An Act relative to the time of filing objections to signatures on initiative or referendum petitions. *Chap.* 596

Be it enacted, etc., as follows:

Section 22A of chapter 53 of the General Laws, as most recently amended by chapter 51 of the acts of 1943, is hereby further amended by striking out the third sentence and inserting in place thereof the following: — Objections that signatures appearing on an initiative or referendum petition have been forged or placed thereon by fraud and that in consequence thereof the petition has not been signed by a sufficient number of qualified voters actually supporting such petition, as required by the constitution, may be filed with the state secretary not later than five o'clock in the afternoon on the thirtieth week day succeeding the last day for filing such petition. *Approved June 14, 1948.*

G. L. (Ter. Ed.), 53, § 22A, etc., amended.

Time for filing objections to signatures on initiative or referendum petitions.

An Act increasing the membership of the Malden stadium and athletic field commission, and the term of office of appointive members thereof. *Chap.* 597

Be it enacted, etc., as follows:

Section 1. Chapter 456 of the acts of 1946 is hereby amended by striking out section 1 and inserting in place thereof the following: — *Section 1.* There is hereby established in the city of Malden a commission to be known as the Malden Stadium and Athletic Field Commission, which shall consist of the mayor, the chairman of the school committee, the superintendent of schools, the principal of the high school, the faculty manager of athletics, the superintendent of parks, and three persons to be appointed by the mayor. Upon the expiration of the term of an appointive member, his successor shall be appointed for a term of three years.

Section 2. The mayor of Malden shall forthwith appoint an additional person to serve as a member of the Malden Stadium and Athletic Field Commission, for a term expiring one year after the expiration of the term of that appointive member of said commission now serving for the longer term.

Section 3. This act shall take full effect upon its acceptance, during the current year, by the city council of said city of Malden, subject to the provisions of its charter, but not otherwise. *Approved June 14, 1948.*

An Act relative to the adulteration or misbranding of foods and drugs. *Chap.* 598

Be it enacted, etc., as follows:

Section 1. Chapter 94 of the General Laws is hereby amended by striking out section 186, as appearing in the

G. L. (Ter. Ed.), 94, § 186, amended.

Adulteration of drugs and food defined.

Tercentenary Edition, and inserting in place thereof the following section: — *Section 186.* For the purposes of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, an article shall be deemed to be adulterated: —

In the case of a drug: First, if a drug sold under or by a name recognized in any official compendium differs from the standards of strength, quality or purity as determined by the test, if any, laid down in such official compendium at the time of investigation; provided, that no drug defined in an official compendium shall be deemed to be adulterated hereunder if the standard of strength, quality or purity thereof is plainly stated upon the bottle, box or other container thereof delivered to the customer, although such standard may differ from that determined by the test, if any, laid down in the official compendium.

For the purposes of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, the term "official compendium" shall mean the official United States pharmacopoeia, the official homeopathic pharmacopoeia of the United States, the official national formulary, or any supplement to any of them. For the purposes of these sections the term "drug" shall also mean and include all medicines, preparations, substances and mixtures of substances intended to affect the structure or any function of the body of man or other animals.

Second, if its strength or purity falls below the professed standard or quality under which it is sold.

Third, if it consists in whole or in part of any filthy, putrid or decomposed substance.

Fourth, if it has been prepared, packed or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health.

Fifth, if it bears or contains, for purposes of coloring only, a coal tar color other than one from a batch which has been certified in accordance with the provisions of the Federal Food, Drug and Cosmetic Act and amendments thereto.

Sixth, if any substance has been mixed or packed therewith so as to reduce its strength, quality or purity, or if any substance has been substituted wholly or in part therefor.

In the case of food: First, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second, if any substance has been substituted wholly or in part for the article.

Third, if any valuable constituent of the article has been wholly or in part abstracted.

Fourth, if damage or inferiority has been concealed in any manner.

Fifth, if it bears or contains any paraffin or any nonnutritive ingredient or any added poisonous or deleterious mineral substance or other ingredient which is unsafe within

the meaning of the regulations promulgated by the department of public health for the enforcement of sections one hundred and eighty-six to one hundred and ninety-five; provided, that this paragraph shall not apply to any food containing saccharin, if not specifically prohibited by law, prepared and sold under such regulations as the department of public health shall prescribe.

Sixth, if it consists in whole or in part of a filthy, decomposed or putrid animal or vegetable substance, or any portion of an animal which is unfit for food, whether manufactured or not, or if it is the product of a diseased animal, or one that has died otherwise than by slaughter.

Seventh, if the carcass or parts of the carcass of any animal shall be inflated with gas or air.

