

SUBSTITUTE FOR  
HOUSE BILL NO. 5584

A bill to amend 2001 PA 266, entitled  
"Grade A milk law of 2001,"  
by amending sections 2, 3, 4, 5, 6, 7, 20, 30, 31, 33a, 41, 44, 50,  
53, 60, 61, 62, 63, 68, and 69 (MCL 288.472, 288.473, 288.474,  
288.475, 288.476, 288.477, 288.490, 288.500, 288.501, 288.503a,  
288.511, 288.514, 288.520, 288.523, 288.530, 288.531, 288.532,  
288.533, 288.538, and 288.539), section 33a as added by 2004 PA  
277.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. As used in this act:

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

4       (i) It bears or contains any poisonous or deleterious substance  
5 that may render it injurious to health except that, if the

1 substance is not an added substance, the food or milk is not  
2 considered adulterated if the quantity of that substance in the  
3 food or milk does not ordinarily render it injurious to health.

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

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

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

25 (v) Any added poisonous or deleterious substance, any food  
26 additive, and pesticide chemical in or on a raw agricultural  
27 commodity, or any color additive is considered unsafe for the

1 purpose of application of this definition, unless there is in  
2 effect a federal regulation or exemption from regulation under the  
3 federal act, meat inspection act, poultry product inspection act,  
4 or other federal acts, or a rule adopted under this act limiting  
5 the quantity of the substance, and the use or intended use of the  
6 substance, and the use or intended use of the substance conforms to  
7 the terms prescribed by the rule.

8 (vi) It is or contains a new animal drug or conversion product  
9 of a new animal drug that is unsafe within the meaning of section  
10 512 of the federal act, **21 USC 360B**.

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

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

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

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

24 (xi) A valuable constituent has been in whole or in part  
25 omitted or abstracted from the food; a substance has been  
26 substituted wholly or in part for the food; damage or inferiority  
27 has been concealed in any manner; or a substance has been added to

1 the food or mixed or packed with the food so as to increase its  
2 bulk or weight, reduce its quality or strength, or make it appear  
3 better or of greater value than it is.

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

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

27 (xiv) It has been intentionally subjected to radiation, unless

1 the use of the radiation was in conformity with a rule or exemption  
2 under this act or a regulation or exemption under the federal act.

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

5 (B) "ADVERTISE" OR "ADVERTISEMENT" MEANS A REPRESENTATION  
6 DISSEMINATED IN ANY MANNER OR BY ANY MEANS, OTHER THAN BY LABELING,  
7 FOR THE PURPOSE OF INDUCING, OR IS LIKELY TO INDUCE, DIRECTLY OR  
8 INDIRECTLY, THE PURCHASE OF MILK OR MILK PRODUCTS.

9 (C) ~~(b)~~—"Approved laboratory" means a laboratory that is  
10 listed in the ~~IMS~~ NATIONAL CONFERENCE OF INTERSTATE MILK SHIPMENTS  
11 list of sanitation compliance and enforcement ratings ~~of interstate~~  
12 ~~milk shippers~~ distributed by the United States food and drug  
13 administration and as approved by the director.

14 (D) ~~(c)~~—"Approved sample container" means a presterilized,  
15 suitable nontoxic single service container of adequate size that  
16 complies with the requirements of standard methods.

17 (E) ~~(d)~~—"Audited financial statement" means a fiscal year end  
18 financial statement prepared by a certified public accountant  
19 according to generally accepted accounting principles.

20 Sec. 3. As used in this act:

21 (a) "Bulk milk hauler/sampler" means any person who collects  
22 official samples and may transport raw milk from a farm or raw milk  
23 products to or from a milk plant, receiving station, or transfer  
24 station and has in his or her possession a license or permit issued  
25 by the department to sample those products.

26 (b) "Bulk milk pickup tanker" means a vehicle, including  
27 truck, tank, and those appurtenances necessary for its use, used by

1 a bulk milk hauler/sampler to transport bulk raw milk for  
2 pasteurization from a dairy farm to a milk plant, receiving  
3 station, or transfer station.

4 (C) "CASH PAYMENTS", REGARDING THE PRODUCER SECURITY  
5 REQUIREMENTS OF THIS ACT, MEANS A PAYMENT IN CASH OR BY CHECK,  
6 MONEY ORDER, WIRE TRANSFER, OR DRAFT FOR A SALE IN WHICH THE TITLE  
7 TO FARM MILK IS TRANSFERRED.

8 (D) "DAIRY ANIMAL" MEANS ANY DOMESTICATED LACTATING MAMMAL,  
9 INCLUDING A COW, GOAT, SHEEP, WATER BUFFALO, OR OTHER HOOVED  
10 MAMMAL, WHICH IS MANAGED AND MILKED TO OBTAIN MILK FOR HUMAN  
11 CONSUMPTION.

12 (E) "DAIRY FARM" MEANS ANY PLACE OR PREMISES WHERE 1 OR MORE  
13 DAIRY ANIMALS ARE KEPT FOR MILKING PURPOSES, AND FROM WHICH A PART  
14 OR ALL OF THE MILK IS PROVIDED, SOLD, OR OFFERED FOR SALE.

15 (F) ~~(e)~~—"Department" means the Michigan department of  
16 agriculture.

17 (G) ~~(d)~~—"Director" means the director of the Michigan  
18 department of agriculture or his or her designee.

19 (H) ~~(e)~~—"Distributor" means a person other than a producer or  
20 processor who offers for sale, **HOLDS FOR SALE**, or sells ~~to another~~  
21 ~~for resale at retail~~ **WHOLESALE** milk or milk products. A  
22 distributor's facilities include warehousing, refrigerated storage,  
23 and distribution vehicles.

24 (I) ~~(f)~~—"Farm tank" means the farm bulk milk tank, milk tank  
25 truck, or silo used for the storage or cooling, or both, of milk  
26 prior to pickup and transport from the farm.

27 (J) ~~(g)~~—"Federal act" means the federal food, drug, and

cosmetic act, ~~chapter 675, 52 Stat. 1040, 21 U.S.C. USC 301 to 321,~~  
~~331 to 333, 334 to 343-3, 344 to 346a, 347, 348 to 356c, 358 to~~  
~~360, 360b to 360dd, 360hh to 360oo, 360rr to 363, 371 to 376, and~~  
~~378 to 397-399.~~

(K) ~~(h)~~ "First receiving point" means the milk 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.

(I) "FOOD LAW OF 2000" MEANS THE FOOD LAW OF 2000, 2000 PA 92,  
MCL 289.1101 TO 289.8111.

(M) "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

1 BREAKFASTS ONLY.

2 (iv) A CHILD CARE ORGANIZATION REGULATED UNDER 1973 PA 116, MCL  
3 722.111 TO 722.128, UNLESS THE ESTABLISHMENT IS CARRYING OUT AN  
4 OPERATION CONSIDERED BY THE DIRECTOR TO BE A FOOD SERVICE  
5 ESTABLISHMENT.

6 (N) ~~(i)~~—"Grade A milk" means milk or milk products produced in  
7 substantial compliance with the requirements of this act.

8 Sec. 4. As used in this act:

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

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

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

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

21 (c) "Labeling" means all labels and other written, printed, or  
22 graphic matter upon an article or any of its containers or wrappers  
23 or accompanying the article.

24 (D) "MANUFACTURING MILK LAW OF 2001" MEANS THE MANUFACTURING  
25 MILK LAW OF 2001, 2001 PA 267, MCL 288.561 TO 288.740.

26 (E) "MILK" MEANS THE LACTEAL SECRETION, PRACTICALLY FREE FROM  
27 COLOSTRUM, OBTAINED BY THE COMPLETE MILKING OF 1 OR MORE HEALTHY

1 **COWS, GOATS, SHEEP, OR OTHER DAIRY ANIMALS.**

2 (F) ~~(d)~~—"Milk buyer" means any producer, milk producer  
3 marketing organization, milk plant, receiving station, transfer  
4 station, or bulk milk hauler that either takes delivery of raw milk  
5 or raw milk product or manages the sale of the raw milk or raw milk  
6 product, or both.

