

CODE OF ALABAMA

Title 20

Food, Drugs and Cosmetics

Chapter 1

Standards, Labeling and adulteration

- Article 1 General Provisions.
 - Section 20-1-1 Short title; enforcement of chapter.
 - Section 20-1-2 Adoption of rules and regulations.
 - Section 20-1-3 Right of entry by commissioner and agents; authority to take samples, investigate records, etc.
 - Section 20-1-4 Suspension from sale, seizure and condemnation of articles sold, stored, etc., in violation of chapter.
 - Section 20-1-5 Penalty for violations of chapter or orders, rules or regulations.
 - Section 20-1-6 Nonliability of good faith donors and distributors of canned or perishable food.
- Article 2 Adulteration and Misbranding.
 - Division 1 Food and Drugs Generally.
 - Section 20-1-20 Definitions.
 - Section 20-1-21 Purpose of division; standards; construction of chapter.
 - Section 20-1-22 When articles deemed adulterated - Food generally.
 - Section 20-1-23 When articles deemed adulterated - Confectionery.
 - Section 20-1-24 When articles deemed adulterated - Drugs.
 - Section 20-1-25 When articles deemed misbranded generally - Food.
 - Section 20-1-26 When articles deemed misbranded generally - Drugs.
 - Section 20-1-27 Prohibited activities.
 - Section 20-1-28 Manufacture, sale, etc., of soft drinks, etc., colored with coal tar preparation, etc., or sweetened with artificial sweeteners; labeling and display for sale of artificially sweetened soft drinks, etc., manufactured for special dietary use by certain persons.
 - Section 20-1-29 Shipment, offer for shipment or sale of certain citrus fruits.
 - Section 20-1-30 Sale, offer for sale, etc., of certain artificially colored potatoes.
 - Section 20-1-31 Possession, transportation, etc., of items in violation of division, chapter.
 - Section 20-1-32 Exemption from prosecution of dealers.
 - Section 20-1-33 Food safety permit.
 - Section 20-1-34 Civil penalties for violation of chapter, etc.
 - Section 20-1-35 Food Safety Advisory Committee.
 - Section 20-1-36 Donations to exempt organizations.
 - Section 20-1-37 Provisions cumulative and supplemental.
 - Division 2 Cosmetics.
 - Section 20-1-50 Definitions.
 - Section 20-1-51 When cosmetics deemed adulterated.

- Section 20-1-52 When cosmetics deemed misbranded.
 - Section 20-1-54 Effect of possession by manufacturer, etc., of adulterated or misbranded cosmetics.
 - Section 20-1-55 Exemption from prosecution of dealers.
 - Section 20-1-56 Construction of division.
 - Section 20-1-57 Standards of purity and quality.
- Article 3 Bread, Flour, Cornmeal and Grits.
 - Section 20-1-70 Short title.
 - Section 20-1-71 Definitions.
 - Section 20-1-72 Applicability of provisions of article.
 - Section 20-1-73 Minimum requirements as to amounts of vitamins and other ingredients - Cornmeal and grits.
 - Section 20-1-74 Minimum requirements as to amounts of vitamins and other ingredients - Flour.
 - Section 20-1-75 Minimum requirements as to amounts of vitamins and other ingredients - Bread.
 - Section 20-1-76 Enrichment of bread.
 - Section 20-1-77 Requirements as to labeling.
 - Section 20-1-78 Powers and duties of State Board and Commissioner of Agriculture and Industries as to administration and enforcement of article; publication and effective date of orders, rules, etc., adopted by state board under authority of article.
- Article 4 Nuts.
 - Section 20-1-90 Sale or offer for sale of infested, mouldy, decayed, etc., pecans, almonds, chestnuts, etc.
 - Section 20-1-91 Sale or offer for sale of "blow-outs," "pops," "culls," etc.
 - Section 20-1-92 Requirements as to labeling of packages or containers.
 - Section 20-1-93 Adoption of standards and variations or tolerances.
- Article 5 Oleomargarine.
 - Section 20-1-110 Short title.
 - Section 20-1-111 Minimum requirements as to units of vitamin A.
 - Section 20-1-112 Changes of specifications as to addition of vitamins to oleomargarine by State Board of Agriculture and Industries.
 - Section 20-1-113 Requirements as to labeling.
- Article 6 Mellorine.
 - Section 20-1-130 Definitions generally.
 - Section 20-1-131 Purpose of article.
 - Section 20-1-132 Definition and standards for mellorine.
 - Section 20-1-133 Permit required for manufacturing, processing, packaging, sale, etc., of mellorine; application and fee therefor.
 - Section 20-1-134 Requirements as to sale generally.
 - Section 20-1-135 Requirements as to labeling generally; when package or container deemed misbranded.
 - Section 20-1-136 False and misleading advertising.
 - Section 20-1-137 Adulteration and misbranding of mellorine, imitations thereof, etc.; sale or offer for sale of adulterated or misbranded mellorine.

- Article 6A Milk, Milk Products, and Frozen Desserts.
 - Section 20-1-140 Definitions.
 - Section 20-1-141 Permit required for operation of milk, milk products, or frozen dessert processing plant.
 - Section 20-1-142 Inspection of plants; issuance of permit.
 - Section 20-1-143 Denial of permit renewal and suspension or revocation of permit; appeals.
 - Section 20-1-144 Violation of article; enforcement.
 - Section 20-1-145 Collected fees and penalties appropriated to board.
 - Section 20-1-146 Rules and orders for implementation of article provisions.
- Article 7 Identification of Drug Products.
 - Section 20-1-150 Marking or imprinting of drug products in finished solid oral dosage forms required.
 - Section 20-1-151 Descriptive material to be furnished upon request.
 - Section 20-1-152 State Board of Health to promulgate rules.
 - Section 20-1-153 Exemptions from imprinting requirement.
 - Section 20-1-154 Exemptions for drugs compounded by a pharmacist.

Section 20-1-1

Short title; enforcement of chapter.

This chapter may be cited as the "Alabama Safe Foods Act of 2000."

The Commissioner of Agriculture and Industries, through the facilities of the state Department of Agriculture and Industries, shall enforce the provisions of this chapter. The administrative and enforcement provisions of Title 2 of this code shall, unless inapplicable by their nature, apply to the administration and enforcement of this chapter.

(Acts 1943, No. 501, p. 475, §4; Acts 1947, No. 134, p. 42, §8; Acts 1953, No. 91, p. 134, §8; Acts 1953, No. 475, p. 591, §8; Acts 1965, No. 857, p. 1600, §5; Act 2000-320, p. 505, §1.)

Section 20-1-2

Adoption of rules and regulations.

The State Board of Agriculture and Industries is authorized to adopt and promulgate such rules and regulations as are reasonable and necessary to the accomplishment of the purposes of this chapter and to make effective its provisions.

(Ag. Code 1927, §36; Code 1940, T. 2, §303; Acts 1947, No. 134, p. 42, §8; Acts 1953, No. 91, p. 134, §8; Acts 1953, No. 475, p. 591, §8; Acts 1965, No. 857, p. 1600, §5.)

Section 20-1-3

Right of entry by commissioner and agents; authority to take samples, investigate records, etc.

The commissioner of agriculture and industries and officers and employees under his supervision or direction shall have authority to enter and inspect any premises or vehicle where any food, drug or cosmetic regulated by this chapter is manufactured, harvested, processed, compounded, refined, packed, packaged,

stored, sold or transported, and all equipment, containers and materials therein, to collect samples for analysis and to conduct examinations and investigations of records of production, purchases and sales for the purpose of enforcement of this chapter.