Eighth, if its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

Ninth, if it falls below the standard of purity, quality or strength which it purports or is represented to possess.

Tenth, if it bears or contains a coal tar color other than one from a batch that has been certified in accordance with the provisions of the Federal Food, Drug and Cosmetic Act and amendments thereto.

Eleventh, if it contains any mineral oil or monochloroacetic acid; provided, that an amount of mineral oil not exceeding four tenths of one per cent may be permitted in foods when such mineral oil is present solely as the result of its use in necessary and established manufacturing processes and not as an ingredient of food, as may be provided by the regulations of said department; and provided, further, that said department may by regulation make such other exemptions in the case of foods containing mineral oil if such foods are manufactured and sold exclusively for use in established commercial manufacturing processes.

Twelfth, if it is confectionery, it shall also be deemed to be adulterated if it bears or contains any alcohol or nonnutritive article or substance except harmless flavor, or harmless resinous glaze not in excess of four tenths of one per cent, refined petroleum jelly or refined mineral oil not in excess of four tenths of one per cent, harmless natural wax not in excess of four tenths of one per cent, harmless natural gum and pectin; provided, that if the confectionery contains more than one of the substances limited as herein referred to, the total quantity of such substances individually or collectively shall not exceed four tenths of one per cent; and, provided further, that this paragraph shall not apply to any confectionery by reason of its containing less than one half of one per cent by weight of alcohol derived solely from the use of flavoring extracts; and, provided further, that this paragraph shall not apply to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

Section 2. Said chapter 94 is hereby further amended G. L. (Ter. Ed.), 94, § 187, amended.

"Misbranded" term defined when applied to drugs and food.

by striking out section 187, as so appearing, and inserting in place thereof the following section: — *Section 187.* The term "misbranded" as used in sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall apply to each drug, or article of food, or article which enters into the composition of food, the package or label of which bears any statement, design or device regarding such article or the ingredients or substance contained therein, which is false or misleading in any particular, and also to any food or drug product which is falsely branded as to the state or country where it was manufactured or produced. The word "label" as used herein shall include all written, printed, or graphic matter upon any article or any of its containers or wrappers or accompanying such article.

When not to be deemed adulterated, etc.

For the purposes of said sections an article shall also be deemed to be misbranded: —

In the case of a drug: First, if it is an imitation of or offered for sale under the name of another article.

Second, if the contents of the package as originally put up have been removed, in whole or in part, and other contents placed therein.

Third, if its package or wrapper bears or contains any false or misleading statement, design, or device regarding the curative or therapeutic effect of such article or of any of the ingredients or substances contained therein.

Fourth, if in package form it fails to bear a label containing the name and place of business of the manufacturer, packer or distributor.

Fifth, if it is for use by man and contains any quantity of the narcotic or hypnotic substance alpha-eucaine, barbituric acid, beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote or sulphonmethane; or any chemical derivative of any such substance, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning — May be habit forming."

Sixth, if it is a drug and is not designated solely by a name recognized in an official compendium, unless its label bears (1) the common or usual name of the drug, if such there be; and (2) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetophenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid or any derivative or preparation of any such substances, contained therein; provided, that to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions may be established by regulations promulgated by the department of public

health, which conform to the regulations promulgated under the Federal Food, Drug and Cosmetic Act for the enforcement of federal law.

Seventh, if its label fails to bear adequate directions for use and such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health or against unsafe dosage or methods or duration of administration or application in such manner and form as are necessary for the protection of the users.

Eighth, if it is dangerous to health when used in the dosage or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

The labeling provisions of this section shall not apply to the compounding and dispensing of drugs on the written prescription of a physician, a dentist or a veterinarian.

In the case of food: First, if it is in imitation or semblance of any other food; provided, that this paragraph shall not apply to an imitation of a food for which a standard of quality or identity has been adopted under the provisions of section one hundred and ninety-two, nor to an imitation of any other food for which no standard has been established by law or regulation, if its label bears in type of uniform size and prominence, the word "imitation", and, immediately thereafter the name of the food imitated; and, provided further, that this paragraph shall not be construed to permit the imitation of any food for which a standard has been established by law, other than as specifically provided herein.

Second, if its label or labeling is false or misleading in any particular.

Third, if its container is so made, formed or filled as to be misleading.

Fourth, if it is in package form and fails to bear a label, tag or other marking containing the name and place of business of the manufacturer, packer or distributor.

Fifth, if it purports to be or is represented as a food for which a definition and standard of identity has been established and it fails to conform to such definition and standard.

