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LAWS GOVERNING THE PRODUCTION, HANDLING AND DISTRIBUTION OF MILK, CREAM AND MILK PRODUCTS

N.J.S.A. 24:10-57.1 et. seq.

New Jersey, (State)
Department of Health,
John Fitch Plaza, P. O. Box 1540
Trenton, New Jersey 08625

24:10-57.1. The following words as used in this act and in rules, regulations, definitions, standards of identity or labeling requirements promulgated thereunder shall have the following meanings:

a. "Fluid milk products" means:

- (1) Milk, cream, certified milk, skim milk, skimmed milk, nonfat milk, nonfat fortified milk, fortified skim milk, fortified skimmed milk, flavored milk, dairy drink, buttermilk, cultured buttermilk, cultured skim milk, cultured milk, cultured sour cream, cultured salad cream, yogurt, cultured half-and-half, Vitamin D milk, Vitamin D fluid milk products, homogenized milk, modified milk, ice cream mix, ice milk mix and half-and-half.
- (2) Condensed, evaporated and concentrated milk and fluid milk products intended for further processing, unless sterilized and packaged in hermetically sealed containers; and
- (3) Any other product made by the addition of any substance to milk, or to any of these fluid milk products, and used for similar purposes, and designated as a fluid milk product by the department.

b. "Milk products" means: butter, butteroil, the various types of cheeses, dried milk, dried skim milk, and any other food for human consumption made from milk or its component parts and designated as a milk product by the department.

c. "Pasteurization" means the process of heating and holding every particle of milk or fluid milk products in properly operated equipment acceptable to the department at a temperature and for such time as is specified by the department.

d. "Dairy farm" means any place or premises where one or more dairy animals are kept, a part or all of the milk from which is sold, offered for sale or delivered to any person.

e. "Producer or milk producer" means any person who owns or controls one or more dairy animals, a part or all of the milk from which is sold, offered for sale or delivered to any person.

f. "Distributor or milk distributor" means any person who sells, offers for sale, or distributes any milk or fluid milk products for human consumption as such.

g. "Milk plant" means any place, premises, or establishment, other than a frozen dessert plant, where milk or fluid milk products are collected, handled, processed, manufactured, stored, pasteurized, bottled, or prepared for distribution, sale or resale.

This definition shall not include stores or milk depots handling retail containers of milk or fluid milk products in original unopened containers, nor to those establishments dispensing milk or fluid milk products for consumption on the premises or that portion of any establishment operated as a dairy farm.

h. "Milk depot" means any place or premises, other than a milk plant, where milk and fluid milk products packaged in final containers are stored prior to distribution.

i. "Bulk milk hauler" means any person, other than a person holding a milk plant permit from the department, who purchases or collects milk in a tank truck from dairy farms for the purpose of distribution or sale to a milk plant or milk plants other than that or those for which he holds a permit.

j. "Department" means the State Department of Health.

k. "Local board" or "local board of health" means the board of health of any municipality or the boards, bodies or officers in such municipality lawfully exercising any of the powers of a board of health under the laws governing such municipality, and includes any consolidated board of health or county board of health created and established pursuant to law.

24:10-57.2 No person shall operate a milk plant, as defined herein, from which milk or fluid milk products are shipped, transported or imported for the purpose of distribution, sale or resale in this State, either directly or indirectly, and no person shall operate as a bulk milk hauler distributing or selling milk to such milk plants, unless that person shall have first obtained a permit from the department to engage in such business, in the manner hereinafter set forth.

A permit shall be required for each milk plant or each bulk milk hauler and it shall not be transferable with respect to persons or locations. All such permits shall expire on June 30 in each year unless an earlier date is specified by such permit.

24:10-57.3. The department shall, in issuing such permits, restrict each permit either to:

- a. Milk and fluid milk products for fluid or manufacturing purposes, or
- b. Milk and fluid milk products for manufacturing purposes only.

24:10-57.4. The department may issue temporary or emergency permits for limited periods or for limited quantities of milk or a particular fluid milk product and

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may restrict such permits to a particular area or to a particular milk plant, in order that a sufficient supply of milk or fluid milk products shall always be available for the inhabitants of this State.

24:10-57.5. The department shall collect from each applicant for a permit under the provisions of this act an annual fee in the following amounts:

- a. From each milk plant or bulk milk hauler receiving milk or fluid milk products from another milk plant or bulk milk hauler or collecting milk from one or more dairy farms but not more than 25 dairy farms, the sum of \$25.00.
- b. From each milk plant or bulk milk hauler collecting milk from more than 25 dairy farms, the sum of \$50.00.

