

575-412D-07

1 A bill to be entitled
2 An act relating to the Department of
3 Agriculture and Consumer Services; amending s.
4 487.041, F.S.; revising the registration
5 requirements for brands of pesticide
6 distributed or sold in the state; providing for
7 expiration on a specified date of requirements
8 for annual registration; providing for future
9 biennial registration; revising the
10 registration fee; requiring that proceeds of
11 the fee be deposited into the General
12 Inspection Trust Fund and used by the
13 department to administer ch. 487, F.S.;
14 providing for a fee to be imposed for late
15 registration; amending ss. 500.03 and 500.147,
16 F.S., relating to the Florida Food Safety Act;
17 updating references for purposes of provisions
18 governing the sale of bottled water and the
19 operation of bottled water plants; amending s.
20 502.012, F.S.; revising and clarifying
21 definitions; amending s. 502.014, F.S.;
22 revising the department's rulemaking authority
23 concerning lowfat cottage cheese; conforming
24 terminology; amending s. 502.053, F.S.;
25 revising the permitting requirements for
26 certain milk plants; deleting a provision
27 authorizing the department to issue a temporary
28 permit to milk haulers; amending s. 502.054,
29 F.S.; conforming terminology; amending s.
30 502.091, F.S.; clarifying provisions governing
31 the sale of milk and milk products; specifying

1 the types of food establishments at which such
2 products may be sold; providing requirements
3 for the sale of cheese made from raw milk;
4 repealing ss. 591.27-591.34, F.S., relating to
5 the designation, marking, and cutting of seed
6 trees; providing an effective date.
7

8 Be It Enacted by the Legislature of the State of Florida:
9

10 Section 1. Present subsections (1), (2), (3), and (8)
11 and paragraphs (b) and (d) of subsection (4) of section
12 487.041, Florida Statutes, are amended, and a new subsection
13 (1) is added to that section, to read:

14 487.041 Registration.--

15 (1)(a) Each brand of pesticide, as defined in s.
16 487.021, that is distributed, sold, or offered for sale,
17 except as provided in this subsection, within this state or
18 delivered for transportation or transported in intrastate
19 commerce or between points within this state through any point
20 outside this state must be registered in the office of the
21 department, and such registration shall be renewed annually.
22 Emergency exemptions from registration may be authorized in
23 accordance with the rules of the department. The registrant
24 shall file with the department a statement including:

25 1. The name, business mailing address, and street
26 address of the registrant.

27 2. The name of the brand of pesticide.

28 3. An ingredient statement and a complete copy of the
29 labeling accompanying the brand of the pesticide, which must
30 conform to the registration, and a statement of all claims to
31 be made for it, including directions for use and a guaranteed

1 analysis showing the names and percentages by weight of each
2 active ingredient, the total percentage of inert ingredients,
3 and the names and percentages by weight of each "added
4 ingredient."

5 (b) For the purpose of defraying expenses of the
6 department in connection with carrying out the provisions of
7 this part, each person shall pay an annual registration fee of
8 \$250 for each registered brand of pesticide. The annual
9 registration fee for each special local need label and
10 experimental use permit is \$100. All registrations expire on
11 December 31 of each year. If the renewal of a brand of
12 pesticide, including the special local need label and
13 experimental use permit, is not filed by January 31 of the
14 renewal year, an additional fee of \$25 per brand of pesticide
15 shall be assessed per month and added to the original fee.
16 This additional fee may not exceed \$250 per brand of
17 pesticide. The additional fee must be paid by the registrant
18 before the renewal certificate for the registration of the
19 brand of pesticide is issued.

20 (c) This subsection does not apply to distributors or
21 retail dealers selling brands of pesticide if such brands of
22 pesticide are registered by another person.

23 (d) This subsection expires at midnight, December 31,
24 2008.

25 (2)(a)(1) Effective January 1, 2009, each brand of
26 ~~Every~~ pesticide, as defined in s. 487.021, which is
27 distributed, sold, or offered for sale, except as provided in
28 this section, within this state or delivered for
29 transportation or transported in intrastate commerce or
30 between points within this state through any point outside
31 this state must ~~shall~~ be registered in the office of the

1 department, and such registration shall be renewed biennially
2 ~~annually~~. Emergency exemptions from registration may be
3 authorized in accordance with the rules of the department. The
4 registrant shall file with the department a statement
5 including:

6 1.(a) The name, business mailing address, and street
7 address of the registrant.

