

A BILL

substitute

FOR AN ACT TO PREVENT DECEPTION IN THE MANUFACTURE AND SALE OF IMITATIONS OF BUTTER AND CHEESE.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That for the purposes of this act every article, substance or compound other
2 than that produced from pure milk or cream from the same made in the semblance of but-
3 ter and designed to be used as a substitute for butter made from pure milk or cream from
4 the same is hereby declared to be imitation butter; and that for the purposes of this act
5 every article, substance or compound other than that produced from pure milk or cream
6 from the same made in the semblance of cheese and designed to be used as a substitute for
7 cheese made from pure milk or cream from the same is hereby declared to be imitation
8 cheese; provided that the use of salt, rennet, and harmless matter for coloring the product
9 of pure milk or cream, shall not be construed to render such product an imitation.

SEC. 2. Each person who manufactures imitation butter or imitation cheese shall mark
2 by branding, stamping or stenciling upon the top and sides of each tub, firkin, box or other
3 package in which such article shall be kept and in which it shall be removed from the place
4 where it is produced, in a clear and durable manner, in the English language, the name of
5 the contents thereof as herein designated, in printed letters of plain Roman type each of
6 which shall be not less than one inch in length by one half of one inch in width. Every
7 person who by himself or another violates the provisions of this section shall be deemed
8 guilty of causing a public nuisance and the building or other place in which such violation
9 occurs is hereby declared to be a nuisance and the same may be abated in the manner pro-
10 vided by law.

SEC. 3. No person by himself or another shall knowingly ship, consign or forward by any
2 carrier whether public or private any imitation butter or imitation cheese, unless the same
3 be marked as provided by section two of this act; and no carrier shall knowingly receive
4 for the purpose of forwarding or transporting any imitation butter or imitation cheese, un-
5 less it shall be marked as hereinbefore provided, consigned, and by the carrier received for
6 by its name as designated by this act.

SEC. 4. No person shall knowingly have in his possession or under his control any imita-
2 tion butter or imitation cheese unless the tub, firkin, box or other package containing the
3 same be clearly and durably marked as provided by section two of this act.

SEC. 5. No person by himself or another shall knowingly sell or offer for sale imitation
2 butter or imitation cheese under the name of, or under the pretense that the same is pure
3 butter or pure cheese; and no person by himself or another shall knowingly sell any imita-
4 tion butter or imitation cheese unless he shall have informed the purchaser distinctly at the
5 time of the sale, that the same is imitation butter or imitation cheese as the case may be, and
6 shall have delivered to the purchaser at the time of the sale a statement clearly printed
7 in the English language which shall refer to the article sold and which shall contain in
8 prominent and plain Roman type the name of the article sold as fixed by this act and shall
9 give the name and place of business of the maker, and if made under a patent the number
10 and date of such patent and the name of the patentee.

SEC. 6. No keeper of a hotel, boarding house, restaurant, or other public place of enter-
2 tainment shall place before any patron for use as food any imitation butter or imitation
3 cheese unless the same be accompanied by a placard containing the name in English of such
4 article as fixed by this act printed in plain Roman type. Each violation of this section shall
5 be deemed a misdemeanor.

SEC. 7. No action can be maintained on account of any sale or other contract made in vio-
2 lation of or without intent to violate this act by or through any person who was know-
3 ingly a party to such wrongful sale or other contract.

SEC. 8. Every person having possession or control of any imitation butter or imitation
2 cheese which is not marked as required by the provisions of this act shall be presumed to
3 have known during the time of such possession or control the true character and name as
4 fixed by this act of such imitation product.

SEC. 9. Whoever shall deface, erase, cancel or remove any mark provided for by this act
2 with intent to mislead, deceive, or to violate any of the provisions of this act, shall be
3 deemed guilty of a misdemeanor.

SEC. 10. Whoever shall violate any of the provisions of the third, fourth and fifth sec-
2 tions of this act shall, for the first offense, be punished by a fine of not less than fifty dol-
3 lars nor more than two hundred dollars, and for each subsequent offense shall be punished
4 by a fine of not less than two hundred and fifty dollars nor more than five hundred dol-
5 lars, or by imprisonment in the county jail not less than thirty days nor more than six
6 months, or by both such fine and imprisonment in the discretion of the court.

