

## CHAPTER 32

### DAIRY PRODUCTS

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#### 32.075 TERM OF LICENSE; TRANSFERABILITY; FEES AND PENALTIES.

Every license issued by the commissioner shall be for a period ending on the thirty-first day of December next following, and shall not be transferable. The fee for each such initial license shall be \$25 and each renewal thereof shall be \$10 and shall be paid to the commissioner before any license or renewal thereof is issued. If a license renewal is not applied for on or before January 1 of each year, a penalty of \$10 shall be imposed. A person who does not renew his license within one year following its December 31 expiration date, except those persons who do not renew such license while engaged in active military service, shall be required to prove his competency and qualification pursuant to section 32.073, before a license is issued. The commissioner may require any other person who renews his license to prove his competency and qualification in the same manner. All license fees and penalties received by the commissioner shall be paid into the state treasury.

**History:** 1983 c 293 s 55

#### 32.212 MILK HOUSES FOR BULK TANKS.

Any producer using a bulk tank for cooling and storage of milk to be used for manufacturing purposes shall have an enclosed milk room which shall conform to the standards provided by sections 32.212 and 32.213. The floor shall be constructed of concrete or other impervious material, maintained in good repair, and graded to provide proper drainage. The walls and ceilings of the room shall be sealed and constructed of smooth easily cleaned material. All windows shall be screened and doors shall be self-closing. It shall be well ventilated and must meet the following requirements:

- (1) The bulk tank shall not be located over a drain or under a ventilator.
- (2) The hose port shall be located in an exterior wall and fitted with a tight self-closing door.
- (3) Each milk room shall have an adequate supply of water readily accessible with facilities for heating the water, to insure the cleaning and sanitizing of the bulk tank, utensils and equipment and the keeping of the milk room clean.
- (4) No lights shall be placed directly over the bulk tank.
- (5) The bulk tank shall be properly located in the milk room for easy access to all areas for cleaning and servicing.
- (6) The milkhouse shall be used only for storage of milk, milk utensils, and supplies incidental to the production of milk.
- (7) Sections 32.212 and 32.213 are effective for all bulk tanks for milk produced for manufacturing purposes.

(8) No milk processor shall buy milk from any producer of milk using a bulk tank to be used for manufacturing purposes unless such producer has complied with the provisions of section 32.212.

(9) After July 1, 1965, no person shall install a bulk tank except in a milk room or milkhouse which complies with the provisions of sections 32.212 and 32.213.

(10) The enforcement of sections 32.212 and 32.213 shall be administered by the Minnesota department of agriculture.

(11) Any person violating any provisions of sections 32.212 and 32.213 shall be punished by a fine of not more than \$50.

**History:** 1983 c 216 art 1 s 9

### 32.213 INFORMATION ON SALE OF BULK TANKS.

No bulk tank designed for the cooling and storage of milk shall be sold to anyone other than a wholesaler or dealer in such bulk tanks without the seller delivering to the buyer an exact copy of sections 32.212 and 32.213 at or prior to the time of delivery of such bulk tank to the buyer.

**History:** 1983 c 216 art 1 s 10

### 32.394 GRADE A PASTEURIZED MILK.

*[For text of subds 1 to 7, see M.S.1982]*

Subd. 8. **Exploratory preliminary inspections.** Any processor of milk, milk products, or goat milk who wishes to acquaint himself and his producers with Grade A requirements may make a request to the commissioner for exploratory inspections and meetings for this purpose. Upon receipt of such request, the commissioner at his convenience shall cause such exploratory inspections to be made and such meetings to be held as are necessary to acquaint said processor and producers with such requirements. If, after such exploratory inspections are made and such meetings are held and when in his opinion his field service has brought his producers into compliance with said requirements, said processor wishes to avail himself of further inspection service, he shall so apply on a form furnished by the commissioner, stating the number of farms to be inspected. Such applications shall be accompanied by a fee payable to the state treasurer in an amount of not less than \$50 and not more than \$300, which fee is to be charged for preliminary inspection prior to continuous inspection, and assessments over \$50 are to be determined by charging \$1 for each farm over 50, but shall not exceed \$300 if more than 300 farms are inspected; provided that, if the plant and farms are accepted for continuous inspection, this charge shall be made only once. If the preliminary inspection discloses that the processor is eligible for use of the Grade A label on his products and before he so labels said products, he shall apply for continuous inspection on a form furnished by the commissioner and shall hold a Grade A permit. Such application shall be accompanied by a fee of not less than \$100 nor more than \$500 per plant and of not less than \$15 nor more than \$50 per farm, said fee to be paid annually by the processor. The commissioner as he deems necessary to more nearly meet the cost of the service, annually may adjust the assessments within the limits set herein.

