

# HOUSE BILL No. 4820

May 24, 2001, Introduced by Reps. Meyer, Vear, Van Woerkom, Ehardt, Faunce, Stewart, Shackleton, Kowall, Bovin, DeRossett, Newell, Hansen, Pappageorge, DeVuyst, Spade and Lemmons and referred to the Committee on Agriculture and Resource Management.

A bill to regulate the production, transportation, handling, processing, delivery, and sale of grade A milk and milk products; to define grade A milk and milk products and to establish standards and requirements for grade A milk and milk products; to provide for dairy food safety; to provide for the sampling, sampling analysis, and transportation of milk and milk products; to regulate the labeling, manufacture, distribution, and sale of milk and milk products for the protection of the consuming public and to prevent fraud and deception by prohibiting the misbranding, adulteration, manufacture, distribution, and sale of milk and milk products; to provide for enforcement; to provide for licenses and permits and revocation of licenses and permits; to impose certain fees; to require certain security arrangements of milk plants to ensure the prompt payment of producers; to prescribe powers and duties of certain state departments and

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officers; to provide for uniform standards and uniform inspection; to provide for promulgation of rules; to provide for certain remedies and penalties; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

ARTICLE 1

Sec. 1. This act shall be known and may be cited as the "grade A milk law of 2001".

Sec. 2. As used in this act:

(a) "Adulterated" means food or milk to which any of the following apply:

(i) It bears or contains any poisonous or deleterious substance that may render it injurious to health except that, if the substance is not an added substance, the food or milk is not considered adulterated if the quantity of that substance in the food or milk does not ordinarily render it injurious to health.

(ii) It bears or contains any added poisonous or added deleterious substance, other than a substance that is a pesticide chemical in or on a raw agricultural commodity; a food additive; or a color additive considered unsafe within the meaning of subparagraph (v).

(iii) It is a raw agricultural commodity that bears or contains a pesticide chemical considered unsafe within the meaning of subparagraph (v).

(iv) It bears or contains any food additive considered unsafe within the meaning of subparagraph (v) provided that where a pesticide chemical has been used in or on a raw agricultural

1 commodity in conformity with an exemption granted or tolerance  
2 prescribed under subparagraph (v) and the raw agricultural com-  
3 modity has been subjected to processing the residue of that pes-  
4 ticide chemical remaining in or on that processed food is, not-  
5 withstanding the provisions of subparagraph (v) and this subdivi-  
6 sion, not be considered unsafe if that residue in or on the raw  
7 agricultural commodity has been removed to the extent possible in  
8 good manufacturing practice and if the concentration of that res-  
9 idue in the processed food when ready to eat is not greater than  
10 the tolerance prescribed for the raw agricultural commodity.

11       (v) Any added poisonous or deleterious substance, any food  
12 additive, and pesticide chemical in or on a raw agricultural com-  
13 modity, or any color additive is considered unsafe for the pur-  
14 pose of application of this definition, unless there is in effect  
15 a federal regulation or exemption from regulation under the fed-  
16 eral act, meat inspection act, poultry product inspection act, or  
17 other federal acts, or a rule adopted under this act limiting the  
18 quantity of the substance, and the use or intended use of the  
19 substance, and the use or intended use of the substance conforms  
20 to the terms prescribed by the rule.

21       (vi) It is or contains a new animal drug or conversion pro-  
22 duct of a new animal drug that is unsafe within the meaning of  
23 section 512 of the federal act, 21 U.S.C. 512.

24       (vii) It consists in whole or in part of a diseased, contam-  
25 inated, filthy, putrid, or decomposed substance or it is other-  
26 wise unfit for food.

1       (viii) It has been produced, prepared, packed, or held under  
2       insanitary conditions in which it may have become contaminated  
3       with filth or in which it may have been rendered diseased,  
4       unwholesome, or injurious to health.

5       (ix) It is the product of a diseased animal or an animal  
6       that has died other than by slaughter or that has been fed  
7       uncooked garbage or uncooked offal from a slaughterhouse.

8       (x) Its container is composed, in whole or in part, of any  
9       poisonous or deleterious substance that may render the contents  
10      injurious to health.

11      (xi) A valuable constituent has been in whole or in part  
12      omitted or abstracted from the food; a substance has been substi-  
13      tuted wholly or in part for the food; damage or inferiority has  
14      been concealed in any manner; or a substance has been added to  
15      the food or mixed or packed with the food so as to increase its  
16      bulk or weight, reduce its quality or strength, or make it appear  
17      better or of greater value than it is.

18      (xii) It is confectionery and has partially or completely  
19      imbedded in it any nonnutritive object except in the case of any  
20      nonnutritive object if, as provided by rules, the object is of  
21      practical functional value to the confectionery product and would  
22      not render the product injurious or hazardous to health; it bears  
23      or contains any alcohol other than alcohol not in excess of 1/2  
24      of 1% by volume derived solely from the use of flavoring  
25      extracts; or it bears or contains any nonnutritive substance  
26      except a nonnutritive substance such as harmless coloring,  
27      harmless flavoring, harmless resinous glaze not in excess of 4/10

1 of 1%, harmless natural wax not in excess of 4/10 of 1%, harmless  
2 natural gum and pectin or to any chewing gum by reason of its  
3 containing harmless nonnutritive masticatory substances which is  
4 in or on confectionery by reason of its use for some practical  
5 functional purpose in the manufacture, packaging, or storage of  
6 such confectionery if the use of the substance does not promote  
7 deception of the consumer or otherwise result in adulteration or  
8 misbranding in violation of the provisions of this act. For the  
9 purpose of avoiding or resolving uncertainty as to the applica-  
10 tion of this subdivision, the director may issue rules allowing  
11 or prohibiting the use of particular nonnutritive substances.

12 (xiii) It is or bears or contains any color additive that is  
13 unsafe within the meaning of subparagraph (v).

14 (xiv) It has been intentionally subjected to radiation,  
15 unless the use of the radiation was in conformity with a rule or  
16 exemption under this act or a regulation or exemption under the  
17 federal act.

18 (xv) It is bottled water that contains a substance at a  
19 level higher than allowed under this act.

20 (b) "Approved laboratory" means a laboratory that is listed  
21 in the IMS list of sanitation compliance and enforcement ratings  
22 of interstate milk shippers distributed by the United States food  
23 and drug administration.

24 (c) "Approved sample container" means a presterilized, suit-  
25 able nontoxic single service container of adequate size that com-  
26 plies with the requirements of standard methods.

1 (d) "Audited financial statement" means a fiscal year end  
2 financial statement prepared by a certified public accountant  
3 according to generally accepted accounting principles.

4 Sec. 3. As used in this act:

5 (a) "Bulk milk hauler/sampler" means any person who collects  
6 official samples and may transport raw milk from a farm or raw  
7 milk products to or from a milk plant, receiving station, or  
8 transfer station and has in his or her possession a license or  
9 permit issued by the department to sample those products.

10 (b) "Bulk milk pickup tanker" means a vehicle, including  
11 truck, tank, and those appurtenances necessary for its use, used  
12 by a bulk milk hauler/sampler to transport bulk raw milk for pas-  
13 teurization from a dairy farm to a milk plant, receiving station,  
14 or transfer station.

15 (c) "Department" means the Michigan department of  
16 agriculture.

17 (d) "Director" means the director of the Michigan department  
18 of agriculture or his or her designee.

19 (e) "Distributor" means a person other than a producer or  
20 processor who offers for sale or sells to another for resale at  
21 retail milk or milk products. A distributor's facilities include  
22 warehousing, refrigerated storage, and distribution vehicles.

23 (f) "Farm tank" means the farm bulk milk tank, milk tank  
24 truck, or silo used for the storage or cooling, or both, of milk  
25 prior to pickup and transport from the farm.

26 (g) "First receiving point" means the milk plant where the  
27 milk is first received for processing and manufacturing. First

1 receiving point for producers security requirements does not  
2 include receiving stations and transfer stations.

3 (h) "Grade A milk" means milk or milk products produced in  
4 substantial compliance with the requirements of this act.

5 Sec. 4. As used in this act:

6 (a) "Imminent or substantial health hazard" means a determi-  
7 nation of the director of either or both of the following:

8 (i) A condition that exists at a dairy farm or dairy plant  
9 requiring immediate action to prevent endangering the public  
10 health or safety.

11 (ii) A milk product may be unwholesome or unsafe.

12 (b) "Label" means a display of written, printed, or graphic  
13 matter upon the immediate container of any article conforming to  
14 a requirement imposed under this act that any word, statement, or  
15 other information appearing on the label appears on the outside  
16 container or wrapper of the retail package of the article or be  
17 easily legible through the outside container or wrapper.

18 (c) "Labeling" means all labels and other written, printed,  
19 or graphic matter upon an article or any of its containers or  
20 wrappers or accompanying the article.

21 (d) "Milk buyer" means any producer, milk producer marketing  
22 organization, milk plant, receiving station, transfer station, or  
23 bulk milk hauler that either takes delivery of raw milk or raw  
24 milk product or manages the sale of the raw milk or raw milk pro-  
25 duct, or both.

