

HOUSE BILL No. 5584

December 13, 2007, Introduced by Reps. Espinoza, Mayes, Polidori, Brown and Robert Jones and referred to the Committee on Agriculture.

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 356e, 358 to~~
~~360, 360b to 360dd, 360hh to 360ee, 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~~2005
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 SHALL BE**
21 **DEPOSITED INTO THE DAIRY AND FOOD SAFETY FUND CREATED IN SECTION**
22 **4117 OF THE FOOD LAW OF 2000, MCL 289.4117, AND SHALL BE USED TO**
23 **ENFORCE AND ADMINISTER THIS ACT.**

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

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

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

19 Sec. 33a. (1) ~~Beginning the effective date of the amendatory~~
20 ~~act that added this section~~ JULY 23, 2004 and notwithstanding the
21 license and permit fees imposed under sections 31 and 33, the
22 department shall issue an initial or renewal license or permit for
23 regulated activities described in sections 31 and 33, other than a
24 grade A dairy farm, **A BULK MILK HAULER/SAMPLER**, or a certified
25 industry farm inspector, not later than 90 days after the applicant
26 files a completed application. Receipt of the application is
27 considered the date the application is received by any agency or

1 department of the state of Michigan.

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

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

25 (4) Beginning October 1, 2005, the director shall submit a
26 report by December 1 of each year to the standing committees and
27 appropriations subcommittees of the senate and house of

1 representatives concerned with agricultural and food issues. The
2 director shall include all of the following information in the
3 report concerning the preceding fiscal year:

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

7 (b) The number of applications denied.

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

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

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

27 (2) Milk plants that receive milk only from dairy farms under

1 the same **SOLE PROPRIETORSHIP, THE SAME REGISTERED PARTNERSHIP, OR**
2 **THE SAME CORPORATE** ownership **HAVING THE SAME REGISTERED NAME** as the
3 milk plant are exempt from the requirements of this section.

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

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

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

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

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

1 (b) Failed to provide a security device in the amount and
2 manner required by the director under article IV.

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

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

8 (e) Failed to pay a producer in the manner provided in section
9 40.

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

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

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

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

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

21 (k) Adulterated milk or milk products.

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

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

26 (4) The director may summarily suspend a license or permit
27 issued under this act upon determining that the licensee or

1 permittee has done 1 or more of the following:

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

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

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

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

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

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

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

1 contamination during the milking process.

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

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

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

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

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

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

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

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

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

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

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

27 (S) OFFERED FOR SALE OR SOLD PACKAGED MILK OR MILK PRODUCTS

1 THAT PRESENT AN IMMINENT OR SUBSTANTIAL HEALTH HAZARD DUE TO
2 IMPROPER PASTEURIZATION TIMES OR TEMPERATURES OUTSIDE THE
3 REQUIREMENTS SET FORTH IN THE PMO.

4 (T) ~~(p)~~ Any other condition that creates an imminent threat to
5 the public health, safety, or welfare OR SUBSTANTIAL HEALTH HAZARD.

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

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

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

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

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

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

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

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

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

1 \$600.00 to the department. The milk buyer may pay the
2 administrative fine, if a like amount has been deducted from the
3 producer's milk check.

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

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

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

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

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

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

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

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

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

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

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

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

1 violative producer.

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

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

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

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

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

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

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

1 violated a provision of this act or rule promulgated under this
2 act, the director may impose an administrative fine of not more
3 than \$1,000.00 and the actual costs of the investigation of the
4 violation.

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

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

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

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

27 (12) This section does not require the director to issue an

1 administrative fine or initiate court action for minor violations
2 of this act whenever the department believes that the public
3 interest will be adequately served under the circumstances by a
4 suitable written notice or warning.

5 Sec. 60. (1) Packaged milk products shall be labeled as
6 specified in the pasteurized milk ordinance and in the food law of
7 2000. ~~7, 2000 PA 92, MCL 289.1101 to 289.8111.~~

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

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

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

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

1 (4) After measuring the milk in the farm tank, the bulk milk
2 hauler/sampler shall promptly, accurately, and legibly record the
3 following information on the pickup record:

4 (a) The gauge or stick reading.

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

6 (c) The date and time of pickup.

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

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

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

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

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

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

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

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

1 sample to the approved sample container.

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

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

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

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

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

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

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

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

25 (b) The date of pickup.

26 ~~_____ (c) The route number.~~

27 (C) ~~(d)~~ Temperature.

1 (10) The bulk milk hauler/sampler shall store the milk samples
2 in an approved manner to protect the samples from contamination
3 inside a refrigerated, insulated transport case that is kept
4 tightly covered until the samples are delivered to the transfer
5 point, laboratory, or other destination.

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

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

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

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

1 (4) A bulk milk hauler/sampler shall keep his or her sample
2 transfer instrument and sample transport case clean and in good
3 repair.

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

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

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

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

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

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

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

1 (B) ALL PROCESSORS OF ACIDIFIED MILK AND MILK PRODUCTS
2 PACKAGED IN HERMETICALLY SEALED CONTAINERS SHALL COMPLY WITH THE
3 REGULATIONS OF THE U.S. FOOD AND DRUG ADMINISTRATION IN 21 CFR PART
4 108, 21 CFR PART 110, AND 21 CFR PART 114.

5 (C) ALL THERMALLY PROCESSED MILK AND MILK PRODUCTS THAT ARE
6 PACKAGED IN HERMETICALLY SEALED CONTAINERS SHALL COMPLY WITH THE
7 REGULATIONS OF THE U.S. FOOD AND DRUG ADMINISTRATION IN 21 CFR PART
8 108, 21 CFR PART 110, AND 21 CFR PART 113.

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

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

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

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

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

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

1 (a) The assigned sell-by date of each milk and milk product
2 processed and the length of time between production and the sell-by
3 date. Plant records of a testing program conducted shall
4 substantiate this length of time by the processor or manufacturer.

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

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

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

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

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

26 (9) Milk and milk products shall not be offered for sale after
27 the sell-by date unless they are advertised to the final consumer

1 in a prominent manner as being beyond the recommended last day of
2 sale.

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

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

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

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