

## CHAPTER 502

## MILK AND MILK PRODUCTS

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**502.012 Definitions.**—The following definitions shall apply in the interpretation and enforcement of this law:

(1) "Bulk milk pickup tanker" means a vehicle, including the truck and tank, and necessary attachments, used by a milk hauler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station.

(2) "Dairy farm" means any place or premises where one or more cows or goats are kept, and from which a part or all of the milk is provided, sold, or offered for sale to a milk plant, receiving station, or transfer station.

(3) "Department" means the Department of Agriculture and Consumer Services.

(4) "Imitation milk and imitation milk products" means those foods that have the physical characteristics, such as taste, flavor, body, texture, or appearance, of milk or milk products as defined in this chapter and the pasteurized milk ordinance, but do not come within the definitions of "milk" or "milk products," and are nutritionally inferior to the product imitated.

(5) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows or goats.

(6) "Milk distributor" means any person who offers for sale or sells to another person any milk or milk product.

(7) "Milk products" means products made with milk that is processed in some manner, including being whipped, acidified, cultured, concentrated, lactose-reduced, or sodium-reduced or aseptically processed, or having the addition or subtraction of milkfat, the addition of safe and suitable microbial organisms, or the addition of safe and suitable optional ingredients for protein, vitamin, or mineral fortification. "Milk products" do not include products such as evaporated milk, condensed milk, dietary products, infant formula, ice cream and other desserts, dry milk products, canned eggnog in a rigid metal container, butter, or cheese, except when the products are combined with other substances

to produce any pasteurized or aseptically processed milk product.

(8) "Milkfat" or "butterfat" means the fat contained in milk.

(9) "Milk hauler" means any person who transports raw milk or raw milk products to or from a milk plant, receiving station, or transfer station.

(10) "Milk plant" means any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, aseptically processed, bottled, or prepared for distribution.

(11) "Milk plant operator" means any person responsible for receiving, processing, pasteurizing, or packaging milk and milk products, or performing any other related operation.

(12) "Milk producer" means any person who operates a dairy farm and provides, sells, or offers for sale milk to a milk plant, receiving station, or transfer station.

(13) "Milk tank truck" means either a bulk milk pickup tanker or a milk transport tank.

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

(15) "Pasteurized milk ordinance" means the Grade A Pasteurized Milk Ordinance, 1993 Recommendations of United States Public Health Service/Food and Drug Administration and all associated appendices.

(16) "Raw milk" means unprocessed milk.

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

(18) "Substitute milk and substitute milk products" means those foods that have the physical characteristics, such as taste, flavor, body, texture, or appearance, of milk or milk products as defined in this chapter and the pasteurized milk ordinance, but do not come within the definitions of "milk" or "milk products," and are nutritionally equivalent to the product for which they are substitutes.

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

(20) "Washing station" means any place, premises, or establishment where milk tank trucks are cleaned and sanitized.

**History.**—s. 2, ch. 67-263; ss. 14, 35, ch. 69-106; s. 1, ch. 70-247; ss. 2, 3, ch. 71-211; s. 187, ch. 71-377; s. 1, ch. 73-356; s. 1, ch. 75-14; s. 1, ch. 76-282; s. 1, ch. 77-174; ss. 1, 7, ch. 80-83; s. 4, ch. 85-94; s. 1, ch. 91-64; s. 5, ch. 93-68; ss. 1, 15, ch. 94-92.

**502.013 Purpose; intent.**—

(1) **PURPOSE.**—The purpose of this chapter is to:

(a) Ensure, without undue burden on either the regulatory agency or the dairy industry, that milk and milk products sold or offered for sale in this state are produced under sanitary conditions, are wholesome and fit for human consumption, and are correctly labeled as to grade, quality, and source of production.

(b) Encourage uniformity and a high level of sanitation in milk production practices in this state.

(c) Facilitate the shipment and acceptance of milk and milk products of high sanitary quality in interstate and intrastate commerce.

(d) Ensure the normal flow of fresh wholesome milk and milk products from the farmer to the consumer by uniform regulation of the shelf life of milk and milk products in this state.