24:10-57.6. The department, before issuing any permit under the provisions of this act shall be satisfied as a result of inspection of the following facts:

- a. That the milk and fluid milk products are of the standard and quality required by, and are produced, handled, processed, and transported in accordance with the rules and regulations established by the department, the State Sanitary Code and the laws of this State with relation thereto.
- b. That no unapproved milk or fluid milk products are allowed to enter a milk plant from which milk or fluid milk products are distributed, sold or held for sale in this State.
- c. That laboratory and field inspection services satisfactory to the department are utilized by the milk plant or bulk milk hauler as the case may be.

24:10-57.7. The department shall establish such form or forms as in its judgment may be necessary to ascertain the facts that said milk or fluid milk product is of the standard and quality required by and was produced, handled, processed, and transported in accordance with the rules and regulations established by the department, the State Sanitary Code, and laws of this State set forth in this act, and such other forms as may be necessary to the proper administration of this act. Each application shall be made upon forms supplied by the department.

24:10-57.8. Upon evidence duly ascertained by the department or furnished to the department by any local board of health, that a person or persons authorized under a permit issued hereunder to operate a milk plant or to operate as a bulk milk hauler for the purpose of distributing, selling, or reselling milk and fluid milk products, within this State, is in violation of any of the rules and regulations established by the department, the State Sanitary Code or laws governing the standard quality, production, handling, processing or transportation of milk and fluid milk products, the department may upon hearing and proof of violation, revoke such permit.

No such permit shall be renewed or restored until the department is satisfied that all of the provisions of this act have been complied with.

When, in the judgment of the department, the protection of the public health, safety and welfare so warrants, it may, before hearing, suspend such permit pending the hearing, in which event it shall be unlawful for the person whose permit is thus suspended to engage in collecting, assembling, manufacturing, processing, shipping, transporting, or importing any milk or fluid milk products from that plant, or for use within this State during such period of suspension

provided, however, that in the event the department shall so suspend a permit pending a hearing the department shall upon application by the person or persons whose permit has been suspended proceed forthwith to a hearing in order to ascertain the truth of the charges.

24:10-57.9. Complete records of receipts and disposition of all milk and fluid milk products handled in milk plants and by bulk milk haulers holding permits issued by the department shall be maintained in each milk plant and in each bulk milk hauler's office or place of business. Such records shall be kept on file for the current 12-month period and shall be open to inspection by the State Department of Health and local health departments charged with the supervision of milk and fluid milk products. All inspection and quality control records of the dairy farms from which farm bulk tank milk originates shall be filed in the manner prescribed by the department.

24:10-57.10. Notwithstanding any other provision of the laws of the State of New Jersey, the local board shall have the following enumerated powers with respect to the production, handling, processing, and distribution of milk, milk products and fluid milk products in order to promote the public health, safety and welfare:

- a. To provide that no person shall sell, offer for sale or distribute milk, milk products or fluid milk products specified in this act without a license issued by the local board. In such case, the local board may require the applicant for such license to file an application on such form as may be supplied by the local board. If the local board determines that the applicant has complied with the provisions of this act and with the provisions of the local health ordinances and the regulations issued pursuant thereto, such license shall be issued to the applicant therefor.
- b. To fix an annual license fee for each wagon, vehicle, milk plant, milk depot or premises within limits of the jurisdiction of the local board and used in the distribution or sale of the products for which a license is required by the local board. The amount of such fee shall not exceed \$5.00 for each vehicle, wagon, milk plant, milk depot or premises.
- c. To provide for the suspension of such license, pending a hearing, whenever the local board or its authorized agent has reason to believe that the licensee is operating in violation of this act or of the regulations or ordinances adopted pursuant hereto, and finds, in addition, that the suspension of the license is necessary for the protection of the public health. In such case, the local board or its authorized agent shall, upon request of the person whose license has been suspended, proceed forthwith to a hearing to ascertain the facts.
- d. To provide for the revocation of such license by the local board or its authorized agent, after notice and hearing to the licensee upon proof of the violation of this act or of the regulations or ordinances adopted pursuant hereto.
- e. To terminate the suspension or revocation of a license by the local board upon proof satisfactory to the local board that the violation for which the license was suspended or revoked has been corrected.
- f. To provide for a penalty of not to exceed \$100.00 for each violation of this act or of the regulations or ordinances adopted pursuant hereto, which penalty may

be imposed in addition to the suspension or revocation of the license.

