



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1729/en  
CMH:wlj

## 2015 SENATE BILL 512

1     **AN ACT** *to repeal* 97.20 (1) (g), 97.20 (2) (e) 5. b., 97.21 (1) (d), 97.22 (1) (e), 97.23  
2           (1) (b), 97.24 (1) (cm), 97.29 (1) (g) 1. and 2., 97.29 (1) (g) 3. and 97.29 (1) (g) 4.  
3           to 8.; *to renumber and amend* 97.20 (1) (b), 97.29 (1) (g) (intro.), 97.29 (1) (h)  
4           and 97.29 (1) (h); *to consolidate, renumber and amend* 97.20 (2) (e) 5.  
5           (intro.) and a.; *to amend* 97.01 (1), 97.01 (10) (a), 97.01 (11), 97.09 (1), 97.18 (1)  
6           (a), 97.20 (1) (a), 97.20 (1) (h), 97.24 (1) (ar), 97.25 (1) (b), 97.27 (1) (b) 5., 97.29  
7           (1) (h) 2., 126.01 (17) and 234.90 (1) (cp); *to create* 97.01 (10) (b), 97.01 (10) (c),  
8           97.20 (1) (b) 1. to 5., 97.20 (1) (fg), 97.20 (1) (fm) and 97.29 (1) (h) 1. to 13. of the  
9           statutes; and *to affect* 1983 Wisconsin Act 536; **relating to:** dairy plant and  
10          food processing plant licensing requirements and granting rule-making  
11          authority.

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*Analysis by the Legislative Reference Bureau*

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

**SENATE BILL 512****SECTION 1**

1           **SECTION 1.** 97.01 (1) of the statutes is amended to read:

2           97.01 (1) “Butter” means the clean, nonrancid product made by gathering in  
3 any manner the fat of fresh or ripened cow’s milk or cream into a mass, which also  
4 contains a small portion of the other milk constituents, with or without salt or added  
5 coloring matter, and contains not less than 80% of milk fat. Renovated or process  
6 butter is the product made by melting butter and reworking, without the addition  
7 or use of chemicals or any substances except milk, cream, or salt, and contains not  
8 more than 16% of water and at least 80% of milk fat.

9           **SECTION 2.** 97.01 (10) (a) of the statutes is amended to read:

10           97.01 (10) (a) “Milk” means the ~~whole, fresh, clean,~~ lacteal secretion,  
11 practically free of colostrum, obtained by the complete milking of one or more healthy  
12 cows, goats, or sheep. Milk from cows shall contain not less than 3% of milk fat, and  
13 not less than 8.25% of milk solids not fat. Milk from cows may be standardized by  
14 the addition or removal of cream or by the addition of concentrated milk, dry whole  
15 milk, skim milk, concentrated skim milk, or nonfat milk. Milk from cows may also  
16 be standardized by removing water through reverse osmosis or other nonthermal  
17 methods and adding potable water. When so standardized, milk from cows sold in  
18 final package form shall contain not less than 3.25% of milk fat, and not less than  
19 8.25% of milk solids not fat. Milk may be homogenized.

20           **SECTION 3.** 97.01 (10) (b) of the statutes is created to read:

21           97.01 (10) (b) “Lowfat milk” means cow’s milk from which sufficient milk fat  
22 has been removed to produce a food having a milk fat content of either 0.5 percent,  
23 1 percent, 1.5 percent, or 2 percent and a milk solids not fat content of not less than  
24 10 percent.

25           **SECTION 4.** 97.01 (10) (c) of the statutes is created to read:

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1           97.01 (10) (c) “Skim milk” means cow’s milk from which sufficient milk fat has  
2           been removed to reduce its milk fat content to less than 0.5 percent and which has  
3           a milk solids not fat content of not less than 9 percent.

4           **SECTION 5.** 97.01 (11) of the statutes is amended to read:

5           97.01 (11) “Nonfat dry milk” means the product resulting from the removal of  
6           fat and water from cow’s milk, and contains the lactose, milk proteins and milk  
7           minerals in the same relative proportions as in the fresh cow’s milk from which made.  
8           It contains not over 5% by weight of moisture. The fat content is not over 1 1/2% by  
9           weight unless otherwise indicated.

