AN ACT

ENTITLED, An Act to revise certain provisions relating to the sale of unpasteurized raw milk.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 39-6-1 be amended to read as follows:

39-6-1. Terms used in this chapter mean:

(1) "Department," the Department of Agriculture;

(2) "Grade A milk," milk produced in accordance with the standards set forth in regulations promulgated pursuant to the authority granted in § 39-6-9 and that is not subject to the requirements for manufacturing grade milk or raw milk for human consumption;

(3) "Manufacturing grade milk," any milk or milk product that is produced for processing and manufacturing into products for human consumption in accordance with the standards set by rules promulgated pursuant to the authority granted in §§ 39-6-9 and 40-32-18 and that is not subject to the requirements for Grade A milk or raw milk for human consumption;

(4) "Milk," the lacteal secretion, practically free from colostrum, obtained by the milking of one or more healthy cows, that contains not less than eight and one-fourth percent solids-not-fat and not less than three and one-fourth percent milk fat;

(5) "Milk case" or "dairy case," any wire or plastic case or container that holds sixteen quarts or more of milk or milk products and is used by restaurants, retailers, or their agents as a means to transport, store, or carry milk or milk products;

(6) "Raw milk for human consumption," the lacteal secretion, practically free from colostrum, obtained by the milking of one or more healthy cows, goats, sheep, or other hooved mammals that has not been pasteurized or homogenized and is packaged for human consumption. The term also includes raw cream intended for human consumption;

(7) "Secretary," the secretary of agriculture.

Section 2. That § 39-6-2 be amended to read as follows:

39-6-2. It is a Class 2 misdemeanor to sell bottled, cartoned, or dispenser milk for human consumption other than Grade A milk or raw milk for human consumption from a producer who meets the requirements of section 4 of this Act.

Section 3. That § 39-6-3 be amended to read as follows:

39-6-3. Raw milk for human consumption may be secured or purchased for personal use by any consumer at the place or farm where the milk is produced and the milk may be delivered directly to the consumer by the producer. No raw milk for human consumption may be purchased at a farmers' market or farmer owned retail store that is not located at the place or farm where the milk is produced.

Section 4. That chapter 39-6 be amended by adding thereto a NEW SECTION to read as follows:

Any producer of milk who is selling raw milk for human consumption directly to the consumer shall obtain a license pursuant to the provisions of § 40-32-4 and a permit pursuant to the provisions of § 40-32-10.1.

Section 5. That § 39-6-9 be amended to read as follows:

39-6-9. The secretary of agriculture may promulgate rules for Grade A milk and milk products, manufacturing grade milk, and raw milk for human consumption, pursuant to chapter 1-26, relative to:

(1) Standards for adulterated or misbranded milk;

(2) Permits to produce or process;

(3) Labeling and packaging;

(4) Inspections of dairy farms and plants;

(5) Examinations of milk and milk products;

(6) Animal health requirements;

(7) Container usage;

(8) Uninspected milk;

(9) Farm and plant construction;

(10) Personal health standards;

(11) Sanitation standards;

(12) Production, processing, and distribution standards for Grade A pasteurized milk, fluid milk products, Grade A raw milk for pasteurization, manufacturing grade milk, and raw milk for human consumption;

(13) Procedures for certification of interstate milk shippers;

(14) Methods of making sanitation ratings of milk supplies; and

(15) Customer records.

Section 6. That § 40-32-2 be amended to read as follows:

40-32-2. Terms as used in this chapter, mean:

(1) "Bulk milk pick-up tanker," any vehicle, including the truck, tank, and those appurtenances necessary for the tank's use, used by a bulk milk hauler or sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station;

(2) "Dairy farm," any place or premise where one or more cows, sheep, or goats are kept and from which a part or all of the milk or milk products are produced and sold, or offered for sale to a milk plant;

(3) "Dairy fieldman," a person employed by the milk plant to determine if a producer is maintaining satisfactory production requirements in accordance with this chapter and the rules promulgated pursuant to this chapter;

(4) "Department," the Department of Agriculture;

(5) "Grade A," any milk or milk product that complies with the standards set forth in any rules promulgated pursuant to § 39-6-9;

(6) "Manufacturing grade milk," any milk or milk product that is produced for processing and manufacturing into products for human consumption in accordance with the standards set by rules promulgated pursuant to the authority granted in §§ 39-6-9 and 40-32-18 and that is not subject to the requirements of Grade A milk or raw milk for human consumption;

(7) "Marketing organization," an entity established for the purpose of procuring farm produced milk and offering for sale that milk to a milk plant, receiving station, or transfer station;

