

1 AN ACT to amend the Grade A Pasteurized Milk and Milk
2 Products Act concerning milk trucks.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 5. The Grade A Pasteurized Milk and Milk Products
6 Act is amended by changing Sections 2, 3, 5, 5.1, 6, 9, 10,
7 12, 15, and 19 as follows:

8 (410 ILCS 635/2) (from Ch. 56 1/2, par. 2202)

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

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

19 (410 ILCS 635/3) (from Ch. 56 1/2, par. 2203)

20 Sec. 3. Definitions.

21 (a) As used in this Act "Grade A" means that milk and
22 milk products are produced and processed in accordance with
23 the latest United States Public Health Service - Food and
24 Drug Administration Grade A Pasteurized Milk Ordinance as may
25 be amended. The term Grade A is applicable to "dairy farm",
26 "milk hauler-sampler", "milk plant", "milk product",
27 "receiving station", "transfer station", "milk tank truck"
28 ~~"bulk-milk-pickup-tank"~~, and "certified pasteurizer sealer"
29 whenever used in this Act.

30 (b) Unless the context clearly indicates otherwise,

1 terms have the meaning ascribed as follows:

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

7 (2) "Milk" means the milk of cows or goats and
8 includes skim milk and cream.

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

13 (4) "Milk product" means any product including
14 cream, light cream, light whipping cream, heavy cream,
15 heavy whipping cream, whipped cream, whipped light cream,
16 sour cream, acidified light cream, cultured sour cream,
17 half-and-half, sour half-and-half, acidified sour
18 half-and-half, cultured half-and-half, reconstituted or
19 recombined milk and milk products, concentrated milk,
20 concentrated milk products, skim milk, lowfat milk,
21 frozen milk concentrate, eggnog, buttermilk, cultured
22 milk, cultured lowfat milk or skim milk, cottage cheese,
23 yogurt, lowfat yogurt, nonfat yogurt, acidified milk,
24 acidified lowfat milk or skim milk, low-sodium milk,
25 low-sodium lowfat milk, low-sodium skim milk,
26 lactose-reduced milk, lactose-reduced lowfat milk,
27 lactose-reduced skim milk, aseptically processed and
28 packaged milk and milk products, and milk, lowfat milk or
29 skim milk with added safe and suitable microbial
30 organisms.

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

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

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

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

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

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

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

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

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

33 (14) "Milk hauler-sampler" means a person who is
34 qualified and trained for the grading and sampling of raw

1 milk in accordance with federal and State quality
2 standards and procedures.

3 (15) "Cleaning and sanitizing facility" means any
4 place, premise or establishment where milk tank trucks
5 are cleaned and sanitized.

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

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

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

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

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

24 (410 ILCS 635/5) (from Ch. 56 1/2, par. 2205)

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

1 from the Department.

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

6 Permits issued by the Department for certified
7 pasteurizer sealers, cleaning and sanitizing facilities, milk
8 plants, and receiving or transfer stations shall expire on
9 December 31 of each year. Permits issued to milk
10 hauler-samplers shall expire on March 31 of each year.
11 Permits issued for milk tank trucks ~~bulk-milk-pickup-tanks~~
12 shall remain valid indefinitely unless revoked by the
13 Department for noncompliance with the rules promulgated under
14 this Act or the milk tank truck ~~bulk-milk-pickup-truck~~ is
15 transferred or removed from service. Permits issued for dairy
16 farms shall have no expiration date and shall remain valid
17 indefinitely unless revoked by the Department for
18 noncompliance with the rules promulgated under this Act or
19 discontinuation of the dairy farm operation for which a
20 permit was issued.

21 Applications for original permits or renewals shall be
22 made on forms furnished by the Department. Each application
23 shall contain: (1) the name and address of the applicant or
24 names and addresses of the partners if the applicant is a
25 partnership, or the names and addresses of the officers if
26 the applicant is a corporation, or the names and addresses of
27 all persons having a financial interest therein if the
28 applicant is a group of individuals, association or trust;
29 and (2) the location of the plant, station, cleaning and
30 sanitizing facility, certified pasteurizer sealer, milk tank
31 truck ~~bulk-milk--pickup--tank~~, or milk hauler-sampler. A
32 permit shall be valid only in the hands of the person to whom
33 it is issued and shall not be the subject of sale, assignment
34 or other transfer, voluntary or involuntary, nor shall the

1 permit be valid for any premises, milk tank truck bulk--milk
 2 pickup--tank, certified pasteurizer sealer, or milk
 3 hauler-sampler other than the one for which originally
 4 issued.

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

6 (410 ILCS 635/5.1) (from Ch. 56 1/2, par. 2205.1)

7 Sec. 5.1. (a) The Department shall charge a fee of \$100
 8 for each permit issued to a milk plant; \$50 for each permit
 9 issued to a receiving station, transfer station, or cleaning
 10 and sanitizing facility; \$25 for each permit issued to a milk
 11 hauler-sampler; \$25 for each permit issued for a milk tank
 12 truck bulk--milk--pickup--tank; and \$100 for each certified
 13 pasteurizer sealer. In addition to such fees, the Department
 14 shall assess a late fee if an application for renewal of a
 15 permit is received after the expiration date of the existing
 16 permit. The late fee shall be \$50 for a permit issued to a
 17 milk plant; \$25 for a permit issued to a receiving station,
 18 transfer station, or cleaning and sanitizing facility; and
 19 \$15 for a permit issued to a milk hauler-sampler.

