

material from which the sample was drawn. If the purchaser or purchasers of the lot cannot be found, the assessment shall be deposited in the State Treasury to the credit of the General Fund.

Section 8. Rules and Regulations.—The Secretary of Agriculture is empowered to prescribe and enforce such reasonable rules and regulations relating to the sale of agricultural liming materials as is deemed necessary to carry into effect the full intent and meaning of this act.

Section 9. Violations; Penalties.—Any person violating any provisions of this act shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than fifty dollars (\$50) for the first offense, and, in default of the payment thereof, undergo imprisonment for a term not exceeding thirty days, and a fine of not less than one hundred dollars (\$100) for each subsequent offense, and, in default thereof, a term of imprisonment of not less than sixty days. It shall be the duty of the Secretary of Agriculture to enforce the provisions of this act.

Section 10. Repeal.—The act of June 1, 1915 (P. L. 678), entitled “An act to regulate the sale for agricultural purpose of crushed limestone, lime gypsum and related products; defining said products; and prescribing penalties for the violation of this act,” is repealed.

Section 11. This act shall take effect January 1, 1962.

APPROVED—The 8th day of August, A. D. 1961.

DAVID L. LAWRENCE

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No. 436

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 repeals.

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

Section 1. Definitions.—As used in this act—

(1) “Milk” is the natural lacteal secretion, free from colostrum, obtained by the complete milking of one or more healthy cows or goats. The term “milk,” unquali-

Milk and its derivatives administered by the Department of Agriculture.

fied, means cow's milk. If derived from goats, *it shall be labeled as such.

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

(3) "Cream" is that portion of milk, rich in fat, which rises to the surface of milk when it stands or is separated from it by centrifugal force, and contains not less than eighteen per cent of butterfat.

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

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

(6) "Homogenized milk" or "homogenized cream" is milk or cream that has been mechanically treated in such a manner as to alter its physical properties with particular reference to the condition and appearance of fat globules.

(7) "Skim milk" is a milk which contains less than **five-tenths per cent butterfat.

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

(9) "Fluid derivatives of cream" shall be any combination of milk and cream containing more than six per cent butterfat but not more than eighteen per cent butterfat.

* "Is" in original.

** "five-tenth" in original.

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

(11) "Flavored drink" is any fluid derivative of milk containing less than three and twenty-five one-hundredths per cent butterfat and which meets the requirements of act of July 5, 1957 (P. L. 485), commonly known as the "Pennsylvania Non-Alcoholic Drinks Law."

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

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

(14) "Evaporated or condensed milk" is the product resulting from the removal of a considerable portion of the water from milk by evaporation and such product shall contain not less than seven and nine-tenths per cent of butterfat nor less than twenty-five and nine-tenths per cent of total milk solids.

(15) "Sweetened condensed whole milk" is the product resulting from the removal of a considerable portion of the water from whole milk to which sugar has been added and contains not less than eight and five-tenths per cent butterfat and not less than twenty-eight per cent total milk solids.

(16) "Condensed skim milk" is skim milk from which a considerable portion of the water has been removed by evaporation and which contains not less than twenty-seven per cent milk solids not fat.

(17) "Evaporated skim milk" is skim milk from which a considerable portion of the water has been re-

moved by evaporation and which contains not less than twenty per cent milk solids not fat.

(18) "Sweetened condensed skim milk" is skim milk to which refined sucrose or a combination of refined sucrose and refined dextrose *have been added and from which a considerable portion of the water is then removed by evaporation and which contains not less than twenty-four per cent total milk solids.

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

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

(21) "Milk products" means ice cream, ice cream mix, custard ice cream, French ice cream, frozen custard, ice milk sherbet and other similar frozen and semi-frozen products, and all dairy products used in the manufacture thereof.

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

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

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

Section 5. Unlawful Serving.—It shall be unlawful for any eating place to serve pasteurized milk, homogenized milk, chocolate milk, skimmed milk, or fluid derivatives of milk, which is not in its original container, except that they may be served in individual portions, provided it is served from automatic dispensing machines which meet the following design and operation requirements:

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

* "has" in original.

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

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

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

(5) When the above-mentioned products, except chocolate milk, contain more than five-tenths per cent butterfat and they are to be served from a dispensing device, they shall be homogenized.

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

Section 6. Labeling.—(a) The labeling of any product defined in section 1, except raw milk for processing, shall include the designation of the product, the name and address of the processor, and a declaration of the net contents. Brand names may be approved by the Secretary of Agriculture, provided that they do not detract from the proper designation of the product.