SEC. 11. The Governor shall within thirty days from the taking effect of this act and
2 biennially thereafter, by and with the advice and consent of the Executive Council appoint
3 an officer who shall be known as the State Dairy Commissioner who shall have practical ex-
4 perience in the manufacture of dairy products. The terms of office of such Commissioner
5 shall commence on the first day of April of each even numbered year and shall continue
6 for the term of two years and until his successor is appointed and qualified. Said Commis-

7 sioner shall give an official bond conditioned for the faithful performance of the duties of
 8 his office in the sum of ten thousand dollars, with sureties to be approved by the Governor.
 9 He may be removed from office by the Governor with the approval of the Executive Coun-
 10 cil for neglect or violation of duty. Any vacancy shall be filled by the appointment of the
 11 Governor by and with the advice and consent of the Executive Council.

SEC. 12. The State Dairy Commissioner shall receive a salary of
 2 dollars per annum, payable monthly and the expenses necessarily incurred in the proper
 3 discharge of the duties of his office. He shall be furnished a room in the Agricultural De-
 4 partment of the capitol at Des Moines, in which he shall keep his office and all correspond-
 5 ence, documents, records and property of the State pertaining thereto, all of which shall
 6 be turned over to his successor in office. He may, if it is found to be necessary, employ a
 7 clerk whose salary shall not exceed the sum of dollar per annum.

SEC. 13. It shall be the duty of the State Dairy Commissioner to secure, so far as possi-
 2 ble, the enforcement of this act, and for that purpose he is authorized to employ such ex-
 3 perts, chemists, attorneys and other persons as he shall deem necessary; *provided* that he
 4 shall not contract liabilities for such purpose during any one year exceeding the sum of
 5 dollars, without the approval of the Executive Council.
 6 He shall collect, arrange and present in annual reports to the Governor, on or before the
 7 first day of November of each year, a detailed statement of all matters relating to the pur-
 8 poses of this act, including the receipts and disbursements of his office, which he shall deem
 9 of public importance; such report shall be published with the reports of the State Agricul-
 10 tural Society.

SEC. 14. The State Dairy Commissioner shall have power in all cases where he shall deem
 2 it important for the discharge of the duties of his office, to administer oaths, to issue sub-
 3 poenas for witnesses and to examine them under oath and to enforce their attendance to the
 4 same extent and in the same manner as a justice of the peace may now do, and such wit-
 5 nesses shall be paid by the commissioner the same fees now allowed witnesses in justice's
 6 courts.

SEC. 15. Whoever shall have possession or control of any imitation butter or imitation
 2 cheese contrary to the provisions of this act shall be construed to have possession of property
 3 with intent to use it as a means of committing a public offense within the meaning of Chapter
 5 50, of Title XXV, of the Code; provided that it shall be the duty of the officer who serves a
 6 search warrant, issued for imitation butter or imitation cheese, to deliver to the State Dairy
 7 Commissioner, or to any person by such commissioner authorized in writing to receive the
 8 same, a perfect sample of each article seized by virtue of such warrant, for the purpose of
 9 having the same analyzed, and forthwith to return to the person from whom it was taken,
 10 the remainder of each article seized as aforesaid. If any sample be found to be imitation

11 butter or imitation cheese it shall be returned to and retained by the magistrate as, and for,
12 the purpose contemplated by Section 4648 of the Code, but if any sample be found not to be
13 imitation butter or imitation cheese, it shall be returned forthwith to the person from whom
14 it was taken.

SEC. 16. It shall be the duty of the court in each action for the violation of this act to
2 tax as costs in the cause the actual and necessary expense of analyzing the alleged imitation
3 butter or imitation cheese which shall be in controversy in such proceeding provided that
4 the amount so taxed shall not exceed the sum of twenty-five dollars.

