

2011 DRAFTING REQUEST

Bill

Received: **05/13/2011**

Received By: **btradewe**

Wanted: **As time permits**

Companion to LRB:

For: **Andre Jacque (608) 266-9870**

By/Representing:

May Contact:

Drafter: **btradewe**

Subject: **Agriculture - food safety**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Jacque@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt food processing company from certain DATCP rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 05/31/2011	nmatzke 05/31/2011	mduchek 05/31/2011	_____	mbarman 05/31/2011		
/1	btradewe 09/12/2011	mduchek 09/20/2011	jfrantze 09/21/2011	_____	sbasford 09/21/2011		State
/2	btradewe 02/02/2012	mduchek 02/02/2012	rschluet 02/02/2012	_____	sbasford 02/02/2012		State
/3	btradewe	mduchek	jmurphy	_____	lparisi	ggodwin	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/03/2012	02/03/2012	02/03/2012	_____	02/03/2012	02/09/2012	

FE Sent For:

*At Intro
2/17/2012*

<END>

2011 DRAFTING REQUEST

Bill

Received: **05/13/2011**

Received By: **btradewe**

Wanted: **As time permits**

Companion to LRB:

For: **Andre Jacque (608) 266-9870**

By/Representing:

May Contact:

Drafter: **btradewe**

Subject: **Agriculture - food safety**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Jacque@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt food processing company from certain DATCP rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 05/31/2011	nmatzke 05/31/2011	mduchek 05/31/2011	_____	mbarman 05/31/2011		
/1	btradewe 09/12/2011	mduchek 09/20/2011	jfrantze 09/21/2011	_____	sbasford 09/21/2011		State
/2	btradewe 02/02/2012	mduchek 02/02/2012	rschluet 02/02/2012	_____	sbasford 02/02/2012		State
/3	btradewe	mduchek	jmurphy	_____	lparisi		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	02/03/2012	02/03/2012	02/03/2012	_____	02/03/2012		

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: **05/13/2011**

Received By: **btradewe**

Wanted: **As time permits**

Companion to LRB:

For: **Andre Jacque (608) 266-9870**

By/Representing:

May Contact:

Drafter: **btradewe**

Subject: **Agriculture - food safety**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Jacque@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt food processing company from certain DATCP rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 05/31/2011	nmatzke 05/31/2011	mduchek 05/31/2011	_____	mbarman 05/31/2011		
/1	btradewe 09/12/2011	mduchek 09/20/2011	jfrantze 09/21/2011	_____	sbasford 09/21/2011		State
/2	btradewe 02/02/2012	mduchek 02/02/2012	rschluet 02/02/2012	_____	sbasford 02/02/2012		

Handwritten notes:
 13
 2/3/12
 jm
 Sep
 2/3

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: 05/13/2011

Received By: btradewe

Wanted: As time permits

Companion to LRB:

For: Andre Jacque (608) 266-9870

By/Representing:

May Contact:

Drafter: btradewe

Subject: Agriculture - food safety

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Jacque@legis.wi.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt food processing company from certain DATCP rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 05/31/2011	nmatzke 05/31/2011	mduchek 05/31/2011	_____	mbarman 05/31/2011		
/1	btradewe 09/12/2011	mduchek 09/20/2011	jfrantze 09/21/2011	_____	sbasford 09/21/2011		

FE Sent For:

M
2/2/12
12
Km 3/2
J
 <END>

2011 DRAFTING REQUEST

Bill

Received: **05/13/2011**

Received By: **btradewe**

Wanted: **As time permits**

Companion to LRB:

For: **Andre Jacque (608) 266-9870**

By/Representing:

May Contact:

Drafter: **btradewe**

Subject: **Agriculture - food safety**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Jacque@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt food processing company from certain DATCP rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 05/31/2011	nmatzke 05/31/2011	mduchek 05/31/2011	_____	mbarman 05/31/2011		
FE Sent For:		11 M 9/20/11	Jb 9/21				<END>

