

## Opinion No. 115.

Butter, Wrapper—Wrapper, Butter—  
Carton, Butter—Sale, of Butter.

Held: Creamery butter may be sold, offered or exposed for sale if the same be contained in parchment paper on which is printed in a conspicuous place the name of the wholesaler or manufacturer and the words "16 ounces net weight," or "1 lb. net weight."

January 18, 1946.

Mr. Albert H. Kruse, Commissioner  
Department of Agriculture, Labor  
and Industry  
State Capitol  
Helena, Montana

Dear Mr. Kruse:

You have requested my opinion whether, if the provisions of Section 2620.34, Revised Codes of Montana, 1935, as amended by Chapter 68, Laws of 1937, with reference to wrapping butter, are complied with, it is legally required that butter sold to the public must also be contained in an outside carton or wrapper.

Section 2620.34, Revised Codes of Montana, 1935, as amended by Chapter 68, Laws of 1937, provides as follows:

"All creamery butter sold, offered or exposed for sale at retail in the State of Montana, wherever manufactured, must be wrapped in parchment paper and must have the wholesalers or manufacturers name clearly printed in a conspicuous place on the outside of the package in which it is sold. On each pound package of butter so sold or offered for sale the words '16 ounces net weight' or '1 lb. net weight' shall appear."

I do not find any other statute dealing with this subject. The statute above quoted is plain and unambiguous and needs no interpretation. It merely requires that all butter sold, exposed, or offered for sale at retail in the state, regardless of where manufactured, must be wrapped in parchment paper. There is no statutory requirement that such butter be enclosed in an outside carton.

Under the statutes, Sections 2444-2502, Revised Codes of Montana, 1935, as amended, giving the State Board of Health general supervision over the interests and health of the citizens of the state, the board has authority to promulgate rules and regulations concerning the manner or method in which any food product may be sold, offered for sale or exposed for sale, insofar as the same may, in its judgment, protect the general health of the public. (See *Campbell v. City of Helena*, 92 Mont. 366, 379, 16 Pac. (2d) 1.) I am advised that the State Board of Health has not promulgated a rule or regulation requiring creamery butter to be contained in an outside carton in addition to the parchment paper wrapping as provided in Section 2620.34, supra. In the absence of such rule or regulation, therefore, creamery butter may be sold, offered for sale or exposed for sale if the same is wrapped in parchment paper on which is printed in a conspicuous place the name of the wholesaler or manufacturer, and the words "16 ounces net weight" or "1 lb. net weight."

It is therefore my opinion that creamery butter may be sold, offered or exposed for sale if the same be contained in parchment paper on which is printed in a conspicuous place the name of the wholesaler or manufacturer and the words "16 ounces net weight," or "1 lb. net weight."

Sincerely yours,  
R. V. BOTTOMLY,  
Attorney General