

appointed as follows:

(1) Two members of the senate appointed by the majority leader of the senate after consultation with the minority leader of the senate.

(2) Two members of the house of representatives appointed by the speaker of the house after consultation with the majority leader and the minority leader of the house.

2. The Iowa department of public health, the department of human services, and the department of inspections and appeals shall conduct a review of the regulation of psychiatric medical institutions for children and intermediate care facilities for persons with mental retardation. The review shall include a review of the moratorium language in section 135.63, subsection 4, relating to intermediate care facilities for persons with mental retardation. The departments shall submit jointly to the general assembly by January 15, 1998, a written report with recommendations to eliminate duplicative regulation of these institutional programs.

Approved May 1, 1997

CHAPTER 94
MILK AND MILK PRODUCTS
S.F. 451

AN ACT relating to milk and milk products, providing for the issuance of licenses and permits, fees, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 192.101A DEFINITIONS.

As used in this chapter, all terms shall have the same meaning as defined in the "Grade A Pasteurized Milk Ordinance, 1995 Revision". However, notwithstanding the ordinance, the following definitions shall apply:

1. "Bulk milk tanker" means a mobile bulk container used to transport milk or fluid milk products from a dairy farm to a milk plant or from a milk plant to another milk plant, including an over-the-road semitrailer or a tanker that is permanently mounted on a motor vehicle.

2. "Milk grader" means a person, including dairy industry milk intake personnel, other than a milk hauler, who collects a milk sample from a bulk tank or a bulk milk tanker.

3. "Milk hauler" means a person who takes farm samples or transports raw milk or raw milk products to or from a milk plant, receiving station, or transfer station, including a dairy industry milk field person. However, a milk hauler does not include a person who drives a bulk milk tanker, if the person does not take a milk sample or handle raw milk or raw milk products.

Sec. 2. Section 192.104, Code 1997, is amended to read as follows:

192.104 COLORING REJECTED MILK.

~~It shall be the duty of the A milk hauler or cream a milk grader to thoroughly may mix with all rejected milk or cream, a harmless coloring matter as will in rejected milk to prevent all such~~ the rejected milk from being offered for sale.

Sec. 3. Section 192.108, Code 1997, is amended to read as follows:

192.108 ADMINISTRATION OF THE CHAPTER — INSPECTIONS REQUIRED.

The department shall administer this chapter and rules adopted pursuant to this chapter.

The department is responsible for the inspection of a dairy farm, milk plant, transfer station, or receiving station to ensure compliance with this chapter and chapters 190 and 191. ~~Whenever practical, the~~ **The department shall may enter into an inspection contract with a person qualified to perform inspection services if the agreement for the services is cost-effective and the quality of inspection ensures compliance with state and federal law. A person entering into an inspection contract with the department for the purpose of inspecting premises, taking samples, or testing samples, shall be deemed to be an agent of the department, and shall have the same authority under this chapter provided to the department, unless the contract specifies otherwise. The department shall review inspection services performed by a person under an inspection contract to ensure quality cost-effective inspections. If a person is acting in a manner which is inconsistent with the provisions of the applicable chapter or contract, the department may revoke the inspection contract after notice and hearing, in the manner described for permit revocation in section 192.107 and perform such acts as are necessary to enforce this chapter. Except as provided in this chapter or chapter 194, a person shall not charge a milk plant, receiving station, or transfer station a fee for inspection relating to milk or milk products.**

Sec. 4. Section 192.110, subsection 1, Code 1997, is amended to read as follows:

1. The person has a pasteurized milk and milk products sanitation compliance rating of ninety percent or more as calculated according to the rating system as contained in the federal public health service publications, "Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program for Certification of Interstate Milk Shippers ~~1989~~ **1995**" and "Method of Making Sanitation Ratings of Milk Supplies, ~~1987~~ **1995** Revision". The applicable provisions of these publications are incorporated into this section by this reference. A copy of each publication shall be on file with the department or in the office of the person subject to an inspection contract as provided in section 192.108.