- g. To adopt, in whole or in part, any code or regulation issued by the department relating to the production, handling, processing or distribution of the products specified in this act.
- h. To enact any ordinance relating to the production, handling, processing, or distribution of the products specified in this act, which does not contain provisions (1) contrary to or inconsistent with this act or any code or regulation approved by the department, or (2) which imposes requirements in addition to those provisions in this act or any code or regulation approved by the department.
- i. To provide that no license shall be granted to any person to sell, offer for sale or distribute the products specified in this act if such person is in violation of the act or regulations or ordinances issued pursuant hereto.

24:10-57.11. Nothing in this act shall be so construed to repeal or abrogate any ordinance, rule or regulation of a local board which is not inconsistent with or contrary to the provisions of section 10 hereof.

24:10-57.12. The department, whenever it shall ascertain that milk, milk products or fluid milk products are produced for distribution or sale in violation of any of the provisions of this act, shall notify the local board having jurisdiction of the place where such milk, milk products or fluid milk products are distributed or sold, and the local board shall prohibit the distribution or sale of such milk, milk products, or fluid milk products within its jurisdiction until such time as the department notifies the local board that the violation has been corrected.

24:10-57.13. The inspections provided for in this act may be made by the department or by any local board of health or any agency which the department certifies as qualified to conduct such inspections.

24:10-57.14. All milk or fluid milk products and all milk and cream used in said fluid milk products produced within this State, and all milk or fluid milk products and all milk and cream used in said fluid milk products produced outside of this State and intended for use within this State, shall be subject to inspection at its source of supply, and all dairies, milk depots, milk plants and transportation equipment wherein such milk or fluid milk and all milk and cream used in such fluid milk products are produced, handled, processed, manufactured, stored or transported shall likewise be subject to inspection to determine if it, or they, meet the minimum requirements set forth in this act.

24:10-57.15. If a local board within this State is unable for any reason to conduct inspections as provided herein, the local board shall certify by resolution its inability so to do and shall in the resolution detail the reasons for such inability. A certified copy of such resolution shall be forwarded to the department which may investigate said reasons and determine for itself the sufficiency thereof.

Upon being satisfied that the reasons set forth in the local board's resolution are correct, the department shall take over, supersede and have the inspections conducted on behalf of the local board. Whenever a local board desires to start or resume inspections, the local board shall certify by resolution its desire and ability so to do, and a copy of such resolution shall be forwarded to the department.

24:10-57.16. Laboratories which perform bacteriological or other tests associated with milk, milk products or fluid milk products for a health officer or local board of health, shall utilize methods, techniques, qualified personnel and laboratory facilities, all approved by the department.

24:10-57.17. No person shall sell, offer for sale, or distribute to the ultimate consumer any milk or cream other than certified milk, that is not pasteurized provided, however, that nothing herein contained shall prohibit a local board of health from adopting an ordinance requiring the pasteurization of certified milk sold within its jurisdiction.

24:10-57.18. No milk products nor fluid milk products shall be manufactured, shipped, transported, or imported for use or sale within this State unless the milk and fluid milk products used in the manufacture of such food products are pasteurized before or during manufacture into milk products or fluid milk products, provided, however, that this shall not apply to cheese which has been kept for at least 60 days after manufacture at a temperature no lower than 35 degree Fahrenheit.

24:10-57.19. The department shall satisfy itself that the provisions of this act and regulations are enforced throughout this State and shall call to the attention of the local board of health any failure on their part to enforce the provisions of this act, and afford them an opportunity to explain their failure.

If, after a hearing, the department finds that no good reason exists for the failure of the local board of health to enforce the provisions and regulations of this act, it shall issue an order directing them to do so. If the local board of health fails to comply with such order within the time specified, the State Department shall itself take such action as may be necessary to perform the act specified in the order.

Any expenditures and the amount of all obligations incurred by the department to perform such act may be recovered in an action at law prosecuted in its name in any court of competent jurisdiction. All sums so recovered shall be paid over into the treasury of the State of New Jersey.

In all legal proceedings, such order of the department shall be prima facie evidence of compliance by the department with the provisions of this act and conclusive evidence of the violation recited in the order.