7 (G) ~~(e)~~—"Milk plant" OR "DAIRY PLANT" means any place,  
8 premises, or establishment where milk or milk products are  
9 collected, handled, processed, stored, pasteurized, aseptically  
10 processed, ~~bottled~~ **PACKAGED**, or prepared for distribution.

11 (H) ~~(f)~~—"Milk product" OR "DAIRY PRODUCT" means **COTTAGE**  
12 **CHEESE, DRY CURD COTTAGE CHEESE, REDUCED FAT COTTAGE CHEESE, LOWFAT**  
13 **COTTAGE CHEESE**, cream, light cream, light whipping cream, heavy  
14 cream, heavy whipping cream, whipped cream, whipped light cream,  
15 sour cream, acidified sour cream, cultured sour cream, half-and-  
16 half, sour half-and-half, acidified sour half-and-half, cultured  
17 sour half-and-half, reconstituted or recombined milk and milk  
18 products, concentrated milk, concentrated milk products, skim milk,  
19 lowfat milk, frozen milk concentrate, **FLAVORED MILK**, eggnog,  
20 buttermilk, cultured milk, cultured lowfat milk, cultured skim  
21 milk, yogurt, lowfat yogurt, nonfat yogurt, acidified milk,  
22 acidified lowfat milk, acidified skim milk, low-sodium milk, low-  
23 sodium lowfat milk, low-sodium skim milk, lactose-reduced milk,  
24 lactose-reduced lowfat milk, lactose-reduced skim milk, aseptically  
25 processed and packaged milk, milk products with added safe and  
26 suitable microbial organisms, and any other milk product made by  
27 the addition or subtraction of milkfat or addition of safe and

1 suitable optional ingredients for protein, vitamin, or mineral  
2 fortification. Unless a product is considered a milk product under  
3 this subdivision, milk product does not include dietary products,  
4 infant formula, ice cream or other desserts, cheese, or butter.

5 Milk products include the following:

6 (i) Those dairy foods made by modifying the federally  
7 standardized products described in this section in accordance with  
8 21 ~~C.F.R.~~ **CFR** 130.10.

9 (ii) Those milk and milk products that have been aseptically  
10 processed and then packaged.

11 (iii) Those products that have been retort processed after  
12 packaging or that have been concentrated, condensed, or dried only  
13 if they are used as an ingredient to produce any milk or milk  
14 product or if they are grade A ~~IMS~~ **NATIONAL CONFERENCE OF**  
15 **INTERSTATE MILK SHIPMENTS** listed.

16 Sec. 5. As used in this act:

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

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

23 (c) "Milk tank truck driver" means any person who transports  
24 raw or pasteurized milk products to or from a milk plant, receiving  
25 station, or transfer station.

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

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

6 (F) "MISBRANDED" MEANS FOOD TO WHICH ANY OF THE FOLLOWING  
7 APPLY:

8 (i) ITS LABELING IS FALSE OR MISLEADING IN ANY PARTICULAR.

9 (ii) IT IS OFFERED FOR SALE UNDER THE NAME OF ANOTHER FOOD.

10 (iii) IT IS AN IMITATION OF ANOTHER FOOD UNLESS ITS LABEL BEARS,  
11 IN TYPE OF UNIFORM SIZE AND PROMINENCE, THE WORD "IMITATION" AND  
12 IMMEDIATELY THEREAFTER THE NAME OF THE FOOD IMITATED.

13 (iv) ITS CONTAINER IS SO MADE, FORMED, OR FILLED AS TO BE  
14 MISLEADING.

15 (v) IT IS IN PACKAGE FORM, UNLESS IT BEARS A LABEL CONTAINING  
16 BOTH THE NAME AND PLACE OF BUSINESS OF THE MANUFACTURER, PACKER, OR  
17 DISTRIBUTOR AND AN ACCURATE STATEMENT OF THE QUANTITY OF THE  
18 CONTENTS IN TERMS OF WEIGHT, MEASURE, OR NUMERICAL COUNT SUBJECT TO  
19 REASONABLE VARIATIONS AS ARE PERMITTED AND EXEMPTIONS AS TO SMALL  
20 PACKAGES AS ARE ESTABLISHED BY RULES PRESCRIBED BY THE DEPARTMENT.

21 (vi) ANY WORD, STATEMENT, OR OTHER LABELING REQUIRED BY THIS  
22 ACT IS NOT PROMINENTLY PLACED ON THE LABEL OR LABELING  
23 CONSPICUOUSLY AND IN SUCH TERMS AS TO RENDER IT LIKELY TO BE READ  
24 AND UNDERSTOOD BY THE ORDINARY INDIVIDUAL UNDER CUSTOMARY  
25 CONDITIONS OF PURCHASE AND USE.

26 (vii) IT PURPORTS TO BE OR IS REPRESENTED AS A FOOD FOR WHICH A  
27 DEFINITION AND STANDARD OF IDENTITY HAVE BEEN PRESCRIBED BY RULES

1 AS PROVIDED BY THIS ACT OR UNDER THE FEDERAL ACT, UNLESS IT  
2 CONFORMS TO SUCH DEFINITION AND STANDARD AND ITS LABEL BEARS THE  
3 NAME OF THE FOOD SPECIFIED IN THE DEFINITION AND STANDARD, AND,  
4 INSOFAR AS MAY BE REQUIRED BY THE RULES, THE COMMON NAMES OF  
5 OPTIONAL INGREDIENTS, OTHER THAN SPICES, FLAVORING, AND COLORING,  
6 PRESENT IN SUCH FOOD.

7 (viii) IT PURPORTS TO BE OR IS REPRESENTED TO BE EITHER OF THE  
8 FOLLOWING:

9 (A) A FOOD FOR WHICH A STANDARD OF QUALITY HAS BEEN PRESCRIBED  
10 BY THIS ACT OR RULES AND ITS QUALITY FALLS BELOW SUCH STANDARD  
11 UNLESS ITS LABEL BEARS, IN SUCH MANNER AND FORM AS SUCH RULES  
12 SPECIFY, A STATEMENT THAT IT FALLS BELOW SUCH STANDARD.

13 (B) A FOOD FOR WHICH A STANDARD OR STANDARDS OF FILL OF  
14 CONTAINER HAVE BEEN PRESCRIBED BY THIS ACT OR RULES AND IT FALLS  
15 BELOW THE STANDARD OF FILL OF CONTAINER APPLICABLE UNLESS ITS LABEL  
16 BEARS, IN SUCH MANNER AND FORM AS THE RULES SPECIFY, A STATEMENT  
17 THAT IT FALLS BELOW THE STANDARD.

18 (ix) IT DOES NOT BEAR LABELING CLEARLY GIVING THE COMMON OR  
19 USUAL NAME OF THE FOOD, IF ONE EXISTS, AND IF FABRICATED FROM 2 OR  
20 MORE INGREDIENTS, THE COMMON OR USUAL NAME OF EACH INGREDIENT  
21 EXCEPT THAT SPICES, FLAVORINGS, AND COLORINGS, OTHER THAN THOSE  
22 SOLD AS SUCH, MAY BE DESIGNATED AS SPICES, FLAVORINGS, AND  
23 COLORINGS, WITHOUT NAMING EACH AND UNDER OTHER CIRCUMSTANCES AS  
24 ESTABLISHED BY RULES REGARDING EXEMPTIONS BASED UPON PRACTICALITY,  
25 POTENTIAL DECEPTION, OR UNFAIR COMPETITION.

26 (x) IT BEARS OR CONTAINS ANY ARTIFICIAL FLAVORING, ARTIFICIAL  
27 COLORING, OR CHEMICAL PRESERVATIVE UNLESS THE LABELING STATES THAT

1 FACT AND UNDER OTHER CIRCUMSTANCES AS ESTABLISHED BY RULES  
2 REGARDING EXEMPTIONS BASED UPON PRACTICALITY.

3 (xi) IF A FOOD INTENDED FOR HUMAN CONSUMPTION AND OFFERED FOR  
4 SALE, ITS LABEL AND LABELING DO NOT BEAR THE NUTRITION INFORMATION  
5 REQUIRED UNDER SECTION 403(Q) OF THE FEDERAL ACT, 21 USC 343.

