

AN ACT

ENTITLED, An Act to revise and update certain provisions relating to dairy production and inspection.

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

Section 1. That § 39-6-3 be amended to read as follows:

39-6-3. The provisions of § 39-6-2 do not apply to milk or goat milk secured or purchased for personal use by any consumer at the place or farm where the milk is produced or to any active farm producer of milk, selling and delivering the producer's own production direct to consumers only, if the place or farm where the milk is produced has a license or permit issued by the department pursuant to § 40-32-4 or 40-32-10.1. The containers in which any unpasteurized milk is sold shall be clearly labeled by the producer as "raw milk."

Section 2. That § 39-6-7 be repealed.

Section 3. That § 39-6-8 be repealed.

Section 4. That § 39-6-10.1 be repealed.

Section 5. That § 39-6-12 be amended to read as follows:

39-6-12. Each processor shall provide adequate and continuous field service to assist the producers who sell their milk to the processor's plant and to supervise the operations within the processing plant to attain and maintain compliance with Grade A requirements.

Section 6. That § 39-6-17 be repealed.

Section 7. That § 39-6-18 be repealed.

Section 8. That § 39-6-19 be repealed.

Section 9. That § 39-6-20 be amended to read as follows:

39-6-20. It is a violation for any person to sell, offer, or expose for sale, any milk or milk products labeled Grade A, unless the milk or milk products have been produced and processed in

accordance with the requirements of §§ 39-6-7 to 39-6-19, inclusive, and the rules promulgated by the secretary of agriculture in respect thereto.

Section 10. That § 39-6-21 be repealed.

Section 11. That § 39-6-22 be repealed.

Section 12. 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 adopted thereunder;
- (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," any milk or milk product subject to the requirements of chapter 40-32 that is produced for processing and manufacturing into products for human consumption not subject to Grade A requirements stated in chapter 39-6;
- (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 milk products and transports them to a retail dealer or a consumer;
- (9) "Milk plant," any place where milk or milk products are 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 milk products, 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 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 13. That § 40-32-10 be amended to read as follows:

40-32-10. The secretary shall, upon evidence of violations of the provisions of this chapter and chapters 39-6, 39-7, and 39-8, and any rules promulgated pursuant to those chapters, revoke or

suspend any dairy products plant license. However, no license may be revoked except on twenty days' notice to the licensee or the licensee's agent or manager. Any notice shall be served as summons is served in civil actions, specify the substance of the complaint and the time and place at which evidence will be heard in support of the complaint, and that an opportunity will be offered to the licensee complained about to submit evidence and proof in defense of any charge.

Section 14. 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 as set forth in chapter 39-6 and before the milk is to be transported from the premises of the producer, shall obtain a permit from the secretary.

Section 15. That § 40-32-10.4 be amended to read as follows:

40-32-10.4. The department may suspend a producer's license or permit upon failure by the holder of the permit to comply with any of the terms of state statute or promulgated rule or for interference with inspection. In addition to the administrative sanctions available to the department pursuant to this chapter and chapters 39-6, 39-7, and 39-8, any licensed or nonlicensed producer who commits any violation of this chapter or chapters 39-6, 39-7, or 39-8, may be assessed a fine, not to exceed five thousand dollars per violation, or may be subject to injunctive and declaratory relief by the circuit court. All fines collected pursuant to this section are subject to S.D. Const., Art. VIII, § 3. The department is not required to seek the administrative sanctions available under this section prior to commencing an action in circuit court against an alleged violator of this chapter or chapters 39-6, 39-7, or 39-8.

Section 16. That § 40-32-23 be amended to read as follows:

40-32-23. The department shall have access, ingress, and egress to all places of business, factories, buildings, or related areas where any milk or milk products are produced, bought, manufactured, held, or stored, including any vehicles used for the transportation of milk or milk

products. The department shall have access to all of the books and records of such places of business for the purpose of enforcing the provisions of this chapter. The department may take any samples deemed necessary for the proper enforcement of this chapter.

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I certify that the attached Act
originated in the
HOUSE as Bill No. 1057

Chief Clerk

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1057
File No. _____
Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,
20__ at _____ M.

By _____
for the Governor

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

Governor

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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