SEC. 17. There is hereby appropriated, for the purposes of this act, the sum of.....
2 dollars, not more than one-half of which shall be available during any one year. All extra-
3 ordinary expenses of the office of State Dairy Commissioner shall be approved by the execu-
4 tive council before payment.

SEC. 18. Chapter thirty-nine of the Acts of the Eighteenth General Assembly of Iowa and
2 all acts and parts of acts in conflict with this act are hereby repealed.

SEC. 19. This act being deemed of immediate importance shall take effect and be in force
2 from and after its publication in the Iowa State Register and Iowa Homestead, newspapers
3 published at Des Moines, Iowa.

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2 than that produced from pure milk or cream from the same made in the semblance of but-
3 ter and designed to be used as a substitute for butter made from pure milk or cream from
4 the same is hereby declared to be imitation butter; and that for the purposes of this act
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6 from the same made in the semblance of cheese and designed to be used as a substitute for
7 cheese made from pure milk or cream from the same is hereby declared to be imitation
8 cheese; provided that the use of salt, rennat, and harmless matter for coloring the product
9 of pure milk or cream, shall not be construed to render such product an imitation.

SEC. 2. Each person who manufactures imitation butter or imitation cheese shall mark
2 by branding, stamping or stenciling upon the top and sides of each tub, firkin, box or other
3 package in which such article shall be kept and in which it shall be removed from the place
4 where it is produced, in a clear and durable manner, in the English language, the name of
5 the contents thereof as herein designated, in printed letters of plain Roman type, each of
6 which shall not be less than one inch in length by one-half of one inch in width. Every
7 person who by himself or another violates the provisions of this section shall be deemed
8 guilty of causing a public nuisance, and the building or other place in which such violation
9 occurs is hereby declared to be a nuisance and the same may be abated in the manner pro-
10 vided by law.

SEC. 3. No person by himself or another shall knowingly ship, consign or forward by any
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3 be marked as provided by section two of this act; and no carrier shall knowingly receive
4 for the purpose of forwarding or transporting any imitation butter or imitation cheese, un-
5 less it shall be marked as hereinbefore provided, consigned, and by the carrier receipted for
6 by its name as designated by this act.

SEC. 4. No person shall knowingly have in his possession or under his control any imita-
2 tion butter or imitation cheese unless the tub, firkin, box or other package containing the

3 same be clearly and durably marked as provided by section two of this act; provided, that
4 this section shall not be deemed to apply to persons who have the same in their possession
5 for their actual use or consumption.

SEC. 5. No person by himself or another shall knowingly sell or offer for sale imitation
2 butter or imitation cheese under the name of, or under the pretense that the same is pure
3 butter or pure cheese; and no person by himself or another shall knowingly sell any imita-
4 tion butter or imitation cheese unless he shall have informed the purchaser distinctly at the
5 time of the sale, that the same is imitation butter or imitation cheese as the case may be, and
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8 prominent and plain Roman type the name of the article sold as fixed by this act and shall
9 give the name and place of business of the maker.

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3 cheese unless the same be accompanied by a placard containing the name in English of such
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5 be deemed a misdemeanor.

SEC. 7. No action can be maintained on account of any sale or other contract made in vio-
2 lation of or with intent to violate this act by or through any person who has knowingly a
3 party to such wrongful sale or other contract.

SEC. 8. Every person having possession or control of any imitation butter or imitation
2 cheese which is not marked as required by the provisions of this act shall be presumed to
3 have known during the time of such possession or control the true character and name as
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2 tions of this act shall, for the first offense, be punished by a fine of not less than fifty dol-
3 lars nor more than one hundred dollars, or by imprisonment not exceeding 30 days, and for
4 each subsequent offense shall be punished by a fine of not less than two hundred and fifty
5 dollars nor more than five hundred dollars, or by imprisonment in the county jail not less
6 than thirty days nor more than six months, or by both such fine and imprisonment in the
7 discretion of the court.

