

State of Wisconsin



2015 Senate Bill 512

Date of enactment: **March 1, 2016**
Date of publication*: **March 2, 2016**

2015 WISCONSIN ACT 242

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

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

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

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

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

97.01 (10) (a) "Milk" means the ~~whole, fresh, clean,~~ lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy cows, goats, or sheep. Milk from cows shall contain not less than 3% of milk fat, and not less than 8.25% of milk solids not fat. Milk from cows may be standardized by the addi-

tion or removal of cream or by the addition of concentrated milk, dry whole milk, skim milk, concentrated skim milk, or nonfat milk. Milk from cows may also be standardized by removing water through reverse osmosis or other nonthermal methods and adding potable water. When so standardized, milk from cows sold in final package form shall contain not less than 3.25% of milk fat, and not less than 8.25% of milk solids not fat. Milk may be homogenized.

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

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

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

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

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

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

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

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

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

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

97.18 (1) (a) For the purposes of this section “oleo-margarine” or “margarine” includes oleomargarine, margarine, butterine and other similar substances, fats and fat compounds sufficiently adaptable to the ordinary uses of butter, to lead readily to use as an alternative to butter, but this section shall not apply to lard, cream cheese, cheese food compounds, nor to any other dairy product made exclusively of cow’s milk or milk solids with or without added vitamins, if such product is sold or distributed in such manner and form as will clearly distinguish it from butter. Nor shall this section apply to shortenings not churned or emulsified in milk or cream or having a melting point of 112 degrees Fahrenheit or more as determined by the capillary tube method unless there is sold or given away with such shortening any compound which, when mixed with such shortening, makes oleo-margarine, butterine or similar substances.

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

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

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

97.20 (1) (b) (intro.) “Dairy product” means 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, any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

97.20 (2) (e) 5. A food processing plant licensed under s. 97.29 that processes dairy products into a prepared food that is not a dairy product if ~~all of the following apply:~~ a. The 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, including aseptically processed foods, high acid foods, heat treated foods, aged foods, cold pack foods, and similarly processed foods.

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

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

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

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

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

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

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

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

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

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

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

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

97.29 (1) (g) “Food processing” means the manufacture or preparation of food for sale through the process of canning, extracting, fermenting, distilling, pickling, freezing, baking, drying, smoking, grinding, cutting, mixing, coating, stuffing, packing, bottling, or packaging, or through any other treatment or preservation process. “Food processing” includes the activities of a bakery, confectionary, or bottling establishment, and also includes the receipt and salvaging of distressed food for sale or use as food. ~~“Food processing” does not include any of the following:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

234.90 (1) (cp) “Milk” has the meaning given in s. ~~97.22 (1)(e)~~ 97.01 (10) (a).

SECTION 34. 1983 Wisconsin Act 536 is repealed.

SECTION 35. Effective dates. This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 97.29 (1) (h) (by SECTION 29) and 97.29 (1) (h) 2. (by SECTION 31) of the statutes takes effect on July 1, 2016, or the day after publication, whichever is later.