26 (e) "Milk plant" means any place, premises, or establishment  
27 where milk or milk products are collected, handled, processed,

1 stored, pasteurized, aseptically processed, bottled, or prepared  
2 for distribution.

3 (f) "Milk product" means cream, light cream, light whipping  
4 cream, heavy cream, heavy whipping cream, whipped cream, whipped  
5 light cream, sour cream, acidified sour cream, cultured sour  
6 cream, half-and-half, sour half-and-half, acidified sour  
7 half-and-half, cultured sour half-and-half, reconstituted or  
8 recombined milk and milk products, concentrated milk, concen-  
9 trated milk products, skim milk, lowfat milk, frozen milk concen-  
10 trate, eggnog, buttermilk, cultured milk, cultured lowfat milk,  
11 cultured skim milk, yogurt, lowfat yogurt, nonfat yogurt, acidi-  
12 fied milk, acidified lowfat milk, acidified skim milk, low-sodium  
13 milk, low-sodium lowfat milk, low-sodium skim milk,  
14 lactose-reduced milk, lactose-reduced lowfat milk,  
15 lactose-reduced skim milk, aseptically processed and packaged  
16 milk, milk products with added safe and suitable microbial organ-  
17 isms, and any other milk product made by the addition or subtrac-  
18 tion of milkfat or addition of safe and suitable optional ingre-  
19 dients for protein, vitamin, or mineral fortification. Unless a  
20 product is considered a milk product under this subdivision, milk  
21 product does not include dietary products, infant formula, ice  
22 cream or other desserts, cheese, or butter. Milk products  
23 include the following:

24 (i) Those dairy foods made by modifying the federally stan-  
25 dardized products described in this section in accordance with 21  
26 C.F.R. 130.10; "Requirements for foods named by use of a nutrient  
27 content claim and a standardized term".



1       (ii) Those milk and milk products that have been aseptically  
2 processed and then packaged.

3       (iii) Those products that have been retort processed after  
4 packaging or that have been concentrated, condensed, or dried  
5 only if they are used as an ingredient to produce any milk or  
6 milk product or if they are grade A IMS listed.

7       Sec. 5. As used in this act:

8       (a) "Milk tank truck" means both a bulk milk pickup tanker  
9 and a milk transport tank.

10       (b) "Milk tank truck cleaning facility" means any place,  
11 premises, or establishment, separate from a milk plant, receiving  
12 station, or transfer station where a milk tank truck is cleaned  
13 and sanitized.

14       (c) "Milk tank truck driver" means any person who transports  
15 raw or pasteurized milk products to or from a milk plant, receiv-  
16 ing station, or transfer station.

17       (d) "Milk transportation company" means the company that is  
18 the person responsible for a milk tank truck.

19       (e) "Milk transport tank" means a vehicle, including the  
20 truck and tank, used by a bulk milk hauler/sampler to transport  
21 bulk shipments of milk from a milk plant, receiving station, or  
22 transfer station to another milk plant, receiving station, or  
23 transfer station.

24       (f) "Offering for sale" means selling, offering to sell,  
25 holding for sale, preparing for sale, trading, bartering, offer-  
26 ing as a gift as an inducement for sale of, and advertising for  
27 sale in any media.

1 (g) "Other security" means a mutually acceptable producer  
2 security agreement, acceptable to the director, approved and  
3 signed by the milk buyer and all milk sellers selling milk to  
4 that milk buyer.

5 Sec. 6. As used in this act:

6 (a) "Pasteurized milk ordinance" or "PMO" means the  
7 1999 edition of the grade A pasteurized milk ordinance, recommen-  
8 dations of the United States public health service/food and drug  
9 administration, with administrative procedures and appendices,  
10 set forth in the public health service/food and drug administra-  
11 tion publication no. 229, and the provisions of the 1995 grade A  
12 condensed and dry milk products and condensed and dry  
13 whey-supplement I to the grade A pasteurized milk ordinance, with  
14 administrative procedures and appendices.

15 (b) "Person" means an individual, partnership, company,  
16 limited liability company, cooperative, association, firm, trust-  
17 ee, educational institution, state or local government unit, or  
18 corporation.

19 (c) "Processor" means the owner or operator of a milk  
20 plant.

21 (d) "Producer" means a person who owns or operates a dairy  
22 farm and sells or distributes milk produced on that farm includ-  
23 ing a person who markets milk on behalf of another producer pur-  
24 suant to a marketing agreement.

25 (e) "Receiving station" means any place, premises, or estab-  
26 lishment where raw milk is received, collected, handled, stored,  
27 or cooled and is prepared for further transporting.

1 (f) "Sample transfer instrument" means any of the  
2 following:

3 (i) Individually wrapped, sterile, single-service sampling  
4 tubes.

5 (ii) Stainless steel metal dippers, with long handles having  
6 capacities of 10 milliliters or greater.

7 (iii) Sampling devices approved by the director.

8 (g) "Sanitary standards" means the dairy equipment construc-  
9 tion standards or accepted dairy system operating practices for-  
10 mulated by 1 of the following:

11 (i) 3-A sanitary standards committees representing the  
12 international association for food protection, the United States  
13 public health service, the United States department of agricul-  
14 ture, and the dairy industry committee, and which are published  
15 by that association at 6200 Aurora avenue, suite 200w, Des  
16 Moines, IA 50322-2863.

17 (ii) If sanitary standards are not available for a particu-  
18 lar piece of equipment, general sanitary construction standards  
19 for dairy equipment formulated by the United States department of  
20 agriculture or the food and drug administration.

21 (iii) The equipment or practice is approved by bulletin of  
22 the director on a case-by-case basis.

23 (h) "Sell-by date" means the recommended last date of sale.

24 (i) "Single service containers and closures" means single  
25 use containers or parts of single use containers that become milk  
26 product contact surfaces when used for the storage, shipping, or  
27 marketing of milk or milk products.

1 (j) "Standard methods" means the seventeenth edition of  
2 "Standard Methods for the Examination of Dairy Products", dated  
3 1992, a publication of the American public health association,  
4 800 I. street, nw, Washington, DC 20001-3710.

5 Sec. 7. As used in this act:

6 (a) "Transfer station" means any place, premises, or estab-  
7 lishment where milk or milk products are transferred directly  
8 from 1 milk tank truck to another.

9 (b) "Verified financial statement" means a financial state-  
10 ment that contains a notarized statement, signed and sworn to by  
11 an authorized representative of the milk plant, attesting that  
12 the financial statement is correct.

13 ARTICLE II

14 Sec. 20. (1) The department shall administer this act and  
15 may promulgate rules for its implementation and enforcement and  
16 adopt revisions of references cited in this act, pursuant to the  
17 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
18 24.328. Except as otherwise specifically defined or described in  
19 this act, the PMO is adopted and incorporated by reference.

20 Where the words "regulatory agency" are used in these ordinances,  
21 they are amended to read the "Michigan department of  
22 agriculture".

23 (2) Water for the milkhouse and milking operations and for  
24 milk plant purposes shall be from a supply properly located and  
25 protected and shall be easily accessible, adequate, and of a safe  
26 sanitary quality. Recommendations shall be made to the  
27 department by the department of environmental quality according

1 to the safe drinking water act, 1976 PA 399, MCL 325.1001 to  
2 325.1023.

3       Sec. 21. (1) A political subdivision of the state shall not  
4 impose any different standards or requirements for grade A milk  
5 and grade A milk products other than those provided for in this  
6 act and shall not prohibit the sale of grade A milk and grade A  
7 milk products if produced and processed as grade A milk under  
8 supervision of the department. The director shall furnish copies  
9 of its inspection reports on any dairy farm producing grade A  
10 milk to a purchaser of grade A milk from that farm upon written  
11 request.

12       (2) A sanitary standard or similar requirement issued under  
13 this act shall not prohibit the sale of grade A milk or grade A  
14 milk products that are produced or processed under laws or rules  
15 of a governmental unit, outside the state, that are substantially  
16 equivalent to the requirements of the rules promulgated under  
17 this act and which are enforced with equal effectiveness, as  
18 determined by the director, if the governmental unit accepts  
19 Michigan grade A milk and milk products certified by a Michigan  
20 sanitation rating officer.

21       Sec. 22. The director, after proper identification, is  
22 authorized and has the power to enter all dairy farms, milk  
23 plants, single service manufacturing facilities, milk tank truck  
24 cleaning facilities, receiving stations, transfer stations, dis-  
25 tribution facilities, vehicles used to transport milk and milk  
26 products, and single service manufacturers under its jurisdiction

1 for the purpose of inspecting, sampling, and investigating  
2 conditions relating to the enforcement of this act.

3       Sec. 23. The director may seize or hold for investigation  
4 any milk, milk product, or equipment that the director has reason  
5 to believe is adulterated, constitutes or may be contributing to  
6 an imminent health hazard, or violates this act. Such milk, milk  
7 products, or equipment shall not be disposed of until a release  
8 is secured from the director. The director shall complete his or  
9 her action on any such seized item within a reasonable time, and  
10 the farm, plant, or station shall be promptly notified of the  
11 director's decision. The director may collect and retain evi-  
12 dence to verify the determination of an imminent health hazard.

