

## INDUSTRIAL RECOVERY ACT.

SCHEDULE "A"—*SUPPLEMENTAL PROVISIONS.***Applicable to Retail Drug Establishments and to All Retailers Dealing in Drugs and Allied Products.**

In addition to the foregoing<sup>1</sup> provisions of this Code, the following supplemental provisions shall apply to retail drug establishments and to all retailers dealing in drugs and allied products.

## SECTION 1.

**Definitions.** (1) **Retail Drug Trade.**—The term "retail drug trade" as used herein shall mean all selling to the consumer and not for the purpose of resale in form of drugs, medicines, cosmetics, toilet preparations, drug sundries and/or allied items, in the continental United States excluding the Panama Canal Zone. It is provided, however, that the term "retail drug trade" shall not include the dispensing of drugs, medicines and medical supplies by a physician, dentist surgeon or veterinarian in the legitimate practice of his profession.

(2) **Drug Retailer.**—The term "drug dealer" as used herein shall mean any individual or organization engaged wholly or partially in the retail drug trade.

(3) **Retail Drug Establishment.**—The term "retail drug establishment" as used herein shall mean any store or department of a store engaged in the retail drug trade, but shall not include stores or departments in which the principal business is the selling at retail of products other than drugs, medicines, cosmetics, toilet preparations, drug sundries and/or allied items.

(4) **Drugs.**—The term "drug" as herein used shall mean all medicinal substances and preparations recognized in the U. S. Pharmacopoeia and National Formulary or any supplements thereto, and all substances and preparations intended for external or internal use in the cure, mitigation, treatment or prevention of disease in man or other animals, and all substances and preparations other than food (but including medicinal or quasi-medicinal preparations, such as those sold or produced primarily for their vitamin content) intended to affect the structure or any function of the body of man or other animals.

(5) **Cosmetics and Toilet Preparations.**—The term "cosmetics" and the term "toilet preparations" as used herein shall mean toilet articles and perfumes, toilet waters, face powders, face creams, rouges, shaving creams, dentifrices, soaps and similar substances and preparations designed and intended for application to the person for the purpose of cleaning, improving the appearance of, refreshing or preserving the person.

(6) **Drug Sundries.**—The term "drug sundries" as used herein shall mean such articles as are used in conjunction with but not included in "drugs," "cosmetics" or "toilet preparations."

(7) **Registered Pharmacist, Assistant Pharmacist, Apprentice Pharmacist.**—The terms "registered pharmacist," "assistant pharmacist" and "apprentice pharmacist" as used herein shall have the meaning given to them under the laws of the respective states of the United States and of Alaska.

(8) **Curb Boys or Girls.**—The term "curb boys or girls" as used herein shall mean employees engaged exclusively in serving curb customers.

<sup>1</sup> Code of Fair Competition for the Retail Trade as approved by the President, October 22, 1933. This has been published in the Press and not reprinted herein.

## SECTION 2.

**Store Hours and Hours of Labor.** (1) **Group D, for Retail Drug Establishments.**—In place of any of the schedules of store hours and hours of labor set forth in Article V, Section 1, retail drug establishments may elect to remain open for business seven (7) days a week for a total of eighty-four (84) hours or more per week, but on no day for less than eight (8) hours; no employee of such establishment, except as provided in Article V, Sections 4 and 5, shall work more than fifty-six (56) hours per week, nor more than ten (10) hours per day, nor more than thirteen (13) days in any two consecutive weeks.

(2) **Exceptions in Case of Pharmacists.**—The maximum hours of labor prescribed in Article V and in paragraph (1) of this Section shall not apply to registered pharmacists, assistant pharmacists and apprentice pharmacists, employed and working as such, who may work ten (10) per cent above maximum hours otherwise applicable, or more in cases of emergency.

## SECTION 3.

**Wages.** (1) **Basic Rates for Retail Drug Establishments Electing to Operate in Group D.**—No employee of a retail drug establishment which has elected to operate in Group D as set forth above, shall, except as provided in Article VI, Sections 2 and 3, be paid for a fifty-six (56) hour work week less than at the rate of \$16 per week in cities of over 500,000 population, or less than at the rate of \$15 per week in cities of from 100,000 to 500,000 population, or less than at the rate of \$14 per week in cities of from 25,000 to 100,000 population; in cities, towns and villages of from 2500 to 25,000 population, the wages of all classes of employees of such establishments shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) per cent, provided that this shall not require an increase in wages to more than the rate of \$11 per week, and providing further that no employee shall be paid less than at the rate of \$10 per week; in towns, villages and other places with less than 2500 population, the wages of all classes of employees of such establishments shall be increased from the rates existing on June 1, 1933, by not less than twenty (20) per cent, provided that this shall not require an increase in wages to more than the rate of \$10 per week.

(2) **Exceptions for Establishments Employing Curb Boys or Girls.**—The minimum wages prescribed in Article VI and paragraph (1) of this Section may not apply to curb boys or girls employed by retail drug establishments when such employees are paid upon a commission basis.

