
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1501 Session of
2008

INTRODUCED BY BRUBAKER, WOZNIAK, BAKER, RAFFERTY, CORMAN, MUSTO,
VANCE AND WAUGH, JUNE 19, 2008

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, JUNE 19, 2008

AN ACT

1 Amending the act of July 2, 1935 (P.L.589, No.210), entitled, as
2 amended, "An act to safeguard human health and life by
3 providing for the issuance of permits to, and regulation of
4 persons and entities selling milk and milk products;
5 conferring powers, and imposing duties on the Secretary of
6 Agriculture; and otherwise providing for the administration
7 of the act; and imposing penalties," providing for raw milk
8 products; and abrogating inconsistent regulations.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 1 of the act of July 2, 1935 (P.L.589,
12 No.210), referred to as the Milk Sanitation Law, amended October
13 13, 1959 (P.L.1301, No.435) and June 19, 1982 (P.L.558, No.163),
14 is amended to read:

15 Section 1. Be it enacted, &c., That for the purpose and
16 within the meaning of this act, the following definitions shall
17 obtain:

18 "Milk" means milk, skimmed milk, cream, sour milk, sour
19 cream, buttermilk, and all other fluid derivatives of milk.

20 "Milk products" means ice cream, ice cream mix, custard ice

1 cream, french ice cream, frozen custard, and other similar
2 frozen products, and all dairy products used in the manufacture
3 thereof.

4 "Canned milk" means condensed, evaporated or concentrated
5 milk in hermetically sealed containers or for manufacturing
6 purposes.

7 "Certified Milk" means milk from dairy farms operated in
8 accordance with the "Methods and Standards for the Production
9 and Distribution of 'Certified Milk,' last adopted by the
10 American Association of Medical Milk Commissions Incorporated,"
11 and the production and handling of which shall be certified to
12 by a commission instituted in compliance therewith.

13 "Secretary" means the Secretary of Agriculture of this
14 Commonwealth, or his authorized representative.

15 "Person" includes singular and plural, masculine and
16 feminine, and any individual, firm, copartnership, institution,
17 association, or corporation thereof.

18 "To Sell," "for sale" or "sold" and similar terms means the
19 selling, exchanging, delivering, or having in possession, care,
20 control, or custody with intent to sell, exchange, or deliver,
21 or to offer or to expose for sale.

22 "Dairy farm" is a place or premise where one or more cows are
23 kept, and a part of all the milk from which is sold or delivered
24 to any person.

25 "Milk plant" is any place or premise or establishment where
26 milk is collected, separated, processed, stored, bottled,
27 pasteurized, or prepared in any manner for sale as milk, milk
28 products [or], manufactured dairy products, raw milk, raw milk
29 products or manufactured raw milk products.

30 "Approved inspector" is one, who has proven to the

1 satisfaction of the secretary, to be a person of good character,
2 trained by school and experience to carry on dairy farm and milk
3 plant inspection in a capable and efficient manner, and has
4 received a certificate of approval from the secretary.

5 Applications for certificates of approval for approved
6 inspectors shall be made on forms which may be secured from the
7 Secretary of Agriculture, and shall be accompanied by a fee of
8 fifteen (\$15) dollars. Certificates of approval shall expire on
9 December thirty-first of each year. Applications for renewal
10 shall be made on forms satisfactory to the Secretary of
11 Agriculture, and shall be accompanied by a registration fee of
12 five (\$5) dollars, and shall be returned to the Secretary of
13 Agriculture not later than December fifteenth of each year.
14 Certificates of approval shall not constitute an approved
15 inspector an official employe, agent or authorized
16 representative of the Department of Agriculture, nor shall he
17 represent himself so to be.

18 Certificates of approval may be refused, suspended or revoked
19 for cause, upon such notice and subject to such conditions, as
20 the secretary shall deem necessary.

21 "Municipality" includes any city, borough, town, or township
22 in this Commonwealth.

23 "Milk for manufacturing purposes" means milk produced for
24 processing and manufacturing into products for human consumption
25 but not subject to requirements of milk for pasteurization.

26 "Manufactured dairy products" means butter, cheese (natural
27 or processed), dry whole milk, nonfat dry milk, dry buttermilk,
28 dry whey, evaporated milk (whole or skim), condensed whole and
29 condensed skim milk (plain or sweetened), and such other
30 products for human consumption, as may be designated by the

1 secretary.

