

## No. 435

## AN ACT

Amending the act of July 2, 1935 (P. L. 589), entitled "An act to safeguard human health and life by providing for the issuance of permits to, and regulation of persons and entities selling milk and milk products; conferring powers, and imposing duties on the Secretary of Health, the Advisory Health Board; and otherwise providing for the administration of the act; and imposing penalties," relieving the Secretary of Health and the Advisory Health Board of certain powers and duties; imposing powers and duties on the Secretary of Agriculture; defining certified milk and canned milk and providing for the sale of canned milk; establishing certain fees; requiring additional information to be on milk when sold; providing that a brucellosis test be given to certain cows; permitting milk plants to be used in the preparation of certain fruit juices and milk products, and extending certain provisions of the act to milk products.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Regulating  
entities and  
persons selling  
milk and milk  
products.

Section 1. The title and section 1, act of July 2, 1935 (P. L. 589), entitled "An act to safeguard human health and life by providing for the issuance of permits to, and regulation \*of persons and entities selling milk and milk products; conferring powers, and imposing duties on the Secretary of Health, the Advisory Health Board; and otherwise providing for the administration of the act; and imposing penalties," are amended to read:

Title and section  
1, act of July 2,  
1935, P. L. 589,  
amended.

## AN ACT

To safeguard human health and life by providing for the issuance of permits to, and regulation of persons and entities selling milk and milk products; conferring powers, and imposing duties on the Secretary of [Health, the Advisory Health Board] *Agriculture*; and otherwise providing for the administration of the act; and imposing penalties.

New title.

Section 1. Be it enacted, &c., That for the purpose and within the meaning of this act, the following definitions shall obtain:

Definitions.

"Milk" means milk, skimmed milk, cream, sour milk, sour cream, buttermilk, and all other fluid derivatives of milk [, except condensed milk and evaporated milk for manufacturing purposes].

"Milk products" means ice cream, ice cream mix, custard ice cream, french ice cream, frozen custard, and other similar frozen products, and all dairy products used in the manufacture thereof.

\* "or" in original.

“Canned milk” means condensed, evaporated or concentrated milk in hermetically sealed containers or for manufacturing purposes.

“Certified Milk” means [the product of] milk from dairy farms operated in accordance with the “Methods and Standards for the Production and Distribution of ‘Certified Milk,’ last adopted by the American Association of Medical Milk Commissions Incorporated,” and the production and handling of which shall be certified to by a commission instituted in compliance therewith.

“Secretary” means the Secretary of [Health] *Agriculture* of this Commonwealth, or his authorized representative.

“Person” includes singular and plural, masculine and feminine, and any individual, firm, copartnership, institution, association, or corporation thereof.

“To Sell,” “for sale” or “sold” and similar terms means the selling, exchanging, delivering, or having in possession, care, control, or custody with intent to sell, exchange, or deliver, or to offer or to expose for sale.

“Dairy farm” is a place or premise where one or more cows are kept, and a part of all the milk from which is sold or delivered to any person.

“Milk plant” is any place or premise or establishment where milk is collected, separated, processed, stored, bottled, pasteurized, or prepared in any manner for sale as milk or milk products.

“Approved inspector” is one, who has proven to the satisfaction of the secretary, to be a person of good character, trained by school and experience to carry on dairy farm and milk plant inspection in a capable and efficient manner, and has received a certificate of approval from the secretary. Applications for certificates of approval for approved inspectors shall be made on forms which may be secured from the Secretary of [Health] *Agriculture*, and shall be accompanied by a fee of [ten (\$10)] *fifteen (\$15)* dollars. Certificates of approval shall expire on December thirty-first of each year. Applications for renewal shall be made on forms satisfactory to the Secretary of [Health] *Agriculture*, and shall be accompanied by a registration fee of [three (\$3)] *five (\$5)* dollars, and shall be returned to the Secretary of [Health] *Agriculture* not later than December fifteenth of each year. Certificates of approval shall not constitute an approved inspector an official employe, agent or authorized representative of the Department of [Health] *Agriculture*, nor shall he represent himself so to be.

Certificates of approval may be refused, suspended or revoked for cause, upon such notice and subject to such conditions, as the secretary shall deem necessary.

“Municipality” includes any city, borough, town, or township in this Commonwealth.

Section 2. Section 2 of the act is amended by adding, at the end thereof, a new paragraph to read:

Section 2 of the act amended by adding a new paragraph.