(Acts 1943, No. 500, p. 470, §7; Acts 1943, No. 501, p. 475, §4; Acts 1953, No. 815, p. 1097.)

Section 20-1-4

Suspension from sale, seizure and condemnation of articles sold, stored, etc., in violation of chapter,

Any food, drug or cosmetic regulated by this chapter which is found to be manufactured, processed, compounded, refined, packed, packaged, stored, sold or transported in violation of this chapter shall be subject to suspension from sale, seizure and condemnation in the manner provided in Article 2 of Chapter 2 of Title 2 of this Code.

(Acts 1953, No. 91, p. 134, §8; Acts 1953, No. 475, p. 591, §8; Acts 1963, No. 534, p. 1146; Acts 1965, No. 857, p. 1600, §5.)

Section 20-1-5

Penalty for violations of chapter or orders, rules or regulations.

Any person who violates any of the provisions of this chapter or any order, rule or regulation made or promulgated under authority of this chapter shall, upon conviction thereof, be punished by a fine not exceeding \$500.00 or by imprisonment for not more than six months, or by both such fine and imprisonment, for each offense.

(Code 1907, §7082; Acts 1915, No. 467, p. 489; Code 1923, §4437; Code 1940, T. 2, §313; Acts 1943, No. 500, p. 470, §8; Acts 1943, No. 501, p. 475, §4; Acts 1947, No. 134, p. 42, §5; Acts 1953, No. 91, p. 134, §10; Acts 1953, No. 475, p. 591, §10; Acts 1953, No. 815, p. 1097; Acts 1955, No. 228, p. 537; Acts 1963, No. 534, p. 1146; Acts 1965, No. 857, p. 1600, §4.)

Section 20-1-6

Nonliability of good faith donors and distributors of canned or perishable food.

(a) When used in this section, the words and terms defined in this subsection shall have the meanings herein ascribed to them, unless it clearly appears from the context that some other meaning is indicated:

(1) CANNED FOOD. Any food commercially processed and prepared for human consumption;

(2) PERISHABLE FOOD. Any food which may spoil or otherwise become unfit for human consumption because of its nature, type or physical condition. This term includes, but is not limited to, fresh and processed meats, poultry, seafood, dairy products, bakery products, eggs in the shell, fresh fruits and vegetables, and foods which have been packaged, refrigerated or frozen.

(b) All laws to the contrary notwithstanding, a good faith donor of canned or perishable food, which is apparently fit for human consumption at the time it is donated, to a bona fide charitable or nonprofit organization for free distribution, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food unless such injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of such donor.

(c) All laws to the contrary notwithstanding, a bona fide charitable or nonprofit organization which in good faith receives and distributes food, which is apparently fit for human consumption at the time it is distributed, without charge, shall not be subject to criminal or civil liability arising from an injury or death due to the condition of such food unless such injury or death is a direct result of the gross negligence, recklessness or intentional misconduct of such organization.

(d) The provisions of this section shall govern all good faith donations of perishable food which is not readily marketable due to appearance, freshness, grade, surplus or other conditions. Provided, however, that nothing in this section shall restrict the authority of any appropriate agency to regulate or ban the use of such food for human consumption.

(Acts 1981, 1st Ex. Sess., No. 81-976, p. 157, §§1-4.)

- **Article 2 Adulteration and Misbranding.**
 - **Division 1 Food and Drugs Generally.**

Section 20-1-20

Definitions.

When used in this chapter, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) **ARTICLE.** When referring to food or drugs, such term is used in the broad and comprehensive sense and has reference to the food product or the drug product in question.
- (2) **BABY FOOD.** A food which purports to be or is represented for special dietary use as a food for babies by reason of its special formulation or its particular suitability for children under two years of age.
- (3) **BOARD.** The State Board of Agriculture and Industries.
- (4) **CLASS A FOODS.** Baby food, infant formula, and potentially hazardous food.
- (5) **COMMISSIONER.** The Commissioner of Agriculture and Industries.
- (6) **DEALER.** A manufacturer, wholesaler, retailer, jobber, and similar establishments, mobile or permanent, engaged in the sale of food for consumption on premises.
- (7) **DEPARTMENT.** The Department of Agriculture and Industries.
- (8) **DRUG.** All medicines and preparations recognized in the United States pharmacopoeia or national formulary for internal or external use and any substance or mixture of substances to be used for the cure, mitigation or prevention of disease in man or domestic animals.
- (9) **FOOD.** All articles of food, drink, confectionery, or condiment, whether simple, mixed or compound, used or intended for use by man or domestic animals.
- (10) **FOOD SALES ESTABLISHMENT.** Retail and wholesale stores and places of business, and similar establishments, mobile or permanent, engaged in the sale of food primarily for consumption off the premises.

(11) INFANT FORMULA. A food which purports to be or is represented for special dietary use solely as a food for infants by reason of its simulation of human milk or its suitability as a complete or partial substitute for human milk.

(12) LABEL. A display of written, printed, or graphic matter upon the immediate container of any article.

(13) MISBRANDED. Such term shall apply to all drugs or foods or articles which enter into the composition of food, the package or label of which shall bear or contain any statement, design, or device regarding such article or the ingredients or substances contained therein which shall be false or misleading in any particular and to any food or drug product which is falsely branded as to the state, territory, or country in which it is manufactured or produced.

(14) OPEN-DATE STATEMENT. The terms "Sell By"; "Freeze By"; "Sell or Freeze By"; "Not to be Sold After"; "Best if Used By"; "Expiration"; or other terms as defined by rules or regulations; or a date without additional words shall be considered an open-date statement.

(15) OUT-OF-DATE. Any article with a label containing an open-date statement with a date affixed thereto which has passed.

(16) PERSON. An individual, partnership, corporation, or association or any combination thereof.

(17) POTENTIALLY HAZARDOUS FOOD. A food that is natural or synthetic and that requires temperature control because it is in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms or the growth and toxin production of *Clostridium botulinum* or the growth of *Salmonella* Enteritidis. The term does not include foods which have a pH level 1 of 4.6 or below; or a water activity (a sub w) of 0.85 or less; or food products in hermetically sealed containers processed to achieve and maintain commercial sterility under unrefrigerated conditions. The foregoing notwithstanding, the board may by rule adopt the definition for "Potentially Hazardous Food" set out in subparagraph 1-201.10 (B)(61), Food Code, 1999 Recommendations of the

United States Public Health Service, Food and Drug Administration, National Technical Information Service Publication, PB99-115929.

(18) STANDARD OF PURITY OR QUALITY. The standards of purity for food products promulgated by the State Board of Agriculture and Industries and by statutes of this state.

(Ag. Code 1927, §§38, 41; Code 1940, T. 2, §§305, 308; Act 2000-320, p. 505, §1.)

Section 20-1-21

Purpose of division; standards; construction of chapter.

(a) The purpose of this division is to prevent the manufacture, possession, sale, or delivery of out-of-date Class A foods and adulterated or misbranded food and drugs.

(b) The State Board of Agriculture and Industries shall have the power and authority and it shall be its duty to fix the standards of purity for all food and drug products which shall be, so far as practical, in accordance with the standards promulgated by the federal government through its duly authorized agents.

(c) The provisions of this chapter regarding the sale of any article shall be considered to include the manufacture, production, packaging, offer, offer for transportation, transportation, exposure, possession, and holding of any such article and the supplying or applying of any such article in the conduct of any food establishment.

