

## No. 1982-163

## AN ACT

## SB 1350

Amending the act of July 2, 1935 (P.L.589, No.210), entitled, as 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 Agriculture; and otherwise providing for the administration of the act; and imposing penalties," extending coverage to milk for manufacturing purposes and manufactured dairy products.

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

Section 1. The definition of "milk plant" in section 1, act of July 2, 1935 (P.L.589, No.210), referred to as the Milk Sanitation Law, amended October 13, 1959 (P.L.1301, No.435), is amended and definitions are added to read:

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

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"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 *or manufactured dairy products*.

\* \* \*

*"Milk for manufacturing purposes" means milk produced for processing and manufacturing into products for human consumption but not subject to requirements of milk for pasteurization.*

*"Manufactured dairy products" means butter, cheese (natural or processed), dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated milk (whole or skim), condensed whole and condensed skim milk (plain or sweetened), and such other products for human consumption, as may be designated by the secretary.*

Section 2. The first paragraph of section 2 of the act is amended to read:

Section 2. Except as hereinafter provided, no person shall sell milk [or], milk products *or manufactured dairy products* within this Commonwealth without first having obtained a permit from the "secretary," nor otherwise than in accordance with the requirements of this act. Each person desiring a permit to sell milk [or], milk products *or manufactured dairy products* shall annually make an application therefor on a form to be secured from the "secretary." Such application shall set forth—

- (a) The name and address of the applicant.
- (b) The designations of the milk or milk products to be offered for sale.

(c) The name of the municipality or municipalities in which the applicant desires to sell milk or milk products.

(d) An accurate record of each milk plant owned or operated by the applicant for a permit.

(e) Such other information as may be required by the "secretary."

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Section 3. Section 6 of the act is amended to read:

Section 6. Every person, having made an application for a permit to sell milk [or], milk products *or manufactured dairy products* or holding a permit for the sale of milk [or], milk products *or manufactured dairy products*, shall, at any time, allow the "secretary" to inspect the herds, stables, and dairy farms from which milk is obtained, handled, or prepared for sale, to inspect the milk plants, pasteurizing, bottling, and handling of milk [or], milk products *or manufactured dairy products*, examine books and papers wherein a record is kept of the name and address of each person from whom "milk" [or], "milk products" *or "manufactured dairy products"* is purchased, the amount of "milk" [or], "milk products" *or "manufactured dairy products"* purchased, and the date on which the "milk" [or], "milk products" *or "manufactured dairy products"* was purchased, in any manner whatsoever, and to take such samples of milk [or], milk products *or manufactured dairy products*, as may be deemed necessary, upon payment therefor at the usual market price when payment is demanded. The "secretary" shall have the power to subpoena, for the purpose of any hearing, all books and records of any permit holder or of any other corporation or person in any case in which records in its or his possession, or over which it or he has control, is reasonably necessary to the proper conduct of the affairs of the secretary under this act.

Non-compliance with the provisions of this section by a permit holder is hereby specifically declared to be a violation of this act and subject to the penal provisions hereof, and shall be sufficient grounds for the revocation of the permit of such permit holder.

Section 4. Section 9 of the act, amended October 13, 1959 (P.L.1301, No.435), is amended to read:

Section 9. Every applicant for or holder of a permit to sell pasteurized milk [or], milk for pasteurization or milk products *or manufactured dairy 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 *or manufactured dairy 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 *or manufactured dairy 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 *or manufactured dairy 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.

A milk plant may be used only for the preparation and processing of milk, milk products, *manufactured dairy 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 5. The act is amended by adding sections to read:

**Section 10.1.** *“Milk for manufacturing purposes” shall be milk produced and handled in the following manner:*

(a) *“Milk for manufacturing purposes” shall be milk from a cow or cows, determined by physical examination and tuberculin and brucellosis 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, to be free from communicable disease.*

(b) *The cows shall be fed, watered, housed and cared for in such manner that the milk will be clean.*

(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 cleansed.*

(d) *A milk house or milk rooms properly constructed, lighted, ventilated, drained and clean shall be provided on the dairy farm producing milk for sale as “milk for manufacturing purposes” and shall be used exclusively for the handling of such milk.*

**Section 12.1.** *“Manufactured dairy products” shall be prepared from milk produced and handled in the following manner:*

(a) *“Milk for manufacturing purposes” or “milk for pasteurization” shall be used in the preparation of “manufactured dairy products.”*

