

MANUFACTURING MILK LAW OF 2001 (EXCERPT)
Act 267 of 2001

288.670 License or permit.

Sec. 110. (1) A person shall not do any of the following without being licensed under this act or the grade A milk law of 2001:

- (a) Produce milk that is offered for sale.
- (b) Collect milk samples for regulatory purposes.
- (c) Operate a milk transportation company that owns or operates a can milk truck.

(d) Process, label, or sell milk or manufactured dairy products, except that a person operating a retail food establishment is exempt from licensure under this act if he or she complies with section 111 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.

(2) A person licensed under the grade A milk law of 2001 and engaged in activities regulated under that act and activities regulated under this act is exempt from licensure under this act.

(3) A person licensed under the grade A milk law of 2001 or 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.

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

(5) 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 otherwise required to be in compliance with this act.

(6) An applicant for an initial manufacturing grade dairy farm permit shall apply to the department on a form provided by the department, pay the annual permit fee imposed under this section, and complete education on drug residue avoidance control measures acceptable to the director before receiving the permit.

(7) An applicant for an initial license as a dairy plant shall apply to the department on a form supplied by the department and provide a statement containing the following:

(a) The dairy plant's correct legal name and any name by which the dairy plant is doing business. If the dairy 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 dairy 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 dairy 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 dairy plant intends to do business except that not later than 90 days after becoming licensed for the first time, the dairy 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 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.

(8) A dairy 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 dairy plant that is providing a financial statement as a security device shall be 130 days after the close of the licensee's fiscal year. The dairy plant shall apply for renewal of a license on a form supplied by the department and provide a statement containing the following:

(a) The dairy plant's correct legal name and any name by which the dairy plant is doing business. If the dairy 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 dairy 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 dairy plant received within a consecutive 30-day period during its last license year or the greatest milk receipts that the dairy 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 dairy 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.
- (9) License renewal for a dairy plant shall take place on June 30 of each year unless otherwise specified in this act. A dairy plant licensed under this act shall pay an annual license or permit fee as follows:
- (a) Dairy plant with less than 6,000,000 pounds of anticipated raw milk receipts per year, at a rate of \$200.00 per year.
- (b) Dairy plant with greater than or equal to 6,000,000 pounds of anticipated raw milk receipts per year, at a rate of \$400.00 per year.
- (10) Each receiving station or transfer station shall be licensed or permitted either as part of a dairy plant or as a stand-alone facility. Each stand-alone facility will be licensed or permitted at a rate of \$200.00 per year. License renewal shall take place on June 30 every year.
- (11) Each milk tank truck cleaning facility shall be licensed or permitted under this act either as part of a dairy plant, receiving station or transfer station, or as a stand-alone milk tank truck cleaning facility, or under the grade A law of 2001. Any milk tank truck cleaning facility that washes the milk contact surfaces of milk tank trucks used to haul grade A milk shall be licensed under the grade A law of 2001. Each stand-alone facility will be licensed or permitted at a rate of \$200.00 per year. License renewal shall take place on June 30 every year.
- (12) Each single service containers and closures manufacturer shall be licensed or permitted under this act either as part of a dairy plant or as a stand-alone manufacturer. Each stand-alone facility will be licensed at a rate of \$200.00 per year. License renewal shall take place on June 30 every year.
- (13) A person shall not pick up manufacturing grade milk in a farm pickup milk tank from a farm bulk milk tank without a hauler/sampler license issued by the department under the grade A law of 2001. Each milk tank truck or can milk truck shall be licensed or permitted under this act or as required under the grade A milk law of 2001 at a rate of \$20.00 per year. License or permit renewal shall take place on June 30 every year.
- (14) Each dairy farm producing manufacturing 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, \$30.00.
- (b) If the dairy farm maintains adequate industry personnel, as determined by the director, who are approved to conduct certified industry farm inspections, \$15.00.
- (15) The fee described in subsection (14) shall be paid to the department by June 30 every year.
- (16) A milk buyer shall pay the annual license or permit fee on behalf of the 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.
- (17) 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.
- (18) The department may assess a \$150.00 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.
- (19) The director may issue a temporary license or permit 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.
- (20) 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 section except for taxes or fees that are generally levied on persons or businesses other than dairy plants and dairy plant operators.
- (21) The director shall examine the books, records, and accounts of a dairy plant if the dairy plant has not responded to requests from the director regarding a security device described in sections 117, 118, and 119. All examinations of books, records, and accounts required under this subsection shall be made within this state.
- (22) All applicants for a permit or license must complete an application provided by the department and meet the minimum requirements of this act or the grade A law of 2001, and rules promulgated under this act.
- (23) 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.

(24) 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 section 110a, not to exceed the costs to the department.

History: 2001, Act 267, Eff. Feb. 8, 2002;—Am. 2008, Act 147, Eff. June 27, 2008;—Am. 2010, Act 42, Imd. Eff. Mar. 31, 2010.