

CHAPTER 437

(House Bill 865)

AN ACT concerning

Milk Products – Farmstead Cheese Production – Pilot Study

FOR the purpose of establishing a milk processor – farmstead cheese producer permit; authorizing the holder of a milk processor – farmstead cheese producer permit to perform certain functions and to produce farmstead cheese; requiring the Department of Health and Mental Hygiene to issue only a certain number of milk processor – farmstead cheese producer permits; establishing certain qualifications for a certain milk processor – farmstead cheese producer permit; providing for the expiration date of a milk processor – farmstead cheese producer permit; exempting the sale of farmstead cheese from a certain prohibition on the sale of raw milk; defining a certain term; providing for the termination of this Act; and generally relating to a pilot study for the production of farmstead cheese.

BY repealing and reenacting, with amendments,

Article – Health – General

Section 21–401, 21–410, 21–413, 21–416, 21–417, and 21–434

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

BY adding to

Article – Health – General

Section 21–416.1

Annotated Code of Maryland

(2005 Replacement Volume and 2006 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

21–401.

(a) In this subtitle the following words have the meanings indicated.

(b) “Bobtailer” means a person who operates or controls a Grade A milk route and distributes Grade A pasteurized milk products that the person buys from a Grade A distributor or a milk processor.

(c) “Bulk milk hauler/sampler” means any person who collects official samples and transports raw milk from a farm or raw milk products or both to or from a milk plant, receiving station, or transfer station and who possesses a permit from any state to sample the milk or raw milk products.

(d) “Certified industry dairy farm inspector” means an individual who is certified by the Secretary under § 21-414 of this subtitle.

(e) “Dairy farm” means a place where at least 1 cow or goat is kept, and from which the milk is sold or offered for sale.

(f) “Departmental inspection area” means the area in which the Department routinely makes inspections under this subtitle.

(G) “FARMSTEAD CHEESE” MEANS CHEESE MADE ON A FARM:

(1) USING ONLY THE RAW MILK PRODUCED BY THE HERD ON THE FARM; AND

(2) THAT MEETS THE DEFINITIONS AND STANDARDS OF A HARD CHEESE ESTABLISHED IN 21 C.F.R. 133.

[(g)] **(H)** “Grade A distribution station” means any place or vehicle where, for redistribution and sale, Grade A pasteurized milk products routinely are received, stored, or transferred.

[(h)] **(I)** “Grade A distributor” means a person who sells a Grade A pasteurized milk product.

[(i)] **(J)** (1) “Grade A milk product” means:

(i) Grade A milk;

(ii) Grade A cream; or

(iii) Any other Grade A milk product that the Secretary designates.

(2) “Manufactured grade milk product” means:

(i) Manufactured grade milk;

(ii) Manufactured grade cream; or

(iii) Any other manufactured grade milk product that the Secretary designates.

[(j)] (K) “Grade A Pasteurized Milk Ordinance” means the recommended Grade “A” Pasteurized Milk Ordinance published by the federal government.

[(k)] (L) (1) “Milk” means the milk of a cow or goat.

(2) “Grade A milk” means the milk of a cow or goat produced, processed, pasteurized, bottled, packaged, or prepared in accordance with the Grade A Pasteurized Milk Ordinance.

(3) “Manufactured milk” means the milk of a cow or goat which is not Grade A milk and which is produced, processed, pasteurized, bottled, packaged, or prepared in accordance with “Milk for Manufacturing Purposes and Its Production and Processing: Recommended Requirements”.

[(l)] (M) “Milk fat” means the natural fat of milk.

[(m)] (N) “Milk for Manufacturing Purposes and Its Production and Processing: Recommended Requirements” means the Milk for Manufacturing Purposes and Its Production and Processing: Recommended Requirements published by the U.S. Department of Agriculture.

[(n)] (O) (1) “Milk plant” means any place where, for distribution, milk products are:

(i) Processed;

(ii) Pasteurized;

(iii) Bottled or packaged; or

(iv) Prepared.

(2) “Milk plant” does not include a place where milk products are sold at retail only.

[(o)] (P) “Milk processor” means a person who owns, operates, or controls a milk plant.

[(p)] (Q) “Milk producer” means a person who operates a dairy farm.

[(q)] (R) “Milk tank truck” means a truck and its equipment that are used to transport milk products.

[(r)] (S) “Milk transportation company” means a person responsible for a milk tank truck.

