

DERIVATION

Act Feb. 26, 1926, ch. 27, § 1102 (a), 44 Stat. 112.

SIMILAR PROVISIONS

1924—June 2, 1924, ch. 234, § 1002 (a), 43 Stat. 339.
1921—Nov. 23, 1921, ch. 136, § 1300, 42 Stat. 308.
1919—Feb. 24, 1919, ch. 18, § 1305, 40 Stat. 1142.

§ 2195. Rules and regulations.

For authority of the Commissioner, with the approval of the Secretary, to prescribe and publish all needful rules and regulations for the enforcement of this chapter, see section 3791.

(53 Stat. 246.)

§ 2196. Other laws applicable.

All administrative, special, or stamp provisions of law, including the law relating to the assessment of taxes, so far as applicable, shall be extended to and made a part of this chapter. (53 Stat. 246.)

DERIVATION

Act Feb. 26, 1926, ch. 27, § 1100, 44 Stat. 111.

§ 2197. Territorial extent of law—(a) In general.

The internal revenue laws imposing taxes on tobacco, snuff, cigars, or cigarettes shall be held to extend to such articles produced anywhere within the exterior boundaries of the United States, whether the same be within a collection district or not.

(b) Exportation free of internal revenue tax.

The shipment or delivery of manufactured tobacco, snuff, cigars, cigarettes, or cigarette papers or tubes for consumption beyond the jurisdiction of the internal revenue laws of the United States, as defined by subsection (a), shall be deemed exportation within the meaning of the internal revenue laws applicable to the exportation of such articles without payment of internal revenue tax. (53 Stat. 246; Oct. 21, 1942, 4:30 p. m., E. W. T., ch. 619, title VI, § 605 (e), 56 Stat. 975.)

DERIVATION

Subsec. (a) from R. S. §§ 3448, 3387, which were in nature of a revision of act July 20, 1868, ch. 186, §§ 107, 82, 15 Stat. 167, 160.

Subsec. (b) from act June 17, 1930, ch. 497, § 317, 46 Stat. 696.

AMENDMENTS

1942—Subsec. (b) amended by act Oct. 21, 1942, cited to text, which inserted "or cigarette papers or tubes."

EFFECTIVE DATE

Act Oct. 21, 1942, cited to text, was made effective on the first day of the first month which began more than ten days after Oct. 21, 1942, 4:30 p. m., E. W. T., by section 601 thereof.

§ 2198. Redemption of stamps on packages withdrawn from market.

Internal-revenue stamps affixed to packages of tobacco, snuff, cigars, or cigarettes which, after removal from factory or customhouse for consumption or sale, the manufacturer or importer withdraws from the market, may, under regulations prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, be redeemed if issued after December 31, 1931, and if claim for their redemption is presented by the manufacturer or importer within three years after the year of issue as indicated by the number or symbol printed thereon by the Government, irrespective of the date of their

purchase. Stamps of any issue shall not be sold until those of the previous year's issue have been disposed of or later than one year after the year of issue. (53 Stat. 246.)

DERIVATION

Act Mar. 3, 1931, ch. 441, 46 Stat. 1510.

§ 2199. Cross references.

For general provisions relating to stamps, information and returns, assessment, collection, and refunds, see sections 3300 to 3313 and chapters 34 to 37, inclusive. (53 Stat. 246.)

Chapter 16.—OLEOMARGARINE, ADULTERATED BUTTER, AND PROCESS OR RENOVATED BUTTER

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SUBCHAPTER A.—OLEOMARGARINE

§ 2300. Oleomargarine defined.

For the purposes of this chapter, and of sections 3200 and 3201, certain manufactured substances, certain extracts, and certain mixtures and compounds, including such mixtures and compounds with butter, shall be known and designated as "oleomargarine," namely: All substances known prior to August 2, 1886, as oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all mixtures and compounds of oleomargarine, oleo, oleomargarine oil, butterine, lardine, suine, and neutral; all lard extracts and tallow extracts; and all mixtures and compounds of tallow, beef fat, suet, lard, lard oil, fish oil or fish fat, vegetable oil, annatto, and other coloring matter, intestinal fat, and offal fat;—if (1) made in imitation or semblance of butter, or (2) calculated or intended to be sold as butter or for butter, or (3) churned, emulsified, or mixed in cream, milk, water, or other liquid, and containing moisture in excess of 1 per centum or common salt. This section shall not apply to puff-pastry shortening not churned or emulsified in milk or cream, and having a melting point of one hundred and eighteen degrees Fahrenheit or more, nor to any

of the following containing condiments and spices: salad dressings, mayonnaise dressings, or mayonnaise products nor to liquid emulsion, pharmaceutical preparations, oil meals, liquid preservatives, illuminating oils, cleansing compounds, or flavoring compounds. (53 Stat. 247.)

DERIVATION

Act Aug. 2, 1886, ch. 840, § 2, 24 Stat. 209, as amended by act July 10, 1930, ch. 882, § 1, 46 Stat. 1022.

§ 2301. Tax—(a) Rate.

