

Accompanying the fifth recommendation of the Department of Food and Agriculture (House, No. 89). Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT FOR MAKING STATE STANDARDS OF IDENTITY AND LABELING REQUIREMENTS FOR MILK AND MILK PRODUCTS CONSISTENT WITH FEDERAL LAW.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 17 of chapter 6 of the General Laws is
2 hereby amended by striking out, in line 6 as appearing in section 1
3 of chapter 535 of the acts of 1966, the words "milk regulation
4 board".

1 SECTION 2. Section forty-two of chapter six of the General
2 Laws is hereby repealed.

1 SECTION 3. Section 1 of chapter 94 of the General Laws, as
2 most recently amended by section 137 of chapter 706 of the acts of
3 1975, is hereby further amended by striking out the definition of
4 "Butter", the definition of "Cheese", the definition of "Cream
5 cheese" and the immediately succeeding paragraph, the definition
6 of "Half-and-half", the definition of "Heated milk" and the
7 definition of "Pasteurized milk".

1 SECTION 4. Section 12 of said chapter 94, as most recently
2 amended by section 1 of chapter 425 of the acts of 1967, is hereby
3 further amended by striking out chapter 425 of the acts of 1967, is
4 hereby further amended by striking out said section and inserting
5 in place thereof the following section: —

6 *Section 12.* The term "milk" is hereby defined to mean the

7 lacteal secretion, practically free from colostrum, obtained by the
8 complete milking of one or more health cows. The Massachusetts
9 legal minimum standard for milk that is in final package form for
10 beverage use shall be milk which, upon analysis, is shown to
11 contain not less than eight and one-quarter percent milk solids not
12 fat and three and one-quarter percent milkfat. Milk may be
13 adjusted by separating part of the milkfat therefrom, or by adding
14 thereto cream.

15 The term "cream" is hereby defined to mean the liquid milk
16 product high in fat separated from milk. The Massachusetts legal
17 minimum standard for cream shall be cream which, upon analysis,
18 is shown to contain not less than eighteen percent milkfat. Cream
19 may be adjusted by adding thereto milk or skim milk.

20 The commissioner of public health shall, subject to the
21 provisions of chapter thirty A, adopt and promulgate rules and
22 regulations establishing other legal standards as well as labeling
23 requirements and sanitary standards for grades of milk and cream
24 and for products thereof, including foods containing such
25 products, as sold or offered for sale in final package form, and
26 may, from time to time and in like manner, amend, modify or
27 repeal the same. Such rules and regulations shall be consistent with
28 applicable regulations from time to time effective pursuant to
29 issuance by the Food and Drug Administration, Public Health
30 Service, United States Department of Health, Education and
31 Welfare or any successor agency with like regulatory powers;
32 provided, that requirement by said commissioner of more
33 stringent bacterial and other sanitary standards shall not be
34 precluded; and provided further, that said commissioner may
35 modify the application of said federal regulations to such degree as
36 he may determine to be appropriate where only intrastate
37 commerce in such products is involved. No product standard
38 which has been established hereunder shall be subject separately to
39 the provisions of section one hundred ninety-two of this chapter.
40 Except as may otherwise be provided in this chapter, any person
41 who violates any rule or regulation duly adopted and promulgated
42 by said commissioner pursuant to this section shall be punished by
43 a fine of not less than twenty-five nor more than one hundred
44 dollars for each offense.

1 SECTION 5. Sections twelve A and twelve B of said chapter
2 ninety-four are hereby repealed.

1 SECTION 6. Section 13 of said chapter 94, as most recently
2 amended by section 1 of chapter 104 of the acts of 1965, is hereby
3 amended by striking out said section and inserting in place thereof
4 the following section: —

5 *Section 13.* The commissioner shall, subject to the provisions of
6 chapter thirty A, adopt and promulgate rules and regulations
7 governing the production, transportation, handling, storage,
8 processing, distribution and sale of raw milk and raw products
9 thereof, including all pertinent sanitary standards and uniform
10 minimum requirements for the inspection of dairy farms supplying
11 or offering to supply milk to the commonwealth, and may, in like
12 manner and from time to time, amend, modify or repeal the same.
13 Such rules and regulations shall be consistent with applicable
14 provisions of the Grade A Pasteurized Milk Ordinance and other
15 related publications of the Food and Drug Administration, Public
16 Health Service, United States Department of Health, Education
17 and Welfare or any successor agency with like powers; provided,
18 that requirement by the commissioner of more stringent bacterial
19 and other sanitary standards shall not be precluded. Except as may
20 otherwise be provided in this chapter, any person who violates any
21 rule or regulation duly adopted and promulgated by the
22 commissioner pursuant to this section shall be subject to a fine of
23 not less than twenty-five nor more than one hundred dollars for
24 each offense.

1 SECTION 7. Section 13B of the said chapter 94, as appearing
2 in section 1 of chapter 263 of the acts of 1933 and amended by
3 chapter 41 of the acts of 1967, is hereby amended by striking out, in
4 line 4, the word "board" and inserting in place thereof the word: —
5 commissioner.

