Reprinted

SENATE FILE 525
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 317)

(COMPANION TO LSB 2682HV
BY COMMITTEE ON AGRICULTURE)

Passed Senate, Date 4/8/91 (p. 1103) Passed House, Date 4/16/91 (P. 1265)
Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0
Approved April 30, 1991

A BILL FOR

1 An Act relating to the regulation of dairy products, and
2 providing effective dates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 525

S-3343
1 Amend Senate File 525 as follows:
2 1. Page 1, by striking line 10 and inserting the
3 following: "in order to".
4 2. Page 2, line 2, by inserting after the word
5 "plants," the following: "receiving stations,".
6 3. Page 2, line 30, by inserting after the word
7 "plants," the following: "receiving stations,".
8 4. Page 4, line 25, by inserting after the word
9 "department" the following: ". As used in this
10 section, the terms "public health hazard" and
11 "imminent hazard" shall be defined by rules adopted by
12 the department. The rules shall include examples of
13 public health hazards and imminent hazards".
14 5. Title page, line 1, by inserting after the
15 word "products," the following: "providing for the
16 repeal of certain sections,".

By JACK W. HESTER

S-3343 FILED APRIL 8, 1991
ADOPTED (p. 1105)

SF 525

20

TLSB 2682SV 74
da/jw/5

S.F. 525 H.F. _____

1 Section 1. Section 159.1, Code 1991, is amended by adding
2 the following new subsections:
3 NEW SUBSECTION. 1A. "Official laboratory" means a
4 biological, chemical, or physical laboratory which performs
5 testing or analysis pursuant to scientific procedures, to the
6 extent the laboratory is recognized by the department as a
7 reliable indicator of scientific results.
8 NEW SUBSECTION. 1B. "Pasteurization" or "pasteurized"
9 means the procedure of processing milk or a milk product,
10 including but not limited to heat processes, in order to
11 ensure its safety from contaminants, if the procedure of
12 pasteurization is consistent with standards adopted by the
13 department pursuant to section 192.2.
14 Sec. 2. Section 190.1, subsections 4 through 6, Code 1991,
15 are amended by striking the subsections.
16 Sec. 3. Section 190.1, subsections 32 through 57, Code
17 1991, are amended by striking the subsections.
18 Sec. 4. Section 190.2, Code 1991, is amended by adding the
19 following new unnumbered paragraph:
20 NEW UNNUMBERED PARAGRAPH. The department shall adopt rules
21 specifying standards for milk and dairy products which are
22 consistent with the "Pasteurized Milk Ordinance", as provided
23 in chapter 192, and applicable federal standards of identity.
24 Sec. 5. Section 190.3, unnumbered paragraph 2, Code 1991,
25 is amended to read as follows:
26 The provisions of subsections 2 and 3 ~~of this section~~ shall
27 not apply to the addition of vitamins approved by the United
28 States Pharmacopoeia or the removal of milk fat from milk ~~as~~
29 ~~defined in section 190.1, subsection 39~~.
30 Sec. 6. NEW SECTION. 190.14 ADMINISTRATION OF THE
31 CHAPTER.
32 1. The department shall administer this chapter consistent
33 with the provisions of the "Grade "A" Pasteurized Milk
34 Ordinance, 1989 Revision", as provided in section 192.2.
35 2. The department, as provided in section 192.48, may

1 contract with a person qualified by the department to perform
2 inspection of dairy farms, milk plants, or transfer stations
3 to ensure compliance with this chapter.
4 Sec. 7. NEW SECTION. 190.15 VIOLATIONS.
5 The department may restrain a person violating this chapter
6 or a rule adopted by the department under this chapter by
7 petitioning the district court where the violation occurs for
8 injunctive relief. Each day that a violation continues
9 constitutes a separate violation.
10 Sec. 8. Section 191.2, subsection 5, paragraph j,
11 subparagraphs (1) and (2), Code 1991, are amended to read as
12 follows:
13 (1) Only the identity of the milk producer shall be
14 required on cans delivered to a milk plant as provided in
15 chapter 192 which receives only grade "A" raw milk for
16 pasteurization, and which immediately dumps, washes, and
17 returns the cans to the milk producer.
18 (2) The identity of both milk producer and the grade shall
19 be required on cans delivered to a milk plant as provided in
20 chapter 192 which receives both grade "A" raw milk for
21 pasteurization and ungraded raw milk and which immediately
22 dumps, washes, and returns the cans to the milk producer.
23 Sec. 9. NEW SECTION. 191.9 ADMINISTRATION OF THE
24 CHAPTER.
25 1. The department shall administer this chapter consistent
26 with the provisions of the "Grade "A" Pasteurized Milk
27 Ordinance, 1989 Revision", as provided in section 192.2.
28 2. The department, as provided in section 192.48, may
29 contract with a person qualified by the department to perform
30 inspection of dairy farms, milk plants, or transfer stations
31 to ensure compliance with this chapter.
32 Sec. 10. NEW SECTION. 191.10 VIOLATIONS.
33 The department may restrain a person violating this chapter
34 or a rule adopted by the department under this chapter by
35 petitioning the district court where the violation occurs for

1 injunctive relief. Each day that a violation continues
2 constitutes a separate violation.
3 Sec. 11. NEW SECTION. 192.1 SHORT TITLE.
4 This chapter shall be known and may be cited as the "Iowa
5 Grade "A" Milk Inspection Law".
6 Sec. 12. NEW SECTION. 192.2 GRADE "A" PASTEURIZED MILK
7 ORDINANCE.
8 The department shall adopt, by rule, the "Grade "A"
9 Pasteurized Milk Ordinance, 1989 Revision", including a
10 subsequent revision of the ordinance. If the ordinance
11 specifies that compliance with a provision of the ordinance's
12 appendices is mandatory, the department shall also adopt that
13 provision. The department shall not amend the ordinance,
14 unless the department explains each amendment and reasons for
15 the amendment in the Iowa administrative bulletin when the
16 rules are required to be published pursuant to chapter 17A.
17 The department shall administer this chapter consistent with
18 the provisions of the ordinance.
19 Sec. 13. Section 192.5, Code 1991, is amended to read as
20 follows:
21 192.5 MILK OR MILK PRODUCTS PERMIT.
22 ~~It shall be unlawful for any~~ A person who does not possess
23 a permit ~~from~~ issued by the ~~secretary or authorized municipal~~
24 ~~corporation to~~ department shall not bring ~~into~~, send ~~into~~, or
25 receive into the state for sale, or ~~to~~ sell, ~~or~~ offer for sale
26 ~~therein~~, or ~~to have in storage~~ store any milk or milk ~~products~~
27 ~~defined~~ product as provided in this chapter and in chapters
28 190 and 191~~, provided that~~. However, the department may
29 exempt from this requirement grocery stores, restaurants, soda
30 fountains, ~~and~~ or similar establishments where milk or a milk
31 ~~products or both are~~ product is served or sold at retail, but
32 not processed~~, may be exempt from the requirements of this~~
33 ~~section~~.
34 Only a person who complies with the requirements of this
35 chapter and chapters 190 and 191 shall be entitled to receive

1 and retain ~~such~~ a permit from the department ~~or authorized~~
2 ~~municipal corporation~~. Permits shall not be transferable with
3 respect to persons or locations.
4 The ~~secretary or authorized municipal corporation~~
5 department shall suspend ~~such~~ a permit whenever there is
6 reason to believe that a public health hazard exists, ~~or~~
7 whenever the permit holder has violated any of the
8 requirements of ~~said chapters~~ this chapter, chapter 190, or
9 chapter 191, or whenever the permit holder has interfered with
10 the ~~secretary or authorized municipal corporation~~ department
11 in the performance of ~~their~~ its duties~~.--Except~~. However,
12 where the milk or milk product involved creates, or appears to
13 create, an imminent hazard to the public health~~;~~, or in any
14 case of a willful refusal to permit authorized inspection, the
15 ~~secretary or authorized municipal corporation~~ department shall
16 serve upon the holder a written notice of intent to suspend
17 the permit. The notice shall specify with particularity the
18 violations in question and afford the holder such reasonable
19 opportunity to correct such violations as may be agreed to by
20 the parties, or in the absence of agreement, ~~fixed~~ established
21 by the secretary ~~or authorized municipal corporation~~ before
22 making any order of suspension effective. A suspension of
23 permit shall remain in effect until the violation has been
24 corrected to the satisfaction of the ~~secretary or authorized~~
25 ~~municipal corporation~~ department.
26 Upon written application of any person whose permit has
27 been suspended, or upon application within forty-eight hours
28 of any person who has been served with a notice of intention
29 to suspend, and in the latter case before suspension, the
30 ~~secretary or authorized municipal corporation~~ department shall
31 within seventy-two hours proceed to a hearing to ascertain the
32 facts of such violation or interference and upon evidence
33 presented at such hearing shall affirm, modify, or rescind the
34 suspension or intention to suspend.
35 Upon repeated violation, the ~~secretary or authorized~~