(1) Upon oleomargarine which shall be manufactured and sold, or removed for consumption or use, there shall be assessed and collected a tax at the rate of one-fourth of 1 cent per pound; except that such tax shall be at the rate of 10 cents per pound in the case of oleomargarine which is yellow in color.

(2) For the purposes of paragraph (1), oleomargarine shall be held to be yellow in color when it has a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, but with an excess of yellow over red, measured in the terms of the Lovibond tintometer scale or its equivalent. Such measurements shall be made under regulations prescribed by the Commissioner, with the approval of the Secretary, and such regulations shall provide that the measurements shall be applied in such manner and under such conditions as will, in the opinion of the Commissioner, insure as nearly as practicable that the result of the measurement will show the color of the oleomargarine under the conditions under which it is customarily offered for sale to the consumer.

(b) By whom paid.

The tax levied by subsection (a) shall be paid by the manufacturer.

(c) How paid—(1) Stamps.

The tax levied by subsection (a) shall be represented by coupon stamps.

(2) Assessment.

Whenever any manufacturer of oleomargarine sells, or removes for sale or consumption, any oleomargarine upon which the tax is required to be paid by stamps, without the use of the proper stamps, it shall be the duty of the Commissioner, subject to the limitations prescribed in section 3312, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid, and to make an assessment therefor and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

(d) Special tax.

For special tax on manufacturers, wholesale and retail dealers, see section 3200.

(e) Imported oleomargarine.

For tax on imported oleomargarine, see section 2306. (53 Stat. 248.)

DERIVATION

Subsecs. (a)—(c) (1) from act Aug. 2, 1886, ch. 840, § 8, 24 Stat. 210, as amended by acts May 9, 1902, ch. 784, § 3, 32 Stat. 194, and Mar. 4, 1931, ch. 520, § 2, 46 Stat. 1549.

Subsec. (c) (2) from acts Aug. 2, 1886, ch. 840, § 9, 24 Stat. 211; Feb. 26, 1926, ch. 27, § 1109 (a), 44 Stat. 114.

§ 2302. Manufacturers—(a) Definition.

Every person who manufactures oleomargarine for sale shall be deemed a manufacturer of oleomargarine.

And any person that sells, vends, or furnishes oleomargarine for the use and consumption of others, except to his own family table without compensation, who shall add to or mix with such oleomargarine any substance which causes such oleomargarine to be yellow in color, determined as provided in paragraph 2 of section 2301 (a), shall also be held to be a manufacturer of oleomargarine within the meaning of this chapter or section 3200 or 3201 of chapter 27, and subject to the provisions thereof.

(b) Packing requirements—(1) Kind and weight of packages.

All oleomargarine shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, tin-plate, or paper packages, not before used for that purpose, containing, or encased in a manufacturer's package made from any of such materials of, not less than ten pounds.

(2) Marks and stamps.

The packages described in paragraph (1) shall be marked, stamped, and branded as the Commissioner, with the approval of the Secretary, shall prescribe; and all sales made by manufacturers of oleomargarine shall be in original stamped packages.

(3) Caution label.

Every manufacturer of oleomargarine shall securely affix, by pasting, on each package containing oleomargarine manufactured by him, a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "NOTICE.—The manufacturer of the oleomargarine herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again or the stamp thereon again, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases."

(c) Books and returns.

Every manufacturer of oleomargarine shall file with the collector of the district in which his manufactory is located such notices, inventories, shall keep such books, and render such returns of materials and products, and conduct his business under such surveillance of officers and agents as the Commissioner, with the approval of the Secretary, may, by regulation, require.

(d) Factory number and signs.

Every manufacturer of oleomargarine shall put up such signs and affix such number to his factory as the Commissioner, with the approval of the Secretary, may, by regulation, require.

(e) Bonds.

Every manufacturer of oleomargarine shall file with the collector of the district in which his manufactory is located such bonds as the Commissioner, with the approval of the Secretary, may, by regulation, require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector, and in a penal sum of not less than \$5,000; and the sum of said bond may be increased from time to time, and additional sureties required at the discretion of the collector, or under instructions of the Commissioner. (53 Stat. 248.)

DERIVATION

Subsec. (a) from acts Aug. 2, 1886, ch. 840, § 3, 24 Stat. 209, as amended by act May 9, 1902, ch. 784, § 2, 32 Stat. 194; Mar. 4, 1931, ch. 520, § 1, 46 Stat. 1549.

Subsec. (b) (1, 2) from acts Aug. 2, 1886, ch. 840, § 6, 24 Stat. 210, as amended by act Oct. 1, 1918, ch. 178, 40 Stat. 1008; Feb. 24, 1933, ch. 116, § 1, 47 Stat. 902.

Subsec. (b) (3) from act Aug. 2, 1886, ch. 840, § 7, 24 Stat. 210.

Subsecs. (c)–(e) from act Aug. 2, 1886, ch. 840, § 5, 24 Stat. 210.

§ 2303. Wholesale dealers—(a) Definition.

