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HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 1939

March 12, 2007

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The bill was read for the first time and referred to the Committee on Agriculture, Rural Economies and Veterans Affairs

March 23, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to agriculture; changing certain food license requirements; changing
1.3 certain milk requirements; eliminating a requirement on sale of bulk tanks;
1.4 clarifying certain penalties; amending Minnesota Statutes 2006, sections 28A.04,
1.5 subdivision 1; 28A.06; 32.21, subdivision 4; 32.212; 32.394, subdivision 4;
1.6 32.415; repealing Minnesota Statutes 2006, section 32.213.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2006, section 28A.04, subdivision 1, is amended to read:

1.9 Subdivision 1. **Application; date of issuance.** (a) No person shall engage in the
1.10 business of manufacturing, processing, selling, handling, or storing food without having
1.11 first obtained from the commissioner a license for doing such business. Applications for
1.12 such license shall be made to the commissioner in such manner and time as required
1.13 and upon such forms as provided by the commissioner and shall contain the name and
1.14 address of the applicant, address or description of each place of business, and the nature
1.15 of the business to be conducted at each place, and such other pertinent information as
1.16 the commissioner may require.

1.17 (b) A retail or wholesale food handler license shall be issued for the period July 1
1.18 to June 30 following and shall be renewed thereafter by the licensee on or before July
1.19 1 each year, except that:

1.20 (1) licenses for all mobile food concession units and retail mobile units ~~shall~~ must be
1.21 issued for the period April 1 to March 31, and ~~shall~~ must be renewed thereafter by the
1.22 licensee on or before April 1 each year; and

1.23 (2) a license issued for a temporary food concession stand must have a license
1.24 issuance and renewal date consistent with appropriate statutory provisions.

2.1 A license for a food broker or for a food processor or manufacturer shall be issued for the
2.2 period January 1 to December 31 following and shall be renewed thereafter by the licensee
2.3 on or before January 1 of each year, except that a license for a wholesale food processor or
2.4 manufacturer operating only at the state fair shall be issued for the period July 1 to June 30
2.5 following and shall be renewed thereafter by the licensee on or before July 1 of each year.
2.6 A penalty for a late renewal shall be assessed in accordance with section 28A.08.

2.7 (c) A person applying for a new license up to 14 calendar days before the effective
2.8 date of the new license period under paragraph (b) must be issued a license for the 14 days
2.9 and the next license year as a single license and pay a single license fee as if the 14 days
2.10 were part of the upcoming license period.

2.11 Sec. 2. Minnesota Statutes 2006, section 28A.06, is amended to read:

2.12 **28A.06 EXTENT OF LICENSE.**

2.13 No person, except as described in sections 27.03 and 27.04, shall be required to
2.14 hold more than one license in order to engage in any aspect of food handling described
2.15 in section 28A.05 provided, that each issued license shall be valid for no more than one
2.16 place of business, except that a license for a mobile unit or a retail food vehicle, portable
2.17 structure, or cart is valid statewide and is required to be issued only once each year unless
2.18 the licensee fails to display the license as required by section 28A.07 or it is a seasonal
2.19 permanent food stand, seasonal temporary food stand, food cart, or special event food
2.20 stand as defined in section 157.15, in which case the duration of the license is restricted by
2.21 the limitations found in the definitions in section 157.15.

2.22 Sec. 3. Minnesota Statutes 2006, section 32.21, subdivision 4, is amended to read:

2.23 Subd. 4. **Penalties.** (a) A person, other than a milk producer, who violates this
2.24 section is guilty of a misdemeanor or subject to a civil penalty up to \$1,000.

2.25 (b) A milk producer may not change milk plants within 30 days, without permission
2.26 of the commissioner, after receiving notification from the commissioner under paragraph
2.27 (c) or (d) that the milk producer has violated this section.

2.28 (c) A milk producer who violates subdivision 3, clause (1), (2), (3), (4), or (5), is
2.29 subject to clauses (1) to (3) of this paragraph.

2.30 (1) Upon notification of the first violation in a 12-month period, the producer must
2.31 meet with the qualified dairy sanitarian to initiate corrective action within 30 days.

2.32 (2) Upon the second violation within a 12-month period, the producer is subject to
2.33 a civil penalty of \$300. The commissioner shall notify the producer by certified mail

3.1 stating the penalty is payable in 30 days, the consequences of failure to pay the penalty,
3.2 and the consequences of future violations.

