

[Act No. 1655, May 18, 1907]

AN ACT FOR PREVENTING THE MANUFACTURE, SALE, OR TRANSPORTATION OF ADULTERATED OR MISBRANDED OR POISONOUS OR DELETERIOUS FOODS, DRUGS, MEDICINES, AND LIQUORS, AND FOR REGULATING TRAFFIC THEREIN, AND FOR OTHER PURPOSES.

By authority of the United States, be it enacted by the Philippine Commission , that:

SECTION 1. It shall be unlawful for any person to manufacture within the Philippine Islands any article of food or drug which is adulterated or misbranded, within the meaning of this Act; and any person who shall violate any of the provisions of this section shall, for each offense, be punished by a fine not to exceed one thousand pesos or by imprisonment for one year, or by both such line and imprisonment in the discretion of the court, and for each subsequent of sense he shall be punished by a fine of not less than two thousand pesos nor more than five thousand pesos, or by imprisonment for one year, or by both such fine and imprisonment, in the discretion of the court.

SEC. 2. The introduction into the Philippine Islands from the United States or from any foreign country, or the shipment to the prohibited. United States or to any foreign country from the Philippine Islands, of any article of food or drugs which is adulterated or misbranded, within the meaning of this Act, is hereby prohibited; and any person who shall ship or deliver for shipment from the Philippine Islands to the United States or to a foreign country, or who shall receive in the Philippine Islands from the United States or from any foreign country, and having so received, shall deliver, in original unbroken packages, for pay or otherwise, or . offer to deliver to any other person, any such article so adulterated or misbranded within the meaning of this Act. or any person who shall sell or offer for sale in the Philippine Islands any such adulterated or misbranded foods or drugs, or export or offer to export the same to the United States or to any foreign country, shall be punished for the first offense by a fine not to exceed four hundred pesos, and for each subsequent offense he shall be punished by a fine not to exceed six hundred pesos, or by imprisonment not to exceed one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That no article shall be deemed and "adulterated." misbranded or adulterated within the provisions of this Act when intended for export to the United States or to any foreign country and prepared or packed according to the specifications or directions of the purchaser in the United States or in any foreign country when no substance is used in the preparation or packing thereof in conflict with the laws of the United States or of the foreign country to which said article is intended to be shipped; but if said article shall be in fact sold or offered for sale for domestic use or consumption in the Philippine Islands, then this proviso shall not exempt said article from the operation of any of the other provisions of this Act.

SEC. 3. The Insular Collector of Customs, the Director of Health, and the Collector of Internal Revenue of the Philippine Islands shall make uniform rules and regulations, subject to the approval of the Secretary of the Interior of the Philippine Islands, for carrying out the provisions of this Act, including the collection and examination of specimens of foods and drugs manufactured or offered for sale in the Philippine Islands or which shall be received from the United States or from any foreign country, or intended for shipment to the United States or to any foreign country, or which may be submitted for examination by the Director of Health for the Philippine Islands.

SEC. 4. The examinations of specimens of foods and drugs shall be made in the Bureau of Science, or under the direction and supervision of that Bureau, for the purpose of determining from such examinations whether such articles are adulterated or misbranded within the meaning of this Act; and if it shall appear from any such examination that any of such specimens is adulterated or misbranded within the meaning of this Act, the Secretary of the Interior of the Philippine Islands shall cause notice thereof to be given to the party from whom such sample was obtained. Any party so notified shall lie given an opportunity to be heard, under such rules and. regulations as may be prescribed as aforesaid, and if it appears that any of the provisions of this Act have been violated by such party, then the Secretary of the Interior of the Philippine Islands shall at once certify the facts to the Attorney-General of the Philippine Islands with a copy of the results of the analysis or a report of the examination of such article duly authenticated by the analyst or officer making such examination, under the oath of such officer. After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid, prosecution.