2011 DRAFTING REQUEST

Bill

Received: 05/13/2011

Received By: **btradewe**

Wanted: **As time permits**

Companion to LRB:

For: **Andre Jacque (608) 266-9870**

By/Representing:

May Contact:

Drafter: **btradewe**

Subject: **Agriculture - food safety**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Jacque@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Exempt food processing company from certain DATCP rules

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe	/P1 nwn 5/31		_____			

FE Sent For:

<END>

Tradewell, Becky

From: Kunkel, Mark
Sent: Friday, May 13, 2011 8:35 AM
To: Tradewell, Becky
Subject: FW: Info RE: my drafting request
Attachments: ATCP 80.01.pdf

Here is the info I mentioned yesterday.

From: Rep.Jacque
Sent: Thursday, May 12, 2011 11:00 PM
To: Kunkel, Mark
Subject: Info RE: my drafting request

From: GREG BUCKLEY [mailto:GREBUC@two-rivers.org]
Sent: Tuesday, May 03, 2011 5:10 PM
To: Tarantino, Jeanne - LTGOV
Cc: Rep.Jacque; DAN PAWLITZKE; GREG BUCKLEY
Subject: RIVERSIDE FOODS CONCERNS WITH DATCP REGULATIONS

Hello Jeanne--

It was good meeting with you and Lt. Governor Kleefisch today.

As you heard from Rep. Andre Jacque, City Economic Development Supervisor Dan Pawlitzke and me, one of our local employers, Riverside Foods (www.riversidefoods.com) has some very real concerns about how certain DATCP regulations are being applied to their business.

Riverside is in the business of producing frozen appetizers and seafood entrees for the food service industry. Founded here in Two Rivers, primarily as a fish processing company, the company has expanded greatly in recent years, serving national convenience food chains like Yum Brands (Kentucky Fried Chicken, Long John Silvers, A & W) and others with various products, many of them featuring Wisconsin cheese. Riverside currently employs about 85 people at its Two Rivers facilities.

My understanding of the company's concern is that, even though it does not handle raw milk in its production process, it is required in many instances to meet "3-A Sanitary Standards," as if it were a "Dairy Plant" as defined under DATCP regulations. ATCP 80.01(5) defines "Dairy Plant" as:

"...any place where a dairy product is manufactured or processed for sale or distribution as human food, and includes a receiving station or transfer station."

Riverside does not have any facilities that meet the DATCP definition of a "receiving station" or "transfer station." Those definitions are contained in DATCP 80.01(33) and 80.01(40) respectively. An excerpt

from the Administrative Code, containing these definitions, is attached hereto.

The company contends that, as the result of being held to the "3-A Sanitary Standards" by DATCP, it must have production machinery that will be handling certain cheese products "certified" as meeting the 3-A Standards, which adds considerably to the cost of that equipment. In the case of one product line where the company wishes to ramp up production, the added cost of meeting Wisconsin's requirements would add \$400,000 to its equipment costs, more than doubling that up-front cost. As the result, the company is looking at possibly moving production of this particular product out-of-state, taking the related capital investment and jobs to Michigan, Illinois or Minnesota, where the standards are apparently different.

This move could cost Two Rivers and the State of WI up to 18 existing jobs and 5 new jobs that would be created as the result of increased sales. And I daresay the public's health will not be endangered as the result of eating appetizers prepared in one of our neighboring states.

I placed a call about this matter to **Secretary Ben Brancel's office** last Friday. I want to thank **Kelly** of the Secretary's Office for following up with DATCP's **Legislative Liaison** (who was aware of an earlier inquiry from Rep. Jacque) and for having **Mike Barnett** of the DATCP staff call my office yesterday. Mr. Barnett indicated that **Lee Larsen** of DATCP's Food and Dairy staff would be contacting Riverside either yesterday (Monday) or today.

Indeed, Mr. Larsen did have an approximately 2-hour phone conversation with Riverside's Production Manager, Paul Scheffel, this morning.