13       Sec. 24. (1) Whenever the director finds in any dairy farm,  
14 receiving station, transfer station, or vehicle any milk, milk  
15 product, or other product that contains any unwholesome substance  
16 or that may be poisonous or deleterious to health or otherwise  
17 unsafe, such milk, milk product, or other product shall be  
18 declared by the director as an imminent health hazard. The  
19 director shall condemn, destroy, or in any other manner render  
20 the same unsalable as human food.

21       (2) A person shall not remove a condemnation or seizure tag  
22 attached to any container of condemned milk or milk product and  
23 shall not transfer condemned milk to another container and sell  
24 or offer for sale the condemned milk for human consumption.

25       (3) Any dairy animals that are officially classified as  
26 tuberculosis reactors as defined in title 9 of the code of  
27 federal regulations and the bovine tuberculosis eradication:

1 uniform methods and rules, effective January 22, 1999, approved  
2 by veterinary services of the animal plant health inspection  
3 service of the United States department of agriculture, and all  
4 amendments to those publications thereafter adopted pursuant to  
5 rules that the director may promulgate, shall be milked last or  
6 in separate equipment and the milk from these cattle shall not be  
7 used or sold for human or animal consumption.

8       Sec. 25. (1) The fluid milk act of 1965, 1965 PA 233,  
9 MCL 288.21 to 288.29a, is repealed effective 30 days after enact-  
10 ment of this act.

11       (2) R 286.408.1 to R 286.408.5 of the Michigan administra-  
12 tive code are repealed effective 30 days after enactment of this  
13 act.

14                                   ARTICLE III

15       Sec. 30. (1) A person shall not produce, transport, wash  
16 milk tank trucks, process, label, or sell grade A milk and grade  
17 A milk products and shall not manufacture single service contain-  
18 ers and closures unless licensed or permitted under this act.  
19 The director may issue a temporary license or permit. A  
20 restricted license is required and may be issued to correctional  
21 facilities that produce or process milk for use only in the cor-  
22 rectional system.

23       (2) An applicant for an initial grade A dairy farm permit  
24 shall complete education, acceptable to the director, on drug  
25 residue avoidance control measures, as identified in the PMO,  
26 prior to receiving the permit.

1       (3) The director may examine the books, records, and  
2 accounts of a milk plant if the milk plant has not responded to  
3 requests from the director pursuant to section section 31 or  
4 article IV.

5       (4) All applicants for a permit or license must complete an  
6 application provided by the department and meet the minimum  
7 requirements of this act, the PMO, and rules promulgated under  
8 this act.

9       Sec. 31. (1) An applicant for an initial license as a milk  
10 plant shall apply to the department on a form supplied by the  
11 department and provide a statement containing the following:

12       (a) The milk plant's correct legal name and any name by  
13 which the milk plant is doing business. If the milk plant is a  
14 person not an individual, the name of each officer and director,  
15 and partner, member, or owner owning in excess of 35% of equity  
16 or stock.

17       (b) The location of the milk plant to which the statement  
18 pertains and the name of the responsible person who may be con-  
19 tacted at that location.

20       (c) The anticipated value of greatest milk receipts the milk  
21 plant expects to receive during a consecutive 30-day period  
22 within the licensing period.

23       (d) A list of producers, including names, mailing addresses,  
24 and department producer permit number, with whom the milk plant  
25 intends to do business except that not later than 90 days after  
26 becoming licensed for the first time, the milk plant shall send  
27 an updated list to the department.



1 (e) The name of the financial institution through which milk  
2 checks are to be issued to producers.

3 (2) A milk plant shall annually renew a license issued under  
4 this act by applying to the department at least 30 days prior to  
5 the expiration of the existing license. The anniversary date of  
6 a license for a milk plant that is providing a financial state-  
7 ment as a security device is 130 days after the close of the  
8 licensee's fiscal year. The milk plant shall apply for renewal  
9 of a license on a form supplied by the department and provide a  
10 statement containing the following:

11 (a) The milk plant's correct legal name and any name by  
12 which the milk plant is doing business. If the milk plant is a  
13 person not an individual, the name of the each officer and direc-  
14 tor, and partner, member, or owner owning in excess of 35% of  
15 equity or stock.

16 (b) The location of the milk plant to which the statement  
17 pertains and the name of the responsible person who may be con-  
18 tacted at that location.

19 (c) The greater of either the value of greatest milk  
20 receipts that the milk plant received within a consecutive 30-day  
21 period during its last license year or the greatest milk receipts  
22 that the milk plant is anticipated to receive during a consecu-  
23 tive 30-day period within the licensing period.

24 (d) A complete list of producers, including names, mailing  
25 addresses, and department producers permit number, with whom the  
26 milk plant is doing business.

1 (e) The name of the financial institution through which milk  
2 checks are issued to producers.

3 (3) Each milk plant shall pay a \$175.00 annual licensing or  
4 permitting fee, and additionally, annual fee of \$5.00 for each  
5 dairy farm whose milk is received at the milk plant, receiving  
6 station, or transfer station, plus an additional \$10.00 per farm  
7 shipping to it if the milk plant, receiving station, or transfer  
8 station operator does not maintain an adequate number of industry  
9 personnel, as determined by the director, who are approved to  
10 conduct certified industry farm inspections. The department  
11 shall not levy this additional \$10.00 per farm fee if a coopera-  
12 tive association is conducting the certified industry farm pro-  
13 gram for the milk plant operator. The department shall not  
14 charge the dairy farm license fee to the producer unless the  
15 producer is not assigned to a milk plant that pays the annual fee  
16 required by this subsection for the producer. Any such unas-  
17 signed producer shall be charged a handling fee of \$5.00 plus an  
18 additional \$10.00 if certified industry farm inspectors are not  
19 assigned to the farm.

20 Sec. 32. (1) Each certified industry farm inspector shall  
21 pay a 3-year license fee of \$60.00 for a license to conduct cer-  
22 tified farm inspections. An initial license fee may be prorated  
23 in 6-month increments at \$10.00 per increment. License renewal  
24 shall take place on the completion date of the 3-year  
25 certification.

1       (2) Certified industry farm inspectors must comply with the  
2 requirements for certified inspectors listed in the PMO and, in  
3 addition, shall conduct both of the following:

4       (a) A farm inspection of all producers having the first rou-  
5 tine count exceeding legal standards for bacteria or somatic  
6 cells, or both.

7       (b) One routine inspection per year of all producers, with a  
8 copy of each required inspection forwarded to the local area  
9 dairy inspector.

10       (3) Certified industry farm inspectors may perform official  
11 inspections, only with authorization by the director.

12       Sec. 33. (1) Each receiving station or transfer station  
13 must be licensed or permitted either as part of a milk plant or  
14 as a stand-alone facility. Each stand-alone facility will be  
15 licensed or permitted at a rate of \$50.00 per year. License  
16 renewal shall take place on June 30 every year.

17       (2) Each milk tank truck cleaning facility that cleans milk  
18 contact surfaces of milk tank trucks used to haul milk or milk  
19 products regulated under this act must be licensed or permitted  
20 under this act either as part of a milk plant, receiving station,  
21 or transfer station or a stand-alone milk tank truck cleaning  
22 facility. A licensing or permitting fee shall not be charged  
23 under this act for a milk tank truck cleaning facility that is a  
24 part of a dairy plant, receiving station, or transfer station  
25 licensed or permitted under the manufacturing milk law of 2001.  
26 Each stand-alone facility will be licensed or permitted at a rate

1 of \$50.00 per year. License renewal shall take place on June 30  
2 every year.

3 (3) Each milk transportation company must be licensed or  
4 permitted under this act at a rate of \$20.00 per year. License  
5 renewal shall take place on June 30 every year.

6 (4) Each milk tank truck must be licensed or permitted under  
7 this act at a rate of \$10.00 per year. License renewal shall  
8 take place on June 30 every year.

9 (5) Each distributor who is primarily engaged in the distri-  
10 bution of finished grade A milk products must be licensed or per-  
11 mitted under this act either as part of a milk plant or as a  
12 stand-alone distributor. Each stand-alone distribution facility  
13 is licensed at a rate of \$50.00 per year. License renewal shall  
14 take place on June 30 every year.

15 (6) Each single service containers and closures manufacturer  
16 must be licensed or permitted under this act either as part of a  
17 milk plant or as a stand-alone manufacturer. Each stand-alone  
18 facility will be licensed at a rate of \$50.00 per year. License  
19 renewal shall take place on June 30 every year.