Sixth, if it purports to be or is represented as a food for which a standard of quality has been prescribed by the department of public health and its quality falls below such standard, unless its label bears a statement as to its true nature.

Seventh, if the package containing it or its label bears any statement, design or device regarding the ingredients or the substances contained therein which is false or misleading in any particular.

Eighth, if it is not a food for which a definition and standard of identity has been prescribed by regulations of the department of public health, unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient in order of

predominance, except that spices, flavorings and colorings, other than those sold as such, may be designated as spices, flavorings and colorings, without naming each; provided, that, to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the department of public health, which regulations shall be uniform with those now or hereafter adopted for enforcement of the federal law.

G. L. (Ter. Ed.), 94, new § 187A, added.

Sale and dispensing of harmful drugs by certain persons prohibited.

Section 3. Said chapter 94 is hereby further amended by inserting after section 187, as so appearing, the following section: — *Section 187A*. No person shall sell or offer for sale at retail or dispense or give away any harmful drug as defined herein to any person other than a physician, dentist or a veterinarian, except on the written prescription of a physician, dentist or veterinarian. No prescription for a hypnotic or somnifacient drug or any other harmful drug shall be renewed or refilled by a pharmacist if the prescription bears any indication that it is not to be renewed or refilled.

No manufacturer, wholesaler, jobber or dealer in drugs, other than a retail pharmacist, shall sell or offer for sale a harmful drug unless the container bears a label securely attached thereto stating conspicuously in printed words the common or usual name of the harmful drug and the quantity or proportion thereof.

"Harmful drug", term defined.

For the purposes of this section, the term "harmful drug" shall mean and include any of the following drugs and any derivatives or active principles, preparations, compounds, or mixtures thereof having similar harmful action: amidopyrine, amphetamine (benzedrine) — except those preparations for nasal and other external use, desoxyephedrine, cantharides — except for external use in combination with other ingredients unfit for internal administration, cinchophen, digitalis, dinitrocresol, dinitrophenol, ergot, estrogen, natural or synthetic — except for external use in combination with other ingredients unfit for internal administration, barbituric acid, chloralhydrate, paraldehyde, thyroid, pituitary, oil of croton, oil of pennyroyal, oil of savin, and oil of tansy.

The department of public health and local boards of health and the board of registration in pharmacy shall enforce this section, and whoever violates any provision of this section or any rules or regulations made hereunder, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in jail or house of correction for not more than one year, or both. This section shall not apply to the sale or dispensing of any harmful drug now or hereafter known to be generally used in the treatment of animal or poultry diseases, either alone or in combination with feeding materials or other ingredients, when such drug is sold and labeled for use in the treatment of animal or poultry diseases only.

G. L. (Ter. Ed.), 94, § 189, amended.

Section 4. Section 189 of said chapter 94, as so appear-

ing, is hereby amended by inserting after the word "obtained" in line 12 the following: — or to the party believed to be responsible for the condition of the sample, — so that the first sentence will read as follows: — Examination of samples of food and drugs in order to determine by analysis or test whether such articles are adulterated or misbranded within the meaning of sections one hundred and eighty-six to one hundred and ninety-five, inclusive, shall be made under the direction and supervision of the department or board taking such samples as provided in the preceding section; and if it shall appear from such examination that any of the samples are so adulterated or misbranded, the commissioner of public health or the local board of health need not cause formal complaint to be entered at once, but shall in the case of misbranding, and may in the case of adulteration, cause reasonable notice thereof, together with a copy of the results of such analysis or test, to be given to the party from whom the sample was obtained or to the party believed to be responsible for the condition of the sample, to the guarantor, if any, and to the party, if any, whose name appears upon the label as manufacturer, packer, producer, wholesaler, retailer or other dealer.

Examination of samples, by whom made, etc.

Section 5. Said chapter 94 is hereby further amended by inserting after section 189, as so appearing, the following section: — *Section 189A*. Whenever the commissioner of public health or his duly authorized agent finds or has probable cause to believe based upon inspection or chemical, bacteriological or physical examination, that any food or drug is adulterated or misbranded, he shall affix or cause to be affixed to such article a tag or other appropriate marking, giving notice that such article is or is suspected of being adulterated or misbranded and has been detained or embargoed for a period of ten days in the case of food and for a period of fifteen days in the case of drugs, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by said commissioner, his agent, or the court; provided, any such article may at the discretion of the manufacturer or claimant be removed from public display but shall not be removed from the immediate premises. The claimant shall be authorized to destroy the article so detained if such article is destroyed under the supervision of an agent of said commissioner. When an article detained or embargoed has been found to be adulterated or misbranded, the commissioner or said agent shall within five days thereafter file a petition in any district or municipal court within whose jurisdiction the article is detained or embargoed for a libel of condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded he shall remove the tag or other marking, thereby permitting its release. If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall after entry of the decree be destroyed at the expense of the claim-

