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PUBLIC HEALTH

(410 ILCS 635/) Grade A Pasteurized Milk and Milk Products Act.

(410 ILCS 635/1) (from Ch. 56 1/2, par. 2201)

Sec. 1. This Act shall be known and may be cited as the "Grade A Pasteurized Milk and Milk Products Act".

(Source: P.A. 83-102.)

(410 ILCS 635/2) (from Ch. 56 1/2, par. 2202)

Sec. 2. The purpose of this Act is to protect, promote, and preserve the public health and general welfare by providing for the establishment and enforcement of minimum standards for cleanliness and safe sanitation practices for all Grade A milk and milk products and to provide for inspection and issuance of permits to operators of dairy farms, milk plants, receiving stations, transfer stations, milk hauler-samplers, milk tank trucks, and certified pasteurizer sealers.

(Source: P.A. 92-216, eff. 1-1-02.)

(410 ILCS 635/3) (from Ch. 56 1/2, par. 2203)

Sec. 3. Definitions.

(a) As used in this Act "Grade A" means that milk and milk products are produced and processed in accordance with the current Grade A Pasteurized Milk Ordinance as adopted by the National Conference on Interstate Milk Shipments and the United States Public Health Service - Food and Drug Administration and all other applicable federal regulations. The term Grade A is applicable to "dairy farm", "milk hauler-sampler", "milk plant", "milk product", "receiving station", "transfer station", "milk tank truck", and "certified pasteurizer sealer" whenever used in this Act.

(b) Unless the context clearly indicates otherwise, terms have the meaning ascribed as follows:

(1) "Dairy farm" means any place or premise where one or more cows or goats are kept, and from which a part or all of the milk or milk products are provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

(2) "Milk" means the milk of cows or goats and

includes skim milk and cream.

(3) "Milk plant" means any place, premise, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, aseptically processed, bottled, or prepared for distribution.

(4) "Milk product" means any product including cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified light cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, lowfat milk, frozen milk concentrate, eggnog, buttermilk, cultured milk, cultured lowfat milk or skim milk, cottage cheese, yogurt, lowfat yogurt, nonfat yogurt, acidified milk, acidified lowfat milk or skim milk, low-sodium milk, low-sodium lowfat milk, low-sodium skim milk, lactose-reduced milk, lactose-reduced lowfat milk, lactose-reduced skim milk, aseptically processed and packaged milk and milk products, and milk, lowfat milk or skim milk with added safe and suitable microbial organisms.

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

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

(7) "Department" means the Illinois Department of Public Health.

(8) "Director" means the Director of the Illinois Department of Public Health.

(9) "Embargo or hold for investigation" means a detention or seizure designed to deny the use of milk or milk products which may be unwholesome or to prohibit the use of equipment which may result in contaminated or unwholesome milk or dairy products.

(10) "Imminent hazard to the public health" means any hazard to the public health when the evidence is sufficient to show that a product or practice, posing or contributing to a significant threat of danger to health, creates or may create a public health situation (1) that should be corrected immediately to prevent injury and (2) that should not be permitted to continue while a hearing or other formal proceeding is being held.

(11) "Person" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, the State of Illinois, or any political subdivision or department thereof, or any other entity.

(12) "Enforcing agency" means the Illinois Department of Public Health or a unit of local government electing to administer and enforce this Act as provided for in this Act.

(13) "Permit" means a document awarded to a person for compliance with the provisions of and under conditions set forth in this Act.

(14) "Milk hauler-sampler" means a person who is qualified and trained for the grading and sampling of raw milk in accordance with federal and State quality standards and procedures.

(15) "Cleaning and sanitizing facility" means any

place, premise or establishment where milk tank trucks are cleaned and sanitized.

(16) "Milk tank truck" includes both a bulk pickup tank and a milk transport tank.

(A) "Bulk milk pickup tank" means the tank, and those appurtenances necessary for its use, used by a milk hauler-sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station.

(B) "Milk transport tank" means a vehicle, including the truck and tank, used by a milk hauler to transport bulk shipments of milk from a transfer station, receiving station, or milk plant to another transfer station, receiving station, or milk plant.