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

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

23 (410 ILCS 635/6) (from Ch. 56 1/2, par. 2206)

24 Sec. 6. If the Department finds that a dairy farm, milk
 25 hauler-sampler, milk plant, cleaning and sanitizing facility,
 26 receiving station, transfer station, milk tank truck bulk
 27 milk-pickup-tank, or pasteurizer sealer for which a permit is
 28 sought is not in compliance with the provisions of this Act
 29 or the rules and regulations relating thereto, but that such
 30 dairy farm, milk plant, cleaning and sanitizing facility,
 31 transfer or receiving station, milk tank truck bulk--milk
 32 pickup--tank, milk hauler-sampler, or pasteurizer sealer may

1 operate without undue prejudice to the public health, the
2 Department may issue a conditional permit setting forth the
3 conditions on which the permit is issued, the manner in which
4 the dairy farm, milk plant, cleaning and sanitizing facility,
5 transfer or receiving station, milk tank truck ~~bulk--milk~~
6 ~~pickup-tank~~, milk hauler-sampler, or pasteurizer sealer fails
7 to comply with the Act and such rules and regulations and
8 shall set forth the time, not to exceed 90 days, within which
9 the applicant must make any changes or corrections necessary
10 in order for such dairy farm, milk plant, cleaning and
11 sanitizing facility, transfer or receiving station, milk tank
12 truck ~~bulk--milk--pickup--tank~~, milk hauler-sampler, or
13 pasteurizer sealer to fully comply with this Act and the
14 rules and regulations relating thereto.

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

16 (410 ILCS 635/9) (from Ch. 56 1/2, par. 2209)

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

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

30 (410 ILCS 635/10) (from Ch. 56 1/2, par. 2210)

31 Sec. 10. After proper identification, authorized
32 representatives of the enforcing agency are authorized and

1 shall have the power to enter, at reasonable times, all dairy
2 farms, milk plants, cleaning and sanitizing facilities,
3 receiving stations, transfer stations, or vehicles used to
4 transport milk and milk products under its jurisdiction, for
5 the purpose of inspecting, sampling, and investigating
6 conditions relating to the enforcement of this Act and the
7 rules and regulations promulgated hereunder.

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

16 Written notice of all violations shall be given to the
17 dairy farm, milk plant, cleaning and sanitizing facility,
18 receiving or transfer station, milk hauler-sampler, milk tank
19 truck ~~bulk-milk-pickup-tank~~, or certified pasteurizer sealer.
20 (Source: P.A. 89-526, eff. 7-19-96.)

21 (410 ILCS 635/12) (from Ch. 56 1/2, par. 2212)

22 Sec. 12. Whenever the enforcing agency finds that an
23 imminent hazard to the public health exists which requires
24 immediate action to protect the public health, it may,
25 without any administrative procedure to bond, bring an action
26 for immediate injunctive relief to require that such action
27 be taken as the court may deem necessary to meet the
28 emergency, including the closing of the dairy farm, milk
29 plant, receiving or transfer station, cleaning and sanitizing
30 facility, milk hauler-sampler, milk tank truck ~~bulk--milk~~
31 ~~pickup---tank~~, or certified pasteurizer sealer or the
32 suspension or revocation of the permit. Notwithstanding any
33 other provision of this Act, such order shall be effective

1 immediately. The court may issue an ex parte order and shall
2 schedule a hearing on the matter no later than 3 working days
3 from the date of the injunction. Where this Act is being
4 enforced by the State of Illinois, the State's Attorney of
5 the county in which the violation occurred or the Attorney
6 General shall bring such actions in the name of the People of
7 the State of Illinois. When, in the opinion of the enforcing
8 agency, such conditions are abated, it may authorize
9 reopening the plant, cleaning and sanitizing facility or
10 station, and the injunctive order shall be dissolved.
11 (Source: P.A. 89-526, eff. 7-19-96.)

12 (410 ILCS 635/15) (from Ch. 56 1/2, par. 2215)
13 Sec. 15. The Department shall, in accordance with The
14 Illinois Administrative Procedure Act, promulgate, publish
15 and adopt rules, regulations and standards as may be
16 necessary for the proper enforcement of this Act. The rules,
17 regulations and standards shall include but not be limited to
18 requirements for dairy farms, milk hauler-samplers, milk tank
19 trucks ~~bulk--milk--pickup--tanks~~, milk plants, certified
20 pasteurizer sealers, cleaning and sanitizing facilities,
21 receiving stations and transfer stations.
22 (Source: P.A. 89-526, eff. 7-19-96.)

23 (410 ILCS 635/19) (from Ch. 56 1/2, par. 2219)
24 Sec. 19. It is declared to be the law of this State,
25 pursuant to paragraphs (h) and (i) of Section 6 of Article
26 VII of the Illinois Constitution that the regulation of dairy
27 farms, milk plants, cleaning and sanitizing facilities,
28 receiving stations, transfer stations, milk tank trucks ~~bulk~~
29 ~~milk--pickup--tanks~~, milk hauler-samplers, and certified
30 pasteurizer sealers is an exercise of exclusive State power
31 which may not be exercised concurrently by a home rule unit
32 unless provided otherwise in Section 4 of this Act.

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

2 Section 99. Effective date. This Act takes effect

3 January 1, 2002.