10          **SECTION 6.** 97.09 (1) of the statutes is amended to read:

11          97.09 (1) Definitions and standards of identity, composition, quality and fill of  
12          container for foods, and amendments thereto, now or hereafter adopted under the  
13          federal act or this chapter are definitions and standards of identity, composition,  
14          quality and fill of container under s. 97.03. However, when such action will promote  
15          honesty and fair dealing in the interest of consumers, the department may amend,  
16          stay or reject such federal regulations or make rules establishing definitions and  
17          standards of identity, composition, quality and fill of container for foods where no  
18          federal regulations exist, or which differ from federal regulations.

19          **SECTION 7.** 97.18 (1) (a) of the statutes is amended to read:

20          97.18 (1) (a) For the purposes of this section “oleomargarine” or “margarine”  
21          includes oleomargarine, margarine, butterine and other similar substances, fats and  
22          fat compounds sufficiently adaptable to the ordinary uses of butter, to lead readily  
23          to use as an alternative to butter, but this section shall not apply to lard, cream  
24          cheese, cheese food compounds, nor to any other dairy product made exclusively of  
25          cow’s milk or milk solids with or without added vitamins, if such product is sold or

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1 distributed in such manner and form as will clearly distinguish it from butter. Nor  
2 shall this section apply to shortenings not churned or emulsified in milk or cream or  
3 having a melting point of 112 degrees Fahrenheit or more as determined by the  
4 capillary tube method unless there is sold or given away with such shortening any  
5 compound which, when mixed with such shortening, makes oleomargarine,  
6 butterine or similar substances.

7 **SECTION 8.** 97.20 (1) (a) of the statutes is amended to read:

8 97.20 (1) (a) “Dairy plant” means ~~any place where a dairy product is~~  
9 ~~manufactured or processed for sale or distribution, and includes a processing plant,~~  
10 ~~receiving station, or transfer station.~~

11 **SECTION 9.** 97.20 (1) (b) of the statutes is renumbered 97.20 (1) (b) (intro.) and  
12 amended to read:

13 97.20 (1) (b) (intro.) “Dairy product” means ~~milk or any product or by-product~~  
14 ~~of milk, or any commodity in which milk or any milk product or by-product is a~~  
15 ~~principal ingredient. any of the following:~~

16 **SECTION 10.** 97.20 (1) (b) 1. to 5. of the statutes are created to read:

17 97.20 (1) (b) 1. Milk or any product or by-product derived solely from milk.

18 2. Hooved or camelid mammals’ milk or any product or by-product derived  
19 solely from hooved or camelid mammals’ milk.

20 3. An item that meets a definition or standard of identity under 21 CFR 131,  
21 133, 135.3 to 135.140, or 184.1979 or under 21 USC 321a or 321c.

22 4. An item that fails to meet a definition or standard of identity specified in  
23 subd. 3. solely because the item contains hooved or camelid mammals’ milk or milk  
24 from goats or sheep instead of or in addition to milk from cows.

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1           5. A product that is ready to eat, sell, distribute, or market and that is made  
2 solely of 2 or more of the items under subds. 1. to 4.

3           **SECTION 11.** 97.20 (1) (fg) of the statutes is created to read:

4           97.20 (1) (fg) “Hooved or camelid mammal” includes water buffalo, yaks, and  
5 other bovine species; camels, llamas, alpacas, and other camelid species; and horses,  
6 donkeys, and other equine species.

7           **SECTION 12.** 97.20 (1) (fm) of the statutes is created to read:

8           97.20 (1) (fm) “Hooved or camelid mammals’ milk” means the lacteal secretion,  
9 practically free of colostrum, obtained by the complete milking of one or more healthy  
10 hooved or camelid mammals.

11          **SECTION 13.** 97.20 (1) (g) of the statutes is repealed.