3.3 (3) Upon the third violation within a 12-month period, the producer is subject to
3.4 an additional civil penalty of \$300 and possible revocation of the producer's permit or
3.5 certification. The commissioner shall notify the producer by certified mail that all civil
3.6 penalties owed must be paid within 30 days and that the commissioner is initiating
3.7 administrative procedures to revoke the producer's permit or certification to sell milk
3.8 for at least 30 days.

3.9 (d) The producer's shipment of milk must be immediately suspended if the producer
3.10 is identified as an individual source of milk containing residues causing a bulk load of
3.11 milk to test positive in violation of subdivision 3, clause (6) or (7). The Grade A or
3.12 manufacturing grade permit must be converted to temporary status for not more than
3.13 30 days and shipment may resume only after subsequent milk has been sampled by
3.14 the commissioner or the commissioner's agent and found to contain no residues above
3.15 established tolerances or safe levels.

3.16 The Grade A or manufacturing grade permit may be restored if the producer
3.17 completes the "Milk and Dairy Beef Residue Prevention Protocol" with a licensed
3.18 veterinarian, displays the signed certificate in the milkhouse, and sends verification to the
3.19 commissioner within the 30-day temporary permit status period. If the producer does
3.20 not comply within the temporary permit status period, the Grade A or manufacturing
3.21 grade permit must be suspended. A milk producer whose milk supply is in violation of
3.22 subdivision 3, clause (6) or (7), and has caused a bulk load to test positive is subject to
3.23 clauses (1) to (3) of this paragraph.

3.24 (1) For the first violation in a 12-month period, the penalty is the value of all milk on
3.25 the contaminated load plus any costs associated with the disposition of the contaminated
3.26 load. Future pickups are prohibited until subsequent testing reveals the milk is free of
3.27 drug residue. A farm inspection must be completed by a qualified dairy sanitarian and
3.28 the producer to determine the cause of the residue and actions required to prevent future
3.29 violations.

3.30 (2) For the second violation in a 12-month period, the penalty is the value of all
3.31 milk on the contaminated load plus any costs associated with the disposition of the
3.32 contaminated load. Future pickups are prohibited until subsequent testing reveals the milk
3.33 is free of drug residue. A farm inspection must be completed by ~~the regulatory agency~~
3.34 ~~or its agent~~ a qualified dairy sanitarian to determine the cause of the residue and actions
3.35 required to prevent future violations.

4.1 (3) For the third or subsequent violation in a 12-month period, the penalty is the value
4.2 of all milk on the contaminated load plus any costs associated with the disposition of the
4.3 contaminated load. Future pickups are prohibited until subsequent testing reveals the milk
4.4 is free of drug residue. The commissioner or the commissioner's agent shall also notify the
4.5 producer by certified mail that the commissioner is initiating administrative procedures to
4.6 revoke the producer's ~~right~~ permit or certification to sell milk for a minimum of 30 days.

4.7 (4) If a bulk load of milk tests negative for residues and there is a positive producer
4.8 sample on the load, no civil penalties may be assessed to the producer. The plant must
4.9 report the positive result within 24 hours and reject further milk shipments from that
4.10 producer until the producer's milk tests negative. A farm inspection must be completed
4.11 by ~~the plant representative and the producer~~ a qualified dairy sanitarian to determine the
4.12 cause of the residue and actions required to prevent future violations. The department
4.13 shall suspend the producer's permit and count the violation on the producer's record. The
4.14 Grade A or manufacturing grade permit must be converted to temporary status for not
4.15 more than 30 days during which time the producer must review the "Milk and Dairy Beef
4.16 Residue Prevention Protocol" with a licensed veterinarian, display the signed certificate
4.17 in the milkhouse, and send verification to the commissioner. If these conditions are met,
4.18 the Grade A or manufacturing grade permit must be reinstated. If the producer does not
4.19 comply within the temporary permit status period, the Grade A or manufacturing grade
4.20 permit must be suspended.

4.21 (e) A milk producer that has been certified as completing the "Milk and Dairy Beef
4.22 Residue Prevention Protocol" within 12 months of the first violation of subdivision 3,
4.23 clause (7), need only review the cause of the violation with a field service representative
4.24 within three days to maintain Grade A or manufacturing grade permit and shipping status
4.25 if all other requirements of this section are met.