20 (7) A person shall not pick up grade A milk in a farm pickup  
21 milk tank from a farm bulk milk tank without a hauler/sampler  
22 license issued by the department under this section. Each appli-  
23 cant for a license shall be examined by the director under the  
24 provisions of this act to determine his or her qualifications to  
25 evaluate milk in a farm bulk milk tank, to accurately measure  
26 milk in a farm bulk milk tank, to obtain representative samples  
27 of milk from a farm bulk milk tank, to properly handle and

1 deliver the samples, and to pick up milk. The license fee is  
2 \$40.00 for 2 years. An initial license fee may be prorated in  
3 6-month increments at \$10.00 per increment. A hauler/sampler  
4 licensed or permitted in another state shall apply for a license  
5 from the department without examination after submitting satis-  
6 factory proof of training and current licensing in another state  
7 to the department with the license fee and application, unless  
8 this requirement is waived by the director based on reciprocal  
9 agreements with individual states. The director may deny license  
10 renewal to any bulk milk hauler/sampler if the bulk milk  
11 hauler/sampler has not had a satisfactory evaluation of their  
12 hauler/sampler methods in the previous 2 years. License renewal  
13 shall take place on June 30 every 2 years.

14       Sec. 34. The director may issue a temporary license or  
15 permit for activities regulated by this act if the director  
16 determines that issuance of the license or permit will not be  
17 detrimental to the protection of the public health, safety, or  
18 welfare or will not cause an imminent threat of financial loss to  
19 producers.

20        Sec. 35. A political subdivision of the state shall not  
21 levy special license fees or taxes on 1 or more of the persons or  
22 businesses described in this article except for taxes or fees  
23 that are generally levied on persons or businesses other than  
24 milk plants and milk plant operators.

## ARTICLE IV

26       Sec. 40. (1) A person purchasing milk for resale or  
27 manufacture into another product shall pay the producer an

1 advance payment on or before the twenty-sixth of each month for  
2 milk received during the first 15 days of the month and a final  
3 payment on or before the seventeenth day after the end of the  
4 month for milk received during the preceding month. The depart-  
5 ment shall revoke or deny a license issued under this act for a  
6 violation of this subsection.

7       (2) A person purchasing milk for resale or manufacture into  
8 another product shall not issue a check for payment to the  
9 producer unless the name of the person issuing the check is noted  
10 on the check.

11       Sec. 41. The department shall revoke or deny a license for  
12 a milk plant if the licensee or applicant fails to provide 1 of  
13 the security devices required as a condition to issuance and  
14 maintenance of a license. As a condition to issuance and mainte-  
15 nance of a license, a milk plant that is a first receiving point  
16 for milk shall provide 1 or more of the security devices  
17 described in section 42, 43, or 44.

18       Sec. 42. (1) A licensee or applicant for a license as a  
19 milk plant not providing a security device under section 43 or 44  
20 shall provide an audited fiscal year end financial statement pre-  
21 pared by a certified public accountant according to generally  
22 accepted accounting principles and a quarterly verified financial  
23 statement that verifies the licensee's ability to meet the ratio  
24 of 1.2:1 for minimum liquidity requirements of current assets to  
25 current liabilities.

26       (2) The audited financial statement, to be filed by the  
27 licensee not later than 120 days after the close of the

1 licensee's fiscal year, shall contain a balance sheet, income  
2 statement, equity statement, statement of cash flow, notes to the  
3 statements, and any other information required by the  
4 department. The department may extend the date for filing the  
5 audited year end financial statement by up to 30 days only upon  
6 the written request of the milk plant or the milk plant's account-  
7 tant preparing the statement if the request is made not less than  
8 10 days before the deadline for the filing of the statement. The  
9 request shall state the reason for the delay.

10 (3) The verified quarterly financial statement shall be  
11 filed within 60 days after the end of the fiscal quarter to which  
12 the statement pertains. The verified quarterly financial state-  
13 ment shall include, but not be limited to, a balance sheet,  
14 income statement, and any other information required by the  
15 department. The department may require a milk plant to file a  
16 supplementary or interim financial statement or provide addi-  
17 tional information at any time pertaining to the financial state-  
18 ments filed under this subsection or to specific information  
19 requests made by the department. In determining whether the milk  
20 plant has met the minimum liquidity requirement described in this  
21 subsection in an audited or verified financial statement, the  
22 department shall exclude all intangible assets and assets the  
23 department determines to be of doubtful value and may also  
24 exclude nontrade notes; accounts receivable from officers, direc-  
25 tors, employees, partners, or stockholders or from members of  
26 their families; and notes and accounts receivable from parent

1 organizations, subsidiaries, or affiliates if the department  
2 determines them to be of doubtful value.

3       (4) An applicant for a license that has not been in the  
4 business of receiving milk during the preceding 12 months shall  
5 only provide a security device other than an audited financial  
6 statement for at least the initial 12 months of licensed  
7 operation. At the end of the initial 12-month period, the  
8 department may allow the milk plant to utilize an audited finan-  
9 cial statement as a security device if the statement meets mini-  
10 mum liquidity requirements of this subsection and if the milk  
11 plant is otherwise in compliance with this act.

12       Sec. 43. A licensee or applicant for a license as a milk  
13 plant not providing a security device under section 42 or 44  
14 shall provide any of the following forms of security, in a form  
15 and subject to terms and conditions considered necessary by the  
16 department, for the benefit of producers who may be damaged by a  
17 default in payment, the value of which shall be in an amount  
18 determined by the department to be the greater of the value of  
19 the greatest milk receipts that the milk plant has received  
20 within a consecutive 30-day period during that milk plant's most  
21 recent fiscal year or the value of the greatest milk receipts  
22 that the milk plant is anticipated to receive during a consecu-  
23 tive 30-day period within the licensing period:

24       (a) A commercial surety bond made payable to the department  
25 and subject to cancellation only after written notice to the  
26 department at least 90 days before cancellation. The commercial  
27 surety bond shall be issued by a surety company authorized to do



1 business in this state and conditioned upon the faithful and  
2 proper discharge of the duty to pay a producer, when payment is  
3 due as provided for in section 40, for milk received by the milk  
4 plant.

5 (b) A certificate of deposit or money market certificate  
6 that is issued or endorsed to the department and that cannot be  
7 canceled or redeemed, or from which funds cannot be transferred  
8 or withdrawn, without the written authorization of the  
9 department. The certificate shall be from a financial institu-  
10 tion authorized to do business in this state whose deposits are  
11 insured by the federal deposit insurance corporation or otherwise  
12 federally insured.

13 (c) Stocks, bonds, or securities acceptable to the depart-  
14 ment that are issued or endorsed to the department and readily  
15 convertible to cash by the department and subject to redemption  
16 or sale only upon written permission of the department.

17 (d) An irrevocable letter of credit filed as security with  
18 the department and made payable to the department issued by a  
19 financial institution acceptable to the department and licensed  
20 to do business in this state. The letter of credit shall provide  
21 for automatic renewal unless, at least 90 days before the sched-  
22 uled renewal date, the issuing financial institution gives writ-  
23 ten notice that the letter of credit is not to be renewed. The  
24 department may request information from the office of financial  
25 and insurance services of the department of consumer and industry  
26 services regarding the financial viability of the financial  
27 institution.

1 (e) Life insurance policies acceptable to the department  
2 that are issued or endorsed to the department that prohibit the  
3 insurer from making any payment to the policy beneficiaries  
4 unless the insurer first pays the equivalent of the cash surren-  
5 der value to the department and provides that the cash surrender  
6 value is paid to the department upon cancellation or surrender of  
7 the policy.

8 (f) Other security acceptable to the department.

9 Sec. 44. A licensee or applicant for licensure as a milk  
10 plant not providing a security device under section 42 or 43  
11 shall provide an agreement in which the milk plant prepays for  
12 its milk supply by means of cash payments before or at the time  
13 of delivery of milk products.

14 Sec. 45. (1) A milk plant shall not cancel or modify a  
15 security device unless written notice is given to the department  
16 by the milk plant at least 90 days before the date of cancella-  
17 tion or modification. The milk plant shall send the notice of  
18 cancellation or modification to the department by certified  
19 mail.

20 (2) A milk plant that is a first receiving point for milk  
21 shall notify the department at least 30 days before receiving  
22 milk that will increase the amount due and accrued from the milk  
23 plant to an amount greater than the amount represented as a basis  
24 for the issuance of the license.

25 (3) This section does not apply to the sale of milk or milk  
26 products in interstate commerce to an out-of-state purchaser not  
27 licensed under this act. The protection provided by this section

1 is available to a producer in another state selling milk products  
2 to a licensee in this state.

3 (4) Except as otherwise provided for in subsection (5),  
4 financial and product information filed by a milk plant that is a  
5 first receiving point for milk is not subject to disclosure under  
6 the freedom of information act, 1976 PA 442, MCL 15.231 to  
7 15.246.

8 (5) Upon receipt of a written request, the department shall  
9 provide a producer a copy of the most recent audited financial  
10 statement of the milk plant that is a first receiving point for  
11 milk of that producer.

12 (6) A producer may file a written complaint with the depart-  
13 ment requesting an independent audit regarding the ability of a  
14 milk plant that files an audited financial statement as a secur-  
15 ity device and that is the first receiving point for milk of the  
16 producer to meet the minimum liquidity requirement described in  
17 section 42. The complaint shall be accompanied by a certified  
18 check in the amount of \$100.00 and a signed document guaranteeing  
19 full payment for the audit if required under subsection (7).  
20 Upon receipt of the complaint and check, the department shall  
21 notify the milk plant and advise the milk plant of the choice of  
22 either having an independent audit conducted or of voluntarily  
23 modifying the security device to either of the alternatives pro-  
24 vided for in section 43 or 44.