(2) INTENT.—

(a) It is the intent of the Legislature to:

1. Eliminate, to the extent practicable, overlapping and unnecessary inspections of dairy farms and milk plants which may be performed by any agency of state or local government.

2. Pay for the regulation of milk and milk products, except as otherwise provided in s. 502.032, through the General Revenue Fund.

(b) It is not the intent of the Legislature to limit the authority of any agency of state or local government to take immediate action incident to the production, processing, or distribution of milk and milk products when such action is necessary to protect the public health.

**History.**—s. 2, ch. 94-92.

**502.014 Powers and duties.—**

(1) The department shall administer and enforce all regulatory laws currently in effect governing:

(a) The production, processing, and distribution of milk and milk products.

(b) The sanitation and sanitary practices of establishments where food and drink, including milk and milk products, are sold for consumption on the premises, except food service establishments regulated under chapters 381 and 509.

(c) The sanitary and healthful condition of the food and drink sold or offered for sale by establishments under the department's jurisdiction pursuant to paragraph (b).

(d) The laboratory work of testing and analyzing milk and milk products.

(2)(a) The department shall conduct onsite inspections of dairy farms and milk plants, and collect test samples of milk and milk products, as required by this chapter.

(b) The department shall designate employees who shall be certified by the United States Food and Drug Administration as state milk sanitation rating officers, sampling surveillance officers, and laboratory evaluation officers in accordance with the requirements published in "Methods of Making Sanitation Ratings of Milk Supplies, 1989 Revision," "Evaluation of Milk Laboratories, 1985 Revision," and "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers, 1991 Revision," respectively. These officers shall conduct routine sanitation compliance survey ratings of milk producers, milk plants, laboratories, receiving stations, transfer stations, and manufacturers of single-service containers for milk and milk products. These ratings shall be made in accordance with the recommendations of the United States Food and Drug Administration published in Standard Methods for the Examination of Dairy Products.

(3) The department shall manage a program to issue permits to persons who test milk or milk products for milkfat content by weight, volume, chemical, electronic, or other means when the result of such test is used as a basis for payment for the milk or milk products.

(4) The department shall define by rule "cottage cheese," "dry-curd cottage cheese," and "lowfat cottage cheese." The department shall periodically update these definitions to maintain conformity with the federal definitions.

(5)(a) A person who obtains a temporary marketing permit from the United States Food and Drug Administration for milk and milk products that do not conform to existing standards and definitions shall immediately forward a copy of the permit to the department. The department may allow the person to operate in the state under the authority of the federal permit if the department determines that it is in the interest of the state to do so.

(b) The department shall adopt criteria for issuance of a state temporary marketing permit for milk and milk products that do not conform to existing standards and definitions.

(c) The department shall establish a fee, not to exceed \$100, for the issuance of a state temporary marketing permit or the use of a federal permit in the state. The fee shall cover all costs of issuing the state permit or processing the federal permit.

(6) The department may impound any reconstituted or recombined milk or any adulterated or misbranded milk or milk product to prevent its use for human consumption, and may dispose of it in a manner that does not create a nuisance.

(7) The department may adopt rules as necessary for the implementation and enforcement of this chapter. In adopting these rules, the department shall be guided by and may conform to the definitions and standards of the administrative procedures and provisions of the pasteurized milk ordinance. The rules shall include, but are not limited to:

(a) Standards for milk and milk products.

(b) Provisions for the production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products and imitation and substitute milk and milk products sold for public consumption in this state.

(c) Provisions for the inspection of dairy herds, dairy farms, and milk plants.

(d) Provisions for the issuance and revocation of permits issued by the department pursuant to this chapter.

(8) The department shall not conduct routine tests or inspections on raw milk that is shipped from outside the state. Nothing in this subsection shall be construed to limit the authority of the department to review industry records or sample milk at any stage of production, processing, or distribution in cases of suspected hazard to public health.