4.26 (f) Civil penalties collected under this section must be deposited in the milk
4.27 inspection services account established in this chapter.

4.28 Sec. 4. Minnesota Statutes 2006, section 32.212, is amended to read:

4.29 **32.212 MILK HOUSES FOR BULK TANKS.**

4.30 Any producer using a bulk tank for cooling and storage of milk to be used for
4.31 manufacturing purposes shall have an enclosed milk room which shall conform to the
4.32 standards provided by this section ~~and section 32.213~~. The floor shall be constructed of
4.33 concrete or other impervious material, maintained in good repair, and graded to provide
4.34 proper drainage. The walls and ceilings of the room shall be sealed and constructed

5.1 of smooth easily cleaned material. All windows shall be screened and doors shall be
5.2 self-closing. It shall be well ventilated and must meet the following requirements:

5.3 (1) The bulk tank shall not be located over a drain or under a ventilator.

5.4 (2) The hose port shall be located in an exterior wall and fitted with a tight
5.5 self-closing door.

5.6 (3) Each milk room shall have an adequate supply of water readily accessible with
5.7 facilities for heating the water, to insure the cleaning and sanitizing of the bulk tank,
5.8 utensils and equipment and the keeping of the milk room clean.

5.9 (4) No lights shall be placed directly over the bulk tank.

5.10 (5) The bulk tank shall be properly located in the milk room for easy access to all
5.11 areas for cleaning and servicing.

5.12 (6) The milkhouse shall be used only for storage of milk, milk utensils, and supplies
5.13 incidental to the production of milk.

5.14 (7) This section ~~and section 32.213~~ are is effective for all bulk tanks for milk
5.15 produced for manufacturing purposes.

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

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

5.21 (10) The enforcement of this section ~~and section 32.213~~ shall be administered by
5.22 the Minnesota Department of Agriculture.

5.23 (11) Any person violating any provisions of this section ~~and section 32.213~~ shall be
5.24 punished by a fine of not more than \$50.

5.25 Sec. 5. Minnesota Statutes 2006, section 32.394, subdivision 4, is amended to read:

5.26 Subd. 4. **Rules.** The commissioner shall by rule ~~promulgate~~ adopt identity,
5.27 production, and processing standards for milk, milk products, and goat milk which are
5.28 intended to bear the Grade A label.

5.29 In the exercise of the authority to establish requirements for Grade A milk, milk
5.30 products, and goat milk, the commissioner adopts definitions, standards of identity, and
5.31 requirements for production and processing contained in the "~~2001~~ Grade A Pasteurized
5.32 Milk Ordinance" ~~and the "1995 Grade A Condensed and Dry Milk Ordinance"~~ of the
5.33 United States Department of Health and Human Services, in a manner provided for and
5.34 not in conflict with law.

6.1 Sec. 6. Minnesota Statutes 2006, section 32.415, is amended to read:

6.2 **32.415 MILK FOR MANUFACTURING; QUALITY STANDARDS.**

6.3 (a) The commissioner may adopt rules to provide uniform quality standards,
6.4 and producers of milk used for manufacturing purposes shall conform to the
6.5 standards contained in Subparts B, C, D, E, and F of the United States Department of
6.6 Agriculture Consumer and Marketing Service Recommended Requirements for Milk
6.7 for Manufacturing Purposes and its Production and Processing, ~~as revised through June~~
6.8 ~~17, 2002~~, except that the commissioner shall develop methods by which producers can
6.9 comply with the standards without violation of religious beliefs.

6.10 (b) The commissioner shall perform or contract for the performance of the
6.11 inspections necessary to implement this section or shall certify dairy industry personnel to
6.12 perform the inspections.

6.13 (c) The commissioner and other employees of the department shall make every
6.14 reasonable effort to assist producers in achieving the milk quality standards at minimum
6.15 cost and to use the experience and expertise of the University of Minnesota and the
6.16 Agricultural Extension Service to assist producers in achieving the milk quality standards
6.17 in the most cost-effective manner.

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

6.22 Sec. 7. **REPEALER.**

6.23 Minnesota Statutes 2006, section 32.213, is repealed.

APPENDIX
Repealed Minnesota Statutes: H1939-1

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 this section and section 32.212 at or prior to the time of delivery of such bulk tank to the buyer.