

MANUFACTURING MILK LAW OF 2001 (EXCERPT)
Act 267 of 2001

ARTICLE I

288.570 Definitions; A.

Sec. 10. As used in this act:

(a) "Adulterated" means food or milk products to which any of the following apply:

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food or milk product is not considered adulterated if the quantity of that substance in the food or milk product does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (v).

(iii) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (v).

(iv) It bears or contains any food additive considered unsafe within the meaning of subparagraph (v) provided that where a pesticide chemical has been used in or on a raw agricultural commodity in conformity with an exemption granted or tolerance prescribed under subparagraph (v) and the raw agricultural commodity has been subjected to processing the residue of that pesticide chemical remaining in or on that processed food is, notwithstanding the provisions of subparagraph (v) and this subdivision, not be considered unsafe if that residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and if the concentration of that residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity.

(v) Any added poisonous or deleterious substance, any food additive, and pesticide chemical in or on a raw agricultural commodity, or any color additive is considered unsafe for the purpose of application of this definition, unless there is in effect a federal regulation or exemption from regulation under the federal act, meat inspection act, poultry product inspection act, or other federal acts, or a rule adopted under this act limiting the quantity of the substance, and the use or intended use of the substance, and the use or intended use of the substance conforms to the terms prescribed by the rule.

(vi) It is or contains a new animal drug or conversion product of a new animal drug that is unsafe within the meaning of section 512 of the federal act, 21 USC 360b.

(vii) It consists in whole or in part of a diseased, contaminated, filthy, putrid, or decomposed substance or it is otherwise unfit for food.

(viii) It has been produced, prepared, packed, or held under insanitary conditions in which it may have become contaminated with filth or in which it may have been rendered diseased, unwholesome, or injurious to health.

(ix) It is the product of a diseased animal or an animal that has died other than by slaughter or that has been fed uncooked garbage or uncooked offal from a slaughterhouse.

(x) Its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health.

(xi) A valuable constituent has been in whole or in part omitted or abstracted from the food; a substance has been substituted wholly or in part for the food; damage or inferiority has been concealed in any manner; or a substance has been added to the food or mixed or packed with the food so as to increase its bulk or weight, reduce its quality or strength, or make it appear better or of greater value than it is.

(xii) It is confectionery and has partially or completely imbedded in it any nonnutritive object except in the case of any nonnutritive object if, as provided by rules, the object is of practical functional value to the confectionery product and would not render the product injurious or hazardous to health; it bears or contains any alcohol other than alcohol not in excess of 1/2 of 1% by volume derived solely from the use of flavoring extracts; or it bears or contains any nonnutritive substance except a nonnutritive substance such as harmless coloring, harmless flavoring, harmless resinous glaze not in excess of 4/10 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless natural gum and pectin or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances which is in or on confectionery by reason of its use for some practical functional purpose in the manufacture, packaging, or storage of such confectionery if the use of the substance does not promote deception of the consumer or otherwise result in adulteration or misbranding in violation of the provisions of this act. For the purpose of avoiding or resolving uncertainty as to the application of this subdivision, the director may issue rules allowing or prohibiting the use of particular nonnutritive substances.

(xiii) It is or bears or contains any color additive that is unsafe within the meaning of subparagraph (v).

(xiv) It has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a rule or exemption under this act or a regulation or exemption under the federal act.

(xv) It is bottled water that contains a substance at a level higher than allowed under this act.

(b) "Advertise" or "advertisement" means a representation disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or is likely to induce, directly or indirectly, the purchase of milk or milk products.

(c) "Approved laboratory" means a laboratory that has been evaluated by the department and is approved to perform tests on manufacturing milk and milk products.

(d) "Approved sample container" means a presterilized, suitable nontoxic single service container of adequate size that complies with the requirements of standard methods.

(e) "Audited financial statement" means a fiscal year end financial statement prepared by a certified public accountant according to generally accepted accounting principles.