6 (xii) IT IS A PRODUCT INTENDED AS AN INGREDIENT OF ANOTHER FOOD  
7 AND, WHEN USED ACCORDING TO THE DIRECTIONS OF THE PURVEYOR, WILL  
8 RESULT IN THE FINAL FOOD PRODUCT BEING ADULTERATED OR MISBRANDED.

9 (xiii) IT IS A COLOR ADDITIVE WHOSE PACKAGING AND LABELING ARE  
10 NOT IN CONFORMITY WITH PACKAGING AND LABELING REQUIREMENTS  
11 APPLICABLE TO SUCH COLOR ADDITIVE PRESCRIBED UNDER THE PROVISIONS  
12 OF THE FEDERAL ACT.

13 (G) ~~(f)~~—"Offering for sale" means selling, offering to sell,  
14 holding for sale, preparing for sale, trading, bartering, offering  
15 as a gift as an inducement for sale of, and advertising for sale in  
16 any media.

17 (H) ~~(g)~~—"Other security" means a mutually acceptable producer  
18 security agreement, acceptable to the director, approved and signed  
19 by the milk buyer and all milk sellers selling milk to that milk  
20 buyer.

21 Sec. 6. As used in this act:

22 (a) "Pasteurized milk ordinance" or "PMO" means the ~~2001~~—2007  
23 edition of the grade A pasteurized milk ordinance, recommendations  
24 of the United States department of health and human services,  
25 public health service/food and drug administration, with  
26 administrative procedures and appendices, set forth in the public  
27 health service/food and drug administration publication no. 229. 7

1 ~~and the provisions of the 1995 grade A condensed and dry milk~~  
2 ~~products and condensed and dry whey supplement I to the grade A~~  
3 ~~pasteurized milk ordinance, with administrative procedures and~~  
4 ~~appendices.~~

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

9 (c) "Processor" means the owner or operator of a milk plant.

10 (d) "Producer" means a person who owns or operates a dairy  
11 farm and sells or distributes milk produced on that farm including  
12 a person who markets milk on behalf of ~~another A~~ producer pursuant  
13 to a marketing agreement.

14 (e) "Receiving station" means any place, premises, or  
15 establishment where raw milk is received, collected, handled,  
16 stored, or cooled and is prepared for further transporting.

17 (F) "REGISTERED NAME" MEANS EITHER A NAME THAT IS REGISTERED  
18 AS "DOING BUSINESS AS" AT THE COUNTY CLERK'S OFFICE IN THE COUNTY  
19 IN WHICH THE PRODUCER OR PROCESSOR RESIDES OR THAT IS REGISTERED  
20 WITH THE STATE OF MICHIGAN AS A LEGAL ENTITY REGISTERED TO DO  
21 BUSINESS WITHIN THE STATE UNDER AN ASSUMED NAME. REGISTERED NAME  
22 INCLUDES, BUT IS NOT LIMITED TO, INCORPORATIONS, CORPORATIONS,  
23 LIMITED LIABILITY COMPANIES, LIMITED LIABILITY PARTNERSHIPS, AND  
24 SIMILAR ENTITIES.

25 (G) "RETAIL" MEANS SELLING OR OFFERING FOR SALE DAIRY PRODUCTS  
26 DIRECTLY TO A CONSUMER.

27 (H) "RETAIL FOOD ESTABLISHMENT" MEANS AN OPERATION THAT SELLS

1 OR OFFERS TO SELL FOOD DIRECTLY TO A CONSUMER. RETAIL FOOD  
2 ESTABLISHMENT INCLUDES BOTH A RETAIL GROCERY AND A FOOD SERVICE  
3 ESTABLISHMENT BUT DOES NOT INCLUDE A FOOD PROCESSING PLANT.

4 (I) ~~(f)~~—"Sample transfer instrument" means any of the  
5 following:

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

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

10 (iii) Sampling devices approved by the director.

11 (J) ~~(g)~~—"Sanitary standards" means the dairy equipment  
12 construction standards or accepted dairy system operating practices  
13 formulated by 1 of the following:

14 (i) 3-A sanitary standards committees representing the  
15 international association for food protection, the United States  
16 public health service, the United States department of agriculture,  
17 and the dairy industry committee as approved by the director.

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

23 (iii) The equipment or practice is approved by bulletin of the  
24 director on a case-by-case basis.

25 (K) ~~(h)~~—"Sell-by date" means the recommended last date of  
26 sale.

27 (L) ~~(i)~~—"Single service containers and closures" means single

1 use containers or parts of single use containers that become milk  
 2 product contact surfaces when used for the storage, shipping, or  
 3 marketing of milk or milk products.

4 (M) ~~(j)~~ "Standard methods" means the ~~sixteenth~~ **SEVENTEENTH**  
 5 edition of "Standard Methods for the Examination of Dairy  
 6 Products", ~~dated 1992,~~ a publication of the American public health  
 7 association, incorporated by reference.

8 Sec. 7. As used in this act:

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

12 (b) "Verified financial statement" means a financial statement  
 13 that contains a notarized statement, signed and sworn to by an  
 14 authorized representative of the milk plant, attesting that the  
 15 financial statement is correct.

16 (C) **"WHOLESALE" MEANS SELLING OR OFFERING TO SELL DAIRY**  
 17 **PRODUCTS TO RETAILERS, JOBBERS, OR DISTRIBUTORS RATHER THAN**  
 18 **DIRECTLY TO A CONSUMER.**

19 Sec. 20. (1) The department shall administer this act and may  
 20 promulgate rules for its implementation and enforcement and adopt  
 21 revisions of references cited in this act, pursuant to the  
 22 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
 23 24.328. Except as otherwise specifically defined or described in  
 24 this act, the pasteurized milk ordinance is adopted and  
 25 incorporated by reference. Where the words "regulatory agency" are  
 26 used in these ordinances, they are amended to read the "Michigan  
 27 department of agriculture" **AND WHERE "THE \_\_\_\_ OF \_\_\_\_" ARE USED IN**

1   **THESE ORDINANCES, THEY ARE AMENDED TO READ "THE STATE OF MICHIGAN".**

2           (2) Water for the milkhouse and milking operations and for  
3   milk plant purposes shall be from a supply properly located and  
4   protected and shall be easily accessible, adequate, and of a safe  
5   sanitary quality. Recommendations shall be made to the department  
6   by the department of environmental quality according to the safe  
7   drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

8           Sec. 30. (1) ~~A person shall not produce, transport, wash milk~~  
9   ~~tank trucks, process, label, or sell grade A milk and grade A milk~~  
10   ~~products and shall not manufacture single service containers and~~  
11   ~~closures unless licensed or permitted under this act. The director~~  
12   ~~may issue a temporary license or permit. State agencies operating~~  
13   ~~dairy facilities under a memorandum of understanding with the~~  
14   ~~department are not required to be licensed or permitted under this~~  
15   ~~act and are not required to provide producer security under this~~  
16   ~~act.~~ **A PERSON SHALL NOT DO ANY OF THE FOLLOWING WITHOUT BEING**  
17   **LICENSED UNDER THIS ACT:**

18           **(A) PRODUCE GRADE A MILK TO BE OFFERED FOR SALE.**

19           **(B) COLLECT GRADE A MILK SAMPLES FOR REGULATORY PURPOSES.**

20           **(C) OPERATE A MILK TRANSPORTATION COMPANY THAT OWNS OR**  
21   **OPERATES A BULK MILK TANK TRUCK.**

22           **(D) PROCESS, LABEL, DISTRIBUTE, OR SELL GRADE A MILK OR GRADE**  
23   **A MILK PRODUCTS, EXCEPT THAT A PERSON OPERATING A RETAIL FOOD**  
24   **ESTABLISHMENT IS EXEMPT FROM LICENSURE UNDER THIS ACT IF HE OR SHE**  
25   **COMPLIES WITH SUBSECTION (8) AND IS LICENSED UNDER THE FOOD LAW OF**  
26   **2000. THIS SUBDIVISION DOES NOT PREVENT THE SALE, AT WHOLESALE OR**  
27   **RETAIL AT A RETAIL FOOD ESTABLISHMENT LICENSED UNDER THE FOOD LAW**

1 OF 2000, OF MILK OR MILK PRODUCTS THAT ARE PACKAGED IN FINAL  
2 CONSUMER PACKAGES AT A FACILITY LICENSED UNDER THIS ACT.

