

TITLE 37
FOOD, DRUGS, AND OIL

CHAPTER 25
OILS

37-2501. ADULTERATED OR MISBRANDED OIL -- MANUFACTURE AND SALE UNLAWFUL. It shall be unlawful for any person to manufacture, sell, keep for sale, or offer for sale within the state of Idaho any gasoline, benzine, naphtha, lubricating oil or grease, road oil, bituminous road materials, diesel fuel, fuel oil for boilers and internal combustion engines, which is adulterated or misbranded within the meaning of this chapter, and any person who shall manufacture, sell, keep for sale, or offer for sale any of the above-named articles, which is adulterated or misbranded, within the meaning of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than twenty-five dollars (\$25.00), nor more than \$300.00, and each and every sale in violation hereof shall be deemed a separate offense.

[(37-2501) 1917, ch. 124, sec. 1, p. 411; reen. C.L. 65:116; C.S., sec. 1783; I.C.A., sec. 36-1601; am. 1967, ch. 150, sec. 1, p. 338.]

37-2502. INSPECTION. It shall be the duty of the department of agriculture to inspect and take samples of the above-named articles that are manufactured, kept for sale, or offered for sale, or sold within the state of Idaho and to cause the same to be tested and to enforce the provisions of this chapter.

[(37-2502) 1917, ch. 124, sec. 2, p. 411; reen. C.L. 65:117; C.S., sec. 1784; I.C.A., sec. 36-1602; am. 1939, ch. 96, sec. 1, p. 162; am. 1974, ch. 18, sec. 211, p. 364.]

37-2503. RIGHT OF ACCESS FOR INSPECTION -- PENALTY FOR OBSTRUCTING ENTRY OR INSPECTION. For obtaining information regarding the suspected violation of this chapter, the department of agriculture shall have access to all places where the above-named articles are sold, offered for sale or kept for sale, manufactured or transported, or stored, and may take samples therefrom for analysis, tendering payment therefor. Any person obstructing such entry or inspection, or failing upon request to assist therein shall be guilty of a misdemeanor and shall be punished as provided in section [37-2501](#), Idaho Code.

[(37-2503) 1917, ch. 124, sec. 4, p. 412; reen. C.L. 65:118; C.S., sec. 1785; I.C.A., sec. 36-1603; am. 1939, ch. 96, sec. 2, p. 162; am. 1974, ch. 18, sec. 212, p. 364.]

37-2504. OIL TO BE LABELED. Gasoline, benzine, naphtha, lubricating oil and grease, road oil, bituminous road materials, diesel fuel and fuel oil must be sold under their true name and grades, respectively, and such names and grades must be impressed or otherwise plainly marked upon the barrel, can, vessel, or other container in which the same is stored, sold, offered or exposed for sale, respectively, or upon a label conspicuously and securely fastened thereto, giving the true name and grade of the product, name and address of manufacturer or dealer, who sells the same.

[(37-2504) 1917, ch. 124, sec. 3, p. 411; reen. C.L. 65:119; C.S., sec. 1786; I.C.A., sec. 36-1604; am. 1967, ch. 150, sec. 2, p. 338.]

37-2505. CONFISCATION OF UNLAWFUL ARTICLES. Possession by any person of any of the articles above-named in this chapter shall be considered prima facie evidence that the same is kept by such person for sale and, if in violation of this chapter, the department of agriculture shall be authorized to seize upon and take possession of such article and upon the order of any court of competent jurisdiction its official shall destroy the same: provided, that in case the legal disability which exists against such article is one which can be removed by proper labeling, the official shall relabel and sell the same and pay the proceeds into the state treasury.

[(37-2505) 1917, ch. 124, sec. 5, p. 412; reen. C.L. 65:120; C.S., sec. 1787; I.C.A., sec. 36-1605; am. 1974, ch. 18, sec. 213, p. 364.]

37-2506. QUALITY STANDARDS. The standards of quality for motor gasoline, benzine, naphtha, grease, road oil, bituminous road products, fuel oil for heating purposes and diesel fuel shall be the latest specifications adopted by the American Society for Testing and Materials or other specifications adopted as standard by an Idaho governmental agency for its use, for those products. Motor oils shall conform to the latest viscosity classifications of the Society of Automotive Engineers. Motor oils falling outside those viscosity classifications shall not carry the SAE designation.

