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Private Acts of 1935 Chapter 782

Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with county government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other CTAS website material.

Sincerely,

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Private Acts of 1935 Chapter 782

SECTION 1. That

(a) any person, firm or corporation engaged in the manufacture, storage, transportation, sale, and/or delivery of milk, butter milk, cream or other dairy products, in Counties having a population of not less than 222,850 by the Federal Census of 1930 or any subsequent Federal Census, and using in such business, or using for the handling of other beverages or foods dealt in as incidental to such dairy business, bottles, cans, cases, crates or other containers having the name, mark, stamp or brand of such person, firm or corporation permanently affixed thereto, may register in the office of the Clerk of the Circuit Court of such County, such name, mark, stamp or brand in the manner now prescribed for registering trade marks, provided such name, mark, stamp or brand can be distinguished from any other name, mark, stamp or brand theretofore registered. There shall be paid for such filing a registration fee of five dollars. Said Clerk of the Circuit Court shall deliver to such person, firm, or corporation so filing or causing to be filed, any such name, mark, brand or stamp, so many duly attested certificates of the recording thereof, as such person, firm or corporation may apply for, and shall receive for each of such certificates issued by said Clerk a fee of One Dollar.

(b) In all prosecutions under this Act, such certificate shall be prima facie evidence of the adoption of and ownership of such name, mark, stamp or brand, and the right of the person, firm or corporation named therein to adopt and use the same and to transfer or assign the right to use the same.

(c) Nothing in this Act, however, shall be construed as permitting the registration or use by any person, firm or corporation, of any name, mark, stamp or brand, design or device, which, but for this Act, such person, firm or corporation would not be entitled to use, nor shall anything in this Act be construed as preventing any person, firm, or corporation engaged in the State of Tennessee in the business above described, from registering under the present provisions of law governing registration of trade marks, devices, or designs now used by said person, firm or corporation to advertise his or its products, or later adopted by such person, firm or corporation, so long as such trade mark, design or device so adopted does not conflict with one theretofore registered under this Act, or under the general law governing registration of trade marks.

As amended by: Private Acts of 1937, Chapter 896.

SECTION 2. That such mark, stamp or brand may consist of a name, design or device either in color or in plain lettering or drawing, and may be affixed in any suitable permanent manner to the container.

SECTION 3. That it shall be unlawful for any person, firm or corporation, other than the one named in the certificate issued by the Clerk of the Circuit Court as provided in Section 1 hereof, without the written consent of the one so named:

(a) To use the name, mark, stamp or brand described in such certificate, upon any container for any commodity.

(b) To fill any container bearing such name, mark, stamp or brand, with milk, butter milk, cream or any other substance.

(c) To deface, erase, obliterate, cover up, or otherwise remove or conceal any such name, mark, stamp or brand on any such container.

(d) To buy [sic] sell, traffic in or destroy any such container bearing such name, mark, stamp or brand.

SECTION 4. That any person having in possession or under control any container bearing a name, mark, stamp or brand registered as provided in Section 1 hereof, and not holding a written transfer or bill of sale therefor, from the person, firm or corporation named in the certificate provided for in said section or other authority in writing from such person, firm or corporation, shall upon demand, deliver such container to the person, firm or corporation named in such certificate, his transferees or assigns, or to the authorized agent thereof, and any person failing or refusing to deliver the same when so demanded shall be guilty of a misdemeanor.

SECTION 5. That the person, firm or corporation named in any such certificate, or his transferees or assigns, may, upon application therefor, have search warrants to issue to search for containers bearing the name, mark, stamp or brand described in such certificate, in the manner and form and under the conditions under which search warrants are now issued, to search for personal property, upon the showing to the Justice of the Peace or Court authorized to issue search warrants that there is probable cause to believe such marked containers to be upon the premises to be searched, or in the possession of the person named in such search warrant. This remedy is cumulative and the exercise thereof shall in no way

interfere with other remedies or proceedings provided for hereunder.

SECTION 6. That the requiring of, or taking of any deposit for any purpose, upon any such container, so marked, shall not be deemed or held to be a sale either optionally or otherwise under any proceeding under this Act.

SECTION 7. That any person, firm or corporation violating any provision of this Act shall be guilty of a misdemeanor, and upon conviction, shall be fined for each offense by a fine or not less than five dollars or more than \$100.00 or by imprisonment in the County Workhouse not to exceed thirty days, or both.

SECTION 8. That if, for any reason, any section or part of this Act, shall be declared invalid, the invalidity of such section or part, shall not otherwise affect its validity.

SECTION 9. That this Act shall take effect from and after its passage, the public welfare requiring it.

Passed: April 22, 1935.

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