25 (7) A milk plant that requests an independent audit under  
26 subsection (6) shall bear the cost of that audit if the  
27 department determines that the independent audit establishes the

1 milk plant's inability to meet the minimum liquidity requirement  
2 described in section 42. The complainant shall bear the cost of  
3 the audit if the department determines that the audit establishes  
4 that the milk plant meets the minimum liquidity requirement  
5 described in section 42.

6 (8) If the milk plant fails to meet the minimum liquidity  
7 requirement described in section 42, the department shall return  
8 to the complainant the fee described in subsection (6) and sus-  
9 pend or revoke the milk plant's license in the manner provided  
10 for in section 50 or 51. The department may reinstate a sus-  
11 pended license or reissue a revoked license if the milk plant  
12 provides the department with a security device described in  
13 section 43 or 44. If the department determines that the milk  
14 plant meets the minimum liquidity requirement described in  
15 section 42, the \$100.00 fee shall be forfeited to the milk  
16 plant.

17 Sec. 46. (1) A milk plant may request a change in its  
18 security device at any time. The department shall allow the  
19 change in the milk plant's security device if all requirements  
20 for the new security device have been met and all producers doing  
21 business with the licensee have been notified by the department.

22 (2) The department may require a milk plant to provide a  
23 change or increase in a security device if the department has  
24 reason to believe, after reviewing relevant financial informa-  
25 tion, that 1 or more of the following circumstances exist:

26 (a) The milk plant no longer meets the minimum liquidity  
27 requirement of this act.

1       (b) The milk plant can no longer make payments in the manner  
2 provided for in section 40.

3       (c) The value of the milk plant's security device falls  
4 below the requirements due to depreciation in the value of the  
5 security, an increase in the maximum liability to producers, or  
6 the cancellation or change of the security device as specified in  
7 this act.

8       (3) The department shall send written notice by certified  
9 mail to the milk plant stating the reasons for the demand for  
10 change or increase in a security device and setting the date for  
11 providing the changed or increased security device.

12       (4) The department shall notify all producers shipping milk  
13 to a milk plant of the decision to require the milk plant to  
14 modify or change a security device. The notice required under  
15 this subsection shall be provided within 5 days after the  
16 department's issuance of the order to require another security  
17 device.

18       Sec. 47. (1) A person injured by the breach of an obliga-  
19 tion secured by a security device described in section 42, 43, or  
20 44, including, but not limited to, a producer and a person repre-  
21 senting a commodity check-off program, may file with the depart-  
22 ment a verified proof of claim or other evidence of default.  
23 Upon receipt of a verified proof of claim or other evidence of  
24 default, the department may issue an order requiring each inter-  
25 ested creditor, as may be known to the department, to file a ver-  
26 ified proof of claim before a certain date or be barred from  
27 participating in any recovery made by the department.

1       (2) The department shall provide notice of the entry of an  
2 order issued under subsection (1) by posting a copy of the order  
3 on the premises described in the license and by publication in  
4 accordance with the Michigan court rules that govern service of  
5 process by publication. Publication shall be completed at least  
6 30 days before the final date for the filing of claims.

7       (3) The department shall make the necessary audit and issue  
8 an order allowing or disallowing each claim presented. Within  
9 30 days of that order, the department shall send to the principal  
10 and surety, by certified mail, notice of allowance or disallow-  
11 ance and request for the payment. The department may demand,  
12 collect, and receive from the licensee, or from the surety or  
13 sureties of the licensee, the amount determined to be necessary  
14 to satisfy the claims with interest at the judgment rate computed  
15 from the date of loss. The department may request that the  
16 department of attorney general commence an action for that pur-  
17 pose in a court of competent jurisdiction. If the attorney gen-  
18 eral prevails in whole or in part, the court shall award interest  
19 from the date of loss at the judgment rate. Upon receipt of  
20 money paid in partial or complete satisfaction of a claim as pro-  
21 vided in this section, the department shall distribute to the  
22 claimant in accordance with the order allowing the claim, in full  
23 or proportionally.

24       (4) This section does not affect or impair any other lien,  
25 security, or priority for the claim or judgment.

26       Sec. 48. The department shall notify producers delivering  
27 milk to a licensed milk plant any time a license is issued,

1 renewed, or modified. The notice sent by the department shall  
2 substantially conform to the following:  
3 "Michigan law requires milk plant licensees to demonstrate a rea-  
4 sonable degree of financial responsibility to the Michigan  
5 department of agriculture. This act is designed to provide rea-  
6 sonable assurance that producers will be paid for their milk;  
7 however, it does not guarantee that producers will be paid. Each  
8 producer has some responsibility for determining the  
9 credit-worthiness of the milk plant to which the producer is  
10 selling milk. A milk plant licensee may qualify for a license by  
11 doing 1 of the following:

12 (a) Filing financial statements audited by a certified  
13 public accountant with the department demonstrating that  
14 the milk plant meets the minimum liquidity requirement.

15 (b) Filing security with the department in an amount  
16 determined by the department to be the greater of the  
17 following:

18 (1) The value of the greatest milk receipts that the  
19 milk plant received within a consecutive 30-day period  
20 during that milk plant's most recent fiscal year.

21 (2) The greatest milk receipts that the milk plant is  
22 anticipated to receive during a 30-day period within  
23 the licensing period.

24 (c) \_\_\_\_\_, (Name of milk plant licensee) is  
25 currently licensed on the basis of its audited financial  
26 statement meeting the minimum liquidity requirement of a  
27 current ratio of at least 1.2 to 1 current assets to

current liabilities. The licensee's most recent year-end financial statement audited by the firm of \_\_\_\_\_ (auditor's name) meets the following minimum liquidity requirement,

(or)

\_\_\_\_\_ (name of milk plant licensee) has filed security with the department to secure payment to producers. The maximum amount of security is the amount determined to be the greater of the following:

(1) The value of the greatest milk receipts that the milk plant received within a consecutive 30-day period during that milk plant's most recent fiscal year.

(2) The greatest milk receipts that the milk plant is anticipated to receive within a 30-day period within the licensing period, whichever is greater.

The security filed is in the following form or forms and in the amount of: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_".

#### ARTICLE V

Sec. 50. (1) The director may revoke or suspend the license or permit of a licensee or permittee issued under this act for failure to comply with the requirements of this act, the PMO, or a rule promulgated under this act. A license or permit shall be revoked or suspended according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.



1       (2) The department shall notify in writing each producer  
2 with whom a milk plant does business not less than 5 days before  
3 the date of the contested case set under subsection (1).

4       (3) The director may revoke or suspend a license or permit  
5 issued under this act, or charge an administrative fine pursuant  
6 to section 53, upon determining that the licensee or permittee  
7 has done 1 or more of the following:

8       (a) Failed to provide supplementary or interim information  
9 or information required to be supplied to the department under  
10 this act or information requested by the director under article  
11 III or IV.

12       (b) Failed to provide a security device in the amount and  
13 manner required by the director under article IV.

14       (c) Knowingly provided false or fraudulent information or  
15 made a material misrepresentation on an application.

16       (d) Knowingly provided false or fraudulent information or  
17 made a material misrepresentation in response to a request for  
18 information by the department.

19       (e) Failed to pay a producer in the manner provided in sec-  
20 tion 40.

21       (f) Failed to agitate milk in the farm bulk milk tank before  
22 taking a sample for delivery to the milk plant or the  
23 department.

24       (g) Failed to take the sample for analysis in accordance  
25 with the procedures set forth in the PMO, standard methods, and  
26 this act.

1 (h) Picked up grade A milk the temperature of which exceeds  
2 45 degrees Fahrenheit (7 degrees Celsius).

3 (i) Failed to accurately report the weight or temperature of  
4 grade A milk picked up from a farm bulk milk tank.

5 (j) In the case of a milk plant, failed to provide a secur-  
6 ity device described in article IV.

7 (k) Adulterated milk or milk products.

8 (l) Failed to pay a final civil or administrative fine  
9 issued under this act.

10 (m) Violated this act, the PMO adopted under this act, or a  
11 rule promulgated under this act.

12 (4) The director may summarily suspend a license or permit  
13 issued under this act upon determining that the licensee or per-  
14 mittee has done 1 or more of the following:

15 (a) Offered for sale or sold milk or milk products from dis-  
16 eased animals, or animals otherwise considered abnormal, that  
17 have been incorporated with milk or milk products from normal  
18 healthy animals.

19 (b) Offered for sale or sold milk or milk products suspected  
20 of contamination with any substance considered by the department  
21 to be an imminent or substantial health hazard.

22 (c) Offered for sale or sold milk or milk products from pro-  
23 duction, transportation, packaging, or storage facilities that  
24 have such an accumulation of trash, rubbish, dirt, insects,  
25 vermin, human or animal wastes, or spoiled milk or milk products  
26 that precludes the reasonable protection of the milk or milk  
27 products from contamination.