12          **SECTION 14.** 97.20 (1) (h) of the statutes is amended to read:

13          97.20 (1) (h) “Processing plant” means a ~~dairy plant~~ facility engaged in  
14 pasteurizing, ~~processing~~ or manufacturing ~~milk or dairy products, or processing~~  
15 dairy products into other dairy products, for sale or distribution.

16          **SECTION 15.** 97.20 (2) (e) 5. (intro.) and a. of the statutes are consolidated,  
17 renumbered 97.20 (2) (e) 5. and amended to read:

18          97.20 (2) (e) 5. A food processing plant licensed under s. 97.29 that processes  
19 dairy products into a prepared food that is not a dairy product if all of the following  
20 apply: a. ~~The~~ the dairy products used by the food processing plant are manufactured  
21 at a dairy plant from ingredients that are pasteurized or are produced under other  
22 processes that eliminate or reduce to an acceptable level the food safety hazards  
23 associated with the dairy products, including aseptically processed foods, high acid  
24 foods, heat treated foods, aged foods, cold pack foods, and similarly processed foods.

25          **SECTION 16.** 97.20 (2) (e) 5. b. of the statutes is repealed.

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1           **SECTION 17.** 97.21 (1) (d) of the statutes is repealed.

2           **SECTION 18.** 97.22 (1) (e) of the statutes is repealed.

3           **SECTION 19.** 97.23 (1) (b) of the statutes is repealed.

4           **SECTION 20.** 97.24 (1) (ar) of the statutes is amended to read:

5           97.24 (1) (ar) “Fluid milk product” means cream, sour cream, half and half,  
6 whipped cream, concentrated milk, concentrated milk products, cottage cheese, skim  
7 milk, flavored milk, buttermilk, cultured buttermilk, cultured milk, yogurt, vitamin  
8 and mineral fortified milk or milk products, and any other product made by adding  
9 any substance to milk or any of these products.

10          **SECTION 21.** 97.24 (1) (cm) of the statutes is repealed.

11          **SECTION 22.** 97.25 (1) (b) of the statutes is amended to read:

12          97.25 (1) (b) “Dairy product” ~~has the meaning given in s. 97.20 (1) (b)~~ means  
13 cow’s milk or any product or by-product derived solely from cow’s milk, or any item  
14 in which cow’s milk or any product or by-product derived solely from cow’s milk is  
15 a principal ingredient.

16          **SECTION 23.** 97.27 (1) (b) 5. of the statutes is amended to read:

17          97.27 (1) (b) 5. A warehouse operated by a milk distributor licensed under s.  
18 97.21 (3), and used primarily for the storage and distribution of milk, as defined in  
19 s. 97.01 (10) (a), and fluid milk products, as defined in s. 97.20 (1) (e) and (g) 97.24  
20 (1) (ar).

21          **SECTION 24.** 97.29 (1) (g) (intro.) of the statutes is renumbered 97.29 (1) (g) and  
22 amended to read:

23          97.29 (1) (g) “Food processing” means the manufacture or preparation of food  
24 for sale through the process of canning, extracting, fermenting, distilling, pickling,  
25 freezing, baking, drying, smoking, grinding, cutting, mixing, coating, stuffing,

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1 packing, bottling, or packaging, or through any other treatment or preservation  
2 process. “Food processing” includes the activities of a bakery, confectionary, or  
3 bottling establishment, and also includes the receipt and salvaging of distressed food  
4 for sale or use as food. ~~“Food processing” does not include any of the following:~~

5 **SECTION 25.** 97.29 (1) (g) 1. and 2. of the statutes are repealed.

6 **SECTION 26.** 97.29 (1) (g) 3. of the statutes, as affected by 2015 Wisconsin Act  
7 55, is repealed.

8 **SECTION 27.** 97.29 (1) (g) 4. to 8. of the statutes are repealed.

