
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1330 Session of
2020

INTRODUCED BY VOGEL, SCHWANK AND J. WARD, SEPTEMBER 18, 2020

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, SEPTEMBER 18, 2020

AN ACT

1 Amending Title 3 (Agriculture) of the Pennsylvania Consolidated
2 Statutes, in food protection, providing for milk sell by date
3 and best by date labeling.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Chapter 57 of Title 3 of the Pennsylvania
7 Consolidated Statutes is amended by adding a subchapter to read:

8 SUBCHAPTER C

9 MILK SELL BY DATE AND BEST BY DATE LABELING

10 Sec.

11 5741. Scope of subchapter.

12 5742. Definitions.

13 5743. Label requirement.

14 5744. Sell by date or best by date of greater than 17 days from
15 pasteurization.

16 5745. Prohibitions.

17 5746. Monitoring by milk processors and department.

18 5747. Regulations.

19 § 5741. Scope of subchapter.

1 This subchapter relates to milk sell by date and best by date
2 labeling.

3 § 5742. Definitions.

4 The following words and phrases when used in this subchapter
5 shall have the meanings given to them in this section unless the
6 context clearly indicates otherwise:

7 "Milk." Milk, skimmed milk, cream, sour milk, sour cream,
8 buttermilk and any other fluid derivative of milk, or as
9 otherwise defined in the Milk Sanitation Law.

10 "Milk Sanitation Law." The act of July 2, 1935 (P.L.589,
11 No.210), referred to as the Milk Sanitation Law.

12 "Pennsylvania-approved dairy laboratory." Any of the
13 following:

14 (1) A commercial or regulatory laboratory approved and
15 certified by the department within the preceding two years to
16 do official analyses of milk and milk products.

17 (2) A milk industry laboratory approved and certified by
18 the department within the preceding two years for the
19 examination of producer samples of milk for pasteurization,
20 commingled milk for pasteurization or of raw milk for human
21 consumption for the detection of drug residues, bacterial
22 limits and somatic cell count.

23 § 5743. Label requirement.

24 (a) General rule.--The cap or nonglass container of
25 pasteurized milk held in retail food stores, restaurants,
26 schools or similar food facilities for resale shall be
27 conspicuously and legibly marked in a contrasting color with a
28 sell by date or a best by date.

29 (b) Sell by date.--A sell by date shall consist of:

30 (1) a designation of the month and the day of the month

1 after which the product may not be sold or offered for sale,
2 whether expressed in standard fashion (such as "August 15"),
3 numerically (such as "8-15") or with the use of an
4 abbreviation (such as "Aug. 15" or "AU 15"); and

5 (2) either:

6 (i) the words "Sell by" or "Not to be sold after"
7 preceding that designation and appearing legibly on the
8 container; or

9 (ii) the statement "Not to be sold after the date
10 stamped above" following that designation and appearing
11 legibly on the container.

12 (c) Best by date.--A best by date shall consist of:

13 (1) a designation of the month and the day of the month
14 in a format as provided in subsection (b) established by the
15 processor as a product quality guideline; and

16 (2) the words "Best by," "Best if consumed by" or "Best
17 if used by" preceding the designation and appearing legibly
18 on the container.

19 (d) Prominence of sell by date or best by date on label.--

20 The sell by date or best by date shall be separate and distinct
21 from any other number, letter or intervening material on the cap
22 or nonglass container.

23 (e) Limitation.--A sell by date or a best by date may not
24 exceed 17 days beginning after midnight on the day on which the
25 milk was pasteurized, unless the department approves a longer
26 interval in accordance with the procedure described in section
27 5744 (relating to sell by date or best by date of greater than
28 17 days from pasteurization).

29 (f) Exempt pasteurized dairy products and required lot
30 number or manufacturing date code information for pasteurized

1 dairy products.--The following pasteurized dairy products are
2 exempt from the requirements of this subchapter, provided that
3 the cap or container of the pasteurized dairy products contains
4 a lot number or manufacturing date code that is acceptable to
5 the department and can be used for product traceability in the
6 marketplace:

7 (1) Ultrapasteurized dairy products.

8 (2) Cultured dairy products.

9 (3) Aseptically processed dairy products.

10 (4) Dairy products that have undergone higher heat
11 shorter time pasteurization.

12 (5) Milk sold or offered for retail sale on the same
13 premises at which it was processed.

14 § 5744. Sell by date or best by date of greater than 17 days
15 from pasteurization.

16 (a) General rule.--A milk processor may apply to the
17 department for approval to use a sell by date or a best by date
18 that exceeds the 17-day period referenced in section 5743
19 (relating to label requirement). Approval shall be by type of
20 milk and the type and volume of the milk container.