## SECTION 4.

**Trade Practices.**—In addition to the trade practices set forth in Article IX, all drug retailers shall comply with the following:

(a) No drug retailer shall substitute another article or any part thereof for the kind ordered, without due notice to and consent of the customer.

(b) No drug retailer shall advertise to fill prescriptions at a uniform price irrespective of cost of ingredients or quantity prescribed.

(c) No drug dealer shall permit any demonstrator or sales employee, whose salary is wholly or partially paid by a manufacturer or distributor, to work in his establishment unless such demonstrator or sales em-

ployee is clearly and openly identified as the agent of such manufacturer or distributor.

#### SECTION 5.

**Administration.**—The administration of this Code, including this Schedule, in so far as it relates to the retail drug trade shall be governed by the following provisions:

(1) **Retail Drug Trade Authority.**—The Retail Drug Trade Authority shall consist of Administrator or his deputy, and three members appointed by the President of the United States, who shall advise and assist the Administrator or his Deputy. Members of the Retail Drug Trade Authority shall be members, without vote, of the National Drug Trade Council, provided for hereinafter.

(2) **National Drug Trade Council.** (a) **Composition.**—The National Retail Drug Trade Council shall consist of one representative from the AMERICAN PHARMACEUTICAL ASSOCIATION, one representative from the Drug Institute of America, Incorporated, two representatives from the National Association of Retail Druggists and such representation from any national association of the retail drug trade as may be approved by the Administrator.

Such representatives shall be elected, in accordance with a fair method approved by the Administrator, by the respective national trade associations.

(b) **General Powers.**—The National Retail Drug Trade Council shall in addition to the specific powers herein conferred, have all general powers necessary to assist the Administrator or his deputy in the administration and enforcement of the Code in so far as it relates to the retail drug trade.

(c) **Reports and Investigations.**—The National Retail Drug Council shall, subject to the approval or upon request of the Administrator, require from all drug retailers such reports as are necessary to effectuate the purposes of this Code in so far as it relates to the retail drug trade, and may, upon its own initiative or upon complaint of any person affected, make investigation as to the functioning and observance of any provisions of the Code relating to the retail drug trade and report the results of such investigation to the Administrator.

(d) **Recommendations.**—The National Drug Trade Council may from time to time present to the Administrator recommendations (including interpretations), based on conditions in the retail drug trade, which will tend to effectuate the operation of the provisions of this Code, and the policy of the National Industrial Recovery Act. Such recommendations shall, upon approval by the Administrator, become operative as part of this Code.

(e) **Local Committees.**—The National Drug Trade Council shall, subject to the approval of the Administrator, supervise the setting up within local trading areas of local committees for the purpose of assisting in

the administration and enforcement of this Code within such local areas in so far as it relates to the retail drug trade.

(f) **Expenses.**—The expenses of the National Drug Trade Council shall be equitably assessed and collected by the Council, subject to the approval of the Administrator.

(3) **Interpretation.**—The Administrator may from time to time, after consultation with the National Retail Drug Council, issue such administrative interpretations of the various provisions of this Code relating to the retail drug trade as are necessary to effectuate its purposes, and such interpretations shall become operative as part of this Code, unless the Administrator shall otherwise specify.

(4) **Exceptions in Cases of Unusual or Undue Hardship.**—Where the operation of the provisions of this Code imposes an unusual or undue hardship upon any drug retailer or group of drug retailers, such drug retailer or group of drug retailers may make application for relief to the Administrator or to his duly authorized agent, and the Administrator or his agent may grant such exception to or modification of the provision of this Code as may be required to effectuate the purposes of the National Industrial Recovery Act.

#### EXECUTIVE ORDER.

An application having been duly made, pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Retail Trade, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said Code of Fair Competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said Code of Fair Competition complies in all respects with the pertinent provisions of Title I of said Act and that the requirements of clauses (1) and (2) of subsection (a) of Section 3 of said Act have been met; NOW, THEREFORE, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by Title I of the National Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations and findings of the Administrator and do order that the said Code of Fair Competition be and is hereby approved.

FRANKLIN D. ROOSEVELT, *President.*

Approval Recommended:

HUGH JOHNSON, *Administrator.*

The White House, October 22, 1933.

NOTE: Prompt action is being seriously considered to urge that changes be made in the provisions of Schedule "A," where they differ materially from the Code presented by the organizations representing pharmacy and the retail drug industries.

#### DRUG TRADE NAMES LISTED.

A list of trade names in use by members of the American Drug Manufacturers' Association and the American Pharmaceutical Manufacturers Association has been prepared under the auspices of the patent and trade-mark committees of the associations.

The purpose of the compilation is to furnish information in the preliminary consideration of new trade names. It has been revised to September 1st.

Copies may be obtained at 25 cents each from Carson P. Frailey, secretary of the American Drug Manufacturers' Association, Albee Building, Washington.