1 ~~municipal-corporation~~ department may revoke such a permit
2 following reasonable notice to the permit holder and an
3 opportunity for a hearing. This section is not intended to
4 preclude the institution of a court action as provided in
5 ~~sections-192.11-and-192.16~~ this chapter, chapter 190, or
6 chapter 191.
7 The provisions of this section are intended for the
8 regulation of the production, processing, labeling, and
9 distribution of grade "A" milk and grade "A" milk products
10 under sanitary requirements which are uniform throughout the
11 state.
12 Sec. 14. Section 192.11, unnumbered paragraphs 4 through
13 7, Code 1991, are amended by striking the paragraphs.
14 Sec. 15. Section 192.30, unnumbered paragraph 1, Code
15 1991, is amended by striking the paragraph.
16 Sec. 16. Section 192.30, unnumbered paragraph 2, Code
17 1991, is amended to read as follows:
18 ~~Municipal-corporations~~ The department may establish grade
19 "A" standards for cottage cheese dry curd, cottage cheese, and
20 low fat cottage cheese as a part of the ordinance required by
21 this ~~section;-however-no-municipal-corporation~~ chapter.
22 However, a governmental body, including the department, a
23 county as provided in chapter 331, or a city as provided in
24 chapter 364 shall not require a grade "A" rating for these
25 products as a condition precedent to their sale ~~within-the~~
26 ~~city~~.
27 Sec. 17. Section 192.32, Code 1991, is amended to read as
28 follows:
29 192.32 INJUNCTION FOR VIOLATIONS.
30 ~~Any~~ A person who ~~shall-violate~~ violates any ~~of-the~~
31 ~~provisions~~ provision of this chapter ~~and-chapters~~, chapter 190
32 ~~and~~, or chapter 191, or a rule adopted under any of those
33 chapters may be enjoined from continuing such violations.
34 Each day upon which such a violation occurs ~~shall-constitute~~
35 constitutes a separate violation.

1 Sec. 18. Section 192.33, Code 1991, is amended to read as
2 follows:
3 192.33 RATING REQUIRED TO RETAIN PERMIT.
4 A pasteurized milk and milk products sanitation compliance
5 rating of ninety percent or more calculated according to the
6 rating system as contained in ~~Public Health Service~~
7 ~~Publication~~ the federal public health service publications,
8 "Procedures Governing the Cooperative State-Public Health
9 Service/Food and Drug Administration Program for Certification
10 of Interstate Milk Shippers 1989" and "Method of Making
11 Sanitation Ratings of Milk Supplies, 1987 Revision", ~~shall be~~
12 is necessary to receive or retain a permit under section
13 192.5. ~~Said publication is hereby~~ The applicable provisions
14 of these publications are incorporated into this section by
15 this reference ~~and made a part hereof insofar as applicable;~~
16 ~~a.~~ A copy of ~~which~~ each publication shall be on file ~~in the~~
17 ~~office of the secretary~~ with the department or in the office
18 of ~~the clerk of an authorized municipal corporation at all~~
19 ~~times~~ the person subject to an inspection contract as provided
20 in section 192.48.
21 Sec. 19. Section 192.48, Code 1991, is amended to read as
22 follows:
23 192.48 ADMINISTRATION OF THE CHAPTER -- INSPECTIONS
24 REQUIRED~~----AGREEMENTS~~.
25 The department shall administer this chapter and rules
26 adopted pursuant to this chapter. The department ~~shall be~~ is
27 responsible for the inspection of a dairy farm, milk plant, ~~or~~
28 transfer station, or receiving station to ensure compliance
29 with this chapter and chapters 190 and 191. Whenever
30 practical, the department shall enter into an ~~agreement~~
31 inspection contract with a person~~, including but not limited~~
32 ~~to a municipal corporation,~~ qualified to perform inspection
33 services if the agreement for the services is cost-effective
34 and the quality of inspection ~~assures~~ ensures compliance with
35 state and federal law. A person entering into an ~~agreement~~

1 inspection contract with the ~~secretary-or-a-person-entering~~
2 ~~into-a-subagreement-with-an-authorized-municipal-corporation~~
3 department for the purpose of inspecting premises, taking
4 samples, or testing samples, shall be deemed to be an agent of
5 the ~~secretary-or-municipal-corporation~~ department, and shall
6 have the same authority under this chapter provided to the
7 ~~secretary-or-authorized-municipal-corporation~~ department,
8 unless the ~~agreement-or-subagreement~~ contract specifies
9 otherwise. The department shall review inspection services
10 performed by a person under an ~~agreement-with-the-department~~
11 ~~or-subagreement-with-a-municipal-corporation~~ inspection
12 contract to ensure quality cost-effective inspections. If a
13 person is acting in a manner which is inconsistent with the
14 provisions of the applicable chapter~~,-agreement,-or~~
15 ~~subagreement~~ or contract, the ~~secretary-or-municipal~~
16 ~~corporation-entering-into-the-agreement-or-subagreement-with~~
17 ~~the-person~~ department may revoke the ~~agreement-or-subagreement~~
18 ~~with-the-person~~ inspection contract after notice and hearing,
19 in the manner described for permit revocation in section 192.5
20 and perform such acts as are necessary to enforce this
21 chapter. Except as provided in this chapter or chapter 194, a
22 person shall not charge a milk plant, receiving station, or
23 transfer station a fee for inspection relating to milk or milk
24 products.
25 Sec. 20. Section 192.56, Code 1991, is amended by striking
26 the section and inserting in lieu thereof the following:
27 192.56 CONTAINER.
28 As used in this chapter, "container" means a rigid or
29 nonrigid receptacle, including but not limited to a can,
30 bottle, case, paper carton, cask, keg, or barrel.
31 Sec. 21. Section 192.63, Code 1991, is amended to read as
32 follows:
33 192.63 CERTIFIED LABORATORIES.
34 To insure uniformity in the tests and reporting, an
35 employee certified by the United States public health service

1 of the bacteriological laboratory of the department shall
2 annually certify, in accordance with the United States food
3 and drug administration publication "Evaluation of Milk
4 Laboratories" (1985 revision), all laboratories doing work in
5 the sanitary quality of milk and dairy products for public
6 report. ~~Such~~ The approval by the department shall be based on
7 the evaluation of these laboratories as to personnel training,
8 laboratory methods used, and reporting. The results on tests
9 made by approved laboratories shall be reported to the
10 department on request, on forms prescribed by the secretary of
11 agriculture, and such reports may be used by the department.
12 The department shall annually certify, in accordance with
13 the United States food and drug administration publication
14 "Evaluation of Milk Laboratories" (1985 revision), every
15 laboratory in the state doing work in the sanitary quality of
16 milk and dairy products for public report. The certifying
17 officer may enter any such place at any reasonable hour to
18 make ~~such~~ the survey. The management of the laboratory shall
19 afford free access to every part of the premises and render
20 all aid and assistance necessary to enable the certifying
21 officer to make a thorough and complete examination.
22 Sec. 22. Section 194.20, Code 1991, is amended to read as
23 follows:
24 194.20 INSPECTION FEES -- GRADE "B" MILK.
25 A purchaser of milk from a grade "B" milk producer shall
26 pay an inspection fee not greater than one-half cent per
27 hundredweight. The fee is payable monthly to the ~~secretary~~
28 department at a time prescribed by the ~~secretary~~ department.
29 A fee imposed by this section shall not be paid on milk
30 ~~subject-to-inspection~~ by a ~~municipal-corporation-pursuant-to~~
31 person administering the inspection pursuant to an inspection
32 contract as provided in section ~~192.11~~ 192.48. Fees collected
33 under ~~section-192.47,-subsection-2-and~~ this section shall be
34 deposited in the milk fund established in section 192.47.
35 Sec. 23. Section 548.13, subsection 5, Code 1991, is