That said, when I spoke with Mr. Scheffel right after our luncheon today, he was still not satisfied with the explanations he had received, and stated that it was still not clear to him that there is any clear-cut standard for determining when a production process must meet 3-A standards. He is awaiting receipt of some written criteria that Mr. Larsen promised to send to him shortly.

Bottom line, Riverside Foods does a lot of value-added processing of Wisconsin cheese products. Those cheeses are produced in properly-regulated facilities, and delivered to Riverside as a finished product. Riverside does not handle raw milk; it is not a cheese producer. Riverside adds coatings, seasonings, or breadings to cheese, deep fries it, then flash-freezes and packages the finished product.

There is clearly a need for more dialogue between the State and this Two Rivers business, before regulatory issues prompt the company to invest in new facilities and jobs outside of our state. We hope that you share our sense of urgency, and welcome the Lt. Governor's involvement in this matter.

Best Regards,

Greg Buckley

Greg Buckley
City Manager
City of Two Rivers, WI
Tel. 920-793-5532
Fax 920-793-5563
grebuc@two-rivers.org

ATCP 80.01



SUBCHAPTER I — DEFINITIONS

ATCP 80.01 Definitions. In this chapter:

ATCP 80.01(1)



(1) "Bulk milk tanker" has the meaning specified under s. ATCP 82.01 (1).

ATCP 80.01(1g)



(1g) "Bulk transport container" means a vehicle or container that a milk producer uses to ship bulk milk from a dairy farm to a dairy plant.

ATCP 80.01(3)



(3) "C-I-P system" means equipment that is designed, constructed and installed to be cleaned in place by the internal circulation of cleaning and sanitizing solutions onto product contact surfaces.

ATCP 80.01(4)



(4) "Composite sample" means a sample of milk which is collected from 2 or more milk shipments from the same milk producer, and which is compiled and preserved according to s. ATCP 80.30 (4).

ATCP 80.01(5)



(5) "Dairy plant" means any place where a dairy product is manufactured or processed for sale or distribution as human food, and includes a receiving station or transfer station.

ATCP 80.01(6)



(6) "Dairy plant operator" means a person who operates a dairy plant and who is required to be licensed under s. ATCP 80.02 (1).

ATCP 80.01(7)



(7) "Dairy product" means all of the following:

ATCP 80.01(7)(a)



(a) Raw or processed milk.

ATCP 80.01(7)(b)



(b) A milk product or by-product, including all dairy and nondairy ingredients incorporated into that milk product or by-product.

ATCP 80.01(7)(c)



(c) A commodity in which milk or any milk product or by-product is a principal ingredient.

cheese

ATCP 80.01(8) 

(8) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

ATCP 80.01(9) 

(9) "Equipment" means an implement, vessel, pipeline, machine or apparatus, other than a utensil, that has one or more product contact surfaces and is used in moving, handling, storing or processing dairy products at a dairy plant. "Equipment" includes C-I-P systems.

ATCP 80.01(10) 

(10) "Fluid milk product" means cream, sour cream, acidified sour cream, half-and-half, sour half-and-half, whipped cream, concentrated milk, concentrated milk products, reduced fat milk, low fat milk, nonfat milk, flavored milk, buttermilk, cultured buttermilk, cultured milk, yogurt, low fat yogurt, nonfat yogurt, eggnog, holiday nog, nog-flavored milk, vitamin and mineral fortified milk or milk products, and any other fluid milk product made by adding any substance to milk or any of these products.

No mention of cheese

ATCP 80.01(11) 

(11) "Frozen dessert" means ice cream, French ice cream, artificially sweetened ice cream, frozen custard, frozen yogurt, frozen concentrates, ice milk, sherbet, water ice, quiescently frozen confection, quiescently frozen dairy confection, manufactured frozen dessert mix and frozen whipped cream confections. "Frozen dessert" includes frozen dessert mix.

