

Senate Study Bill 234

Bill Text

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1 1 Section 1. NEW SECTION. 192.101A DEFINITIONS.
1 2 As used in this chapter, all terms shall have the same
1 3 meaning as defined in the "Grade A Pasteurized Milk Ordinance,
1 4 1993 Revision". However, notwithstanding the ordinance, the
1 5 following definitions shall apply:
1 6 1. "Bulk milk tanker" means a mobile bulk container used
1 7 to transport milk or fluid milk products from a dairy farm to
1 8 a milk plant or from a milk plant to another milk plant,
1 9 including an over-the-road semitrailer or a tanker that is
1 10 permanently mounted on a motor vehicle.
1 11 2. "Milk grader" means a person, including dairy industry
1 12 milk intake personnel, other than a milk hauler, who collects
1 13 a milk sample from a bulk tank or a bulk milk tanker.
1 14 3. "Milk hauler" means a person who transports raw milk or
1 15 raw milk products to or from a milk plant, receiving station,
1 16 or transfer station, including a dairy industry milk field
1 17 person.
1 18 Sec. 2. Section 192.104, Code 1997, is amended to read as
1 19 follows:
1 20 192.104 COLORING REJECTED MILK.
1 21

~~It shall be the duty of the~~

~~- A milk hauler or~~

~~- cream~~

~~- a milk~~

1 22 grader

~~- to thoroughly~~

~~- may mix~~

~~- with all rejected milk or cream,~~

~~-~~

1 23 a harmless coloring matter

~~- as will~~

~~- in rejected milk to prevent~~

1 24

~~- all such~~

~~- the rejected milk from being offered for sale.~~

1 25 Sec. 3. Section 192.108, Code 1997, is amended to read as

1 26 follows:

1 27 192.108 ADMINISTRATION OF THE CHAPTER - INSPECTIONS

1 28 REQUIRED.

1 29 The department shall administer this chapter and rules

1 30 adopted pursuant to this chapter. The department is

1 31 responsible for the inspection of a dairy farm, milk plant,

1 32 transfer station, or receiving station to ensure compliance

1 33 with this chapter and chapters 190 and 191.

~~- Whenever~~

~~-~~

1 34

~~practical, the~~

- The department shall enter into an inspection
1 35 contract with a person qualified to perform inspection
2 1 services if the agreement for the services is cost-effective
2 2 and the quality of inspection ensures compliance with state
2 3 and federal law. A person entering into an inspection
2 4 contract with the department for the purpose of inspecting
2 5 premises, taking samples, or testing samples, shall be deemed
2 6 to be an agent of the department, and shall have the same
2 7 authority under this chapter provided to the department,
2 8 unless the contract specifies otherwise. The department shall
2 9 review inspection services performed by a person under an
2 10 inspection contract to ensure quality cost-effective
2 11 inspections. If a person is acting in a manner which is
2 12 inconsistent with the provisions of the applicable chapter or
2 13 contract, the department may revoke the inspection contract
2 14 after notice and hearing, in the manner described for permit
2 15 revocation in section 192.107 and perform such acts as are
2 16 necessary to enforce this chapter. Except as provided in this
2 17 chapter or chapter 194, a person shall not charge a milk
2 18 plant, receiving station, or transfer station a fee for
2 19 inspection relating to milk or milk products.
2 20 Sec. 4. Section [192.110](#), subsection 1, Code 1997, is
2 21 amended to read as follows:
2 22 1. The person has a pasteurized milk and milk products
2 23 sanitation compliance rating of ninety percent or more as
2 24 calculated according to the rating system as contained in the
2 25 federal public health service publications, "Procedures
2 26 Governing the Cooperative State-Public Health Service/Food and
2 27 Drug Administration Program for Certification of Interstate
2 28 Milk Shippers

~~1989~~

- 1995" and "Method of Making Sanitation
2 29 Ratings of Milk Supplies,

~~1987~~

- 1995 Revision". The applicable
2 30 provisions of these publications are incorporated into this
2 31 section by this reference. A copy of each publication shall
2 32 be on file with the department or in the office of the person
2 33 subject to an inspection contract as provided in section
2 34 192.108.
2 35 Sec. 5. Section [192.111](#), Code 1997, is amended to read as
3 1 follows:
3 2 192.111 INSPECTION FEES - DEPOSIT IN GENERAL FUND -
3 3 APPROPRIATION.
3 4 1. Except as otherwise provided in this section,

~~a~~

- all of
3 5 the following shall apply:
3 6 a. The following persons must receive a permit or license
3 7 from the department and pay the following fees:
3 8 (1) A milk plant which is not a receiving station

~~shall~~

- 3 9 must obtain a permit and pay

~~an inspection~~

- a permit fee not
3 10 greater than one thousand dollars per year.
3 11 (2) A transfer station

~~shall~~

- must obtain a permit and pay

~~an inspection~~

- a permit fee not greater than two hundred
3 13 dollars per year.