1 amended to read as follows:
2 b. Marks for dairy products, as provided for in ~~sections~~
3 ~~192.23 through 192.39, inclusive~~ chapter 192.
4 Sec. 24. REPEALS.
5 1. Sections 192.7 through 192.10, Code 1991, are repealed.
6 2. Sections 192.12 through 192.17, Code 1991, are
7 repealed.
8 3. Sections 192.19 through 192.29, Code 1991, are
9 repealed.
10 4. Sections 192.39, 192.41, 192.46, and 192.65, Code 1991,
11 are repealed.
12 Sec. 25. CODE EDITOR.
13 1. The Code editor is directed to transfer section 192.66
14 to chapter 194, and number the section appropriately.
15 2. The Code editor is directed to reorganize chapter 192
16 to enhance its organization and readability, but shall not
17 make substantive changes.
18 Sec. 26. EFFECTIVE DATE.
19 1. Except as provided in subsection 2, all sections of
20 this Act take effect on January 1, 1992.
21 2. This section and sections 12 and 25 of this Act, being
22 deemed of immediate importance, take effect upon enactment.
23 EXPLANATION
24 This bill amends provisions relating to the regulation of
25 milk and milk products produced, processed, and sold in this
26 state. The bill provides that the department of agriculture
27 and land stewardship shall adopt by rule the "Grade "A"
28 Pasteurized Milk Ordinance, 1989 Revision," including a
29 subsequent revision of the ordinance. The bill provides that
30 the department shall not amend the ordinance, unless the
31 department explains each amendment and reasons for the
32 amendment in the Iowa administrative bulletin when the rules
33 are required to be published. The bill provides that the
34 department must administer provisions of law consistent with
35 the provisions of the ordinance.

The bill also repeals a number of sections which are covered in the ordinance, including provisions relating to pasteurization, recording requirements, injunctive remedies, the issuance of permits, access to premises, the protection of trade secrets, the sampling and testing of milk, standards for pasteurization, sanitation requirements, and the transfer, handling, and storage of milk. The bill eliminates a number of definitions relating to milk and milk products. The bill also allows the department to contract with qualified persons to administer provisions regulating milk and milk products to the same extent that the department under current law may contract with a municipal corporation. The bill provides for the assessment of inspection fees.

The bill directs the Code editor to transfer current Code sections to enhance the readability of the provisions.

The bill provides special effective dates. Generally, the bill's provisions become effective on January 1, 1992.

SENATE FILE 525
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 317)
substituted for H.F. 671

(COMPANION TO LSB 2682HV
BY COMMITTEE ON AGRICULTURE)

(AS AMENDED AND PASSED BY THE SENATE APRIL 8, 1991)

_____ - New Language by the Senate

Passed Senate, Date 4/8/91 (p. 1103) Passed House, Date 4/16/91 (p. 1265)
Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0
Approved April 30, 1991 (p. 1570)

A BILL FOR

1 An Act relating to the regulation of dairy products, providing
2 for the repeal of certain sections, and providing effective
3 dates.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5
6
7
8
9
10
11
12
13
14
15
16
17
18

S.F. 525

S.F. 525 H.F. _____

1 Section 1. Section 159.1, Code 1991, is amended by adding
2 the following new subsections:
3 NEW SUBSECTION. 1A. "Official laboratory" means a
4 biological, chemical, or physical laboratory which performs
5 testing or analysis pursuant to scientific procedures, to the
6 extent the laboratory is recognized by the department as a
7 reliable indicator of scientific results.
8 NEW SUBSECTION. 1B. "Pasteurization" or "pasteurized"
9 means the procedure of processing milk or a milk product, in
10 order to ensure its safety from contaminants, if the procedure
11 of pasteurization is consistent with standards adopted by the
12 department pursuant to section 192.2.
13 Sec. 2. Section 190.1, subsections 4 through 6, Code 1991,
14 are amended by striking the subsections.
15 Sec. 3. Section 190.1, subsections 32 through 57, Code
16 1991, are amended by striking the subsections.
17 Sec. 4. Section 190.2, Code 1991, is amended by adding the
18 following new unnumbered paragraph:
19 NEW UNNUMBERED PARAGRAPH. The department shall adopt rules
20 specifying standards for milk and dairy products which are
21 consistent with the "Pasteurized Milk Ordinance", as provided
22 in chapter 192, and applicable federal standards of identity.
23 Sec. 5. Section 190.3, unnumbered paragraph 2, Code 1991,
24 is amended to read as follows:
25 The provisions of subsections 2 and 3 ~~of this section~~ shall
26 not apply to the addition of vitamins approved by the United
27 States Pharmacopoeia or the removal of milk fat from milk ~~as~~
28 ~~defined in section 190.1, subsection 39~~.
29 Sec. 6. NEW SECTION. 190.14 ADMINISTRATION OF THE
30 CHAPTER.
31 1. The department shall administer this chapter consistent
32 with the provisions of the "Grade "A" Pasteurized Milk
33 Ordinance, 1989 Revision", as provided in section 192.2.
34 2. The department, as provided in section 192.48, may
35 contract with a person qualified by the department to perform

1 inspection of dairy farms, milk plants, receiving stations, or
2 transfer stations to ensure compliance with this chapter.
3 Sec. 7. NEW SECTION. 190.15 VIOLATIONS.
4 The department may restrain a person violating this chapter
5 or a rule adopted by the department under this chapter by
6 petitioning the district court where the violation occurs for
7 injunctive relief. Each day that a violation continues
8 constitutes a separate violation.
9 Sec. 8. Section 191.2, subsection 5, paragraph j,
10 subparagraphs (1) and (2), Code 1991, are amended to read as
11 follows:
12 (1) Only the identity of the milk producer shall be
13 required on cans delivered to a milk plant as provided in
14 chapter 192 which receives only grade "A" raw milk for
15 pasteurization, and which immediately dumps, washes, and
16 returns the cans to the milk producer.
17 (2) The identity of both milk producer and the grade shall
18 be required on cans delivered to a milk plant as provided in
19 chapter 192 which receives both grade "A" raw milk for
20 pasteurization and ungraded raw milk and which immediately
21 dumps, washes, and returns the cans to the milk producer.
22 Sec. 9. NEW SECTION. 191.9 ADMINISTRATION OF THE
23 CHAPTER.
24 1. The department shall administer this chapter consistent
25 with the provisions of the "Grade "A" Pasteurized Milk
26 Ordinance, 1989 Revision", as provided in section 192.2.
27 2. The department, as provided in section 192.48, may
28 contract with a person qualified by the department to perform
29 inspection of dairy farms, milk plants, receiving stations, or
30 transfer stations to ensure compliance with this chapter.
31 Sec. 10. NEW SECTION. 191.10 VIOLATIONS.
32 The department may restrain a person violating this chapter
33 or a rule adopted by the department under this chapter by
34 petitioning the district court where the violation occurs for
35 injunctive relief. Each day that a violation continues