ATCP 80.01(12) 

(12) "Frozen dessert mix" means a mixture of frozen dessert ingredients that has not yet been processed and frozen to create a frozen dessert. "Frozen dessert mix" includes a mix of previously pasteurized dry dairy ingredients that is combined with potable water to create a liquid mix.

ATCP 80.01(13) 

(13) "Grade A dairy plant" means a dairy plant required to hold a permit under s. ATCP 80.06.

ATCP 80.01(14) 

(14) "Grade A dairy product" means a fluid milk product that is produced from grade A milk and processed and distributed in compliance with grade A standards under this chapter.

ATCP 80.01(15) 

(15) "Grade A milk" means milk produced, processed and distributed in compliance with grade A requirements under this chapter and ch. ATCP 60.

ATCP 80.01(16) 

(16) "Grade B dairy plant" means a dairy plant other than a grade A dairy plant.

ATCP 80.01(17) 

(17) "Grade B dairy product" means a dairy product other than a grade A dairy product.

ATCP 80.01(18) 

(18) "Grade B milk" means milk other than grade A milk.

ATCP 80.01(19) 

(19) "Milk" means the lacteal secretion of milking animals, and includes skim milk and cream.

ATCP 80.01(20) 

(20) "Milk component test" means a test that determines the amount of milkfat, protein, total solids, solids-not-fat or other components in milk, and that may affect the price which a dairy plant operator pays a milk producer for milk.

ATCP 80.01(21) 

(21) "Milk component testing device" means an automated testing device used to perform milk component tests.

ATCP 80.01(21m) 

(21m) "Milk hauler" means any person who collects milk at a dairy farm.

ATCP 80.01(22) 

(22) "Milk producer" means any person who owns or operates a dairy farm, and sells or distributes milk produced on that farm.

ATCP 80.01(23) 

(23) "Milk quality test" means a bacteria count, somatic cell count, drug residue test, milk component test, or other analytical test which is used to determine compliance with milk quality standards under s. ATCP 60.15 or 80.24, or which may affect the price that a dairy plant operator pays a milk producer for milk.

ATCP 80.01(23m) 

(23m) "Milking animals" means all of the following:

ATCP 80.01(23m)(a) 

(a) Cows, sheep and goats.

ATCP 80.01(23m)(b) 

(b) Other hooved animals whose milk is collected and distributed for human consumption.

ATCP 80.01(24) 

(24) "Multi-use package" means a returnable bottle or other package that is designed for repeated use.

ATCP 80.01(25) 

(25) "Package" means a container or wrapping, having one or more product contact surfaces, that is designed or used to enclose a dairy product sold or shipped from a dairy plant. "Package" includes package covers and other package components. "Package" includes all of the following:

ATCP 80.01(25)(a)



(a) A returnable bottle or other multi-use package.

ATCP 80.01(25)(b)



(b) A single-service package.

ATCP 80.01(25)(c)



(c) A bulk or shipping container, other than a bulk milk tanker, that has one or more product contact surfaces and is used for the sale or shipment of a dairy product from a dairy plant.

ATCP 80.01(26)



(26) "Pasteurize" means to thermally process every particle of a dairy product in properly designed and operated equipment according to subch. V, in order to destroy pathogenic microbes in that dairy product. "Pasteurize" includes batch pasteurization, high-temperature short-time (HTST) pasteurization, ultrapasteurization, and other equally effective pasteurization processes that are approved by the department in writing.

ATCP 80.01(27)



(27) "Person" means an individual, corporation, partnership, cooperative, association, or any other business organization or entity. "Person" includes the state of Wisconsin, and any subunit or agency of the state, to the extent that the state or its subunit or agency is engaged in operating a dairy plant.

ATCP 80.01(27m)



(27m) "PMO" means the grade A pasteurized milk ordinance, 2005 revision, published by the United States department of health and human services, public health service, food and drug administration.