(8) "Milk distributor," any person who purchases milk or any milk product and transports the milk or milk product to a retail dealer or a consumer;

(9) "Milk plant," any place where milk or a milk product is delivered or processed for commercial purposes;

(10) "Milk product," any product formulated by the addition of milk or a product derived from more than fifty percent milk if the milk or the product derived from more than fifty percent milk is greater than fifty percent of the product by weight or volume;

(11) "Milk transport tank," any vehicle, including the truck and tank, used by a bulk milk hauler or sampler to transport bulk shipments of milk and any milk product, from a milk plant, receiving station, or transfer station to another milk plant, receiving station, or transfer station;

(12) "Pasteurization," the process of heating every particle of milk or milk product in properly designed and operated equipment, to one of the temperatures given in the following table and held continuously at or above that temperature for at least the corresponding specified time:

| Temperature | Time |
|---|---|
| *145°F (63°C) | 30 minutes |
| *161°F (72°C) | 15 seconds |
| 191°F (89°C) | 1 second |
| 194°F (90°C) | 0.5 second |
| 201°F (94°C) | 0.1 second |
| 204°F (96°C) | 0.05 second |
| 212°F (100°C) | 0.01 second |

* If the fat content of the milk product is ten percent or more, or if it contains added sweeteners, the specified temperature shall be increased by 5°F (3°C). However, eggnog shall be heated to at least the following temperature and time specifications:

| Temperature | Time |
|---|---|
| 155°F (69°C) | 30 minutes |
| 175°F (80°C) | 25 seconds |
| 180°F (83°C) | 15 seconds |

Nothing in this definition bars any other pasteurization process which has been recognized by the Food and Drug Administration to be equally efficient and which is approved by the regulatory agency;

(13) "Pasteurization unit," a unit of equipment that pasteurizes milk and milk products that meets the 3-A accepted practices for the sanitary construction, installation, testing, and operation of a pasteurizer;

(14) "Producer," any person who operates a dairy farm and provides, sells, or offers milk or raw milk for human consumption for sale;

(15) "Receiving station," any place, premise, or establishment where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting;

(16) "Secretary," the secretary of agriculture;

(17) "Single-service article fabricating plant," any plant manufacturing single-service articles expected to be in contact with Grade A milk and milk products;

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

Section 7. That § 40-32-4 be amended to read as follows:

40-32-4. Any person engaged in the operation of a receiving station, transfer station, bulk milk pick-up tanker, milk transport tank, plant fabricating single-service articles or milk distributor in South Dakota, or any person buying milk produced in South Dakota, or any person selling milk, any milk product, or raw milk for human consumption, shall, before beginning business, obtain from the secretary a license for each place of business owned or operated by the person in South Dakota, and for each milk distributor or milk plant buying or selling milk or any milk product in South Dakota.

Section 8. That § 40-32-5 be amended to read as follows:

40-32-5. The license fee for the following facilities requiring licenses is as follows:

(1) In-state milk processing plant (by pounds of milk or milk product produced):

(a) Less than 100,000 pounds per day, two hundred fifty dollars;

(b) 100,000 to 500,000 pounds, inclusive, per day, five hundred dollars;

(c) Over 500,000 pounds per day, one thousand dollars;

(2) Out-of-state milk processing plants or marketing organization, two hundred fifty dollars;

(3) Receiving station, two hundred fifty dollars;

(4) Plant fabricating single-service articles, two hundred fifty dollars;

(5) Milk distributor, two hundred fifty dollars;

(6) Transfer station, one hundred dollars;

(7) Bulk milk pick-up tanker or milk transport tank, fifty dollars;

(8) A producer who packages and sells raw milk for human consumption, fifty dollars.

Section 9. That § 40-32-10.1 be amended to read as follows:

40-32-10.1. A producer engaged in the business of producing milk and offering for sale such milk for purposes other than Grade A milk pursuant to the provisions of chapter 39-6 and before the milk is to be transported from the premises of the producer, shall obtain a permit from the secretary. A producer engaged in the business of producing raw milk for human consumption pursuant to the provisions of chapter 39-6 and before the raw milk is sold directly to the consumer, shall obtain a permit from the secretary.

An Act to revise certain provisions relating to the sale of unpasteurized raw milk.

I certify that the attached Act originated in the

SENATE as Bill No. 45

_____
Secretary of the Senate

_____
President of the Senate

Attest:

_____
Secretary of the Senate

_____
Speaker of the House

Attest:

_____
Chief Clerk

Senate Bill No. 45
File No. ____
Chapter No. _____

Received at this Executive Office this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor

The attached Act is hereby approved this _____ day of _____ , A.D., 20___

_____
Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 20___
at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State