1 constitutes a separate violation.
2 Sec. 11. NEW SECTION. 192.1 SHORT TITLE.
3 This chapter shall be known and may be cited as the "Iowa
4 Grade "A" Milk Inspection Law".
5 Sec. 12. NEW SECTION. 192.2 GRADE "A" PASTEURIZED MILK
6 ORDINANCE.
7 The department shall adopt, by rule, the "Grade "A"
8 Pasteurized Milk Ordinance, 1989 Revision", including a
9 subsequent revision of the ordinance. If the ordinance
10 specifies that compliance with a provision of the ordinance's
11 appendices is mandatory, the department shall also adopt that
12 provision. The department shall not amend the ordinance,
13 unless the department explains each amendment and reasons for
14 the amendment in the Iowa administrative bulletin when the
15 rules are required to be published pursuant to chapter 17A.
16 The department shall administer this chapter consistent with
17 the provisions of the ordinance.
18 Sec. 13. Section 192.5, Code 1991, is amended to read as
19 follows:
20 192.5 MILK OR MILK PRODUCTS PERMIT.
21 ~~It shall be unlawful for any~~ A person who does not possess
22 a permit ~~from~~ issued by the ~~secretary or authorized municipal~~
23 ~~corporation to~~ department shall not bring ~~into~~, send ~~into~~, or
24 receive into the state for sale, or ~~to~~ sell, ~~or~~ offer for sale
25 ~~therein~~, or ~~to have in storage~~ store any milk or milk ~~products~~
26 ~~defined~~ product as provided in this chapter and in chapters
27 190 and 191~~, provided that~~. However, the department may
28 exempt from this requirement grocery stores, restaurants, soda
29 fountains, ~~and~~ or similar establishments where milk or a milk
30 ~~products or both are~~ product is served or sold at retail, but
31 not processed~~, may be exempt from the requirements of this~~
32 ~~section~~.
33 Only a person who complies with the requirements of this
34 chapter and chapters 190 and 191 shall be entitled to receive
35 and retain ~~such~~ a permit from the department ~~or authorized~~

1 ~~municipal-corporation~~. Permits shall not be transferable with
2 respect to persons or locations.
3 The ~~secretary-or-authorized-municipal-corporation~~
4 department shall suspend ~~such~~ a permit whenever there is
5 reason to believe that a public health hazard exists, ~~or~~
6 whenever the permit holder has violated any of the
7 requirements of ~~said-chapters~~ this chapter, chapter 190, or
8 chapter 191, or whenever the permit holder has interfered with
9 the ~~secretary-or-authorized-municipal-corporation~~ department
10 in the performance of ~~their~~ its duties~~.--Except~~. However,
11 where the milk or milk product involved creates, or appears to
12 create, an imminent hazard to the public health~~;~~, or in any
13 case of a willful refusal to permit authorized inspection, the
14 ~~secretary-or-authorized-municipal-corporation~~ department shall
15 serve upon the holder a written notice of intent to suspend
16 the permit. The notice shall specify with particularity the
17 violations in question and afford the holder such reasonable
18 opportunity to correct such violations as may be agreed to by
19 the parties, or in the absence of agreement, ~~fixed~~ established
20 by the secretary ~~or-authorized-municipal-corporation~~ before
21 making any order of suspension effective. A suspension of
22 permit shall remain in effect until the violation has been
23 corrected to the satisfaction of the ~~secretary-or-authorized~~
24 ~~municipal-corporation~~ department. As used in this section,
25 the terms "public health hazard" and "imminent hazard" shall
26 be defined by rules adopted by the department. The rules
27 shall include examples of public health hazards and imminent
28 hazards.
29 Upon written application of any person whose permit has
30 been suspended, or upon application within forty-eight hours
31 of any person who has been served with a notice of intention
32 to suspend, and in the latter case before suspension, the
33 ~~secretary-or-authorized-municipal-corporation~~ department shall
34 within seventy-two hours proceed to a hearing to ascertain the
35 facts of such violation or interference and upon evidence

presented at such hearing shall affirm, modify, or rescind the suspension or intention to suspend.

Upon repeated violation, the ~~secretary or authorized municipal corporation~~ department may revoke ~~such~~ a permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of a court action ~~as~~ provided in ~~sections 192.11 and 192.16~~ this chapter, chapter 190, or chapter 191.

The provisions of this section are intended for the regulation of the production, processing, labeling, and distribution of grade "A" milk and grade "A" milk products under sanitary requirements which are uniform throughout the state.

Sec. 14. Section 192.11, unnumbered paragraphs 4 through 7, Code 1991, are amended by striking the paragraphs.

Sec. 15. Section 192.30, unnumbered paragraph 1, Code 1991, is amended by striking the paragraph.

Sec. 16. Section 192.30, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~Municipal corporations~~ The department may establish grade "A" standards for cottage cheese dry curd, cottage cheese, and low fat cottage cheese as a part of the ordinance required by this ~~section; however no municipal corporation~~ chapter. However, a governmental body, including the department, a county as provided in chapter 331, or a city as provided in chapter 364 shall not require a grade "A" rating for these products as a condition precedent to their sale ~~within the city~~.

Sec. 17. Section 192.32, Code 1991, is amended to read as follows:

192.32 INJUNCTION FOR VIOLATIONS.

~~Any~~ A person who ~~shall violate~~ violates any ~~of the provisions~~ provision of this chapter ~~and chapters~~, chapter 190 ~~and~~, or chapter 191, or a rule adopted under any of those

1 chapters may be enjoined from continuing such violations.
2 Each day upon which such a violation occurs ~~shall constitute~~
3 constitutes a separate violation.
4 Sec. 18. Section 192.33, Code 1991, is amended to read as
5 follows:
6 192.33 RATING REQUIRED TO RETAIN PERMIT.
7 A pasteurized milk and milk products sanitation compliance
8 rating of ninety percent or more calculated according to the
9 rating system as contained in ~~Public Health Service~~
10 ~~Publication~~ the federal public health service publications,
11 "Procedures Governing the Cooperative State-Public Health
12 Service/Food and Drug Administration Program for Certification
13 of Interstate Milk Shippers 1989" and "Method of Making
14 Sanitation Ratings of Milk Supplies, 1987 Revision", ~~shall be~~
15 is necessary to receive or retain a permit under section
16 192.5. ~~Said publication is hereby~~ The applicable provisions
17 of these publications are incorporated into this section by
18 this reference ~~and made a part hereof insofar as applicable,~~
19 ~~a~~. A copy of ~~which~~ each publication shall be on file ~~in the~~
20 ~~office of the secretary~~ with the department or in the office
21 of ~~the clerk of an authorized municipal corporation at all~~
22 ~~times~~ the person subject to an inspection contract as provided
23 in section 192.48.
24 Sec. 19. Section 192.48, Code 1991, is amended to read as
25 follows:
26 192.48 ADMINISTRATION OF THE CHAPTER -- INSPECTIONS
27 REQUIRED~~----AGREEMENTS~~.
28 The department shall administer this chapter and rules
29 adopted pursuant to this chapter. The department ~~shall be~~ is
30 responsible for the inspection of a dairy farm, milk plant, ~~or~~
31 transfer station, or receiving station to ensure compliance
32 with this chapter and chapters 190 and 191. Whenever
33 practical, the department shall enter into an ~~agreement~~
34 inspection contract with a person~~, including but not limited~~
35 ~~to a municipal corporation,~~ qualified to perform inspection

1 services if the agreement for the services is cost-effective
2 and the quality of inspection ~~assures~~ ensures compliance with
3 state and federal law. A person entering into an ~~agreement~~
4 inspection contract with the ~~secretary-or-a-person-entering~~
5 ~~into-a-subagreement-with-an-authorized-municipal-corporation~~
6 department for the purpose of inspecting premises, taking
7 samples, or testing samples, shall be deemed to be an agent of
8 the ~~secretary-or-municipal-corporation~~ department, and shall
9 have the same authority under this chapter provided to the
10 ~~secretary-or-authorized-municipal-corporation~~ department,
11 unless the ~~agreement-or-subagreement~~ contract specifies
12 otherwise. The department shall review inspection services
13 performed by a person under an ~~agreement-with-the-department~~
14 ~~or-subagreement-with-a-municipal-corporation~~ inspection
15 contract to ensure quality cost-effective inspections. If a
16 person is acting in a manner which is inconsistent with the
17 provisions of the applicable chapter~~,-agreement,-or~~
18 ~~subagreement~~ or contract, the ~~secretary-or-municipal~~
19 ~~corporation-entering-into-the-agreement-or-subagreement-with~~
20 ~~the-person~~ department may revoke the ~~agreement-or-subagreement~~
21 ~~with-the-person~~ inspection contract after notice and hearing,
22 in the manner described for permit revocation in section 192.5
23 and perform such acts as are necessary to enforce this
24 chapter. Except as provided in this chapter or chapter 194, a
25 person shall not charge a milk plant, receiving station, or
26 transfer station a fee for inspection relating to milk or milk
27 products.
28 Sec. 20. Section 192.56, Code 1991, is amended by striking
29 the section and inserting in lieu thereof the following:
30 192.56 CONTAINER.
31 As used in this chapter, "container" means a rigid or
32 nonrigid receptacle, including but not limited to a can,
33 bottle, case, paper carton, cask, keg, or barrel.
34 Sec. 21. Section 192.63, Code 1991, is amended to read as
35 follows:

