

**Pure Food Laws, Who Subject to. Food, Cannot Be Sold
Below Standad Fixed By Law.**

The laws of this state prohibit any person from selling or offering for sale within this state any article of food which is adulterated or mis-branded within the meaning of Chapters 130 and 138, Laws of 1911. These acts apply to the entire public.

July 12, 1912.

Doctor T. D. Tuttle,
Secretary, State Board of Health,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of June 12th, enquiring as to whether or not, under the laws of this state, a hotel or restaurant keeper may sell milk or cream below the standard provided by law, or which contains formaldehyde, or other preservatives prohibited by law.

The statute prohibits any person from selling or offering for sale within this state any drug or article of food which is adulterated or misbranded within the meaning of the Act (Secs. 1-2, Chap. 130, Session Laws of 1911). This certainly includes an hotel or restaurant keeper. The Act then provides what constitutes misbranding and adulteration. Milk containing formaldehyde would certainly be adulterated, and milk or cream below the standard fixed by the statute is adulterated and cannot be sold as milk or cream by any person (Secs. 1-2, Chap. 138, Laws of 1911).

You also enquire whether ice cream containing a small quantity of sound strawberries and, in addition, an artificial coloring may be sold as Strawberry Ice Cream. Ice cream is a frozen product made from cream gelatine and sugar, with or without flavoring, and contains not less than 14 per cent of milk fat and not more than 1 per cent of pure gelatine (Sec. 1, Chap. 138, Laws of 1911). Subdivision 6 of Sec. 2, Chap. 130, Laws of 1911, provides that "food is adulterated if it is mixed, colored, coated, polished, powdered or stained in a manner whereby damage or inferiority is concealed, or whereby it is made to appear better or of greater value than it really is. If the ice cream does not contain any substance prohibited by the statutes it may be sold, but it should be sold under its true name. It is not strawberry ice cream if it is flavored with a substance in imitation of a strawberry flavor.

It makes no difference who sells, or offers for sale, a food or drug product. If it is impure or misbranded within the meaning of Chaps. 130 or 138, laws of 1911, the person selling it or offering it for sale violates the statute.

You also enquire as to whether or not a butcher who is conducting a meat market is prohibited from selling lard composed of part lard and part cottonseed oil. This is an article of food, and if it contains cottonseed oil it is adulterated within the meaning of the statute (See Secs. 1 and 2, Chap. 130, Session Laws 1911); and any person, no matter in what line of business he may be engaged, is prohibited from selling an impure or misbranded article of food. The statute defines what constitutes an impure food, and also what constitutes a misbranded food. An impure food is prohibited from being sold at all by any person; a misbranded food may not be impure, and if sold under its proper name and is not impure, the statute is not violated.

Yours very truly,
ALBERT J. GALEN,
Attorney General.