[(s)] (T) “Misbranded milk product” means a milk product:

(1) That is in a container that bears or is accompanied by any false or misleading written, printed, or graphic material; or

(2) That is not labeled in accordance with this subtitle.

[(t)] (U) (1) “Pasteurized” means having undergone the process of uniformly heating each particle of milk product, holding it in the heated state, and cooling it, in approved and properly operated equipment and under the conditions of temperature and time that the Secretary by rule or regulation establishes, to make the milk product safe and free of pathogens.

(2) “Pasteurized” includes having undergone any other process that:

(i) Is recognized by the appropriate federal authority to be equally as effective as the process described in paragraph (1) of this subsection in making milk products safe and free of pathogens; and

(ii) Is approved by the Secretary.

[(u)] (V) “Permit” means a permit issued by the Secretary under this subtitle that authorizes the holder of the permit to do any act that is within the scope of the permit.

[(v)] (W) “Raw milk” means unpasteurized milk.

[(w)] (X) "Receiving station" means any place where, for delivery to a milk plant, raw milk is collected, cooled, and stored.

[(x)] (Y) "Transfer station" means a place where milk is transferred directly from a milk tank truck to another milk tank truck for delivery to a milk plant.

21-410.

(a) Except as otherwise provided in this section, a person shall obtain a permit with a Grade A or a manufactured grade classification from the Secretary before that person may:

- (1) Bring, send, or receive a milk product into this State for sale;
- (2) Offer a milk product for sale;
- (3) Give a milk product away;
- (4) Store a milk product; or
- (5) Transport a milk product.

(b) A permit is required to:

- (1) Be a bobtailer;
- (2) Be a bulk milk hauler/sampler;
- (3) Be a certified industry dairy farm inspector;
- (4) Be a milk processor;
- (5) BE A MILK PROCESSOR – FARMSTEAD CHEESE PRODUCER;**

[(5)] (6) Be a milk producer;

[(6)] (7) Operate a distribution station;

[(7)] (8) Operate a milk transportation company;

[(8)] (9) Operate a receiving station; or

~~[(9)] (10)~~ Operate a transfer station.

(c) A permit is not required for:

(1) A milk producer who is outside the departmental inspection area if the raw milk from that milk producer is processed by a milk processor who holds a permit issued under this subtitle;

(2) A bulk milk hauler/sampler who receives raw milk from outside the departmental inspection area;

(3) A grocery store, restaurant, soda fountain, or similar establishment where milk products are served or sold at retail if:

(i) The establishment complies with all applicable provisions of this subtitle and all applicable rules or regulations adopted under this subtitle; and

(ii) The milk product is received from a permit holder; or

(4) A bulk milk hauler/sampler who is transporting a sealed tanker and not producers' samples.

(d) The Secretary shall designate all permits with one of the following classifications, as required by rules and regulations:

(1) Grade A milk; or

(2) Manufactured milk.

21-413.

(a) If the property of the applicant is in the departmental inspection area, before issuing a permit, the Secretary shall inspect the property, buildings, and equipment of an applicant for:

(1) A bobtailer permit;

(2) A distribution station permit;

(3) A milk processor permit;

(4) A MILK PROCESSOR – FARMSTEAD CHEESE PRODUCER PERMIT;

- [(4)] **(5)** A milk producer permit;
- [(5)] **(6)** A milk transportation company permit;
- [(6)] **(7)** A receiving station permit; or
- [(7)] **(8)** A transfer station permit.

(b) Each inspection under this section shall be to determine whether the property, buildings, equipment, and their operation conform to the rules and regulations adopted under this subtitle.

(c) To ensure continued conformity to the rules and regulations adopted under this subtitle, the Secretary from time to time shall reinspect the property, buildings, and equipment of each permit holder for whom an initial inspection is required under this section.

21–416.

(a) While it is effective, a bobtailer permit authorizes the holder, on a Grade A milk route that the holder operates or controls, to distribute Grade A pasteurized milk products that the holder purchased from a Grade A distributor or a Grade A milk processor.

(b) While it is effective, a certified industry dairy farm inspector permit authorizes the holder to inspect dairy farms in accordance with this subtitle.

(c) While it is effective, a distribution station permit authorizes the holder, for redistribution and sale, whether from a fixed location or from a vehicle:

- (1) To receive Grade A pasteurized milk products;
- (2) To store Grade A pasteurized milk products; and
- (3) To transfer Grade A pasteurized milk products for redistribution and sale.