Every person who sells or offers for sale oleomargarine in the original manufacturer's packages shall be deemed a wholesale dealer in oleomargarine.

(b) Selling requirements.

All sales made by wholesale dealers in oleomargarine shall be in original stamped packages.

(c) Books and returns.

Wholesale dealers in oleomargarine shall keep such books and render such returns in relation thereto as the Commissioner, with the approval of the Secretary, may, by regulation, require; and such books shall be open at all times to the inspection of any internal revenue officer or agent. (53 Stat. 249.)

DERIVATION

Subsec. (a) from act Aug. 2, 1886, ch. 840, § 3, 24 Stat. 209.

Subsec. (b) from act Aug. 2, 1886, ch. 840, § 6, 24 Stat. 810, as amended by act Oct. 1, 1918, ch. 178, 40 Stat. 1008; Feb. 24, 1933, ch. 116, § 1, 47 Stat. 902.

Subsec. (c) from act May 9, 1902, ch. 784, § 6, 32 Stat. 197.

§ 2304. Retail dealers—(a) Definition.

Every person who sells oleomargarine in less quantities than ten pounds at one time shall be regarded as a retail dealer in oleomargarine.

(b) Packing and selling requirements.

Retail dealers in oleomargarine must sell only from original stamped packages, in quantities not exceeding ten pounds, and shall pack, or cause to be packed, the oleomargarine sold by them in suitable wooden, tinplate, or paper packages which shall be marked and branded as the Commissioner, with the approval of the Secretary, shall prescribe. (53 Stat. 249.)

DERIVATION

Subsec. (a) from act Aug. 2, 1886, ch. 840, § 3, 24 Stat. 209.

Subsec. (b) from act Aug. 2, 1886, ch. 840, § 6, 24 Stat. 210, as amended by acts Oct. 1, 1918, ch. 178, 40 Stat. 1008 and Feb. 24, 1933, ch. 116, § 1, 47 Stat. 902.

§ 2305. Stamps on emptied packages.

Whenever any stamped package containing oleomargarine is emptied, it shall be the duty of the person in whose hands the same is to destroy utterly the stamps thereon. Any revenue officer may destroy any emptied oleomargarine package upon which the tax-paid stamp is found. (53 Stat. 249.)

DERIVATION

Act Aug. 2, 1886, ch. 840, § 13, 24 Stat. 211.

§ 2306. Importation.

All oleomargarine imported from foreign countries shall, in addition to any import duty imposed on the same, pay an internal revenue tax of 15 cents per

pound, such tax to be represented by coupon stamps as in the case of oleomargarine manufactured in the United States. The stamps shall be affixed and canceled by the owner or importer of the oleomargarine while it is in the custody of the proper customhouse officers; and the oleomargarine shall not pass out of the custody of said officers until the stamps have been so affixed and canceled, but shall be put up in wooden packages, each containing not less than ten pounds, as prescribed in this chapter for oleomargarine manufactured in the United States, before the stamps are affixed; and the owner or importer of such oleomargarine shall be liable to all the penal provisions of this chapter prescribed for manufacturers of oleomargarine manufactured in the United States. Whenever it is necessary to take any oleomargarine so imported to any place other than the public stores of the United States for the purpose of affixing and canceling such stamps, the collector of customs of the port where such oleomargarine is entered shall designate a bonded warehouse to which it shall be taken, under the control of such customs officer as such collector may direct. (53 Stat. 250.)

DERIVATION

Act Aug. 2, 1886, ch. 840, § 10, 24 Stat. 211.

§ 2307. Exportation.

Oleomargarine may be removed from the place of manufacture for export to a foreign country without payment of tax or affixing stamps thereto, under such regulations and the filing of such bonds and other security as the Commissioner, with the approval of the Secretary, may prescribe. Every person who shall export oleomargarine shall brand upon every tub, firkin, or other package containing such article the word "Oleomargarine," in plain Roman letters not less than one-half inch square. (53 Stat. 250.)

DERIVATION

Act Aug. 2, 1886, ch. 840, § 16, 24 Stat. 212.

§ 2308. Penalties—(a) False branding; selling, packing, or stamping in violation of law.

Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any oleomargarine in any other form than in new wooden, tin-plate, or paper packages as described in section 2302 (b) (1) and (2) or who packs in any package any oleomargarine in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law shall be fined for each offense not more than \$1,000, and be imprisoned not more than two years.

(b) Omission or removal of label.

Every manufacturer of oleomargarine who neglects to affix the label described in section 2302 (b) (3) to any package containing oleomargarine made by him, or sold or offered for sale by or for him, and every person who removes any such label so affixed from any such package, shall be fined \$50 for each package in respect to which such offense is committed.

(c) Removal or defacement of stamps, marks, or brands.

Any person who shall willfully remove or deface the stamps, marks, or brands on a package contain-

ing oleomargarine taxed as provided in this subchapter shall be guilty of a misdemeanor, and shall be punished by a fine of not less than \$100 nor more than \$2,000, and by imprisonment for not less than thirty days nor more than six months.

