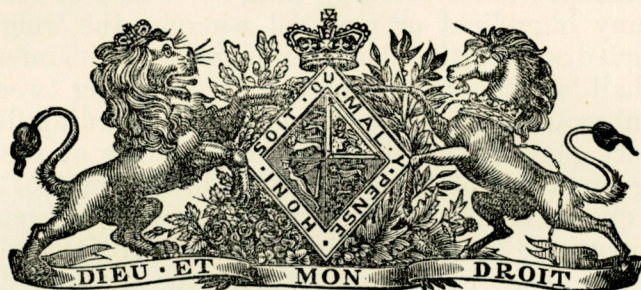


New South Wales.



ANNO QUADRAGESIMO SECUNDO

VICTORIÆ REGINÆ.

No. XIV.

An Act to prevent the Adulteration of Articles of Food or Drink and the Sale of certain Liquors injurious to health. [Assented to, 2nd April, 1879.]

WHEREAS the practice of adulterating drugs and articles of food and drink for sale requires to be repressed Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

1. Every person who shall for purposes of sale mix or cause or permit to be mixed any ingredient or material with any article of food or drink or shall colour any such article or cause or permit the same to be coloured so as in any such case to render such article injurious to health—or who shall for purposes of sale mix or cause or permit to be mixed any ingredient or material with any drug or shall colour any such drug or cause or permit the same to be coloured so as to affect injuriously the quality or potency of such drug—shall for the first offence be liable to a penalty not exceeding fifty pounds and in case of any subsequent offence shall be guilty of a misdemeanour and be liable to imprisonment with or without hard labour for a term not exceeding six months.

Preamble.

Mixing drugs or articles with ingredients injurious to health.

Adulteration of Food Prevention.

Selling any such drug or article.

2. Every person who shall sell any drug or article of food or drink mixed with any such ingredient or material or so coloured as aforesaid whereby such drug or article has been rendered injurious to health shall be liable for each offence to the like penalties as are in the first section provided in respect of the mixing or colouring of any such drug or article.

Exemption from last-mentioned penalties.

3. Provided that no person shall be convicted under the last preceding section who shall show to the satisfaction of the Justices (or in case of indictment to the satisfaction of the Jury) that he did not know the drug or article in question to have been so mixed or injuriously coloured as aforesaid and that he could not with reasonable diligence have obtained that knowledge.

Mixing or selling drugs or articles to increase bulk &c.

4. Every person who shall for purposes of sale mix or cause or permit to be mixed any ingredient or material with any drug or article of food or drink in order thereby fraudulently to increase its weight bulk or measure or to conceal its inferior quality—or who shall to the prejudice of the purchaser sell any drug or article of food or drink mixed with any ingredient or material whereby the weight bulk or measure of such drug or article has been increased or its inferior quality concealed—shall be liable to a penalty not exceeding twenty pounds and for any subsequent offence to a penalty not exceeding fifty pounds.

Selling drugs or articles not of the nature demanded.

5. Every person who shall to the prejudice of the purchaser sell any drug or article of food or drink which is not of the nature substance or quality of the drug or article demanded by such purchaser—or any compounded drug or compound article of food which is not composed of ingredients in accordance with the demand of the purchaser—shall be liable to a penalty not exceeding twenty pounds and for any subsequent offence to a penalty not exceeding fifty pounds.

Exemption from penalties under last preceding sections.

6. Provided that no person shall be convicted under either of the two last preceding sections if he shall show to the satisfaction of the Justices that he did not know the drug or article in question to have been mixed so that thereby its weight or bulk or measure was increased or its inferior quality concealed and that he could not with reasonable diligence have obtained that knowledge or if he shall show that at the time of selling such drug or article he distinctly apprised the purchaser that it was mixed or shall show that the added ingredient or material (not being injurious to health) was added not for any fraudulent purpose but solely for the production or necessary preparation of the drug or article as an article of commerce or was unavoidably mixed with it in the process of preparation or that such drug or article was a patented or proprietary medicine and sold as such.