SEC. 11. The Governor shall within thirty days from the taking effect of this act, by and
2 with the advice and consent of the Executive Council, appoint an officer, who shall be
3 known as the State Dairy Commissioner, who shall have practical experience in the manu-

4 facture of dairy products. The terms of office of such Commissioner shall commence on
 5 the first day of April, and shall continue for the term of two years. Said Commissioner
 6 shall give an official bond conditioned for the faithful performance of the duties of his of-
 7 fice in the sum of ten thousand dollars, with sureties to be approved by the Governor. He
 8 may be removed from office by the Governor with the approval of the Executive Council
 9 for neglect or violation of duty Any vacancy shall be filled by the appointment of the
 10 Governor by and with the advice and consent of the Executive Council.

SEC. 12. The State Dairy Commissioner shall receive a salary of 1800 dollars per annum,
 2 payable monthly. and the expenses necessarily incurred in the proper discharge of the
 3 duties of his office. He shall be furnished a room in the Agricultural Department of the
 4 capitol at Des Moines, in which he shall keep his office and all correspondence, documents,
 5 records and property of the State pertaining thereto, all of which shall be turned over to
 6 his successor in office. He may, if it is found to be necessary, employ a clerk, whose salary
 7 shall not exceed the sum of 600 dollars per annum.

SEC. 13. It shall be the duty of the State Dairy Commissioner to secure, so far as possi-
 2 ble, the enforcement of this act. He shall collect, arrange and present in annual reports to
 3 the Governor, on or before the first day of November of each year, a detailed statement of
 4 all matters relating to the purposes of this act, which he shall deem of public importance,
 5 including the receipts and disbursements of his office. Such report shall be published with
 6 the reports of the State Agricultural Society.

SEC. 14. The State Dairy Commissioner shall have power in all cases where he shall deem
 2 it important for the discharge of the duties of his office, to administer oaths, to issue sub-
 3 pœnas for witnesses and to examine them under oath and to enforce their attendance to the
 4 same extent and in the same manner as a justice of the peace may now do, and such wit-
 5 nesses shall be paid by the Commissioner the same fees now allowed witnesses in justice's
 6 courts.

SEC. 15. Whoever shall have possession or control of any imitation butter or imitation
 2 cheese, contrary to the provisions of this act, shall be construed to have possession of property
 3 with intent to use it as a means of committing a public offense within the meaning of Chapter
 4 50, of Title XXV, of the Code ; provided that it shall be the duty of the officer who serves a
 5 search warrant, issued for imitation butter or imitation cheese, to deliver to the State Dairy
 6 Commissioner, or to any person by such Commissioner authorized in writing to receive the
 7 same, a perfect sample of each article seized by virtue of such warrant, for the purpose of
 8 having the same analyzed, and forthwith to return to the person from whom it was taken
 9 the remainder of each article seized as aforesaid. If any sample be found to be imitation
 10 butter or imitation cheese, it shall be returned to and retained by the magistrate as, and for,

11 the purpose contemplated by section 4648 of the Code, but if any sample be found not to be
12 imitation butter or imitation cheese, it shall be returned forthwith to the person from whom
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2 tax as costs in the cause the actual and necessary expense of analyzing the alleged imitation
3 butter or imitation cheese which shall be in controversy in such proceeding, provided that
4 the amounts so taxed shall not exceed the sum of twenty-five dollars. It shall be the duty
5 of the district attorney, upon the application of the Dairy Commissioner, to attend to the
6 prosecution in the name of the State any suit brought for violation of this act within his
7 district, any of the provisions of this act, and in case of conviction he shall receive 25 per
8 cent of the fines collected, which shall be in addition to any salary he may receive, to be
9 taxed as costs in the case.

SEC. 17. There is hereby appropriated for the purposes of this act, the sum of twenty
2 thousand dollars, not more than one-half of which shall be drawn from the State treasury
3 prior to the first day of July, A. D. 1887. The amount hereby appropriated shall be
4 expended only under the direction and with the approval of the Executive Council.

SEC. 18. Chapter thirty-nine of the Acts of the Eighteenth General Assembly of Iowa and
2 all acts and parts of acts in conflict with this act are hereby repealed.

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2 force from and after its publication in the Iowa State Register and Iowa Homestead, news-
3 papers published at Des Moines, Iowa.