192.63 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 "Evaluation of Milk Laboratories" (1985 revision), all laboratories doing work in the sanitary quality of milk and dairy products for public report. ~~Such~~ 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 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 ~~such~~ 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. 22. Section 194.20, Code 1991, is amended to read as follows:

194.20 INSPECTION FEES -- GRADE "B" MILK.

A purchaser of milk from a grade "B" milk producer shall pay an inspection fee not greater than one-half cent per hundredweight. The fee is payable monthly to the ~~secretary~~ department at a time prescribed by the ~~secretary~~ department. A fee imposed by this section shall not be paid on milk ~~subject to inspection~~ by a ~~municipal corporation pursuant to~~ person administering the inspection pursuant to an inspection contract as provided in section ~~192.11~~ 192.48. Fees collected

1 under ~~section 192.47, subsection 2 and~~ this section shall be
2 deposited in the milk fund established in section 192.47.
3 Sec. 23. Section 548.13, subsection 5, Code 1991, is
4 amended to read as follows:
5 5. Marks for dairy products, as provided for in ~~sections~~
6 ~~192.23 through 192.39, inclusive~~ chapter 192.
7 Sec. 24. REPEALS.
8 1. Sections 192.7 through 192.10, Code 1991, are repealed.
9 2. Sections 192.12 through 192.17, Code 1991, are
10 repealed.
11 3. Sections 192.19 through 192.29, Code 1991, are
12 repealed.
13 4. Sections 192.39, 192.41, 192.46, and 192.65, Code 1991,
14 are repealed.
15 Sec. 25. CODE EDITOR.
16 1. The Code editor is directed to transfer section 192.66
17 to chapter 194, and number the section appropriately.
18 2. The Code editor is directed to reorganize chapter 192
19 to enhance its organization and readability, but shall not
20 make substantive changes.
21 Sec. 26. EFFECTIVE DATE.
22 1. Except as provided in subsection 2, all sections of
23 this Act take effect on January 1, 1992.
24 2. This section and sections 12 and 25 of this Act, being
25 deemed of immediate importance, take effect upon enactment.
26
27
28
29
30
31
32
33
34
35

Hester, ch.
VandeHoef
Fraise

SSB 317
Agriculture

SENATE FILE 525
BY (PROPOSED COMMITTEE ON AGRICULTURE BILL BY CHAIRPERSON PRIEBE)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the regulation of dairy products, and
2 providing effective dates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

TLSB 2682SC 74
da/jw/5

S.F. _____ H.F. _____

1 Section 1. Section 159.1, Code 1991, is amended by adding
2 the following new subsections:
3 NEW SUBSECTION. 1A. "Official laboratory" means a
4 biological, chemical, or physical laboratory which performs
5 testing or analysis pursuant to scientific procedures, to the
6 extent the laboratory is recognized by the department as a
7 reliable indicator of scientific results.
8 NEW SUBSECTION. 1B. "Pasteurization" or "pasteurized"
9 means the procedure of processing milk or a milk product,
10 including but not limited to heat processes, in order to
11 ensure its safety from contaminants, if the procedure of
12 pasteurization is consistent with standards adopted by the
13 department pursuant to section 192.2.
14 Sec. 2. NEW SECTION. 190.14 ADMINISTRATION OF THE
15 CHAPTER.
16 1. The department shall administer this chapter consistent
17 with the provisions of the "Grade "A" Pasteurized Milk
18 Ordinance, 1989 Revision", as provided in section 192.2.
19 2. The department, as provided in section 192.48, may
20 contract with a person qualified by the department to perform
21 inspection of dairy farms, milk plants, or transfer stations
22 to ensure compliance with this chapter.
23 Sec. 3. NEW SECTION. 190.15 VIOLATIONS.
24 The department may restrain a person violating this chapter
25 or a rule adopted by the department under this chapter by
26 petitioning the district court where the violation occurs for
27 injunctive relief. Each day that a violation continues
28 constitutes a separate violation.
29 Sec. 4. Section 191.2, subsection 5, paragraph j,
30 subparagraphs (1) and (2), Code 1991, are amended to read as
31 follows:
32 (1) Only the identity of the milk producer shall be
33 required on cans delivered to a milk plant as provided in
34 chapter 192 which receives only grade "A" raw milk for
35 pasteurization, and which immediately dumps, washes, and

1 returns the cans to the milk producer.
2 (2) The identity of both milk producer and the grade shall
3 be required on cans delivered to a milk plant as provided in
4 chapter 192 which receives both grade "A" raw milk for
5 pasteurization and ungraded raw milk and which immediately
6 dumps, washes, and returns the cans to the milk producer.
7 Sec. 5. NEW SECTION. 191.9 ADMINISTRATION OF THE
8 CHAPTER.
9 1. The department shall administer this chapter consistent
10 with the provisions of the "Grade "A" Pasteurized Milk
11 Ordinance, 1989 Revision", as provided in section 192.2.
12 2. The department, as provided in section 192.48, may
13 contract with a person qualified by the department to perform
14 inspection of dairy farms, milk plants, or transfer stations
15 to ensure compliance with this chapter.
16 Sec. 6. NEW SECTION. 191.10 VIOLATIONS.
17 The department may restrain a person violating this chapter
18 or a rule adopted by the department under this chapter by
19 petitioning the district court where the violation occurs for
20 injunctive relief. Each day that a violation continues
21 constitutes a separate violation.
22 Sec. 7. NEW SECTION. 192.1 SHORT TITLE.
23 This chapter shall be known and may be cited as the "Iowa
24 Grade "A" Milk Inspection Law".
25 Sec. 8. NEW SECTION. 192.2 GRADE "A" PASTEURIZED MILK
26 ORDINANCE.
27 The department shall adopt, by rule, the "Grade "A"
28 Pasteurized Milk Ordinance, 1989 Revision", including a
29 subsequent revision of the ordinance. If the ordinance
30 specifies that compliance with a provision of the ordinance's
31 appendices is mandatory, the department shall also adopt that
32 provision. The department shall not amend the ordinance,
33 unless the department explains each amendment and reasons for
34 the amendment in the Iowa administrative bulletin when the
35 rules are required to be published pursuant to chapter 17A.

The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 9. Section 192.5, Code 1991, is amended to read as follows:

192.5 MILK OR MILK PRODUCTS PERMIT.

~~It shall be unlawful for any~~ A person who does not possess a permit ~~from~~ issued by the ~~secretary or authorized municipal corporation to~~ department shall not bring ~~into~~, send ~~into~~, or receive into the state for sale, or ~~to~~ sell, ~~or~~ offer for sale ~~therein~~, or ~~to have in storage~~ store any milk or milk ~~products defined~~ product as provided in this chapter and in chapters 190 and 191~~; provided that~~. However, the department may exempt from this requirement grocery stores, restaurants, soda fountains, ~~and~~ or similar establishments where milk or a milk ~~products or both are~~ product is served or sold at retail, but not processed~~; may be exempt from the requirements of this section~~.

Only a person who complies with the requirements of this chapter and chapters 190 and 191 shall be entitled to receive and retain ~~such~~ a permit from the department ~~or authorized municipal corporation~~. Permits shall not be transferable with respect to persons or locations.