Section 2. \* \* \*

*When the Secretary of Agriculture inspects a plant beyond the boundary of the Commonwealth, such plant shall reimburse the department for all necessary and reasonable expenses incurred in making the inspection, which shall be retained by the department for its use in making such inspections.*

Section 3. The act is amended by adding, after section 6, a new section to read:

Act amended by adding a new section 6.1.

*Section 6.1. When the Secretary of Agriculture is requested by a plant to make a survey inspection and figure ratings for the United States Public Health Service, he shall do so only upon payment of a fee of seventy-five dollars (\$75) which shall be retained by the Department of Agriculture for its use in making such inspections and surveys.*

Section 4. Sections 7, 8, 9, 12, 16 and 17 of the act are amended to read:

Sections 7, 8, 9, 12, 16 and 17 of the act amended.

Section 7. No person shall sell milk that does not bear prominently *the name and address of the processing plant and the designation “Certified Milk” or “Raw Milk” or “Milk for pasteurization” or “Pasteurized Milk.”* Other designations may be used with the designation of “Raw Milk” or “Pasteurized Milk,” provided the definition of such designation is filed with and approved by the “secretary.”

No person shall sell milk products that do not bear prominently the name and address or code number of the processor or manufacturer, the kind of milk products offered for sale, and the name and location of the milk plant in which the milk products are processed or manufactured.

Section 8. “Raw Milk” shall be produced and handled in the following manner:

(a) “Raw Milk” shall be milk from a cow or cows, determined by physical examination and tuberculin tests conducted in accordance with the rules, regulations, and practices of the State Department of Agriculture pertaining to the individual accredited herd plan or the modified accredited area plan, *and brucellosis tests conducted in accordance with the rules, regulations and practices of the Department of Agriculture pertaining to the individual accredited herd plan* to be free from communicable disease.

(b) The cows shall be fed, watered, housed, and cared for in such a manner that the milk will be clean and free from disease-producing organisms.

(c) The milking process shall be carried on in a cleanly manner. The milk shall be promptly cooled. The milk containers, utensils, and equipment shall be of such material and so constructed that they may be readily cleaned. The milk and the cleansed containers, utensils, and equipment shall be protected from flies.

(d) A milk [house or milk rooms] *plant* which [are] is properly constructed, lighted, ventilated, drained, and kept clean shall be provided and used exclusively for the handling of "Certified Milk" or "Raw Milk," or *fruit juices if received from a source acceptable to the Secretary of Agriculture with respect to sanitation and protection of public health.* An adequate supply of steam or hot water shall be provided and used for cleansing milk containers and dairy utensils.

(e) Every applicant for or holder of a permit to sell raw milk, desiring to purchase milk for resale as raw milk, shall receive permission from the "secretary" before accepting milk from any source other than that given in the application for a permit. All sources of raw milk shall be inspected and approved by the "secretary."

Section 9. Every applicant for or holder of a permit to sell pasteurized milk or milk for pasteurization or milk products shall keep an accurate record of the names and addresses of the owners or operators of all dairy farms from which milk is received. This record shall be kept on file in the milk plant where the milk is received, and shall be available at all times for the inspection of the secretary.

An accurate report of a sanitary inspection on all dairy farms from which milk is received and of the milk as delivered to the milk plant shall be kept on file in the milk plant. The sanitary inspection shall be made semi-annually by an approved inspector at the expense of the applicant for or holder of a permit. Such payment shall be made only by the applicant for or holder of the permit for the plant to which the milk from the farm which is inspected is or is to be delivered. Such inspections may be made by the secretary. Within thirty days after demand by the secretary, additional inspections shall be made of any or all farms, and reports thereon filed in the milk plant. Inspection reports shall be made upon forms satisfactory to the secretary.

No applicant for or holder of a permit to sell pasteurized milk or milk for pasteurization or milk products shall receive milk from a dairy farm until the report of the sanitary inspection made by an approved inspector shall have been placed on file in the milk plant where

the milk is received for the inspection and approval of the secretary, nor shall he receive milk or milk products from any milk plant owned or operated by another person who is not in lawful possession of a permit.

No milk or milk products shall be received in any milk plant for any purpose, unless such milk or milk products shall have been produced on dairy farms, or acquired from milk plants approved by the secretary, or unless permission for the receipt of such milk or milk products shall be obtained from the secretary.

[Only milk or milk products may be prepared or processed in a milk plant.] *A milk plant may be used only for the preparation and processing of milk, milk products or fruit juices, if received from a source acceptable to the Secretary of Agriculture with respect to sanitation and protection of public health.*

Section 12. "Pasteurized Milk" shall be milk produced and handled in the following manner:

(a) "Pasteurized Milk" is milk heated to such a temperature and for such a length of time that all harmful organisms are destroyed.