(d) Fraud by manufacturers.

Whenever any person engaged in carrying on the business of manufacturing oleomargarine defrauds, or attempts to defraud, the United States of the tax on the oleomargarine produced by him, or any part thereof, he shall be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months, nor more than three years.

(e) Purchasing when not properly branded or stamped.

Every person who knowingly purchases or receives for sale any oleomargarine which has not been branded or stamped according to law shall be liable to a penalty of \$50 for each such offense.

(f) Purchasing from manufacturer who has not paid special tax.

Every person who knowingly purchases or receives for sale any oleomargarine from any manufacturer who has not paid the special tax required under subsection (a) of section 3200 of chapter 27 shall be liable for each offense to a penalty of \$100.

(g) Empty packages—(1) Failure to destroy stamps.

Any person who willfully neglects or refuses to destroy utterly the stamps on any empty package which contained oleomargarine shall for each such offense be fined not exceeding \$50, and imprisoned not less than ten days nor more than six months; and

(2) Trafficking.

Any person who fraudulently gives away or accepts from another, or who sells, buys, or uses for packing oleomargarine, any such stamped package, shall for each such offense be fined not exceeding \$100, and be imprisoned not more than one year.

(h) Failure of wholesale dealers to keep or permit inspection of books, or to render returns.

Any person who willfully violates any of the provisions of subsection (c) of section 2303 shall for each such offense be fined not less than \$50 and not exceeding \$500, and imprisoned not less than thirty days nor more than six months.

(i) Imported oleomargarine—(1) Failure of customs officer to comply with law.

Every officer of customs who permits any imported oleomargarine to pass out of his custody or control without compliance by the owner or importer thereof with the provisions of section 2306 relating thereto, shall be fined not less than \$1,000 nor more than \$5,000, and imprisoned not less than six months nor more than three years.

(2) Sale when improperly packed or stamped.

Every person who sells or offers for sale any imported oleomargarine, or oleomargarine purporting or claimed to have been imported, not put up in packages and stamped as provided by this subchapter, shall be fined not less than \$500 nor more than \$5,000, and be imprisoned not less than six months nor more than two years.

(j) Offenses not specifically covered.

If any manufacturer of oleomargarine, any dealer therein or any importer or exporter thereof shall knowingly or willfully omit, neglect, or refuse to do, or cause to be done, any of the things required by law in the carrying on or conducting of his business, or shall do anything by this subchapter or chapter 27 prohibited, if there be no specific penalty or punishment imposed by any other provision of this subchapter or chapter 27 for the neglecting, omitting, or refusing to do, or for the doing or causing to be done, the things required or prohibited, he shall pay a penalty of \$1,000. (53 Stat. 250.)

DERIVATION

Subsec. (a) from act Aug. 2, 1886, ch. 840, § 6, 24 Stat. 210, as amended by act Feb. 24, 1933, ch. 116, § 1, 47 Stat. 902. Act Aug. 2, 1886, ch. 840, § 6, was also amended by act Oct. 1, 1918, ch. 178, 40 Stat. 1008.

Subsecs. (b)–(g) from act Aug. 2, 1886, ch. 840, §§ 7, 15, 17, 11, 12, 13, 24 Stat. 210, 212, 211.

Subsec. (h) from act May 9, 1902, ch. 784, § 6, 82 Stat. 197.

Subsec. (i) (1) from acts Aug. 2, 1886, ch. 840, § 10, 24 Stat. 211; Mar. 4, 1909, ch. 321, § 335, 35 Stat. 1152, as amended by act Dec. 16, 1930, ch. 15, 46 Stat. 1029.

Subsecs. (i) (2), (j) from act Aug. 2, 1886, ch. 840, §§ 10, 18, 24 Stat. 211, 212.

SIMILAR PROVISIONS

Provisions similar to subsec. (h) were contained in act Oct. 1, 1890, ch. 1244, § 41, 26 Stat. 621.

§ 2309. Forfeitures—(a) Special tax on manufacturer unpaid.

Every person who knowingly purchases or receives for sale any oleomargarine from any manufacturer who has not paid the special tax required under subsection (a) of section 3200 shall be liable for each offense to a forfeiture of all articles so purchased or received, or of the full value thereof.

(b) Packages unstamped, unmarked, or deleterious.

All packages of oleomargarine subject to tax under this subchapter, that shall be found without stamps or marks as herein provided, and all oleomargarine intended for human consumption which contains ingredients adjudged, as provided in section 2311, to be deleterious to the public health, shall be forfeited to the United States.

(c) Fraud by manufacturer.

Whenever any person engaged in carrying on the business of manufacturing oleomargarine defrauds, or attempts to defraud, the United States of the tax on the oleomargarine produced by him, or any part thereof, he shall forfeit the factory and manufacturing apparatus used by him, and all oleomargarine and all raw material for the production of oleomargarine found in the factory and on the factory premises.

(d) Offenses not specifically covered.