(Ag. Code 1927, §36; Code 1940, T. 2, §303; Act 2000-320, p. 505, §1.)

Section 20-1-22

When articles deemed adulterated - Food generally.

An article shall be deemed adulterated in the case of food:

(1) If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength;

- (2) If any substance has been substituted wholly or in part for the article;
- (3) If any valuable constituent of the article has been wholly or in part abstracted;
- (4) If it is mixed, colored, powdered, coated, stained or otherwise treated in a manner whereby damage or inferiority is concealed or in a manner whereby the appearance of said article is improved; provided, that this subdivision shall not apply to the precoloring or processing of fruits where such precoloring or processing does not conceal damage or inferiority;
- (5) If it contains any poisonous or deleterious ingredient which may render such article injurious to health;
- (6) If it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance or any portion of an animal unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or of one that has died otherwise than by slaughter;
- (7) If, in the course of its preparation or manufacture, an ingredient of inferior food value has been substituted in whole or in part for an ingredient of greater food value; or
- (8) If it does not conform to the standard of purity or quality established for the article; provided, that when in the preparation of food products for shipment they are preserved by an external application applied in such a manner that the preservative is necessarily removed mechanically or by maceration in water or otherwise, and directions for the removal of said preservative shall be printed on the covering of the package, the provisions of this division shall be construed as applying only when said products are ready for consumption.

(Ag. Code 1927, §39; Code 1940, T. 2, §306.)

Section 20-1-23

When articles deemed adulterated - Confectionery.

In the case of confectionery, it shall be deemed adulterated if it contains terra alba, barytes, talc, chrome yellow, burnt umber or other mineral substance or

poisonous coloring or flavoring or other ingredients detrimental to health or any vinous, malt or spirituous liquor or compound or narcotic drug.

(Acts 1909, No. 190, p. 237; Code 1923, §4402; Code 1940, T. 2, §312.)

Section 20-1-24

When articles deemed adulterated - Drugs.

An article shall be deemed adulterated in the case of drugs:

- (1) If, when a drug is sold under or by a name recognized in the United States pharmacopoeia or national formulary, it differs from the standard of strength, quality or purity, as determined by the test laid down in the United States pharmacopoeia or national formulary, official at the time of investigation;
- (2) If, when an article not recognized by the United States pharmacopoeia or national formulary, its strength or purity falls below the professed standard or quality under which it is sold; or
- (3) If its strength or purity falls below the standard of quality provided by the rules and regulations of the State Board of Agriculture and Industries.

(Ag. Code 1927, §40; Code 1940, T. 2, §307.)

Section 20-1-25

When articles deemed misbranded generally - Food.

An article of food shall be deemed misbranded in the following cases:

- (1) If it is offered for sale under the name of another article;
- (2) If it is labeled or branded so as to deceive or mislead the purchaser, or purports to be a foreign product when not so or 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;
- (3) If, in package form, the name of the article together with the quantity of the contents in terms of weight, measure or numerical count and the name and

principal address of the manufacturer or other person responsible for placing the article on the market are not plainly and conspicuously marked on the outside of the package;

(4) If, in package form, the package is not filled with the food it purports to contain within the limits of tolerance fixed by the State Board of Agriculture and Industries, irrespective of whether the quantity of the contents is plainly and conspicuously marked on the outside of the package in terms of weight, measure or numerical count;

(5) If the package containing it or its label shall bear any statement, design or device regarding the ingredients or the substances contained therein, which statement, design or device shall be false or misleading in any particular;

(6) If, in bulk, it is colored so as to deceive or mislead the purchaser;

(7) If it is offered for sale under false representations;

(8) If it is an imitation of another article and is not marked with the word "imitation," followed, without intervening descriptive matter, by a list of the ingredients contained therein;

(9) If it is a compound for which no standard of purity or quality has been established, and it is not labeled with the word "compound" followed, without intervening descriptive matter, by a list of the ingredients; provided, that in the case of a compound which may be now or from time to time hereafter known as an article of food under its own distinctive name and which is not an imitation of or offered for sale under the name of another article, it shall not be deemed to be misbranded if the name of the article is accompanied on the same label or brand with a statement of the place where such article was manufactured or produced; or

(10) If the package, label or brand fails to give the ingredients or substances by their common names.

(Ag. Code 1927, §42; Code 1940, T. 2, §309.)

Section 20-1-26

When articles deemed misbranded generally - Drugs.

A drug shall be deemed misbranded in the following cases:

- (1) If it is an imitation of or offered for sale under the name of another article;
- (2) 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, or if the package fails to bear a statement of the net contents on the label of the quantity or proportion of any alcohol or any narcotic or habit-forming drug, together with a statement that such drug is narcotic or habit-forming, as the case may be; or
- (3) If its package or label shall bear or contain any statement, design or device regarding the curative or therapeutic effect of such article or of any of the ingredients or substances contained therein which is false or fraudulent.

(Ag. Code 1927, §43; Code 1940, T. 2, §310.)

Section 20-1-27

Prohibited activities.

No person shall engage in any of the following activities within this state:

- (1) Manufacture for sale herein, have in his or her possession with intent to sell, offer or expose for sale, sell, or deliver any article of food or drugs which is adulterated or misbranded within the meaning of this division.
- (2) Sell or offer for sale out-of-date Class A foods which include baby food, infant formula, and potentially hazardous food.

(Ag. Code 1927, p. 505, §37; Code 1940, T. 2, §304; Act 2000-320, p. 505, §1.)

Section 20-1-28

Manufacture, sale, etc., of soft drinks, etc., colored with coal tar preparation, etc., or sweetened with artificial sweeteners; labeling and display for sale of artificially

sweetened soft drinks, etc., manufactured for special dietary use by certain persons.

(a) No person, firm or corporation shall manufacture or knowingly sell or give away or keep for sale any soda water or other soft drink or beverage colored with any coal tar preparation (except those colors which are certified to and whose use has been authorized and indorsed by the Food and Drug Administration of the Department of Health, Education and Welfare of the United States) or other mineral substance or sweetened with any other than pure fruit syrups or pure cane or beet sugar, except as may otherwise be provided for by subsection (b) of this section.

(b) Soda water or other soft drinks or beverages containing an artificial or nonnutritive sweetening which are manufactured for special dietary use by persons requiring a sugar-free diet may be manufactured and sold in this state in accordance with the provisions of this subsection. No such soda water or other soft drinks or beverages shall contain any artificial nonnutritive sweetener which has not been approved by the federal food and drug administration. The bottle or other container in which such soda water or other soft drinks or beverages are sold or offered for sale to the public shall be clearly, legibly and noticeably labeled. Such label shall contain the words "FOR DIETARY PURPOSES," or "DIETETIC," or words of similar import, in printing or type of a size to be determined by the commissioner of agriculture and industries, and the words: "Contains ____ (name of approved artificial nonnutritive sweetening product), a nonnutritive artificial sweetener for use by persons who must restrict their intake of ordinary sweets." Such soda water or other soft drinks or beverages when sold at retail shall be displayed and segregated from ordinary soda water, soft drinks or other beverages which have been sweetened with pure fruit syrups or pure cane or beet sugar. The portion of the store, display counter, shelving or other place where such artificially sweetened soda water or other soft drinks or beverages are displayed or offered for sale shall be clearly and plainly identified by an appropriate sign reading "FOR DIETARY PURPOSES."

(Code 1907, §7082; Acts 1915, No. 467, p. 489; Code 1923, §4437; Code 1940, T. 2, §313; Acts 1955, No. 228, p. 537.)