1 (d) Offered for sale or sold milk or milk products produced  
2 in equipment with a significant portion of the milk contact sur-  
3 faces covered with an accumulation of residues that were left  
4 after having gone through a cleaning regimen and that are thick  
5 enough that they may be easily scraped to form a body of solids.

6 (e) Offered for sale or sold milk or milk products stored in  
7 a container of unapproved construction.

8 (f) Received or picked up milk or milk products stored in a  
9 container of unapproved construction.

10 (g) Offered for sale or sold milk or milk products produced  
11 from cattle with a majority of the milking herd with an excessive  
12 accumulation of manure on the flanks, bellies, or udders that  
13 precludes the reasonable protection of the milk from contamina-  
14 tion during the milking process.

15 (h) Offered for sale or sold milk that was of inadequate  
16 volume to properly agitate after the first milking.

17 (i) Offered for sale or sold milk or milk products produced  
18 with excessive sediment.

19 (j) Interfered with inspection of milk or milk products.

20 (k) Maintained dead animals on the premises.

21 (l) Maintained a minimum of 3 of the last 5 official bac-  
22 teria counts illegal.

23 (m) Maintained a minimum of 3 of the last 5 official somatic  
24 cell counts illegal.

25 (n) Maintained a minimum of 3 of the last 5 official milk or  
26 milk product cooling temperatures illegal.

1 (o) Failed to provide milk or milk products free of  
2 violative drug residues based on tests approved by the food and  
3 drug administration.

4 (p) Any other condition that creates an imminent threat to  
5 the public health, safety, or welfare.

6 (5) When the director suspends a license or permit under  
7 subsection (4), the licensee or permittee shall be allowed a min-  
8 imum of 72 hours to regain compliance and reinstatement of the  
9 license or permit prior to scheduling an administrative hearing.

10 Sec. 51. (1) A person whose license or permit has been sus-  
11 pended, revoked, or denied shall immediately discontinue opera-  
12 tion of the business for which the license or permit was issued  
13 or requested.

14 (2) A person whose license or permit has been suspended or  
15 revoked is not eligible for reinstatement of the license or  
16 permit until the director determines that all violations have  
17 been corrected.

18 (3) If the department has provided notice to a licensee or  
19 permittee as required by the administrative procedures act of  
20 1969, 1969 PA 306, MCL 24.201 to 24.328, and subsequently deter-  
21 mines that summary suspension of the licensee's or permittee's  
22 license or permit is necessary to prevent an imminent threat of  
23 financial loss to 1 or more producers with whom the licensee or  
24 permittee does business, the director may summarily suspend the  
25 licensee's or permittee's license or permit. The director shall  
26 incorporate the determination in his or her order of summary  
27 suspension. This summary suspension may be ordered effective on

1 the date specified in the order or the date of service upon the  
2 licensee, whichever is later, and is effective during the  
3 proceedings. The proceedings shall be promptly commenced and  
4 determined.

5       Sec. 52. A person, alone or through an agent, as the agent  
6 of any other person, or as the officer or agent of any firm or  
7 corporation, who does any of the following is guilty of a misde-  
8 meanor punishable by a fine of not less than \$250.00 and not more  
9 than \$2,500.00 or imprisonment for not more than 90 days, or  
10 both:

11       (a) Violates this act, the PMO adopted under this act, or a  
12 rule promulgated under this act.

13       (b) Provides false or fraudulent information on an applica-  
14 tion or in response to a request from the director.

15       Sec. 53. (1) The director shall impose upon a producer who  
16 violates this act by selling or offering for sale milk which has  
17 been found positive for violative drug residues on a test per-  
18 formed pursuant to the PMO, the following sanctions and adminis-  
19 trative fines and provide notice and the opportunity for an  
20 administrative hearing:

21       (a) The following in the case of a first violative drug res-  
22 idue within a 12-month period:

23       (i) The producer's milk shall not be offered for sale until  
24 a subsequent sample of the producer's milk tests negative for  
25 violative drug residues at an approved laboratory.

26       (ii) The producer shall pay an administrative fine equal to  
27 the lost value of the milk on the entire contaminated load and

1 any costs associated with the disposition of that load. The  
2 administrative fine shall be paid directly to the milk buyer.  
3 The department shall be provided with written notification of the  
4 payment. Written notification shall also be provided to the  
5 department of the date and location of the disposal of the entire  
6 contaminated load. Where a producer markets their own load of  
7 milk, the producer shall provide written notification to the  
8 department of the date and location of the disposal of the entire  
9 contaminated load. If the producer's violative shipment did not  
10 cause partial or total loss of a load of milk as determined by an  
11 approved drug residue test, the producer shall pay an administra-  
12 tive fine of \$300.00 to the department. The milk buyer may pay  
13 the administrative fine, if a like amount has been deducted from  
14 the producer's milk check.

15 (b) The following in the case of a second violative drug  
16 residue within a 12-month period:

17 (i) The producer's milk shall not be offered for sale until  
18 a subsequent sample of the producer's milk tests negative for  
19 violative drug residues at an approved laboratory.

20 (ii) The producer shall pay an administrative fine equal to  
21 the lost value of the milk on the entire contaminated load and  
22 any costs associated with the disposition of that load. The  
23 administrative fine shall be paid directly to the milk buyer.  
24 The department shall be provided with written notification of the  
25 payment. Written notification shall also be provided to the  
26 department of the date and location of the disposal of the entire  
27 contaminated load. Where a producer markets their own load of

1 milk, the producer shall provide written notification to the  
2 department of the date and location of the disposal of the entire  
3 contaminated load. If the producer's violative shipment did not  
4 cause partial or total loss of a load of milk as determined by an  
5 approved drug residue test, the producer shall pay an administra-  
6 tive fine of \$600.00 to the department. The milk buyer may pay  
7 the administrative fine, if a like amount has been deducted from  
8 the producer's milk check.

9       (iii) The producer will be required to test all milk prior  
10 to shipment with a drug residue test acceptable to the director  
11 for a minimum of 12 months and must retain records of these tests  
12 for a minimum of 18 months.

13       (iv) The producer will be required to maintain complete drug  
14 treatment records for all lactating or near lactating dairy  
15 cattle for a minimum of 12 months and must retain records of  
16 these treatments for a minimum of 18 months.

17       (c) The following in the case of a third or any additional  
18 violative drug residue within a 12-month period:

19       (i) The producer's milk shall not be offered for sale until  
20 a subsequent sample of the producer's milk tests negative for  
21 violative drug residues at an approved laboratory.

22       (ii) The producer shall pay an administrative fine equal to  
23 the lost value of the milk on the entire contaminated load and  
24 any costs associated with the disposition of that load. The  
25 administrative fine shall be paid directly to the milk buyer.  
26 The department shall be provided with written notification of the  
27 payment. Written notification shall also be provided to the

1 department of the date and location of the disposal of the entire  
2 contaminated load. Where a producer markets its own load of  
3 milk, the producer shall provide written notification to the  
4 department of the date and location of the disposal of the entire  
5 contaminated load. If the producer's violative shipment did not  
6 cause partial or total loss of a load of milk as determined by an  
7 approved drug residue test, the producer shall pay an administra-  
8 tive fine of \$1,200.00 to the department. The milk buyer may pay  
9 the administrative fine, if a like amount has been deducted from  
10 the producer's milk check.

11 (iii) The suspension of the producer's permit for a period  
12 not to exceed 60 days after notice and the opportunity for an  
13 administrative hearing before the department.

14 (iv) The producer will be required to test all milk prior to  
15 shipment with a drug residue test acceptable to the director for  
16 a minimum of 12 months and must retain records of these tests for  
17 a minimum of 18 months.

18 (v) The producer will be required to maintain complete drug  
19 treatment records for all lactating or near lactating dairy  
20 cattle for a minimum of 12 months and must retain records of  
21 these treatments for a minimum of 18 months.

22 (2) The director may accept verification, on forms accept-  
23 able to the director, from the violative producer's milk market-  
24 ing cooperative or purchaser of milk as satisfying the penalty  
25 requirements and may verify the information.

26 (3) The disposal method and location of disposal for  
27 violative drug residue milk on the milk tank truck shall be



1 immediately reported to the director, by the party making the  
2 disposal, on forms provided by and acceptable to the director.

3 (4) The director shall investigate the cause of the viola-  
4 tive drug residue and will discuss drug residue avoidance control  
5 measures, as outlined in the PMO, with the violative producer.

6 (5) Selling or offering for sale milk which has been found  
7 positive for violative drug residues is determined by either of  
8 the following criteria:

9 (a) When milk is picked up from a producer by a milk tank  
10 truck and not commingled with milk from other producers, the milk  
11 becomes subject to possible drug residue penalties at the point  
12 the milk tank truck leaves the farm with the milk.

13 (b) When milk is picked up from a producer by a milk tank  
14 truck and commingled with milk from other producers, it becomes  
15 subject to possible drug residue penalties at the point of  
16 commingling.