8 2.(b) The name of the brand of pesticide.

9 3.(c) An ingredient statement and a complete copy of
10 the labeling accompanying the brand of the pesticide, which
11 ~~must shall~~ conform to the registration, and a statement of all
12 claims to be made for it, including directions for use and a
13 guaranteed analysis showing the names and percentages by
14 weight of each active ingredient, the total percentage of
15 inert ingredients, and the names and percentages by weight of
16 each "added ingredient."

17 (b)(2) Effective January 1, 2009, for the purpose of
18 defraying expenses of the department in connection with
19 carrying out the provisions of this part, each person shall
20 pay a biennial ~~an annual~~ registration fee ~~of \$250~~ for each
21 registered brand of pesticide. The registration of each brand
22 of pesticide shall cover a designated 2-year period beginning
23 on January 1 of each odd-numbered year and expiring on
24 December 31 of the following year. ~~The annual registration fee~~
25 ~~for each special local need label and experimental use permit~~
26 ~~shall be \$100. All registrations expire on December 31 of each~~
27 ~~year. Nothing in this section shall be construed as applying~~
28 ~~to distributors or retail dealers selling pesticides when~~
29 ~~such pesticides are registered by another person.~~

30 (c) Each registration issued by the department to a
31 registrant for a period beginning in an odd-numbered year

1 shall be assessed a fee of \$500 per brand of pesticide and a
2 fee of \$200 for each special local need label and experimental
3 use permit, and the registration shall expire on December 31
4 of the following year. Each registration issued by the
5 department to a registrant for a period beginning in an
6 even-numbered year shall be assessed a fee of \$250 per brand
7 of pesticide and fee of \$100 for each special local need label
8 and experimental use permit, and the registration shall expire
9 on December 31 of that year.

10 (d) All revenues collected, less those costs
11 determined by the department to be nonrecurring or one-time
12 costs, shall be deferred over the 2-year registration period,
13 deposited in the General Inspection Trust Fund, and used by
14 the department in carrying out the provisions of this chapter.

15 (e) If the renewal of a brand of pesticide, including
16 the special local need label and experimental use permit, is
17 not filed by January 31 of the renewal year, an additional fee
18 of \$25 per brand of pesticide shall be assessed per month and
19 added to the original fee. This additional fee may not exceed
20 \$250 per brand of pesticide. The additional fee must be paid
21 by the registrant before the renewal certificate for the
22 registration of the brand of pesticide is issued.

23 (f) This subsection does not apply to distributors or
24 retail dealers selling brands of pesticide if such brands of
25 pesticide are registered by another person.

26 (3) The department shall adopt rules governing the
27 procedures for the registration of a brand of pesticide
28 ~~registration~~ and for the review of data submitted by an
29 applicant for registration of the brand of a pesticide. The
30 department shall determine whether the brand of a pesticide
31 should be registered, registered with conditions, or tested

1 | under field conditions in this state. The department shall
2 | determine whether each request ~~that all requests~~ for
3 | registration of a brand of pesticide ~~meets registrations meet~~
4 | the requirements of current state and federal law. The
5 | department, whenever it deems it necessary in the
6 | administration of this part, may require the manufacturer or
7 | registrant to submit the complete formula, quantities shipped
8 | into or manufactured in the state for distribution and sale,
9 | evidence of the efficacy and the safety of any pesticide, and
10 | other relevant data. The department may review and evaluate a
11 | registered pesticide if new information is made available that
12 | ~~which~~ indicates that use of the pesticide has caused an
13 | unreasonable adverse effect on public health or the
14 | environment. Such review shall be conducted upon the request
15 | of the Secretary ~~of the Department~~ of Health in the event of
16 | an unreasonable adverse effect on public health or the
17 | Secretary ~~of the Department~~ of Environmental Protection in the
18 | event of an unreasonable adverse effect on the environment.
19 | Such review may result in modifications, revocation,
20 | cancellation, or suspension of the registration of a brand of
21 | pesticide registration. The department, for reasons of
22 | adulteration, misbranding, or other good cause, may refuse or
23 | revoke the registration of the brand of any pesticide, after
24 | notice to the applicant or registrant giving the reason for
25 | the decision. The applicant may then request a hearing,
26 | pursuant to chapter 120, on the intention of the department to
27 | refuse or revoke registration, and, upon his or her failure to
28 | do so, the refusal or revocation shall become final without
29 | further procedure. ~~The In no event shall~~ registration of a
30 | brand of pesticide may not be construed as a defense for the
31 | commission of any offense prohibited under this part.