Section 20-1-29

Shipment, offer for shipment or sale of certain citrus fruits.

It is unlawful for any person to ship, offer for shipment or to sell citrus fruits in boxes or in bulk if the contents of any package or if the fruit in bulk contains 15 percent or more of citrus fruits which, on a transverse section through the center, show a marked drying in 20 percent or more of the exposed pulp.

(Ag. Code 1927, §313; Code 1940, T. 2, §315.)

Section 20-1-30

Sale, offer for sale, etc., of certain artificially colored potatoes.

(a) Purpose of section. -The purpose of this section is to prevent misrepresentations incident to the sale of potatoes in Alabama as it has been found that the practice of applying coloring agents to both raw whole sweet potatoes and raw whole Irish potatoes cause such potatoes to have an improved appearance and, in many instances, damage or inferiority is concealed which results in misrepresentation and deception. It is therefore declared to be of public benefit to prohibit the sale of artificially colored potatoes in Alabama.

(b) Offense. -It shall be unlawful for any individual, partnership, corporation or association to sell, offer for sale or keep for sale in the State of Alabama any artificially colored potatoes; provided, however, that the application of nontoxic coating materials to potatoes when such use does not conceal damage or inferiority is not a violation of this subsection where such polishing or coating material does not contain any coloring agents. The term "artificially colored" as used in this subsection means the application of any natural or synthetic substance to potatoes which changes their natural appearance.

(Acts 1963, No. 534, p. 1146.)

Section 20-1-31

Possession, transportation, etc., of items in violation of division, chapter.

(a) The having in possession by any person, firm, or corporation who manufactures or exposes for sale any out-of-date Class A foods and adulterated or misbranded food or drugs within the meaning of this division shall be prima facie evidence of having in possession with intent to sell in violation of its provisions; except, that any manufacturer, wholesaler, or jobber may keep properly identified goods which might otherwise be in violation of the provisions of this division specially set apart in his stock for sale in other states. Out-of-date foods shall be stored in an area such that out-of-date Class A foods are not offered for sale to the public and shall be clearly marked "Not to be sold." If not so identified and segregated, there shall be a rebuttable presumption that the food is in possession with intent to sell in violation of the provisions of this chapter.

(b) No provision of this section shall be construed to allow the storage or transportation of any food which is otherwise required by law to be destroyed or otherwise rendered unusable except for the purpose of such destruction or rendering unusable.

(Acts 1919, No. 708, p. 1031; Code 1923, §4396; Code 1940, T. 2, §314; Act 2000-320, p. 505, §1.) Section 20-1-32

Exemption from prosecution of dealers.

No dealer shall be prosecuted under the provisions of this division when the dealer can establish a bona fide guarantee signed by a reputable wholesaler, jobber, or manufacturer within the United States from whom he or she purchased such articles that they are not adulterated or misbranded within the meaning of this division, designating it and that he or she has no knowledge of such

adulteration or misbranding at the time they were purchased by that dealer. Such guarantee shall contain the name and address of the vendor who shall be amenable to the prosecutions, fines, and other penalties to which the purchaser would otherwise be amenable. Provided, however, there shall be no exemption from prosecution with regard to the sale or the offer for sale of out-of-date food products by the dealer. There shall be no exemption from prosecution with regard to the sale or the offer for sale of food products that have become out-of-date, adulterated, or misbranded after purchase by the dealer.

(Ag. Code 1927, §45; Code 1940, T. 2, §311; Act 2000-320, p. 505, §1.)

Section 20-1-33

Food safety permit.

(a) No person shall operate a food sales establishment within this state which sells baby food, infant formula, or potentially hazardous food without a food safety permit except those persons who operate any of the following establishments:

(1) A meat processing establishment which currently has a grant of inspection from the commissioner.

(2) A meat processing establishment which currently has a grant of inspection from the United States Department of Agriculture.

(3) A food service establishment required to obtain a food service permit through the Alabama Department of Public Health except those operated in conjunction with a food sales establishment otherwise requiring a permit.

(b) Application shall be made to the department each year for a food safety permit on forms requiring information to be submitted and at the times required by the department.

(c) Each application shall be accompanied by a food safety permit fee in the amount of fifty dollars (\$50) for each food sales establishment for which a food safety permit is required and the fee shall be nonrefundable and shall not be

prorated and shall be renewed annually by the payment of the required fee on a date established by the board.

(d) The department shall receive and review each completed application for a food safety permit. The department shall issue a food safety permit for each establishment requested if the application is complete, the fee is tendered, and the establishment is in compliance with rules and regulations promulgated hereunder. A food safety permit may not be transferred from one food sales establishment to another. Whenever a food sales establishment is sold, the new owner must apply for a new food safety permit.

(e) The department may deny issuance or renewal of, or it may suspend or revoke a permit issued for, flagrant, serious, or continued violations of provisions of this chapter or rules or regulations promulgated hereunder after a due process hearing before a hearing officer. The hearing officer shall make a full report to the department with his or her recommendation for action within 14 days after the hearing. The official decision of the department shall be rendered within 30 days of receipt of the hearing officer's report. Appeals from the department's decision shall be made in a timely manner in accordance with the rules for contested cases under the Alabama Administrative Procedure Act, Section 41-22-12, et seq. Judicial review shall be by trial de novo in circuit court in accordance with provisions of the Alabama Administrative Procedure Act, Section 41-22-20(j).

(f) The department may institute a civil action in any circuit court in the State of Alabama to enforce the provisions of this article. Any person required to have a food safety permit who operates without a valid food safety permit may be enjoined from the operation by the circuit court without prior resort to criminal remedies.

(g) All fees collected by the department under this section shall accrue to the Agriculture Fund and shall be appropriated by the Legislature as provided by law.

(Section 20-1-34

Civil penalties for violation of chapter, etc.

(a) Notwithstanding the existence of any criminal penalty imposed for violations of this chapter and the rules and regulations promulgated hereunder, the department may, after a hearing thereon, impose a civil penalty for violation of this chapter or any rules or regulations promulgated hereunder regarding out-of-date Class A foods, or misbranded or adulterated food, in accordance with the classes provided in subsection (d) below.

(b) Any one offense, and all incidents or violations committed by a person, firm, association, or corporation, arising from the same transaction, shall constitute but one offense.

(c) The board shall by duly adopted rules or regulations, provide maximum penalty amounts to be imposed with regard to out-of-date Class A foods, or misbranded and adulterated food as provided below.

(d) After a public hearing thereon, the board shall, by duly adopted rules or regulations, establish five classes of violations with regard to misbranded and adulterated food.

(1) Class I violations shall be limited to minor or inadvertent violations involving small amounts of out-of-date Class A foods found for which no penalty shall be assessed but a written warning may be given by the department.

(2) Class II violations shall be limited to significant amounts of out-of-date Class A foods or such articles which have been out-of-date for significant periods of time. Penalties for Class II violations shall not exceed one hundred dollars (\$100).

(3) Class III violations shall be limited to significant amounts of out-of-date Class A foods or significant amounts of such articles which have been out-of-date for significant periods of time; violations in multiple classes; and/or subsequent Class II violations within one year following a previous Class II violation. Penalties for Class III violations shall not exceed one thousand dollars (\$1,000).

(4) Class IV violations shall be limited to food deemed misbranded under Section 20-1-25; large amounts of out-of-date Class A foods or significant amounts of such articles which have been out-of-date for extended periods of time; violations

in multiple classes; and/or subsequent Class III violations within one year following a previous Class III violation. Penalties for Class IV violations shall not exceed five thousand dollars (\$5,000).