(f) "Aseptic processing and packaging" means the filling of a commercially sterilized cooled product into presterilized containers followed by aseptic hermetical sealing with a presterilized closure, in an atmosphere free of microorganisms.

History: 2001, Act 267, Eff. Feb. 8, 2002;—Am. 2008, Act 147, Eff. June 27, 2008.

288.571 Definitions; B, C.

Sec. 11. As used in this act:

(a) "Bulk milk hauler/sampler" means any person who collects official samples and may transport raw milk from a farm and/or raw milk products to or from a dairy plant, receiving station, or transfer station and has in his or her possession a license or permit to sample such products.

(b) "Bulk milk pickup tanker" means a vehicle including a truck, tank, and those appurtenances necessary for its use used by a bulk milk hauler/sampler to transport bulk raw milk for pasteurization from a dairy farm to a dairy plant, receiving station, or transfer station.

(c) "Butter" means the product usually known as butter that is made exclusively from wholesome milk or cream, or both, with or without common salt, and with or without additional coloring matter and containing not less than 80% by weight of milk fat.

(d) "Cash payments", regarding the producer security requirements of this act, means a payment in cash or by check, money order, wire transfer, or draft for a sale in which the title to farm milk is transferred.

(e) "Cheese" means natural cheeses, processed cheeses, blended cheeses, cheese foods, cheese spreads, nonstandard cheese products, and related foods described in 21 CFR part 133.

(f) "CIP" or "cleaned-in-place" means the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation.

(g) "Commercial sterility of thermally processed food" means the condition achieved under either of the following circumstances:

(i) By the application of heat which renders the food free of microorganisms capable of reproducing in the food under normal nonrefrigerated conditions of storage and distribution and viable microorganisms, including spores, of public health significance.

(ii) By the control of water activity and the application of heat, which renders the food free of microorganisms capable of reproduction in the food under normal nonrefrigerated conditions of storage and distribution.

(h) "Cream" means any of the following:

(i) Light cream containing not less than 18% but not more than 30% milkfat.

(ii) Whipping cream containing more than 30% but less than 36% milkfat.

(iii) Heavy cream containing more than 36% milkfat.

(iv) Cream obtained from cheese whey only if sold or labeled as whey cream.

History: 2001, Act 267, Eff. Feb. 8, 2002;—Am. 2008, Act 147, Eff. June 27, 2008.

288.572 Definitions; D.

Sec. 12. As used in this act:

(a) "Dairy animal" means any domesticated lactating mammal, including a cow, goat, sheep, water buffalo, or other hooved mammal, which is managed and milked to obtain milk for human consumption.

(b) "Dairy farm" means any place or premises where 1 or more dairy animals are kept for milking purposes, and from which a part or all of the milk is provided, sold, or offered for sale.

(c) "Dairy plant" or "milk plant" means any place, premises, or establishment where milk or dairy products are collected, handled, processed, stored, pasteurized, aseptically processed, packaged, or prepared for

distribution.

(d) "Dairy product", "manufactured dairy product", or "milk product" means products that include, but are not limited to, evaporated milk, condensed skim milk, condensed milk, condensed buttermilk, condensed milk solids, concentrate milk, nonfat dry milk, dry milk, dry cream, dry whey, dry buttermilk, butter, buttermilk, cheese, cheese products, ice cream, sherbet, frozen desserts, dairy confections, or novelties, related dairy products with butter fat or milk solids substitutions, filtered milk components, infant formula manufactured with dairy ingredients, whey, whey cream, and other products for human consumption not regulated under the grade A milk law of 2001 or as determined appropriate by the director.

(e) "Department" means the Michigan department of agriculture.

(f) "Director" means the director of the Michigan department of agriculture or his or her designee.

(g) "Distributor" means a person other than a producer or processor who offers for sale, holds for sale, or sells at wholesale milk or dairy products. A distributor's facilities include warehousing, refrigerated storage, and refrigerated distribution vehicles.