1 (4) The department, in addition to its other duties
2 under this section, has the power to:

3 (b) Formally request the United States Environmental
4 Protection Agency to require registrants of brands of
5 pesticide pesticides to provide the department with
6 environmental test data generated in this state or generated
7 by simulating environmental conditions in this state.

8 (d) Require a registrant who discontinues the
9 distribution of a brand of pesticide in this state to continue
10 the registration of the brand of the pesticide for a minimum
11 of 2 years or until no more remains on retailers' ~~retailer's~~
12 shelves ~~if or 2 years after written notice to the department~~
13 ~~of date of discontinuance; provided~~ such continued
14 registration or sale is not specifically prohibited by the
15 department or the United States Environmental Protection
16 Agency.

17 (8) ~~Nothing in~~ This section does not affect ~~affects~~
18 the authority of the department to administer the pesticide
19 registration program under this part or the authority of the
20 Commissioner of Agriculture to approve the registration of a
21 brand of pesticide.

22 Section 2. Paragraph (d) of subsection (1) of section
23 500.03, Florida Statutes, is amended to read:

24 500.03 Definitions; construction; applicability.--

25 (1) For the purpose of this chapter, the term:

26 (d) "Bottled water" means a beverage, as described in
27 21 C.F.R. part 165(2006)(1996), that is processed in
28 compliance with 21 C.F.R. part 129(2006)(1996).

29 Section 3. Paragraph (a) of subsection (3) of section
30 500.147, Florida Statutes, is amended to read:

31

1 500.147 Inspection of food establishments and
2 vehicles; food safety pilot program.--

3 (3) For bottled water plants:

4 (a) Bottled water must be from an approved source.

5 Bottled water must be processed in conformance with 21 C.F.R.

6 part 129~~(2006)(1996)~~, and must conform to 21 C.F.R. part 165

7 ~~(2006)(1996)~~. A person operating a bottled water plant shall

8 be responsible for all water sampling and analyses required by

9 this chapter.

10 Section 4. Section 502.012, Florida Statutes, is
11 amended to read:

12 502.012 Definitions.--The following definitions shall
13 apply in the interpretation and enforcement of this law:

14 (1) "Bulk milk pickup tanker" means a vehicle,
15 including the truck and tank, and necessary attachments, used
16 by a milk hauler to transport bulk raw milk for pasteurization
17 from a dairy farm to a milk plant, receiving station, or
18 transfer station.

19 (2) "Dairy farm" means any place or premises where one
20 or more cows, ~~or~~ goats, sheep, water buffalo, or other hooved
21 mammals are kept, and from which a part or all of the milk is
22 provided, sold, or offered for sale ~~to a milk plant, receiving~~
23 ~~station, or transfer station.~~

24 (3) "Department" means the Department of Agriculture
25 and Consumer Services.

26 ~~(4)(15)~~ "Grade 'A' pasteurized milk ordinance" means
27 the document entitled "Grade 'A' Pasteurized Milk Ordinance,
28 United States Department of Health and Human Services, Public
29 Health Service, Food and Drug Administration Publication No.
30 ~~229,~~ " including all associated appendices, as adopted by
31 department rule.

1 ~~(5)(4)~~ "Imitation milk and imitation milk products"
2 means those foods that have the physical characteristics, such
3 as taste, flavor, body, texture, or appearance, of milk or
4 milk products as defined in this chapter and the Grade "A"
5 pasteurized milk ordinance, but do not come within the
6 definition ~~definitions~~ of "milk" or "milk products" and are
7 nutritionally inferior to the product imitated.

8 ~~(6)(5)~~ "Milk" means the lacteal secretion, practically
9 free from colostrum, obtained by the complete milking of one
10 or more healthy cows, ~~or goats, sheep, water buffalo, or other~~
11 hooved mammals.

12 ~~(7)(6)~~ "Milk distributor" means any person who offers
13 for sale or sells to another person any milk or milk product.

