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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. **747** Session of  
1961

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MESSRS. YATRON, SESLER AND STAISEY, IN PLACE,  
JUNE 6, 1961.

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AS AMENDED ON SECOND READING, JUNE 28, 1961.

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**AN ACT**

Defining milk and its derivatives prohibiting its adulteration regulating  
its labeling sale and serving imposing powers and duties on the  
Department of Agriculture providing penalties and making re-  
peals

The General Assembly of the Commonwealth of Pennsylvania  
hereby enacts as follows

EXPLANATION—CAPITAL LETTERS indicate new matter added to bill. Matter stricken through  
is to be omitted from bill.  
Underscoring indicates new matter added to existing law. [Brackets] indicate matter  
stricken from existing law.

1 Section 1 Definitions As used in this act

2 (1) "Milk" is the natural lacteal secretion free from colostrum  
3 obtained by the complete milking of one or more healthy cows or  
4 goats The term "milk" unqualified means cow's milk If derived from  
5 goats is shall be labeled as such

6 (2) "Raw milk" shall be milk from cows or goats determined to be  
7 free from communicable disease by physical examination and tuberculin  
8 tests conducted in accordance with rules regulations and practices of  
9 the Department of Agriculture pertaining to the individual accredited  
10 herd plan and brucellosis tests conducted in accordance with the rules  
11 regulations and practices of the Department of Agriculture pertaining to  
12 the individual certified herd plan and in addition thereto a brucellosis  
13 ring test shall be conducted at least once every year six months after  
14 the blood test at the expense of the owner and if the results of such  
15 test are suspicious such cow or cows shall immediately be re-tested by  
16 blood testing and such milk must contain not less than three and twenty-  
17 five one-hundredths per cent of butterfat nor more than ~~five~~ SIX per  
18 cent of butterfat and not less than twelve per cent total solids If derived  
19 from goats it shall be labeled as such

20 (3) "Cream" is that portion of milk rich in fat which rises to

1 the surface of milk when it stands or is separated from it by centrifugal  
2 force and contains not less than eighteen per cent of butterfat

3 (4) "Pasteurized cream" is cream heated to such a temperature  
4 and for such a length of time that all harmful organisms are destroyed  
5 and contains not less than eighteen per cent of butterfat

6 (5) "Pasteurized milk" is milk heated to such a temperature and  
7 for such a length of time that all harmful organisms are destroyed  
8 and contains not less than three and twenty-five one-hundredths per  
9 cent butterfat nor more than ~~five~~ SIX per cent of butterfat and not less  
10 than twelve per cent total solids

11 (6) "Homogenized milk" or "homogenized cream" is milk or cream  
12 that has been mechanically treated in such a manner as to alter its  
13 physical properties with particular reference to the condition and ap-  
14 pearance of fat globules

15 (7) "Skim milk" is a milk which contains less than five-tenth per  
16 cent butterfat

17 (8) "Fluid derivatives of milk" shall contain not less than five-  
18 tenths per cent nor more than three and twenty-five one-hundredths  
19 per cent butterfat

1 (9) "Fluid derivatives of cream" shall be any combination of milk  
2 and cream containing more than ~~five~~ SIX per cent butterfat but not  
3 more than eighteen per cent butterfat

4 (10) "Flavored milk" is milk flavored by the addition of one or  
5 more suitable natural flavoring materials which may be sweetened with  
6 honey cane or beet sugar dextrose or their syrups or a mixture of their  
7 syrups and which may contain a suspension stabilizer acceptable to the  
8 Secretary of Agriculture It shall contain not less than three and twenty-  
9 five one-hundredths per cent butterfat nor more than ~~five~~ SIX per cent  
10 butterfat and not less than twelve per cent total milk solids except for  
11 such reduction in total milk solids as is due to the addition of the flavor-  
12 ing and sweeteners but in no case shall it contain less than ten per  
13 cent total milk solids If artificial color is used the label shall declare  
14 "Artificially Colored" If artificial flavoring is used the label shall  
15 declare "Artificially Flavored" and the word "Imitation" shall appear  
16 immediately preceding the name of the natural product imitated in  
17 similar type at least one-half the size of the name of the product imitated  
18 and on the same contrasting background