3 (E) WASH MILK TANK TRUCKS.

4 (F) MANUFACTURE SINGLE SERVICE CONTAINERS OR CLOSURES TO BE  
5 USED FOR GRADE A MILK PRODUCTS, EXCEPT THAT THE MANUFACTURE OF  
6 SINGLE SERVICE CONTAINERS AND CLOSURES FOR GRADE A DRY MILK  
7 PRODUCTS ARE EXEMPT FROM THIS SECTION.

8 (2) A PERSON LICENSED UNDER THE MANUFACTURING MILK LAW OF 2001  
9 OR THIS ACT AND ENGAGED IN ACTIVITIES REGULATED UNDER THIS ACT  
10 SHALL COMPLY WITH THE REQUIREMENTS OF THIS ACT, WHERE APPLICABLE,  
11 AND IS SUBJECT TO THE PENALTIES SET FORTH IN THIS ACT, WHERE  
12 APPLICABLE.

13 (3) THE DIRECTOR MAY ISSUE A TEMPORARY LICENSE OR PERMIT FOR  
14 ACTIVITIES REGULATED BY THIS ACT.

15 (4) STATE AGENCIES OPERATING DAIRY FACILITIES UNDER A  
16 MEMORANDUM OF UNDERSTANDING WITH THE DEPARTMENT ARE NOT REQUIRED TO  
17 BE LICENSED OR PERMITTED OR TO PROVIDE PRODUCER SECURITY UNDER THIS  
18 ACT BUT ARE REQUIRED TO OTHERWISE BE IN COMPLIANCE WITH THIS ACT.

19 (5) ~~(2)~~—An applicant for an initial grade A dairy farm permit  
20 shall complete education, acceptable to the director, on drug  
21 residue avoidance control measures, as identified in the  
22 pasteurized milk ordinance, prior to receiving the permit.

23 (6) ~~(3)~~—The director shall examine the books, records, and  
24 accounts of a milk plant if the milk plant has not responded to  
25 requests from the director pursuant to section 31 or article IV.  
26 All examinations of books, records, and accounts required under  
27 this subsection shall be made within this state.

1       (7) ~~(4)~~—All applicants for a permit or license must complete  
2 an application provided by the department and meet the minimum  
3 requirements of this act, the pasteurized milk ordinance, and rules  
4 promulgated under this act.

5       (8) MILK PRODUCTS MANUFACTURED AT RETAIL FOOD ESTABLISHMENTS  
6 LICENSED UNDER THE FOOD LAW OF 2000 ARE EXEMPT FROM THIS ACT IF  
7 BOTH OF THE FOLLOWING CONDITIONS ARE MET:

8       (A) ALL INGREDIENTS CONTAINED IN THESE PRODUCTS COMPLY WITH  
9 THE REQUIREMENTS OF THE FOOD LAW OF 2000.

10       (B) THE MILK PRODUCTS MANUFACTURED ARE NOT SOLD WHOLESALE OR  
11 TO ANOTHER BUSINESS ENTITY.

12       Sec. 31. (1) An applicant for an initial license as a milk  
13 plant shall apply to the department on a form supplied by the  
14 department and provide a statement containing the following:

15       (a) The milk plant's correct legal name and any name by which  
16 the milk plant is doing business. If the milk plant is a person not  
17 an individual, the name of each officer and director, and partner,  
18 member, or owner owning in excess of 35% of equity or stock.

19       (b) The location of the milk plant to which the statement  
20 pertains and the name of the responsible person who may be  
21 contacted at that location.

22       (c) The anticipated value of greatest milk receipts the milk  
23 plant expects to receive during a consecutive 30-day period within  
24 the licensing period.

25       (d) A list of producers, including names, mailing addresses,  
26 and department producer permit number, with whom the milk plant  
27 intends to do business except that not later than 90 days after

1 becoming licensed for the first time, the milk plant shall send an  
2 updated list to the department.

3 (e) The name of the financial institution through which milk  
4 checks are to be issued to producers.

5 (2) A milk plant shall annually renew a license issued under  
6 this act by applying to the department at least 30 days prior to  
7 the expiration of the existing license. The anniversary date of a  
8 license for a milk plant that is providing a financial statement as  
9 a security device is 130 days after the close of the licensee's  
10 fiscal year. The milk plant shall apply for renewal of a license on  
11 a form supplied by the department and provide a statement  
12 containing the following:

13 (a) The milk plant's correct legal name and any name by which  
14 the milk plant is doing business. If the milk plant is a person not  
15 an individual, the name of each officer and director, and partner,  
16 member, or owner owning in excess of 35% of equity or stock.

17 (b) The location of the milk plant to which the statement  
18 pertains and the name of the responsible person who may be  
19 contacted at that location.

20 (c) The greater of either the value of greatest milk receipts  
21 that the milk plant received within a consecutive 30-day period  
22 during its last license year or the greatest milk receipts that the  
23 milk plant is anticipated to receive during a consecutive 30-day  
24 period within the licensing period.

25 (d) A complete list of producers, including names, mailing  
26 addresses, and department producers permit number, with whom the  
27 milk plant is doing business.

1 (e) The name of the financial institution through which milk  
2 checks are issued to producers.

3 (3) Each milk plant shall pay a \$175.00 annual licensing or  
4 permitting fee, and additionally, an annual fee of \$5.00 for each  
5 dairy farm whose milk is received at the milk plant, receiving  
6 station, or transfer station, plus an additional \$10.00 per farm  
7 shipping to it if the milk plant, receiving station, or transfer  
8 station operator does not maintain an adequate number of industry  
9 personnel, as determined by the director, who are approved to  
10 conduct certified industry farm inspections. The department shall  
11 not levy this additional \$10.00 per farm fee if a cooperative  
12 association is conducting the certified industry farm program for  
13 the milk plant operator. The department shall only charge the dairy  
14 farm license fee to the producer if the producer is not assigned to  
15 a milk plant that pays the annual fee required by this subsection  
16 for the producer. Any such unassigned producer shall be charged a  
17 handling fee of \$5.00 plus an additional \$10.00 if certified  
18 industry farm inspectors are not assigned to the farm.

19 (4) ANY FEES, ASSESSMENTS, CIVIL OR ADMINISTRATIVE FINES, AND  
20 MONEY FROM ANY OTHER SOURCE COLLECTED BY THE DEPARTMENT UNDER THIS  
21 ACT SHALL BE DEPOSITED INTO THE DAIRY AND FOOD SAFETY FUND CREATED  
22 IN SECTION 4117 OF THE FOOD LAW OF 2000, MCL 289.4117.

23 (5) A MILK PLANT OPERATOR SHALL SUBMIT DETAILED PLANS TO THE  
24 DEPARTMENT FOR APPROVAL BEFORE COMMENCING NEW CONSTRUCTION,  
25 REMODELING, AND EQUIPMENT CHANGES. PLANS FOR NEW CONSTRUCTION OR  
26 REMODELING SHALL INCLUDE A PLAN THAT PROVIDES FOR OPERATIONAL OR  
27 PHYSICAL ISOLATION OF THE MILK PLANT FROM SOURCES OF POTENTIAL

1 PRODUCT CONTAMINATION CAUSED BY ANIMAL PRODUCTION FACILITIES  
2 LOCATED IN CLOSE PROXIMITY TO THE MILK PLANT. RETAIL OR PUBLIC  
3 VIEWING AREAS SHALL BE SEPARATED FROM PROCESSING AREAS BY A SOLID  
4 FLOOR-TO-CEILING PARTITION, EXCEPT THAT, AS APPROVED BY THE  
5 DIRECTOR, OTHER EQUALLY EFFECTIVE MEANS OF PROTECTION MAY BE USED.