14 ~~(8)(7)~~ "Milk products" means products made with milk
15 that is processed in some manner, including being whipped,
16 acidified, cultured, concentrated, lactose-reduced, or
17 sodium-reduced or aseptically processed, or having the
18 addition or subtraction of milkfat, the addition of safe and
19 suitable microbial organisms, or the addition of safe and
20 suitable optional ingredients for protein, vitamin, or mineral
21 fortification. "Milk products" do not include products such as
22 evaporated milk, condensed milk, eggnog in a rigid metal
23 container, dietary products, infant formula, or ice cream and
24 other desserts, ~~dry milk products, canned eggnog in a rigid~~
25 ~~metal container, butter, or cheese, except when the products~~
26 ~~are combined with other substances to produce any pasteurized~~
27 ~~or aseptically processed milk product.~~

28 ~~(9)(8)~~ "Milkfat" or "butterfat" means the fat
29 contained in milk.

30
31

1 ~~(10)~~~~(9)~~ "Milk hauler" means any person who transports
2 raw milk or raw milk products to or from a milk plant,
3 receiving station, or transfer station.

4 ~~(11)~~~~(10)~~ "Milk plant" means any place, premises, or
5 establishment where milk or milk products are collected,
6 handled, processed, stored, pasteurized, aseptically
7 processed, bottled, or prepared for distribution.

8 ~~(12)~~~~(11)~~ "Milk plant operator" means any person
9 responsible for receiving, processing, pasteurizing, or
10 packaging milk and milk products, or performing any other
11 related operation.

12 ~~(13)~~~~(12)~~ "Milk producer" means any person who operates
13 a dairy farm and provides, sells, or offers for sale milk to a
14 milk plant, receiving station, or transfer station.

15 ~~(14)~~~~(13)~~ "Milk tank truck" means either a bulk milk
16 pickup tanker or a milk transport tank.

17 ~~(15)~~~~(14)~~ "Milk transport tank" means a vehicle,
18 including the truck and tank, used by a milk hauler to
19 transport bulk shipments of milk from a milk plant, receiving
20 station, or transfer station to another milk plant, receiving
21 station, or transfer station.

22 (16) "Raw milk" means unprocessed milk.

23 (17) "Receiving station" means any place, premises, or
24 establishment where raw milk is received, collected, handled,
25 stored, or cooled and is prepared for further transporting.

26 (18) "Substitute milk and substitute milk products"
27 means those foods that have the physical characteristics, such
28 as taste, flavor, body, texture, or appearance, of milk or
29 milk products as defined in this chapter and the Grade "A"
30 pasteurized milk ordinance~~7~~ but do not come within the
31 definition ~~definitions~~ of "milk" or "milk products~~7~~" and are

1 | nutritionally equivalent to the product for which they are
2 | substitutes.

3 | (19) "Transfer station" means any place, premises, or
4 | establishment where milk or milk products are transferred
5 | directly from one milk tank truck to another.

6 | (20) "Washing station" means any place, premises, or
7 | establishment where milk tank trucks are cleaned and
8 | sanitized.

9 | Section 5. Subsections (4) and (6) of section 502.014,
10 | Florida Statutes, are amended to read:

11 | 502.014 Powers and duties.--

12 | (4) The department shall define by rule "cottage
13 | cheese," and "dry-curd cottage cheese," ~~and "lowfat cottage~~
14 | ~~cheese."~~ The department shall periodically update these
15 | definitions to maintain conformity with the federal
16 | definitions.

17 | (6) The department has authority to adopt rules
18 | pursuant to ss. 120.536(1) and 120.54 to implement and enforce
19 | the provisions of this chapter. In adopting these rules, the
20 | department shall be guided by and may conform to the
21 | definitions and standards of the administrative procedures and
22 | provisions of the Grade "A" pasteurized milk ordinance. The
23 | rules shall include, but are not limited to:

24 | (a) Standards for milk and milk products.

25 | (b) Provisions for the production, transportation,
26 | processing, handling, sampling, examination, grading,
27 | labeling, and sale of all milk and milk products and imitation
28 | and substitute milk and milk products sold for public
29 | consumption in this state.

30 | (c) Provisions for the inspection of dairy herds,
31 | dairy farms, and milk plants.

1 (d) Provisions for the issuance and revocation of
2 permits issued by the department pursuant to this chapter.

