



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2015 Wisconsin Act 242
[2015 Senate Bill 512]

**Dairy and Food Processing Plant
Licensing**

BACKGROUND

Wisconsin law generally requires a facility at which food is manufactured or processed for sale to be licensed by the Department of Agriculture, Trade, and Consumer Protection (DATCP) as a food processing plant. Wisconsin law also generally requires a facility at which dairy products are manufactured or processed for sale or distribution to be licensed by DATCP as a dairy plant. Wisconsin law generally exempts a facility licensed as a dairy plant from the food processing plant license requirement, and it provides an exemption from the dairy plant license requirement for a licensed food processing plant that satisfies certain criteria.

2015 WISCONSIN ACT 242

2015 Wisconsin Act 242 modifies the exemption from the dairy plant license requirement available to certain licensed food processing plants, modifies the definition of “dairy product,” and modifies the definition of “food processing plant” for purposes of determining whether a facility must obtain a food processing plant license from DATCP.

Exemption From the Dairy Plant License Requirement for Certain Food Processing Plants

Prior law exempted a licensed food processing plant that produced dairy products into a prepared food from the dairy plant licensing requirement if: (1) the dairy products used were manufactured at a dairy plant from pasteurized ingredients or were produced under other processes that eliminate or reduce to acceptable levels the food safety hazards associated with

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.wisconsin.gov>.

the dairy products; and (2) the federal Food and Drug Administration (FDA) had not prescribed a standard of identity for the prepared food.¹

2015 Wisconsin Act 242 modifies the exemption from the dairy plant licensing requirement. Specifically, the Act provides that a licensed food processing plant that processes dairy products into a prepared food **that is not a dairy product** is exempt if the dairy products used by the food processing plant are manufactured at a dairy plant from ingredients that are pasteurized or are produced under other processes that eliminate or reduce to an acceptable level the food safety hazards associated with the dairy products.

The Definition of “Dairy Product”

The Act also changes the definition of “dairy product.” Prior law defined “dairy product” to mean milk or any product or by-product of milk, or any commodity in which milk or any milk product or by-product is a principal ingredient. Under the Act, “dairy product” means:

- Milk or any product or by-product **derived solely from milk**.
- Hooved or camelid mammals’ milk or any product or by-product derived solely from hooved or camelid mammals’ milk.
- An item that meets certain federal standards of identity.
- An item that fails to meet certain federal standards of identity solely because the item contains hooved or camelid mammals’ milk or milk from goats or sheep.
- A product that is ready to eat, sell, distribute, or market and that is made solely of two or more of the items listed above.

The Definition of “Food Processing Plant”

For purposes of determining whether a facility is required to obtain a food processing plant license, prior law defined a “food processing plant” to mean, with certain exceptions, any place where food processing is conducted.

Under the Act, “food processing plant” means, with certain exceptions, any place **used primarily for food processing where the processed food is not intended to be sold or distributed directly to a consumer**. The Act also makes certain modifications to the exceptions to this definition provided in statute.

Effective date: March 3, 2016, except that the changes to the definition of “food processing plant” become effective on July 1, 2016.

Prepared by: Zach Ramirez, Staff Attorney

March 15, 2016

ZR:mcm;jal

¹ A standard of identity is a standard promulgated by the FDA to ensure that a food identified and marketed by a particular name (e.g., mayonnaise or fruit jelly) is what that name is commonly understood to mean.