

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1111
(Agriculture Committee)
(At the request of the Agriculture Commissioner)

AN ACT to create and enact two new subsections to section 4-30-01 of the North Dakota Century Code, relating to dairy product definitions; and to amend and reenact sections 4-30-18, 4-30-20, 4-30-36, 4-30-36.2, 4-30-36.3, 4-30-36.4, 4-30-39, and 4-30-45.1 of the North Dakota Century Code, relating to dairy products regulations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Two new subsections to section 4-30-01 of the North Dakota Century Code are created and enacted as follows:

"Pasteurized Milk Ordinance" means the 2007 revision of the Grade "A" Pasteurized Ordinance issued by the United States food and drug administration and by the United States department of agriculture's public health service.

"Standard Methods" means the seventeenth edition of the Standard Methods for the Examination of Dairy Products published by the American public health association.

SECTION 2. AMENDMENT. Section 4-30-18 of the North Dakota Century Code is amended and reenacted as follows:

4-30-18. Sampling and testing procedures - Equipment - Supplies. The laboratory procedures, equipment, chemicals, and other apparatus or substances used in the sampling, hauling, or testing of milk or milk products must conform to that those described in the eighteenth edition of "Standard Methods for the Examination of Dairy Products" published by the American public health association, incorporated, a copy of which shall must be kept on file in the department. No equipment, chemicals, or other apparatus or substance used in the sampling, hauling, or testing of milk or milk products which is not in conformance with the requirements of this chapter may be sold or offered for sale. The commissioner through the adoption of rules may alter, amend, or prohibit any specific requirement of this section and may approve other sampling, hauling, or testing procedures or equipment. The commissioner, when appropriate, may check calibration of farm bulk milk tanks and equipment.

SECTION 3. AMENDMENT. Section 4-30-20 of the North Dakota Century Code is amended and reenacted as follows:

4-30-20. Sampling of milk. Every purchaser of milk from a dairy producer shall collect a minimum sample of two ounces [59.15 milliliters] from each bulk tank of milk received from a producer. Samples must be collected and maintained in accordance with those procedures contained in the eighteenth edition of "Standard Methods for the Examination of Dairy Products" published by the American public health association, incorporated. Records must be kept which readily identify the sample with those items used to determine payment for the milk. Such items must include weight, butterfat content, protein, solids-not-fat, and the total amount of money paid for the milk.

SECTION 4. AMENDMENT. Section 4-30-36 of the North Dakota Century Code is amended and reenacted as follows:

4-30-36. Standards for grade A milk and milk products - Adoption of amendments. Only grade A milk may be sold as fluid beverage for human consumption. The minimum standards for milk

and milk products designated as grade A are the same as the minimum requirements of the "~~Grade A Pasteurized Milk Ordinance, 2005 Revision, Public Health Service, Food and Drug Administration~~" which includes provisions from the "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey - Supplement 1 to the Grade A PMO" ~~and all supplements added thereto~~. The commissioner may adopt as ~~department~~ regulations other standards in addition to any amendments, supplements to, ~~or new editions of the milk ordinance which are~~ in the interest of public safety, wholesomeness of product, consumer interest, sanitation, good supply, salability, and promotion of grade A milk and milk products.

SECTION 5. AMENDMENT. Section 4-30-36.2 of the North Dakota Century Code is amended and reenacted as follows:

4-30-36.2. State milk sanitation rating and sampling surveillance officer - Duties - Guidelines. The state milk sanitation rating and sampling surveillance officer is responsible for the rating and certification of milk and dairy products. The rating and certification of milk and dairy products must be in accordance with the procedures outlined in the public health service/food and drug administration publication entitled "Methods of Making Sanitation Ratings of Milk Shippers - ~~2005~~ 2007 Revision, Edition" and the sampling of milk and dairy products must be in accordance with the guidelines ~~recommended in the eighteenth edition of "Standard Methods for the Examination of Dairy Products" published by the American public health association.~~

SECTION 6. AMENDMENT. Section 4-30-36.3 of the North Dakota Century Code is amended and reenacted as follows:

4-30-36.3. Milk laboratory evaluations officer - Duties - Guidelines. The milk laboratory evaluations officer is responsible for the certification and evaluation of milk and dairy products laboratories within the state. Evaluations and certification of milk laboratories must be made in accordance with the ~~eighteenth edition of "Standard Methods for the Examination of Dairy Products" published by the American public health association~~ and the procedures outlined in the public health service/food and drug administration publication entitled "Evaluation of Milk Laboratories - 2005 Edition".

SECTION 7. AMENDMENT. Section 4-30-36.4 of the North Dakota Century Code is amended and reenacted as follows:

4-30-36.4. Grade A pasteurized milk ordinance. Dairy producers, processors, and manufacturers shall comply with the "~~Grade A Pasteurized Milk Ordinance, 2005 Revision, Public Health Service, Food and Drug Administration~~" and its supplements and follow the standards set by the "Procedures Governing the Cooperative State-Public Health Service Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, ~~2005~~ 2007 Revision".

SECTION 8. AMENDMENT. Section 4-30-39 of the North Dakota Century Code is amended and reenacted as follows:

4-30-39. Transportation, labeling, and distribution of processed and manufactured products - ~~Commissioner to adopt rules~~ Rulemaking - Violations. The commissioner may adopt rules governing the labeling, distribution, and transportation of processed and manufactured milk or milk products. ~~No facility or vehicle may be used or operated in violation of these rules.~~

SECTION 9. AMENDMENT. Section 4-30-45.1 of the North Dakota Century Code is amended and reenacted as follows:

4-30-45.1. Labeling and identity standards. ~~North Dakota labeling~~ All persons who sell at retail in this state milk or milk products must comply with the labeling standards and standards of identity are those set forth in the National Labeling and Education Act of 1990, all supplements, and rules and regulations promulgated thereunder 21 U.S.C. 343(q)(r) and in rules adopted by the commissioner. The commissioner shall adopt definitions consistent with federal law for, among other

~~words, "milk", "butter", "cream", "cheese", and "ice cream". If state law conflicts with the National Labeling and Education Act of 1990, the National Labeling and Education Act of 1990 applies.~~

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1111.

House Vote: Yeas 90 Nays 0 Absent 4

Senate Vote: Yeas 43 Nays 0 Absent 4

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State