(b) "Milk for Pasteurization" shall be used in the preparation of "Pasteurized Milk."

The holder of a permit to sell "Pasteurized Milk" may purchase "Milk for Pasteurization" from a person in lawful possession of a permit to sell "Pasteurized Milk."

(c) Milk containers in which milk is received in milk plants in which milk is pasteurized shall be thoroughly cleansed and dried before returning to a dairy farm or a milk plant.

(d) Apparatus for the pasteurization of milk shall be equipped with an accurate indicating thermometer and a recording thermometer of type approved by the secretary. A true record of pasteurization as given by the recording thermometer shall be on file at the place where the milk is pasteurized.

(e) Milk to be sold as "Raw Milk" may be received, cooled, and bottled in a building where milk is pasteurized, providing all milk received in the building where milk is pasteurized meets the requirements for "Raw Milk" as set forth in this act.

(f) The rooms of buildings, in which milk [is] or milk products are exposed during and after pasteurization, shall be properly lighted, ventilated, drained, and clean, and shall be used for no other purpose than to provide a place for cleansed milk containers and utensils, and for the handling of milk or milk products during and after pasteurization, or fruit juices received from a source acceptable to the Secretary of Agriculture with respect to sanitation and protection of public health.

(g) Milk during and after pasteurization, and cleansed milk containers, utensils, and equipment shall be protected from flies.

(h) Pasteurization plants shall be provided with and use an adequate supply of steam or hot water for cleansing milk containers, utensils, and equipment.

(i) Equipment with which milk comes in contact shall be constructed in such manner as to be easily cleansed. Demountable apparatus, with which milk comes in contact, shall be taken apart and cleansed each day such apparatus is in use. *The secretary upon approval of the design, installation and operation of the system may permit in-place cleaning.* Surfaces with which milk comes in contact shall be smooth non-corrosive material and free from open seams.

(j) "Pasteurized Milk" shall be placed in the final container in the milk plant where the milk is pasteurized immediately after pasteurization.

(k) The milk plants in which milk is received or pasteurized shall not be constructed nor altered until the plans and specifications thereof have received the approval of the "secretary." Equipment before being installed shall likewise be approved by the secretary.

Section 16. The Secretary of [Health] *Agriculture* shall have the power to make requirements concerning the number and character of bacteria in milk and milk products after hearing.

Bacteriological analysis of milk and milk products shall be made under the supervision of a laboratory, the equipment and director of which have been approved by the Secretary of [Health] *Agriculture*. The bacteriological analysis of milk and milk products shall be in accordance with Standard Methods of Milk Analysis of the American Public Health Association and the Association of Official \*Agricultural Chemists last adopted, unless special permission is given by the secretary for a modification of the above standard methods.

Section 17. "Milk products" shall be prepared from milk produced and handled in the following manner:

(a) "Milk for Pasteurization" shall be used in the preparation of "milk products."

(b) The "Milk for Pasteurization" used in the preparation of "milk products" shall be pasteurized or otherwise treated as indicated by the "secretary" [before or] during the preparation of "milk products."

(c) Milk containers in which "Milk for Pasteurization" is received in milk plants for the preparation of "milk products" shall be thoroughly cleansed and dried before returning to a dairy farm or a milk plant.

\* "Agriculture" in original.

(d) The rooms of buildings in which "milk products" are exposed during and after preparation shall be properly lighted, ventilated, drained, and clean, and shall be used for no other purpose than to provide a place for cleansed containers and utensils and for the handling of "milk products."

(e) "Milk products" during and after preparation, and cleansed containers, utensils, and equipment shall be protected from flies.

(f) Milk plants in which "milk products" are prepared shall be provided with an adequate supply of steam or hot water for cleansing containers, utensils, and equipment.

(g) Equipment with which "milk products" come in contact shall be constructed in such a manner as to be easily cleansed. Demountable apparatus with which "milk products" come in contact shall be taken apart and cleansed each day such apparatus is in use. *The secretary upon approval of the design, installation and operation of the system may permit in-place cleaning.* Surfaces with which "milk products" come in contact shall be of smooth non-corrosive material and free from open seams.

(h) The milk plants in which "milk products" are prepared shall not be constructed nor altered until the plans and specifications thereof have received the approval of the "secretary." Equipment before being installed shall likewise be approved by the secretary.

Section 5. The act is amended by adding, after section 17, a new section to read:

Act amended by adding a new section 17.1.

