

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1255

(Representatives Holle, K. Anderson, Christensen, Dyk, Fisher, Hauck, Murphy, S. Olson, Rohr,  
VanWinkle)  
(Senators Boehm, Schaible)

AN ACT to amend and reenact sections 4.1-05-01 and 4.1-25-01, and subsection 9 of section 4.1-26-01 of the North Dakota Century Code, relating to the definition of milk.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 4.1-05-01 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-05-01. Definitions.**

As used in this chapter:

1. "Commission" means the North Dakota dairy promotion commission.
2. "Dairy product" means a product for human consumption which is derived from the processing of milk from cows ~~healthy four-legged hooved mammal~~. The term includes a milk product normally consumed in liquid form as a beverage.
3. "Dealer" means any person that handles, ships, buys, or sells dairy products, or who acts as a sales or purchasing agent, broker, or factor of dairy products.
4. "Gross receipts" means the amount paid to a producer for milk or for a product derived from milk and sold by such producer.
5. "Milk" means the lacteal secretion, practically free of colostrum, obtained by the complete milking of a healthy hooved mammal, including any member of the order Cetartiodactyla and including a member of the family:
  - a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;
  - b. Cervidae, including deer, reindeer, and moose;
  - c. Equidae, including horses and donkeys; and
  - d. Camelidae, including llamas, alpacas, and camels.
6. "Processor" means a person that takes delivery of milk or cream and then:
  - a. Cans, dries, prepares, or packages the milk or cream; or
  - b. Produces another product from the milk or cream.
- ~~6-7.~~ "Producer" means a person engaged in the production of milk from cows ~~healthy four-legged mammal~~ for commercial use.

**SECTION 2. AMENDMENT.** Section 4.1-25-01 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-25-01. Definitions.**

1. "Cheese factory" means a facility that makes cheese for commercial purposes.

2. "Commissioner" means the agriculture commissioner or the commissioner's designee.
3. "Condensery" means a facility where condensed or evaporated milk is produced.
4. "Dairy animal" means any healthy four-legged hooved mammal maintained for the commercial production of milk to be offered for sale for use in the processing or manufacturing of milk or dairy products.
5. "Dairy farm" means a place where one or more dairy animals are kept.
6. "Dairy product" includes milk, cream, sour cream, butter cream, butter, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk.
7. "Department" means the department of agriculture.
8. "Distributor" means a person that provides storage, transportation, delivery, or distribution of dairy products to any person who sells dairy products.
9. "Drying plant" means a facility that manufactures dry milk products by removing water from milk or milk products.
10. "Filled dairy products" means any milk, cream, or skimmed milk, or any combination of them, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, or any food product made or manufactured from those products, to which has been added, blended, or compounded with, any fat or oil, other than milk fat, to imitate a dairy product. "Filled dairy products" may not be construed to mean or include:
  - a. Any distinctive proprietary food compound not readily mistaken for a dairy product, if the compound is customarily used on the order of a physician and is prepared and designed for medicinal or special dietary use and prominently so labeled;
  - b. Any dairy product flavored with chocolate or cocoa or the vitamin content of which has been increased, or both, if the fats or oils other than milk fat contained in the product do not exceed the amount of cacao fat naturally present in the chocolate or cocoa used and the food oil, not in excess of one-hundredth per centum of the weight of the finished product, used as a carrier of such vitamins; or
  - c. Margarine.
11. "Grading" means the examination of milk or milk products by sight, odor, taste, or laboratory analysis, the results of which determine a rating of the quality of the product.
12. "Ice cream plant" means a facility that makes ice cream for commercial purposes.
13. "Ice milk plant" means a facility that makes ice milk for commercial purposes.
14. "Imitation milk" or "imitation milk product" means a food product or food compound made to resemble milk or a milk product when any of the following occurs:
  - a. The food physically resembles milk or a milk product. "Physical resemblance" means those characteristics relating to the composition of food, including fat and moisture content, nonfat solids content, and functional ingredient or food additive content such as emulsifiers, stabilizers, flavor, or color additives.
  - b. The packaging used resembles the packaging used for milk or for a milk product.