ATCP 80.01(28)



(28) "Potable water" means water that is bacteriologically and chemically safe to drink, and that is free from harmful parasites.

ATCP 80.01(29)



(29) "Potentially hazardous food" means any food that consists wholly or in part of milk, milk products, eggs, meat, poultry, fish, shellfish, edible crustacea or other ingredients, and that is capable of supporting rapid and progressive growth of pathogenic or toxigenic microorganisms. "Potentially hazardous food" does not include foods having a Ph level of 4.6 or below, foods having a water activity value of 0.85 or less under standard conditions, or foods that are processed to prevent spoilage and packaged in hermetically sealed containers.

ATCP 80.01(30)



(30) "Processing" means pasteurizing, manufacturing, blending or packaging dairy products, or cooling processed dairy products.

ATCP 80.01(31)



(31) "Processing plant" means a dairy plant at which dairy products are processed.

ATCP 80.01(32)



(32) "Product contact surface" means a surface of equipment, or a surface of a utensil or package, with which a dairy product normally comes in direct contact, or from which materials may drain, drip or be drawn into a dairy product.

ATCP 80.01(33)



(33) "Receiving station" means a facility which is designed for the receipt and bulk storage of milk, and which is used to receive or store milk in bulk. "Receiving station" does not include a processing plant or a facility used to distribute pasteurized milk in bottled or packaged form to consumers.

ATCP 80.01(33g)



(33g) "Recombined dairy product" means a dairy product created by recombining separated dairy product components.

ATCP 80.01(33j)



(33j) "Reconstituted dairy product" means a dairy product created by restoring water to dehydrated dairy product ingredients.

ATCP 80.01(34)



(34) "Safe temperatures" as applied to potentially hazardous refrigerated foods means temperatures of 45° F. (7° C.) or below. As applied to potentially hazardous heated foods, "safe temperatures" means temperatures of 140° F. (60° C.) or above. As applied to frozen foods, "safe temperatures" means temperatures of 0° F. (-17° C.) or below.

ATCP 80.01(35)



(35) "Sanitize" means to destroy pathogens and other microorganisms by applying, to a clean product contact surface, a sanitizing procedure that complies with s. ATCP 80.18.

ATCP 80.01(36)



(36) "Shipping container" means a box, carton or similar container in which packaged dairy products are shipped in bulk from a dairy plant.

ATCP 80.01(37)



(37) "Single-service utensil" means a utensil that is designed to be used only once prior to disposal.

ATCP 80.01(38)



(38) "Single-service package" means a package that is designed to be used only once prior to disposal.

ATCP 80.01(39)



(39) "Standard of identity" means a dairy product standard of identity adopted or incorporated by reference

under s. 97.09, Stats.

ATCP 80.01(40) 

(40) "Transfer station" means a facility that is designed and used solely to transfer milk from one bulk milk tanker to another without intervening storage.

ATCP 80.01(41) 

(41) "Ultrapasteurize" means to thermally process a dairy product according to s. ATCP 80.44 (3).

ATCP 80.01(42) 

(42) "Utensil" means a hand-held or similarly portable container or device, such as a knife, spatula, strainer or scoop, that has one or more dairy product contact surfaces and is used in processing or handling milk or dairy products at a dairy plant.

ATCP 80.01 - ANNOT. 

History: *Cr. Register, November, 1994, No. 467, eff. 12-1-94; CR 01-124: cr. (1g), am. (10), (11) and (34) Register December 2002 No. 564, eff. 1-1-03; CR 04-005: r. (2) Register October 2004 No. 586, eff. 11-1-04; CR 07-006: am. (19) and (26), cr. (21m), (23m), (27m), (33g) and (33j), Register January 2008 No. 625, eff. 2-1-08.*

5/13 Phone Conversation with Rep. Jacques -

I explained that this company does seem to be a dairy plant within the meaning of s. 97.20(1)(a). He did not seem to want to exempt the company from the definition.