(5) Class V violations shall be limited to food deemed adulterated under Section 20-1-22, and/or subsequent Class IV violations. Provided, however, to sustain a penalty under this subdivision, with regard to out-of-date Class A foods, there must be a showing by a preponderance of evidence that there were large amounts of out-of-date Class A foods found, or that significant amounts of such articles found had been out-of-date for extended periods of time and that the violations were willful, knowing, or intentional. Penalties for Class V violations shall not exceed a maximum penalty amount of ten thousand dollars (\$10,000) and may include the revocation of the person's food safety permit.

(e) The board shall by duly adopted rules or regulations establish a list of items included in the definition of "potentially hazardous foods." The board shall also by duly adopted rules or regulations provide for detailed definitions of the above referenced classes of violations which shall include definitions of the terms "minor or inadvertent violations," "small amounts," "significant amounts," "significant periods of time," "large amounts," "extended periods of time," and similar terms.

(f) The failure of any person, firm, association, or corporation to pay an assessed penalty in a timely manner, as defined by duly adopted rules or regulations of the board, shall constitute grounds for the revocation of any food safety permit issued under this chapter. Such revocation shall be made pursuant to a due process hearing before a hearing officer and in the same manner as provided for suspension and revocation of permits under the provisions of Section 20-1-33(e).

(g) Under this section, appeals from an assessment of any penalty levied shall be made in a timely manner in accordance with the rules for contested cases under Alabama Administrative Procedure Act, Section 41-22-12, et seq. Judicial review may be taken in circuit court in accordance with the provisions of the Alabama Administrative Procedure Act, Section 41-22-20, et seq.

The foregoing notwithstanding, in cases involving Class IV or Class V violations or permit revocations thereunder, judicial review shall be by trial de novo in circuit court in accordance with the provisions of the Alabama Administrative Procedure Act, Section 41-22-20 (j).

(h) All moneys received from the assessment of any penalty under this section shall accrue to the General Fund and shall be appropriated by the Legislature as provided by law.

(Act 2000-320, p. 505, §2.)

Act 2000-320, p. 505, §2.)

Section 20-1-35

Food Safety Advisory Committee.

There is hereby created the Food Safety Advisory Committee to provide recommendations to the Board of Agriculture and Industries concerning the promulgation of rules and regulations related to the establishment and definition of class violations under Section 20-1-34, and other definitions required under Section 20-1-34 (d)(5). The committee shall consist of six members to be appointed by the president of each of the following organizations: The Alabama Retail Association, the Alabama Chapter of the National Federation of Independent Businesses, the Business Council of Alabama, the Alabama Grocer's Association, the Alabama Association of Convenience Stores, and the Alabama Vending Association.

(Act 2000-320, p. 505, §3.)

Section 20-1-36

Donations to exempt organizations.

Nothing in Act 2000-320 shall prohibit the donation of any food by any food sales establishment, food manufacturer, or food distributor to an organization defined under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. Nor shall the provisions of Act 2000-320 prohibit the sale, donation, or other distribution of any food by a Section 501(c)(3) organization to a 501(c) organization. Any provision of law to the contrary notwithstanding, the term food as used in this section shall not include an out-of-date Class A food or an adulterated food as defined by law.

(Act 2000-320, p. 505, §4.)

Section 20-1-37

Provisions cumulative and supplemental.

The provisions of Act 2000-320 are cumulative and supplemental to and in furtherance of any statutory or common law or other legal right, duty, power, or authority of the Alabama Department of Agriculture and Industries and the Commissioner of Agriculture and Industries.

(Act 2000-320, p. 505, §5.)

Division 2 Cosmetics.

Section 20-1-50

Definitions.

(a) When used in this division, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

- (1) ARTICLE. Such term, when referring to a cosmetic, is used in the broad and comprehensive sense and has reference to the cosmetic product in question.
- (2) COSMETIC. An article intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body for cleansing,

beautifying, promoting attractiveness or altering the appearance and the component parts of such an article. Such term does not include a soap.

(3) STANDARD OF PURITY OR QUALITY. The standard of purity and quality fixed by the State Board of Agriculture and Industries.

(b) Other words and phrases used in this division shall be defined as in Section 2-1-1.

(Acts 1947, No. 134, p. 42, §1.)

Section 20-1-51

When cosmetics deemed adulterated.

(a) A cosmetic shall be deemed adulterated:

- (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling thereof or under such conditions of use as are customary and usual;
- (2) If it consists in whole or in part of any filthy, putrid or decomposed substance;
- (3) If it has been prepared, packed or held under unsanitary conditions whereby it may have become contaminated with filth or rendered injurious to health;
- (4) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health; or
- (5) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch that has been certified in accordance with regulations promulgated under the federal Food, Drug and Cosmetic Act.

(b) The provisions of subdivision (1) of subsection (a) of this section shall not apply to coal-tar hair dye if the label thereof bears the following legend conspicuously displayed thereon: "Caution!! This product contains ingredients which may cause skin irritation on certain individuals. A preliminary test according to the accompanying directions should be made before using it. This product must not be used for dyeing the eyelashes or eyebrows - to do so may cause blindness." And the labeling of any such article must contain adequate directions for preliminary testing.

(c) As used in subdivisions (1) and (5) of subsection (a) of this section, the term "hair dye" does not include eyelash or eyebrow dyes.

(Acts 1947, No. 134, p. 42, §3.)

Section 20-1-52

When cosmetics deemed misbranded.

(a) A cosmetic shall be deemed misbranded:

- (1) If its labeling is false or misleading in any particular;**
 - (2) If it is in package form and does not bear a label containing the name and place of business of the manufacturer, packer or distributor and a statement of the quantity of the contents in terms of weight, measure or numerical count;**
 - (3) If any word, statement or other information required to be placed in the labeling by or under authority of this division is not placed thereon with such conspicuousness (as compared with other words, statements, designs or devices) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or**
 - (4) If its container is so made, formed or filled as to be misleading.**
- (b) The Commissioner of Agriculture and Industries may permit reasonable variations and exemptions of small packages from subdivision (2) of subsection (a) of this section.**

(Acts 1947, No. 134, p. 42, §4.)

Section 20-1-54

Effect of possession by manufacturer, etc., of adulterated or misbranded cosmetics.

The having in possession of an adulterated or misbranded cosmetic shall be prima facie evidence of having it in possession with the intent to sell it in violation of this division; provided, that a manufacturer, wholesaler or jobber may keep such products set apart in his stock for sale in other states if he properly

identifies them, although the possession of such products might otherwise be in violation of this division.

(Acts 1947, No. 134, p. 42, §6.)

Section 20-1-55

Exemption from prosecution of dealers.

No dealer shall be prosecuted under this division when he can establish a bona fide guarantee, signed by a reputable wholesaler, jobber or manufacturer from whom he purchased the article that the article is not adulterated or misbranded within the meaning of this division (designating it) and that he had no knowledge of such adulteration or misbranding at the time the article was purchased. A guarantee given pursuant to this section must contain the name and address of the vendor from whom the article was purchased, who shall be amendable to the prosecutions, fines and other penalties to which the purchaser would otherwise be liable.

(Acts 1947, No. 134, p. 42, §7.)

Section 20-1-56

Construction of division.

This division shall be construed to be supplemental to division 1 of this article, which relates to the regulation of the manufacture, possession and sale of food and drugs.

(Acts 1947, No. 134, p. 42, §8.)