2 "Bed and breakfast homestead or inn" means a private
3 residence which contains no more than ten bedrooms used for
4 providing overnight accommodations to the public and in which
5 breakfast is the only meal served and is included in the charge
6 for the room.

7 "Farmers' market" means a building, structure or place owned,
8 leased or otherwise in possession of a person, municipal
9 corporation or public or private organization, used or intended
10 to be used by two or more farmers or an association of farmers
11 for the purpose of selling agricultural commodities directly to
12 consumers and which is located within this Commonwealth.

13 "Manufactured raw milk products" means butter, natural or
14 processed cheese, dry whole milk, nonfat dry milk, dry
15 buttermilk, dry whey, evaporated milk, whole or skim, condensed
16 whole and condensed skim milk, plain or sweetened, and such
17 other products for human consumption, as may be designated by
18 the secretary, manufactured from raw milk.

19 "Raw milk product" means any product manufactured from raw
20 milk including any of the following:

21 (1) Ice cream, ice cream mix, custard ice cream, French ice
22 cream, frozen custard and other similar frozen products.

23 (2) A dairy product used in the manufacture of an item under
24 paragraph (1).

25 "Retail food establishment" is an establishment which stores,
26 prepares, packages, vends, offers for sale or otherwise provides
27 food for human consumption and which relinquishes possession of
28 food to a consumer directly, or indirectly, through a delivery
29 service such as home delivery of grocery orders or delivery
30 service provided by common carriers. The term does not include

1 dining cars operated by a railroad company in interstate
2 commerce or a bed and breakfast homestead or inn.

3 Section 2. Section 2 of the act, amended June 15, 1972
4 (P.L.416, No.120) and June 19, 1982 (P.L.558, No.163), is
5 amended to read:

6 Section 2. Except as hereinafter provided, no person shall
7 sell milk, milk products [or], manufactured dairy products, raw
8 milk, raw milk products or manufactured raw milk products within
9 this Commonwealth without first having obtained a permit from
10 the "secretary," nor otherwise than in accordance with the
11 requirements of this act. Each person desiring a permit to sell
12 milk, milk products [or], manufactured dairy products, raw milk,
13 raw milk products or manufactured raw milk products shall
14 annually make an application therefor on a form to be secured
15 from the "secretary." Such application shall set forth--

16 (a) The name and address of the applicant.

17 (b) The designations of the milk or milk products to be
18 offered for sale.

19 (c) The name of the municipality or municipalities in which
20 the applicant desires to sell milk or milk products.

21 (d) An accurate record of each milk plant owned or operated
22 by the applicant for a permit.

23 (e) Such other information as may be required by the
24 "secretary."

25 Permits shall be issued only to persons, whose entire milk
26 supply, the farms, where it is produced and the milk plants in
27 which the milk or milk products is handled, have been approved
28 by the secretary, and in any case in which, in his discretion,
29 he shall deem such action necessary for approval, inspected by
30 the secretary. Every permit shall expire annually.

1 This section shall not apply to a person selling or
2 delivering milk directly from a dairy farm to a milk plant.

3 Unless the "secretary" shall require a permit, this section
4 shall not apply to a person selling milk or milk products from a
5 store, when such milk or milk products are purchased from a
6 person already in lawful possession of a permit to sell milk or
7 milk products.

8 This section shall not apply to hotels, restaurants, soda
9 fountains, boarding houses, or other places where milk or milk
10 products is served, when such milk or milk products is to be
11 consumed on the premises thereof, and is purchased from one
12 already in lawful possession of a permit to sell milk or milk
13 products.

14 The "secretary" may, in his discretion, exempt a person
15 selling milk from not more than one cow from such requirements
16 of this act, as he may deem in each instance to be unnecessary
17 for the protection of the public health.

18 When the Secretary of Agriculture inspects a plant beyond the
19 boundary of the Commonwealth, the secretary may require such
20 plant to reimburse the department for all necessary and
21 reasonable expenses incurred in making the inspection, which
22 shall be retained by the department for its use in making such
23 inspections.