(17) "Certified pasteurizer sealer" means a person who has satisfactorily completed a course of instruction and has demonstrated the ability to satisfactorily conduct all pasteurization control tests, as required by rules adopted by the Department.

(Source: P.A. 97-135, eff. 7-14-11.)

(410 ILCS 635/4) (from Ch. 56 1/2, par. 2204)

Sec. 4. The Illinois Department of Public Health shall administer and enforce this Act. However, any local unit of government with a population of 1,000,000 or more and having or contracting with a health department with a qualified administrative and inspectional staff meeting the personnel standards promulgated by the Illinois Department of Public Health, may administer and enforce this Act by adopting an ordinance containing provisions for enforcement and penalties, and adopting by reference the rules and regulations promulgated and amended from time to time by the Department under the authority of this Act. A local unit of government that is so qualified and elects to administer and enforce this Act shall furnish the Department a copy of its ordinance and the names and qualifications of the employees required by this Act. When it is determined by the Department that the local unit of government is not administering or enforcing the approved local ordinance in an approved manner, such local unit of government shall be notified in writing and given a reasonable time to improve its administration and enforcement of the approved ordinance. During this time period, the Department may make inspections or take enforcement action as necessary to insure compliance with the provisions of this Act. If after such notice and time allowed the local unit of government is unable to administer and enforce the approved ordinance in an approved manner, the approval to administer and enforce this Act shall be revoked and the administration and enforcement of this Act shall revert to the Department.

Dairy farms, milk plants, receiving stations, cleaning and sanitizing facilities, transfer stations, and milk hauler-samplers in jurisdictions under a local ordinance at the time of the effective date of this Act will be subject to the local ordinance in lieu of this Act until July 1, 1986, or until the date prior to July 1, 1986, when the local ordinance is brought into compliance with this Act.

(Source: P.A. 89-526, eff. 7-19-96.)

(410 ILCS 635/5) (from Ch. 56 1/2, par. 2205)

Sec. 5. After the effective date of this Act, it shall be unlawful for any person to establish, maintain, conduct, or operate a dairy farm, milk plant, receiving station, or transfer station processing milk or milk products, to establish and operate a cleaning and sanitizing facility or milk tank truck, to haul or sample milk, or to act as a certified pasteurizer sealer within this State, or to bring into and distribute from out-of-state milk and milk products without first obtaining a permit

therefor from the Department.

The Department may prescribe and conduct examinations, a portion of which may be written, to test the knowledge of milk hauler-samplers and certified pasteurizer sealers as a condition for awarding permits.

Permits issued by the Department for certified pasteurizer sealers, cleaning and sanitizing facilities, milk plants, and receiving or transfer stations shall expire on December 31 of each year. Permits issued to milk hauler-samplers shall expire on March 31 of each year. Permits issued for milk tank trucks shall remain valid indefinitely unless revoked by the Department for noncompliance with the rules promulgated under this Act or the milk tank truck is transferred or removed from service. Permits issued for dairy farms shall have no expiration date and shall remain valid indefinitely unless revoked by the Department for noncompliance with the rules promulgated under this Act or discontinuation of the dairy farm operation for which a permit was issued.

Applications for original permits or renewals shall be made on forms furnished by the Department. Each application shall contain: (1) the name and address of the applicant or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, or the names and addresses of all persons having a financial interest therein if the applicant is a group of individuals, association or trust; and (2) the location of the plant, station, cleaning and sanitizing facility, certified pasteurizer sealer, milk tank truck, or milk hauler-sampler. A permit shall be valid only in the hands of the person to whom it is issued and shall not be the subject of sale, assignment or other transfer, voluntary or involuntary, nor shall the permit be valid for any premises, milk tank truck, certified pasteurizer sealer, or milk hauler-sampler other than the one for which originally issued.

(Source: P.A. 92-216, eff. 1-1-02.)

