

Butter Substitutes—Coloring Matter—Sales—Imitation Butter.

The sale of Nu-Ine in Montana is prohibited by sections 2622-2627 R. C. M. 1921 because it is colored to resemble butter by the use of artificial coloring.

December 5, 1927.

G. A. Norris, Esq.,
Chief, Dairy Division,
Department of Agriculture,
Helena, Montana.

My dear Mr. Norris:

You have requested my opinion whether "Nu-Ine," a product manufactured by the Baltimore Butterine Co., of Baltimore, Maryland, can be

sold in Montana without being licensed, or whether such product can be sold at all under the laws of this state.

It is at once evident that unless your second question can be answered in the affirmative that it is unnecessary to consider your first question.

Nu-Ine is a product manufactured from vegetable oils and is put up in a carton similar to that used for butter, upon which is printed, among other things, the following: "Ingredients, cocoanut and peanut oil, salt and water, artificially colored. The Baltimore Butterine Co."

The artificial coloring referred to gives the contents a color similar to that of butter.

Section 2262, R. C. M. 1921, as amended by chapter 35, laws of 1923, provides in part as follows:

"Hereafter the word 'butter' shall not be printed or used, either alone or in conjunction with any other word or words upon any carton, package, or other receptacle containing any substitute for butter, such as margarine or any other substance not made entirely from milk fat. No person or persons shall manufacture or sell, or expose for sale, any substance out of vegetable or animal fats or oils (not from milk or cream) colored in imitation of butter or any shade of yellow."

Section 2627, R. C. M. 1921, as amended by chapter 35, laws of 1923, further provides in part as follows:

"No person shall coat, powder, or color with annato or any coloring whatsoever, butterine, or oleomargarine, or any compound of the same, or any product or manufacture made in whole or in part from animal fats or animal and vegetable oils not produced from unadulterated milk or cream by which means such product, manufacture, or compound shall resemble butter or cheese, the product of the dairy; nor shall he have the same in his possession with the intent to sell, nor shall he sell or offer the same for sale."

The use of the word "butterine," which means artificial butter, is in my opinion objectionable, but the fact that the carton is labelled "prepared for baking and shortening" might be held to be evidence that the product is not sold as a substitute for butter. However, there is no question about the paragraph expressed in section 2622, to-wit:

"No person or persons shall manufacture or sell, or expose for sale, any substance out of vegetable or animal fats or oils (not from milk or cream) colored in imitation of butter or any shade of yellow."

It is therefore my opinion that the sale of this product in this state, in its present form, is prohibited by both sections 2622 and 2627, supra.

Very truly yours,

L. A. FOOT,

Attorney General.