G. L. (Ter. Ed.), 94, new § 189A, added.

Procedure by the department of public health in cases of adulterated drugs and food.

ant thereof under the supervision of such agent; provided, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court after entry of the decree and a good and sufficient bond conditioned that such articles shall be so labeled or processed has been executed by the claimant, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of said commissioner. Such bond shall be returned to the claimant of the article on representation to the court by the department of public health that the article is no longer in violation of the law. Whoever removes or disposes of an article of food or drug which has been detained or embargoed as provided herein without permission for such removal or disposal by said commissioner, his agent or the court shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars or by imprisonment for not more than six months.

G.L. (Ter. Ed.), 94, § 192, amended.

Rules and regulations to be adopted, etc.

SECTION 6. Said chapter 94 is hereby further amended by striking out section 192, as so appearing, and inserting in place thereof the following section: — *Section 192.* The department of public health and local boards of health shall enforce sections one hundred and eighty-six to one hundred and ninety-five, inclusive. Said department, after a public hearing, shall adopt and promulgate rules and regulations consistent with said sections, and, except as to standards fixed by law, may adopt standards, tolerances and definitions of purity or quality or identity. Such standards, tolerances and definitions shall conform to the standards, tolerances and definitions, if any, of purity or quality or identity adopted or that may hereafter be adopted for the enforcement of the Federal Food, Drug and Cosmetic Act, approved June twenty-fifth, nineteen hundred and thirty-eight (Title 21, U. S. C. 301 et seq. 52 Stat. 1040 et seq.), or now or hereafter adopted for the enforcement of federal law.

G. L. (Ter. Ed.), 94, § 193, amended.

Prosecution in certain cases forbidden.

Guaranty for protection.

SECTION 7. Said chapter 94 is hereby further amended by striking out section 193, as so appearing, and inserting in place thereof the following section: — *Section 193.* Except as provided in section one hundred and ninety-four, no dealer shall be prosecuted under sections one hundred and eighty-six to one hundred and ninety-five, inclusive, for selling or offering for sale any article of food or drug in the original, unbroken package in which it was received by him if he can establish a guaranty by the wholesaler, jobber, manufacturer or other person residing in the commonwealth from whom he purchased the article to the effect that the same is not adulterated or misbranded within the meaning of the laws of this commonwealth or the Federal Food, Drug and Cosmetic Act, or by the wholesaler, jobber, manufacturer or other person residing without the commonwealth to the effect that the same is not adulterated or misbranded within the meaning of the Federal Food, Drug and Cosmetic Act. Such guaranty, to afford protection, shall contain the

name and address of the person making the sale of this article to the dealer, and in that case such person shall be amenable to the prosecutions, fines and other penalties which would attach in due course to the dealer under sections one hundred and eighty-six to one hundred and ninety-five, inclusive. If it shall appear that any provision of said sections has been violated, and the party giving said guaranty is without the commonwealth, no action shall be brought except as is provided therein, but the department of public health or the local board taking the sample shall present the facts to the proper national authorities for their action. The provisions of this section shall not apply in the case of a food or drug subject to deterioration if the court finds that the adulteration has occurred after delivery to, and has resulted from negligence on the part of, the dealer.

Rules and regulations.

Under the authority given by section one hundred and ninety-two the department of public health shall adopt rules and regulations which shall be observed by the said department and by local boards of health in ascertaining whether there is such a guaranty which may be relied upon by the dealer.

G. L. (Ter. Ed.), 94, § 196, repealed.

Section 8. Section 196 of said chapter 94, as so appearing, is hereby repealed. *Approved June 14, 1948.*

An Act to provide for a special capital outlay program for the commonwealth. *Chap.* 599

Emergency preamble.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide funds immediately for a special capital outlay program for the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

Section 1. To provide for a special program of construction, reconstruction, alteration and improvement of various state institutions and properties, and for the purchase of certain property, the sums set forth in section two of this act, for the several purposes and subject to the conditions specified in said section two, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and the approval thereof. It is further provided that all projects authorized by this act shall be considered as special appropriations, so called, as provided in section fourteen of chapter twenty-nine of the General Laws, as amended.

Section 2.

Service of the State Superintendent of Buildings.

Item		
8004–16	For certain improvements to the power plant at the State House and the Ford Building .	$41,000 00
8004–17	For renovation and repairs of the roof of the State House	86,000 00