(410 ILCS 635/5.1) (from Ch. 56 1/2, par. 2205.1)

Sec. 5.1. (a) The Department shall charge a fee of \$100 for each permit issued to a milk plant; \$50 for each permit issued to a receiving station, transfer station, or cleaning and sanitizing facility; \$25 for each permit issued to a milk hauler-sampler; \$25 for each permit issued for a milk tank truck; and \$100 for each certified pasteurizer sealer. In addition to such fees, the Department shall assess a late fee if an application for renewal of a permit is received after the expiration date of the existing permit. The late fee shall be \$50 for a permit issued to a milk plant; \$25 for a permit issued to a receiving station, transfer station, or cleaning and sanitizing facility; and \$15 for a permit issued to a milk hauler-sampler.

(b) All permit fees charged under this Section shall be deposited into the Food and Drug Safety Fund.

(Source: P.A. 92-216, eff. 1-1-02.)

(410 ILCS 635/6) (from Ch. 56 1/2, par. 2206)

Sec. 6. If the Department finds that a dairy farm, milk hauler-sampler, milk plant, cleaning and sanitizing facility, receiving station, transfer station, milk tank truck, or pasteurizer sealer for which a permit is sought is not in compliance with the provisions of this Act or the rules and regulations relating thereto, but that such dairy farm, milk plant, cleaning and sanitizing facility, transfer or receiving station, milk tank truck, milk hauler-sampler, or pasteurizer sealer may operate without undue prejudice to the public health, the Department may issue a conditional permit setting forth the conditions on which the permit is issued, the manner in which the dairy farm, milk plant, cleaning and sanitizing facility, transfer or receiving station, milk tank truck, milk hauler-sampler, or pasteurizer sealer fails to comply with the Act and such rules and regulations and shall set forth the time, not to exceed 90 days, within

which the applicant must make any changes or corrections necessary in order for such dairy farm, milk plant, cleaning and sanitizing facility, transfer or receiving station, milk tank truck, milk hauler-sampler, or pasteurizer sealer to fully comply with this Act and the rules and regulations relating thereto.

(Source: P.A. 92-216, eff. 1-1-02.)

(410 ILCS 635/7) (from Ch. 56 1/2, par. 2207)

Sec. 7. After the effective date of this Act, properly prepared plans for all dairy farm milking facilities, transfer stations, receiving stations, cleaning and sanitizing facilities and milk plants regulated under this Act which are hereafter constructed, reconstructed, or extensively altered shall be submitted to the enforcing agency for written approval before work is begun.

(Source: P.A. 84-910.)

(410 ILCS 635/8) (from Ch. 56 1/2, par. 2208)

Sec. 8. After the effective date of this Act, no person shall sell or distribute, offer to sell or distribute any milk or milk product for human use or consumption unless such milk or milk product has been pasteurized and has been produced and processed in accordance with rules and regulations promulgated by the Department.

The term "sell or distribute for use or consumption" means to sell or distribute to a person for human use or consumption and not for processing or resale in any form.

The pasteurization requirement of this Section shall not be applicable to milk produced in accordance with Department rules and regulations if sold or distributed on the premises of the dairy farm.

(Source: P.A. 83-102.)

(410 ILCS 635/9) (from Ch. 56 1/2, par. 2209)

Sec. 9. All permits for farms, plants or stations as provided for in this Act shall be displayed in a conspicuous place for public view within or on the premises. A sticker or decal identifying the permit number must be displayed on the milk tank truck immediately adjacent to the manufacturer's identification plate. A milk hauler-sampler shall maintain upon his person his permit or renewal at all such times as he is operating a milk tank truck or collecting a sample. A certified pasteurizer sealer shall maintain upon his or her person his or her permit or renewal at all times during which he or she is testing a pasteurizer.

(Source: P.A. 92-216, eff. 1-1-02.)

(410 ILCS 635/10) (from Ch. 56 1/2, par. 2210)

Sec. 10. After proper identification, authorized representatives of the enforcing agency are authorized and shall have the power to enter, at reasonable times, all dairy farms, milk plants, cleaning and sanitizing facilities, receiving stations, transfer stations, or vehicles used to transport milk and milk products under its jurisdiction, for the purpose of inspecting, sampling, and investigating conditions relating to the enforcement of this Act and the rules and regulations promulgated hereunder.

