

CHAPTER 443

AN ACT to repeal 97.02 (5) (b), (d), (i), (ma), (n), (r) and (s), (6) (b), (c) and (f) and (9) (i) and 97.047; to renumber 97.04 (3) (g); to amend 97.02 (5) (c) and (ea), 97.04 (1) (a) and (b), (2) and (3) (e); to repeal and recreate 97.04 (1) (i) and 97.045; and to create 97.04 (3) (g) and 97.046 of the statutes, relating to grade A milk and grade A milk products; granting rule-making authority with respect to the production, processing and distribution of such products; defining certain milk products and licensing dairy plants and milk distributors.

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

SECTION 1. It is intended by this act to provide for the administration of uniform regulations governing the production, processing and distribution of grade A milk and grade A milk products; the elimination of trade barriers obstructing orderly and efficient marketing of such milk and milk products; the reciprocal recognition of sanitary inspections by other units of government; and the correction of existing laws which are outmoded or conflict with the provisions herein.

SECTION 2. 97.02 (5) (b) of the statutes is repealed.

SECTION 3. 97.02 (5) (c) of the statutes is amended to read:

97.02 (5) (c) Skim milk is milk from which a sufficient portion of cream has been removed to reduce its milk fat percentage to less than 3 per cent and contains not less than 8-1/2 per cent milk solids. * * *

SECTION 4. 97.02 (5) (d) of the statutes is repealed.

SECTION 5. 97.02 (5) (ea) of the statutes is amended to read:

97.02 (5) (ea) Nonfat dry milk * * * is the product resulting from the removal of fat and water from milk, and contains the lactose, milk proteins * * * and milk minerals in the same relative proportions as in the fresh milk from which made. It contains not over 5 per cent by weight of moisture. The fat content is not over 1-1/2 per cent by weight unless otherwise indicated.

SECTION 6. 97.02 (5) (i), (ma), (n), (r) and (s) of the statutes are repealed.

SECTION 7. 97.02 (6) (b), (c) and (f) of the statutes are repealed.

SECTION 8. 97.02 (9) (i) of the statutes is repealed.

SECTION 9. 97.04 (1) (a) and (b) of the statutes are amended to read:

97.04 (1) (a) "Dairy plant" means any premises where a dairy product is manufactured * * * or processed * * * and shall include a receiving station as defined herein.

(b) "Dairy product" means milk, cream, any product or by-product of either or any commodity among the principal constituents or ingredients of which is one or a combination of 2 or more of them * * * including goat milk.

SECTION 10. 97.04 (1) (i) of the statutes is repealed and recreated to read:

97.04 (1) (i) "Grade A dairy plant" means any dairy plant manufacturing or processing and selling grade A milk or grade A milk products as defined in s. 97.046 (1), and shall include any plant manufacturing or processing and selling certified milk or certified milk products as prescribed in s. 97.046 (2) (c).

SECTION 11. 97.04 (2) of the statutes is amended to read:

97.04 (2) No person shall operate a dairy plant * * * without an annual license from the department for the operation conducted, as defined by department * * * rules. This subsection does not apply to a business defined in s. 97.05, to a bakery or confectionary licensed under ss. 97.10 to 97.12, or to * * * a farm from *which* milk or cream produced * * * on such farm *is sold only for manufacturing or processing in a dairy plant*. A separate license is required for each plant * * *. The premises shall be suitably located, constructed and equipped for the operation for which the license is issued, * * * the premises and equipment shall be kept clean and sanitary and operations shall be conducted and materials and products handled and stored in a sanitary manner in accordance with * * * rules of the department. The license certificate shall be displayed conspicuously in the plant * * *. When a new dairy plant * * * is started or an established plant * * * is transferred or moved to another location, plans and specifications of the new plant and location shall be submitted to the department for approval before a license shall be issued.

SECTION 12. 97.04 (3) (e) of the statutes is amended to read:

97.04 (3) (e) For a butter factory, cheese factory * * * or receiving station, * * * an amount based upon its butterfat intake during the year ended on the last day of the month next preceding the date of application, as follows: If the butterfat intake for such period is 250,000 pounds or less, \$5; for each additional 250,000 pounds or major fraction thereof of butterfat intake for such period, \$5.

SECTION 13. 97.04 (3) (g) of the statutes is renumbered 97.04 (3) (h).

SECTION 14. 97.04 (3) (g) of the statutes is created to read:

97.04 (3) (g) For a grade A dairy plant, \$5.

SECTION 15. 97.045 of the statutes is repealed and recreated to read:

97.045 LICENSING OF GRADE A MILK DISTRIBUTORS. (1). "Grade A milk distributor" is any person who distributes and sells grade A milk or grade A milk products as defined in s. 97.046; except that the term shall not include a grade A dairy plant licensed under s. 97.04, or a person who sells grade A milk or grade A milk products at retail only at a restaurant, store or other fixed location.