If any manufacturer of or wholesale dealer in oleomargarine shall knowingly or willfully omit, neglect, or refuse to do, or cause to be done, any of the things required by law in the carrying on or conducting of his business, or shall do anything by this subchapter or chapter 27 prohibited, all the oleomargarine owned by him, or in which he has any interest as owner, shall be forfeited to the United States. (53 Stat. 251.)

DERIVATION

Act Aug. 2, 1886, ch. 840, §§ 12, 15, 17, 18, 24 Stat. 211, 212.

§ 2310. Recovery of penalties and forfeitures.

All fines, penalties, and forfeitures imposed by this subchapter or section 3201 may be recovered in any court of competent jurisdiction. (53 Stat. 252.)

DERIVATION

Act Aug. 2, 1886, ch. 840, § 19, 24 Stat. 212.

§ 2311. Commissioner's decisions—(a) Taxability.

The Commissioner is authorized to decide what substances, extracts, mixtures, or compounds which may be submitted for his inspection in contested cases are to be taxed under this subchapter; and his decision in matters of taxation under this subchapter shall be final.

(b) Deleterious ingredients.

The Commissioner may also decide whether any substance made in imitation or semblance of butter, and intended for human consumption, contains ingredients deleterious to the public health.

(c) Appeal.

In case of doubt or contest the decisions of the Commissioner in the class of cases under subsection (b) may be appealed from to a board constituted for the purpose, and composed of the Surgeon General of the Army, the Surgeon General of the Navy, and the Secretary of Agriculture; and the decisions of this board shall be final in the premises. (53 Stat. 252.)

DERIVATION

Act Aug. 2, 1886, ch. 840, § 14, 24 Stat. 212, as amended by act Feb. 9, 1889, ch. 122, 25 Stat. 659.

§ 2312. Chemists and microscopists.

For the appointment and employment of chemists and microscopists, see subchapter E of chapter 39.

(53 Stat. 252.)

§ 2313. Tobacco stamp laws applicable.

The provisions of law governing the engraving, issue, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, shall apply to stamps provided for by section 2301 (c) (1). (53 Stat. 252.)

DERIVATION

Act Aug. 2, 1886, ch. 840, § 8, 24 Stat. 210, as amended acts May 9, 1902, ch. 784, § 3, 32 Stat. 194, and Mar. 4, 1931, ch. 520, § 2, 46 Stat. 1550.

§ 2314. Regulations.

For authority of the Commissioner, with the approval of the Secretary, to make all needful regulations for the carrying into effect of this subchapter and sections 3200 and 3201, see section 3791.

(53 Stat. 252.)

SUBCHAPTER B.—ADULTERATED AND PROCESS OR RENOVATED BUTTER**§ 2320. Definitions—(a) Butter.**

For the purpose of this chapter and sections 3206, and 3207, the word "butter" shall be understood to mean the food product usually known as butter, and which is made exclusively from milk or cream, or both, with or without common salt, and with or without additional coloring matter.

(b) Adulterated butter.

"Adulterated butter" is defined to mean a grade of butter produced by mixing, reworking, reurning in milk or cream, refining, or in any way producing a uniform, purified, or improved product from different lots or parcels of melted or unmelted butter or butter fat, in which any acid, alkali, chemical, or any substance whatever is introduced or used for the purpose or with the effect of deodorizing or removing therefrom rancidity, or any butter or butter fat with which there is mixed any substance foreign to butter as defined in subsection (a), with intent or effect of cheapening in cost the product or any butter in the manufacture or manipulation of which any process or material is used with intent or effect of causing the absorption of abnormal quantities of water, milk, or cream.

(c) Process or renovated butter.

"Process butter" or "renovated butter" is defined to mean butter which has been subjected to any process by which it is melted, clarified or refined and made to resemble genuine butter, always excepting "adulterated butter" as defined by subsection (b). (53 Stat. 252.)

DERIVATION

Subsec. (a) from acts Aug. 2, 1886, ch. 840, § 1, 24 Stat. 209; May 9, 1902, ch. 784, § 4, 32 Stat. 194.

Subsecs. (b), (c) from act May 9, 1902, ch. 784, § 4, 32 Stat. 194.

§ 2321. Tax—(a) Rate—(1) Adulterated butter.

Upon adulterated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of 10 cents per pound, and any fractional part of a pound shall be taxed as a pound.

(2) Process or renovated butter.

Upon process or renovated butter, when manufactured or sold or removed for consumption or use, there shall be assessed and collected a tax of one-fourth of 1 cent per pound, and any fractional part of a pound shall be taxed as a pound.

(b) By whom paid.

The tax to be levied by subsection (a) shall be paid by the manufacturer.

(c) How paid—(1) Stamps.

The tax to be levied by subsection (a) shall be represented by coupon stamps.

(2) Assessment.

For assessment in case of omitted taxes, see section 3311.

(d) Special tax—(1) Manufacturers of adulterated and process or renovated butter.

For special tax on manufacturers of adulterated and process or renovated butter, see subsection (a) of section 3206.

(2) Wholesale dealers and retail dealers in adulterated butter.

For special tax on wholesale dealers and retail dealers in adulterated butter, see subsections (b) and (c) of section 3206.

(53 Stat. 253.)

DERIVATION

Act May 9, 1902, ch. 784, § 4, 32 Stat. 196.

§ 2322. Manufacturers—(a) Definition.

Every person who engages in the production of process or renovated butter or adulterated butter as a business shall be considered to be a manufacturer thereof.

(b) Packing, stamping, and selling requirements—(1) Adulterated butter.

All adulterated butter shall be packed by the manufacturer thereof in firkins, tubs, or other wooden, tin-plate, or paper packages not before used for that purpose, containing, or encased in a manufacturer's package made from any of such materials of, not less than ten pounds, and marked, stamped, and branded as the Commissioner, with the approval of the Secretary, shall prescribe, and all sales made by manufacturers of adulterated butter shall be in original, stamped packages. Every manufacturer of adulterated butter shall securely affix, by pasting, on each package containing adulterated butter manufactured by him a label on which shall be printed, besides the number of the manufactory and the district and State in which it is situated, these words: "NOTICE.—That the manufacturer of the adulterated butter herein contained has complied with all the requirements of law. Every person is cautioned not to use either this package again or the stamp thereon, nor to remove the contents of this package without destroying said stamp, under the penalty provided by law in such cases."

(2) Process or renovated butter.

For marking process or renovated butter, see section 2325.

(c) Books and returns.

Every manufacturer of process or renovated butter or adulterated butter shall file with the collector of the district in which his manufactory is located such notices and inventories, shall keep such books and render such returns of material and products, and conduct his business under such surveillance of officers and agents as the Commissioner, with the approval of the Secretary, may by regulation require.

(d) Factory number and signs.

Every manufacturer of process or renovated butter or adulterated butter shall put up such signs and affix such number to his factory as the Commissioner, with the approval of the Secretary, may by regulation require.

(e) Bonds.

Every manufacturer of process or renovated butter or adulterated butter shall file with the collector of the district in which his manufactory is located such bonds as the Commissioner, with the approval of the Secretary, may by regulation require. But the bond required of such manufacturer shall be with sureties satisfactory to the collector, and in a penal sum of not less than \$500; and the sum of said bond may be increased from time to time and additional sureties required at the discretion of the collector or under instructions of the Commissioner. (53 Stat. 253.)

DERIVATION

Act May 9, 1902, ch. 784, § 4, 32 Stat. 195, 196, as amended by act Feb. 24, 1933, ch. 116, § 2 (a), 47 Stat. 902.

§ 2323. Dealers in adulterated butter—(a) Dealer defined.

Every person who sells adulterated butter shall be regarded as a dealer in adulterated butter.

(b) Retail dealer defined.

Every person who sells adulterated butter in less quantities than ten pounds at one time shall be regarded as a retail dealer in adulterated butter.

(c) Selling requirements.

Dealers in adulterated butter must sell only original or from original stamped packages, and when such original stamped packages are broken the adulterated butter sold from same shall be placed in suitable wooden, tin-plate, or paper packages, which shall be marked and branded as the Commissioner, with the approval of the Secretary, shall prescribe. (53 Stat. 254.)

DERIVATION

Act May 9, 1902, ch. 784, § 4, 32 Stat. 195, as amended by act Feb. 24, 1933, ch. 116, § 2 (b), 47 Stat. 903.

§ 2324. Books and returns of wholesale dealers in adulterated and process or renovated butter.

Wholesale dealers in process, renovated, or adulterated butter shall keep such books and render such returns in relation thereto as the Commissioner, with the approval of the Secretary, may, by regulation, require; and such books shall be open at all times to the inspection of any internal revenue officer or agent. (53 Stat. 254.)

DERIVATION

Act May 9, 1902, ch. 784, § 6, 32 Stat. 197.

§ 2325. Inspection of process or renovated butter.

For the purpose of protecting interstate and foreign commerce from process or renovated butter which is unclean, unwholesome, unhealthful, or otherwise unfit for human food—

(a) The Secretary of Agriculture shall, through inspectors appointed by him, cause inspections to be made of all milk, butter, butter oil, and other ingredients intended for use in the manufacture of process or renovated butter. All ingredients which are found to be putrid or decomposed or which contain organic or inorganic substances which are foreign to such ingredients when properly made, manufactured, produced, collected, stored, transported, or handled, and which organic or inorganic substances cannot be removed by processing, shall be deemed unfit for use in the manufacture of process or renovated butter, shall be marked "U. S. Inspected and Condemned", and shall be denatured or destroyed under the supervision of the inspector. All other ingredients shall be marked "U. S. Inspected and Passed", and shall be deemed fit for use in the manufacture of process or renovated butter.

(b) The Secretary of Agriculture shall cause inspections to be made of all process or renovated butter. If such butter is found to be clean, wholesome, healthful, and otherwise fit for human food, is shall be marked "U. S. Inspected and Passed". Process or renovated butter that is found to be unclean, unwholesome, unhealthful, or otherwise unfit for human food shall be denatured or destroyed under the supervision of the inspector.