At least 4 times during every 6-month period, representatives of the enforcing agency shall collect samples of milk from each milk plant for testing. The samples shall be tested for salmonella. If a product tests unsatisfactorily, two more samples, each obtained on separate days, shall be tested; if the average of the 3 test results fails to meet the enforcing agency's standards, the milk plant shall be in violation of this Act.

Written notice of all violations shall be given to the dairy farm, milk plant, cleaning and sanitizing facility, receiving or transfer station, milk

hauler-sampler, milk tank truck, or certified pasteurizer sealer.
(Source: P.A. 92-216, eff. 1-1-02.)

(410 ILCS 635/11) (from Ch. 56 1/2, par. 2211)

Sec. 11. When the enforcing agent has reasonable cause to suspect that a disease has been transmitted from any dairy farm, milk plant, cleaning and sanitizing facility, receiving station or transfer station, owner, operator, employee or milk hauler-sampler, the enforcing agency shall secure a morbidity history of the suspected individual, or make such other investigations as may be indicated and take appropriate action. The enforcing agency may require any or all of the following measures: (a) the immediate exclusion of the individual from the plant, station, cleaning and sanitizing facility, or milk tank truck; (b) the immediate closure of the plant, station, cleaning and sanitizing facility, or milk tank truck under the emergency provision as provided in this Act; (c) the restriction of the individual's services to some production or processing area where there would be no danger of transmitting disease; and (d) the adequate medical and laboratory examinations of the individual, and of his body discharges.
(Source: P.A. 89-526, eff. 7-19-96.)

(410 ILCS 635/12) (from Ch. 56 1/2, par. 2212)

Sec. 12. Whenever the enforcing agency finds that an imminent hazard to the public health exists which requires immediate action to protect the public health, it may, without any administrative procedure to bond, bring an action for immediate injunctive relief to require that such action be taken as the court may deem necessary to meet the emergency, including the closing of the dairy farm, milk plant, receiving or transfer station, cleaning and sanitizing facility, milk hauler-sampler, milk tank truck, or certified pasteurizer sealer or the suspension or revocation of the permit. Notwithstanding any other provision of this Act, such order shall be effective immediately. The court may issue an ex parte order and shall schedule a hearing on the matter no later than 3 working days from the date of the injunction. Where this Act is being enforced by the State of Illinois, the State's Attorney of the county in which the violation occurred or the Attorney General shall bring such actions in the name of the People of the State of Illinois. When, in the opinion of the enforcing agency, such conditions are abated, it may authorize reopening the plant, cleaning and sanitizing facility or station, and the injunctive order shall be dissolved.
(Source: P.A. 92-216, eff. 1-1-02.)

(410 ILCS 635/13) (from Ch. 56 1/2, par. 2213)

Sec. 13. The enforcing agency is authorized to embargo or hold for investigation any milk, milk product or equipment which it may have reason to believe constitutes or may be contributing to a health hazard or violates this Act or the rules and regulations promulgated hereunder. Such milk, milk product or equipment shall not be disposed of until a release is secured from the enforcing agency. The enforcing agency shall complete its action on any such embargoed item within a reasonable time and the plant or station shall be promptly notified of the enforcing agency's decision.
(Source: P.A. 84-910.)

(410 ILCS 635/14) (from Ch. 56 1/2, par. 2214)

Sec. 14. Whenever the enforcing agency finds in any dairy farm, milk plant, receiving station, transfer station or vehicle any milk, milk product or other dairy product which contains any unwholesome substance, or that may be poisonous or deleterious to health or otherwise unsafe, such milk, milk product or other dairy product shall be declared to be a nuisance, the Director or his authorized agent shall condemn or destroy it or in any other

manner render the same unsalable as human food.
(Source: P.A. 84-910.)