*(b) The "milk for manufacturing purposes" or "milk for pasteurization" used in the preparation of "manufactured dairy products" shall be pasteurized or otherwise treated as indicated by the "secretary" during the preparation of "manufactured dairy products."*

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

*(d) The rooms of buildings in which "manufactured dairy 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 "manufactured dairy products."*

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

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

*(g) Equipment with which "manufactured dairy products" come in contact shall be constructed in such a manner as to be easily cleansed. Demountable apparatus with which "manufactured dairy 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 "manufactured dairy products" come in contact shall be smooth, noncorrosive material and free of open seams.*

*(h) The milk plants in which "manufactured dairy products" are prepared shall not be constructed or altered until plans and specifications thereof have received the approval of the "secretary." Equipment before being installed shall likewise be approved by the "secretary."*

*(i) "Manufactured dairy products" shall comply with definitions, standards of identity, and labeling requirements adopted hereunder by regulation, and shall not contain any substance not normally found therein, except those substances approved by the "secretary."*

Section 6. Sections 13 and 14 of the act are amended to read:

Section 13. *(a) Adequate facilities shall be provided and used for furnishing clean containers, free from injurious organisms, in which to sell "Raw Milk" or "Pasteurized Milk" or "Milk for Pasteurization" or "Milk Products." Bottles or containers, whether of glass or other material, shall be filled and closed without any part of the hand coming in contact with the inner surface of the bottles or containers, or in contact with bottle caps. Caps shall be obtained in sanitary containers and kept therein until used.*

*(b) Milk cases in which bottled milk or milk products are owned and shipped by milk dealers or licensees shall also be maintained in a sanitary manner. It shall be unlawful for any person, firm or company, other*

*than the name imprinted or stamped on such containers, or his agent, to alter, destroy or contaminate such containers. In addition, it shall be unlawful for any person in rightful possession of milk cases, but not the owner thereof, to permit any third party to alter, destroy or contaminate such containers. Each case so misused shall be deemed an individual offense under section 20 of this act.*

Section 14. Milk plants, in which milk [or], milk products *or manufactured dairy products* is handled, received, bottled, or pasteurized, shall be provided with sanitary, adequate and conveniently located toilet facilities.

Section 7. Sections 16 and 20 of the act, amended October 13, 1959 (P.L.1301, No.435), are amended to read:

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

Bacteriological analysis of milk [and], milk products *and manufactured dairy products* shall be made under the supervision of a laboratory, the equipment and director of which have been approved by the Secretary of Agriculture. The bacteriological analysis of milk [and], milk products *and manufactured dairy 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 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.] Any person violating any provisions of this act or rules and regulations thereunder shall, upon conviction thereof, be guilty of a summary offense.**

Prosecution for violations of any of the provisions of this act and the regulations thereto shall be brought by the Secretary of 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 8. Section 21 of the act is amended to read:

Section 21. Whenever, in the opinion of the secretary, a given supply of milk **[or]**, milk products *or manufactured dairy products* is considered unsafe or a menace to public health, the secretary may seize, condemn, denature, or destroy such milk **[or]**, milk products *or manufactured dairy products* without compensation to the owner or owners thereof.

The general sanitary conditions of any place, wherein milk **[or]**, milk products *or manufactured dairy products* are produced, stored, prepared, or handled and its immediate surroundings, shall be such as to insure a safe and clean supply of milk **[or]**, milk products *or manufactured dairy products*.

The secretary shall have the right to exclude from sale any part of a milk supply which may be considered unsafe, or milk **[or]**, milk products *or manufactured dairy products* which is produced on dairy farms or handled in milk plants which fail to meet the requirements of this act.

A satisfactory flush closet or sanitary privy shall be provided at all dairy farms where milk is produced or handled.

Section 9. Section 22 of the act, amended October 13, 1959 (P.L.1301, No.435) and repealed in part April 28, 1978 (P.L.202, No.53), is amended to read:

Section 22. The Attorney General may, at the instance of the secretary, in the name of the Commonwealth institute proceedings for the purpose of enjoining any person from offering milk **[or]**, milk products *or manufactured dairy products* for sale without a permit as provided in this act or to enjoin violation of this act.

Section 10. This act shall take effect in 60 days.

APPROVED—The 19th day of June, A. D. 1982.

DICK THORNBURGH