17 (6) Section 52 applies to a producer who violates this act  
18 by selling or offering for sale milk which tests positive for  
19 violative drug residues on a test performed pursuant to the PMO  
20 only under either of the following circumstances:

21 (a) The producer fails to pay the administrative fine  
22 required by subsection (1) in compliance with subsections (8) and  
23 (9).

24 (b) The producer has been fined under subsection (1) 3 or  
25 more times within the preceding 12-month period.

26 (7) After notice and an opportunity for an administrative  
27 hearing pursuant to the administrative procedures act of 1969,

1 1969 PA 306, MCL 24.201 to 24.328, the director may revoke or  
2 suspend a license or permit issued under this act for any viola-  
3 tion of this act or a rule promulgated under this act. Except as  
4 otherwise provided for under subsection (1), upon finding that a  
5 person violated a provision of this act or rule promulgated under  
6 this act, the director may impose an administrative fine of not  
7 more than \$1,000.00 and the actual costs of the investigation of  
8 the violation.

9 (8) The administrative fines imposed under subsection (1) or  
10 (7) shall be paid to the department within 10 days after notifi-  
11 cation of the violation or within 10 days after notification of  
12 adverse findings following a hearing or appeal, or both. The  
13 administrative fines received by the department under subsection  
14 (1) shall be deposited in the general fund and shall be appropri-  
15 ated for the purpose of the training or education of producers in  
16 management procedures to avoid drug residue contamination, and  
17 administrative fines received pursuant to subsection (7) shall be  
18 deposited in the general fund.

19 (9) Failure to pay a load contamination or any other admin-  
20 istrative fine imposed under this section within 120 days without  
21 making acceptable arrangements for payment of the fine may result  
22 in license revocation or permit suspension or court action, fol-  
23 lowing notice and the opportunity for an administrative hearing.

24 (10) The director shall advise the attorney general of the  
25 failure of any person to pay an administrative fine imposed under  
26 this section. The attorney general shall bring an action in a  
27 court of competent jurisdiction to recover the fine.

1       (11) A decision of the director under this section is  
2 subject to judicial review as provided by law.

3       (12) This section does not require the director to issue an  
4 administrative fine or initiate court action for minor violations  
5 of this act whenever the department believes that the public  
6 interest will be adequately served under the circumstances by a  
7 suitable written notice or warning.

8       Sec. 54. In addition to the remedies otherwise provided in  
9 this act, the department may apply to circuit court to grant a  
10 temporary or permanent injunction restraining any person from  
11 violating this act or any rule promulgated pursuant to this act,  
12 irrespective of whether there exists an adequate remedy at law.

13                                   ARTICLE VI

14       Sec. 60. Packaged milk products shall be labeled as speci-  
15 fied in the PMO and in the food law of 2000, 2000 PA 92,  
16 MCL 289.1101 to 289.8111.

17       Sec. 61. (1) A bulk milk hauler/sampler shall not take milk  
18 from a farm tank without first determining that the farmer has a  
19 valid permit if a permit is required. Milk shall be picked up  
20 from only an approved farm tank, constructed to sanitary stan-  
21 dards with agitation and cooling except as approved in writing by  
22 the director on a case-by-case basis.

23       (2) A bulk milk hauler/sampler shall pick up only milk that  
24 appears to be normal and does not contain off odors or visible  
25 foreign material and that has been stored on the farm for no more  
26 than 72 hours. Goat milk may be stored up to 7 days in a farm  
27 tank if properly cooled. Sheep milk may be frozen for storage.

1       (3) A bulk milk hauler/sampler shall not record or report  
2 inaccurately a milk measurement taken in the farm tank. A mea-  
3 surement shall be made with a measuring gauge that is clean and  
4 wiped dry with a sanitary towel or by any other measuring method  
5 meeting the requirements of section 65(3).

6       (4) After measuring the milk in the farm tank, the bulk milk  
7 hauler/sampler shall promptly, accurately, and legibly record the  
8 following information on the pickup record:

9       (a) The gauge or stick reading.

10       (b) The converted gauge or stick reading in pounds.

11       (c) The date and time of pickup.

12       (d) The milk producer's name and permit number.

13       (e) The temperature of the milk from an accurate  
14 thermometer.

15       (f) The bulk milk hauler/sampler's identification, including  
16 the bulk milk hauler/sampler's name or initials and department  
17 issued hauler/sampler identification number.

18       (g) The assigned "bulk tank unit" (BTU) number.

19       (5) A bulk milk hauler/sampler shall provide the original  
20 copy of the pickup record to the milk buyer and a duplicate copy,  
21 or other record acceptable to the director, to the producer.

22       (6) A milk tank truck driver engaged in direct farm pickup  
23 has direct responsibility for accompanying official samples.

24       Sec. 62. (1) During a pickup, a bulk milk hauler/sampler  
25 shall take a sanitarily collected representative sample from each  
26 farm tank after the tank is agitated for not less than 5 minutes  
27 and for not less than 10 minutes for tanks over 1,500 gallons or

1 for such additional time as may be recommended by the tank  
2 manufacturer or the director, so as to obtain a representative  
3 sample.

4 (2) A sample dipper shall be rinsed by the bulk milk  
5 hauler/sampler at least twice in the milk prior to transferring  
6 the sample to the approved sample container.

7 (3) Sample transfer instruments shall be used by bulk milk  
8 hauler/samplers that are of sanitary construction, clean, and  
9 sterile, or which are sanitized with approved sanitizers and pro-  
10 tected from contamination prior to each use.

11 (4) A bulk milk hauler/sampler shall take a temperature con-  
12 trol sample of the milk at the bulk milk hauler/sampler's first  
13 sampling point and shall place it in the refrigerated, insulated  
14 transport case with the first official sample.

15 (5) The bulk milk hauler/sampler shall identify the tempera-  
16 ture control sample with the hauler/sampler identification, time,  
17 temperature, date, producer permit number, and letters "T.C.".

18 (6) A bulk milk hauler/sampler shall not sample milk in the  
19 farm tank during emptying.

20 (7) A bulk milk hauler/sampler shall not sample milk in the  
21 farm tank with a sample container or any other unapproved trans-  
22 fer instrument or sampling device.

23 (8) A bulk milk hauler/sampler shall place producer milk  
24 samples into approved sample containers only. The sample con-  
25 tainers shall be properly protected and handled to prevent  
26 contamination.

1       (9) A bulk milk hauler/sampler shall place milk only in  
2 sample containers that are legibly marked with the following:

3       (a) The milk producer's permit number.

4       (b) The date of pickup.

5       (c) The route number.

6       (d) Temperature.

7       (10) The bulk milk hauler/sampler shall store the milk sam-  
8 ples in an approved manner to protect the samples from contamina-  
9 tion inside a refrigerated, insulated transport case that is kept  
10 tightly covered until the samples are delivered to the transfer  
11 point, laboratory, or other destination.

12       (11) The hauler shall maintain milk samples in a temperature  
13 range of 32 degrees Fahrenheit (0 degree Celsius) to 40 degrees  
14 Fahrenheit (4.4 degrees Celsius).

15       Sec. 63. (1) A bulk milk hauler/sampler shall not adulter-  
16 ate milk in the farm tank or the milk tank truck.

17       (2) The farm tank shall be completely emptied by the bulk  
18 milk hauler/sampler each time the unloading hose is hooked up,  
19 unless the bulk milk hauler/sampler discovers that the milk does  
20 not meet legal requirements or that the milk tank truck will  
21 overflow or be overloaded during periods of seasonal weight  
22 restrictions on roads or unless the farm tank is provided with an  
23 approved, properly operated, temperature recording device.

24       (3) A bulk milk hauler/sampler shall carry an accurate,  
25 approved dial-type or electronic thermometer with him or her on  
26 the route and shall not pickup milk from a farm tank which  
27 exceeds the maximum temperature allowed by law.

1       (4) A bulk milk hauler/sampler shall keep his or her sample  
2 transfer instrument and sample transport case clean and in good  
3 repair.

4       (5) A bulk milk hauler/sampler shall use the hose port pro-  
5 vided for him or her in the milkhouse for accommodation of the  
6 pickup milk hose.

7       (6) A bulk milk hauler/sampler shall comply with the  
8 requirements of appendix B of the PMO, incorporated herein by  
9 reference.

10       Sec. 64. (1) The milk transportation company shall be  
11 responsible for maintaining the tank and milk contact surfaces of  
12 a milk tank truck clean and in good repair. Milk or milk pro-  
13 ducts shall not be placed in such tanks unless the tanks have  
14 been properly cleaned and sanitized at a milk plant, receiving  
15 station, transfer station, or other licensed milk tank truck  
16 cleaning facility.