3 Section 6. Paragraph (a) of subsection (1), subsection
4 (2), and paragraph (a) of subsection (4) of section 502.053,
5 Florida Statutes, are amended to read:

6 502.053 Permits; requirements; exemptions; temporary
7 permits.--

8 (1) PERMITS.--

9 (a) Each Grade A milk plant, whether located in the
10 state or outside the state, and each manufacturing milk plant,
11 milk producer, milk hauler, milk hauling service, washing
12 station operator, milk plant operator, milk distributor,
13 single-service-container manufacturer, receiving station, and
14 transfer station in the state, shall apply to the department
15 for a permit to operate. The application shall be on forms
16 developed by the department.

17 (2) REQUIREMENTS.--

18 (a) To obtain a permit, an applicant must satisfy all
19 requirements that are defined by the department in rule and
20 must agree to comply with the applicable provisions of this
21 chapter and rules adopted ~~promulgated~~ under this chapter.

22 (b) All permit holders must maintain records of
23 transactions concerning the procurement, production, and
24 processing of milk and milk products as required in the Grade
25 "A" pasteurized milk ordinance and grant department inspectors
26 access to such records during all reasonable hours.

27 (c) In addition to the testing required in the Grade
28 "A" pasteurized milk ordinance and its appendices, each milk
29 plant operator in the state shall be responsible for routine
30 testing and inspection of raw milk shipped from outside the
31 state prior to processing and shall notify the department when

1 such testing and inspection indicate ~~indicates~~ a violation of
2 the standards contained in the Grade "A" pasteurized milk
3 ordinance.

4 (4) TEMPORARY PERMITS.--

5 (a) The department may issue a temporary permit for a
6 period not exceeding 90 days to milk producers ~~and milk~~
7 ~~haulers~~ who have submitted an application to the department
8 and passed a preliminary inspection as required in the Grade
9 "A" pasteurized milk ordinance.

10 Section 7. Section 502.054, Florida Statutes, is
11 amended to read:

12 502.054 Inspection and reinspection.--The department
13 shall establish a schedule for inspections which shall require
14 routine inspections in accordance with the minimum
15 requirements contained in the Grade "A" pasteurized milk
16 ordinance and more frequent inspections or reinspections for
17 permitholders with serious or repeated violations.

18 Section 8. Subsection (1) of section 502.091, Florida
19 Statutes, is amended to read:

20 502.091 Milk and milk products which may be sold.--

21 (1) Only Grade A pasteurized milk and milk products,
22 pasteurized manufactured milk products, and cheese made from
23 pasteurized milk shall be sold at retail to the final consumer
24 or to food service establishments as defined in chapter 381,
25 food establishments as defined in chapter 500, or public food
26 service establishments as defined in chapter 509 ~~restaurants,~~
27 ~~soda fountains, grocery stores, or similar establishments.~~
28 Cheese made from raw milk may also be sold at retail to the
29 final consumer or to food service establishments as defined in
30 chapter 381, food establishments as defined in chapter 500, or
31 public food service establishments as defined in chapter 509

1 if the cheese is aged more than 60 days at a temperature above
2 35° F.

3 (a) In an emergency, however, the department may
4 authorize the sale of reconstituted pasteurized milk products,
5 or pasteurized milk and milk products that have not been
6 graded or the grade of which ~~that~~ is unknown, in which case
7 such milk and milk products shall be appropriately labeled, as
8 determined by the department.

9 (b) If the department determines that milk is fit for
10 human consumption even though it is less than Grade A because
11 the producer failed to comply with the sanitation or bacterial
12 standards defined in this chapter, or if any specific shipment
13 of milk fails to comply with standards of the Grade "A"
14 pasteurized milk ordinance, the department may issue a permit
15 allowing the milk to be used in ungraded products, such as
16 frozen desserts, which are being processed by such milk plant.
17 During processing of such milk, it shall be pasteurized at a
18 temperature of at least 175° F. for at least 15 seconds or at
19 least 160° F. for at least 30 minutes.

20 Section 9. Sections 591.27, 591.28, 591.29, 591.30,
21 591.31, 591.32, 591.33, and 591.34, Florida Statutes, are
22 repealed.

23 Section 10. This act shall take effect July 1, 2007.

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26 SENATE SUMMARY

27 Revises the registration requirements for brands of
28 pesticides. Provides for biennial registration effective
29 January 1, 2009. Updates references to the federal law
30 applicable to the regulation of the sale of bottled water
31 and the operation of bottled water plants. Revises
various provisions governing the regulation of milk
plants and the sale of milk and milk products by the
Department of Agriculture and Consumer Services. Repeals
provisions governing the designation, marking, and
cutting of seed trees. (See bill for details.)