Sec. 5. Section 192.111, Code 1997, is amended to read as follows:

192.111 INSPECTION FEES — DEPOSIT IN GENERAL FUND — APPROPRIATION.

1. Except as otherwise provided in this section, ~~a~~ **all of the following shall apply:**

a. The following persons must receive a permit or license from the department and pay the following fees:

(1) A milk plant which is not a receiving station shall ~~must~~ obtain a permit and pay an inspection a permit fee not greater than one thousand dollars per year.

(2) A transfer station shall ~~must~~ obtain a permit and pay an inspection a permit fee not greater than two hundred dollars per year.

(3) A receiving station which is not a milk plant must obtain a permit and pay a permit fee of not greater than two hundred dollars per year.

(4) A milk hauler shall ~~must~~ obtain a license and pay an inspection a license fee not greater than ~~twenty-five~~ ten dollars per year.

(5) A milk grader must obtain a license and pay a license fee of not greater than ten dollars per year.

b. Each bulk milk tanker shall be licensed by the department and pay a license fee not greater than twenty-five dollars per year. However, a license fee shall not be required for a vehicle used for the collection of milk for manufacturing dairy products which has paid a license fee for the same period pursuant to section 194.19.

The secretary shall ~~fix~~ **establish** the fees **provided in this subsection** annually. The fees shall be paid on July 1 of each year.

2. A purchaser of milk from a grade "A" milk producer shall pay an inspection fee not greater than one point five cents per hundredweight. The fee shall be payable monthly to the ~~secretary~~ **department** in a manner prescribed by the secretary.

3. a. Fees collected under this section and sections 192.133, 194.14, 194.19, ~~and~~ **and** 194.20, ~~and 195.9~~ shall be deposited in the general fund of the state. All moneys deposited under

this section are appropriated to the department for the costs of inspection, sampling, analysis, and other expenses necessary for the administration of this chapter and ~~chapters chapter 194 and 195~~, and shall be subject to the requirements of section 8.60.

b. In each fiscal year, the secretary shall calculate the balance of funds deposited under this section by subtracting all moneys expended for the costs of inspection, sampling, analysis and other expenses necessary for the administration of this chapter and ~~chapters chapter 194 and 195~~. If the calculation shows a balance of funds deposited under this section on June 30 of any fiscal year equal to or exceeding one hundred fifty thousand dollars, the secretary shall reduce the fees provided for in subsection 2 of this section and section 194.20 for the next fiscal year in an amount which will result in an ending estimated balance of such funds for June 30 of the next fiscal year of one hundred fifty thousand dollars.

Sec. 6. NEW SECTION. 192.112 REGULATION — MILK HAULERS, MILK GRADERS, AND BULK MILK TANKERS.

1. The department shall adopt rules pursuant to chapter 17A which provide for licensing milk haulers, milk graders, and bulk milk tankers as provided in section 192.111. The department shall establish standards of operation for milk haulers, milk graders, and bulk milk tankers. The standards shall include, but need not be limited to, all of the following:

- a. The construction of bulk milk tankers.
- b. The cleaning, maintenance, and sanitization of bulk milk tankers.
- c. Recordkeeping relating to the use and cleaning of bulk milk tankers.
- d. Supplies needed to perform the duties of milk hauling and milk grading.
- e. Proper milk hauling and milk grading procedures, including but not limited to sanitation, the examination and measurement of milk, the handling of milk, and the taking and handling of milk samples.
- f. Recordkeeping required for milk haulers and milk graders.
- g. Ongoing training requirements, if any, for milk haulers and milk graders.

Sec. 7. NEW SECTION. 192.113 PENALTIES.