*Section 17.1. "Canned Milk" shall be received from sources and handled in a manner acceptable to the secretary with respect to sanitation and protection of public health. There shall be a presumption that such milk is so received and handled but the secretary, in his discretion, may check and verify this and come to his own determination. If "canned milk" in its final container is found to be unsafe or contaminated, the secretary shall have the right to exclude it from sale in Pennsylvania.*

Section 6. Section 18 of the act, amended August 24, 1951 (P. L. 1338), is reenacted to read:

Section 18 of the act, amended August 24, 1951, P. L. 1338, reenacted.

Section 18. The provisions of this act, and the regulations made thereunder, shall not be taken nor deemed to repeal existing municipal ordinances, nor to prevent municipalities or counties which have established or joined in establishing county departments of health from enacting and enforcing new ordinances or regulations for the further protection of the public health: Provided,

That this act shall be considered as establishing uniform requirements and regulations, and that nothing herein contained shall be deemed to prevent municipalities or counties which have established or joined in establishing county departments of health from ordaining and enforcing such additional requirements in excess of the requirements and regulations hereunder, as may be deemed necessary, from time to time for the preservation of public health, and to require applications from, and to issue permits to, such persons as may be defined by local ordinances or regulations.

Sections 19, 20  
and 22 of the  
act, amended.

Section 7. Sections 19, 20 and 22 of the act are amended to read:

Section 19. The [advisory health board of the State Department of Health] *Secretary of Agriculture* is hereby authorized to adopt and promulgate rules and regulations for the proper enforcement of this act.

Section 20. Any person violating any provisions of this act or rules and regulations pertaining thereto shall, upon conviction thereof, before any magistrate, alderman or justice of the peace in the county where the offense shall have been committed, be subject to a fine of not less than ten dollars (\$10) and not more than fifty dollars (\$50) for each offense, to be collected by summary conviction as like fines are now collected by law, or in case of nonpayment of the fine to undergo imprisonment in the county jail for a period not exceeding thirty days: Provided, That any person convicted more than twice of violating the same provision of this act or rules and regulations pertaining thereto shall be subject to a fine of not less than fifty dollars (\$50) nor more than two hundred and fifty dollars (\$250), or in case of nonpayment of the fine to undergo imprisonment in the county jail for a period not less than thirty days nor more than six months.

Prosecution for violations of any of the provisions of this act and the regulations thereto shall be brought by the Secretary of [Health] *Agriculture* or his agent or by any health officer of any municipality in this Commonwealth.

All fines collected under this act shall be paid to the secretary and by him into the State Treasury, through the Department of Revenue.

Section 22. The Attorney General may, at the instance of the secretary, in the name of the Commonwealth institute proceedings in equity in the court of common pleas of Dauphin County for the purpose of enjoining any person from offering milk or milk products for sale without a permit as provided in this act or to enjoin



*violation of this act*, and for such purpose jurisdiction is hereby conferred upon said court. In such case the Attorney General shall not be required to give bond.

APPROVED—The 13th day of October, A. D. 1959.

DAVID L. LAWRENCE

No. 436

AN ACT

Amending the act of July 21, 1941 (P. L. 425), entitled "An act to establish a system uniform throughout the Commonwealth for the compensation of witnesses, regulating the amount, payment and taxation as costs thereof, and repealing inconsistent legislation," increasing the compensation of witnesses.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows: Witnesses.

Section 1. Sections 2 and 4, act of July 21, 1941 (P. L. 425), entitled "An act to establish a system uniform throughout the Commonwealth for the compensation of witnesses, regulating the amount, payment and taxation as costs thereof, and repealing inconsistent legislation," are amended to read: Sections 2 and 4, act of July 21, 1941, P. L. 425, amended.

Section 2. Every witness shall be paid at the rate of [three dollars (\$3)] *five dollars (\$5)* per day during the necessary period of his attendance. Compensation of witnesses.

Section 4. Every witness who resides outside the place where his attendance is required [, whether such residence be within or without the Commonwealth,] shall be paid mileage at the rate of [five cents (5¢)] *seven cents (7¢)* for each mile he actually travels in going to such place from his place of residence and returning, but not for a greater number of miles than would be required for traveling by the usually-traveled route between those places. Mileage compensation of witnesses.

APPROVED—The 13th day of October, A. D. 1959.

DAVID L. LAWRENCE

No. 437

AN ACT

Amending the act of January 18, 1952 (P. L. 2159), entitled "An act creating the Pennsylvania \*Public Safety Commission as a commission; providing for the appointment of a director of Public Safety; setting forth the powers and duties of the commission and the director; defining the scope of existing safety agencies; and making an appropriation," increasing the membership of the commission.

\* "Public" in original.