6 (6) THE DEPARTMENT MAY IMPOSE A LATE FEE OF \$10.00 FOR A  
7 RENEWAL APPLICATION FOR EACH BUSINESS DAY THE APPLICATION IS LATE.  
8 THE TOTAL LATE FEE SHALL NOT EXCEED \$100.00. THE DEPARTMENT SHALL  
9 NOT ISSUE OR RENEW A LICENSE UNTIL ANY FEES AND FINES HAVE BEEN  
10 PAID. A HEARING IS NOT REQUIRED REGARDING THE DEPARTMENT'S REFUSAL  
11 TO ISSUE OR RENEW A LICENSE UNDER THIS SUBSECTION EXCEPT AS ALLOWED  
12 UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL  
13 24.201 TO 24.328. THE DEPARTMENT MAY CHARGE A CONVENIENCE FEE AND  
14 COLLECT FROM THE APPLICANTS ANY ADDITIONAL COSTS ASSOCIATED WITH  
15 THE METHOD OF FEE PAYMENT FOR THE LICENSE OR PERMIT FEES DESCRIBED  
16 IN THIS SECTION AND SECTIONS 32 AND 33, NOT TO EXCEED THE COSTS TO  
17 THE DEPARTMENT.

18 Sec. 33a. (1) ~~Beginning the effective date of the amendatory~~  
19 ~~act that added this section and notwithstanding the license and~~  
20 ~~permit fees imposed under sections 31 and 33, the~~ **THE** department  
21 shall issue an initial or renewal license or permit for regulated  
22 activities described in sections 31 and 33, other than a grade A  
23 dairy farm, **A BULK MILK HAULER/SAMPLER**, or a certified industry  
24 farm inspector, not later than 90 days after the applicant files a  
25 completed application. Receipt of the application is considered the  
26 date the application is received by any agency or department of the  
27 state of Michigan.

1           (2) If the application is considered incomplete by the  
2 department, the department shall notify the applicant in writing,  
3 or make information electronically available, within 30 days after  
4 receipt of the incomplete application, describing the deficiency  
5 and requesting the additional information. The 90-day period is  
6 tolled upon notification by the department of a deficiency until  
7 the date the requested information is received by the department.  
8 The determination of the completeness of an application does not  
9 operate as an approval of the application for the license or permit  
10 and does not confer eligibility of an applicant determined  
11 otherwise ineligible for issuance of a license or permit.

12           (3) If the department fails to issue or deny a license or  
13 permit within the time required by this section, the department  
14 shall return the license or permit fee and shall reduce the license  
15 or permit fee for the applicant's next renewal application, if any,  
16 by 15%. The failure to issue or deny a license or permit within the  
17 time required under this section does not allow the department to  
18 otherwise delay the processing of the application, and that  
19 application, upon completion, shall be placed in sequence with  
20 other completed applications received at that same time. The  
21 department shall not discriminate against an applicant in the  
22 processing of the application based upon the fact that the license  
23 or permit fee was refunded or discounted under this subsection.

24           (4) Beginning October 1, 2005, the director shall submit a  
25 report by December 1 of each year to the standing committees and  
26 appropriations subcommittees of the senate and house of  
27 representatives concerned with agricultural and food issues. The

1 director shall include all of the following information in the  
2 report concerning the preceding fiscal year:

3 (a) The number of initial and renewal applications the  
4 department received and completed within the 90-day time period  
5 described in subsection (1).

6 (b) The number of applications denied.

7 (c) The number of applicants not issued a license or permit  
8 within the 90-day time period and the amount of money returned to  
9 licensees and permittees under subsection (3).

10 (5) As used in this section, "completed application" means an  
11 application that is complete on its face and submitted with any  
12 applicable licensing or permit fees **AND FINES** as well as any other  
13 information, records, approval, security, or similar item required  
14 by law or rule from a local unit of government, a federal agency,  
15 or a private entity but not from another department or agency of  
16 the state of Michigan. Under appropriate circumstances, completed  
17 application includes the completion of construction or renovation  
18 of any facility and the passing of a satisfactory inspection.

19 Sec. 41. (1) The department shall revoke or deny a license for  
20 a milk plant if the licensee or applicant fails to provide 1 of the  
21 security devices required as a condition to issuance and  
22 maintenance of a license. As a condition to issuance and  
23 maintenance of a license, a milk plant that is a first receiving  
24 point for milk shall provide 1 or more of the security devices  
25 described in section 42, 43, or 44.

26 (2) Milk plants that receive milk only from dairy farms under  
27 the same **SOLE PROPRIETORSHIP, THE SAME REGISTERED PARTNERSHIP, OR**

1   **THE SAME CORPORATE** ownership **HAVING THE SAME REGISTERED NAME** as the  
2   milk plant are exempt from the requirements of this section.

3       Sec. 44. A licensee or applicant for licensure as a milk plant  
4   not providing a security device under section 42 or 43 shall  
5   provide an agreement in which the milk plant prepays for its milk  
6   supply by means of cash payments before or at the time ~~of delivery~~  
7   ~~of milk products~~ **THE MILK IS RECEIVED AT THE PLANT.**

8       Sec. 50. (1) The director may revoke or suspend the license or  
9   permit of a licensee or permittee issued under this act or impose  
10   an administrative fine under section 53 for failure to comply with  
11   the requirements of this act, the pasteurized milk ordinance, or a  
12   rule promulgated under this act. A license or permit shall be  
13   revoked or suspended according to the administrative procedures act  
14   of 1969, 1969 PA 306, MCL 24.201 to 24.328.

15       (2) The department shall notify in writing each producer with  
16   whom a milk plant does business regarding the pendency of the  
17   administrative action not less than 5 days before the date for the  
18   formal hearing set under subsection (1).

19       (3) The director may revoke or suspend a license or permit  
20   issued under this act, or impose an administrative fine pursuant to  
21   section 53, upon determining that the licensee or permittee has  
22   done 1 or more of the following:

23       (a) Failed to provide supplementary or interim information or  
24   information required to be supplied to the department under this  
25   act or information requested by the director under article III or  
26   IV.

27       (b) Failed to provide a security device in the amount and

1 manner required by the director under article IV.

2 (c) Knowingly provided false or fraudulent information or made  
3 a material misrepresentation on an application.

4 (d) Knowingly provided false or fraudulent information or made  
5 a material misrepresentation in response to a request for  
6 information by the department.

7 (e) Failed to pay a producer in the manner provided in section  
8 40.

9 (f) Failed to agitate milk in the farm bulk milk tank before  
10 taking a sample for delivery to the milk plant or the department.

11 (g) Failed to take the sample for analysis in accordance with  
12 the procedures set forth in the pasteurized milk ordinance,  
13 standard methods, and this act.

14 (h) Picked up grade A milk the temperature of which exceeds 45  
15 degrees Fahrenheit (7 degrees Celsius).

16 (i) Failed to accurately report the weight or temperature of  
17 grade A milk picked up from a farm bulk milk tank.

18 (j) In the case of a milk plant, failed to provide a security  
19 device described in article IV.

20 (k) Adulterated milk or milk products.

21 (l) Failed to pay a final civil or administrative fine issued  
22 under this act.

23 (m) Violated this act, the pasteurized milk ordinance adopted  
24 under this act, or a rule promulgated under this act.

25 (4) The director may summarily suspend a license or permit  
26 issued under this act upon determining that the licensee or  
27 permittee has done 1 or more of the following:

1 (a) Offered for sale or sold milk or milk products from  
2 diseased animals, or animals otherwise considered abnormal, that  
3 have been incorporated with milk or milk products from normal  
4 healthy animals.

5 (b) Offered for sale or sold milk or milk products suspected  
6 of ~~contamination~~**BEING CONTAMINATED** with any substance considered  
7 by the department to be an imminent or substantial health hazard.

8 (c) Offered for sale or sold milk or milk products from  
9 production, transportation, packaging, or storage facilities that  
10 have such an accumulation of trash, rubbish, dirt, insects, vermin,  
11 human or animal wastes, or spoiled milk or milk products that  
12 precludes the reasonable protection of the milk or milk products  
13 from contamination.