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

3 17 (4) A milk hauler

~~shall~~

- must obtain a license and pay

~~an~~

~~inspection~~

- a license fee not greater than

~~twenty five~~

- ten

3 19 dollars per year.

3 20 (5) A milk grader must obtain a license and pay a license
3 21 fee of not greater than ten dollars per year.

3 22 b. Each bulk milk tanker shall be licensed by the
3 23 department and pay a license fee not greater than twenty-five
3 24 dollars per year. However, a license fee shall not be
3 25 required for a vehicle used for the collection of milk for
3 26 manufacturing dairy products which has paid a license fee for
3 27 the same period pursuant to section 194.19.

3 28 The secretary shall

~~fix~~

- establish the fees provided in this

3 29 subsection annually. The fees shall be paid on July 1 of each
3 30 year.

3 31 2. A purchaser of milk from a grade "A" milk producer
3 32 shall pay an inspection fee not greater than one point five
3 33 cents per hundredweight. The fee shall be payable monthly to
3 34 the

~~secretary~~

- department in a manner prescribed by the

3 35 secretary.

4 1 3. a. Fees collected under this section and sections
4 2 192.133, 194.14, 194.19, and 194.20

~~, and 195.9~~

- shall be

4 3 deposited in the general fund of the state. All moneys
4 4 deposited under this section are appropriated to the
4 5 department for the costs of inspection, sampling, analysis,
4 6 and other expenses necessary for the administration of this
4 7 chapter and

~~chapters~~

- chapter 194

~~and 195~~

-, and shall be subject

4 8 to the requirements of section 8.60.

4 9 b. In each fiscal year, the secretary shall calculate the
4 10 balance of funds deposited under this section by subtracting
4 11 all moneys expended for the costs of inspection, sampling,
4 12 analysis and other expenses necessary for the administration
4 13 of this chapter and

~~chapters~~
~~chapter 194~~
~~and 195~~

4 14 calculation shows a balance of funds deposited under this
4 15 section on June 30 of any fiscal year equal to or exceeding
4 16 one hundred fifty thousand dollars, the secretary shall reduce
4 17 the fees provided for in subsection 2 of this section and
4 18 section 194.20 for the next fiscal year in an amount which
4 19 will result in an ending estimated balance of such funds for
4 20 June 30 of the next fiscal year of one hundred fifty thousand
4 21 dollars.

4 22 Sec. 6. NEW SECTION. 192.112 REGULATION - MILK HAULERS,
4 23 MILK GRADERS, AND BULK MILK TANKERS.

4 24 1. The department shall adopt rules pursuant to chapter
4 25 17A which provide for licensing milk haulers, milk graders,
4 26 and bulk milk tankers as provided in section 192.111. The
4 27 department shall establish standards of operation for milk
4 28 haulers, milk graders, and bulk milk tankers. The standards
4 29 shall include, but need not be limited to, all of the
4 30 following:

4 31 a. The construction of bulk milk tankers.

4 32 b. The cleaning, maintenance, and sanitization of bulk
4 33 milk tankers.

4 34 c. Recordkeeping relating to the use and cleaning of bulk
4 35 milk tankers.

5 1 d. Supplies needed to perform the duties of milk hauling
5 2 and milk grading.

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

5 7 f. Recordkeeping required for milk haulers and milk
5 8 graders.

5 9 g. Ongoing training requirements, if any, for milk haulers
5 10 and milk graders.

5 11 Sec. 7. NEW SECTION. 192.113 PENALTIES.

5 12 1. a. A person shall not act as a milk hauler unless the
5 13 person is licensed as a milk hauler pursuant to section
5 14 192.111. A person shall not solicit another person to act as
5 15 a milk hauler or procure or obtain the services of a person to
5 16 act as a milk hauler unless the person solicited or from whom
5 17 the services are procured or obtained is licensed as a milk
5 18 hauler pursuant to section 192.11.

5 19 b. A person shall not act as a milk grader unless the
5 20 person is licensed as a milk grader pursuant to section
5 21 192.111. A person shall not solicit another person to act as
5 22 a milk grader or procure or obtain the services of a person to
5 23 act as a milk grader, unless the person solicited or from whom
5 24 the services are procured or obtained is licensed as a milk
5 25 grader pursuant to section 192.11.

