

## CHAPTER 11

Original House Bill No. 126

### DAIRIES AND DAIRY PRODUCTS

AN ACT to amend W.S. 35-7-501(h), (u) and (z), 35-7-503(a) introductory paragraph and (ix), 35-7-505 through 35-7-507, 35-7-513, 35-7-516(a), (c) and (e), 35-7-518, 35-7-524 and 35-7-525; and to repeal W.S. 35-7-501(w), 35-7-510 and 35-7-512 relating to dairies, creameries and dairy products; providing for changes in the definitions of sherbet, cottage cheese and ice milk or low fat dairy dessert; providing for changes in percentages to conform with federal standards; increasing the fee for a tester's license; deleting any reference to the enforcement of the act by a dairy inspector; deleting references to the issuance of certificates; providing rules and regulations shall conform to federal standards; approving existing rules; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 35-7-501(h), (u) and (z), 35-7-503(a) introductory paragraph and (ix), 35-7-505 through 35-7-507, 35-7-513, 35-7-516(a), (c) and (e), 35-7-518, 35-7-524 and 35-7-525 are amended to read:

#### **35-7-501. Definitions.**

(h) Sherbet, milk sherbet is a frozen or partially frozen product made from whole milk or its constituent parts, water, with or without edible gelatin or vegetable gum, with or without fruit, fruit juice, fruit flavoring, and sugar or other sweetening which is allowed in ice cream, and shall contain not more than one-half of one percent ( $\frac{1}{2}$  of 1%) of gelatin, gum or mixture of gelatin and gum and shall contain not less than one percent (1%) and not more than two percent (2%) milk fat by weight and a minimum of two percent (2%) and a maximum of five percent (5%) total milk solids, must contain not less than thirty-five one hundredths of one percent (.35 of 1%) of citric acid, tartaric acid or lactic acid or a mixture of these acids, and must be clearly and plainly labeled sherbet or milk sherbet preceded by the name of fruit or flavoring used.

(u) Cottage cheese is made from milk or its constituent parts which has been inoculated by a harmless lactic acid producing bacteria. The following information shall be printed on the label of each of the following types:

(i) Cottage cheese. "Not less than four percent (4%) milkfat";

(ii) Low fat cottage cheese. "...% milkfat". (This percentage shall appear in increments of one-half percent ( $\frac{1}{2}\%$ ), one percent (1%), and one and one-half percent ( $1\frac{1}{2}\%$ ) or two percent (2%);

(iii) Cottage cheese dry curd. "Less than one-half percent ( $\frac{1}{2}\%$ ) milkfat".

(z) Ice milk or low fat dairy dessert is the frozen or partially frozen product made from milk and cream, and one (1) or more of the following sweetenings: sugar, dextrose, invert sugar syrup, corn syrup, maple syrup, maple sugar, honey, brown sugar or molasses; and may contain

added milk fat, added milk solids, eggs, egg products, added harmless vegetable coloring matter, salt, flavoring, edible gelatin, or harmless vegetable gum, or other approved stabilizing agents. Ice milk or low fat dairy dessert shall not contain less than two percent (2%) nor more than seven percent (7%) milk fat by weight, nor more than one-half of one percent ( $\frac{1}{2}$  of 1%) of gelatin, gum or other improved stabilizing agent, nor less than thirty percent (30%) total solids by weight, nor less than thirty-four (34) ounces per one-half ( $\frac{1}{2}$ ) gallon and shall not exceed one hundred thousand (100,000) per cubic centimeter bacterial count and the coliform count shall not exceed ten (10) as determined by the state bacteriologist according to standard methods of the American Public Health Association. Ice milk or low fat dairy dessert shall not be sold, offered for sale or exposed for sale unless sold in bars, with or without chocolate coating, or directly dispensed to the consumer from the machine in which it is first frozen, or sold in containers labeled to show the name of the product, name and address of manufacturer, and net weight of the contents. If dispensed directly to the consumer from the machine, a conspicuous sign must be displayed stating the product dispensed from this machine is ice milk or low fat dairy dessert, as the case may be.

**35-7-503. Sale or possession of milk and cream under standard.**

(a) It is unlawful for any person to sell, offer for sale, or have in possession with intent to sell for human consumption in the final containers:

(ix) Cereal cream, known as half and half, containing less than ten and one-half percent ( $10 \frac{1}{2}\%$ ) butterfat;

**35-7-505. Cleaning of receptacles after emptying.** It is a violation of this act for any person having in possession bottles, cans or other receptacles containing milk or cream or any dairy product not to cleanse the receptacles immediately upon emptying. No person shall have in possession or consign for transportation any receptacle which is used for the transportation or handling of cream or milk, or any dairy product unless the receptacle is thoroughly clean and in a sanitary condition. No person shall use or allow to be used, any receptacle which is used in the transportation or handling of milk or cream, or any other dairy product, for any other purpose.

**35-7-506. Right of entry of commissioner for purpose of making inspections; taking of samples; hindering or preventing access.** The commissioner of agriculture, or his authorized agents, shall have access, at all reasonable times, to all dairies, places of business, factories, buildings, warehouses and vehicles used in the production, manufacture, sale or transportation of dairy products. The commissioner of agriculture, or his authorized agents, upon paying or offering to pay the full value thereof, may take from any producer, handler or seller of milk, cream, or any other dairy product, whether principal, agent or employee, one (1) or more samples for the purpose of inspection and chemical analysis. Any person who hinders or prevents access or who refuses to sell or deliver to the commissioner of agriculture, or his authorized agents, is guilty of a violation of this act.

