacture for sale, offer for sale, sell, deliver or have in his possession with intent to sell or deliver any drug or article of food which is adulterated, within the meaning of

Sales, etc., of adulterated and misbranded foods and drugs prohibited.



this act; that no person shall, within this state, offer for sale, sell, deliver or have in his possession with intent to sell or deliver any drug or article of food which is misbranded, within the meaning of this act.

"Drug" and  
"Food" de-  
fined. Flav-  
oring extract.

SECTION 2. The term "drug," as used in this act, shall include all medicines for internal or external use or for inhalation, antiseptic, disinfectants and cosmetics. The term "food," as used herein, shall include all articles used for food, drink, flavoring extract, confectionery, or condiment by man, whether simple, mixed or compound. The term "flavoring extract," as used herein, shall include any article used as a flavor for foods or drinks whether used or sold under the name of extract, flavor, essence, tincture, or any other name.

SECTION 3. An article shall be deemed to be adulterated within the meaning of this act:

Drugs when  
adulterated.

(a) In the case of drugs: (1) If, when sold under or by a name recognized in the eighth decennial revision of the United States Pharmacopoeia, or the third edition of the National Formulary, it differs from the standard of strength, quality or purity laid down therein; (2) if, when sold under or by a name not recognized in the eighth decennial revision of the United States pharmacopoeia, or the third edition of the National Formulary, but which is found in some other pharmacopoeia, or other standard work on materia medica, it differs materially from the standard of strength, quality and purity laid down in such work; (3) if its strength, quality or purity falls below the professed standard under which it is sold; (4) if it is an imitation of, or offered for sale under the name of another article; (5) if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package; (6) if it contains any methyl or wood alcohol.

Foods when  
adulterated.

(b) In the case of food, drink, flavoring extract, confectionery or condiment: (1) If any substance or substances have been mixed with it, so as to lower or depreciate or injuriously affect its quality, strength or purity; (2) if any inferior or cheaper substance or substances have been substituted wholly, or in part, for it; (3) if any valuable or necessary constituent or ingredient has been wholly, or in part, abstracted from it; (4) if it is an imitation of, or is sold under the name of another article; (5) if it consists wholly, or in part, of a diseased, decomposed, putrid, infected, tainted or rotten animal or vegetable substance or article, whether manufactured or not or, in the case of milk, if it is the produce of a diseased animal; (6) if it is colored, coated, polished or powdered, whereby damage or inferiority is concealed, or if by any means it is made to appear better or of greater value than it really is; (7) if it contains any added substance or ingredient which is poisonous or injurious to health; (8) if, when sold under or by a name recognized in the eighth decennial revision of the United States pharmacopoeia, or the Third Edition of the National Form-

ulary, it differs from the standard of strength, quality or purity laid down therein; (9) if, when sold under or by a name not recognized in the Eighth Decennial Revision of the United States Pharmacopoeia, or the Third Edition of the National Formulary, but is found in some other pharmacopoeia, or other standard work on materia medica, it differs materially from the standard of strength, quality or purity laid down in such work; (10) if the strength, quality or purity falls below the professed standard under which it is sold; (11) if it contains any methyl or wood alcohol.

Sec. 3a. An article shall be deemed to be misbranded within the meaning of this act:

(a) In the case of drugs: (1) If the package fails to bear a statement on the label of the quantity or proportion of any grain or ethyl alcohol, morphine, opium, cocaine, heroine, alpha or beta eucacaine, chloroform, cannabis indica, choral hydrate, acetanilide or any derivative or preparation of any such substances contained therein, PROVIDED, that the provisions of this section shall not apply to the prescriptions of regularly licensed physicians, dentists and doctors of veterinary medicine, nor to such drugs and preparations as are officially recognized in the Eighth Decennial Revision of the United States Pharmacopoeia, or the Third Edition of the National Formulary, and which are sold under the name by which they are so recognized; (2) if the package containing it or any label thereon shall bear any statement, design or device regarding it or the ingredients or substances contained therein, which shall be false or misleading in any particular,

Drugs when misbranded.

(b) In the case of food, drink, flavoring extracts, confectionery or condiment: (1) If the package fails to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroine, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate or acetanilide, or any derivative or preparation of any such substances contained therein; (2) if it be labeled or branded so as to deceive or mislead the purchaser or purport to be foreign product when not so; (3) if in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package; (4) in case of any flavoring extract, for which no standard exists, if the same is not labeled "artificial" or "imitation" and the formula printed in the same manner hereinafter provided for the labeling of "compounds" or "mixtures" and their formulae; (5) if the package containing it or any label thereon shall bear any statement, design or device regarding it or the ingredients or substances contained therein, which shall be false or misleading in any particular; PROVIDED, that the provision of this act shall not apply to mixtures or compounds recognized as ordinary articles or ingredients of articles of food or drink, if each and every package sold or offered for sale be distinctly labeled in words of the English language as mixtures or compounds, with the name and percentage, in terms of 100 per cent, of each

Food when misbranded.

Exception.

Labeling mix-  
tures or com-  
pounds.

ingredient therein. The word "compound" or "mixture" shall be printed in letters and figures not smaller in either height or width than one-half the largest letter upon any label on the package and the formula shall be printed in letters and (figures) not smaller in either height or width than one-fourth the largest (letter) upon any label on the package and such compound or mixture must not contain any ingredient that is poisonous or injurious to health.

Furnishing  
sample for  
analysis.

SECTION 4. Every person manufacturing, offering or exposing for sale, or delivering to a purchaser, any drug or article of food included in the provisions of this act, shall furnish to any person interested, or demanding the same, who shall apply to him for the purpose, and shall tender him the value of the same, a sample sufficient for the analysis of any such drug or article of food which is in his possession.

Penalty.

SECTION 5. Whoever refuses to comply, upon demand, with the requirements of section 4, and whoever violates any of the provisions of this act, shall be fined not exceeding one hundred nor less than twenty-five dollars, for the first offense, and for each subsequent offense shall be fined not exceeding two hundred dollars nor less than one hundred dollars, or imprisoned in the county jail not exceeding one hundred, nor less than thirty days, or both. And any person found guilty of manufacturing, offering for sale or selling an adulterated article of food or drug under the provisions of this act, shall be adjudged to pay in addition to the penalties hereinbefore provided for, all necessary costs and expenses incurred in inspecting and analyzing such adulterated articles of which said person may have been found guilty of manufacturing, selling or offering for sale.

#### AN ACT

Providing against the sale of unwholesome food (29 v. 144) and to provide against the contamination of animals used for human food.

Offenses  
against  
public health.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That section 6928 of the Revised Statutes, be amended and supplemented so as to read as follows:

Penalty for  
selling, etc.,  
unwholesome  
provisions.

Sec. 6928. Whoever sells, or offers for sale, or has in his possession with a view to sell any kind of diseased, corrupted or adulterated, or unwholesome provisions, whether for meat or drink, without making the condition of the same known to the buyer, and whoever kills for the purpose of sale, any calf less than four weeks old, or sells, or has in possession with intent to sell, the meat of any calf which he knows to have been killed when less than four weeks old, shall be fined not more than fifty dollars or imprisoned not more than twenty days, or both.

Sec. 6928-1. Whoever feeds to swine, or animals of any kind used for human food, the flesh of any old horse, or