(h) "Dry milk product" means a product resulting from the drying of milk or a dairy product.

(i) "Dryer" means equipment that dries milk or a dairy product.

History: 2001, Act 267, Eff. Feb. 8, 2002;—Am. 2008, Act 147, Eff. June 27, 2008.

288.573 Definitions; F to L.

Sec. 13. As used in this act:

(a) "Farm tank" means the farm bulk milk tank, milk tank truck, or silo used for the storage or cooling of milk, or both, before pickup and transport from the farm.

(b) "Federal act" means the federal food, drug, and cosmetic act, 21 USC 301 to 321, 331 to 360dd, 360hh to 376, and 378 to 399.

(c) "First receiving point" means the dairy plant where the milk is first received for processing and manufacturing. First receiving point for producer security requirements does not include receiving stations and transfer stations.

(d) "Food law of 2000" means the food law of 2000, 2000 PA 92, MCL 289.1101 to 289.8111.

(e) "Food service establishment" means a fixed or mobile restaurant, coffee shop, cafeteria, short order cafe, luncheonette, grill, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge, nightclub, drive-in, industrial feeding establishment, private organization serving the public, rental hall, catering kitchen, delicatessen, theater, commissary, food concession, or similar place in which food or drink is prepared for direct consumption through service on the premises or elsewhere, and any other eating or drinking establishment or operation where food is served or provided for the public. Food service establishment does not include any of the following:

(i) A motel that serves continental breakfasts only.

(ii) A bed and breakfast that has 10 or fewer sleeping rooms, including sleeping rooms occupied by the innkeeper, 1 or more of which are available for rent to transient tenants.

(iii) A bed and breakfast that has at least 11 but fewer than 15 rooms for rent, if the bed and breakfast serves continental breakfasts only.

(iv) A child care organization regulated under 1973 PA 116, MCL 722.111 to 722.128, unless the establishment is carrying out an operation considered by the director to be a food service establishment.

(f) "Freezer" means mechanical equipment used to lower the temperature of a mix while, at the same time, incorporating air into the mix.

(g) "Frozen desserts" means desserts made from dairy products described in 21 CFR part 135, the mixes, and other similar frozen dairy products that include, but are not limited to, frozen yogurt, soft serve ice cream, and quiescently frozen confections unless otherwise specified by the department.

(h) "Grade A milk law of 2001" means the grade A milk law of 2001, 2001 PA 266, MCL 288.471 to 288.540.

(i) "Imminent or substantial health hazard" means a determination by the director of either or both of the following:

(i) A condition that exists at a dairy farm or dairy plant requiring immediate action to prevent endangering the public health or safety.

(ii) A milk or dairy product may be unwholesome or unsafe.

(j) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article conforming to a requirement imposed under this act that any word, statement, or other information appearing on the label also appears on the outside container or wrapper of the retail package of the article or be easily legible through the outside container or wrapper.

(k) "Labeling" means all labels and other written, printed, or graphic matter upon an article or any of its

containers or wrappers or accompanying the article.

History: 2001, Act 267, Eff. Feb. 8, 2002;—Am. 2008, Act 147, Eff. June 27, 2008.

288.574 Definitions; M.

Sec. 14. As used in this act:

(a) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of 1 or more healthy cows, goats, sheep, or other dairy animals.

(b) "Milk buyer" means any milk producer, milk producer marketing organization, dairy plant, receiving station, transfer station, or bulk milk hauler that either takes delivery of raw milk or a raw milk product or manages the sale of the raw milk or raw milk product, or both.

(c) "Milk tank truck" means both a bulk milk pickup tanker and a milk transport tank.

(d) "Milk tank truck cleaning facility" means any place, premises, or establishment, separate from a dairy plant, receiving station, or transfer station where a milk tank truck is cleaned and sanitized.

(e) "Milk tank truck driver" means any person who transports raw or pasteurized dairy products to or from a dairy plant, receiving station, or transfer station.