24 The secretary is authorized to effectuate and enter into
25 reciprocal agreements with other states, commonwealths or
26 jurisdictions as will insure inhabitants of this Commonwealth
27 milk and milk products complying with the requirements herein
28 enacted or promulgated in rules and regulations hereunder
29 through reciprocal inspection and labeling agreements and in aid
30 of such agreements may approve or accept inspection and labeling

1 requirements of other commonwealths, states and jurisdictions
2 with respect to milk and milk products.

3 Section 3. Sections 6 and 9 of the act, amended June 19,
4 1982 (P.L.558, No.163), are amended to read:

5 Section 6. Every person, having made an application for a
6 permit to sell milk, milk products [or], manufactured dairy
7 products, raw milk, raw milk products or manufactured raw milk
8 products or holding a permit for the sale of milk, milk products
9 [or], manufactured dairy products, raw milk, raw milk products
10 or manufactured raw milk products, shall, at any time, allow the
11 "secretary" to inspect the herds, stables, and dairy farms from
12 which milk is obtained, handled, or prepared for sale, to
13 inspect the milk plants, pasteurizing, bottling, and handling of
14 milk, milk products [or], manufactured dairy products, raw milk,
15 raw milk products or manufactured raw milk products, examine
16 books and papers wherein a record is kept of the name and
17 address of each person from whom "milk", "milk products" [or],
18 "manufactured dairy products", "raw milk", "raw milk products"
19 or "manufactured raw milk products" is purchased, the amount of
20 "milk", "milk products" [or], "manufactured dairy products",
21 "raw milk", "raw milk products" or "manufactured raw milk
22 products" purchased, and the date on which the "milk", "milk
23 products" [or], "manufactured dairy products", "raw milk", "raw
24 milk products" or "manufactured raw milk products" was
25 purchased, in any manner whatsoever, and to take such samples of
26 milk, milk products [or], manufactured dairy products, raw milk,
27 raw milk products or manufactured raw milk products, as may be
28 deemed necessary, upon payment therefor at the usual market
29 price when payment is demanded. The "secretary" shall have the
30 power to subpoena, for the purpose of any hearing, all books and

1 records of any permit holder or of any other corporation or
2 person in any case in which records in its or his possession, or
3 over which it or he has control, is reasonably necessary to the
4 proper conduct of the affairs of the secretary under this act.

5 Non-compliance with the provisions of this section by a
6 permit holder is hereby specifically declared to be a violation
7 of this act and subject to the penal provisions hereof, and
8 shall be sufficient grounds for the revocation of the permit of
9 such permit holder.

10 Section 9. Every applicant for or holder of a permit to sell
11 pasteurized milk, milk for pasteurization [or], milk products or
12 manufactured dairy products, raw milk, raw milk products or
13 manufactured raw milk products shall keep an accurate record of
14 the names and addresses of the owners or operators of all dairy
15 farms from which milk is received. This record shall be kept on
16 file in the milk plant where the milk is received, and shall be
17 available at all times for the inspection of the secretary.

18 An accurate report of a sanitary inspection on all dairy
19 farms from which milk is received and of the milk as delivered
20 to the milk plant shall be kept on file in the milk plant. The
21 sanitary inspection shall be made semi-annually by an approved
22 inspector at the expense of the applicant for or holder of a
23 permit. Such payment shall be made only by the applicant for or
24 holder of the permit for the plant to which the milk from the
25 farm which is inspected is or is to be delivered. Such
26 inspections may be made by the secretary. Within thirty days
27 after demand by the secretary, additional inspections shall be
28 made of any or all farms, and reports thereon filed in the milk
29 plant. Inspection reports shall be made upon forms satisfactory
30 to the secretary.

1 No applicant for or holder of a permit to sell pasteurized
2 milk or milk for pasteurization [or], milk products or
3 manufactured dairy products, raw milk, raw milk products or
4 manufactured raw milk products shall receive milk from a dairy
5 farm until the report of the sanitary inspection made by an
6 approved inspector shall have been placed on file in the milk
7 plant where the milk is received for the inspection and approval
8 of the secretary, nor shall he receive milk, milk products [or],
9 manufactured dairy products, raw milk, raw milk products or
10 manufactured raw milk products from any milk plant owned or
11 operated by another person who is not in lawful possession of a
12 permit.

