**FOOD AND DRUGS ACT AMENDMENT BILL 1972**

**Legislative Council, 16 November 1972, pages 3142 -4**

Second reading

**The Hon. A. J. SHARD (Minister of Health)** obtained leave and introduced a Bill for an Act to amend the Food and Drugs Act, 1908- 1967. Read a first time.

The Hon. A. J. SHARD: I move: That this Bill be now read a second time.

It contains sundry minor amendments to the principal Act, most of which I will explain in detail as I deal with the clauses of the Bill. However, I should like at this point to explain to honourable members that the Bill provides for a general increase in all the penalties specified in the Act, and I should like to give the reasons for this increase. As an example, a penalty of $100 at the present moment is proposed to be increased to $400, $40 to $200, and $10 to $100. In many instances, penalties under the Act have not been increased since 1908, when the Act first came into operation. When one considers the inflationary spiral that has occurred since that date, an increase to the extent proposed by this Bill seems quite reasonable. Requests for penalty increases have been received by the Public Health Department, from various local boards of health, and from representatives of the wine trade.

The only other amendment proposed by this Bill that I should like to enlarge on at this point is one that has been strongly urged by the Wine and Brandy Producers Association for quite some time. As the Act now stands, the permitted strength for unsweetened spirits is 35° underproof and 45° for sweetened spirits, these strengths to be determined by the Sykes hydrometer. It has been submitted that the permitted additives of such substances as caramel and sugar alter the specific gravity of the spirits, thus producing an obscuration that affects the hydrometer reading. A true reading of the alcoholic content is not given. To offset the effect of the additives it is necessary to add extra alcohol, and so, in order to obtain a reading of, say, 35° on the hydrometer, the actual alcoholic content of the spirits must be increased by one or two degrees proof. The addition of this extra alcohol is very costly to the industry in this State. In all of the other States, the alcoholic content of spirits is determined by modern scientific methods (for example, by distillation) in accordance with a standard recommended by the National Health and Medical Research Council. These methods ignore the obscuration factor and determine the true alcoholic strength on which, of course, excise is calculated and paid. Under the Act as it now stands, all foods are standardized by regulation and it is highly desirable that spirits, the only present exception, also be dealt with by regulation. Uniform standards can thus be adopted and modern methods kept pace with.

Clause 1 is formal. Clause 2 fixes the commencement of the Act on a day to be proclaimed. Clause 3 amends the long title to the Act, by deleting the reference to “sale” of food and drugs. It has been found that the notion of sale restricts the operation of the Act, particularly in relation to the regulation-making power. There is obvious need from time to time to include in the Act or the regulations provisions that do not necessarily relate to the “sale” of food and drugs. Such things as the preparation and handling of food that is not necessarily for sale, and the possession of certain drugs without prescription, are but two examples. It is felt that by broadening the purposes of the Act, as stated in the long title, this problem can be overcome.

Clause 4 inserts several new definitions. The operation of the Act is being broadened to cover certain apparatus in respect of which the department has received complaints. Such things as disposable syringes, electrotherapy machines, and massage and slimming apparatus are not at present within the ambit of the Act. First, it is necessary that regulations be made as to sterility and proper use of such devices. Secondly, general control over these devices must be had, as in many instances extravagant claims are made about their effect, and experience has shown that it is very difficult to establish actual fraud in these cases. A definition of ’’premises” is inserted so that supply of food from mobile canteens and temporary structures can be controlled. The definition of “sale” is included and is given a fairly expanded meaning so that the supply of food as part of a service is specifically covered by the Act.

Clause 5 relates to controlled therapeutic devices, to which I have already referred. Devices may from time to time be declared by proclamation to be devices subject to the Act. Clause 6 places the control of such devices in the hands of the Central Board of Health. Clause 7 provides that the notice of appointment of an analyst must state his business address in lieu of his residential address. In practice, all analysts appointed under the Act are officers of the Chemistry Department and it is thought to be sufficient that only their business address be stated. Clause 8 increases the membership of the advisory committee from seven to nine. The Director of Agriculture and a microbiologist are added, so that a much wider range of expertise can be relied upon when the committee carries out its functions of recommending regulations under the Act to the Governor.

Clauses 9 to 11 increase penalties. Clause 12 deletes that provision of the Act that specifies the strengths, and the method for determining those strengths, in relation to spirits. This whole matter may now be covered by regulation. Clauses 13 to 32 inclusive increase penalties. Clause 33 amends that section of the Act that deals with the division and mixing of articles of food or drugs that are purchased as samples for analysis. The provision as presently worded does not adequately deal with the situation that arises—for example, the analysis of meat pies or tins of icecream. It is proposed that in such cases the regulations will spell out in detail the number of articles to be purchased and the method of dividing and mixing those articles.

Clauses 34 and 35 increase penalties. Clause 36 enacts new section 50a which provides for the recovery of the costs of analysis from defendants. The central board has had no trouble in recovering such costs, but local boards do have a problem, as the Act provides that no charge is to be made by the Government Analyst for any analysis done for a local board. Clauses 37 to 39 increase penalties. Clause 40 amends the regulation-making power to cover the matters of the alcoholic strength of spirits, the control of controlled therapeutic devices, and the sampling of food and drugs. Clause 41 increases a penalty.

The Hon. V. G. SPRINGETT secured the adjournment of the debate.