14 (d) Offered for sale or sold milk or milk products produced in  
15 equipment with a significant portion of the milk contact surfaces  
16 covered with an accumulation of residues that were left after  
17 having gone through a cleaning regimen and that are thick enough  
18 that they may be easily scraped to form a body of solids.

19 (e) Offered for sale or sold milk or milk products stored in a  
20 container of unapproved construction.

21 (f) Received or picked up milk or milk products stored in a  
22 container of unapproved construction.

23 (g) Offered for sale or sold milk or milk products produced  
24 from dairy animals with a majority of the milking herd with an  
25 excessive accumulation of manure on the flanks, bellies, or udders  
26 that precludes the reasonable protection of the milk from  
27 contamination during the milking process.

1 (h) Offered for sale or sold milk that was of inadequate  
2 volume to properly agitate after the first milking.

3 (i) Offered for sale or sold milk or milk products produced  
4 with excessive sediment.

5 (j) Interfered with inspection of milk or milk products.

6 (k) Maintained dead animals on the premises in a manner  
7 inconsistent with 1982 PA 239, MCL 287.651 to 287.683.

8 (l) Maintained a minimum of 3 of the last 5 official bacteria  
9 counts illegal.

10 (m) Maintained a minimum of 3 of the last 5 official somatic  
11 cell counts illegal.

12 (n) Maintained a minimum of 3 of the last 5 official milk or  
13 milk product cooling temperatures illegal.

14 (o) Failed to provide milk or milk products free of violative  
15 drug residues based on tests approved by the food and drug  
16 administration.

17 (P) OFFERED FOR SALE OR SOLD MILK OR MILK PRODUCTS THAT  
18 PRESENT AN IMMINENT OR SUBSTANTIAL HEALTH HAZARD DUE TO IMPROPER OR  
19 UNKNOWN STORAGE TEMPERATURE.

20 (Q) OFFERED FOR SALE OR SOLD MILK OR MILK PRODUCTS THAT  
21 PRESENT AN IMMINENT OR SUBSTANTIAL HEALTH HAZARD DUE TO IMPROPER  
22 ALLERGEN LABELING.

23 (R) KNOWINGLY POSSESSED, SOLD, OFFERED FOR SALE, OR PURCHASED  
24 ANY MILK OR MILK PRODUCT FOR USE IN A HUMAN FOOD PRODUCT THAT HAS  
25 BEEN CONDEMNED UNDER THIS ACT.

26 (S) OFFERED FOR SALE OR SOLD PACKAGED MILK OR MILK PRODUCTS  
27 THAT PRESENT AN IMMINENT OR SUBSTANTIAL HEALTH HAZARD DUE TO

1    **IMPROPER PASTEURIZATION TIMES OR TEMPERATURES OUTSIDE THE**  
2    **REQUIREMENTS SET FORTH IN THE PMO.**

3            (T) ~~(p)~~—Any other condition that creates an imminent threat to  
4    the public health, safety, or welfare.

5            (5) When the director suspends a license or permit under  
6    subsection (4), the licensee or permittee shall be allowed a  
7    minimum of 72 hours to regain compliance and reinstatement of the  
8    license or permit prior to scheduling an administrative hearing.

9            Sec. 53. (1) The director shall impose upon a producer who  
10    violates this act by selling or offering for sale milk which has  
11    been found positive for violative drug residues on a test performed  
12    pursuant to the pasteurized milk ordinance, the following sanctions  
13    and administrative fines and provide notice and the opportunity for  
14    an administrative hearing:

15            (a) The following in the case of a first violative drug  
16    residue within a 12-month period:

17            (i) The producer's milk shall not be offered for sale until a  
18    subsequent sample of the producer's milk tests negative for  
19    violative drug residues at an approved laboratory.

20            (ii) The producer shall pay an administrative fine equal to the  
21    lost value of the milk on the entire contaminated load and any  
22    costs associated with the disposition of that load. The  
23    administrative fine shall be paid directly to the milk buyer. The  
24    department shall be provided with written notification of the  
25    payment. Written notification shall also be provided to the  
26    department of the date and location of the disposal of the entire  
27    contaminated load. Where a producer markets their own load of milk,

1 the producer shall provide written notification to the department  
2 of the date and location of the disposal of the entire contaminated  
3 load. If the producer's violative shipment did not cause partial or  
4 total loss of a load of milk as determined by an approved drug  
5 residue test, the producer shall pay an administrative fine of  
6 \$300.00 to the department. The milk buyer may pay the  
7 administrative fine, if a like amount has been deducted from the  
8 producer's milk check.

9 (b) The following in the case of a second violative drug  
10 residue within a 12-month period:

11 (i) The producer's milk shall not be offered for sale until a  
12 subsequent sample of the producer's milk tests negative for  
13 violative drug residues at an approved laboratory.

14 (ii) The producer shall pay an administrative fine equal to the  
15 lost value of the milk on the entire contaminated load and any  
16 costs associated with the disposition of that load. The  
17 administrative fine shall be paid directly to the milk buyer. The  
18 department shall be provided with written notification of the  
19 payment. Written notification shall also be provided to the  
20 department of the date and location of the disposal of the entire  
21 contaminated load. Where a producer markets their own load of milk,  
22 the producer shall provide written notification to the department  
23 of the date and location of the disposal of the entire contaminated  
24 load. If the producer's violative shipment did not cause partial or  
25 total loss of a load of milk as determined by an approved drug  
26 residue test, the producer shall pay an administrative fine of  
27 \$600.00 to the department. The milk buyer may pay the

1 administrative fine, if a like amount has been deducted from the  
2 producer's milk check.

3 (iii) The producer will be required to test all milk prior to  
4 shipment with a drug residue test acceptable to the director for a  
5 minimum of 12 months and must retain records of these tests for a  
6 minimum of 18 months.

7 (iv) The producer will be required to maintain complete drug  
8 treatment records for all lactating or near lactating dairy animals  
9 for a minimum of 12 months and must retain records of these  
10 treatments for a minimum of 18 months.

11 (c) The following in the case of a third or any additional  
12 violative drug residue within a 12-month period:

13 (i) The producer's milk shall not be offered for sale until a  
14 subsequent sample of the producer's milk tests negative for  
15 violative drug residues at an approved laboratory.

16 (ii) The producer shall pay an administrative fine equal to the  
17 lost value of the milk on the entire contaminated load and any  
18 costs associated with the disposition of that load. The  
19 administrative fine shall be paid directly to the milk buyer. The  
20 department shall be provided with written notification of the  
21 payment. Written notification shall also be provided to the  
22 department of the date and location of the disposal of the entire  
23 contaminated load. Where a producer markets its own load of milk,  
24 the producer shall provide written notification to the department  
25 of the date and location of the disposal of the entire contaminated  
26 load. If the producer's violative shipment did not cause partial or  
27 total loss of a load of milk as determined by an approved drug

1 residue test, the producer shall pay an administrative fine of  
2 \$1,200.00 to the department. The milk buyer may pay the  
3 administrative fine, if a like amount has been deducted from the  
4 producer's milk check.

5 (iii) The suspension of the producer's permit for a period not  
6 to exceed 60 days after notice and the opportunity for an  
7 administrative hearing before the department.

8 (iv) The producer will be required to test all milk prior to  
9 shipment with a drug residue test acceptable to the director for a  
10 minimum of 12 months and must retain records of these tests for a  
11 minimum of 18 months.

12 (v) The producer will be required to maintain complete drug  
13 treatment records for all lactating or near lactating dairy animals  
14 for a minimum of 12 months and must retain records of these  
15 treatments for a minimum of 18 months.

16 (2) The director may accept verification, on forms acceptable  
17 to the director, from the violative producer's milk marketing  
18 cooperative or purchaser of milk as satisfying the penalty  
19 requirements and may verify the information.

20 (3) The disposal method and location of disposal for violative  
21 drug residue milk on the milk tank truck shall be immediately  
22 reported to the director, by the party making the disposal, on  
23 forms provided by and acceptable to the director.