He emphasized that the company does not handle fluid milk. They receive cheese curds, bread them, and flash freeze them. The frozen curds must be deep fried before being served to the consumer. This heat the product above the "kill point" so that there is no concern about bacteria.

According to Rep. Jacques, the 3A standards would only be applied in this situation in Wisconsin and California. He suggested that I check the Michigan laws.

RLT



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2094/P1

RCT:(.....

nwn

Wanted 6/3 (Fri) - or sooner

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SA/

ONote

Gen.

1 AN ACT ...; relating to: equipment standards applicable to certain dairy plants. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 97.20^A (5) of the statutes is created to read:

3 97.20 (5) LIMITATION ON REGULATION. ✓ Notwithstanding the rule-making
4 authority under sub. (4), ✓ the department may not require a dairy plant operator ✓ that
5 does not receive fluid milk or fluid milk products ✓ to use equipment that meets
6 sanitary standards in the 3-A Sanitary Standards and Accepted Practice, ✓ as defined
7 in 7 CFR 58.101 (w), ✓ in order to process cheese, manufactured by another person, by
8 breading and flash freezing the cheese if the resulting product is required to be deep
9 fried before being served to consumers. ✓

10

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2094/P1dn

RCT:|:....

nwn

Date

Rep. Jacque:

This is a preliminary draft in response to your request to change the law to assist your local food processor.

As you suggested, I looked at Michigan's laws and was unable to determine the difference that results in the 3-A sanitary standards applying in the relevant situation here and not in Michigan. I also did a little research into finding a "kill temperature" for bacteria, but it looks to me as though there is not a single temperature applicable in all situations.

This draft is my attempt to prohibit DATCP from applying the 3-A sanitary standards in the situation faced by the food processor. I do not have the factual or technical background to be certain that this will achieve your intent. I suggest having someone at the company review the draft and then asking DATCP to review it.

As we discussed, I believe that this food processor falls within the statutory definition of "dairy plant." This draft does not exempt the food processor from the requirement to have a dairy plant license.

Please let me know if you have any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2094/P1dn
RCT:nwn:md

May 31, 2011May 31, 2011

Rep. Jacque:

This is a preliminary draft in response to your request to change the law to assist your local food processor.

As you suggested, I looked at Michigan's laws and was unable to determine the difference that results in the 3-A sanitary standards applying in the relevant situation here and not in Michigan. I also did a little research into finding a "kill temperature" for bacteria, but it looks to me as though there is not a single temperature applicable in all situations.

This draft is my attempt to prohibit DATCP from applying the 3-A sanitary standards in the situation faced by the food processor. I do not have the factual or technical background to be certain that this will achieve your intent. I suggest having someone at the company review the draft and then asking DATCP to review it.

As we discussed, I believe that this food processor falls within the statutory definition of "dairy plant." This draft does not exempt the food processor from the requirement to have a dairy plant license.

Please let me know if you have any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Rep.Jacque
Sent: Friday, September 09, 2011 3:01 PM
To: Tradewell, Becky
Subject: FW: Draft review: LRB 11-2094/P1 Topic: Exempt food processing company from certain DATCP rules
Attachments: LRB-2094_P1.pdf; LRB-2094_P1 Drafters_Note.pdf

Hi Rebecca,

Could you please make the change suggested below to LRB 2094? Sorry for the delay in getting back to you, and thank you for your assistance!

Best Regards,
Rep. Jacque

Beginning on page 1, line 8:

"In 7 CRF 58.101 (w), in order to process cheese, manufactured by a licensed dairy plant, by value adding of the cheese product if the resulting product is required to be heat treated before consummation."

From: Barman, Mike
Sent: Tuesday, May 31, 2011 4:37 PM
To: Rep.Jacque
Subject: Draft review: LRB 11-2094/P1 Topic: Exempt food processing company from certain DATCP rules

Following is the PDF version of draft LRB 11-2094/P1 and drafter's note.