5 26 c. A person shall not operate a bulk milk tanker unless
5 27 the bulk milk tanker is licensed pursuant to section 192.111.
5 28 A person shall not solicit another person to operate a bulk
5 29 milk tanker or procure or obtain the services of a person to
5 30 operate a bulk milk tanker, unless the bulk milk tanker is
5 31 licensed pursuant to section 192.11.

5 32 2. A person who violates this section is subject to a
5 33 civil penalty of at least one hundred dollars but not more
5 34 than one thousand dollars for each violation. Each day that a
5 35 violation continues shall constitute a new violation.

6 1 However, a person shall not be subject to a civil penalty of
6 2 more than ten thousand dollars for a continuing violation.

6 3 Civil penalties shall be deposited in the general fund of the
6 4 state.

6 5 Sec. 8. Section 192.118, Code 1997, is amended to read as
6 6 follows:
6 7 192.118 CERTIFIED LABORATORIES.
6 8 To insure uniformity in the tests and reporting, an
6 9 employee certified by the United States public health service
6 10 of the bacteriological laboratory of the department shall
6 11 annually certify, in accordance with the United States food
6 12 and drug administration publication "Evaluation of Milk
6 13 Laboratories" (

~~1985~~

- 1995 revision), all laboratories doing
6 14 work in the sanitary quality of milk and dairy products for
6 15 public report. The approval by the department shall be based
6 16 on the evaluation of these laboratories as to personnel
6 17 training, laboratory methods used, and reporting. The results
6 18 on tests made by approved laboratories shall be reported to
6 19 the department on request, on forms prescribed by the
6 20 secretary of agriculture, and such reports may be used by the
6 21 department.
6 22 The department shall annually certify, in accordance with
6 23 the United States food and drug administration publication
6 24 "Evaluation of Milk Laboratories" (

~~1985~~

- 1995 revision), every
6 25 laboratory in the state doing work in the sanitary quality of
6 26 milk and dairy products for public report. The certifying
6 27 officer may enter any such place at any reasonable hour to
6 28 make the survey. The management of the laboratory shall
6 29 afford free access to every part of the premises and render
6 30 all aid and assistance necessary to enable the certifying
6 31 officer to make a thorough and complete examination.
6 32 Sec. 9. Section 194.18, Code 1997, is amended to read as
6 33 follows:
6 34 194.18 COLORING UNLAWFUL MILK.
6 35

~~It shall be the duty of each licensed~~

- A milk hauler or milk

7 1 grader

~~of milk to~~

- licensed pursuant to section 192.112 may mix

7 2

~~with any unlawful milk, whenever observed by the grader,~~

- a

7 3 harmless coloring matter

~~that will~~

- in unlawful milk as

7 4 provided in section 194.9 to prevent the unlawful milk

~~to be~~

-

7 5 from being processed and used in any form for human

7 6 consumption.

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

7 8 EXPLANATION

7 9 This bill amends Code sections regulating the milk
7 10 industry, including the collection, transportation, and
7 11 grading of milk. The bill regulates three different entities,
7 12 including a bulk milk tanker which is used to transport milk
7 13 or fluid milk products, a milk grader who collects milk
7 14 samples, and a milk hauler who transports raw milk or raw milk
7 15 products. The bill provides that a milk hauler or a milk

7 16 grader may color contaminated milk. It removes discretion
7 17 from the department of agriculture and land stewardship in
7 18 contracting for inspection services, and it updates references
7 19 to publications used in inspecting and testing milk and
7 20 facilities. The bill amends provisions relating to licensing
7 21 and permitting for persons involved in the industry, including
7 22 the imposition of fees. The bill provides for the regulation
7 23 of milk haulers, milk graders, and bulk milk tankers required
7 24 to be licensed under the bill, by authorizing the department
7 25 to adopt rules providing for licensing of such persons and
7 26 establishing standards of operation. The bill establishes
7 27 penalties for persons who act as milk haulers or milk graders
7 28 or who operate bulk milk tankers in violation of the bill.
7 29 The bill establishes penalties for persons who solicit an
7 30 unlicensed person to act as a milk hauler or milk grader or
7 31 who operate a bulk milk tanker. A person violating the bill
7 32 is subject to a civil penalty of at least \$100 but not more
7 33 than \$1,000 for a violation. A person is not subject to more
7 34 than \$10,000 for a continuing violation. The bill repeals
7 35 chapters regulating butter production and cream grading.

8 1 LSB 2463SC 77

8 2 da/cf/24