(c) The Secretary of Agriculture shall cause inspections to be made of all factories wherein process or renovated butter is manufactured to determine the sanitary conditions thereof, and if it is found that the conditions existing in any such factory do not meet the standards prescribed by the Secretary in his regulations, he shall cause inspection to be withdrawn therefrom.

(d) The Secretary of Agriculture is authorized to withdraw inspection from any factory wherein process or renovated butter is made, if the manufacturer shall fail to comply with any of the provisions of this section or with any of the rules and regulations prescribed hereunder.

(e) The Secretary of Agriculture is authorized to make such rules and regulations as he deems necessary for the efficient administration of the provisions of this section, and all inspections hereunder shall be made in such manner as may be prescribed in such regulations. The Secretary of Agriculture may, from time to time, by regulations define the foreign substances and the extent thereof that render the ingredients unfit for use in manufacturing process or renovated butter.

(f) The Secretary of Agriculture shall cause to be ascertained, and he shall report, from time to time, the quantity and quality of all process or renovated butter manufactured and the character and condition of the materials from which it is made.

(g) No person, firm, or corporation shall forge, counterfeit, simulate, falsely represent, detach, or knowingly alter, deface, or destroy, or use without proper authority, any of the marks, stamps, labels, or tabs provided for in this section or in any regulations prescribed hereunder by the Secretary of Agriculture for use on process or renovated butter or on wrappers, packages, containers, or cases in which the product is contained, or any certificate in relation thereto.

(h) All process or renovated butter and the packages or containers thereof shall be marked with the words "Process Butter" and by such other marks, labels, or brands, and in such manner, as may be prescribed by the Secretary of Agriculture.

(i) No statement that is false or misleading in any particular shall be placed on or affixed to any wrapper, label, carton, or container of process or renovated butter.

(j) No person, firm, or corporation shall transport, or offer for transportation, or sell or offer for sale, in interstate or foreign commerce, or in commerce affecting commerce among the States, any process or renovated butter that has not been inspected and passed and marked, labeled, and branded in accordance with this section and the regulations issued hereunder.

(k) The administration and enforcement of the provisions of this Act, other than its provisions relating to revenue, but including the seizure and denaturing or destruction of ingredients intended to be used in the manufacture of process or renovated butter and the denaturing or destruction of process or renovated butter, are committed exclusively to the Secretary of Agriculture: *Provided*, That any powers and duties of the Food and Drug

Administration of the Federal Security Agency under the Federal Food, Drug, and Cosmetic Act, as amended (21 U. S. C. 1940 edition, 301, and the following), as regards such ingredients before they come into the possession of the manufacturers of process or renovated butter, or as regards such powers and duties in connection with process or renovated butter after it leaves such manufacturers and comes into the hands of wholesale or retail dealers, or others, shall not be affected by this Act. (53 Stat. 254; June 24, 1946, ch. 459, § 1, 60 Stat. 300.)

DERIVATION

Act May 9, 1902, ch. 784, § 5, 32 Stat. 196.

REFERENCES IN TEXT

This act referred to in text refers to sections 2325-2327 of this title.

The Federal Food, Drug, and Cosmetic Act, as amended, referred to in the text, has been classified to sections 301, 321, 331-392 of Title 21.

AMENDMENTS

1946—Act June 24, 1946, cited to text, amended section generally to establish and maintain continuous inspection of all qualified establishments which manufacture process or renovated butter.

SAVINGS CLAUSE

Section 4 of act June 24, 1946, cited to text, provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, the validity of the remainder of the Act and of the application of such provision to other persons or circumstances shall not be affected thereby."

§ 2326. Penalties—(a) Adulterated butter—(1) False branding; sale, packing, or stamping in violation of law.

Every person who knowingly sells or offers for sale, or delivers or offers to deliver, any adulterated butter in any other form than in new wooden, tinfoil, or paper packages as described in subsection (c) of section 2323, or who packs in any package any adulterated butter in any manner contrary to law, or who falsely brands any package or affixes a stamp on any package denoting a less amount of tax than that required by law, shall be fined for each offense not more than \$1,000 and be imprisoned not more than two years.

(2) Omission or removal of label.

Every manufacturer of adulterated butter who neglects to affix the label required under paragraph (1) of subsection (b) of section 2322 to any package containing adulterated butter made by him, or sold or offered for sale for or by him, and every person who removes any such label so affixed from any such package shall be fined \$50 for each package in respect to which such offense is committed.

(b) Failure of wholesale dealers to keep or permit inspection of books, or to render returns.

Any person who willfully violates any of the provisions of section 2324 shall for each such offense be fined not less than \$50 and not exceeding \$500, and imprisoned not less than thirty days nor more than six months.

(c) Failure to comply with provisions relating to the manufacture, storage, and marking of process or renovated butter.

Any person, firm, or corporation violating any of the provisions of section 2325 shall be deemed guilty

of a misdemeanor and on conviction thereof shall be punished by a fine of not more than \$1,000 or by imprisonment for a period of not more than six months, or by both such fine and imprisonment in the discretion of the court. (53 Stat. 255; June 24, 1946, ch. 459, § 2, 60 Stat. 302.)