21 (b) Approval process.--Approval may be obtained by the
22 following process:

23 (1) The applicant must apply to the department for
24 approval to use a specific sell by or best by date that
25 exceeds the 17-day period referenced in section 5743(e),
26 using a form provided by the department.

27 (2) The applicant must specify on the form, by milk type
28 and type and volume of container, each product for which
29 approval is sought, and the specific sell by date or best by
30 date proposed for that product as packaged.

1 (3) For each milk type and type and volume of container
2 with respect to which approval is sought, the applicant must
3 include scientific documentation as the department may
4 require to confirm the following:

5 (i) at least three unopened samples were maintained
6 at a temperature of between 34 and 45 degrees Fahrenheit
7 for no less than the entire proposed sell by or best by
8 interval;

9 (ii) after the proposed sell by or best by interval
10 ended, each sample was opened and tested for bacterial
11 count, and the bacterial count for each sample did not
12 exceed 50,000 per milliliter or gram; and

13 (iii) the testing was completed within three months
14 preceding the date the application was submitted to the
15 department.

16 (c) Continuation of approval.--Approval issued by the
17 department under this section shall remain in effect as long as
18 the milk processor continues to complete the periodic sampling
19 and testing required in section 5746 (relating to monitoring by
20 milk processors and department) and the bacterial test results
21 do not exceed the bacterial limits for pasteurized milk
22 described in section 5746.

23 § 5745. Prohibitions.

24 (a) Sell by date.--Pasteurized milk may not be sold or
25 offered for sale if the milk is sold or offered for sale after
26 the sell by date designated on the container.

27 (b) Best by date.--Pasteurized milk may not be sold or
28 offered for sale if the milk is sold or offered for sale after
29 the best by date designated on the container.

30 § 5746. Monitoring by milk processors and department.

1 (a) Sampling and testing.--

2 (1) If a milk processor labels milk with a sell by date
3 or a best by date that is no later than 17 days beginning
4 after midnight on the day on which the milk was pasteurized,
5 the milk processor shall, at intervals of no greater than 12
6 months and for the highest selling volume milk type and each
7 type and volume of container of that highest selling volume
8 milk type bearing that label information, sample and test in
9 accordance with the methodology specified in subsection (b).

10 (2) If a milk processor labels milk with a sell by date
11 or a best by date that is greater than 17 days beginning
12 after midnight on the day on which the milk was pasteurized
13 and that has been approved by the department in accordance
14 with section 5744 (relating to sell by date or best by date
15 of greater than 17 days from pasteurization), the milk
16 processor shall, at intervals of no greater than six months
17 and for the highest selling volume milk type and each type
18 and volume of container of that highest selling volume milk
19 type bearing that label information, sample and test in
20 accordance with the methodology specified in subsection (b).

21 (3) The department shall periodically sample containers
22 of pasteurized milk in the possession of the processor or
23 distributor. The sampling may occur at any time before the
24 pasteurized milk is delivered to the store or the customer.

25 (b) Methodology.--

26 (1) The samples described in subsection (a) (1) and (2)
27 shall be analyzed by a Pennsylvania-approved dairy
28 laboratory.

29 (2) The samples described in subsection (a) (3) shall be
30 analyzed by the department or a Pennsylvania-approved dairy

1 laboratory.

2 (3) The analysis shall determine whether the bacterial
3 test results exceed the bacterial limits for pasteurized milk
4 described in the department's milk sanitation regulations
5 prior to the expiration of the sell by date or best by date
6 designated on the retail container.

7 (c) Reporting.--A Pennsylvania-approved dairy laboratory
8 that performs any of the testing described in this section shall
9 report the test results to the milk processor and the department
10 in a format and within a time prescribed by the department.

11 (d) Pasteurized milk that exceeds bacterial limits.--

12 (1) When two or more samples demonstrate a processor
13 cannot produce pasteurized milk that remains consistently
14 within the bacterial limits referenced in subsection (b)
15 during the sell by or best by period, the department shall
16 calculate a reduced sell by or best by period for that
17 pasteurized milk such that bacterial growth in the milk will
18 not exceed the referenced bacterial limits within that
19 revised sell by or best by period, if the milk is maintained
20 in accordance with the temperature standards for pasteurized
21 milk in the department's milk sanitation regulations.

22 (2) The processor shall use the revised sell by date or
23 best by date until the processor obtains a different sell by
24 date or best by date using the procedure in section 5744.

25 § 5747. Regulations.

26 The department shall make such reasonable rules and
27 regulations as may be deemed necessary for carrying out the
28 provisions of this subchapter.

29 Section 2. The provisions of 7 Pa. Code § 59a.15 are
30 abrogated to the extent of any inconsistency with this act.

1 Section 3. This act shall take effect in 30 days.