19 (11) "Flavored drink" is any fluid derivative of milk containing  
20 less than three and twenty-five one-hundredths per cent butterfat and

1 which meets the requirements of act of July 5 1957 (P L 486) com-  
2 monly known as the "Pennsylvania Non-Alcoholic Drinks Law"

3 (12) "Reconstituted or recombined milk" is the product resulting  
4 from the recombining of concentrated milk constituents with water and  
5 which complies with the standards for milk as defined elsewhere in  
6 this act

7 (13) "Reconstituted or recombined cream" is a product resulting  
8 from the recombining of concentrated milk constituents with water  
9 and which complies with the standards for cream as defined elsewhere in  
10 this act

11 (14) "Evaporated or condensed milk" is the product resulting from  
12 the removal of a considerable portion of the water from milk by  
13 evaporation or condensation and such product shall contain not less  
14 than seven and eight-tenths per cent of butterfat nor less than twenty-  
15 five and five-tenths per cent of total milk solids The sum of the per-  
16 centages of the butterfat and total milk solids shall not be less than  
17 thirty-three and seven-tenths per cent

18 (15) "Sweetened condensed whole milk" is the product resulting  
19 from the removal of a considerable portion of the water from whole  
20 milk to which sugar has been added and contains not less than eight

1 and five-tenths per cent butterfat and not less than twenty-eight per  
2 cent total milk solids

3 (16) "Evaporated or condensed skim milk" is skim milk from  
4 which a considerable portion of the water has been removed by evap-  
5 oration and which contains not less than twenty-seven per cent milk  
6 solids

7 (17) "Sterilized cream" is cream in hermetically sealed containers  
8 which has been so treated that it will keep without refrigeration

9 (18) "Sterilized milk" is milk in hermetically sealed containers  
10 which has been so treated that it will keep without refrigeration

11 (19) "Milk products" means ice cream ice cream mix custard ice  
12 cream French ice cream frozen custard ice milk sherbet and other similar  
13 frozen and semi-frozen products and all dairy products used in the manu-  
14 facture thereof

15 Section 2 Unlawful Sales It shall be unlawful to sell any of the  
16 products defined in section 1 unless they are produced to comply with  
17 the definitions and processed under approved conditions in accordance  
18 with the provisions of this act and the rules and regulations adopted  
19 thereunder or any other pertinent acts rules and regulations

1 Section 3 Standardization Any of the products defined in section  
2 1 may be standardized by the processor by the addition or deletion of  
3 natural components

4 Section 4 Adulteration No products defined in section 1 may be  
5 adulterated in any manner by the addition of substances not normally  
6 found therein except those approved by the Secretary of Agriculture

7 Section 5 Unlawful Serving It shall be unlawful for any eating  
8 place to serve pasteurized milk homogenized milk chocolate milk skimmed  
9 milk or fluid derivatives of milk which is not in its original container ex-  
10 cept that they may be served in individual portions provided it is served  
11 from automatic dispensing machines which meet the following design  
12 and operation requirements

13 (1) All parts of such dispensing machines with which the above  
14 mentioned products come in contact shall be constructed in such manner  
15 as to be easily cleaned and shall be kept in good repair the manufacture  
16 packing transportation and handling of bulk containers shall be  
17 conducted in a sanitary manner

18 (2) No surfaces with which the above mentioned products come in  
19 contact shall while in use be accessible to manual contact

1 (3) All parts of the dispensing device with which the above men-  
2 tioned products come in contact shall be cleaned and sterilized at the  
3 milk plant

4 (4) The dispensing device shall be filled and sealed with two seals  
5 at the milk plant in such manner as to make it impossible to withdraw  
6 any part of its contents without breaking one seal and impossible to  
7 introduce any substance without breaking the other

8 (5) When the above mentioned products contain more than five-  
9 tenths per cent butterfat and they are to be served from a dispensing  
10 device they shall be homogenized

11 (6) All such dispensing machines must be conspicuously labeled in a  
12 large print and visible to the public so as to indicate the type of product  
13 being served from the dispenser