Section 20-1-57

Standards of purity and quality.

The Board of Agriculture and Industries shall have the power to fix the standards of purity and quality of cosmetics.

(Acts 1947, No. 134, p. 42, §8.)

Article 3 Bread, Flour, Cornmeal and Grits.

Section 20-1-70

Short title.

This article shall be known as the Bread, Flour and Cornmeal Enrichment Act.

(Acts 1943, No. 500, p. 470, §1; Acts 1953, No. 815, p. 1097.)

Section 20-1-71

Definitions.

When used in this article, the following words and phrases shall have the following meanings, respectively, unless the context clearly indicates otherwise:

(1) BREAD. Such term includes and shall be limited to bread and rolls (or buns) of every kind and description made wholly or partly from wheat flour which conforms to the definition and standard of identity of bread set out in 21 Code of Federal Regulations, Part 17. Such term excludes bread containing no wheat flour or breads made from 100 percent whole wheat flour, but includes breads made from mixtures of white flour and whole wheat flour, the so-called brown breads.

(2) FLOUR. Such term includes and shall be limited to the foods defined as:

- a. Flour, white flour, wheat flour and plain flour;
- b. Bromated flour;
- c. Self-rising flour, self-rising white flour and self-rising wheat flour; and
- d. Phosphated flour, phosphated white flour and phosphated wheat flour in the definitions and standards of identity set out in 21 Code of Federal Regulations,

Part 15. Such term also includes all mixtures of such flours with whole wheat or high-extraction flours, but excludes 100 percent whole wheat flour and specially packaged cake and pancake flour.

(3) CORNMEAL. All meal for human consumption made from corn, either white or yellow, whole cornmeal, bolted cornmeal and degerminated cornmeal as defined in definitions and standards of identity set out in 21 Code of Federal Regulations, Part 15.

(4) GRITS. Grits, pearl grits and degerminated grits made from corn by grinding or cracking as defined in the standards of identity set out in 21 Code of Federal Regulations, Part 15.

(5) ENRICHMENT. As applied to bread, flour, meal or grits, such term means the addition thereto of vitamins and other ingredients of the nature required by this article and "enriched bread," "enriched flour," "enriched whole cornmeal," "enriched bolted meal," "enriched degerminated meal" or "enriched grits" means the appropriate food product, according to the federal standards of identity, that has been enriched to conform to the requirements of this article.

(6) PERSON. An individual, a corporation, a partnership, an association, a joint stock company, a trust or any unincorporated organization.

(7) APPROPRIATE FEDERAL AGENCY. The federal agency or department or administrative federal officer charged with the enforcement and administration of the federal Food, Drug and Cosmetic Act.

(8) BOARD. The Alabama State Board of Agriculture and Industries.

(Acts 1943, No. 500, p. 470, §2; Acts 1953, No. 815, p. 1097.)

Section 20-1-72

Applicability of provisions of article.

(a) The terms of this article shall not apply to flour, cornmeal or grits sold to bakers or other commercial secondary processors, if, prior to or simultaneously with delivery, the purchaser furnishes to the seller a certificate of intent, in such

form as the board shall by regulation prescribe, certifying that such product shall be used only for the preparation of secondary products enriched within the given establishment to meet the requirements of this article or for the manufacture of products not required to be enriched by this article. It shall be unlawful for such purchaser to use the unenriched flour, cornmeal or corn grits in any manner other than as stated in the certificate.

(b) The terms of this article shall not apply to whole wheat flour, whole wheat bread, cake flour or specialty breads such as raisin bread or cheese bread, but, if enrichment of such specialty products is claimed on the label, then such products must be enriched according to the standards prescribed by this article for comparable nonspecialty products.

(Acts 1943, No. 500, p. 470, §3; Acts 1953, No. 815, p. 1097.)

Section 20-1-73

**Minimum requirements as to amounts of vitamins and other ingredients -
Cornmeal and grits.**

(a) It shall be unlawful for any person to manufacture, mix, compound, sell, trade or offer for sale or trade for human consumption in this state any cornmeal or grits unless the following vitamins and other ingredients are contained in each pound of such product:

- (1) Not less than two milligrams and not more than three milligrams of vitamin B1 (thiamine);
 - (2) Not less than 1.2 milligrams and not more than 1.8 milligrams of riboflavin;
 - (3) Not less than 16 milligrams and not more than 24 milligrams of niacin or niacin amide; and
 - (4) Not less than 13 milligrams and not more than 26 milligrams of iron (Fe).
- (b) Such products may contain as optional ingredients not less than 500 milligrams and not more than 750 milligrams of calcium per pound and not less

than 250 U.S.P. units and not more than 1,000 U.S.P. units of vitamin D per pound.

(Acts 1943, No. 500, p. 470, §3; Acts 1953, No. 815, p. 1097.)

Section 20-1-74

Minimum requirements as to amounts of vitamins and other ingredients - Flour.

(a) It shall be unlawful for any person to manufacture, mix, compound, sell, trade or offer for sale or trade for human consumption in this state any flour unless the following vitamins and other ingredients are contained in each pound of such product:

- (1) Not less than two milligrams and not more than 2.5 milligrams of vitamin B1 (thiamine);
- (2) Not less than 1.2 milligrams and not more than 1.5 milligrams of riboflavin;
- (3) Not less than 16 milligrams and not more than 20 milligrams of niacin or niacin amide; and
- (4) Not less than 13 milligrams and not more than 16.5 milligrams of iron (Fe).

(b) Such products may contain as optional ingredients not less than 500 milligrams and not more than 625 milligrams of calcium per pound and not less than 250 U.S.P. units and not more than 1,000 U.S.P. units of vitamin D per pound.

(Acts 1953, No. Section 20-1-75)

Minimum requirements as to amounts of vitamins and other ingredients - Bread.

(a) It shall be unlawful for any person to manufacture, bake, sell or offer for sale or to receive in interstate shipment for sale for human consumption in this state any bread (as defined in subdivision (1) of Section 20-1-71) unless the following vitamins and other ingredients are contained in each pound of such bread:

- (1) Not less than 1.10 milligrams and not more than 1.80 milligrams of vitamin B1 (thiamine);
 - (2) Not less than 10.0 milligrams and not more than 15.0 milligrams of niacin or niacin amide;
 - (3) Not less than 0.7 milligrams and not more than 1.60 milligrams of riboflavin; and
 - (4) Not less than eight milligrams and not more than 12.5 milligrams of iron (Fe).
- (b) Such bread may contain as optional ingredients not less than 300 milligrams and not more than 800 milligrams of calcium and/or not less than 150 U.S.P. units and not more than 750 U.S.P. units of vitamin D per pound.

(Acts 1943, No. 500, p. 470, §4; Acts 1953, No. 815, p. 1097.)

. 815, p. 1097.)

Section 20-1-76

Enrichment of bread.

- (a) This article requires the enrichment of white bread.
- (b) The enrichment of bread may be accomplished through the use of enriched flour, enriched yeast, other enriched ingredients, synthetic vitamins, approved iron salts or by any combination of approved methods which will produce enriched bread which meets the requirements of Section 20-1-75. The enrichment ingredients shall be uniformly distributed throughout the product. Iron shall be added only in forms that are approved by the appropriate federal agency.

(Acts 1943, No. 500, p. 470, §§3, 5; Acts 1953, No. 815, p. 1097.)

Section 20-1-77

Requirements as to labeling.