24:10-57.20. The department is hereby empowered to promulgate such rules and regulations as it may consider necessary in order to insure the public health, safety, and welfare and for the enforcement and carrying into effect of any provision of this act including regulation of the following:

- a. Holding times and heating temperatures for pasteurizing milk, milk products and fluid milk products;
- b. repasteurization of milk, milk products and fluid milk products;
- c. handling pasteurized milk, milk products and fluid milk products;
- d. overflow, spilled or leaked milk, milk products and fluid milk products;
- e. time limits for pasteurizing milk and cream;
- f. health and cleanliness of dairy animals;
- g. health and cleanliness of workers handling milk, milk products and fluid milk products;

- h. construction and maintenance of dairy farms and milk plants;
- i. cooling and storage of milk, milk products and fluid milk products;
- j. construction and cleaning of utensils and equipment used for handling and transporting milk, milk products and fluid milk products;
- k. water supplies for dairy farms and milk plants;
- l. toilets and waste disposal at dairy farms and milk plants;
- m. indicating and recording thermometers and temperature records;
- n. smoking and expectorating in milk plants and dairy farms;
- o. bottle caps and containers for milk, milk products and fluid milk products;
- p. chemical and bacteriological quality of milk, milk products and fluid milk products;
- q. protection from contamination of utensils and equipment used in handling or transporting milk, milk products and fluid milk products, and the products contained therein;
- r. the department may promulgate such other rules and regulations as are necessary to enforce the provisions of this act.

24:10-57.21. The general sanitary conditions of any dairy farm, milk plant or milk depot and its immediate surroundings, the health of the dairy animals, the health and habits of the personnel employed, and the methods, facilities and equipment used in the production, handling, collection, processing, transporting or storage of milk, milk products and fluid milk products shall be such as to insure a safe supply.

24:10-57.22. Apparatus, containers, equipment and utensils used in the production, handling, collecting, storage, processing or transporting of milk, milk products, fluid milk products or other wholesome beverages acceptable to the department and local boards of health, shall not be used for any other purpose.

24:10-57.23. Containers of milk, certified milk, Vitamin D milk and homogenized milk shall be marked with the pasteurizing plant number as assigned by the department or the state of origin and the name and address of the distributor. The containers shall be marked with the legend "NOT TO BE SOLD AFTER (insert in a clear and legible manner the first three letters of the month where possible, but in no instance less than two letters approved by the department to designate the month and the date of the month which shall be no later than 5 days following the date of pasteurization. The date of pasteurization shall be that of 6 a.m. at the end of the 24-hour period during which pasteurization took place. If two letters are used the letters MR shall mean MARCH and MY shall mean MAY; JN shall mean JUNE and JL shall mean JULY.)" No fluid milk product listed in this section shall be sold or offered for sale after 11:59 p.m. of the date appearing on the containers so marked.

Use of, or reference to the words "milk" or any fluid milk product or use of any statement, design, symbol,

picture, device or combination thereof which relates to any fluid milk product, milk product or dairy farm, is prohibited for any product which is an imitation of any fluid milk product or milk product.

The State Department of Health in addition to its other regulatory powers shall promulgate such rules and regulations governing the production, handling, processing, distribution and sale of milk products and fluid milk products and their imitations, as may be necessary to preserve and promote public health. These regulations shall include the following subjects:

- a. Definitions and standards of quality;
- b. Sanitation;
- c. Dating and labeling, except for that as prescribed by P.L. 1964, c. 62, s. 23 (C. 24:10-57.23.);
- d. Holding temperatures for storage, distribution facilities and retail establishments.

In promulgating regulations under authority of this section, the department shall give consideration to applicable regulations or recommendations as may be made by Federal or national agencies.

24:10-57.24. All cans, packages, and other containers enclosing milk, milk products or fluid milk products defined by or under authority of this act, shall be plainly labeled or marked with such identification marks as may be designated by the department.

The label, or marks shall be in letters of a size, kind, color and arrangement approved by the department.

24:10-57.25. Repealed (Chapter 52, P.L. 1972)

24:10-57.26. Any milk, milk product or fluid milk product which fails to meet the minimum requirements set forth in this act and the regulations promulgated thereunder shall not be sold, offered or exposed for sale, distributed or held in possession with intent to sell or distribute, provide, however, such milk, milk product or fluid milk product may be used in manufacturing food for human consumption if acceptable to the department and local boards of health having jurisdiction.

24:10-57.27. The department may bar from this State milk, milk products, or fluid milk products owned or possessed by any person violating any of the provisions of this act, as well as the rules and regulations established by the department in relation thereto.

24:10-57.28. No person having the possession or care of any milk which is intended for distribution or sale for human consumption shall permit it to be exposed to or contaminated by the emanations, discharges or exhalation from a person known to be infected with a contagious disease.

24:10-57.29. If any provision of this act or the application thereof to any person or circumstances is held invalid, the remainder of the act and the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

This act shall take effect immediately, but shall remain inoperative for 6 months thereafter. Action to effectuate the provisions of this act may be taken any time prior thereto.

Approved June 1, 1972.