24 (4) The director shall investigate the cause of the violative  
25 drug residue and shall discuss drug residue avoidance control  
26 measures, as outlined in the pasteurized milk ordinance, with the  
27 violative producer.

1           (5) Selling or offering for sale milk which has been found  
2 positive for violative drug residues is determined by either of the  
3 following criteria:

4           (a) When milk is picked up from a producer by a milk tank  
5 truck and not commingled with milk from other producers, the milk  
6 becomes subject to possible drug residue penalties at the point the  
7 milk tank truck leaves the farm with the milk.

8           (b) When milk is picked up from a producer by a milk tank  
9 truck and commingled with milk from other producers, it becomes  
10 subject to possible drug residue penalties at the point of  
11 commingling.

12           (6) Section 52 applies to a producer who violates this act by  
13 selling or offering for sale milk which tests positive for  
14 violative drug residues on a test performed pursuant to the  
15 pasteurized milk ordinance only under either of the following  
16 circumstances:

17           (a) The producer fails to pay the administrative fine required  
18 by subsection (1) in compliance with subsections (8) and (9).

19           (b) The producer has been fined under subsection (1) within  
20 the preceding 12-month period 3 or more times.

21           (7) After notice and an opportunity for an administrative  
22 hearing pursuant to the administrative procedures act of 1969, 1969  
23 PA 306, MCL 24.201 to 24.328, the director may revoke or suspend a  
24 license or permit issued under this act for any violation of this  
25 act or a rule promulgated under this act. Except as otherwise  
26 provided for under subsection (1), upon finding that a person  
27 violated a provision of this act or rule promulgated under this

1 act, the director may impose an administrative fine of not more  
2 than \$1,000.00 and the actual costs of the investigation of the  
3 violation.

4 (8) The administrative fines imposed under subsection (1) or  
5 (7) shall be paid to the department within 10 days after  
6 notification of the violation or within 10 days after notification  
7 of adverse findings following a hearing or appeal, or both. The  
8 administrative fines received by the department under ~~subsection~~  
9 ~~(1) shall be deposited in the general fund and shall be~~  
10 ~~appropriated for the purpose of the training or education of~~  
11 ~~producers in management procedures to avoid drug residue~~  
12 ~~contamination, and administrative fines received pursuant to~~  
13 ~~subsection~~ **SUBSECTIONS (1) AND (7)** shall be deposited in the  
14 ~~general~~ **DAIRY AND FOOD SAFETY** fund.

15 (9) Failure to pay a load contamination or any other  
16 administrative fine imposed under this section within 120 days  
17 without making acceptable arrangements for payment of the fine may  
18 result in license revocation or permit suspension or court action,  
19 following notice and the opportunity for an administrative hearing.

20 (10) The director shall advise the attorney general of the  
21 failure of any person to pay an administrative fine imposed under  
22 this section. The attorney general shall bring an action in a court  
23 of competent jurisdiction to recover the fine.

24 (11) A decision of the director under this section is subject  
25 to judicial review as provided by law.

26 (12) This section does not require the director to issue an  
27 administrative fine or initiate court action for minor violations

1 of this act whenever the department believes that the public  
2 interest will be adequately served under the circumstances by a  
3 suitable written notice or warning.

4 Sec. 60. (1) Packaged milk products shall be labeled as  
5 specified in the pasteurized milk ordinance and in the food law of  
6 2000. ~~, 2000 PA 92, MCL 289.1101 to 289.8111.~~

7 **(2) MILK AND MILK PRODUCTS SHALL BE ADVERTISED AS SPECIFIED IN**  
8 **THE FOOD LAW OF 2000.**

9 Sec. 61. (1) A bulk milk hauler/sampler shall not take milk  
10 from a farm tank without first determining that the farmer has a  
11 valid permit. ~~if a permit is required.~~ Milk shall be picked up from  
12 only an approved farm tank, constructed to sanitary standards with  
13 agitation and cooling except as approved in writing by the director  
14 on a case-by-case basis.

15 (2) A bulk milk hauler/sampler shall pick up only milk that  
16 appears to be normal and does not contain off odors or visible  
17 foreign material and that has been stored on the farm for no more  
18 than 72 hours, **EXCEPT THAT MILK PRODUCED UNDER THE MANUFACTURING**  
19 **MILK LAW OF 2001 MAY BE STORED AS PROVIDED UNDER THAT ACT.** Goat  
20 milk may be stored up to 7 days in a farm tank if properly cooled.  
21 Sheep milk may be frozen for storage.

22 (3) A bulk milk hauler/sampler shall not record or report  
23 inaccurately a milk measurement taken in the farm tank. A  
24 measurement shall be made with a measuring gauge that is clean and  
25 wiped dry with a sanitary towel or by any other measuring method  
26 meeting the requirements of section 65(3).

27 (4) After measuring the milk in the farm tank, the bulk milk

1 hauler/sampler shall promptly, accurately, and legibly record the  
2 following information on the pickup record:

3 (a) The gauge or stick reading.

4 (b) The converted gauge or stick reading in pounds.

5 (c) The date and time of pickup.

6 (d) The milk producer's name and permit number.

7 (e) The temperature of the milk from an accurate thermometer.

8 (f) The bulk milk hauler/sampler's ~~identification, including~~  
9 ~~the bulk milk hauler/sampler's name or initials and department~~  
10 ~~issued hauler/sampler identification number~~ **PERMIT IDENTIFICATION,**  
11 **WHICH IS THE FIRST AND LAST NAME, OR THE HAULER/SAMPLER'S**  
12 **IDENTIFICATION NUMBER PRINTED ON THE LICENSE.**

13 (g) The assigned "bulk tank unit" (BTU) number.

14 (5) A bulk milk hauler/sampler shall provide the original copy  
15 of the pickup record to the milk buyer and a duplicate copy, or  
16 other record acceptable to the director, to the producer.

17 (6) A milk tank truck driver engaged in direct farm pickup has  
18 direct responsibility for accompanying official samples.

19 Sec. 62. (1) During a pickup, a bulk milk hauler/sampler shall  
20 take a sanitarily collected representative sample from each farm  
21 tank after the tank is agitated for not less than 5 minutes and for  
22 not less than 10 minutes for tanks over 1,500 gallons or for such  
23 additional time as may be recommended by the tank manufacturer or  
24 the director, so as to obtain a representative sample.

25 (2) A sample dipper shall be rinsed by the bulk milk  
26 hauler/sampler at least twice in the milk prior to transferring the  
27 sample to the approved sample container.

1           (3) Sample transfer instruments shall be used by bulk milk  
2   hauler/samplers that are of sanitary construction, clean, and  
3   sterile, or which are sanitized with approved sanitizers and  
4   protected from contamination prior to each use.

5           (4) A bulk milk hauler/sampler shall take a temperature  
6   control sample of the milk at the bulk milk hauler/sampler's first  
7   sampling point and shall place it in the refrigerated, insulated  
8   transport case with the first official sample.

9           (5) The bulk milk hauler/sampler shall identify the  
10   temperature control sample with the hauler/sampler identification,  
11   time, temperature, date, producer permit number, and letters  
12   "T.C.".

13          (6) A bulk milk hauler/sampler shall not sample milk in the  
14   farm tank during emptying.

15          (7) A bulk milk hauler/sampler shall not sample milk in the  
16   farm tank with a sample container or any other unapproved transfer  
17   instrument or sampling device.

18          (8) A bulk milk hauler/sampler shall place producer milk  
19   samples into approved sample containers only. The sample containers  
20   shall be properly protected and handled to prevent contamination.

21          (9) A bulk milk hauler/sampler shall place milk only in sample  
22   containers that are legibly marked with the following:

23          (a) The milk producer's permit number.

24          (b) The date of pickup.

25          ~~(c) The route number.~~

26          (C) ~~(d)~~ Temperature.

27          (10) The bulk milk hauler/sampler shall store the milk samples

1 in an approved manner to protect the samples from contamination  
2 inside a refrigerated, insulated transport case that is kept  
3 tightly covered until the samples are delivered to the transfer  
4 point, laboratory, or other destination.

