

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. **747** Session of
1961

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

AS AMENDED ON SECOND READING, JULY 6, 1961.

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 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 par
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 six per cent butterfat but not more
3 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 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 485) 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~~ NINE-TENTHS per cent of butterfat nor
15 less than twenty-five and ~~five-tenths~~ NINE-TENTHS per cent of total
16 milk solids ~~The sum of the percentages of the butterfat and total milk~~
17 ~~solids shall not be less than 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~~ “CONDENSED skim milk” is skim
4 milk from which a considerable portion of the water has been removed
5 by evaporation and which contains not less than twenty-seven per cent
6 milk solids NOT FAT

7 (17) “EVAPORATED SKIM MILK” IS SKIM MILK FROM
8 WHICH A CONSIDERABLE PORTION OF THE WATER HAS
9 BEEN REMOVED BY EVAPORATION AND WHICH CON-
10 TAINS NOT LESS THAN TWENTY PER CENT MILK SOLIDS
11 NOT FAT

12 (18) “SWEETENED CONDENSED SKIM MILK” IS SKIM
13 MILK TO WHICH REFINED SUCROSE OR A COMBINATION
14 OF REFINED SUCROSE AND REFINED DEXTROSE HAS
15 BEEN ADDED AND FROM WHICH A CONSIDERABLE POR-
16 TION OF THE WATER IS THEN REMOVED BY EVAPORA-
17 TION AND WHICH CONTAINS NOT LESS THAN TWENTY-
18 FOUR PER CENT TOTAL MILK SOLIDS

19 (17) (19) “Sterilized cream” is cream in hermetically sealed con-

1 tainers which has been so treated that it will keep without refrigera-
2 tion

3 ~~(18)~~ (20) "Sterilized milk" is milk in hermetically sealed containers
4 which has been so treated that it will keep without refrigeration

5 ~~(19)~~ (21) "Milk products" means ice cream ice cream mix custard
6 ice cream French ice cream frozen custard ice milk sherbet and other
7 similar frozen and semi-frozen products and all dairy products used in
8 the manufacture thereof

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

14 Section 3 Standardization Any of the products defined in section
15 1 may be standardized by the processor by the addition or deletion of
16 natural components

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

20 Section 5 Unlawful Serving It shall be unlawful for any eating

1 place to serve pasteurized milk homogenized milk chocolate milk skimmed
2 milk or fluid derivatives of milk which is not in its original container ex-
3 cept that they may be served in individual portions provided it is served
4 from automatic dispensing machines which meet the following design
5 and operation requirements

6 (1) All parts of such dispensing machines with which the above
7 mentioned products come in contact shall be constructed in such manner
8 as to be easily cleaned and shall be kept in good repair the manufacture
9 packing transportation and handling of bulk containers shall be
10 conducted in a sanitary manner

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

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

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

1 (5) When the above mentioned products EXCEPT CHOCOLATE
2 MILK contain more than five-tenths per cent butterfat and they are
3 to be served from a dispensing device they shall be homogenized

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

7 Section 6 Labeling (A) The labeling of any product defined in
8 section 1 except raw milk for processing shall include the designation
9 of the product the name and address of the processor and a declaration
10 of the net contents Brand names may be approved by the Secretary of
11 Agriculture provided that they do not detract from the proper design-
12 nation of the product

13 (b) The labeling of fluid derivatives of milk and cream and cream
14 itself in addition to the above shall include a declaration of the per-
15 centage of butterfat with such tolerances as may be established by the
16 Secretary of Agriculture

17 Section 7 Duties of the Department of Agriculture The Depart-
18 ment of Agriculture shall be charged with the enforcement of the
19 provisions of this act and shall make rules and regulations after public

1 hearing for the proper enforcement thereof and shall cause such rules
2 and regulations to be published

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

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

1 Section 10 Specific Repeals The following acts and part of acts
2 are repealed

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

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

12 (3) Act of March 21 1923 (P L 28) entitled "An act for the pre-
13 vention of fraud and the protection of the public health relating to
14 milk cream or skimmed milk whether or not condensed evaporated
15 concentrated dried powdered or desiccated prohibiting the introduction
16 of foreign fats into them regulating the sale of and defining condensed
17 concentrated and evaporated milk stipulating penalties for the infraction
18 thereof and providing for the enforcement thereof"

19 (4) Act of June 29 1923 (P L 929) entitled "A supplement to an
20 act approved the twenty-first day of March one thousand nine hundred

1 twenty-three entitled 'An act for the prevention of fraud and the pro-
2 tection of the public health relating to milk cream or skimmed milk
3 whether or not condensed evaporated concentrated dried powdered or
4 desiccated prohibiting the introduction of foreign fats into them regu-
5 lating the sale of and defining condensed concentrated and evaporated
6 milk stipulating penalties for the infraction thereof and providing for
7 the enforcement thereof' defining condensed concentrated and evapor-
8 ated skimmed milk and compounds thereof regulating the manufacture
9 sale and exchange thereof and providing penalties"

10 (5) Act of March 26 1925 (P L 83) entitled "An act for the pro-
11 tection of public health by regulating the serving of milk for drinking
12 purposes to patrons of hotels restaurants lunch rooms fountains and
13 dining cars and providing penalties"

14 Section 11 General Repeal All other acts and parts of acts are
15 repealed insofar as they are inconsistent herewith

16 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