

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1255

Introduced by

Representatives Holle, K. Anderson, Christensen, Dyk, Fisher, Hauck, Murphy, S. Olson,
Rohr, VanWinkle

Senators Boehm, Schaible

1 A BILL for an Act to amend and reenact sections 4.1-05-01 and 4.1-25-01, and subsection 9 of
2 section 4.1-26-01 of the North Dakota Century Code, relating to the definition of milk.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 4.1-05-01 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **4.1-05-01. Definitions.**

7 As used in this chapter:

- 8 1. "Commission" means the North Dakota dairy promotion commission.
- 9 2. "Dairy product" means a product for human consumption which is derived from the
10 processing of milk from ~~eows~~a healthy four-legged hooved mammal. The term
11 includes a milk product normally consumed in liquid form as a beverage.
- 12 3. "Dealer" means any person that handles, ships, buys, or sells dairy products, or who
13 acts as a sales or purchasing agent, broker, or factor of dairy products.
- 14 4. "Gross receipts" means the amount paid to a producer for milk or for a product derived
15 from milk and sold by such producer.
- 16 5. "Milk" means the lacteal secretion, practically free of colostrum, obtained by the
17 complete milking of a healthy hooved mammal, including any member of the order
18 Cetartiodactyla and including a member of the family:
- 19 a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;
- 20 b. Cervidae, including deer, reindeer, and moose;
- 21 c. Equidae, including horses and donkeys; and
- 22 d. Camelidae, including llamas, alpacas, and camels.
- 23 6. "Processor" means a person that takes delivery of milk or cream and then:

- 1 a. Cans, dries, prepares, or packages the milk or cream; or
- 2 b. Produces another product from the milk or cream.

3 ~~6-7.~~ "Producer" means a person engaged in the production of milk from ~~cows~~ a four-legged
4 mammal for commercial use.

5 **SECTION 2. AMENDMENT.** Section 4.1-25-01 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **4.1-25-01. Definitions.**

- 8 1. "Cheese factory" means a facility that makes cheese for commercial purposes.
- 9 2. "Commissioner" means the agriculture commissioner or the commissioner's designee.
- 10 3. "Condensery" means a facility where condensed or evaporated milk is produced.
- 11 4. "Dairy animal" means any healthy four-legged hooved mammal maintained for the
12 commercial production of milk to be offered for sale for use in the processing or
13 manufacturing of milk or dairy products.
- 14 5. "Dairy farm" means a place where one or more dairy animals are kept.
- 15 6. "Dairy product" includes milk, cream, sour cream, butter cream, butter, skimmed milk,
16 ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk,
17 cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix,
18 sherbet, condensed milk, evaporated milk, or concentrated milk.
- 19 7. "Department" means the department of agriculture.
- 20 8. "Distributor" means a person that provides storage, transportation, delivery, or
21 distribution of dairy products to any person who sells dairy products.
- 22 9. "Drying plant" means a facility that manufactures dry milk products by removing water
23 from milk or milk products.
- 24 10. "Filled dairy products" means any milk, cream, or skimmed milk, or any combination of
25 them, whether or not condensed, evaporated, concentrated, frozen, powdered, dried,
26 or desiccated, or any food product made or manufactured from those products, to
27 which has been added, blended, or compounded with, any fat or oil, other than milk
28 fat, to imitate a dairy product. "Filled dairy products" may not be construed to mean or
29 include:
 - 30 a. Any distinctive proprietary food compound not readily mistaken for a dairy
31 product, if the compound is customarily used on the order of a physician and is

- 1 prepared and designed for medicinal or special dietary use and prominently so
2 labeled;
- 3 b. Any dairy product flavored with chocolate or cocoa or the vitamin content of
4 which has been increased, or both, if the fats or oils other than milk fat contained
5 in the product do not exceed the amount of cacao fat naturally present in the
6 chocolate or cocoa used and the food oil, not in excess of one-hundredth per
7 centum of the weight of the finished product, used as a carrier of such vitamins;
8 or
- 9 c. Margarine.
- 10 11. "Grading" means the examination of milk or milk products by sight, odor, taste, or
11 laboratory analysis, the results of which determine a rating of the quality of the
12 product.
- 13 12. "Ice cream plant" means a facility that makes ice cream for commercial purposes.
- 14 13. "Ice milk plant" means a facility that makes ice milk for commercial purposes.
- 15 14. "Imitation milk" or "imitation milk product" means a food product or food compound
16 made to resemble milk or a milk product when any of the following occurs:
- 17 a. The food physically resembles milk or a milk product. "Physical resemblance"
18 means those characteristics relating to the composition of food, including fat and
19 moisture content, nonfat solids content, and functional ingredient or food additive
20 content such as emulsifiers, stabilizers, flavor, or color additives.
- 21 b. The packaging used resembles the packaging used for milk or for a milk product.
- 22 c. The food product or food compound is displayed in a retail establishment in the
23 same manner as milk or a milk product.
- 24 d. Verbal or pictorial expressions are used on the food products or food compounds,
25 labeling, or in advertisements or other similar devices used to promote the food
26 products or food compounds that state or imply that the food is milk or a milk
27 product.
- 28 e. The food product or food compound in any other way is manufactured, packaged,
29 or labeled so as to resemble the identity, intended use, or physical and sensory
30 properties of milk or a milk product. "Physical and sensory properties" means

1 those characteristics relating to flavor, texture, smell, and appearance of a food
2 product or food compound.