*[For text of subds 8a to 9, see M.S.1982]*

**History:** 1983 c 300 s 20

**32.415 MILK FOR MANUFACTURING; QUALITY STANDARDS.**

In order to provide uniform quality standards, producers of milk used for manufacturing purposes shall conform to the standards contained in Subparts D and F of the United States Department of Agriculture Consumer and Marketing Service Recommended Requirements for Milk for Manufacturing Purposes and its Production and Processing, Vol. 37 Federal Register, No. 68, Part II, April 7, 1972, with the following exceptions:

(a) inspections of producers shall begin not later than January 1, 1984;

(b) producers shall comply with the standards not later than July 1, 1985, except as otherwise allowed under the standards; and

(c) the commissioner shall develop methods by which producers can comply with the standards without violation of religious beliefs. The commissioner may adopt rules, including temporary rules, for the purpose of this clause.

The commissioner of agriculture shall perform or contract for the performance of the inspections necessary to implement this section or shall certify dairy industry personnel to perform the inspections.

The commissioner and other employees of the department shall make every reasonable effort to assist producers in achieving the milk quality standards at minimum cost and to use the experience and expertise of the University of Minnesota and the agricultural extension service to assist producers in achieving the milk quality standards in the most cost-effective manner.

The commissioner of agriculture shall consult with producers, processors, and others involved in the dairy industry in order to prepare for the implementation of this section including development of informational and educational materials, meetings, and other methods of informing producers about the implementation of standards under this section.

**History:** 1983 c 232 s 1

**32.417 INVESTMENT REIMBURSEMENTS TO MANUFACTURED MILK PRODUCERS.**

An operator of a dairy farm that produces milk for sale in cans may apply for a reimbursement in the amount of \$100 for the first \$500 or fraction thereof, and ten percent of the next \$2,000, of the net expenditures by the operator for any capital improvements or equipment installed primarily for the purpose of conforming to the standards adopted in section 32.415. No reimbursement may be made to an applicant unless:

(a) the applicant provides receipts for the expenditures;

(b) a dairy inspector authorized by the commissioner certifies that the applicant's dairy operation complies with the standards adopted in section 32.415 as a result of the installation of the improvements or equipment; and

(c) the expenditures for the improvements and equipment were made on or after the effective date of this section but before July 1, 1985.

The commissioner shall provide an application form for the reimbursement program. By January 1, 1984, the commissioner shall adopt temporary rules under sections 14.29 to 14.36 which provide reimbursement application and payment procedures, and eligibility criteria based on an applicant's need for a reimbursement. Notwithstanding the provisions of section 14.35, the rules shall be

effective until July 1, 1985. No reimbursement application may be approved after June 30, 1985.

**History:** 1983 c 232 s 2

32.472 [Repealed, 1983 c 300 s 28]

32.473 [Repealed, 1983 c 300 s 28]

### 32.53 PURPOSE.

It is the purpose of sections 32.53 to 32.534 to protect the public from confusion, fraud, and deception; to prohibit practices inimical to the general welfare; and to promote the orderly and fair marketing of essential foods.

**History:** 1983 c 202 s 1

### 32.531 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of sections 32.53 to 32.534, the terms defined in this section have the meanings given them.

Subd. 2. **Person.** "Person" means individuals, firms, partnerships, associations, trusts, estates, corporations, and other business units, devices, or arrangements.

Subd. 3. **Dairy product.** "Dairy product" includes, but is not limited to, milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, concentrated milk, and forms of dairy products for which no standard of identity exists which are manufactured principally from milk or milk-derived ingredients, provided milk-derived ingredients are not used at levels in excess of those permitted in similar standardized dairy products.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's designee.

Subd. 5. **Artificial dairy product.** "Artificial dairy product" means any food which by its composition, intended use, sensory qualities, physical properties, package, or label description purports to resemble or imitate any dairy product listed in subdivision 3. "Artificial dairy product" does not include:

(1) any distinctive proprietary food compound not readily mistaken for a dairy product, which is customarily used on the order or advice of a physician and is prepared and designed for medicinal or special dietary use and predominantly so labeled; or

(2) any dairy product flavored with chocolate or cocoa, or the vitamin content of which has been increased, or both, where the fats or oils other than milk fat contained in the product do not exceed the amount of cocoa fat naturally present in the chocolate or cocoa used and the food oil, not in excess of .01 percent of the weight of the finished product, used as a carrier of the vitamins.