It shall be unlawful to sell or offer for sale in this state any enriched flour, enriched bread, enriched cornmeal or enriched grits which fails to conform to the labeling requirements of the federal Food, Drug and Cosmetic Act and the regulations promulgated thereunder by the appropriate federal agency or state agency with respect to flour, bread, cornmeal or grits introduced into interstate commerce.

(Acts 1943, No. 500, p. 470, §6; Acts 1953, No. 815, p. 1097.)

Section 20-1-78

Powers and duties of State Board and Commissioner of Agriculture and Industries as to administration and enforcement of article; publication and effective date of orders, rules, etc., adopted by state board under authority of article.

(a) The State Board of Agriculture and Industries is authorized as the administrative agency and is hereby directed:

- (1) To make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this article, including, but without being limited to, such orders, rules and regulations as it is hereinafter specifically authorized and directed to make.**
- (2) To adopt from time to time such regulations changing or adding to the required ingredients for flour, cornmeal, grits or bread specified in Sections 20-1-73 through 20-1-75 as shall be necessary to conform to the definitions and standards of identity of enriched flour and other products from time to time promulgated by the appropriate federal agency pursuant to the federal Food, Drug and Cosmetic Act.**
- (3) To issue an order, to be effective immediately upon issuance, in the event of the finding by the board that there is an existing shortage of any ingredient**

required under Sections 20-1-73, 20-1-74 and 20-1-75, with the result that the sale and distribution of this product may be substantially impeded by the enforcement of this article, permitting the omission of such ingredient from this product. Whenever the state board finds that such shortage no longer exists, it shall issue an order, to be effective not less than 10 days after publication thereof, revoking such order. Any such findings as to the existence or imminence of any such shortage or the cessation thereof may be made by the state board without any hearing, on the basis of an order of or factual information supplied by the appropriate federal agency (as defined in subdivision (7) of Section 20-1-71) or any similar federal agency. In the absence of any such order or factual information, the state board, upon receiving the sworn statement of any persons subject to this article that such a shortage exists or is imminent or has ceased, shall, within 10 days thereafter, hold a public hearing with respect thereto, at which time any interested person may present evidence in support of such sworn statement, and any such finding by the state board may be based upon the evidence so presented. The state board shall publish notice of any such hearing at least 10 days prior thereto.

(b) All orders, rules and regulations adopted by the State Board of Agriculture and Industries pursuant to this article shall be published in the manner prescribed in subsection (c) of this section, and, within the limits specified by this article, shall become effective upon such date as the state board shall fix.

(c) Whenever under this article publication of any notice, order, rule or regulation is required, such publication shall be made at least three times in 10 days in newspapers of general circulation in three different sections of this state.

(Acts 1943, No. 500, p. 470, §7; Acts 1953, No. 815, p. 1097.)

Article 4 Nuts.

Section 20-1-90

Sale or offer for sale of infested, mouldy, decayed, etc., pecans, almonds, chestnuts, etc.

It shall be unlawful for any person, firm, partnership, corporation or association to sell or offer for sale any insect-infested, mouldy, rancid, decayed, decomposed or otherwise inedible pecans, almonds, Brazil nuts, chestnuts, filberts, walnuts or pistachio nuts to anyone other than to cracking, shelling or other processing plants, unless such nuts come within a tolerance to be prescribed by the state board of agriculture and industries for the sale of such nuts.

Section 20-1-91

Sale or offer for sale of "blow-outs," "pops," "culls," etc.

It shall be unlawful for any person, firm, partnership, corporation or association to sell or offer for sale for any purpose pecans or any other nuts designated in Section 20-1-90 when such nuts are commonly known and designated at shelling, grading, cracking or cleaning plants as "blow-outs," "pops," "culls" or rejected nuts, unless such nuts are crushed or otherwise denatured to render the nuts unfit for human consumption.

(Acts 1965, No. 857, p. 1600, §2.)

Acts 1965, No. 857, p. 1600, §1.)

Section 20-1-92

Requirements as to labeling of packages or containers.

It shall be unlawful for any person, firm, partnership, corporation or association to sell or offer for sale pecans or any other nuts designated in Section 20-1-90 in package form unless the package or other container is plainly and conspicuously labeled to show the name of the nuts, the net weight of the nuts and the name and address of the packer or distributor.

(Acts 1965, No. 857, p. 1600, §3.)

Section 20-1-93

Adoption of standards and variations or tolerances.

The State Board of Agriculture and Industries is hereby expressly authorized to adopt and promulgate standards and reasonable variations or tolerances for the sale of pecans and other nuts in accordance with Section 20-1-90.

(Acts 1965, No. 857, p. 1600, §5.)

Article 5 Oleomargarine.

Section 20-1-110

Short title.

This article shall be known as the Oleomargarine Fortification Act.

(Acts 1943, No. 501, p. 475, §1.)

Section 20-1-111

Minimum requirements as to units of vitamin A.

It shall be unlawful for any manufacturer, processor or dealer in oleomargarine in the State of Alabama to sell or offer for sale any such product within this state which does not contain at least 9,000 United States pharmacopoeia units of vitamin A per pound, except that sold for use as an ingredient in the processing of another product.

(Acts 1943, No. 501, p. 475, §2.)

Section 20-1-112

Changes of specifications as to addition of vitamins to oleomargarine by State Board of Agriculture and Industries.

The State Board of Agriculture and Industries is empowered with the authority and is directed to change or add to the specifications for ingredients and the amounts thereof required to conform to any changes in 21 Code of Federal Regulations, Part 45, concerning the addition of vitamins to oleomargarine.

(Acts 1943, No. 501, p. 475, §3.)

Section 20-1-113

Requirements as to labeling.

All oleomargarine sold in the State of Alabama must be labeled in accordance with the regulations of the Federal Food and Drug Administration of the Department of Health, Education and Welfare governing the labeling of oleomargarine with added vitamins sold in interstate trade.

(Acts 1943, No. 501, p. 475, §6.)

Article 6 Mellorine.

Section 20-1-130

Definitions generally.

For the purpose of this article, the following words and phrases shall have the meanings indicated, unless the context clearly indicates a different meaning:

- (1) COMMISSIONER. The Commissioner of Agriculture and Industries of the State of Alabama.
- (2) PERSON. Any individual, partnership, corporation or association, whether or not incorporated.

(3) FOOD FATS. Edible, natural fats derived from vegetable or animal sources or a combination thereof, including only such milk fat as is normally contained in products enumerated in subdivision (4) of this section. Food fats as defined in this subdivision may contain harmless optional ingredients in an amount not exceeding .005 percent of the weight of the fat used to prevent fat oxidation.

(4) MILK SOLIDS NOT FAT. Any skim milk, concentrated (evaporated or condensed) skim milk, superheated condensed skim milk, sweetened condensed skim milk, nonfat dry milk solids, edible dry whey, cheese whey, sweet cream buttermilk (whether fluid, condensed or dried) and any of the foregoing products from which all or a portion of the lactose has been removed after crystallization or the lactose has been converted to simple sugars by hydrolysis.

(5) SUGAR OR OTHER SWEETENERS. Any sugar, liquid sugar, dextrose, invert sugar (paste or syrup), lactose, corn sugar, dried or liquid corn syrup, maple syrup, maple sugar, honey, brown sugar, malt syrup, dried malt extract or molasses (other than blackstrap).