- c. The food product or food compound is displayed in a retail establishment in the same manner as milk or a milk product.
  - d. Verbal or pictorial expressions are used on the food products or food compounds, labeling, or in advertisements or other similar devices used to promote the food products or food compounds that state or imply that the food is milk or a milk product.
  - e. The food product or food compound in any other way is manufactured, packaged, or labeled so as to resemble the identity, intended use, or physical and sensory properties of milk or a milk product. "Physical and sensory properties" means those characteristics relating to flavor, texture, smell, and appearance of a food product or food compound.
15. "Milk" means the lacteal secretion, practically free of colostrum, obtained by the complete milking of a healthy hooved mammal, including any member of the order Cetartiodactyla and including a member of the family:
- a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;
  - b. Cervidae, including deer, reindeer, and moose;
  - c. Equidae, including horses and donkeys; and
  - d. Camelidae, including llamas, alpacas, and camels.
- ~~16.~~ 17. "Milk hauler" means a person that owns vehicles used to transport raw milk from a dairy farm to a dairy facility.
- ~~16.~~~~17.~~ 17. "Milk plant or bottling plant" means a facility where milk or milk products are collected, handled, processed, stored, and prepared for distribution.
- ~~17.~~~~18.~~ 18. "Milk solids or total solids" means the total amount of solids in milk.
- ~~18.~~~~19.~~ 19. a. "Pasteurization" as applied to milk or skim milk means either:
- (1) The process of heating every particle of milk to at least one hundred forty-five degrees Fahrenheit [62.78 degrees Celsius] and cream and other milk products to at least one hundred fifty degrees Fahrenheit [65.55 degrees Celsius], and holding it at that temperature continuously for at least thirty minutes; or
  - (2) Heating every particle of milk to at least one hundred sixty-one degrees Fahrenheit [71.67 degrees Celsius] and cream and other milk products to at least one hundred sixty-six degrees Fahrenheit [74.44 degrees Celsius], and holding it at that temperature continuously for at least fifteen seconds in approved and properly operated equipment.
- b. When applied to cream for butter making, "pasteurization" means the cream must be held at a temperature of not less than one hundred sixty-five degrees Fahrenheit [73.89 degrees Celsius] for at least thirty minutes or not less than one hundred eighty-five degrees Fahrenheit [85.00 degrees Celsius] for at least fifteen seconds.
  - c. This subsection may not be construed as barring any other process that has been demonstrated to be equally efficient which assures proper pasteurization and keeping quality, which is consistent with the most desirable quality, and which is approved by the commissioner.
- ~~19.~~~~20.~~ 20. "Pasteurized milk ordinance" means the 2019 revision of the Grade "A" Pasteurized Ordinance issued by the United States food and drug administration and by the United States department of agriculture's public health service.

- 20-21. "Peddler" means a person that purchases milk or milk products and sells the milk or milk products directly to consumers at any place other than from a store, stand, or other fixed place of business.
- 24-22. "Person" means individuals, firms, partnerships, associations, trusts, estates, corporations, and limited liability companies, and any and all other business units, devices, or arrangements.
- 22-23. "Processing or manufacturing" means the treatment of milk or milk products by pasteurizing, bottling, churning, adding flavors to, freezing, dehydrating, packaging, coagulating, or treating in any manner that changes the natural, physical, or chemical properties of the original product.
- 23-24. "Producer dairy" means a dairy farm that sells milk or cream to a dairy plant for processing or manufacturing.
- 24-25. "Producer-processor" or "producer-distributor" means a producer that is also a processor or distributor.
- 25-26. "Raw milk or raw milk products" means products that have not been treated by the process of pasteurization.
- 26-27. "Retail" means the sale of milk or milk products directly to the consumer.
- 27-28. "Sampler" means a person, other than a milk producer or dairy plant employee, who transports samples for official use of raw milk or milk products from a dairy farm to a dairy facility.
- 28-29. "Sampling" means a procedure taking a portion of milk or milk products for grading or testing.
- 29-30. "Shared animal ownership agreement" means any contractual arrangement under which an individual:
- a. Acquires an ownership interest in a milk-producing animal;
  - b. Agrees to pay another for, reimburse another for, or otherwise accept financial responsibility for the care and boarding of the milk-producing animal at the dairy farm; and
  - c. Is entitled to receive a proportionate share of the animal's raw milk production as a condition of the contractual arrangement.
- 30-31. "Skim milk solids or solids-not-fat" means the total solids in milk after all fat has been removed.
- 34-32. "Standard Methods" means the seventeenth edition of the Standard Methods for the Examination of Dairy Products published by the American public health association.
- 32-33. "Testing" means an examination of milk or milk products by sight, odor, taste, or laboratory analysis to determine the quality, wholesomeness, or composition of the product.
- 33-34. "Wholesale" means the sale of milk or milk products to a retail dealer for resale.

**SECTION 3. AMENDMENT.** Subsection 9 of section 4.1-26-01 of the North Dakota Century Code is amended and reenacted as follows:

9. "Milk" means the lacteal secretion ~~of a cow, including when the secretion is raw, cooled, pasteurized, standardized, homogenized, recombined, or concentrated, provided the secretion meets applicable grade A requirements, practically free of colostrum, obtained by the complete~~

milking of a healthy hooved mammal, including any member of the order Cetartiodactyla and including a member of the family:

- a. Bovidae, including cattle, water buffalo, sheep, goats, and yaks;
- b. Cervidae, including deer, reindeer, and moose;
- c. Equidae, including horses and donkeys; and
- d. Camelidae, including llamas, alpacas, and camels.

Dennis Johnson  
Speaker of the House

Tammy Miller  
President of the Senate

Bull F. Reick  
Chief Clerk of the House

Manda Moga  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1255.

House Vote:      Yeas 82                  Nays 8                  Absent 4

Senate Vote:      Yeas 26                  Nays 21                  Absent 0

Bull F. Reick  
Chief Clerk of the House

Received by the Governor at 3:00 PM. on April 7, 2023.

Approved at 2:05 PM. on April 11, 2023.

Doug Burgum  
Governor

Filed in this office this 12th day of April, 2023,

at 12:03 o'clock P. M.

Michael Howe  
Secretary of State