State of Wisconsin
2011 - 2012 LEGISLATURE

SOOW (in 9/12)



LRB-2094/P1
RCT:nwn/nd

Amed
rmy

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Note

Regm

1 AN ACT ^{Regm} to create 97.20 (5) of the statutes; relating to: equipment standards
2 applicable to certain dairy plants.

Analysis
insert

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 97.20 (5) of the statutes is created to read:
4 97.20 (5) LIMITATION ON REGULATION. Notwithstanding the rule-making
5 authority under sub. (4), the department may not require a dairy plant operator that
6 does not receive fluid milk or fluid milk products to use equipment that meets
7 sanitary standards in the 3-A Sanitary Standards and Accepted Practice, as defined
8 in 7 CFR 58.101 (w), in order to process cheese, manufactured by another person, by

licensed dairy plant

SECTION 1

cheese *heat treated*

1 breaded and flash freezing the cheese if the resulting product is required to be deep

2 fried before being served to consumers. *it is consumed*

3 (END)

**2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2094/lins
RCT:.....

Analysis insert

Current law prohibits a person from operating a dairy plant without a license issued by the Department of Agriculture, Trade and Consumer Protection (DATCP). A dairy plant is a place where a dairy product is manufactured or processed for sale. Current law also authorizes DATCP to promulgate rules for the operation of dairy plants, including standards for equipment. Current DATCP rules require dairy plants to use equipment that complies with specific standards, called 3-A Sanitary Standards.

This bill prohibits DATCP from requiring a dairy plant operator that does not receive fluid milk or fluid milk products to use equipment that complies with 3-A Sanitary Standards in order to process cheese that is manufactured by another dairy plant if the resulting cheese product must be heat treated before it is consumed.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2094/1dn

RCT:.....

med

Date

Representative Jacque:

This is a redraft of 11-2094/P1, based on your redraft instructions. I did not include the phrase "by value adding of the cheese product," because I do not think that "value adding" can be used that way in formal written English. Omitting the phrase does not seem to make a difference in the meaning of the provision, but if you have concerns about this change, please let me know and we can discuss alternatives.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2094/1dn
RCT:med:jf

September 21, 2011

Representative Jacque:

This is a redraft of 11-2094/P1, based on your redraft instructions. I did not include the phrase "by value adding of the cheese product," because I do not think that "value adding" can be used that way in formal written English. Omitting the phrase does not seem to make a difference in the meaning of the provision, but if you have concerns about this change, please let me know and we can discuss alternatives.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Jacque, Andre
Sent: Wednesday, February 01, 2012 3:18 PM
To: Tradewell, Becky
Subject: LRB 2094 Drafting request

Hi Becky,

As I described in my voicemail, could you please prepare as soon as possible a /2 draft of LRB 2094 which eliminates the existing draft language and simply makes the following change to current law: 97.20 (1) (b) Insert ", intended to be safely consumed without first being heated," after "commodity".

According to DATCP:

Either option would remove the battered breaded cheese sticks (which are frozen and must be heated before consumption) out from the definition of dairy product. They thus would not have to be processed in a dairy plant. Instead they would be processed in a food processing plant. The Food Processing Plants regulations (ATCP 70) have the following language regarding equipment: 70.06 (1) "Equipment and utensils shall be of sanitary design and construction...Equipment and utensils shall be kept clean and in good repair."

Thank You!
André



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2094/4 2

RCT:nwn&med:jf YMV

Today, if possible

stays

2011 BILL

please regenerate

relative clause insert

1 AN ACT to create 97.20 (5) of the statutes; relating to equipment standards
2 applicable to certain dairy plants.

Analysis by the Legislative Reference Bureau

Analysis insert

Current law prohibits a person from operating a dairy plant without a license issued by the Department of Agriculture, Trade and Consumer Protection (DATCP). A dairy plant is a place where a dairy product is manufactured or processed for sale. Current law also authorizes DATCP to promulgate rules for the operation of dairy plants, including standards for equipment. Current DATCP rules require dairy plants to use equipment that complies with specific standards, called 3-A Sanitary Standards.