DERIVATION

Act May 9, 1902, ch. 784, §§ 4-6, 32 Stat. 196, 197, as amended by act Feb. 24, 1933, ch. 116, § 2 (b), 47 Stat. 903.

AMENDMENTS

1946—Subsec. (c) amended by act June 24, 1946, cited to text, which increased the penalty from a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than one month nor more than six months to a fine of not more than \$1,000 or by imprisonment for not more than six months.

SAVINGS CLAUSE

Savings clause, see note set out under section 2325 of this title.

§ 2327. Other laws applicable—(a) Oleomargarine.

The provisions of sections 2301 (c) (2), 2305 to 2311 inclusive (except subsections (a), (b), and (h) of section 2308), and section 3791 (a) (1), shall apply to manufacturers of adulterated butter to an extent necessary to enforce the marking, branding, identification, and regulation of the exportation and importation of adulterated butter.

(b), (c) Omitted. June 24, 1946, ch. 459, § 3, 60 Stat. 302.

(d) Tobacco and snuff.

The provisions of law governing the engraving, issuing, sale, accountability, effacement, and destruction of stamps relating to tobacco and snuff, as far as applicable, shall apply to the stamps provided in section 2321 (c) (1). (53 Stat. 255; June 24, 1946, ch. 459, § 3, 60 Stat. 302.)

DERIVATION

Subsecs. (a), (b) from act May 9, 1902, ch. 784, §§ 4, 5, 32 Stat. 196.

Subsec. (c) from act Aug. 10, 1912, ch. 284, 37 Stat. 273.

Subsec. (d) from act May 9, 1902, ch. 784, § 4, 32 Stat. 194.

AMENDMENTS

1946—Subsecs. (b) and (c) omitted by act June 24, 1946, cited to text.

SAVINGS CLAUSE

Savings clause, see note set out under section 2325 of this title.

Chapter 17.—FILLED CHEESE

Sec.	
2350.	Definitions.
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2352.	Manufacturers.
2353.	Wholesale dealers.
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2355.	Stamps on emptied packages.
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FEDERAL FOOD, DRUG, AND COSMETIC ACT

By virtue of act June 25, 1938, ch. 675, § 902 (c), 52 Stat. 1059, nothing contained in chapter 9 of Title 21, Food and Drugs, shall be construed as in any way affecting, modifying, repealing, or superseding the original provisions of this chapter.

§ 2350. Definitions.

For the purpose of this chapter and sections 3210 and 3211—

(a) Cheese.

The word "cheese" shall be understood to mean the food product known as cheese, and which is made from milk or cream and without the addition of butter, or any animal, vegetable, or other oils or fats foreign to such milk or cream, with or without additional coloring matter.

(b) Filled cheese.

Certain substances and compounds shall be known and designated as "filled cheese," namely: All substances made of milk or skimmed milk, with the admixture of butter, animal oils or fats, vegetable or any other oils, or compounds foreign to such milk, and made in imitation or semblance of cheese. Substances and compounds, consisting principally of cheese with added edible oils, which are not sold as cheese or as substitutes for cheese but are primarily useful for imparting a natural cheese flavor to other foods shall not be considered "filled cheese" within the meaning of this chapter. (53 Stat. 256.)

DERIVATION

Subsec. (a) from act June 6, 1896, ch. 337, § 1, 29 Stat. 253.

Subsec. (b) from act June 6, 1896, ch. 337, § 2, 29 Stat. 253, as amended by act May 28, 1938, ch. 289, § 706, 52 Stat. 571.

§ 2351. Tax—(a) Rate.

Upon all filled cheese which shall be manufactured there shall be assessed and collected a tax of 1 cent per pound; and any fractional part of a pound in a package shall be taxed as a pound.

(b) By whom paid.

The tax levied by subsection (a) shall be paid by the manufacturer.

(c) How paid—(1) Stamps.

The tax levied by subsection (a) shall be represented by coupon stamps.

(2) Assessment.

Whenever any manufacturer of filled cheese sells or removes for sale or consumption any filled cheese upon which the tax is required to be paid by stamps, without paying such tax, it shall be the duty of the Commissioner, subject to the limitations prescribed in section 3312, upon satisfactory proof, to estimate the amount of tax which has been omitted to be paid and to make an assessment therefor and certify the same to the collector. The tax so assessed shall be in addition to the penalties imposed by law for such sale or removal.

(d) Special tax.

For special tax on manufacturers and dealers, see section 3210.

(e) Imported filled cheese.

For tax on imported filled cheese, see section 2356. (53 Stat. 256.)

DERIVATION

Subsecs. (a)-(c) (1) from act June 6, 1896, ch. 337, § 9, 29 Stat. 255.

Subsec. (c) (2) from act June 6, 1896, ch. 337, § 10, 29 Stat. 255, as amended by act Feb. 26, 1926, ch. 27, § 1109 (a), 44 Stat. 114.