13 No milk, milk products [or], manufactured dairy products, raw
14 milk, raw milk products or manufactured raw milk products shall
15 be received in any milk plant for any purpose, unless such milk
16 [or], milk products, raw milk, raw milk products or manufactured
17 raw milk products shall have been produced on dairy farms, or
18 acquired from milk plants approved by the secretary, or unless
19 permission for the receipt of such milk [or], milk products, raw
20 milk, raw milk products or manufactured raw milk products shall
21 be obtained from the secretary.

22 A milk plant may be used only for the preparation and
23 processing of milk, milk products, manufactured dairy products,
24 raw milk, raw milk products, manufactured raw milk products or
25 fruit juices, if received from a source acceptable to the
26 Secretary of Agriculture with respect to sanitation and
27 protection of public health.

28 Section 4. The act is amended by adding sections to read:

29 Section 12.2. Manufactured raw milk products shall be
30 prepared from milk produced and handled in the following manner:

1 (a) Only milk produced under a raw milk permit may be used
2 in the preparation of "manufactured raw milk products."

3 (b) Milk containers in which milk is received in milk plants
4 for the preparation of "manufactured raw milk products" shall be
5 thoroughly cleansed and dried before returning to a dairy farm
6 or milk plant.

7 (c) The rooms of buildings in which "manufactured raw milk
8 products" are exposed during and after preparation shall be
9 properly lighted, ventilated, drained and clean and shall be
10 used for no other purpose than to provide a place for cleansed
11 containers and utensils and for the handling of "manufactured
12 raw milk products."

13 (d) "Manufactured raw milk products", during and after
14 preparation, cleansed containers, utensils and equipment shall
15 be protected from flies.

16 (e) Milk plants in which "manufactured raw milk products"
17 are prepared shall be provided with an adequate supply of steam
18 or hot water for cleaning containers, utensils and equipment.

19 (f) Equipment with which "manufactured raw milk products"
20 come in contact shall be constructed in a manner as to be easily
21 cleansed. Demountable apparatus with which "manufactured raw
22 milk products" come in contact shall be taken apart and cleansed
23 each day the apparatus is in use. The secretary, upon approval
24 of the design, installation and operation of the system, may
25 permit in-place cleaning. Surfaces with which "manufactured raw
26 milk products" come in contact shall be smooth, noncorrosive
27 material and free of open seams.

28 (g) The milk plants in which "manufactured raw milk
29 products" are prepared shall not be constructed or altered until
30 plans and specifications of the milk plants have received the

1 approval of the secretary. Equipment before being installed
2 shall also be approved by the secretary.

3 (h) "Manufactured raw milk products" shall comply with
4 definitions, standards of identity and labeling requirements
5 adopted by regulation and shall not contain any substance not
6 normally found in the products, except those substances approved
7 by the secretary.

8 Section 12.3. Limitations on the sale of "Manufactured Raw
9 Milk Products."

10 (a) "Manufactured raw milk products" may be sold only as
11 follows:

12 (1) Under the direct supervision of a person holding a valid
13 raw milk permit.

14 (2) To a retail food establishment or a bed and breakfast
15 homestead or inn for the purpose of on-site consumption by
16 patrons of the establishment.

17 (b) Except for sale to a retail food establishment or a bed
18 and breakfast homestead or inn for on-site consumption by
19 patrons of the establishment, "manufactured raw milk products"
20 may not be sold to any person for the purpose of resale to
21 another person.

22 (c) "Manufactured raw milk products" may not be repackaged
23 in any manner for the purpose of resale.

24 (d) This section shall not apply to cheese manufactured from
25 raw milk that has been aged a minimum of 60 days.

26 Section 5. Sections 13, 14 and 16 of the act, amended June
27 19, 1982 (P.L.558, No.163), are amended to read:

28 Section 13. (a) Adequate facilities shall be provided and
29 used for furnishing clean containers, free from injurious
30 organisms, in which to sell "Raw Milk" or "Pasteurized Milk" or

1 "Milk for Pasteurization" or "Milk Products" or "Raw Milk
2 Products." Bottles or containers, whether of glass or other
3 material, shall be filled and closed without any part of the
4 hand coming in contact with the inner surface of the bottles or
5 containers, or in contact with bottle caps. Caps shall be
6 obtained in sanitary containers and kept therein until used.