(b) The labeling of fluid derivatives of milk and cream and cream itself, in addition to the above, shall include a declaration of the percentage of butterfat with such tolerances as may be established by the Secretary of Agriculture.

Section 7. Duties of the Department of Agriculture.—The Department of Agriculture shall be charged with the enforcement of the provisions of this act and shall make rules and regulations, after public hearing, for the proper enforcement thereof, and shall cause such rules and regulations to be published.

Section 8. Penalties.—Any person who shall violate any of the provisions of this act, or any rule, regulation or order made pursuant to this act, shall, for the first or second offense upon conviction thereof in a summary proceeding, be sentenced to pay a fine of not less than twenty-five dollars (\$25) nor more than one hundred dollars (\$100) and costs of prosecution, and, in default of payment of such fines and costs, shall be sentenced to undergo imprisonment in the county jail for not more than thirty days, and for a third or subsequent offense within one year, shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to pay

a fine of not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1000) or to undergo imprisonment in the county jail not exceeding one year, or both, in the discretion of the court.

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

Section 10. Specific Repeals.—The following acts and *parts of acts are repealed.

(1) Act of June 10, 1897 (P. L. 142), entitled "An act to prohibit the adulteration or coloring of milk or cream by the addition of so called preservatives or coloring matter, and to provide for the enforcement of the same."

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

(3) Act of March 21, 1923 (P. L. 28), entitled "An act for the prevention of fraud and the protection of the public health; relating to milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, dried, powdered, or desiccated; prohibiting the introduction of foreign fats into them; regulating the sale of and defining condensed, concentrated, and evaporated milk; stipulating penalties for the infraction thereof, and providing for the enforcement thereof."

(4) Act of June 29, 1923 (P. L. 929), entitled "A supplement to an act, approved the twenty-first day of March, one thousand nine hundred twenty-three, entitled 'An act for the prevention of fraud and the protection of the public health; relating to milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, dried, powdered, or desiccated; prohibiting the introduction of foreign fats into them; regulating the sale of and defining condensed, concentrated, and evaporated milk; stipulating penalties for the infraction thereof; and providing for the enforcement thereof,' defining condensed, concentrated, and evaporated skimmed milk, and compounds thereof; regulating the manufacture, sale, and exchange thereof; and providing penalties."

(5) Act of March 26, 1925 (P. L. 83), entitled "An act for the protection of public health by regulating the serving of milk for drinking purposes to patrons of

* "part" in original.

hotels, restaurants, lunch rooms, fountains, and dining cars; and providing penalties.”

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

Section 12. Effective Date.—This act shall take effect January 1, 1962.

APPROVED—The 8th day of August, A. D. 1961.

DAVID L. LAWRENCE

No. 437

AN ACT

Amending the act of May 27, 1949 (P. L. 1903), entitled “An act providing for powers, responsibilities, duties and limitations of the Governor, Adjutant General, Department of Military Affairs, Pennsylvania State Armory Board, Military Reservation Commission in connection with the armed Military and Naval forces and the internal security of the Commonwealth; for the definition, organization, powers and limitations of the unorganized militia, Pennsylvania National Guard, Pennsylvania Guard, Naval Militia, Pennsylvania Naval Militia and for coordination with the government of the United States in the organization and functioning of the Pennsylvania National Guard and the National Guard of the United States apportioned the Commonwealth,” changing the measure of relief for disability or death of personnel on active duty.

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

The Military Code of 1949.

Section 1. Section 844, act of May 27, 1949 (P. L. 1903), known as “The Military Code of 1949,” is amended to read:

Section 844, act of May 27, 1949, P. L. 1903, amended.

Section 844. Relief for Disability Incurred in Active Service.—If any officer or enlisted man of the Pennsylvania National Guard is wounded or otherwise disabled, or dies as a result of wounds or other disability received or contracted while performing duty in active service of the State or in the performance of other military duty under competent order or authority, he or his dependents, *if not compensated therefor by the government of the United States*, shall receive from the Commonwealth just and reasonable relief, the amount of compensation to be determined in accordance with the Workmen’s Compensation Law of Pennsylvania.

Section 2. This act shall take effect immediately.

Act effective immediately.

APPROVED—The 8th day of August, A. D. 1961.

DAVID L. LAWRENCE