The ~~secretary or authorized municipal corporation~~ department shall suspend ~~such~~ a permit whenever there is reason to believe that a public health hazard exists, ~~or~~ whenever the permit holder has violated any of the requirements of ~~said chapters~~ this chapter, chapter 190, or chapter 191, or whenever the permit holder has interfered with the ~~secretary or authorized municipal corporation~~ department in the performance of ~~their~~ its duties~~:--Except~~. However, where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health~~;~~, or in any case of a willful refusal to permit authorized inspection, the ~~secretary or authorized municipal corporation~~ department shall serve upon the holder a written notice of intent to suspend

1 the permit. The notice shall specify with particularity the
2 violations in question and afford the holder such reasonable
3 opportunity to correct such violations as may be agreed to by
4 the parties, or in the absence of agreement, ~~fixed~~ established
5 by the secretary ~~or authorized municipal corporation~~ before
6 making any order of suspension effective. A suspension of
7 permit shall remain in effect until the violation has been
8 corrected to the satisfaction of the ~~secretary or authorized~~
9 ~~municipal corporation~~ department.
10 Upon written application of any person whose permit has
11 been suspended, or upon application within forty-eight hours
12 of any person who has been served with a notice of intention
13 to suspend, and in the latter case before suspension, the
14 ~~secretary or authorized municipal corporation~~ department shall
15 within seventy-two hours proceed to a hearing to ascertain the
16 facts of such violation or interference and upon evidence
17 presented at such hearing shall affirm, modify, or rescind the
18 suspension or intention to suspend.
19 Upon repeated violation, the ~~secretary or authorized~~
20 ~~municipal corporation~~ department may revoke ~~such~~ a permit
21 following reasonable notice to the permit holder and an
22 opportunity for a hearing. This section is not intended to
23 preclude the institution of a court action ~~as~~ provided in
24 ~~sections 192.11 and 192.16~~ this chapter, chapter 190, or
25 chapter 191.
26 The provisions of this section are intended for the
27 regulation of the production, processing, labeling, and
28 distribution of grade "A" milk and grade "A" milk products
29 under sanitary requirements which are uniform throughout the
30 state.
31 Sec. 10. Section 192.11, unnumbered paragraphs 1 through
32 4, Code 1991, are amended by striking the paragraphs.
33 Sec. 11. Section 192.30, unnumbered paragraph 1, Code
34 1991, is amended by striking the paragraph.
35 Sec. 12. Section 192.30, unnumbered paragraph 2, Code

1991, is amended to read as follows:

~~Municipal-corporations~~ The department may establish grade "A" standards for cottage cheese dry curd, cottage cheese, and low fat cottage cheese as a part of the ordinance required by this ~~section;-however-no-municipal-corporation~~ chapter. However, the department shall not require a grade "A" rating for these products as a condition precedent to their sale ~~within-the-city~~.

Sec. 13. Section 192.32, Code 1991, is amended to read as follows:

192.32 INJUNCTION FOR VIOLATIONS.

~~Any~~ A person who ~~shall-violate~~ violates any ~~of-the provisions~~ provision of this chapter ~~and-chapters~~, chapter 190 ~~and~~, or chapter 191, or a rule adopted under any of those chapters may be enjoined from continuing such violations. Each day upon which such a violation occurs ~~shall-constitute~~ constitutes a separate violation.

Sec. 14. Section 192.33, Code 1991, is amended to read as follows:

192.33 RATING REQUIRED TO RETAIN PERMIT.

A pasteurized milk and milk products sanitation compliance rating of ninety percent or more calculated according to the rating system as contained in ~~Public-Health-Service Publication~~ 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" and "Method of Making Sanitation Ratings of Milk Supplies, 1987 Revision", ~~shall-be~~ is necessary to receive or retain a permit under section 192.5. ~~Said-publication-is-hereby~~ The applicable provisions of these publications are incorporated into this section by this reference ~~and-made-a-part-hereof-insofar-as-applicable;~~ a. A copy of ~~which~~ each publication shall be on file ~~in-the office-of-the-secretary~~ with the department or in the office of ~~the-clerk-of-an-authorized-municipal-corporation-at-all~~

1 ~~times~~ the person subject to an inspection contract as provided
2 in section 192.48.
3 Sec. 15. Section 192.48, Code 1991, is amended to read as
4 follows:
5 192.48 ADMINISTRATION OF THE CHAPTER -- INSPECTIONS
6 REQUIRED~~----AGREEMENTS~~.
7 The department shall administer this chapter and rules
8 adopted pursuant to this chapter. The department ~~shall be~~ is
9 responsible for the inspection of a dairy farm, milk plant, ~~or~~
10 transfer station, or receiving station to ensure compliance
11 with this chapter and chapters 190 and 191. Whenever
12 practical, the department shall enter into an ~~agreement~~
13 inspection contract with a person~~,including but not limited~~
14 ~~to a municipal corporation,~~ qualified to perform inspection
15 services if the agreement for the services is cost-effective
16 and the quality of inspection ~~assures~~ ensures compliance with
17 state and federal law. A person entering into an ~~agreement~~
18 inspection contract with the ~~secretary or a person entering~~
19 ~~into a subagreement with an authorized municipal corporation~~
20 department for the purpose of inspecting premises, taking
21 samples, or testing samples, shall be deemed to be an agent of
22 the ~~secretary or municipal corporation~~ department, and shall
23 have the same authority under this chapter provided to the
24 ~~secretary or authorized municipal corporation~~ department,
25 unless the ~~agreement or subagreement~~ contract specifies
26 otherwise. The department shall review inspection services
27 performed by a person under an ~~agreement with the department~~
28 ~~or subagreement with a municipal corporation~~ inspection
29 contract to ensure quality cost-effective inspections. If a
30 person is acting in a manner which is inconsistent with the
31 provisions of the applicable chapter~~,agreement,or~~
32 ~~subagreement~~ or contract, the ~~secretary or municipal~~
33 ~~corporation entering into the agreement or subagreement with~~
34 ~~the person~~ department may revoke the ~~agreement or subagreement~~
35 ~~with the person~~ inspection contract after notice and hearing,

1 in the manner described for permit revocation in section 192.5
2 and perform such acts as are necessary to enforce this
3 chapter.
4 Sec. 16. Section 192.56, Code 1991, is amended by striking
5 the section and inserting in lieu thereof the following:
6 192.56 CONTAINER.
7 As used in this chapter, "container" means a rigid or
8 nonrigid receptacle, including but not limited to a can,
9 bottle, case, paper carton, cask, keg, or barrel.
10 Sec. 17. Section 192.63, Code 1991, is amended to read as
11 follows:
12 192.63 CERTIFIED LABORATORIES.
13 To insure uniformity in the tests and reporting, an
14 employee certified by the United States public health service
15 of the bacteriological laboratory of the department shall
16 annually certify, in accordance with the United States food
17 and drug administration publication "Evaluation of Milk
18 Laboratories" (1985 revision), all laboratories doing work in
19 the sanitary quality of milk and dairy products for public
20 report. ~~Such~~ The approval by the department shall be based on
21 the evaluation of these laboratories as to personnel training,
22 laboratory methods used, and reporting. The results on tests
23 made by approved laboratories shall be reported to the
24 department on request, on forms prescribed by the secretary of
25 agriculture, and such reports may be used by the department.
26 The department shall annually certify, in accordance with
27 the United States food and drug administration publication
28 "Evaluation of Milk Laboratories" (1985 revision), every
29 laboratory in the state doing work in the sanitary quality of
30 milk and dairy products for public report. The certifying
31 officer may enter any such place at any reasonable hour to
32 make ~~such~~ the survey. The management of the laboratory shall
33 afford free access to every part of the premises and render
34 all aid and assistance necessary to enable the certifying
35 officer to make a thorough and complete examination.

