

GRADE A MILK LAW OF 2001 (EXCERPT)
Act 266 of 2001

ARTICLE III

288.500 Licensing required; prohibited conduct; compliance with act; temporary license or permit; state agencies operating dairy facilities; applicant for initial grade A dairy farm permit; examination of books, records, and accounts; applicants for permits or licenses; milk products manufactured at retail food establishments.

Sec. 30. (1) A person shall not do any of the following without being licensed under this act:

- (a) Produce grade A milk to be offered for sale.
- (b) Collect grade A milk samples for regulatory purposes.
- (c) Operate a milk transportation company that owns or operates a bulk milk tank truck.

(d) Process, label, distribute, or sell grade A milk or grade A milk products, except that a person operating a retail food establishment is exempt from licensure under this act if he or she complies with subsection (8) and is licensed under the food law of 2000. This subdivision does not prevent the sale, at wholesale or retail at a retail food establishment licensed under the food law of 2000, of milk or milk products that are packaged in final consumer packages at a facility licensed under this act.

- (e) Wash milk tank trucks.

(f) Manufacture single service containers or closures to be used for grade A milk products, except that the manufacture of single service containers and closures for grade A dry milk products are exempt from this section.

(2) A person licensed under the manufacturing milk law of 2001 or this act and engaged in activities regulated under this act shall comply with the requirements of this act, where applicable, and is subject to the penalties set forth in this act, where applicable.

- (3) The director may issue a temporary license or permit for activities regulated by this act.

(4) State agencies operating dairy facilities under a memorandum of understanding with the department are not required to be licensed or permitted or to provide producer security under this act but are required to otherwise be in compliance with this act.

(5) An applicant for an initial grade A dairy farm permit shall complete education, acceptable to the director, on drug residue avoidance control measures, as identified in the pasteurized milk ordinance, prior to receiving the permit.

(6) The director shall examine the books, records, and accounts of a milk plant if the milk plant has not responded to requests from the director pursuant to section 31 or article IV. All examinations of books, records, and accounts required under this subsection shall be made within this state.

(7) All applicants for a permit or license must complete an application provided by the department and meet the minimum requirements of this act, the pasteurized milk ordinance, and rules promulgated under this act.

(8) Milk products manufactured at retail food establishments licensed under the food law of 2000 are exempt from this act if both of the following conditions are met:

- (a) All ingredients contained in these products comply with the requirements of the food law of 2000.
- (b) The milk products manufactured are not sold wholesale or to another business entity.

History: 2001, Act 266, Eff. Feb. 8, 2002;—Am. 2008, Act 136, Eff. June 20, 2008.

288.501 Milk plant license; application; form; renewal; fees; deposit; new construction, remodeling, and equipment changes; late fee; total fees.

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

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

(b) The location of the milk plant to which the statement pertains and the name of the responsible person who may be contacted at that location.

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

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

- (e) The name of the financial institution through which milk checks are to be issued to producers.
- (f) The annual volume of raw milk the milk plant anticipates receiving.
- (2) A milk plant shall annually renew a license issued under this act by applying to the department at least 30 days prior to the expiration of the existing license. The anniversary date of a license for a milk plant that is providing a financial statement as a security device is 130 days after the close of the licensee's fiscal year. The milk plant shall apply for renewal of a license on a form supplied by the department and provide a statement containing the following:
 - (a) The milk plant's correct legal name and any name by which the milk plant is doing business. If the milk plant is a person not an individual, the name of each officer and director, and partner, member, or owner owning in excess of 35% of equity or stock.
 - (b) The location of the milk plant to which the statement pertains and the name of the responsible person who may be contacted at that location.
 - (c) The greater of either the value of greatest milk receipts that the milk plant received within a consecutive 30-day period during its last license year or the greatest milk receipts that the milk plant is anticipated to receive during a consecutive 30-day period within the licensing period.
 - (d) A complete list of producers, including names, mailing addresses, and department producers permit number, with whom the milk plant is doing business.
 - (e) The name of the financial institution through which milk checks are issued to producers.
 - (f) The annual volume of raw milk each milk plant anticipates receiving. The department may conduct an audit to verify the accuracy of the annual volume of raw milk receipts reported and may reassess the license fee accordingly. In the alternative, the department may utilize an audit conducted by the United States department of agriculture or any other audit acceptable to the director.
- (3) License renewal for a milk plant shall take place on June 30 of each year unless otherwise specified in this act. A milk plant licensed under this act shall pay an annual license or permit fee as follows:
 - (a) Milk plant with less than 20,000,000 pounds of anticipated raw milk receipts per year, at a rate of \$400.00 per year.
 - (b) Milk plant with greater than or equal to 20,000,000 but less than 100,000,000 pounds of anticipated raw milk receipts per year, at a rate of \$800.00 per year.
 - (c) Milk plant with greater than or equal to 100,000,000 pounds of anticipated raw milk receipts per year, at a rate of \$1,600.00 per year.
- (4) Any fees, assessments, civil or administrative fines, and money from any other source collected by the department under this act shall be deposited into the dairy and food safety fund created in section 4117 of the food law of 2000, MCL 289.4117.
- (5) A milk plant operator shall submit detailed plans to the department for approval before commencing new construction, remodeling, and equipment changes. Plans for new construction or remodeling shall include a plan that provides for operational or physical isolation of the milk plant from sources of potential product contamination caused by animal production facilities located in close proximity to the milk plant. Retail or public viewing areas shall be separated from processing areas by a solid floor-to-ceiling partition, except that, as approved by the director, other equally effective means of protection may be used.
- (6) The department may impose a late fee of \$10.00 for a renewal application for each business day the application is late. The total late fee shall not exceed \$100.00. The department shall not issue or renew a license until any fees and fines have been paid. A hearing is not required regarding the department's refusal to issue or renew a license under this subsection except as allowed under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department may charge a convenience fee and collect from the applicants any additional costs associated with the method of fee payment for the license or permit fees described in this section and sections 32 and 33, not to exceed the costs to the department.