[I.C., sec. 37-2506, as added by 1967, ch. 150, sec. 4, p. 338.]

37-2507. ANALYSIS BY CHEMIST. The department of agriculture is directed to make, or accomplish by contract with qualified laboratories, all analyses and tests of articles inspected in this chapter and to employ, in such analyses and tests, the standard methods of analysis which have been or shall be adopted by the American Society for Testing and Materials or other standard methods of analysis adopted as standard by an Idaho governmental agency when analyzing or testing products for such agency's use.

[(37-2507) 1917, ch. 124, sec. 7, p. 412; reen. C.L. 65:122; C.S., sec. 1789; I.C.A., sec. 36-1607; am. 1939, ch. 96, sec. 3, p. 162; am. 1967, ch. 150, sec. 5, p. 338; am. 1974, ch. 18, sec. 214, p. 364.]

37-2508. CHEMIST AS WITNESS. In all prosecutions arising under this chapter the certificate of any chemist from a qualified testing laboratory as approved by the department of agriculture, when duly sworn to by such officer shall be prima facie evidence of the fact or facts therein certified, or in case it is necessary for such chemist to appear as a witness in court, the judge of the district court wherein such trial shall be held, shall issue a subpoena for his attendance at the trial and it shall be the duty of such chemist to obey such subpoena, and all his actual and necessary expenses shall be paid by the county wherein such trial is held in the same manner that county officers are paid and, in case of conviction, shall be charged to the defendant as part of the costs of prosecution.

[(37-2508) 1917, ch. 124, sec. 8, p. 413; reen. C.L. 65:123; C.S., sec. 1790; I.C.A., sec. 36-1608; am. 1974, ch. 18, sec. 215, p. 364; am. 1990, ch. 379, sec. 1, p. 1053.]

37-2509. DUTY OF ATTORNEY GENERAL AND PROSECUTING ATTORNEYS. It shall be the duty of the attorney general of the state of Idaho or the prosecuting attorney in any county of the state, when called upon by the department of agriculture, to render all legal assistance in his power to execute the provisions of this chapter and to prosecute cases arising under this chapter.

[(37-2509) 1917, ch. 124, sec. 9, p. 413; reen. C.L. 65:124; C.S., sec. 1791; I.C.A., sec. 36-1609; am. 1939, ch. 96, sec. 4, p. 162; am. 1974, ch. 18, sec. 216, p. 364.]

37-2510. PENALTY OF PUBLICITY. When any person has been convicted of manufacturing, selling, keeping for sale or offering for sale within the state of Idaho any gasoline, benzine, naphtha, lubricating oil or grease, road oil, bituminous road materials, diesel fuel and fuel oil for boilers and internal combustion engines, which is adulterated or misbranded, it shall be the duty of the department of agriculture to publish the fact in at least one (1) newspaper published in the county in which such adulterated or misbranded article or articles is found, giving the name of the article, the name of the manufacturer, the name of the dealer or person selling or offering the same for sale and such other information as will be beneficial to the consumers.

[(37-2510) 1917, ch. 124, sec. 10, p. 413; reen. C.L. 65:125; C.S., sec. 1792; I.C.A., sec. 36-1610; am. 1939, ch. 96, sec. 5, p. 162; am. 1967, ch. 150, sec. 6, p. 338; am. 1974, ch. 18, sec. 217, p. 364; am. 1990, ch. 379, sec. 2, p. 1054.]

37-2511. PERSON DEFINED. The word "person," as used in this chapter shall be construed to import both the plural and the singular, as the case demands, and shall include corporations, companies, societies and associations. When construing and enforcing the provisions of this chapter, the act, omission, or failure of any officer, agent, or other person acting for or employed by any corporation, company, society, or association, within the scope of his employment or office shall in every case be also deemed to be the act, omission, or failure of such corporation, company, society or association as well as that of the person.

[(37-2511) 1917, ch. 124, sec. 11, p. 413; reen. C.L. 65:126; C.S., sec. 1793; I.C.A., sec. 36-1611.]

37-2512. ADULTERATION OF OILS -- MISBRANDED DEFINED. For the purposes of this chapter an article shall be deemed to be adulterated:

1. If any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality, purity or strength.

2. If any substance has been substituted, wholly or in part, for the article.

3. If the article fails to conform to any of the requirements of the standards of quality, purity and strength adopted by the American Society for Testing and Materials or other specifications adopted as standard by an Idaho governmental agency for its use.