1 Sec. 18. Section 194.20, Code 1991, is amended to read as
2 follows:
3 194.20 INSPECTION FEES -- GRADE "B" MILK.
4 A purchaser of milk from a grade "B" milk producer shall
5 pay an inspection fee not greater than one-half cent per
6 hundredweight. The fee is payable monthly to the ~~secretary~~
7 department at a time prescribed by the ~~secretary~~ department.
8 A fee imposed by this section shall not be paid on milk
9 ~~subject-to-inspection~~ by a ~~municipal-corporation-pursuant-to~~
10 person administering the inspection pursuant to an inspection
11 contract as provided in section ~~192.11~~ 192.48. Fees collected
12 under ~~section-192.47,-subsection-2-and~~ this section shall be
13 deposited in the milk fund established in section 192.47.
14 Sec. 19. Section 548.13, subsection 5, Code 1991, is
15 amended to read as follows:
16 5. Marks for dairy products, as provided for in ~~sections~~
17 ~~192.23-through-192.39,-inclusive~~ chapter 192.
18 Sec. 20. REPEALS.
19 1. Sections 192.7 through 192.10, Code 1991, are repealed.
20 2. Sections 192.12 through 192.17, Code 1991, are
21 repealed.
22 3. Sections 192.19 through 192.29, Code 1991, are
23 repealed.
24 4. Sections 192.39, 192.41, 192.46, and 192.65, Code 1991,
25 are repealed.
26 Sec. 21. CODE EDITOR.
27 1. The Code editor is directed to transfer section 192.66
28 to chapter 194, and number the section appropriately.
29 2. The Code editor is directed to reorganize chapter 192
30 to enhance its organization and readability, but shall not
31 make substantive changes.
32 Sec. 22. EFFECTIVE DATE.
33 1. Except as provided in subsection 2, all sections of
34 this Act take effect on January 1, 1992.
35 2. Sections 8 and 21 of this Act, being deemed of

1 immediate importance, take effect upon enactment.

2 EXPLANATION

3 This bill amends provisions relating to the regulation of
4 milk and milk products produced, processed, and sold in this
5 state. The bill provides that the department of agriculture
6 and land stewardship shall adopt by rule the "Grade "A"
7 Pasteurized Milk Ordinance, 1989 Revision," including a
8 subsequent revision of the ordinance. The bill provides that
9 the department shall not amend the ordinance, unless the
10 department explains each amendment and reasons for the
11 amendment in the Iowa administrative bulletin when the rules
12 are required to be published. The bill provides that the
13 department must administer provisions of law consistent with
14 the provisions of the ordinance.

15 The bill also repeals a number of sections which are
16 covered in the ordinance, including provisions relating to
17 pasteurization, recording requirements, injunctive remedies,
18 the issuance of permits, access to premises, the protection of
19 trade secrets, the sampling and testing of milk, standards for
20 pasteurization, sanitation requirements, and the transfer,
21 handling, and storage of milk. The bill also allows the
22 department to contract with qualified persons to administer
23 provisions regulating milk and milk products to the same
24 extent that the department under current law may contract with
25 a municipal corporation.

26 The bill directs the Code editor to transfer current Code
27 sections to enhance the readability of the provisions.

28 The bill provides special effective dates. Generally, the
29 bill's provisions become effective on January 1, 1992.

30
31
32
33
34
35

SENATE FILE 525

AN ACT

RELATING TO THE REGULATION OF DAIRY PRODUCTS, PROVIDING FOR THE REPEAL OF CERTAIN SECTIONS, AND PROVIDING EFFECTIVE DATES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 159.1, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 1A. "Official laboratory" means a biological, chemical, or physical laboratory which performs testing or analysis pursuant to scientific procedures, to the extent the laboratory is recognized by the department as a reliable indicator of scientific results.

NEW SUBSECTION. 1B. "Pasteurization" or "pasteurized" means the procedure of processing milk or a milk product, in order to ensure its safety from contaminants, if the procedure of pasteurization is consistent with standards adopted by the department pursuant to section 192.2.

Sec. 2. Section 190.1, subsections 4 through 6, Code 1991, are amended by striking the subsections.

Sec. 3. Section 190.1, subsections 32 through 57, Code 1991, are amended by striking the subsections.

Sec. 4. Section 190.2, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The department shall adopt rules specifying standards for milk and dairy products which are consistent with the "Pasteurized Milk Ordinance", as provided in chapter 192, and applicable federal standards of identity.

Sec. 5. Section 190.3, unnumbered paragraph 2, Code 1991, is amended to read as follows:

The provisions of subsections 2 and 3 ~~of this section~~ shall not apply to the addition of vitamins approved by the United

States Pharmacopoeia or the removal of milk fat from milk ~~as defined in section 190.1, subsection 39~~.

Sec. 6. NEW SECTION. 190.14 ADMINISTRATION OF THE CHAPTER.

1. The department shall administer this chapter consistent with the provisions of the "Grade "A" Pasteurized Milk Ordinance, 1989 Revision", as provided in section 192.2.

2. The department, as provided in section 192.48, may contract with a person qualified by the department to perform inspection of dairy farms, milk plants, receiving stations, or transfer stations to ensure compliance with this chapter.

Sec. 7. NEW SECTION. 190.15 VIOLATIONS.

The department may restrain a person violating this chapter or a rule adopted by the department under this chapter by petitioning the district court where the violation occurs for injunctive relief. Each day that a violation continues constitutes a separate violation.

Sec. 8. Section 191.2, subsection 5, paragraph j, subparagraphs (1) and (2), Code 1991, are amended to read as follows:

(1) Only the identity of the milk producer shall be required on cans delivered to a milk plant as provided in chapter 192 which receives only grade "A" raw milk for pasteurization, and which immediately dumps, washes, and returns the cans to the milk producer.

(2) The identity of both milk producer and the grade shall be required on cans delivered to a milk plant as provided in chapter 192 which receives both grade "A" raw milk for pasteurization and ungraded raw milk and which immediately dumps, washes, and returns the cans to the milk producer.

Sec. 9. NEW SECTION. 191.9 ADMINISTRATION OF THE CHAPTER.

1. The department shall administer this chapter consistent with the provisions of the "Grade "A" Pasteurized Milk Ordinance, 1989 Revision", as provided in section 192.2.

2. The department, as provided in section 192.48, may contract with a person qualified by the department to perform inspection of dairy farms, milk plants, receiving stations, or transfer stations to ensure compliance with this chapter.

Sec. 10. NEW SECTION. 191.10 VIOLATIONS.

The department may restrain a person violating this chapter or a rule adopted by the department under this chapter by petitioning the district court where the violation occurs for injunctive relief. Each day that a violation continues constitutes a separate violation.

Sec. 11. NEW SECTION. 192.1 SHORT TITLE.

This chapter shall be known and may be cited as the "Iowa Grade "A" Milk Inspection Law".

Sec. 12. NEW SECTION. 192.2 GRADE "A" PASTEURIZED MILK ORDINANCE.

The department shall adopt, by rule, the "Grade "A" Pasteurized Milk Ordinance, 1989 Revision", including a subsequent revision of the ordinance. If the ordinance specifies that compliance with a provision of the ordinance's appendices is mandatory, the department shall also adopt that provision. The department shall not amend the ordinance, unless the department explains each amendment and reasons for the amendment in the Iowa administrative bulletin when the rules are required to be published pursuant to chapter 17A. The department shall administer this chapter consistent with the provisions of the ordinance.

Sec. 13. Section 192.5, Code 1991, is amended to read as follows:

192.5 MILK OR MILK PRODUCTS PERMIT.

~~It shall be unlawful for any~~ A person who does not possess a permit ~~from~~ issued by the ~~secretary or authorized municipal corporation to~~ department shall not bring ~~into~~, send ~~into~~, or receive into the state for sale, or ~~to~~ sell, ~~or~~ offer for sale ~~therein, or to have in storage~~ store any milk or milk ~~products defined~~ product as provided in this chapter and in chapters

190 and 191~~; provided that~~. However, the department may exempt from this requirement grocery stores, restaurants, soda fountains, ~~and~~ or similar establishments where milk or a milk ~~products or both are~~ product is served or sold at retail, but not processed~~, may be exempt from the requirements of this section~~.