**History.**—s. 3, ch. 94-92.

**502.015 General Inspection Trust Fund.—**Any moneys collected by the department pursuant to this chapter shall be deposited in the General Inspection Trust Fund and used solely for the programs in this chapter.

**History.**—s. 4, ch. 94-92.

**502.032 Milkfat testers; permit, fees, application, suspension or revocation, records.**—Any person who tests milk or milk products for milkfat content by weight, volume, chemical, electronic, or other method when the result of such test is used as a basis for payment for the milk or milk products must hold a milkfat tester's permit issued by the department.

(1) The permit shall be issued for a period of 2 years from date of first issue upon application to the department on a form furnished by the department.

(2) The department shall charge each applicant a fee, not to exceed \$125, for a milkfat tester's permit.

(3) To qualify for a permit, the applicant shall demonstrate a sufficiency of knowledge, ability, and equipment to perform milkfat tests adequately.

(4) The permit is nontransferable between persons or locations and is subject to suspension or revocation upon a showing of violation of conditions upon which the permit was issued.

(5) Each milkfat tester shall keep records of milk fat tests conducted by him for a period of 1 year, and such records shall be available for inspection by the department at all reasonable hours.

(6) All direct and indirect costs incurred in conjunction with the milkfat tester's permit program must be paid from the permit fees provided in this section.

**History.**—s. 1, ch. 73-357; s. 6, ch. 78-95; s. 2, ch. 81-318; ss. 1, 2, ch. 83-11; ss. 3, 5, ch. 93-68; ss. 5, 15, ch. 94-92.

**502.042 Labeling of shelf life.**—To ensure consumers full disclosure of the date beyond which milk or milk products may no longer be offered for sale, all dairy processors shall establish, and legibly label as prescribed by rule of the department, the maximum shelf-life period during which milk and milk products may be offered for sale. For purposes of this requirement, to "legibly label" means to label the package or container with conspicuous and easily readable boldfaced print or type in distinct contrast to the background, by color. The department shall periodically conduct shelf-life studies to review the keeping quality of milk and milk products and shall sample periodically the products of the dairy processors to determine if the shelf-life dating used by the processors complies with the minimum standards of quality.

**History.**—s. 1, ch. 72-60; s. 2, ch. 76-282; s. 5, ch. 93-68; ss. 6, 15, ch. 94-92.

**502.053 Permits; requirements; exemptions; temporary permits.**—

(1) PERMITS.—

(a) Each milk plant, whether located in the state or outside the state, and each milk producer, milk hauler, milk hauling service, washing station operator, milk plant operator, milk distributor, single-service-container manufacturer, receiving station, and transfer station in the state, shall apply to the department for a permit to operate. The application shall be on forms developed by the department.

(b) Permits are nontransferable between persons or locations and are subject to suspension or revocation as provided in this chapter.

(2) REQUIREMENTS.—

(a) To obtain a permit, an applicant must satisfy all requirements that are defined by the department in rule

and must agree to comply with the applicable provisions of this chapter and rules promulgated under this chapter.

(b) All permit holders must maintain records of transactions concerning the procurement, production, and processing of milk and milk products as required in the pasteurized milk ordinance and grant department inspectors access to such records during all reasonable hours.

(c) In addition to the testing required in Appendix N of the pasteurized milk ordinance, each milk plant operator in the state shall be responsible for routine testing and inspection of raw milk shipped from outside the state prior to processing and shall notify the department when such testing and inspection indicates a violation of the standards contained in the pasteurized milk ordinance.

(3) EXEMPTIONS.—

(a) The following persons shall be exempt from milk hauler permit requirements:

1. Milk producers who transport milk or milk products only from their own dairy farms.

2. Employees of a milk distributor or milk plant operator who possesses a valid permit.

3. Drivers of bulk milk tank trucks between locations who do not collect milk from farms.

(b) Grocery stores, restaurants, soda fountains, and similar establishments where milk or milk products are served or sold, but not processed, may be exempted from permit requirements.

(4) TEMPORARY PERMITS.—

(a) The department may issue a temporary permit for a period not exceeding 90 days to milk producers and milk haulers who have submitted an application to the department and passed a preliminary inspection as required in the pasteurized milk ordinance.