(f) "Milk transportation company" means the company that is the person responsible for a milk tank truck.

(g) "Milk transport tank" means a vehicle, including the truck and tank, used by a bulk milk hauler/sampler to transport bulk shipments of milk from a dairy plant, receiving station, or transfer station to another dairy plant, receiving station, or transfer station.

History: 2001, Act 267, Eff. Feb. 8, 2002.

288.575 Definitions; M.

Sec. 15. As used in this act:

(a) "Misbranded" means food to which any of the following apply:

(i) Its labeling is false or misleading in any particular.

(ii) It is offered for sale under the name of another food.

(iii) It is an imitation of another food unless its label bears, in type of uniform size and prominence, the word "imitation" and immediately thereafter the name of the food imitated.

(iv) Its container is so made, formed, or filled as to be misleading.

(v) It is in package form, unless it bears a label containing both the name and place of business of the manufacturer, packer, or distributor and an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count subject to reasonable variations as are permitted and exemptions as to small packages as are established by rules prescribed by the department.

(vi) Any word, statement, or other labeling required by this act is not prominently placed on the label or labeling conspicuously and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(vii) It purports to be or is represented as a food for which a definition and standard of identity have been prescribed by rules as provided by this act or under the federal act, unless it conforms to such definition and standard and its label bears the name of the food specified in the definition and standard, and, insofar as may be required by the rules, the common names of optional ingredients, other than spices, flavoring, and coloring, present in such food.

(viii) It purports to be or is represented to be either of the following:

(A) A food for which a standard of quality has been prescribed by this act or rules and its quality falls below such standard unless its label bears, in such manner and form as such rules specify, a statement that it falls below such standard.

(B) A food for which a standard or standards of fill of container have been prescribed by this act or rules and it falls below the standard of fill of container applicable unless its label bears, in such manner and form as the rules specify, a statement that it falls below the standard.

(ix) It does not bear labeling giving the common or usual name of the food, if one exists, and if fabricated from 2 or more ingredients, the common or usual name of each ingredient except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings, without naming each and under other circumstances as established by rules regarding exemptions based upon practicality, potential deception, or unfair competition.

(x) It bears or contains any artificial flavoring, artificial coloring, or chemical preservative unless the labeling states that fact and under other circumstances as established by rules regarding exemptions based upon practicality.

(xi) If a food intended for human consumption and offered for sale, its label and labeling do not bear the nutrition information required under section 403(q) of the federal act, 21 USC 343.

(xii) It is a product intended as an ingredient of another food and, when used according to the directions of the purveyor, will result in the final food product being adulterated or misbranded.

(xiii) It is a color additive whose packaging and labeling are not in conformity with packaging and labeling requirements applicable to such color additive prescribed under the provisions of the federal act.

(b) "Mix" means ice cream mix, yogurt mix, sherbet mix, and any other unfrozen pasteurized liquid mixture which is to be manufactured into a frozen dessert including a liquid mixture intended for processing into quiescently frozen confections.

History: 2001, Act 267, Eff. Feb. 8, 2002;—Am. 2008, Act 147, Eff. June 27, 2008.

288.576 Definitions; O to R.

Sec. 16. As used in this act:

(a) "Offering for sale" means selling, offering to sell, holding for sale, preparing for sale, trading, bartering, offering as a gift as an inducement for sale of, and advertising for sale in any media.

(b) "Other security" means a mutually acceptable producer security agreement, acceptable to the director, approved and signed by the milk buyer and all milk sellers selling milk to that milk buyer.

(c) "Person" means an individual, partnership, company, limited liability company, cooperative, association, firm, trustee, educational institution, state or local government unit, or corporation.

(d) "Processor" means the owner or operator of a dairy plant.

(e) "Producer" means a person who owns or operates a dairy farm and sells or distributes milk produced on that farm including a person who markets milk on behalf of a producer pursuant to a marketing agreement.