History: 2001, Act 266, Eff. Feb. 8, 2002;—Am. 2008, Act 136, Eff. June 20, 2008;—Am. 2010, Act 41, Imd. Eff. Mar. 31, 2010.

288.502 Certified industry farm inspectors; license fee; requirements.

Sec. 32. (1) Each certified industry farm inspector shall pay a 3-year license fee of \$150.00 for a license to conduct certified farm inspections. License renewal shall take place on the completion date of the 3-year certification.

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

(a) A farm inspection of all producers having the first routine count exceeding legal standards for bacteria or somatic cells, or both.

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

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

History: 2001, Act 266, Eff. Feb. 8, 2002;—Am. 2010, Act 41, Imd. Eff. Mar. 31, 2010.

288.503 Activities requiring license or permit; fees; license renewals; application for initial grade A dairy farm permit; rates; payment; submission of invoice by milk buyer; assessment of plan review fee; fee for consecutive reinspections.

Sec. 33. (1) Each receiving station or transfer station must be licensed or permitted either as part of a milk plant or as a stand-alone facility. Each stand-alone facility will be licensed or permitted at a rate of \$250.00 per year. License renewal shall take place on June 30 every year.

(2) Each milk tank truck cleaning facility that cleans milk contact surfaces of milk tank trucks used to haul milk or milk products regulated under this act must be licensed or permitted under this act either as part of a milk plant, receiving station, or transfer station or a stand-alone milk tank truck cleaning facility. A licensing or permitting fee shall not be charged under this act for a milk tank truck cleaning facility that is a part of a dairy plant, receiving station, or transfer station licensed or permitted under the manufacturing milk law of 2001. Each stand-alone facility will be licensed or permitted at a rate of \$250.00 per year. License renewal shall take place on June 30 every year.

(3) Each milk transportation company must be licensed or permitted under this act at a rate of \$50.00 per year. License renewal shall take place on June 30 every year.

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

(5) Each distributor who is primarily engaged in the distribution of finished grade A milk products must be licensed or permitted under this act either as part of a milk plant or as a stand-alone distributor. Each stand-alone distribution facility is licensed at a rate of \$100.00 per year. License renewal shall take place on June 30 every year.

(6) Each single service containers and closures manufacturer must be licensed or permitted under this act either as part of a milk plant or as a stand-alone manufacturer. Each stand-alone facility will be licensed at a rate of \$250.00 per year. License renewal shall take place on June 30 every year.

(7) A person shall not pick up grade A milk in a farm pickup milk tank from a farm bulk milk tank without a hauler/sampler license issued by the department under this section. Each applicant for a license shall be examined by the director under the provisions of this act to determine his or her qualifications to evaluate milk in a farm bulk milk tank, to accurately measure milk in a farm bulk milk tank, to obtain representative samples of milk from a farm bulk milk tank, to properly handle and deliver the samples, and to pick up milk. The license fee is \$50.00 for 2 years. An initial license fee may be prorated in 1-year increments at \$25.00 per increment. A hauler/sampler licensed or permitted in another state shall apply for a license from the department without examination after submitting satisfactory proof of training and current licensing in another state to the department with the license fee and application, unless this requirement is waived by the director based on reciprocal agreements with individual states. The director may deny license renewal to any bulk milk hauler/sampler if the bulk milk hauler/sampler has not had a satisfactory evaluation of their hauler/sampler methods in the previous 2 years. License renewal shall take place on June 30 every 2 years.