(b) During this 90-day period, the department shall act expeditiously to determine compliance with all relevant laws and, upon finding compliance, shall issue a permit pursuant to subsection (1).

**History.**—s. 7, ch. 94-92.

**502.054 Inspection and reinspection.**—The department shall establish a schedule for inspections which shall require routine inspections in accordance with the minimum requirements contained in the pasteurized milk ordinance and more frequent inspections or reinspections for permit holders with serious or repeated violations.

**History.**—s. 8, ch. 94-92.

**502.091 Milk and milk products which may be sold.**

(1) Only Grade A pasteurized milk and milk products or certified pasteurized milk shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

(a) In an emergency, however, the department may authorize the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, in which case such milk and milk products shall be labeled "ungraded."

(b) If the department determines that milk is fit for human consumption even though it is less than Grade A because the producer failed to comply with the sanitat-

tion or bacterial standards defined in this chapter, or if any specific shipment of milk fails to comply with standards of the pasteurized milk ordinance, the department may issue a permit allowing the milk to be used in ungraded products, such as frozen desserts, which are being processed by such milk plant. During processing of such milk, it shall be pasteurized at a temperature of at least 175° F. for at least 15 seconds or at least 160° F. for at least 30 minutes.

(2) Milk that is in final package form for beverage use shall have been pasteurized and shall contain at least 8.25 percent milk solids-not-fat and at least 3.25 percent milkfat.

**History.**—s. 2, ch. 67-263; ss. 14, 35, ch. 69-106; s. 1, ch. 75-14; s. 4, ch. 80-83; s. 17, ch. 92-180; s. 5, ch. 93-68; ss. 9, 15, ch. 94-92.

#### 502.121 Future dairy farms and milk plants.—

(1) All future construction or extensive alteration of milk houses, milking barns, stables, parlors, transfer stations, and milk plants regulated under this chapter must meet certain minimum specifications and requirements which the department shall establish by rule.

(2) Anyone who plans to construct a new milk house, milking barn, stable, parlor, transfer station, or milk plant, or extensively alter any such existing facility, shall notify the department in writing of the intention to construct or alter, the date construction or alteration is to begin, and the legal description of the property for which the construction is planned.

(3) The minimum specifications in effect on the date of the original notification shall apply to the construction or alteration. If the construction does not meet these requirements and specifications, the department shall direct the owner to alter the construction to conform to them.

**History.**—s. 2, ch. 67-263; ss. 14, 35, ch. 69-106; s. 5, ch. 93-68; ss. 10, 15, ch. 94-92.

#### 502.165 Imitation and substitute milk and milk products.—

(1) **DISPLAY.**—All imitation and substitute milk and milk products sold in retail food stores shall be physically separated from milk or milk products by a partition or other device or divider in the dairy display case or other display-and-sale area.

(2) **HEALTH STANDARDS.**—In the interest of public health, imitation or substitute milk and milk products shall comply with the following standards:

(a) **Temperature.**—They shall be cooled to and maintained at 45° F. or 7° C. or less.

(b) **Bacterial limits.**—Bacterial limits shall be no greater than 20,000 per ml. However, these limits shall not apply to cultured products.

(c) **Coliform.**—Coliform shall not exceed 10 per ml.

(3) **PERMIT.**—Any person engaged in the manufacture of imitation or substitute milk or imitation or substitute milk products within this state shall obtain a permit from the department. Manufacturers of imitation or substitute milk or milk products outside this state shall hold a valid permit from the regulatory authority in their political jurisdiction and shall furnish the department a copy of the permit.

(4) **PRODUCTS FOR SPECIAL DIETARY PURPOSES.**—Products for special dietary purposes shall

not mean or include any milk or cream from which none of the milk or butterfat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, or to which has been added any substance rich in vitamins, or any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is:

(a) Prepared and designed for the feeding of infants, young children, or sick or infirm persons and customarily used on the order of a physician.