1 SECTION 8. Section 13E of said chapter 94, as most recently
2 amended by chapter 41 of the acts of 1967, is hereby further
3 amended by striking out said section and inserting in place thereof
4 the following section: —

5 *Section 13E.* Boards of health of cities and towns may adopt

6 bacterial standards for milk which are numerically less but not
7 greater than such standards as may be established therefor under
8 section twelve or section thirteen of this chapter. Rules and
9 regulations promulgated under said sections shall not be construed
10 to prevent the exercise by such boards of the powers and duties
11 conferred and imposed upon them by section forty-one of this
12 chapter nor to prevent the sale of milk the production of which is
13 regulated under authority of sections twenty through twenty-five,
14 inclusive, of chapter one hundred eighty. This section shall not be
15 deemed to authorize the sale or delivery of milk, cream or product
16 thereof which is not in compliance with applicable rules and
17 regulations established pursuant to said sections twelve and
18 thirteen.

1 SECTION 9. Section 16 of the said chapter 94, as inserted by
2 section 3 of chapter 305 of the acts of 1932, is hereby amended by
3 striking out the definition of the word "board".

1 SECTION 10. Said section 16 of the said chapter 94, as so
2 inserted, is hereby further amended by striking out the last
3 paragraph therein and inserting the following: —

4 Sections sixteen to sixteen I, inclusive, shall not apply to cream
5 complying with the proper Massachusetts legal standard for cream
6 established by section twelve.

1 SECTION 11. Section 16C of the said chapter 94, as appearing
2 in section 1 of chapter 632 of the acts of 1965, is hereby amended by
3 striking out, in lines 5 and 24 the word "board" and inserting in
4 place thereof, in each instance, the word: — commissioner.

1 SECTION 12. Section 16D of the said chapter 94 as appearing
2 in section 2 of said chapter 632, is hereby amended by striking out,
3 in line 4, the word "board" and inserting in place thereof the
4 word: — commissioner.

1 SECTION 13. Said section 16D of the said chapter 94, as so
2 appearing, is hereby further amended by striking out, in lines 14
3 and 15, the words "the decision of the director may be appealed to
4 the board, whose decision shall be final."

1 SECTION 14. Section 16H of said chapter 94 as appearing in
2 chapter 262 of the acts of 1964, is hereby amended by striking out,
3 in lines 5, 8, 10, 16, and 19, the word "board" and inserting in place
4 thereof, in each instance, the word: — commissioner.

1 SECTION 15. Section 16J of the said chapter 94 as inserted by
2 chapter 542 of the acts of 1946, is hereby amended by striking out,
3 in lines 1, 19, and 20, the words "milk regulation board" and
4 inserting in place thereof, in each instance, the word: — com-
5 missioner.

1 SECTION 16. Said section 16K of the said chapter 94, as so
2 appearing, is hereby further amended by striking out, in line 25, the
3 words "milk regulation board" and inserting in place thereof the
4 word: — commissioner.

1 SECTION 17. Section seventeen, nineteen, twenty-one,
2 twenty-two, twenty-three, twenty-four, forty-six, forty-seven and
3 forty-eight C of said chapter 94 are hereby repealed.

1 SECTION 18. Section 48D of said chapter 94, as inserted by
2 section 8 of chapter 757 of the acts of 1955, is hereby amended by
3 striking out said section and inserting in place thereof the following
4 section: —

5 *Section 48D.* No person shall blend milk and cream for sale
6 except in an establishment licensed under the provisions of section
7 forty-eight A or section sixteen K of this chapter. Whoever violates
8 any provision of this section shall be punished by a fine of not less
9 than twenty-five nor more than one hundred dollars for each
10 offense.

1 SECTION 19. Section 48E of said chapter 94, as inserted by
2 chapter 43 of the acts of 1960, is hereby amended by striking out
3 said section and inserting in place thereof the following section: —

4 *Section 48E.* For the purposes of this chapter, a cultured milk
5 product is hereby defined as consisting of milk, cream and
6 products thereof to which a culture of organisms not injurious to
7 health has been added and fermented. No person shall manufac-
8 ture a cultured milk product for sale except in an establishment

9 licensed under section forty-eight A or section sixteen K for the
10 pasteurization of milk; nor shall any person, himself or by his
11 agent, sell, deliver or distribute, or have in his custody or
12 possession with intent to sell, deliver, or distribute, any cultered
13 milk product in any city or town where an inspector of milk is
14 appointed unless such person is licensed by said inspector under
15 section forty of this chapter. Whoever violates any provision of this
16 section shall be punished by a fine of not less than twenty-five nor
17 more than one hundred dollars for each offense.

1 SECTION 20. Sections three and five of this act shall take
2 effect upon passage. Sections one, two, four, six, seven, eight and
3 nine thereof shall take effect on the first day of the fourth month
4 next following such passage.