14 Section 6 Labeling (A) The labeling of any product defined in  
15 section 1 except raw milk for processing shall include the designation  
16 of the product the name and address of the processor and a declaration  
17 of the net contents Brand names may be approved by the Secretary of  
18 Agriculture provided that they do not detract from the proper desig-  
19 nation of the product

20 (b) The labeling of fluid derivatives of milk and cream and cream

1 itself in addition to the above shall include a declaration of the per-  
2 centage of butterfat with such tolerances as may be established by the  
3 Secretary of Agriculture

4 Section 7 Duties of the Department of Agriculture The Depart-  
5 ment of Agriculture shall be charged with the enforcement of the  
6 provisions of this act and shall make rules and regulations after public  
7 hearing for the proper enforcement thereof and shall cause such rules  
8 and regulations to be published

9 Section 8 Penalties Any person who shall violate any of the pro-  
10 visions of this act or any rule regulation or order made pursuant to  
11 this act shall for the first or second offense upon conviction thereof in  
12 a summary proceeding be sentenced to pay a fine of not less than  
13 twenty-five dollars (\$25) nor more than one hundred dollars (\$100) and  
14 costs of prosecution and in default of payment of such fines and costs  
15 shall be sentenced to undergo imprisonment in the county jail for not  
16 more than thirty days and for a third or subsequent offense within one  
17 year shall be guilty of a misdemeanor and shall upon conviction thereof  
18 be sentenced to pay a fine of not less than five hundred dollars (\$500)  
19 nor more than one thousand dollars (\$1000) or to undergo imprison-

1 ment in the county jail not exceeding one year or both in the dis-  
2 cretion of the court

3 Section 9 Disposition of Fines and Penalties All fines and penalties  
4 imposed and recovered for the violation of any of the provisions of  
5 this act shall be paid into the State Treasury through the Department  
6 of Revenue and credited to the General Fund

7 Section 10 Specific Repeals The following acts and part of acts  
8 are repealed

9 (1) Act of June 10 1897 (P L 142) entitled "An act to prohibit  
10 the adulteration or coloring of milk or cream by the addition of so  
11 called preservatives or coloring matter and to provide for the enforce-  
12 ment of the same"

13 (2) Act of June 8 1911 (P L 712) entitled "An act relating to  
14 milk providing for the protection of the public health and the prevention  
15 of fraud and deception by regulating the sale of milk skimmed milk and  
16 cream providing penalties for the violation thereof and providing for  
17 the enforcement thereof"

18 (3) Act of March 21 1923 (P L 28) entitled "An act for the pre-  
19 vention of fraud and the protection of the public health relating to  
20 milk cream or skimmed milk whether or not condensed evaporated

1 concentrated dried powdered or desiccated prohibiting the introduction  
2 of foreign fats into them regulating the sale of and defining condensed  
3 concentrated and evaporated milk stipulating penalties for the infraction  
4 thereof and providing for the enforcement thereof”

5 (4) Act of June 29 1923 (P L 929) entitled “A supplement to an  
6 act approved the twenty-first day of March one thousand nine hundred  
7 twenty-three entitled ‘An act for the prevention of fraud and the pro-  
8 tection of the public health relating to milk cream or skimmed milk  
9 whether or not condensed evaporated concentrated dried powdered or  
10 desiccated prohibiting the introduction of foreign fats into them regu-  
11 lating the sale of and defining condensed concentrated and evaporated  
12 milk stipulating penalties for the infraction thereof and providing for  
13 the enforcement thereof’ defining condensed concentrated and evapor-  
14 ated skimmed milk and compounds thereof regulating the manufacture  
15 sale and exchange thereof and providing penalties”

16 (5) Act of March 26 1925 (P L 83) entitled “An act for the pro-  
17 tection of public health by regulating the serving of milk for drinking  
18 purposes to patrons of hotels restaurants lunch rooms fountains and  
19 dining cars and providing penalties”

- 1 Section 11 General Repeal All other acts and parts of acts are
- 2 repealed insofar as they are inconsistent herewith
- 3 Section 12 Effective Date This act shall take effect January 1 1962

We certify that this bill has passed the Senate and the House of Representatives.

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Chief Clerk, Senate

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President pro tempore, Senate

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Speaker, House of Representatives

Approved The ..... day of ..... A. D. 1961.

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Governor