(f) "Receiving station" means any place, premise, or establishment where raw milk is received, collected, handled, stored, or cooled and is prepared for further transporting.

(g) "Registered name" means either a name that is registered as "doing business as" at the county clerk's office in the county in which the producer or processor resides or that is registered with the state of Michigan as a legal entity registered to do business within the state under an assumed name. Registered name includes, but is not limited to, incorporations, corporations, limited liability companies, limited liability partnerships, and similar entities.

(h) "Rerun" means a frozen dessert that is not placed in its final container immediately after passing through the freezing process and is intended to be melted and reprocessed or refrozen.

(i) "Retail" means selling or offering for sale dairy products directly to a consumer.

(j) "Retail food establishment" means an operation that sells or offers to sell food directly to a consumer. Retail food establishment includes both a retail grocery and a food service establishment but does not include a food processing plant.

History: 2001, Act 267, Eff. Feb. 8, 2002;—Am. 2008, Act 147, Eff. June 27, 2008.

288.577 Definitions; S to W.

Sec. 17. As used in this act:

(a) "Sample transfer instrument" means any of the following:

(i) Individually wrapped, sterile, single-service sampling tubes.

(ii) Stainless steel metal dippers, with long handles having capacities of 10 ml. or greater.

(iii) Sampling devices approved by the director.

(b) "Sanitary standards" means the dairy equipment construction standards or accepted dairy system operating practices formulated by 1 of the following:

(i) 3-A sanitary standards committees representing the international association for food protection, the United States public health service, the United States department of agriculture, and the dairy industry committee.

(ii) If sanitary standards are not available for a particular piece of equipment, general sanitary construction standards for dairy equipment formulated by the United States department of agriculture or the food and drug administration.

(iii) The equipment or practice approved by the director on a case-by-case basis.

(c) "Sanitizing" means the application of any effective method or sanitizing agent in compliance with the federal act to a clean surface for the destruction of pathogens and other organisms as far as is practicable.

(d) "Scheduled process" means the aseptic process selected by the processor as adequate under the conditions of manufacture for a given product to be free of viable microorganisms having a public health significance as well as microorganisms of nonhealth significance capable of reproducing in the food under normal nonrefrigerated conditions. Scheduled process includes an aseptic process that may be in excess of that necessary to ensure destruction of microorganisms of public health significance but at least equivalent to the process established by a competent processing authority to achieve commercial sterility under 21 CFR

part 113.

(e) "Standard methods" means the sixteenth edition of "Standard Methods for the Examination of Dairy Products", published by the American public health association, dated 1992, incorporated by reference.

(f) "Sterilization or aseptic processing" means the complete destruction of living organisms by 1 of the following methods:

(i) Heating a container and its contents to a temperature between 212°F (100°C) to 280°F (138°C) for a period of time established by the scheduled process or by the department.

(ii) Creating a continuous product flow above a temperature of 280°F (138°C) for a period of time established by the scheduled process or by the department.

(iii) Employing a process described in subdivision (i) or (ii), and following packaging of the sterilized product, applying a heat treatment approved by the department.

(g) "Sterilized or aseptic milk and dairy products" means products hermetically sealed in a container and thermally processed or otherwise processed so as to render the product free of microorganisms capable of reproducing in the product under normal nonrefrigeration conditions of storage and distribution and free of viable microorganisms including spores of public health significance.

(h) "Transfer station" means any place, premises, or establishment where milk or dairy products are transferred directly from 1 milk tank truck to another.

(i) "Verified financial statement" means a financial statement that contains a notarized statement, signed and sworn to by an authorized representative of the dairy plant, attesting that the financial statement is correct.

(j) "Wholesale" means selling or offering to sell dairy products to retailers, jobbers, or distributors rather than directly to a consumer.

History: 2001, Act 267, Eff. Feb. 8, 2002;—Am. 2008, Act 147, Eff. June 27, 2008.