(6) FLAVORS.

a. Natural food flavoring;

b. Artificial food flavoring;

c. Fruit juice, which may be fresh, frozen, canned, concentrated or dried and which may be sweetened or thickened with one or more of the optional stabilizing ingredients specified in subdivision (8) of this section;

d. Chocolate;

e. Cocoa;

f. Fruit which may be fresh, frozen, canned, concentrated, shredded, pureed, comminuted or dried and which may be sweetened, thickened with stabilizer and may be acidulated with citric, tartaric, malic, lactic or ascorbic acid;

g. Nut meats; or

h. Confectionery.

(7) EGG INGREDIENTS. Any liquid eggs, frozen eggs, whole egg solids (dried eggs), egg yolks, frozen yolks or egg yolk solids (dried egg yolks).

(8) STABILIZING AND EMULSIFYING INGREDIENTS. Any gelatins, algin, extract of Irish moss, psyllium seed husk, agar, gum accacia, gum karaya, locust bean gum, gum tragacanth, cellulose gum, guar seed gum, monoglycerides or diglycerides or both of fat-forming fatty acids or other harmless stabilizers or emulsifiers.

(9) U.S.P. UNITS. Such values as are recognized by the United States pharmacopoeia.

(Acts 1953, No. 91, p. 134, §2; Acts 1953, No. 475, p. 591, §2.)

Section 20-1-131

Purpose of article.

The purpose of this article is to authorize and regulate the manufacture and sale of the frozen food product designated as "Mellorine," any other provisions of law or rules and regulations promulgated thereunder to the contrary notwithstanding.

(Acts 1953, No. 91, p. 134, §1; Acts 1953, No. 475, p. 591, §1.)

Section 20-1-132

Definition and standards for mellorine.

(a) "Mellorine" means a frozen food product consisting primarily of a sweetened combination of edible vegetable or animal fats, milk solids not fat and other ingredients and all ingredients of which shall be of the quality and in the quantity required under the standards established by the provisions of subsection (b) of this section.

It is the food prepared by freezing while stirring, a pasteurized mix composed of: edible food fats, as defined in subdivision (3) of Section 20-1-130; milk solids not fat as defined in subdivision (4) of Section 20-1-130; sugar or other sweeteners as defined in subdivision (5) of Section 20-1-130; flavor or flavors as defined in subdivision (6) of Section 20-1-130. Added vitamins, one or more of the optional

egg ingredients as defined in subdivision (7) of Section 20-1-130 and one or more of the optional stabilizing or emulsifying ingredients as defined in subdivision (8) of Section 20-1-130 may be used in an amount not exceeding one half of one percent of the active ingredients (whether used singly or in combination) of the weight of the finished product.

(b) The standards hereby established for mellorine are as follows: It shall contain not less than 10 percent by weight of food fats and not less than 20 percent food fats and milk solids not fat combined, except when it contains one or more of the optional flavoring ingredients as "flavors" are defined in subdivision (6) of Section 20-1-130, in which case it shall contain not less than 10 percent food fats and not less than 20 percent food fats and milk solids not fat combined, except for such reduction as is due to the addition of such optional flavoring ingredients, but in no case shall it contain less than eight percent food fats or less than 16 percent food fats and milk solids not fat combined. It shall contain not less than 1.6 pounds of total food solids and shall weigh not less than 4.5 pounds per gallon. Harmless coloring and water may be added. The mix may be seasoned with salt and may be homogenized. The mix must be enriched by the addition of vitamins which are naturally present in milk fat in such amount that the vitamin A (with or without vitamin D concentrate) content is not less than 8,400 U.S.P. units of vitamin A per gallon of finished mellorine containing 10 percent of food fats and weighing 4.5 pounds. When mellorine contains more than 10 percent food fats, the vitamin content shall be increased proportionately.

(Acts 1953, No. 91, p. 134, §§2, 3; Acts 1953, No. 475, p. 591, §§2, 3.)

Section 20-1-133

Permit required for manufacturing, processing, packaging, sale, etc., of mellorine; application and fee therefor.

No person shall operate a plant producing, manufacturing, processing, freezing or packaging mellorine without a permit from the commissioner to engage in such

business. Permits issued under this section shall be valid after issuance until January 1 of the next succeeding year and shall be renewed annually. Applications for such permits shall be made to the commissioner upon forms prescribed by the commissioner after complying with the provisions of this article and the rules and regulations of the commissioner and the state health department, and upon the payment of the permit fee of \$1.00 applicants shall be issued a permit and shall be eligible to produce, manufacture, process, freeze, package and sell mellorine.

(Acts 1953, No. 91, p. 134, §9; Acts 1953, No. 475, p. 591, §9.)

Section 20-1-134

Requirements as to sale generally.

Mellorine shall be sold only in factory filled packages of pints, quarts or half gallon capacity (liquid measure) and shall not be sold or served in novelties, cake cones, dishes, milk shakes, milk drinks, malt drinks, sodas, sundaes or other similar items customarily served at soda fountains and eating establishments. The sale of mellorine in any manner other than as provided in this section is prohibited.

(Acts 1953, No. 91, p. 134, §4; Acts 1953, No. 475, p. 591, §4.)

Section 20-1-135

Requirements as to labeling generally; when package or container deemed misbranded.

(a) The container shall be labeled "Mellorine - A Vegetable Oil Product." When mellorine is made with animal fat it shall be labeled "Mellorine - Containing Animal Fat." When mellorine is made with vegetable oil and animal fat it shall be labeled "Mellorine - Containing Vegetable Oil and Animal Fat." The lettering of the word "Mellorine" shall in every case appear in as large type size and as

prominent as any other wording on the container except the brand name but in no event shall it be smaller than 30 point Gothic type. The number of U.S.P. units due to the addition of vitamin A must appear on the label. The use of the word "cream" or its phonetic equivalent, however spelled in connection with the labeling, advertising, branding or sale of mellorine, is hereby prohibited. The container or package in which mellorine is sold or offered for sale shall be deemed to be misbranded if mellorine is sold or offered for sale in violation of Sections 20-1-20 and 20-1-25. Mellorine sold or offered for sale in violation of this section is hereby prohibited.

(Acts 1953, No. 91, p. 134, §5; Acts 1953, No. 475, p. 591, §5.)

Section 20-1-136

False and misleading advertising.

The false and misleading advertising of mellorine is prohibited. An advertisement of mellorine shall be deemed to be false and misleading if in such advertisement representations are made or suggested by statement, word, grade, designation, design, device, symbol, sound or any combination thereof that such mellorine is a dairy product; except, that nothing contained in this section shall prevent a truthful, accurate and full statement in any such advertisement of all the ingredients in such mellorine.

(Acts 1953, No. 91, p. 134, §6; Acts 1953, No. 475, p. 591, §6.)

Section 20-1-137

Adulteration and misbranding of mellorine, imitations thereof, etc.; sale or offer for sale of adulterated or misbranded mellorine.

Any food product containing any food fat as defined in subdivision (3) of Section 20-1-130, which is made in semblance or in imitation of mellorine as defined and standardized in Section 20-1-132 or any food which purports to be or is

represented as mellorine as defined in this article but which does not conform to such definition and standard of identity shall be deemed to be adulterated and misbranded, notwithstanding the employment of any fanciful name or the use of the word "imitation" to designate the product; provided, that the natural occurrence of a food fat in any flavoring used in mellorine shall not be construed to be adulteration within the meaning of this section. If mellorine is adulterated as provided in the case of food under the provisions of Section 20-1-22, such adulteration is hereby prohibited.

The sale or offering for sale of adulterated or misbranded mellorine is hereby prohibited.

(Acts 1953, No. 91, p. 134, §7; Acts 1953, No. 475, p. 591, §7.)

Article 6A Milk, Milk Products, and Frozen Desserts.