

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2114

Introduced by

Agriculture Committee

(At the request of the Agriculture Commissioner)

1 A BILL for an Act to amend and reenact subsection 9 of section 4-30-01 and sections 4-30-02,
2 4-30-18, 4-30-20, 4-30-36, 4-30-36.2, 4-30-36.3, and 4-30-36.4 of the North Dakota Century
3 Code, relating to dairy regulations, reinspection fees, and references to current food and drug
4 administration regulations.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Subsection 9 of section 4-30-01 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 9. "Distributor" means a person ~~who purchases milk or milk products and transports~~
9 ~~them to a retail dealer or a consumer~~ or company that provides storage,
10 transportation, delivery, or distribution of milk and milk products to any person who
11 offers for sale or sells to any consumer milk or milk products.

12 **SECTION 2. AMENDMENT.** Section 4-30-02 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **4-30-02. Licenses required - Fees - Term.** Every producer-processor, peddler,
15 distributor, every person purchasing milk or milk products for processing or manufacturing, or
16 owning, operating, or leasing a creamery, cheese factory, condensery, drying plant, ice cream
17 plant, ice milk plant, milk plant, every other business engaged in the processing or
18 manufacturing of milk or milk products and every organization acquiring milk or milk products
19 as an agent for sale on behalf of others and doing business within this state shall obtain the
20 license required by this section for each such place of business. Application for license must
21 be made to the commissioner upon forms as the commissioner may require. Upon making
22 application for license, it is implied that consent is given by the applicant for inspection by the
23 department. If the commissioner finds that the applicant conforms to the North Dakota laws
24 and the rules and regulations of the department, the commissioner shall issue a license for

1 conducting those operations listed on the application form. If a licensee wishes to conduct
2 operations other than those listed, the licensee may request that the commissioner approve
3 them, and if the commissioner finds that the proposals are in conformance with North Dakota
4 laws and the rules of the department, the commissioner shall approve them. The license must
5 be posted conspicuously in each licensed business. All licenses issued under this section must
6 expire on the thirtieth day of June of each year and are not transferable. The fee for licenses is
7 twenty-five dollars. Every organization acquiring milk or milk products as an agent for sale on
8 behalf of others is, for the purposes of this chapter, deemed to be a purchaser of milk from a
9 dairy producer. A reinspection fee of seventy-five dollars per inspection must be paid by each
10 dairy farm facility for which the commissioner has conducted a reinspection resulting from
11 suspension of a farm permit, degrade of a farm facility from grade A to manufacturing grade, or
12 unsanitary conditions that must be corrected within a specified period of time.

13 **SECTION 3. AMENDMENT.** Section 4-30-18 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **4-30-18. Sampling and testing procedures - Equipment - Supplies.** The laboratory
16 procedures, equipment, chemicals, and other apparatus or substances used in the sampling,
17 hauling, or testing of milk or milk products must conform to that described in the ~~sixteenth~~
18 seventeenth edition of "Standard Methods for the Examination of Dairy Products" published by
19 the American public health association, incorporated, a copy of which shall be on file in the
20 department. No equipment, chemicals, or other apparatus or substance used in the sampling,
21 hauling, or testing of milk or milk products which is not in conformance with the requirements of
22 this chapter may be sold or offered for sale. The commissioner through the adoption of rules
23 may alter, amend, or prohibit any specific requirement of this section and may approve other
24 sampling, hauling, or testing procedures or equipment. The commissioner, where appropriate,
25 may check calibration of farm bulk milk tanks and equipment.

26 **SECTION 4. AMENDMENT.** Section 4-30-20 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **4-30-20. Sampling of milk.** Every purchaser of milk from a dairy producer shall collect
29 a minimum sample of two ounces [59.15 milliliters] from each bulk tank of milk received from a
30 producer. Samples must be collected and maintained in accordance with those procedures
31 contained in the ~~sixteenth~~ seventeenth edition of "Standard Methods for the Examination of

1 Dairy Products" published by the American public health association, incorporated. Records
2 must be kept which readily identify the sample with those items used to determine payment for
3 the milk. Such items must include: weight, butterfat content, protein, solids-not-fat, and the
4 total amount of money paid for the milk.

5 **SECTION 5. AMENDMENT.** Section 4-30-36 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **4-30-36. Standards for grade A milk and milk products - Adoption of**
8 **amendments.** Only grade A milk may be sold as fluid beverage for human consumption. The
9 minimum standards for milk and milk products designated as grade A are the same as the
10 minimum requirements of the "Grade A Pasteurized Milk Ordinance, ~~2004~~ 2003 Revision,
11 Public Health Service, Food and Drug Administration, ~~Publication No. 229~~ including "Grade 'A'
12 ~~Condensed and Dry Milk Ordinance 1995 Revision, Grade A Condensed and Dry Milk Products~~
13 ~~and Condensed and Dry Whey - Supplement 1~~" and all supplements added thereto except that
14 ~~the minimum requirements for solids not fat in all grade A milk is eight and one half percent~~
15 ~~and the butterfat content of grade A whole milk is three and one fourth percent~~ which includes
16 provisions from the "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey
17 - Supplement 1 to the Grade A PMO" and all supplements added thereto. The commissioner
18 may adopt as department regulations other standards in addition to any amendments,
19 supplements to, or new editions of the milk ordinance which are in the interest of public safety,
20 wholesomeness of product, consumer interest, sanitation, good supply, salability, and
21 promotion of grade A milk and milk products.

22 **SECTION 6. AMENDMENT.** Section 4-30-36.2 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **4-30-36.2. State milk sanitation rating and sampling surveillance officer - Duties -**
25 **Guidelines.** The state milk sanitation rating and sampling surveillance officer is responsible for
26 the rating and certification of milk and dairy products. The rating and certification of milk and
27 dairy products must be in accordance with the procedures outlined in the public health
28 service/food and drug administration publication entitled "Methods of Making Sanitation Ratings
29 of Milk Shippers - ~~2004~~ 2003 Revision, Edition" and the sampling of milk and dairy products
30 must be in accordance with the guidelines recommended in the ~~sixteenth~~ seventeenth edition

1 of "Standard Methods for the Examination of Dairy Products" published by the American public
2 health association.

3 **SECTION 7. AMENDMENT.** Section 4-30-36.3 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **4-30-36.3. Milk laboratory evaluations officer - Duties - Guidelines.** The milk
6 laboratory evaluations officer is responsible for the certification and evaluation of milk and dairy
7 products laboratories within the state. Evaluations and certification of milk laboratories must be
8 made in accordance with the ~~sixteenth~~ seventeenth edition of "Standard Methods for the
9 Examination of Dairy Products" published by the American public health association and the
10 procedures outlined in the public health service/food and drug administration publication
11 entitled "Evaluation of Milk Laboratories - 1995 Edition".

12 **SECTION 8. AMENDMENT.** Section 4-30-36.4 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **4-30-36.4. Grade A pasteurized milk ordinance.** Dairy producers, processors, and
15 manufacturers shall comply with the "Grade A Pasteurized Milk Ordinance, ~~2004~~ 2003
16 Revision, Public Health Service, Food and Drug Administration, ~~Publication No. 229~~" and its
17 supplements and follow the standards set by the "Procedures Governing the Cooperative
18 State-Public Health Service Food and Drug Administration Program of the National Conference
19 on Interstate Milk Shipments, ~~2004~~ 2003 Revision".