SEC. 5. It shall be the duty of the Attorney-General of the Philippine Islands, to whom the Secretary of the Interior of the Philippine Islands shall report any violation of this Act, or to whom the Director of Health shall present satisfactory evidence of any such violation, to cause appropriate proceedings to be commenced and prosecuted in the proper courts of the Philippine Islands, without delay, for the

enforcement of the penalties as in such ease herein provided.

SEC.6. The term "drug," as used in this Act, shall include all medicines and preparations recognized in the United States Pharmacopeia or National Formulary for internal or external use, and any substance or mixture of substances intended to be used for the Cure, mitigation, or prevention of disease of either man or other animals. The term "food," as used herein, shall include all articles used for food, drink, confectionery, or condiment by man or other animals, whether simple, mixed, or compounded.

SEC. 7. For the purposes of this Act an article shall be deemed to be adulterated:

In case of drugs :

First, 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: *Provided*, That no drug defined in the United States Pharmacopeia or National Formulary shall be deemed to be adulterated under this provision if the standard of strength, quality, or purity be plainly stated upon the bottle, box, or other container thereof although the standard may differ from that determined by the test laid down in the United States Pharmacopoeia or National Formulary.

Second, If its strength or purity fall below the professed standard or quality under which it is sold.

In case of confectionery:

If it contain terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquor compound or narcotic drug.

In the case of food :

First, If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second, If any substance has been substituted wholly or in part for the article.

Third, If any valuable constituent of the article has been wholly or in part abstracted.

Fourth, If it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed.

Fifth, If it contain any added poisonous or other added deleterious ingredient which may render such article injurious to health: *Provided*, That when in the preparation of food products for shipment they are preserved by any external application applied in such 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 or the package, the provisions of this Act shall be construed as applying only when said products are ready for consumption.

Sixth, 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 discard animal, or one that has died otherwise than by slaughter.

SEC. 8. The term "misbranded," as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein, which is 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.

That for the purposes of this Act an article shall also be deemed to be misbranded in case of drugs:

First, If it be an imitation of another article.

Second, 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 fail to bear

a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein.

In the case of food:

First, If it be an imitation of, or offered for sale under, the distinctive name of another article
Second, If it be labeled or branded so as to deceive or mislead the purchaser, or purport 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, or if it fail to bear a statement on the label of the quantity or proportion of any morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide or any derivative or preparation of any of such substances contained therein.

Third, If in packages 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.

Fourth, 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 is false or misleading in any particular: *Provided*, That an article of food which does not contain any added poisonous or deleterious ingredients shall not be deemed to be adulterated or misbranded in the following cases:

First, In the case of mixtures or compounds which may be now or from time to time hereafter known as articles of food, under their own distinctive names, and not an imitation of or offered for sale under the distinctive name of another article, if the name be accompanied on the same label or brand with a statement of the place where said article has been manufactured or produced.

Second, In the case of articles labeled, branded, or tagged so as to plainly indicate that they are compounds, imitations, or blends, and the word "compound," "imitation," or "blend," as the case may be, is plainly stated on the package in which it is offered for sale: *Provided*, that the term blend as used herein shall be construed to mean a mixture of like substances, not excluding harmless coloring or flavoring ingredients used for the purpose of coloring and flavoring only: *And provided further*, That nothing in this Act shall be construed as requiring or compelling proprietors or manufacturers of proprietary foods which contain no unwholesome added ingredient to disclose their trade formulas, except in so far as the provisions of this Act may require to secure freedom from adulteration or misbranding.

SEC. 9. No dealer shall be prosecuted under the provisions of this Act when he can establish a guaranty signed by the wholesaler, jobber, manufacturer, or other party residing in the Philippine Islands, from whom he purchases such articles, to the effect that the same is not adulterated or misbranded within the meaning of this Act, designating it. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of such articles to such dealer, and in such case said party or parties shall be amenable to the prosecutions, fines, and other penalties which would attach, in due course, to the dealer under the provisions of this Act.

