

SENATE BILL NO. 157

INTRODUCED BY J. COHENOUR

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30

A BILL FOR AN ACT ENTITLED: "AN ACT EXTENDING DEPARTMENT OF AGRICULTURE LIVESTOCK REGULATIONS TO INCLUDE MILK PRODUCED BY A HOOFED MAMMAL; MODIFYING DEFINITIONS; AND AMENDING SECTION 81-22-101, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 81-22-101, MCA, is amended to read:

**"81-22-101. Definitions.** For the purpose of this chapter, the following definitions are adopted:

(1) "Agent" means a person who is authorized by another person to act for that other person in dealing with a third person.

(2) "Butter" is the clean, nonrancid product made by gathering the fat of fresh ripened milk or cream into a mass that also contains a small portion of the other milk constituents, with or without salt, and must contain not less than 80% of milk fat. No tolerance for deficiency in milk fat is permitted. Butter may also contain added coloring matter.

(3) "Cheese" is the sound, solid, and ripened product made from milk or cream by coagulating the casein with rennet or lactic acid, with or without ripening ferments and seasoning, and must contain in the water-free substance not less than 50% of milk fat and not more than 39% of moisture. Cheese may also contain added coloring matter.

(4) "C.I.P." means the procedure by which sanitary pipelines or pieces of dairy equipment are mechanically cleaned in place by circulation when this procedure meets the 3-A accepted practices for permanently installed sanitary product-pipelines and cleaning systems.

(5) "Code of Federal Regulations" refers especially but is not limited to Title 21, which contains the definitions and standards of identity for products as established by the food and drug administration, United States department of health and human services.

(6) "Cream" means the milk fat that rises to the surface when milk is allowed to stand or that is separated from milk by centrifugal force when sold, used, or intended for use in a manufactured product.

(7) "Creamery" means a place where butter is made for commercial purposes.

1 (8) "Culture" means the harmless lactic acid fermenting bacteria that are added to milk or cream to make  
2 manufactured dairy products like cultured buttermilk, cheese, cottage cheese, yogurt, sour cream, cream cheese,  
3 butter, and similar products.

4 (9) "Dairy" or "dairy farm" means a place where one or more ~~cows or goats~~ hoofed mammals are kept,  
5 a part or all of the milk or cream from which is used for manufacturing purposes.

6 (10) The term "department", unless otherwise indicated, means the department of livestock provided for  
7 in Title 2, chapter 15, part 31.

8 (11) "Directly acidified" and similar terms mean the process of adding a food grade acid to milk or cream  
9 instead of or in addition to the adding of culture.

10 (12) "Filled dairy products" means milk, cream, skimmed milk, or any combination of these, whether or  
11 not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, or any food product made or  
12 manufactured from them, to which has been added or which has been blended or compounded with fat or oil  
13 other than milk fat so that the resulting product is in imitation or semblance of a dairy product, including milk,  
14 cream, sour cream, skimmed milk, ice cream, low-fat ice cream, whipped cream, flavored milk or skim milk yogurt,  
15 dried or powdered milk, cheese, cream, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix,  
16 low-fat ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk.

17 (13) "French ice cream", "French custard ice cream", and similar frozen products, except sherbets and  
18 water ices, are varieties of ice cream.

19 (14) "Grading" means the examination of milk, cream, or products by sight, odor, taste, or laboratory  
20 analysis, the results of which determine a grade designating their quality.

21 (15) "Ice cream" is a frozen product made with pure, sweet milk, cream, skim milk, evaporated or  
22 condensed milk, evaporated or condensed skim milk, dry milk, dry skim milk, pure milk fat, wholesome sweet  
23 butter, or any combination of these products, with or without sweetening, or clean wholesome eggs or egg  
24 products, with or without the use of harmless flavoring and coloring. Ice cream must contain not less than 10%  
25 of milk fat, not less than 33% total solids, and may or may not contain pure and harmless edible stabilizer. Ice  
26 cream may contain not to exceed 1% gelatin. A frozen milk or milk product may not be manufactured or sold  
27 unless it contains at least 10% butterfat, excepting sherbets, ices, and other exceptions under this section. All  
28 ice cream must be manufactured from pasteurized ice cream mix.

29 (16) (a) "Ice cream mix" is a pasteurized, unfrozen product used in the manufacture of ice cream and  
30 must comply with the requirements for ice cream.

1 (b) "Mix" includes the liquid, unfrozen product from which those frozen products listed under subsections  
2 (21)(a)(iii) through (21)(a)(xii) are made.

3 (17) "Intrastate commerce" means commerce within this state under the jurisdiction of the state and  
4 includes the operation of a business or service establishment.

5 (18) "Manufactured dairy product" means an item enumerated in subsection (21) or any other dairy  
6 product made by incorporating milk or cream or converting milk or cream into a different state of appearance or  
7 quality. For purposes of reporting production and licensing, manufactured dairy product includes but is not limited  
8 to:

9 (a) ice cream or its mix;

10 (b) French ice cream, custard ice cream, French custard ice cream, their low-fat counterparts, or their  
11 mixes;

12 (c) sherbets of all kinds or their mixes;

13 (d) animal or vegetable fat frozen desserts or their mixes;

14 (e) frozen confections or their mixes when made in a manufactured dairy products plant;

15 (f) water ices or their mixes;

16 (g) frozen dessert sandwiches, bars, cones, and similar novelties;

17 (h) frozen dessert made of nondairy origins and other products made in the semblance or imitation of  
18 dairy products or their mixes when made in a manufactured dairy products plant;

19 (i) ice milk or its mix;

20 (j) cheese of all kinds, including cottage cheese, cheese curd, cheese dressing, and cream cheese,  
21 either cultured or directly acidified;

22 (k) sour cream when cultured or directly acidified;

23 (l) eggnog, low-fat eggnog, eggnog-flavored milk, and similar flavored products;

24 (m) buttermilk, cultured or from churned butter or directly acidified;

25 (n) butter;

26 (o) yogurt, low-fat yogurt, or flavored yogurt, either cultured or directly acidified or frozen.