1. a. A person shall not act as a milk hauler unless the person is licensed as a milk hauler pursuant to section 192.111. A person shall not solicit another person to act as a milk hauler or procure or obtain the services of a person to act as a milk hauler unless the person solicited or from whom the services are procured or obtained is licensed as a milk hauler pursuant to section 192.11.*

b. A person shall not act as a milk grader unless the person is licensed as a milk grader pursuant to section 192.111. A person shall not solicit another person to act as a milk grader or procure or obtain the services of a person to act as a milk grader, unless the person solicited or from whom the services are procured or obtained is licensed as a milk grader pursuant to section 192.11.*

c. A person shall not operate a bulk milk tanker unless the bulk milk tanker is licensed pursuant to section 192.111. A person shall not solicit another person to operate a bulk milk tanker or procure or obtain the services of a person to operate a bulk milk tanker, unless the bulk milk tanker is licensed pursuant to section 192.11.*

2. A person who violates this section is subject to a civil penalty of at least one hundred dollars but not more than one thousand dollars for each violation. Each day that a violation continues shall constitute a new violation. However, a person shall not be subject to a civil penalty of more than ten thousand dollars for a continuing violation. Civil penalties shall be deposited in the general fund of the state.

Sec. 8. Section 192.118, Code 1997, is amended to read as follows:

192.118 CERTIFIED LABORATORIES.

To insure uniformity in the tests and reporting, an employee certified by the United States public health service of the bacteriological laboratory of the department shall annually certify, in accordance with the United States food and drug administration publication

* Section 192.111 probably intended

"Evaluation of Milk Laboratories" (1985 1995 revision), all laboratories doing work in the sanitary quality of milk and dairy products for public report. The approval by the department shall be based on the evaluation of these laboratories as to personnel training, laboratory methods used, and reporting. The results on tests made by approved laboratories shall be reported to the department on request, on forms prescribed by the secretary of agriculture, and such reports may be used by the department.

The department shall annually certify, in accordance with the United States food and drug administration publication "Evaluation of Milk Laboratories" (1985 1995 revision), every laboratory in the state doing work in the sanitary quality of milk and dairy products for public report. The certifying officer may enter any such place at any reasonable hour to make the survey. The management of the laboratory shall afford free access to every part of the premises and render all aid and assistance necessary to enable the certifying officer to make a thorough and complete examination.

Sec. 9. Section 194.18, Code 1997, is amended to read as follows:

194.18 COLORING UNLAWFUL MILK.

~~It shall be the duty of each licensed A milk hauler or milk grader of milk to licensed pursuant to section 192.112 may mix with any unlawful milk, whenever observed by the grader, a harmless coloring matter that will in unlawful milk as provided in section 194.9 to prevent the unlawful milk to be from being processed and used in any form for human consumption.~~

Sec. 10. Chapters 193 and 195, Code 1997, are repealed.

Approved May 1, 1997

CHAPTER 95

POSSESSION OR DISTRIBUTION OF GAMMA-HYDROXYBUTYRIC ACID

S.F. 497

AN ACT prohibiting the possession or distribution of gamma-hydroxybutyric acid under certain circumstances, and providing a penalty.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 126.27 GAMMA-HYDROXYBUTYRATE.

1. UNLAWFUL POSSESSION. Any person who possesses gamma-hydroxybutyrate (also known as gamma-hydroxybutyric acid, or GHB), or any substance containing gamma-hydroxybutyrate commits an aggravated misdemeanor. This subsection shall not apply to any person who obtains or possesses gamma-hydroxybutyrate or any material containing gamma-hydroxybutyrate pursuant to a lawful order of a physician or other authorized prescriber for the legitimate treatment of disease.

2. UNLAWFUL DISTRIBUTION. Any person who distributes gamma-hydroxybutyrate, or possesses gamma-hydroxybutyrate with the intent to distribute to any other person, commits an aggravated misdemeanor if the person intends to promote or allow the unlawful use of the substance or if the person knows that the other person will use the substance for unlawful purposes.

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