This bill prohibits DATCP from requiring a dairy plant operator that does not receive fluid milk or fluid milk products to use equipment that complies with 3-A Sanitary Standards in order to process cheese that is manufactured by another dairy plant if the resulting cheese product must be heat treated before it is consumed.

Analysis insert B

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Insert 1-3

3 SECTION 1. 97.20 (5) of the statutes is created to read:
4 97.20 (5) LIMITATION ON REGULATION. Notwithstanding the rule-making
5 authority under sub. (4), the department may not require a dairy plant operator that

BILL

SECTION 1

1 does not receive fluid milk or fluid milk products to use equipment that meets
2 sanitary standards in the 3-A Sanitary Standards and Accepted Practice, as defined
3 in 7 CFR 58.101 (w), in order to process cheese, manufactured by another licensed
4 dairy plant, if the resulting cheese product is required to be heat treated before it is
5 consumed.

6

(END)

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

I fixed
online

LRB 2094/2ins
RCT.....

1 **Relating clause insert**

2 licensing of plants that process certain foods made with milk or milk products

3 **Analysis insert A**

Currently, the definition of "dairy product" includes any commodity in which milk or any milk product is a principal ingredient.

4 **Analysis insert B**

Under this bill, a place that manufactures or produces commodities, and that are intended to be heat treated before being consumed, in which milk or any milk product is a principal ingredient, and no other dairy products, must be licensed as a food processing plant, rather than as a dairy plant. DATCP's rules for food processing plants, including standards for equipment, differ from those for dairy plants.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

5 **Insert 1-3**

6 **SECTION 1.** 97.20 (1) (b) of the statutes is amended to read:

7 97.20 (1) (b) "Dairy product" means milk or any product or by-product of milk,
8 or any commodity, intended to be consumed without first being treated, in which milk
9 or any milk product or by-product is a principal ingredient.

History: 1971 c. 125, 156, 211; 1975 c. 39, 199; 1977 c. 203 s. 106; 1979 c. 257; 1983 a. 189, 203; 1987 a. 27, 399; 1989 a. 31, 174; 1991 a. 39, 269; 1993 a. 27; 2001 a. 16.

Tradewell, Becky

From: Jacque, Andre
Sent: Friday, February 03, 2012 3:19 PM
To: Tradewell, Becky
Subject: LRB 2094 typo fix

Attachments: 11-20942.pdf

Becky,
Thanks for the quick follow-up. I noticed the word "treated" in the draft should say "heated". Is it possible to get me a corrected version quick?
Thanks again,
André



11-20942.pdf (29
KB)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2094/3
RCT:nwn&med:rs
/mV

Today

2011 BILL

- 1 AN ACT *to amend* 97.20 (1) (b) of the statutes; **relating to:** licensing of plants
2 that process certain foods made with milk or milk products.

Analysis by the Legislative Reference Bureau

Current law prohibits a person from operating a dairy plant without a license issued by the Department of Agriculture, Trade and Consumer Protection (DATCP). A dairy plant is a place where a dairy product is manufactured or processed for sale. Currently, the definition of "dairy product" includes any commodity in which milk or any milk product is a principal ingredient. Current law also authorizes DATCP to promulgate rules for the operation of dairy plants, including standards for equipment.

* Under this bill, a place that manufactures or produces commodities that are intended to be heat^{ed} ~~treated~~ before being consumed and in which milk or any milk product is a principal ingredient, and no other dairy products, must be licensed as a food processing plant, rather than as a dairy plant. DATCP's rules for food processing plants, including standards for equipment, differ from those for dairy plants.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

Godwin, Gigi

From: Jacque, Andre
Sent: Thursday, February 09, 2012 3:58 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-2094/3 Topic: Exempt food processing company from certain DATCP rules

Any way we can get this yet today?

Please Jacket LRB 11-2094/3 for the ASSEMBLY.