SEC. 10. Any article of food, drug, or liquor that is adulterated or misbranded within the meaning of this Act, that, having been transported, remains unloaded, unsold, or in original unbroken packages, or if it be sold or offered for sale in the Philippine Islands, or if it be imported from the United States or a foreign country for sale, or if it is intended for export to the United States or to a foreign country, shall be liable to be proceeded against in the Court of First Instance in the Philippine Islands of the judicial district within which the same is found, and shall be seized for confiscation and condemnation, and may be confiscated and condemned by said court in the proceedings so initiated. And if such article is condemned as being adulterated or misbranded, or as of a poisonous or deleterious character, within the meaning of this Act, the same shall be disposed of by destruction or sale, as the said court may direct, and the proceeds thereof, if sold, less the legal costs and charges, shall be paid into the Treasury of the Philippine Islands, but such goods shall not be sold in any jurisdiction contrary to the provisions of this Act or to the laws of that jurisdiction: *Provided, however*, That upon the payment of the costs of the proceedings as provided in this section and the execution and delivery of a good and sufficient bond to the effect that such articles shall not be sold or otherwise disposed of contrary to the provisions of this Act or the laws of the United States, or of any State, Territory, District, or insular possession of the United States, the court may order direct that such articles be delivered to the owner thereof. The proceedings hereinbefore mentioned admiralty shall conform, as near as may be, to the proceedings in admiralty in the Courts of First Instance of the Philippine Islands, and all such proceedings shall be at the suit of and in the name of the United States.

SEC. 11. The Insular Collector of Customs shall deliver to the Director of Health, upon his request from time

to time, samples of food and drugs which are being imported into the Philippine Islands or offered to import, giving notice thereof to the owner or consignee, who may appear to the Secretary of Interior of the Philippine Islands or any official designated by him and have the right to introduce testimony, and if it appear from the examination of such samples that any article of food or drug offered to be imported into the Philippine Islands is adulterated or misbranded within the meaning of this act, or is otherwise dangerous to the health of the people of the Philippine Islands, or is of a sale in the country in which it is made or from which it is exported, or is otherwise falsely labeled in any respect, the said article shall be refused admission, and the Insular Collector of Customs shall refuse delivery to the consignee and shall cause the destruction of any goods refused delivery shall not be exported by the consignee within three months from the date of notice of such refusal under such regulations as the Insular Collector of Customs may prescribe; *Provided*, That the insular Collector of Customs may deliver to the consignee such goods pending examination and decision in the matter, on execution of a penal bond for the amount of the full invoice value of such goods, together with the duty thereon, and on refusal to return such goods for any cause to the custody of the Insular Collector of Customs, when demanded, for the purpose of excluding them from the country, or for any other purpose, said of consignee shall forfeit the full amount of the bond: *And provided further*, That all charges for storage, cartage, and labor on goods which are refused admission or delivery shall be paid by the owner or consignee, and in default of such payment shall constitute a lien against any future importation made by such owner or consignee.

SEC. 12. The word "person" as used in this Act shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies, associations, and other commercial or legal entities. When construing and enforcing the provisions of this Act, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, association, or other commercial or legal entity, within the scope of his employment or office, shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society, association, or other commercial or legal entity, as well as that of the person.

SEC. 13. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 14. This Act shall take effect on its Passage: *Provided*, That any article, the importation, offer, sale, transportation, or use of which is prohibited or restricted by this Act, which is in transit to the Philippine Islands at the time of the passage of this Act, shall not be subject to the lines, penalties, or forfeitures herein prescribed, but may, under rules and regulations to be prescribed by the Insular Collector of Customs, and approved by the Secretary of Finance and Justice, be returned to the port from which it was shipped: *Provided further*, That this privilege shall not be extended beyond a period of sixty days after the date of the passage of this Act.

Enacted, May 18, 1907.

APPENDIX.

RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE PURE FOOD AND DRUGS ACT

GENERAL

REGULATION 1.—*Short title of the Act.*

The act entitled "An Act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," enacted May 18, 1907, shall be known and referred to as "The Pure Food and Drugs Act."