27 (19) "Manufactured dairy products plant" or "factory" means a place where milk or cream is collected and  
28 converted into a product or into a different state of appearance or quality or that manufactures those products  
29 listed in subsection (21). If only products of semblance or imitation of dairy products are made, the plant is not  
30 considered a manufactured dairy products plant.

1 (20) "Milk" means the lacteal secretion, practically free from colostrum, obtained by the milking of one  
2 or more healthy ~~cows~~ hoofed mammals located in modified accredited areas and modified certified areas or from  
3 ~~cows~~ hoofed mammals in herds fully accredited as tuberculosis-free by the United States department of  
4 agriculture or in the process of being accredited, when the milk or cream is sold for use in, intended for use in,  
5 or used in a manufactured dairy product.

6 (21) (a) "Milk" and "cream" mean milk and cream sold, used, or intended for manufacturing purposes or  
7 for conversion into products of a form other than the form in which originally produced or products commonly  
8 known as but not limited to:

9 (i) butter;

10 (ii) cheese, including cottage cheese, low-fat cottage cheese, cheese curd, and cream cheese, which  
11 are either cultured or directly acidified, and cheese dressings;

12 (iii) ice cream or its mix;

13 (iv) frozen dessert or its mix;

14 (v) sherbets of all kinds or their mixes;

15 (vi) frozen ice cream bars, sandwiches, cones, and similar novelties;

16 (vii) frozen desserts or products made in the semblance or imitation of frozen dessert;

17 (viii) frozen confections or their mixes;

18 (ix) water ices or their mixes;

19 (x) ice milk or its mix;

20 (xi) French ice cream, French custard, or their mixes;

21 (xii) frozen custard or its mix and frozen yogurt;

22 (xiii) yogurt, flavored yogurt, and low-fat yogurt;

23 (xiv) sour cream, either cultured or directly acidified;

24 (xv) cream cheese, either cultured or directly acidified;

25 (xvi) buttermilk, either cultured, from churned butter, or directly acidified;

26 (xvii) eggnog, low-fat eggnog, eggnog-flavored milk, whipped cream, flavored toppings, and similar  
27 flavored products;

28 (xviii) dry or powdered milk; and

29 (xix) condensed milk products.

30 (b) The items specified in subsection (21)(a) must conform to the standards of identity set forth in the

1 Code of Federal Regulations. If standards of identity are not set forth in the code, then the standards adopted  
2 by the department prevail. The labeling of manufactured dairy products must be in accordance with the Montana  
3 Food, Drug, and Cosmetic Act.

4 (22) "Milk or cream station" means a place other than a creamery where deliveries of milk or cream are  
5 weighed, graded, sampled, tested, or collected for purchase.

6 (23) "Misbranded", "unwholesome", "food additives", "optional ingredients", "impure", "misbranded",  
7 "contaminated", "adulterated", "perishable", "hazardous", "unfit", "spoiled", "damaged", and similar terms, when  
8 applied to a manufactured dairy product or product made in semblance or in imitation of a manufactured dairy  
9 product, are as defined in Title 50, chapter 31.

10 (24) "Official test" means test procedures outlined in the sources referred to under 81-22-301 concerning  
11 samples, methods, and rules of evidence.

12 (25) "Pasteurization", "pasteurizing", and similar terms mean the process of heating every particle of milk  
13 or milk product to at least 145 degrees F and holding it continuously at or above this temperature for at least 30  
14 minutes or to at least 161 degrees F and holding it continuously at or above this temperature for at least 15  
15 seconds in equipment that is properly operated and approved by the department. Milk products that have a higher  
16 fat content than milk or contain added sweeteners must be heated to at least 155 degrees F and held  
17 continuously at or above this temperature for at least 30 minutes, or to at least 175 degrees F and held  
18 continuously at or above this temperature for at least 25 seconds. This definition does not bar any other  
19 pasteurization process that has been recognized by the United States public health service to be equally effective  
20 and that is approved by the department.

21 (26) "Person" means an individual, firm, partnership, corporation, cooperative, or other business unit or  
22 trade device.

23 (27) "Producer" means the person who exercises control over the production of milk or cream delivered  
24 to a milk or cream receiving station or manufactured dairy products plant or who receives payment for milk or  
25 cream used in manufacturing.

26 (28) "Safe temperature" means 45 degrees F or less unless the product is frozen, in which case the  
27 temperature must be at or below 0 degrees F.

28 (29) "Testing", "test", "tested", and similar words mean the examination of milk, cream, or manufactured  
29 dairy products by sight, odor, taste, or biological or chemical laboratory analysis to determine their quality,  
30 wholesomeness, or composition.

1 (30) "Water ice" means a frozen product containing but not limited to the following ingredients: water,  
2 sugar, flavoring, coloring, stabilizers, and other ingredients allowed by the Code of Federal Regulations as  
3 optional ingredients."

4 - END -