The terms ingredient or material.

7. The term ingredient and the term material as used in this Act shall include liquids as well as solid substances.

Sale &c. of certain liquors in unfit state.

8. Every person who shall sell and deliver or cause or permit to be sold and delivered for immediate consumption by the buyer or any other person any intoxicating liquor containing fusel oil in a proportion injurious to health shall be liable for each offence to the like penalties as are in the first section provided in respect of the offences there mentioned.

Proviso where no knowledge of the unfitness.

9. Provided that no person shall be convicted under the last preceding section who shall show to the satisfaction of the Justices (or in case of indictment to the satisfaction of the jury) that he did not know the liquor in question to have been unfit for present consumption or such as to be injurious to health and that he could not with reasonable diligence have obtained that knowledge.

Power to police to obtain samples.

10. Every sergeant of police or senior constable or constable specially authorized by the Inspector General or an Inspector of police may on payment or tender of the value thereof demand and obtain

Adulteration of Food Prevention.

obtain samples of any intoxicating liquor from any person dealing in such liquors or having such for sale and may require him to show and permit the inspection of the vessels or vessel in which such liquor is at the time kept and to draw the required samples or sample therefrom in the officer's presence And any person being thereto lawfully required who shall refuse or wilfully neglect to deliver to any such officer any such sample the value thereof having been paid or tendered or who shall wilfully and without just cause refuse or neglect to show or to permit the inspection of any such vessel or who shall in any manner or by any means obstruct such officer in making such inspection or in obtaining the samples or sample required shall be liable to a penalty not exceeding fifty pounds and in case of any subsequent offence to a penalty not exceeding one hundred pounds.

11. Every pecuniary penalty under this Act may be imposed and recovered in a summary way by and before any two Justices and where the penalty awarded exceeds five pounds the defendant may appeal from the conviction in the manner by law in that behalf provided. Recovery of penalties.

12. Where the prosecutor in any case under this Act shall have caused the drug liquor or article forming the subject of prosecution to be analysed by any competent analyst the reasonable expense of and attending such analysis (to be assessed by the Justices) may in case of a conviction be awarded against the defendant as part of the costs of the prosecution if the convicting Justices shall think fit Provided that before the making of such analysis the person prosecuted shall have had reasonable notice of the time and place of the intended production of the drug liquor or article to the analyst for examination with the name of such analyst and shall have been allowed to attend on such production. Expense of analyzing articles.

Administration of Justice Act

in obtaining samples of any intoxicating liquor from any person dealing in such liquor or having such for sale and that any person who shall refuse to permit the inspection of the vessels or vessel in which such liquor is at the time kept and to draw the required samples or samples therefrom in the officer's presence, and any person being lawfully required who shall refuse or willfully neglect to deliver to any such officer any such sample the same thereby having been paid or tendered to him shall be deemed to have refused to permit the inspection of any such vessel or who shall in any manner obstruct or impede the inspection of any such vessel or in any manner obstruct or impede the officer in making such inspection or in obtaining the samples of sample required shall be liable to a penalty not exceeding fifty pounds and in case of any subsequent offence to a penalty not exceeding one hundred pounds.

10. Where the officer is required to take any such sample and where the quantity of such sample exceeds five pounds the defendant may appeal from the conviction in the manner by law in that behalf provided.

11. Where the prosecutor in any case under this Act shall have caused the trial judge or judge to examine the evidence and to make a finding in any case under this Act shall have caused such analysis (to be assessed by the judge) may in case of conviction be awarded to the defendant as part of the costs of the prosecution if the conviction shall have been obtained before the making of such analysis the person prosecuted shall have had reasonable notice of the time and place of the examination of the drug liquor or article to the analyst for examination and the name of such analyst and shall have been allowed to attend on such production of evidence and to examine the evidence and to cross-examine the same in any case under this Act.

12. Any person who shall be convicted under this Act shall be liable to a penalty not exceeding fifty pounds and in case of any subsequent offence to a penalty not exceeding one hundred pounds.

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