(b) Packed in individual containers bearing a label which states in bold type that the contents are to be used for these purposes.

(5) **FORMULATION.**—Nothing in this section shall prevent the use, blending, or compounding of flavors with milk, cream, or skimmed or desiccated milk, whether in bulk or in containers, hermetically sealed or unsealed, if no fat or oil other than milkfat or butterfat has been added to or blended or compounded with it.

**History.**—s. 1, ch. 85-94; s. 18, ch. 92-180; s. 5, ch. 93-68; ss. 11, 15, ch. 94-92.

**502.181 Prohibited acts.**—It is unlawful for any person in this state to:

(1) Engage in the business of producing, hauling, transferring, receiving, processing, packaging, or distributing milk or milk products or operating a washing station, manufacturing single-service containers, manufacturing imitation or substitute milk or milk products, or testing for milkfat content, without first obtaining a permit from the department.

(2) Produce, provide, sell, offer for sale, or have in possession with intent to sell, any reconstituted or recombined milk or any adulterated or misbranded milk or milk product.

(3) Advertise, package, label, sell, or offer for sale, or cause to be advertised, packaged, labeled, sold, or offered for sale, any imitation or substitute milk or milk product in a manner that is untrue, deceptive, or misleading and which could cause consumers to think they are purchasing a Grade A milk or milk product.

(4) Repasteurize milk.

(5) Obstruct or resist any authorized inspector while in performance of inspection duties.

**History.**—s. 2, ch. 67-263; s. 4, ch. 70-247; s. 5, ch. 93-68; ss. 12, 15, ch. 94-92.

**502.222 Information relating to trade secrets confidential.**—The records of the department regarding matters encompassed by this chapter are public records,

subject to the provisions of chapter 119, except that any information which would reveal a trade secret, as defined in s. 812.081, of a dairy industry business is confidential and exempt from the provisions of s. 119.07(1). If the department determines that any information requested by the public will reveal a trade secret, it shall, in writing, inform the person making the request of that determination. The determination is an order as defined in s. 120.52. This exemption is subject to the Open Government Sunset Review Act in accordance with 1s. 119.14.

**History.**—s. 2, ch. 80-83; s. 1, ch. 87-49; s. 1, ch. 92-4; s. 5, ch. 93-68; s. 15, ch. 94-92.

**Note.**—

A. Repealed by s. 1, ch. 95-217.

B. Section 4, ch. 95-217, provides that "[n]otwithstanding any provision of law to the contrary, exemptions from chapter 119, Florida Statutes, or chapter 286, Florida Statutes, which are prescribed by law and are specifically made subject to the

Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes, are not subject to review under that act, and are not abrogated by the operation of that act, after October 1, 1995.\*

**502.231 Penalty and injunction.—**

(1) The department may enter an order imposing one or more of the following penalties against any person who violates any of the provisions of this chapter:

(a) Issuance of a warning letter that relates to the class of the violation.

(b) Imposition of an administrative fine of not more than \$1,000 per occurrence.

(c) When imposing a fine under this section, the department must consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the benefit to the violator, whether the violation was committed willfully, and the violator's compliance record.

(d) Revocation or suspension of any permit issued by the department under this chapter.

(2) A person who violates any of the provisions of

this chapter commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) The circuit courts of this state may enjoin a violation on complaint of the department. The injunction shall issue without bond.

(4) Milk and milk product producers and handlers are subject to s. 500.172 and this section.

**History.**—s. 1, ch. 67-555; ss. 14, 35, ch. 69-106; s. 460, ch. 71-136; s. 20, ch. 92-180; ss. 2, 5, ch. 93-68; s. 15, ch. 94-92.

**502.232 Local regulations superseded.—**All special or local acts, general laws of limited application, county ordinances or resolutions, municipal ordinances or resolutions, and municipal charter provisions that authorize the regulation of milk or milk products are superseded by this chapter and the rules adopted pursuant to this chapter.

**History.**—s. 2, ch. 74-370; s. 5, ch. 76-235; s. 5, ch. 93-68; ss. 13, 15, ch. 94-92.