3 15. "Milk" means the lacteal secretion, practically free of colostrum, obtained by the
4 complete milking of a healthy hooved mammal, including any member of the order
5 Cetartiodactyla and including a member of the family:

6 a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;

7 b. Cervidae, including deer, reindeer, and moose;

8 c. Equidae, including horses and donkeys; and

9 d. Camelidae, including llamas, alpacas, and camels.

10 16. "Milk hauler" means a person that owns vehicles used to transport raw milk from a
11 dairy farm to a dairy facility.

12 ~~16.~~17. "Milk plant or bottling plant" means a facility where milk or milk products are collected,
13 handled, processed, stored, and prepared for distribution.

14 ~~17.~~18. "Milk solids or total solids" means the total amount of solids in milk.

15 ~~18.~~19. a. "Pasteurization" as applied to milk or skim milk means either:

16 (1) The process of heating every particle of milk to at least one hundred
17 forty-five degrees Fahrenheit [62.78 degrees Celsius] and cream and other
18 milk products to at least one hundred fifty degrees Fahrenheit [65.55
19 degrees Celsius], and holding it at that temperature continuously for at least
20 thirty minutes; or

21 (2) Heating every particle of milk to at least one hundred sixty-one degrees
22 Fahrenheit [71.67 degrees Celsius] and cream and other milk products to at
23 least one hundred sixty-six degrees Fahrenheit [74.44 degrees Celsius],
24 and holding it at that temperature continuously for at least fifteen seconds in
25 approved and properly operated equipment.

26 b. When applied to cream for butter making, "pasteurization" means the cream must
27 be held at a temperature of not less than one hundred sixty-five degrees
28 Fahrenheit [73.89 degrees Celsius] for at least thirty minutes or not less than one
29 hundred eighty-five degrees Fahrenheit [85.00 degrees Celsius] for at least
30 fifteen seconds.

- 1 c. This subsection may not be construed as barring any other process that has
2 been demonstrated to be equally efficient which assures proper pasteurization
3 and keeping quality, which is consistent with the most desirable quality, and
4 which is approved by the commissioner.
- 5 ~~19-20.~~ "Pasteurized milk ordinance" means the 2019 revision of the Grade "A" Pasteurized
6 Ordinance issued by the United States food and drug administration and by the United
7 States department of agriculture's public health service.
- 8 ~~20-21.~~ "Peddler" means a person that purchases milk or milk products and sells the milk or
9 milk products directly to consumers at any place other than from a store, stand, or
10 other fixed place of business.
- 11 ~~21-22.~~ "Person" means individuals, firms, partnerships, associations, trusts, estates,
12 corporations, and limited liability companies, and any and all other business units,
13 devices, or arrangements.
- 14 ~~22-23.~~ "Processing or manufacturing" means the treatment of milk or milk products by
15 pasteurizing, bottling, churning, adding flavors to, freezing, dehydrating, packaging,
16 coagulating, or treating in any manner that changes the natural, physical, or chemical
17 properties of the original product.
- 18 ~~23-24.~~ "Producer dairy" means a dairy farm that sells milk or cream to a dairy plant for
19 processing or manufacturing.
- 20 ~~24-25.~~ "Producer-processor" or "producer-distributor" means a producer that is also a
21 processor or distributor.
- 22 ~~25-26.~~ "Raw milk or raw milk products" means products that have not been treated by the
23 process of pasteurization.
- 24 ~~26-27.~~ "Retail" means the sale of milk or milk products directly to the consumer.
- 25 ~~27-28.~~ "Sampler" means a person, other than a milk producer or dairy plant employee, who
26 transports samples for official use of raw milk or milk products from a dairy farm to a
27 dairy facility.
- 28 ~~28-29.~~ "Sampling" means a procedure taking a portion of milk or milk products for grading or
29 testing.
- 30 ~~29-30.~~ "Shared animal ownership agreement" means any contractual arrangement under
31 which an individual:

- 1 a. Acquires an ownership interest in a milk-producing animal;
- 2 b. Agrees to pay another for, reimburse another for, or otherwise accept financial
- 3 responsibility for the care and boarding of the milk-producing animal at the dairy
- 4 farm; and
- 5 c. Is entitled to receive a proportionate share of the animal's raw milk production as
- 6 a condition of the contractual arrangement.
- 7 ~~30-31.~~ "Skim milk solids or solids-not-fat" means the total solids in milk after all fat has been
- 8 removed.
- 9 ~~31-32.~~ "Standard Methods" means the seventeenth edition of the Standard Methods for the
- 10 Examination of Dairy Products published by the American public health association.
- 11 ~~32-33.~~ "Testing" means an examination of milk or milk products by sight, odor, taste, or
- 12 laboratory analysis to determine the quality, wholesomeness, or composition of the
- 13 product.
- 14 ~~33-34.~~ "Wholesale" means the sale of milk or milk products to a retail dealer for resale.

15 **SECTION 3. AMENDMENT.** Subsection 9 of section 4.1-26-01 of the North Dakota Century

16 Code is amended and reenacted as follows:

- 17 9. "milk" means the lacteal secretion of a cow, ~~including when the secretion is raw,~~
- 18 ~~cooled, pasteurized, standardized, homogenized, recombined, or concentrated,~~
- 19 ~~provided the secretion meets applicable grade A requirements, practically free of~~
- 20 colostrum, obtained by the complete milking of a healthy hooved mammal, including
- 21 any member of the order Cetartiodactyla and including a member of the family:
- 22 a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;
- 23 b. Cervidae, including deer, reindeer, and moose;
- 24 c. Equidae, including horses and donkeys; and
- 25 d. Camelidae, including llamas, alpacas, and camels.