(2) No person shall engage as a grade A milk distributor without a license therefor from the department. Such license shall expire annually on July 31. The license fee shall be \$5, which shall accompany each application for license and shall be retained whether or not a license is issued. No license shall be transferable.

SECTION 16. 97.046 of the statutes is created to read:

97.046 GRADE A MILK AND GRADE A MILK PRODUCTS. (1) DEFINITIONS. The following definitions shall apply to the interpretation and enforcement of this section:

(a) Grade A milk is milk which is produced, processed and distributed as required by this section and the rules issued thereunder. It shall be interpreted to include goat milk.

(b) Grade A milk products include cream, sour cream, half and half, whipped cream, concentrated milk, concentrated milk products, skim milk, flavored milk, buttermilk, cultured buttermilk, cultured milk, vitamin and mineral fortified milk or milk products, and any other product made by the addition of any substance to milk, or to any of these products, and used for similar purposes, and produced, processed and distributed as required by this section and the rules issued thereunder, but does not include any product which is heat sterilized and in a hermetically sealed container.

(c) Milk producer is any person who owns or controls one or more cows, a part or all of the milk or milk products from which is sold as grade A milk or grade A milk products.

(d) Milk hauler is any person, other than a milk producer hauling his own milk only, who transports grade A milk or grade A milk products to or from a dairy plant or a collecting point.

(e) Milk distributor is a grade A milk distributor as defined in s. 97.045.

(f) Dairy plant is a grade A dairy plant as defined in s. 97.04 (1) (i).

(2) PROHIBITIONS. (a) No milk or milk products listed in sub. (1) shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments, except grade A milk and grade A milk products which have been pasteurized.

(b) No person shall sell any milk or milk product listed in sub. (1) labeled "Grade A", or otherwise represented in a manner which might induce the purchaser to believe that it is grade A milk or a grade A milk product, if such milk or milk product fails to conform to any of the requirements in ch. 97 or the rules issued under this section.

(c) This section shall not apply to incidental sales of milk directly to consumers at the farm where such milk is produced, to incidental sales of pasteurized milk and cream at any dairy plant licensed under s. 97.04, or to certified milk and milk products approved by the department as conforming to methods and standards for the production of certified milk (published by the American Association of Medical Milk Commissions, Inc.).

(3) PERMITS. Every milk producer and milk hauler shall secure a grade A permit from the department unless he is the holder of a valid "Grade A permit" issued by a governmental unit referred to in sub. (6). Only a person who complies with the requirements of this section and the rules issued thereunder shall be entitled to receive and retain such a permit. Applications for permit shall be on a form prescribed and furnished by the department. A separate milk producer permit shall be required for each dairy farm location. Permits shall not be transferable with respect to persons or locations. Dairy plants and milk distributors shall secure license authority under ss. 97.04 and 97.045, respectively.

(4) RULES. The department, in consultation with the state board of health, shall issue rules governing the production, transportation, processing, pasteurization, handling, identity, sampling, examination, labeling and sale of grade A milk and grade A milk products; the inspection of dairy herds, dairy farms and dairy plants; and the issuing and revocation of permits to milk producers and milk haulers, and of licenses to dairy plants and milk distributors. Insofar as permitted by the laws of this state, such rules shall be in reasonable accord with the minimum standards and requirements for milk and milk products currently recommended and published by the U. S. public health service as a milk ordinance and code.

(5) INSPECTION FEES. The department shall prescribe uniform fees sufficient to cover the cost of inspecting grade A milk and milk products, and of grade A dairy farms and plants. Such fees shall be paid only by dairy plants which are under the continuous grade A inspection of the department. The department may bring an action to collect such fees,

and shall revoke or deny the license of any dairy plant for which such fees have not been paid when due.

(6) LEGISLATIVE PURPOSE; UNIFORMITY; RECIPROCITY. (a) Regulation of the production, processing and distribution of grade A milk and grade A milk products under minimum sanitary requirements which are uniform throughout the state and the United States is essential for the protection of consumers and the economic well-being of the dairy industry, and is therefore a matter of state-wide concern; however, nothing in this section shall impair or abridge the power of any municipality or county to regulate milk or milk products, provided its sanitary requirements and standards are in reasonable accord with those issued under this section.

(b) No sanitary requirement or standard issued under this section or contained in any ordinance shall prohibit the sale of grade A milk or grade A milk products which are produced and processed under laws or rules of any governmental unit, within or without this state, which are substantially equivalent to the requirements of the rules issued under this section, and which are enforced with equal effectiveness, as determined by a milk sanitation rating made or approved by the state board of health, in accordance with the rules issued under this section.

SECTION 17. 97.047 of the statutes is repealed.

SECTION 18. This act shall take effect July 1, 1959, except that SECTION 17 shall take effect upon passage and publication.

Approved July 24, 1957.