(410 ILCS 635/14.1) (from Ch. 56 1/2, par. 2214.1)

Sec. 14.1. (a) A milk tank truck used to haul grade A milk or milk products may be used only for that purpose, and may not be used to haul any other substance, except those substances listed pursuant to subsection (c) of this Section.

(b) Milk introduced into any tank truck that has been previously used to haul any chemical or foreign substance, other than grade A milk or milk products, shall be presumed to be contaminated, unwholesome and unfit for human consumption, unless such tank truck was cleaned and sanitized prior to the introduction of the milk according to the standards promulgated by the Department.

(c) The Department shall adopt by rule a listing of those substances other than milk that may be hauled by milk tank trucks into which, after proper cleaning and sanitizing procedures have been completed, milk can be reintroduced without risk of contamination from any residue from the substance. Such list shall not contain any toxic substance.

(d) This Section does not prohibit the use in milk tank trucks of any substance permitted by the Department to be used in the cleaning, sterilization or routine maintenance of milk tank trucks.

(e) The Department shall require the maintenance of a log for each tank truck used to haul milk and other substances. Such logs shall include: (1) the date or dates of each trip taken by the tank truck; (2) the name of the substance hauled by the tank truck; (3) the date the tank truck was cleaned and sanitized; (4) the location where the truck was cleaned and sanitized; and (5) such other information deemed necessary by the Department to enforce this Act. The log for a tank truck shall be available upon request.

(Source: P.A. 84-1069.)

(410 ILCS 635/15) (from Ch. 56 1/2, par. 2215)

Sec. 15. The Department shall, in accordance with the Illinois Administrative Procedure Act, promulgate, publish and adopt rules, regulations and standards as may be necessary for the proper enforcement of this Act. The rules, regulations and standards shall include but not be limited to requirements for dairy farms, milk hauler-samplers, milk tank trucks, milk plants, certified pasteurizer sealers, cleaning and sanitizing facilities, receiving stations and transfer stations.

(Source: P.A. 92-216, eff. 1-1-02.)

(410 ILCS 635/16) (from Ch. 56 1/2, par. 2216)

Sec. 16. Violation; penalty.

(a) Any person who violates this Act or any rule or regulation adopted by the Department under this Act shall be guilty of a Class A misdemeanor and fined a sum of not less than \$100, except that a milk hauler-sampler or certified pasteurizer sealer shall be guilty of a Class C misdemeanor. Each day's violation shall constitute a separate offense. The State's Attorney of the county in which the violation occurred or the Attorney General shall bring such actions in the name of the People of the State of Illinois, or may in addition to other remedies provided in this Act, bring action for an injunction to restrain such violations, or to enjoin the operation which caused the violation.

(b) Whenever a person ships milk found to be adulterated with a violative drug residue, a penalty may be assessed equivalent to the suspension of milk shipment for 48 hours for the first offense. A second and third offense may require a penalty equivalent to the suspension of milk shipment for 96 hours. The Department shall adopt these penalties by rule. Penalties collected by the Department shall be deposited into the Food and

Drug Safety Fund.

(Source: P.A. 88-600, eff. 9-1-94; 89-526, eff. 7-19-96.)

(410 ILCS 635/17) (from Ch. 56 1/2, par. 2217)

Sec. 17. The Administrative Review Law governs all proceedings for judicial review of final administrative decisions of the Department under this Act. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(Source: P.A. 83-102.)

(410 ILCS 635/18) (from Ch. 56 1/2, par. 2218)

Sec. 18. The provisions of The Illinois Administrative Procedure Act are adopted and apply to and govern all administrative procedures under this Act.

(Source: P.A. 83-102.)

(410 ILCS 635/19) (from Ch. 56 1/2, par. 2219)

Sec. 19. It is declared to be the law of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution that the regulation of dairy farms, milk plants, cleaning and sanitizing facilities, receiving stations, transfer stations, milk tank trucks, milk hauler-samplers, and certified pasteurizer sealers is an exercise of exclusive State power which may not be exercised concurrently by a home rule unit unless provided otherwise in Section 4 of this Act.

(Source: P.A. 92-216, eff. 1-1-02.)

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