(d) **(1)** While it is effective, a milk processor permit authorizes the holder:

- [(1)] (I) To collect raw milk;
- [(2)] (II) To handle raw milk;
- [(3)] (III) To process raw milk;
- [(4)] (IV) To pasteurize raw milk;
- [(5)] (V) To store pasteurized milk;
- [(6)] (VI) To bottle or package pasteurized milk;
- [(7)] (VII) To prepare pasteurized milk for distribution; and
- [(8)] (VIII) To distribute pasteurized milk.

(2) WHILE IT IS EFFECTIVE, A MILK PROCESSOR – FARMSTEAD CHEESE PRODUCER PERMIT AUTHORIZES THE HOLDER:

(I) TO PERFORM ALL THE FUNCTIONS SET FORTH IN PARAGRAPH (1) OF THIS SUBSECTION; AND

(II) TO PRODUCE FARMSTEAD CHEESE.

(e) While it is effective, a milk producer permit authorizes the holder:

- (1) To operate a dairy farm; and
- (2) To sell raw milk from the dairy farm to:
 - (i) A receiving station;
 - (ii) A transfer station; or
 - (iii) A milk plant.

(f) While it is effective, a bulk milk hauler/sampler permit authorizes the holder, while operating a milk tank truck:

(1) To receive raw milk products from a milk producer, milk plant, receiving station, or transfer station;

(2) To transport raw milk products that have been received from a milk producer, milk plant, receiving station, or transfer station; and

(3) To deliver raw milk products that have been received from a milk producer, milk plant, receiving station, or transfer station.

(g) While it is effective, a receiving station permit authorizes the holder:

(1) To collect raw milk;

(2) To cool raw milk;

(3) To process raw milk;

(4) To store raw milk; and

(5) To prepare raw milk for delivery to a milk plant.

(h) While it is effective, a transfer station permit authorizes the holder to operate a place where raw milk is transferred between milk tank trucks for eventual delivery to a milk plant.

(i) A permittee authorized to perform a function under this subtitle shall only exercise that authority as to the classification for which it is designated, except that:

(1) Unless otherwise specified in this subtitle, a milk producer permittee with a Grade A classification authorized to perform a function under this subtitle may exercise that authority for manufactured milk; and

(2) A milk processor, receiving station, or transfer station with a manufactured milk classification may exercise that authority using Grade A raw milk.

(j) While it is effective, a milk transportation company permit authorizes the holder to operate one or more milk tank trucks.

21-416.1.

(A) THE SECRETARY SHALL ISSUE MILK PROCESSOR – FARMSTEAD CHEESE PRODUCER PERMITS.

(B) TO QUALIFY FOR A MILK PROCESSOR – FARMSTEAD CHEESE PRODUCER PERMIT THE APPLICANT SHALL:

- (1) OPERATE A DAIRY FARM WITH NO MORE THAN ~~50~~ 120 COWS IN THE HERD;**
- (2) BE LOCATED IN TALBOT COUNTY; AND**
- (3) MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE DEPARTMENT BY REGULATION.**

21-417.

(a) (1) Except for a milk producer permit **AND A MILK PROCESSOR – FARMSTEAD CHEESE PRODUCER PERMIT**, a permit expires on the first anniversary of its effective date, unless the permit is renewed for a 1-year term as provided in this section.

(2) A milk producer permit does not expire.

(3) A MILK PROCESSOR – FARMSTEAD CHEESE PRODUCER PERMIT EXPIRES 5 YEARS AFTER ITS EFFECTIVE DATE.

(b) Before the permit expires, its holder may renew it for an additional 1-year term, if the holder:

(1) Otherwise is entitled to a permit;

(2) Pays to the Secretary a renewal fee equal to the fee for an original permit of the same type; and

(3) Submits to the Secretary a renewal application on the form that the Secretary requires.

(c) The Secretary shall renew the permit of each applicant for renewal who meets the requirements of this section.

(d) A permit is not transferable.

21-434.

Except for sale of raw milk by a holder of a milk producer permit to a holder of a milk processor permit **OR THE SALE OF A FARMSTEAD CHEESE**, a person may not sell raw milk for human consumption.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007. It shall remain effective for a period of 5 years and, at the end of September 30, 2012, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.

Approved by the Governor, May 8, 2007.