(8) An applicant for an initial grade A dairy farm permit shall apply to the department on a form supplied by the department and pay the annual fee as prescribed by this section.

(9) Each dairy farm producing grade A milk to be offered for sale shall be licensed or permitted annually at either of the following rates:

(a) If the dairy farm does not maintain adequate industry personnel, as determined by the director, who are approved to conduct certified industry farm inspections, \$70.00.

(b) If the dairy farm maintains adequate industry personnel, as determined by the director, who are approved to conduct certified industry farm inspections, \$25.00.

(10) The fee described in subsection (9) shall be paid to the department by June 30 every year.

(11) A milk buyer shall pay the annual license or permit fee on behalf of dairy farms and may submit an invoice to the dairy farms for reimbursement of the fee or may deduct the fee from the dairy farms' milk check. A milk buyer shall complete a form provided by the department that indicates the number of producers for which it is responsible and shall include a list of the producer names, addresses, and department permit numbers. The department may conduct audits to verify fee payments.

(12) The department may assess a plan review fee of \$100.00 to a potential dairy licensee or permittee, to be paid prior to an on-site consultation. The plan review fee is not refundable and does not apply toward any future license fees.

(13) The department may assess a \$300.00 fee on any licensee or permittee requiring the performance of 2

or more consecutive reinspections for compliance of items found in violation of this act.

History: 2001, Act 266, Eff. Feb. 8, 2002;—Am. 2010, Act 41, Imd. Eff. Mar. 31, 2010.

288.503a Receipt of completed application; issuance of license within certain time period; "completed application" defined.

Sec. 33a. (1) The department shall issue an initial or renewal license or permit for regulated activities described in sections 31 and 33, other than a grade A dairy farm, a bulk milk hauler/sampler, or a certified industry farm inspector, not later than 90 days after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state.

(2) If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled upon notification by the department of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license or permit and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license or permit.

(3) If the department fails to issue or deny a license or permit within the time required by this section, the department shall return the license or permit fee and shall reduce the license or permit fee for the applicant's next renewal application, if any, by 15%. The failure to issue or deny a license or permit within the time required under this section does not allow the department to otherwise delay the processing of the application, and that application, upon completion, must be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of the application based upon the fact that the license or permit fee was refunded or discounted under this subsection.

(4) As used in this section, "completed application" means an application that is complete on its face and submitted with any applicable licensing or permit fees and fines as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state. Under appropriate circumstances, completed application includes the completion of construction or renovation of any facility and the passing of a satisfactory inspection.

History: Add. 2004, Act 277, Imd. Eff. July 23, 2004;—Am. 2008, Act 136, Eff. June 20, 2008;—Am. 2018, Act 301, Imd. Eff. June 29, 2018.

288.504 Temporary license or permit.

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

History: 2001, Act 266, Eff. Feb. 8, 2002.

288.505 Special license fees or taxes.

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

History: 2001, Act 266, Eff. Feb. 8, 2002.

288.506 Access to markets for grade A milk and milk products; certificate of free sale; application; fees; "certificate of free sale" defined.

Sec. 36. (1) To facilitate continued access to markets for grade A milk and milk products, the department may do 1 or both of the following:

(a) At the request of a processor or producer or based upon records voluntarily supplied by a processor or producer, inspect, audit, or certify milk plants where grade A milk or milk products are processed, pasteurized, or aseptically processed in this state.

(b) Issue certificates of free sale under subsection (3).

(2) A processor or producer shall submit an application for a certificate of free sale on a form and in a manner prescribed by the department.

(3) The department shall grant or deny an application for a certificate of free sale within 10 business days after the department receives a completed application under subsection (2) and the application fee under subsection (4). If the department determines that the application meets the requirements of this act, the

department shall issue a certificate of free sale. If the department determines that the application does not meet the requirements of this act, the department shall deny the application and send a written notice to the processor or producer stating the reasons for the denial.

(4) If a certificate of free sale is issued under subsection (3), the processor or producer shall pay the department the following fees, as applicable:

(a) An application fee, \$60.00.

(b) A duplicate copy of a certificate of free sale, \$10.00.

(5) A fee collected under subsection (4) must be deposited in the dairy and food safety fund created in section 4117 of the food law of 2000, MCL 289.4117.

(6) A certificate of free sale issued under this section is valid for 1 year.

(7) As used in this section, "certificate of free sale" means a document that is issued by the department that verifies that the grade A milk or milk product listed is processed, pasteurized, or aseptically processed in this state and is legally sold or distributed in this state and on the open market with the approval of the department.

History: Add. 2022, Act 129, Imd. Eff. June 29, 2022.