Subd. 6. **Milk.** "Milk" means milk, skim milk, cream, lowfat milk, nonfat dry milk, and any fluid derivative of the listed items.

Subd. 7. **Milk-derived ingredients.** "Milk-derived ingredients" means butter-milk, whey, products derived from whey, casein, lactose, lacto albumen, and any fluid derivative of the listed items.

**History:** 1983 c 202 s 2

**32.5311 ARTIFICIAL DAIRY PRODUCTS, RESTRICTIONS AS TO MANUFACTURE, SALE, OR EXCHANGE.**

Subdivision 1. **Unlawful act.** It is unlawful for any person, firm or corporation, by himself or itself, his or its employee or agent, or as the employee or agent of another, to knowingly manufacture, sell, exchange, or possess an artificial dairy product which does not adhere to the labeling requirements for artificial dairy products in subdivisions 2 to 5.

Subd. 2. **Required statement.** The statement "an artificial dairy product" must be indicated in the upper 30 percent of the principal display panel of the package or container of an artificial dairy product. The statement may not be less than one-half of the size of the product name, but in no event smaller than one-quarter of an inch or 18 point type, and must be of similar type, style, and color.

Subd. 3. **Federal requirements.** Artificial dairy products must comply with the applicable federal requirements set forth in section 403 of the Federal Food, Drug and Cosmetic Act, and Code of Federal Regulations, title 21, sections 101 and 105.

Subd. 4. **Product name.** The product name of an artificial dairy product must be presented in bold face type on the principal display panel and must be in lines generally parallel to the base of the container or package.

Subd. 5. **Exempt products.** Nonliquid toppings, dry coffee whiteners, frozen liquid whiteners, dips, dressings, and margarine-type products are not subject to the requirements in this section or section 32.5312.

**History:** 1983 c 202 s 3

**32.5312 INGREDIENT AND NUTRITIONAL VALUES.**

Subdivision 1. **Statement of differences.** An artificial dairy product must have on the principal display panel information which will provide the major differences between the artificial dairy product and the dairy product it resembles. The information must be in a type size which is at least 25 percent of the name of the artificial dairy product, but not less than one-eighth of an inch. This information shall include the difference in the fat or oil used and the major difference in the basic ingredients used to replace nonfat milk solids.

Subd. 2. **Nutritional panel.** A nutritional panel must be provided on an artificial dairy product which indicates the quantitative nutritional differences between the artificial dairy product and the dairy product it resembles in comparative columns. The nutrients to be included are those for which a U. S. Recommended Daily Allowance has been established.

Subd. 3. **Exemption.** This section does not apply to any package containing an individual serving of less than one-half ounce or one-half fluid ounce of an artificial dairy product for use in a restaurant, institution, or passenger carrier, and not otherwise packaged for sale at retail.

**History:** 1983 c 202 s 4

**32.532 ENFORCEMENT.**

The commissioner is authorized and directed to administer and supervise the enforcement of sections 32.53 to 32.534; to provide for such periodic inspections and investigations as he may deem necessary to disclose violations; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution of civil or criminal actions or both. The provisions of these sections

may be enforced by injunction in any court having jurisdiction to grant injunctive relief. Artificial dairy products involved in a violation of these sections are subject to seizure and disposition in accordance with an appropriate court order or a rule adopted by the commissioner. The commissioner may adopt temporary or permanent rules necessary to implement and administer sections 32.53 to 32.534.

**History:** 1983 c 202 s 5

### 32.533 OPERATION AND EFFECT.

Sections 32.53 to 32.534 are supplemental to all other laws relating to artificial dairy products not expressly referred to therein, and to all laws relating to the manufacture, sale, exchange, or transportation of artificial dairy products within or outside the state of Minnesota, and shall not be construed to modify, repeal, or in any wise affect any part or provisions of any such laws not expressly repealed therein.

**History:** 1983 c 202 s 6

### 32.59 NONRESIDENT MANUFACTURER LICENSE.

Any person who manufactures frozen foods, mix, ice cream mix, mix base, or ice cream mix base outside of the state, for sale within the state, shall apply for registration with the department of agriculture in the form and with the information the commissioner requires. Samples of all frozen foods, mix, ice cream mix, mix base, or ice cream mix base, so manufactured for sale and sold within this state, must be submitted to the department. Each application for registration must be accompanied by a fee of \$150, which is the registration fee if a certificate of registration is granted. If the department of agriculture finds that the samples submitted are up to the accepted standards and otherwise comply with the laws of this state, it shall issue to the applicant a certificate of registration. The penalty for a late registration application is \$38 if the registration is not renewed by January 1 of any year.

**History:** 1983 c 293 s 56