REGULATION 2.—*Original unbroken package.*

The term "original unbroken package" as used in this act is the original package, carton, case, can, box, barrel, bottle, phial, or other receptacle put up by the manufacturer, to which the label is attached, or which may be suitable for the attachment of a label, making one complete package of the food or drug article. The original package contemplated includes both the wholesale and the retail package.

REGULATION 3.—*Collection of samples.*

(Section 2.)

(a) Whenever a customs, health, or internal-revenue officer has cause for believing or suspecting that an article of food or drug which is being imported into, manufactured, or offered for sale in the Philippine Islands, or which is for the purpose of exportation from the Philippine Islands to the United States, or any foreign country or which has been imported into the Philippine Islands from the United States, or any foreign country, a sample or specimen of the articles suspected as being adulterated or mis-branded. except in the cases provided for in Regulations 17 to 20, will be seized from the owner thereof and a receipt given therefor, and such sample will be forwarded to the Director of Health through the Chief of the Bureau to which the seizing officer belongs with a full and complete statement of the case, giving name of the person from whom taken, quantity of same on hand, in which capacity the person from whom taken was acting—whether as an importer, a manufacturer of the article, or dealer therein, or a consumer thereof—and will furnish such other information as in the opinion of the customs, health, or internal-revenue officer will be of assistance in the proper administration of the law.

(b) Representative samples shall be taken, discretion being used as in the amount thereof; in general, one kilogram of bulk goods, or one liter of liquid goods being sufficient. Much smaller samples will serve in the case of drugs. In the case of bottled goods, one bottle will usually be found to be sufficient.

(c) Sample of bulk goods will be immediately placed in tin boxes or other suitable coverings and sealed by the officer taking the same.

(d) In all cases where samples of goods are to be taken the owner will be given such notice thereof as the circumstances of the case permit, and wherever possible, samples shall be taken and sealed in his presence. Samples shall be taken and sealed in duplicate, one such sample to be transmitted as above stated to the Bureau of Health, and the other to be delivered to the importer or owner thereof, if he desire the same.

In order properly to perform the duties set forth above, customs, health, and internal-revenue officers should give all publicity to revenue officers. the fact that they are charged with the duty of carrying out the provisions of The Pure Food and Drugs Act, and should invite complaints and reports from all persons in their respective districts regarding adulteration or misbranding articles of food or drugs.

REGULATION 4.—*Hearings.*

(Section 4.)

(a) When the examination or analysis shows that the provisions of of The Pure Food and Drugs Act have been violated, notice of that fact, together with a copy of the findings, shall be furnished to the party or parties from whom the sample was obtained or who executed the guaranty as provided in The Pure Food and Drugs Act, and a date shall be fixed at which such party or parties may be heard before the Secretary of the Interior, or other officer designated by him. The hearings shall be had at a place, to be designated by the Secretary of the Interior, most convenient for all parties concerned. These hearings shall be private and confined to questions of fact. The parties interested therein may appear in person or by attorney and may propound proper interrogatories and submit oral or written evidence to show any fault or error in the findings of the analyst or examiner. The Secretary of the Interior may order a reexamination of the sample or have new samples drawn for further examination.

(b) If the examination or analysis be found correct the Secretary of the Interior shall give notice to the Attorney-General of the Philippine Islands as prescribed.

(c) Any customs, health, or internal-revenue officer who shall obtain satisfactory evidence of any violation of The Pure Food and Drugs Act, as provided in section 5 thereof, shall first submit the same to the Director of Health, through the Chief of his Bureau, in order that the former may cause notice to be given to the guarantor or to the party from whom the sample was obtained.

REGULATION 5.—*Publication.*

(Section 4.)

(a) When a judgment, of the court shall have been rendered, there may be a publication of the findings of the examiner or analyst, together with the findings of the court.

(b) This publication may be made by means of circulars, notices, or bulletins, or the Official Gazette, as the Secretary of the Interior may direct, not less than thirty days after judgment.

(c) If an appeal be taken from the judgment of the court before such publication, notice of (the appeal shall accompany the publication.

REGULATION 6.—*Standards for drugs.*