9 **SECTION 28.** 97.29 (1) (h) of the statutes is renumbered 97.29 (1) (h) (intro.) and  
10 amended to read:

11 97.29 (1) (h) (intro.) “Food processing plant” means any place where used  
12 primarily for food processing is conducted, where the processed food is not intended  
13 to be sold or distributed directly to a consumer. “Food processing plant” does not  
14 include any establishment subject to the requirements of s. 97.30 or any restaurant  
15 or other establishment holding a permit under s. 254.64, to the extent that the  
16 activities of that establishment are covered by s. 97.30 or the permit under s. 254.64.  
17 of the following:

18 **SECTION 29.** 97.29 (1) (h) of the statutes, as affected by 2015 Wisconsin Act 55,  
19 is renumbered 97.29 (1) (h) (intro.) and amended to read:

20 97.29 (1) (h) (intro.) “Food processing plant” means any place where used  
21 primarily for food processing is conducted, where the processed food is not intended  
22 to be sold or distributed directly to a consumer. “Food processing plant” does not  
23 include any establishment subject to the requirements of s. 97.30 or an  
24 establishment holding a license under s. 97.605, to the extent that the activities of

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1 ~~that establishment are covered by s. 97.30 or the license under s. 97.605.~~ of the  
2 following:

3 **SECTION 30.** 97.29 (1) (h) 1. to 13. of the statutes are created to read:

4 97.29 (1) (h) 1. A retail food establishment if the food processing activities at  
5 that establishment are authorized by a license issued under s. 97.30.

6 2. A restaurant or other establishment where meals are prepared or processed  
7 for retail sale directly to consumers or through vending machines if the food  
8 processing activities at that establishment are authorized by a permit issued under  
9 s. 254.64.

10 3. An establishment covered by a license or permit under ch. 125 to sell alcohol  
11 beverages if the food processing activities related to alcohol beverages at that  
12 establishment are limited to preparing individual servings of alcohol beverages that  
13 are sold on the premises in accordance with the terms of the establishment's license  
14 or permit under ch. 125.

15 4. A dairy plant if the food processing activities at that plant are authorized by  
16 a license issued under s. 97.20.

17 5. A meat or poultry establishment if the food processing activities at that  
18 establishment are authorized by a license issued under s. 97.42 or are authorized  
19 under 21 USC 451 to 472 or 21 USC 601 to 695.

20 6. An egg products plant if the food processing activities at that establishment  
21 are inspected by the federal department of agriculture under 21 USC 1031 to 1056.

22 7. A dairy farm and milking operation licensed under s. 97.22 that produces  
23 milk for shipment to a dairy plant licensed under s. 97.20 or under the equivalent  
24 laws of another state.



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1           8. A place used by a beekeeper solely for extracting honey from the comb or  
2 producing and selling raw honey or raw bee products.

3           9. A place used solely for washing or packaging fresh or otherwise unprocessed  
4 fruits or vegetables.

5           10. A place used by a nonprofit organization solely for receiving and salvaging  
6 distressed food pursuant to the organization's purposes if the organization is  
7 described in section 501 (c) (3) of the Internal Revenue Code and is exempt from  
8 federal income tax under section 501 (a) of the Internal Revenue Code.

9           11. A place on a farm used by an egg producer solely for handling, cleaning, or  
10 packaging whole eggs, including nest-run eggs, that are produced as allowed under  
11 s. 97.28 (2).

12           12. A place used solely for producing and packaging maple syrup or  
13 concentrated maple sap for sale directly to consumers or to a food processing plant  
14 licensed under this section if those sales do not exceed \$5,000 in any 12-month  
15 period.

16           13. Any other place exempted by the department by rule.

17           **SECTION 31.** 97.29 (1) (h) 2. of the statutes, as created by 2015 Wisconsin Act  
18 .... (this act), is amended to read:

19           97.29 (1) (h) 2. A restaurant or other establishment where meals are prepared  
20 or processed for retail sale directly to consumers or through vending machines if the  
21 food processing activities at that establishment are authorized by a permit license  
22 issued under s. ~~254.64~~ 97.605.

23           **SECTION 32.** 126.01 (17) of the statutes is amended to read:

24           126.01 (17) "Milk" has the meaning given in s. ~~97.22 (1) (e)~~ 97.01 (10) (a).

25           **SECTION 33.** 234.90 (1) (cp) of the statutes is amended to read:

