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FILED MAR 13 1997

SENATE FILE **451**
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO SSB 234)

Passed Senate, Date 3/26/97 (p. 802) Passed House, Date 4-14-97 ^(p. 1193)
Vote: Ayes 49 Nays 0 Vote: Ayes 92 Nays 0
Approved May 1, 1997

A BILL FOR

1 An Act relating to milk and milk products, providing for the
2 issuance of licenses and permits, fees, and providing
3 penalties.

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

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SENATE FILE 451

S-3233

1 Amend Senate File 451 as follows:
2 1. Page 1, line 14, by inserting after the word
3 "who" the following: "takes farm samples or".
4 2. Page 1, line 17, by inserting after the word
5 "person." the following: "However, a milk hauler does
6 not include a person who drives a bulk milk tanker, if
7 the person does not take a milk sample or handle raw
8 milk or raw milk products."

By LYLE E. ZIEMAN

S-3233 FILED MARCH 25, 1997
Adopted 3/26/97 (p. 801)

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S.F. 451

1 Section 1. NEW SECTION. 192.101A DEFINITIONS.

2 As used in this chapter, all terms shall have the same
3 meaning as defined in the "Grade A Pasteurized Milk Ordinance,
4 1993 Revision". However, notwithstanding the ordinance, the
5 following definitions shall apply:

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

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

14 3. "Milk hauler" means a person who transports raw milk or
15 raw milk products to or from a milk plant, receiving station,
16 or transfer station, including a dairy industry milk field
17 person.

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

20 192.104 COLORING REJECTED MILK.

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

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

27 192.108 ADMINISTRATION OF THE CHAPTER -- INSPECTIONS
28 REQUIRED.

29 The department shall administer this chapter and rules
30 adopted pursuant to this chapter. The department is
31 responsible for the inspection of a dairy farm, milk plant,
32 transfer station, or receiving station to ensure compliance
33 with this chapter and chapters 190 and 191. Whenever
34 ~~practical, the~~ The department ~~shall~~ may enter into an
35 inspection contract with a person qualified to perform

1 inspection services if the agreement for the services is cost-
2 effective and the quality of inspection ensures compliance
3 with state and federal law. A person entering into an
4 inspection contract with the department for the purpose of
5 inspecting premises, taking samples, or testing samples, shall
6 be deemed to be an agent of the department, and shall have the
7 same authority under this chapter provided to the department,
8 unless the contract specifies otherwise. The department shall
9 review inspection services performed by a person under an
10 inspection contract to ensure quality cost-effective
11 inspections. If a person is acting in a manner which is
12 inconsistent with the provisions of the applicable chapter or
13 contract, the department may revoke the inspection contract
14 after notice and hearing, in the manner described for permit
15 revocation in section 192.107 and perform such acts as are
16 necessary to enforce this chapter. Except as provided in this
17 chapter or chapter 194, a person shall not charge a milk
18 plant, receiving station, or transfer station a fee for
19 inspection relating to milk or milk products.

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

22 1. The person has a pasteurized milk and milk products
23 sanitation compliance rating of ninety percent or more as
24 calculated according to the rating system as contained in the
25 federal public health service publications, "Procedures
26 Governing the Cooperative State-Public Health Service/Food and
27 Drug Administration Program for Certification of Interstate
28 Milk Shippers ~~1989~~ 1995" and "Method of Making Sanitation
29 Ratings of Milk Supplies, ~~1987~~ 1995 Revision". The applicable
30 provisions of these publications are incorporated into this
31 section by this reference. A copy of each publication shall
32 be on file with the department or in the office of the person
33 subject to an inspection contract as provided in section
34 192.108.

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

1 follows:

2 192.111 INSPECTION FEES -- DEPOSIT IN GENERAL FUND --
3 APPROPRIATION.

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

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

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

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

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

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

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

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

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

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

1 3. a. Fees collected under this section and sections
2 192.133, 194.14, 194.19, and 194.20, ~~and 195.9~~ shall be
3 deposited in the general fund of the state. All moneys
4 deposited under this section are appropriated to the
5 department for the costs of inspection, sampling, analysis,
6 and other expenses necessary for the administration of this
7 chapter and ~~chapters~~ chapter 194 ~~and 195~~, and shall be subject
8 to the requirements of section 8.60.

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

22 Sec. 6. NEW SECTION. 192.112 REGULATION -- MILK HAULERS,
23 MILK GRADERS, AND BULK MILK TANKERS.

24 1. The department shall adopt rules pursuant to chapter
25 17A which provide for licensing milk haulers, milk graders,
26 and bulk milk tankers as provided in section 192.111. The
27 department shall establish standards of operation for milk
28 haulers, milk graders, and bulk milk tankers. The standards
29 shall include, but need not be limited to, all of the
30 following:

31 a. The construction of bulk milk tankers.

32 b. The cleaning, maintenance, and sanitization of bulk
33 milk tankers.

34 c. Recordkeeping relating to the use and cleaning of bulk
35 milk tankers.

1 d. Supplies needed to perform the duties of milk hauling
2 and milk grading.

3 e. Proper milk hauling and milk grading procedures,
4 including but not limited to sanitation, the examination and
5 measurement of milk, the handling of milk, and the taking and
6 handling of milk samples.

7 f. Recordkeeping required for milk haulers and milk
8 graders.

9 g. Ongoing training requirements, if any, for milk haulers
10 and milk graders.

11 Sec. 7. NEW SECTION. 192.113 PENALTIES.

12 1. a. A person shall not act as a milk hauler unless the
13 person is licensed as a milk hauler pursuant to section
14 192.111. A person shall not solicit another person to act as
15 a milk hauler or procure or obtain the services of a person to
16 act as a milk hauler unless the person solicited or from whom
17 the services are procured or obtained is licensed as a milk
18 hauler pursuant to section 192.11.

19 b. A person shall not act as a milk grader unless the
20 person is licensed as a milk grader pursuant to section
21 192.111. A person shall not solicit another person to act as
22 a milk grader or procure or obtain the services of a person to
23 act as a milk grader, unless the person solicited or from whom
24 the services are procured or obtained is licensed as a milk
25 grader pursuant to section 192.11.

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

32 2. A person who violates this section is subject to a
33 civil penalty of at least one hundred dollars but not more
34 than one thousand dollars for each violation. Each day that a
35 violation continues shall constitute a new violation.

1 However, a person shall not be subject to a civil penalty of
2 more than ten thousand dollars for a continuing violation.
3 Civil penalties shall be deposited in the general fund of the
4 state.

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

7 192.118 CERTIFIED LABORATORIES.

8 To insure uniformity in the tests and reporting, an
9 employee certified by the United States public health service
10 of the bacteriological laboratory of the department shall
11 annually certify, in accordance with the United States food
12 and drug administration publication "Evaluation of Milk
13 Laboratories" (~~1985~~ 1995 revision), all laboratories doing
14 work in the sanitary quality of milk and dairy products for
15 public report. The approval by the department shall be based
16 on the evaluation of these laboratories as to personnel
17 training, laboratory methods used, and reporting. The results
18 on tests made by approved laboratories shall be reported to
19 the department on request, on forms prescribed by the
20 secretary of agriculture, and such reports may be used by the
21 department.

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

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

34 194.18 COLORING UNLAWFUL MILK.

35 ~~It shall be the duty of each licensed~~ A milk hauler or milk

1 grader ~~of-milk-to~~ licensed pursuant to section 192.112 may mix
2 ~~with-any-unlawful-milk, whenever-observed-by-the-grader,~~ a
3 harmless coloring matter ~~that-will~~ in unlawful milk as
4 provided in section 194.9 to prevent the unlawful milk ~~to-be~~
5 from being processed and used in any form for human
6 consumption.

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

8 EXPLANATION

9 This bill amends Code sections regulating the milk
10 industry, including the collection, transportation, and
11 grading of milk. The bill regulates three different entities,
12 including a bulk milk tanker which is used to transport milk
13 or fluid milk products, a milk grader who collects milk
14 samples, and a milk hauler who transports raw milk or raw milk
15 products. The bill provides that a milk hauler or a milk
16 grader may color contaminated milk. It updates references to
17 publications used in inspecting and testing milk and
18 facilities. The bill amends provisions relating to licensing
19 and permitting for persons involved in the industry, including
20 the imposition of fees. The bill provides for the regulation
21 of milk haulers, milk graders, and bulk milk tankers required
22 to be licensed under the bill, by authorizing the department
23 to adopt rules providing for licensing of such persons and
24 establishing standards of operation. The bill establishes
25 penalties for persons who act as milk haulers or milk graders
26 or who operate bulk milk tankers in violation of the bill.
27 The bill establishes penalties for persons who solicit an
28 unlicensed person to act as a milk hauler or milk grader or
29 who operate a bulk milk tanker. A person violating the bill
30 is subject to a civil penalty of at least \$100 but not more
31 than \$1,000 for a violation. A person is not subject to more
32 than \$10,000 for a continuing violation. The bill repeals
33 chapters regulating butter production and cream grading.

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1 Section 1. NEW SECTION. 192.101A DEFINITIONS.

2 As used in this chapter, all terms shall have the same
3 meaning as defined in the "Grade A Pasteurized Milk Ordinance,
4 1993 Revision". However, notwithstanding the ordinance, the
5 following definitions shall apply:

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

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

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

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

23 192.104 COLORING REJECTED MILK.

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

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

30 192.108 ADMINISTRATION OF THE CHAPTER -- INSPECTIONS
31 REQUIRED.

32 The department shall administer this chapter and rules
33 adopted pursuant to this chapter. The department is
34 responsible for the inspection of a dairy farm, milk plant,
35 transfer station, or receiving station to ensure compliance

1 with this chapter and chapters 190 and 191. Whenever
2 ~~practicaly,-the~~ The department ~~shall~~ may enter into an
3 inspection contract with a person qualified to perform
4 inspection services if the agreement for the services is cost-
5 effective and the quality of inspection ensures compliance
6 with state and federal law. A person entering into an
7 inspection contract with the department for the purpose of
8 inspecting premises, taking samples, or testing samples, shall
9 be deemed to be an agent of the department, and shall have the
10 same authority under this chapter provided to the department,
11 unless the contract specifies otherwise. The department shall
12 review inspection services performed by a person under an
13 inspection contract to ensure quality cost-effective
14 inspections. If a person is acting in a manner which is
15 inconsistent with the provisions of the applicable chapter or
16 contract, the department may revoke the inspection contract
17 after notice and hearing, in the manner described for permit
18 revocation in section 192.107 and perform such acts as are
19 necessary to enforce this chapter. Except as provided in this
20 chapter or chapter 194, a person shall not charge a milk
21 plant, receiving station, or transfer station a fee for
22 inspection relating to milk or milk products.

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

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

1 subject to an inspection contract as provided in section
2 192.108.

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

5 192.111 INSPECTION FEES -- DEPOSIT IN GENERAL FUND --
6 APPROPRIATION.

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

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

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

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

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

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

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

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

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

34 2. A purchaser of milk from a grade "A" milk producer
35 shall pay an inspection fee not greater than one point five

1 cents per hundredweight. The fee shall be payable monthly to
2 the secretary department in a manner prescribed by the
3 secretary.

4 3. a. Fees collected under this section and sections
5 192.133, 194.14, 194.19, and 194.20--and-195-9 shall be
6 deposited in the general fund of the state. All moneys
7 deposited under this section are appropriated to the
8 department for the costs of inspection, sampling, analysis,
9 and other expenses necessary for the administration of this
10 chapter and ~~chapters~~ chapter 194 and-195, and shall be subject
11 to the requirements of section 8.60.

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

25 Sec. 6. NEW SECTION. 192.112 REGULATION -- MILK HAULERS,
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27 1. The department shall adopt rules pursuant to chapter
28 17A which provide for licensing milk haulers, milk graders,
29 and bulk milk tankers as provided in section 192.111. The
30 department shall establish standards of operation for milk
31 haulers, milk graders, and bulk milk tankers. The standards
32 shall include, but need not be limited to, all of the
33 following:

34 a. The construction of bulk milk tankers.

35 b. The cleaning, maintenance, and sanitization of bulk

1 milk tankers.

2 c. Recordkeeping relating to the use and cleaning of bulk
3 milk tankers.

4 d. Supplies needed to perform the duties of milk hauling
5 and milk grading.

6 e. Proper milk hauling and milk grading procedures,
7 including but not limited to sanitation, the examination and
8 measurement of milk, the handling of milk, and the taking and
9 handling of milk samples.

10 f. Recordkeeping required for milk haulers and milk
11 graders.

12 g. Ongoing training requirements, if any, for milk haulers
13 and milk graders.

14 Sec. 7. NEW SECTION. 192.113 PENALTIES.

15 1. a. A person shall not act as a milk hauler unless the
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18 a milk hauler or procure or obtain the services of a person to
19 act as a milk hauler unless the person solicited or from whom
20 the services are procured or obtained is licensed as a milk
21 hauler pursuant to section 192.11.

22 b. A person shall not act as a milk grader unless the
23 person is licensed as a milk grader pursuant to section
24 192.111. A person shall not solicit another person to act as
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26 act as a milk grader, unless the person solicited or from whom
27 the services are procured or obtained is licensed as a milk
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29 c. A person shall not operate a bulk milk tanker unless
30 the bulk milk tanker is licensed pursuant to section 192.111.
31 A person shall not solicit another person to operate a bulk
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33 operate a bulk milk tanker, unless the bulk milk tanker is
34 licensed pursuant to section 192.11.

35 2. A person who violates this section is subject to a

1 civil penalty of at least one hundred dollars but not more
2 than one thousand dollars for each violation. Each day that a
3 violation continues shall constitute a new violation.

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18 public report. The approval by the department shall be based
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8 from being processed and used in any form for human
9 consumption.

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

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Zieman, Chair
Rife
DeHings

SSB 234

Agriculture

SENATE FILE ^{Succeeds} (SF) HF 451
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
SENATOR RENSINK)

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

A BILL FOR

1 An Act relating to milk and milk products, providing for the
2 issuance of licenses and permits, fees, and providing
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4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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 33 subject to an inspection contract as provided in section
 34 192.108.

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

1 follows:

2 192.111 INSPECTION FEES -- DEPOSIT IN GENERAL FUND --
3 APPROPRIATION.

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

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

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

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

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

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

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

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

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

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

1 3. a. Fees collected under this section and sections
 2 192.133, 194.14, 194.19, and 194.20~~-and-195-9~~ shall be
 3 deposited in the general fund of the state. All moneys
 4 deposited under this section are appropriated to the
 5 department for the costs of inspection, sampling, analysis,
 6 and other expenses necessary for the administration of this
 7 chapter and ~~chapters~~ chapter 194 ~~and-195~~, and shall be subject
 8 to the requirements of section 8.60.

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

22 Sec. 6. NEW SECTION. 192.112 REGULATION -- MILK HAULERS,
 23 MILK GRADERS, AND BULK MILK TANKERS.

24 1. The department shall adopt rules pursuant to chapter
 25 17A which provide for licensing milk haulers, milk graders,
 26 and bulk milk tankers as provided in section 192.111. The
 27 department shall establish standards of operation for milk
 28 haulers, milk graders, and bulk milk tankers. The standards
 29 shall include, but need not be limited to, all of the
 30 following:

- 31 a. The construction of bulk milk tankers.
- 32 b. The cleaning, maintenance, and sanitization of bulk
 33 milk tankers.
- 34 c. Recordkeeping relating to the use and cleaning of bulk
 35 milk tankers.

1 d. Supplies needed to perform the duties of milk hauling
2 and milk grading.

3 e. Proper milk hauling and milk grading procedures,
4 including but not limited to sanitation, the examination and
5 measurement of milk, the handling of milk, and the taking and
6 handling of milk samples.

7 f. Recordkeeping required for milk haulers and milk
8 graders.

9 g. Ongoing training requirements, if any, for milk haulers
10 and milk graders.

11 Sec. 7. NEW SECTION. 192.113 PENALTIES.

12 1. a. A person shall not act as a milk hauler unless the
13 person is licensed as a milk hauler pursuant to section
14 192.111. A person shall not solicit another person to act as
15 a milk hauler or procure or obtain the services of a person to
16 act as a milk hauler unless the person solicited or from whom
17 the services are procured or obtained is licensed as a milk
18 hauler pursuant to section 192.11.

19 b. A person shall not act as a milk grader unless the
20 person is licensed as a milk grader pursuant to section
21 192.111. A person shall not solicit another person to act as
22 a milk grader or procure or obtain the services of a person to
23 act as a milk grader, unless the person solicited or from whom
24 the services are procured or obtained is licensed as a milk
25 grader pursuant to section 192.11.

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

32 2. A person who violates this section is subject to a
33 civil penalty of at least one hundred dollars but not more
34 than one thousand dollars for each violation. Each day that a
35 violation continues shall constitute a new violation.

1 However, a person shall not be subject to a civil penalty of
2 more than ten thousand dollars for a continuing violation.
3 Civil penalties shall be deposited in the general fund of the
4 state.

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

7 192.118 CERTIFIED LABORATORIES.

8 To insure uniformity in the tests and reporting, an
9 employee certified by the United States public health service
10 of the bacteriological laboratory of the department shall
11 annually certify, in accordance with the United States food
12 and drug administration publication "Evaluation of Milk
13 Laboratories" (~~1985~~ 1995 revision), all laboratories doing
14 work in the sanitary quality of milk and dairy products for
15 public report. The approval by the department shall be based
16 on the evaluation of these laboratories as to personnel
17 training, laboratory methods used, and reporting. The results
18 on tests made by approved laboratories shall be reported to
19 the department on request, on forms prescribed by the
20 secretary of agriculture, and such reports may be used by the
21 department.

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

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

34 194.18 COLORING UNLAWFUL MILK.

35 ~~It shall be the duty of each licensed~~ A milk hauler or milk

1 grader ~~of-milk-to~~ licensed pursuant to section 192.112 may mix
2 ~~with-any-unlawful-milk, whenever-observed-by-the-grader,~~ a
3 harmless coloring matter ~~that-will~~ in unlawful milk as
4 provided in section 194.9 to prevent the unlawful milk ~~to-be~~
5 from being processed and used in any form for human
6 consumption.

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

8 EXPLANATION

9 This bill amends Code sections regulating the milk
10 industry, including the collection, transportation, and
11 grading of milk. The bill regulates three different entities,
12 including a bulk milk tanker which is used to transport milk
13 or fluid milk products, a milk grader who collects milk
14 samples, and a milk hauler who transports raw milk or raw milk
15 products. The bill provides that a milk hauler or a milk
16 grader may color contaminated milk. It removes discretion
17 from the department of agriculture and land stewardship in
18 contracting for inspection services, and it updates references
19 to publications used in inspecting and testing milk and
20 facilities. The bill amends provisions relating to licensing
21 and permitting for persons involved in the industry, including
22 the imposition of fees. The bill provides for the regulation
23 of milk haulers, milk graders, and bulk milk tankers required
24 to be licensed under the bill, by authorizing the department
25 to adopt rules providing for licensing of such persons and
26 establishing standards of operation. The bill establishes
27 penalties for persons who act as milk haulers or milk graders
28 or who operate bulk milk tankers in violation of the bill.
29 The bill establishes penalties for persons who solicit an
30 unlicensed person to act as a milk hauler or milk grader or
31 who operate a bulk milk tanker. A person violating the bill
32 is subject to a civil penalty of at least \$100 but not more
33 than \$1,000 for a violation. A person is not subject to more
34 than \$10,000 for a continuing violation. The bill repeals
35 chapters regulating butter production and cream grading.

SENATE FILE 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 semitanker 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 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 "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.

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 451, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved  1997

TERRY E. BRANSTAD
Governor