5 (11) The bulk milk hauler/sampler shall maintain milk samples  
6 in a temperature range of 32 degrees Fahrenheit (0 degree Celsius)  
7 to 40 degrees Fahrenheit (4.4 degrees Celsius).

8 Sec. 63. (1) A bulk milk hauler/sampler shall not adulterate  
9 milk in the farm tank or the milk tank truck.

10 (2) There shall be no partial removal of milk from the farm  
11 tank by the bulk milk hauler/sampler except that partial pickups  
12 may be permitted when the farm tank is equipped with a 7-day  
13 recording device complying with the specifications of pasteurized  
14 milk ordinance appendix H, or another recording device acceptable  
15 to the department, provided that the farm milk tank shall be  
16 cleaned and sanitized when empty and shall be emptied at least  
17 every 72 hours. In the absence of a temperature recording device,  
18 partial pickups may be permitted as long as the farm tank is  
19 completely empty, clean, and sanitized before the next milking. In  
20 the event of emergency situations ~~—OR~~ seasonal weight  
21 restrictions, ~~or the overflow of the milk tank truck,~~ partial  
22 pickups will be allowed.

23 (3) A bulk milk hauler/sampler shall carry an accurate,  
24 approved dial-type or electronic thermometer with him or her on the  
25 route and shall not pickup milk from a farm tank which exceeds the  
26 maximum temperature allowed by law.

27 (4) A bulk milk hauler/sampler shall keep his or her sample

1 transfer instrument and sample transport case clean and in good  
2 repair.

3 (5) A bulk milk hauler/sampler shall use the hose port  
4 provided for him or her in the milkhouse for accommodation of the  
5 pickup milk hose.

6 (6) A bulk milk hauler/sampler shall comply with the  
7 requirements of appendix B of the pasteurized milk ordinance,  
8 incorporated herein by reference.

9 Sec. 68. (1) Only pasteurized milk and milk products shall be  
10 offered for sale or sold, directly or indirectly, to the final  
11 consumer or to restaurants, grocery stores, or similar  
12 establishments.

13 (2) All milk and milk products shall be pasteurized according  
14 to the requirements of the pasteurized milk ordinance and the time-  
15 temperature relationships described in the pasteurized milk  
16 ordinance.

17 (3) All dairy plant by-products used for feeding purposes for  
18 farm animals shall be pasteurized or be derived from pasteurized  
19 products **WHEN SPECIFIED BY THE DIRECTOR.**

20 (4) **MILK AND MILK PRODUCTS MAY BE ASEPTICALLY PROCESSED AS**  
21 **LOW-ACID FOODS PROVIDED THEY COMPLY WITH THE FOLLOWING**  
22 **REQUIREMENTS:**

23 (A) **ALL THERMALLY PROCESSED MILK AND MILK PRODUCTS THAT ARE**  
24 **PACKAGED IN HERMETICALLY SEALED CONTAINERS SHALL BE PROCESSED IN A**  
25 **MILK PROCESSING FACILITY LICENSED UNDER THIS ACT, THE MANUFACTURING**  
26 **MILK LAW OF 2001, OR THE FOOD LAW OF 2000.**

27 (B) **ALL PROCESSORS OF ACIDIFIED MILK AND MILK PRODUCTS**

1    PACKAGED IN HERMETICALLY SEALED CONTAINERS SHALL COMPLY WITH THE  
2    REGULATIONS OF THE U.S. FOOD AND DRUG ADMINISTRATION IN 21 CFR PART  
3    108, 21 CFR PART 110, AND 21 CFR PART 114.

4            (C) ALL THERMALLY PROCESSED MILK AND MILK PRODUCTS THAT ARE  
5    PACKAGED IN HERMETICALLY SEALED CONTAINERS SHALL COMPLY WITH THE  
6    REGULATIONS OF THE U.S. FOOD AND DRUG ADMINISTRATION IN 21 CFR PART  
7    108, 21 CFR PART 110, AND 21 CFR PART 113.

8            (D) HERMETICALLY SEALED PACKAGES SHALL BE HANDLED TO MAINTAIN  
9    PRODUCT AND CONTAINER INTEGRITY.

10           Sec. 69. (1) Each processor and manufacturer of milk and milk  
11    products sold in this state shall place on each container of milk  
12    and milk products a recommended last day of sale by month and date.

13           (2) The sell-by date shall be expressed by the first 3 letters  
14    of the month followed by the numeral designating the appropriate  
15    calendar day or by expressing the calendar month numerically  
16    followed by a numeral designating the calendar day.

17           (3) The sell-by date shall appear on that part of the  
18    container that is most likely to be displayed, presented, or shown  
19    under customary display conditions of sale. However, a cup  
20    container may have the sell-by date placed on the bottom.

21           (4) The sell-by date on the container shall be legible and  
22    shall not interfere with the legibility of other information  
23    required to be on the product.

24           (5) Processors and manufacturers of milk and milk products  
25    shall register the following information with the department on  
26    forms provided by the department:

27           (a) The assigned sell-by date of each milk and milk product

1 processed and the length of time between production and the sell-by  
2 date. Plant records of a testing program conducted shall  
3 substantiate this length of time by the processor or manufacturer.

4 (b) The method of application and location of the sell-by date  
5 for each size and style of container.

6 (c) Changes in the time interval of the sell-by date prior to  
7 the effective day of the change.

8 (6) Milk and milk products shall maintain nutritional levels  
9 and shall not have a flavor change before the sell-by date.

10 (7) The director shall periodically sample and analyze milk  
11 and milk products to determine if the flavor has changed by the  
12 sell-by date. Milk and milk products obtained for analysis by the  
13 director prior to the sell-by date shall be stored at a temperature  
14 of 44 degrees Fahrenheit (6.5 degrees Celsius), plus or minus 1  
15 degree Fahrenheit (0.5 degree Celsius), until analyzed.

16 (8) The processor or manufacturer of milk or milk products  
17 which do not maintain their flavor until the sell-by date shall,  
18 upon receipt of written or verbal notice from the director, make  
19 the changes necessary to improve product quality or alter the sell-  
20 by date so as to comply with the law. The processor or manufacturer  
21 is not responsible for milk and milk products when the nutritive  
22 value loss or flavor deterioration of those products can be  
23 determined to be caused by mishandling, improper storage, or lack  
24 of refrigeration at points beyond his or her control.

25 (9) Milk and milk products shall not be offered for sale after  
26 the sell-by date unless they are advertised to the final consumer  
27 in a prominent manner as being beyond the recommended last day of

1 sale.

2 (10) The final seller is fully responsible for the proper  
3 advertisement of milk and milk products sold beyond the sell-by  
4 date.

5 (11) PACKAGED FLUID DAIRY PRODUCTS THAT EXCEED THE SELL-BY  
6 DATE SHALL NOT BE REUSED IN ANY DAIRY PRODUCTS REGULATED BY THIS  
7 ACT OR THE MANUFACTURING MILK LAW OF 2001 UNLESS A PROTOCOL FOR  
8 SUCH REPROCESSING IS APPROVED BY THE DEPARTMENT. THE PROTOCOL SHALL  
9 INCLUDE CONSIDERATION OF STORAGE TEMPERATURES, BACTERIAL COUNTS,  
10 AGE PAST SELL-BY DATE, SIGHT AND SMELL GRADING QUALITIES, ADDED  
11 INGREDIENTS, AND ANY OTHER FACTORS CONSIDERED CRITICAL BY THE  
12 DIRECTOR.

13 (12) PACKAGED FLUID DAIRY PRODUCTS THAT HAVE LEFT THE CONTROL  
14 OF A DAIRY PLANT BUT ARE RETURNED OR DELIVERED TO A DAIRY PLANT,  
15 COMMONLY REFERRED TO AS "RETURNED PRODUCTS", SHALL NOT BE  
16 REPROCESSED INTO MILK OR MILK PRODUCTS REGULATED UNDER THIS ACT OR  
17 THE MANUFACTURING MILK LAW OF 2001.

18 Enacting section 1. This amendatory act takes effect 30 days  
19 after the date it is enacted into law.