Only a person who complies with the requirements of this chapter and chapters 190 and 191 shall be entitled to receive and retain such a permit from the department ~~or authorized municipal corporation~~. Permits shall not be transferable with respect to persons or locations.

The ~~secretary or authorized municipal corporation~~ department shall suspend such a permit whenever there is reason to believe that a public health hazard exists, ~~or~~ whenever the permit holder has violated any of the requirements of ~~said chapters~~ this chapter, chapter 190, or chapter 191, or whenever the permit holder has interfered with the ~~secretary or authorized municipal corporation~~ department in the performance of ~~their~~ its duties~~:--Except~~. However, where the milk or milk product involved creates, or appears to create, an imminent hazard to the public health~~;~~, or in any case of a willful refusal to permit authorized inspection, the ~~secretary or authorized municipal corporation~~ department shall serve upon the holder a written notice of intent to suspend the permit. The notice shall specify with particularity the violations in question and afford the holder such reasonable opportunity to correct such violations as may be agreed to by the parties, or in the absence of agreement, ~~fixed~~ established by the secretary ~~or authorized municipal corporation~~ before making any order of suspension effective. A suspension of permit shall remain in effect until the violation has been corrected to the satisfaction of the ~~secretary or authorized municipal corporation~~ department. As used in this section, the terms "public health hazard" and "imminent hazard" shall be defined by rules adopted by the department. The rules

shall include examples of public health hazards and imminent hazards.

Upon written application of any person whose permit has been suspended, or upon application within forty-eight hours of any person who has been served with a notice of intention to suspend, and in the latter case before suspension, the ~~secretary-or-authorized-municipal-corporation~~ department shall within seventy-two hours proceed to a hearing to ascertain the facts of such violation or interference and upon evidence presented at such hearing shall affirm, modify, or rescind the suspension or intention to suspend.

Upon repeated violation, the ~~secretary-or-authorized municipal-corporation~~ department may revoke ~~such~~ a permit following reasonable notice to the permit holder and an opportunity for a hearing. This section is not intended to preclude the institution of a court action as provided in ~~sections-192.11-and-192.16~~ this chapter, chapter 190, or chapter 191.

The provisions of this section are intended for the regulation of the production, processing, labeling, and distribution of grade "A" milk and grade "A" milk products under sanitary requirements which are uniform throughout the state.

Sec. 14. Section 192.11, unnumbered paragraphs 4 through 7, Code 1991, are amended by striking the paragraphs.

Sec. 15. Section 192.30, unnumbered paragraph 1, Code 1991, is amended by striking the paragraph.

Sec. 16. Section 192.30, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~Municipal-corporations~~ The department may establish grade "A" standards for cottage cheese dry curd, cottage cheese, and low fat cottage cheese as a part of the ordinance required by this ~~section;-however-no-municipal-corporation~~ chapter. However, a governmental body, including the department, a county as provided in chapter 331, or a city as provided in

chapter 364 shall not require a grade "A" rating for these products as a condition precedent to their sale ~~within-the city~~.

Sec. 17. Section 192.32, Code 1991, is amended to read as follows:

192.32 INJUNCTION FOR VIOLATIONS.

~~Any~~ A person who ~~shall-violate~~ violates any ~~of-the provisions~~ provision of this chapter ~~and-chapters~~, chapter 190 ~~and~~, or chapter 191, or a rule adopted under any of those chapters may be enjoined from continuing such violations. Each day upon which such a violation occurs ~~shall-constitute~~ constitutes a separate violation.

Sec. 18. Section 192.33, Code 1991, is amended to read as follows:

192.33 RATING REQUIRED TO RETAIN PERMIT.

A pasteurized milk and milk products sanitation compliance rating of ninety percent or more calculated according to the rating system as contained in ~~Public-Health-Service Publication~~ 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" and "Method of Making Sanitation Ratings of Milk Supplies, 1987 Revision", ~~shall-be~~ is necessary to receive or retain a permit under section 192.5. ~~Said-publication-is-hereby~~ The applicable provisions of these publications are incorporated into this section by this reference ~~and-made-a-part-hereof-insofar-as-applicable;~~ a. A copy of ~~which~~ each publication shall be on file ~~in-the office-of-the-secretary~~ with the department or in the office of ~~the-clerk-of-an-authorized-municipal-corporation-at-all times~~ the person subject to an inspection contract as provided in section 192.48.

Sec. 19. Section 192.48, Code 1991, is amended to read as follows:

SF 525

192.48 ADMINISTRATION OF THE CHAPTER -- INSPECTIONS REQUIRED----AGREEMENTS.

The department shall administer this chapter and rules adopted pursuant to this chapter. The department ~~shall be~~ is responsible for the inspection of a dairy farm, milk plant, ~~or~~ transfer station, or receiving station to ensure compliance with this chapter and chapters 190 and 191. Whenever practical, the department shall enter into an ~~agreement~~ inspection contract with a person~~, including but not limited to a municipal corporation,~~ qualified to perform inspection services if the agreement for the services is cost-effective and the quality of inspection ~~assures~~ ensures compliance with state and federal law. A person entering into an ~~agreement~~ inspection contract with the ~~secretary or a person entering into a subagreement with an authorized municipal corporation~~ department for the purpose of inspecting premises, taking samples, or testing samples, shall be deemed to be an agent of the ~~secretary or municipal corporation~~ department, and shall have the same authority under this chapter provided to the ~~secretary or authorized municipal corporation~~ department, unless the ~~agreement or subagreement~~ contract specifies otherwise. The department shall review inspection services performed by a person under an ~~agreement with the department or subagreement with a municipal corporation~~ 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~~, agreement, or subagreement~~ or contract, the ~~secretary or municipal corporation entering into the agreement or subagreement with the person~~ department may revoke the ~~agreement or subagreement with the person~~ inspection contract after notice and hearing, in the manner described for permit revocation in section 192.5 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. 20. Section 192.56, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

192.56 CONTAINER.

As used in this chapter, "container" means a rigid or nonrigid receptacle, including but not limited to a can, bottle, case, paper carton, cask, keg, or barrel.

Sec. 21. Section 192.63, Code 1991, is amended to read as follows:

192.63 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 "Evaluation of Milk Laboratories" (1985 revision), all laboratories doing work in the sanitary quality of milk and dairy products for public report. ~~Such~~ 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 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 ~~such~~ 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. 22. Section 194.20, Code 1991, is amended to read as follows:

194.20 INSPECTION FEES -- GRADE "B" MILK.

A purchaser of milk from a grade "B" milk producer shall pay an inspection fee not greater than one-half cent per hundredweight. The fee is payable monthly to the ~~secretary~~ department at a time prescribed by the ~~secretary~~ department. A fee imposed by this section shall not be paid on milk ~~subject-to-inspection~~ by a ~~municipal-corporation-pursuant-to~~ person administering the inspection pursuant to an inspection contract as provided in section ~~192.11~~ 192.48. Fees collected under ~~section-192.47,-subsection-2-and~~ this section shall be deposited in the milk fund established in section 192.47.

Sec. 23. Section 548.13, subsection 5, Code 1991, is amended to read as follows:

5. Marks for dairy products, as provided for in ~~sections 192.23-through-192.39,-inclusive~~ chapter 192.

Sec. 24. REPEALS.

1. Sections 192.7 through 192.10, Code 1991, are repealed.

2. Sections 192.12 through 192.17, Code 1991, are repealed.

3. Sections 192.19 through 192.29, Code 1991, are repealed.

4. Sections 192.39, 192.41, 192.46, and 192.65, Code 1991, are repealed.

Sec. 25. CODE EDITOR.

1. The Code editor is directed to transfer section 192.66 to chapter 194, and number the section appropriately.

2. The Code editor is directed to reorganize chapter 192 to enhance its organization and readability, but shall not make substantive changes.

Sec. 26. EFFECTIVE DATE.

1. Except as provided in subsection 2, all sections of this Act take effect on January 1, 1992.

2. This section and sections 12 and 25 of this Act, being deemed of immediate importance, take effect upon enactment.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 525, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 30, 1991

TERRY E. BRANSTAD
Governor

SF 525