7 (b) Milk cases in which bottled milk [or], milk products,
8 raw milk or raw milk products are owned and shipped by milk
9 dealers or licensees shall also be maintained in a sanitary
10 manner. It shall be unlawful for any person, firm or company,
11 other than the name imprinted or stamped on such containers, or
12 his agent, to alter, destroy or contaminate such containers. In
13 addition, it shall be unlawful for any person in rightful
14 possession of milk cases, but not the owner thereof, to permit
15 any third party to alter, destroy or contaminate such
16 containers. Each case so misused shall be deemed an individual
17 offense under section 20 of this act.

18 Section 14. Milk plants, in which milk, milk products [or],
19 manufactured dairy products, raw milk, raw milk products or
20 manufactured raw milk products is handled, received, bottled, or
21 pasteurized, shall be provided with sanitary, adequate and
22 conveniently located toilet facilities.

23 Section 16. The Secretary of Agriculture shall have the
24 power to make requirements concerning the number and character
25 of bacteria in milk, milk products [and], manufactured dairy
26 products, raw milk, raw milk products and manufactured raw milk
27 products after hearing.

28 Bacteriological analysis of milk, milk products [and],
29 manufactured dairy products, raw milk, raw milk products and
30 manufactured raw milk products shall be made under the

1 supervision of a laboratory, the equipment and director of which
2 have been approved by the Secretary of Agriculture. The
3 bacteriological analysis of milk, milk products [and],
4 manufactured dairy products, raw milk, raw milk products and
5 manufactured raw milk products shall be in accordance with
6 Standard Methods of Milk Analysis of the American Public Health
7 Association and the Association of Official Agricultural
8 Chemists last adopted, unless special permission is given by the
9 secretary for a modification of the above standard methods.

10 Section 6. The act is amended by adding sections to read:

11 Section 17.2. "Raw milk products" shall be prepared from
12 milk produced and handled in the following manner:

13 (a) Only milk produced under a raw milk permit may be used
14 in the preparation of "raw milk products."

15 (b) Milk containers in which milk is received in milk plants
16 for the preparation of "raw milk products" shall be thoroughly
17 cleansed and dried before returning to a dairy farm or a milk
18 plant.

19 (c) The rooms of buildings in which "raw milk products" are
20 exposed during and after preparation shall be properly lighted,
21 ventilated, drained and clean and shall be used for no other
22 purpose than to provide a place for cleansed containers and
23 utensils and for the handling of "raw milk products."

24 (d) "Raw milk products" during and after preparation,
25 cleansed containers, utensils and equipment shall be protected
26 from flies.

27 (e) Milk plants in which "raw milk products" are prepared
28 shall be provided with an adequate supply of steam or hot water
29 for cleansing containers, utensils and equipment.

30 (f) Equipment with which "raw milk products" come in contact

1 shall be constructed in such a manner as to be easily cleansed.
2 Demountable apparatus with which "raw milk products" come in
3 contact shall be taken apart and cleansed each day the apparatus
4 is in use. The secretary, upon approval of the design,
5 installation and operation of the system, may permit in-place
6 cleaning. Surfaces with which "raw milk products" come in
7 contact shall be of smooth, noncorrosive material and free from
8 open seams.

9 (g) The milk plants in which "raw milk products" are
10 prepared shall not be constructed or altered until the plans and
11 specifications of the milk plants have received the approval of
12 the secretary. Equipment before being installed shall also be
13 approved by the secretary.

14 Section 17.3. Limitations on the sale of "raw milk products"
15 shall be in the following manner:

16 (a) "Raw milk products" may be sold only as follows:

17 (1) Under the direct supervision of a person holding a valid
18 raw milk permit.

19 (2) To a retail food establishment or a bed and breakfast
20 homestead or inn for the purpose of on-site consumption by
21 patrons of the establishment.

22 (b) Except for sale to a retail food establishment or a bed
23 and breakfast homestead or inn for on-site consumption by
24 patrons of the establishment, "raw milk products" may not be
25 sold to any person for the purpose of resale to another person.

26 (c) "Raw milk products" may not be repackaged in any manner
27 for the purpose of resale.

28 Section 7. The Department of Agriculture shall promulgate
29 regulations necessary to carry out the provisions of this act.

30 Section 8. All regulations inconsistent with the provisions

1 of this act are abrogated to the extent of the inconsistency.

2 Section 9. This act shall take effect in 60 days.