The term "misbranded," as used herein, shall apply to all articles, the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, or the

properties of such article which are false or misleading in any particular whatsoever.

[(37-2512) 1917, ch. 124, sec. 12, p. 413; reen. C.L. 65:127; C.S., sec. 1794; I.C.A., sec. 36-1612; am. 1967, ch. 150, sec. 7, p. 338.]

37-2513. DISPOSITION OF FINES. All fines, exclusive of costs, collected by any of the courts of this state, as penalties, for the violation of this chapter or any of its provisions, shall be paid by the proper officers of said court to the state treasurer of the state of Idaho.

[(37-2513) 1917, ch. 124, sec. 14, p. 414; reen. C.L. 65:128; C.S., sec. 1795; I.C.A., sec. 36-1613.]

37-2514. RECLAIMED OIL DEFINED. Reclaimed oil as used in this act is defined as any lubricating oil or motor oil which has been previously used for the lubrication of internal combustion engines or any gearing or shafting attached to or connected thereto, or for any other lubricating purpose and includes any lubricating or motor oil which after such use has been re-run, filtered, redistilled, settled or reprocessed in any manner.

[37-2514, added 1951, ch. 237, sec. 1, p. 490.]

37-2515. SIGN OR LABEL ON CONTAINERS -- CONTAINERS OF ONE GALLON OR LESS. Except as provided in this act containers of reclaimed oil which is sold or offered for sale or delivery shall bear a superimposed sign or label of rectangular shape not less than four (4) by six (6) inches containing the words "reclaimed motor oil" or "lubricating oil, reclaimed" in red letters of gothic type over a white background with a stroke of not less than one-eighth inch (1/8") in width and not less than three-fourths inch (3/4") in height.

On all containers of reclaimed oil which is sold or offered for sale of one (1) gallon or less, a superimposed sign or label of rectangular shape of not less than two (2) by three (3) inches containing the words "reclaimed motor oil" or "lubricating oil, reclaimed," in red letters of gothic type over a white background with a stroke of not less than one-sixteenth inch (1/16") in width and not less than one-half inch (1/2") in height shall be sufficient.

Lubricants blended with re-refined/recycled oil shall be labeled as such. The size type on containers of one (1) gallon or less shall be at least one-eighth inch (1/8") high and on containers larger than one (1) gallon at least one-fourth inch (1/4") high.

[37-2515, added 1951, ch. 237, sec. 2, p. 490; am. 1994, ch. 425, sec. 1, p. 1333.]

37-2516. PRODUCT BLENDED WITH RECLAIMED OIL. If any reclaimed oil is used in blending or compounding in any other petroleum product sold or offered for sale or delivery the fact of such blending or compounding shall be indicated on all containers in the manner required by this act for containers of reclaimed oil.

Lubricants blended with re-refined/recycled oil shall be labeled as such. The size type on containers of one (1) gallon or less shall be at least

one-eighth (1/8) inch high and on containers larger than one (1) gallon at least one-fourth (1/4) inch high.

[37-2516, added 1951, ch. 237, sec. 3, p. 490; am. 1994, ch. 425, sec. 2, p. 1333.]

37-2517. UNDERGROUND STORAGE OR FILL-PIPE -- AFFIXATION AND VISIBILITY OF METAL TAG. If the container of reclaimed oil sold or offered for sale or delivery is an underground storage tank the sign or label required by this article to be attached shall be affixed to the inlet end of the fill-pipe of the underground tank and shall consist of a metal tag firmly attached or affixed and plainly visible while the tank is being filled. The letters on such sign or label may be any convenient size.

[37-2517, added 1951, ch. 237, sec. 4, p. 490.]

37-2520. PENALTIES FOR VIOLATION OF ACT. Any person who shall sell or offer for sale or delivery any reclaimed oil the container of which is not labeled or marked as provided in this act shall be guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than twenty-five dollars, nor more than \$300.00, and each and every sale in violation hereof shall be deemed a separate offense.

[37-2520, added 1951, ch. 237, sec. 7, p. 490.]

CHAPTER 26
ENRICHMENT OF BREAD AND FLOUR -- [REPEALED]