**35-7-507. Licensed butterfat tester to be employed; examination and licensing of tester; fee; expiration of license.** Every creamery, shipping station or other factory or persons receiving, buying and paying for milk or cream on the basis of the amount of butterfat contained therein, shall employ a licensed tester, who shall test the milk or cream for butterfat. A license shall be issued to each applicant by the department of agriculture after the applicant has passed an examination given by the commissioner of agriculture or his agents and remitted a ten dollar (\$10.00) fee. The fee shall be remitted to the state treasurer and credited to the general fund. All licenses shall expire on May 31 next following date of issue. The commissioner of agriculture may suspend or revoke any license issued under this act. The testing of each lot of milk or cream by any unlicensed person constitutes a separate offense.

**35-7-513. Operator's license; requirements as to sale of out-of-state dairy products.** Any person who operates a dairy, creamery, cream station, cheese plant, dried milk plant or any other establishment in Wyoming for the handling, distributing, processing or manufacturing of dairy products shall first secure a license from the state department of agriculture. The license is valid for one (1) year after its issuance and is not transferable. The license terminates on May 31 following the date of issue. The fee for the license is ten dollars (\$10.00) and shall be paid to the state department of agriculture before the license is issued. No person shall distribute or sell for distribution in Wyoming dairy products which have been processed outside of Wyoming without first securing a license from the department of agriculture. The license shall terminate on May 31 following date of issue. The license shall be issued upon receipt of a ten dollar (\$10.00) fee and shall remain in effect until the expiration date of the license as long as reciprocity is practiced by the state in which the license is located. The board of agriculture shall promulgate and enforce rules and regulations necessary for conducting all establishments in a sanitary and health protecting manner. Failure of any person to comply with this act or the rules and regulations constitutes grounds for refusing to issue or revoking a license.

**35-7-516. Display of prices offered for cream or fat; sale, etc., of unsanitary milk or cream.**

(a) No person shall buy cream or butterfat without displaying the prices for each grade being offered or to be paid for the cream or fat. The prices shall be posted and displayed continuously during the business hours of the buying agent in figures not less than two (2) inches in height.

(c) It is unlawful for any person to accept milk or milk product from a producer that has been disapproved by the commissioner of agriculture or his agent because of unsanitary conditions prevailing, or the product is being produced from unhealthy animals, or the animals are found to be kept in an unsanitary condition. Milk or milk products shall not be purchased from a producer until the producer has been approved. A letter signed by the commissioner of agriculture or his agent is evidence of approval.

(e) The board of agriculture shall establish standards and promulgate rules and regulations whereby the intake of each producer of milk or cream shall be inspected, sampled and tested by the sediment, standard plate count or other test. Unsanitary milk or cream shall be rejected as food for human consumption or to be processed or manufactured for food for human consumption and shall be identified so that it will not prevent its use as food for animals.

**35-7-518. Rules and regulations.** The board of agriculture shall promulgate and the commissioner of agriculture shall enforce rules and regulations for the production, handling, distributing, grading, labeling, transporting and storing of all dairy products and constituent parts thereof necessary for the proper and efficient enforcement of this act. The rules and regulations shall be in harmony with federal standards and may supercede provisions of W.S. 35-7-501 through 35-7-526 if necessary to be in harmony with federal standards.

**35-7-524. Creameries, ice cream plants, cheese factories, etc.; inspection required; score card of sanitary conditions and defects; advertising in accordance with rating.** The commissioner of agriculture or his agent shall visit as frequently as necessary all creameries, ice cream plants, cheese factories, condensed milk factories, dairies where milk and cream are bottled or prepared for sale, or dairy products manufactured for sale, and farm dairies in Wyoming, and inspect and score them in accordance with the standards adopted by the board of agriculture and as authorized by the state commissioner of agriculture. A copy of the inspection report shall be left with the owner and such information given as will assist the producer or manager or owner, to improve the sanitary conditions or remedy such defects as the inspection report indicates. A copy of the inspection reports shall be kept on file in the department of agriculture office. All creameries, ice cream plants, cheese factories, condensed milk factories and dairies where milk and cream are bottled or prepared for sale or dairy products manufactured for sale, and farm dairies advertising their products except in accordance with rating allowed by an inspection report are declared to be operating the place of business in violation of this act and the commissioner of agriculture or his agent shall immediately proceed against them.

**35-7-525. Same; sanitary conditions of premises, receptacles and products.** All premises, cans, bottles and utensils used in the production, transportation, sale or delivery of milk or cream for consumption, or used in the manufacture or sale of any food products, shall be kept in a clean and sanitary condition. No person shall sell, offer for sale, or have in his possession with intent to sell, any milk, cream or other food product not manufactured, transported and offered for sale under clean and sanitary conditions. The commissioner of agriculture or his agent when inspecting cans, bottles and utensils used in the production, transportation, manufacture or sale of milk, cream or other food products, may order the use of any can, bottle or other utensil, which is in an unclean or unsanitary condition, discontinued until the utensils have been put in a clean and sanitary condition. Any person who receives any milk or cream in cans, bottles or vessels which have been transported over any railroad where cans, bottles or vessels are to be returned, shall cause the bottles

or vessels to be immediately washed and thoroughly cleansed and aired.

**Section 2.** W.S. 35-7-501(w), 35-7-510 and 35-7-512 are repealed.

**Section 3.** The 1978 Grade A Pasteurized Milk Ordinance as promulgated by the Wyoming department of agriculture and filed with the legislative service office on July 14, 1981 is authorized and approved by the Wyoming legislature.

**Section 4.** This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

Approved March 2, 1982.