17       (2) Suitable facilities for cleaning and milk contact sur-  
18 faces of the milk tank trucks shall be provided and the washing  
19 and sanitizing of the tanks shall be carried out by the receiving  
20 milk plant, transfer station, receiving station, or other  
21 licensed milk tank truck cleaning facility. The milk transporta-  
22 tion company representative or the bulk milk hauler/sampler shall  
23 be responsible for cleaning the hose, pump, and valves. After  
24 the cleaning and sanitizing operation is completed, a representa-  
25 tive of the milk tank truck cleaning facility shall provide a  
26 suitable record identifying who washed the milk tank truck, the  
27 license or permit identification number of the milk tank truck,

1 the date, and the location of the facility. The milk  
2 transportation company representative or the bulk milk  
3 hauler/sampler, after inspection of the tank, shall indicate on  
4 the record that the tank has been cleaned to that person's  
5 satisfaction. A copy of this record shall be kept with the vehi-  
6 cle until it is washed and sanitized again.

7       (3) A bulk milk hauler/sampler operating a bulk milk pickup  
8 tanker may make more than 1 trip daily without cleaning and sani-  
9 tizing the bulk milk pickup tanker. The bulk milk pickup tanker  
10 shall be cleaned and sanitized after the final trip of the day,  
11 each day of use.

12       (4) A milk transport tank shall be cleaned and sanitized  
13 each time the tank is emptied.

14       (5) Milk may be picked up in the milk tank truck on the  
15 return trip to the bulk milk hauler/sampler's home if the milk  
16 tank truck is cool enough to maintain the milk placed in it at or  
17 below the legal storage temperature and if the pickup hose and  
18 pump are washed and sanitized at a licensed wash facility or at a  
19 cleaning facility approved in writing by the director on a  
20 case-by-case basis.

21       (6) A milk tank truck may be used to haul potable water, or  
22 other wholesome liquid food products, if the milk contact sur-  
23 faces are properly cleaned and sanitized prior to picking up raw  
24 milk. Certain pasteurized products, as specified in the PMO,  
25 must be transported in milk tank trucks dedicated to hauling pas-  
26 teurized products.



1       (7) A milk transfer station or receiving station shall keep  
2 daily records identifying which farm loads of milk have been  
3 commingled in each milk transport tank. These records shall be  
4 kept at the transfer station or receiving station for not less  
5 than 30 days.

6       (8) Producer samples shall accompany the milk transport tank  
7 holding the largest amount of the farm bulk milk pickup tanker's  
8 milk unless the samples are transferred or held for testing at  
9 other locations.

10       Sec. 65. (1) A farm tank on a dairy farm shall be installed  
11 so as to remain level at all times.

12       (2) A farm tank shall have an accurate indicating thermome-  
13 ter stored in the milkhouse which may be either an integral ther-  
14 mometer in the farm tank or an approved thermometer acceptable to  
15 the director.

16       (3) A farm tank shall have a calibrated means of measurement  
17 and an accurate and legible volume to weight conversion chart  
18 unless the farm tank is mounted on an accurate scale. All mea-  
19 suring devices must be in compliance with the weights and mea-  
20 sures act of 1964, 1964 PA 283, MCL 290.601 to 290.634.

21       (4) A conversion chart shall bear the same serial number as  
22 that found on the farm tank and measuring rod.

23       (5) The producer is responsible for recalibrating a farm  
24 tank that does not have an accurate conversion chart. A recal-  
25 bration must be in compliance with the weights and measures act  
26 of 1964, 1964 PA 283, MCL 290.601 to 290.634. A person shall not  
27 adjust, alter, or change a conversion chart unless the change,

1 alteration, or adjustment is made strictly according to the  
2 requirements of the weights and measures act of 1964, 1964  
3 PA 283, MCL 290.601 to 290.634.

4       (6) A farm tank shall not be filled to a capacity that  
5 exceeds the calibrated limits as indicated by the conversion  
6 chart. If the producer wishes to fill the tank nearer to the  
7 top, the tank shall be calibrated to an additional height that  
8 still permits proper agitation without spillage.

9       (7) Milk to be offered for sale shall be cooled and stored  
10 in the farm tank equipped with cooling and agitation. Other  
11 cooling and storage vessels may be used when approved in writing  
12 by the director on a case-by-case basis.

13       (8) Milk production shall be of sufficient quantity so that  
14 it can be properly agitated not later than at the completion of  
15 the first milking into the farm tank.

16       (9) Facilities for effectively sanitizing farm tanks shall  
17 be provided by the producer.

18       (10) Nonelectric farms shall provide battery powered light-  
19 ing for farm tanks that will adequately illuminate each farm tank  
20 opening. Fuels used for milkhouse operations shall not cause  
21 odors that may impart off-flavors.

22       Sec. 66. The care and handling of milk samples by all per-  
23 sons in the chain of possession shall be in substantial compli-  
24 ance with standard methods.

25       Sec. 67. (1) Methods of analysis, including butterfat anal-  
26 ysis, shall comply with the requirements of sections 6 and 7 of

1 the PMO. Analysis required on producer, raw, and finished  
2 product samples shall comply with the PMO.

3 (2) The milk buyer of grade A raw milk shall be responsible  
4 for making the quality tests on the raw milk, at the producer  
5 level, that are required by law unless the director specifies  
6 otherwise. It shall be the responsibility of the bulk milk  
7 hauler/sampler to collect the samples for analysis. In situa-  
8 tions where the producer is not represented by a milk buyer or  
9 handler that provides an approved sample analysis and reporting  
10 service, it shall be the responsibility of the producer to insure  
11 that the proper number of samples are submitted to an approved  
12 laboratory for analysis and that the results are reported to the  
13 department. In all situations, it is ultimately the producer's  
14 responsibility to insure that a minimum of 4 official sample  
15 results for the previous 6 months' production are reported to the  
16 department. The test results shall be reported to the department  
17 as requested.

18 (3) Methods for determining the sediment content of milk  
19 shall be those described in standard methods. Sediment content  
20 shall be based on comparison with official United States depart-  
21 ment of agriculture sediment standards.

22 (4) If the sediment disc is classified as no. 1, no. 2, or  
23 no. 3, the producer's milk may be accepted. If the milk contains  
24 more sediment than a no. 3, it is considered rejectable.

25 Sec. 68. (1) Only pasteurized milk and milk products shall  
26 be sold or provided to the final consumer, except that

1 unpasteurized milk may be consumed by the on-farm family members  
2 of the producers.

3       (2) All milk products shall be pasteurized according to the  
4 requirements of the PMO and the time-temperature relationships  
5 described in the PMO.

6       (3) All dairy plant by-products used for feeding purposes  
7 for farm animals shall be pasteurized or be derived from pasteur-  
8 ized products.

9       Sec. 69. (1) Each processor and manufacturer of milk pro-  
10 ducts sold in this state shall place on each container of milk  
11 products a recommended last day of sale by month and date.

12       (2) The sell-by date shall be expressed by the first 3 let-  
13 ters of the month followed by the numeral designating the appro-  
14 priate calendar day or by expressing the calendar month numeri-  
15 cally followed by a numeral designating the calendar day.

16       (3) The sell-by date shall appear on that part of the con-  
17 tainer that is most likely to be displayed, presented, or shown  
18 under customary display conditions of sale. However, a cup con-  
19 tainer may have the sell-by date placed on the bottom.

20       (4) The sell-by date on the container shall be legible and  
21 shall be not interfere with the legibility of other information  
22 required to be on the product.

23       (5) Processors and manufacturers of milk and milk products  
24 shall register the following information with the department on  
25 forms provided by the department:

26       (a) The assigned sell-by date of each milk and milk product  
27 processed and the length of time between production and the

1 sell-by date. Plant records of a testing program conducted shall  
2 substantiate this length of time by the processor or  
3 manufacturer.

4 (b) The method of application and location of the sell-by  
5 date for each size and style of container.

6 (c) Changes in the time interval of the sell-by date prior  
7 to the effective day of the change.

8 (6) Milk products shall maintain nutritional levels and  
9 shall not have a flavor change before the sell-by date.

10 (7) The director shall periodically sample and analyze milk  
11 products to determine if the flavor has changed by the sell-by  
12 date. Milk products obtained for analysis by the director prior  
13 to the sell-by date shall be stored at a temperature of  
14 44 degrees Fahrenheit (6.5 degrees Celsius), plus or minus  
15 1 degree Fahrenheit (0.5 degree Celsius), until analyzed.

16 (8) The processor or manufacturer of milk or milk products  
17 which do not maintain their flavor until the sell-by date shall,  
18 upon receipt of written or verbal notice from the director, make  
19 the changes necessary to improve product quality or alter the  
20 sell-by date so as to comply with the law. The processor or man-  
21 ufacturer is not responsible for milk and milk products when the  
22 nutritive value loss or flavor deterioration of those products  
23 can be determined to be caused by mishandling, improper storage,  
24 or lack of refrigeration at points beyond his or her control.

25 (9) Milk and milk products shall not be offered for sale  
26 after the sell-by date unless they are advertised to the final

1 consumer in a prominent manner as being beyond the recommended  
2 last day of sale.

3 (10) The final seller is fully responsible for the proper  
4 advertisement of milk and milk products sold beyond the sell-by  
5 date.

6 Sec. 70. This act takes effect 30 days after enactment.

7 Enacting section 1. This amendatory act does not take  
8 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4829  
9 (request no. 02996'01) of the 91st Legislature is enacted into  
10 law.