

ICE CREAM AND MILK DISPENSER REQUIREMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Gene Davis

This act modifies provisions related to agriculture. This act amends the Utah Dairy Act to provide a license application process for the distribution of dairy products and to allow ice cream cabinets and milk coolers to be loaned or sold to a retailer if certain conditions are met.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

4-3-8, as last amended by Chapter 130, Laws of Utah 1985

4-3-11, as last amended by Chapter 157, Laws of Utah 1990

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **4-3-8** is amended to read:

4-3-8. Licenses and permits -- Application -- Fee -- Expiration -- Renewal.

(1) Application for a license to operate a plant or to manufacture butter or cheese, pasteurize milk, test milk for payment, ~~[or]~~ haul milk in bulk, or for the wholesale distribution of dairy products, shall be made to the department upon forms prescribed and furnished by it. Upon receipt of a proper application, compliance with all applicable regulations, and payment of a license fee determined by the department pursuant to Subsection 4-2-2(2), the commissioner, if satisfied that the public convenience and necessity and the industry will be served, shall issue an appropriate license to the applicant subject to suspension or revocation for cause. Each license issued under this section expires at midnight on December 31 of each year. A license to operate a plant or to manufacture butter or cheese, pasteurize milk, test milk for payment, ~~[or to]~~ haul milk in bulk, or for the wholesale distribution of dairy products, is renewable for a period of one year upon the payment of an annual license renewal fee determined by the department pursuant to Subsection 4-2-2(2) on or before December 31 of each year.

(2) Application for a permit or certificate to produce milk shall be made to the department on forms prescribed and furnished by it. Upon receipt of a proper application and compliance with

all applicable regulations, the commissioner shall issue a permit entitling the applicant to engage in the business of producer, subject to suspension or revocation for cause. No fee may be charged by the department for issuance of a permit or certificate.

Section 2. Section **4-3-11** is amended to read:

4-3-11. Processors, manufacturers, or distributors -- Unlawful to give money, equipment, or fixtures to retailer or consumer -- Exceptions -- Shelf space for dairy products.

(1) As used in this section:

(a) "liquid dairy product" means a milk container which contains a pint of milk or less; and

(b) "novelty ice cream" means a package or container of ice cream which contains eight fluid ounces or less.

~~[(1) No]~~ (2) Except as provided in Subsections (3) and (4), no processor, manufacturer, distributor, or his affiliates, subsidiaries, associates, agents or stockholders shall furnish, service, repair, give, lease, sell, or loan to a retailer or consumer any:

(a) money;

(b) equipment;

(c) fixtures, including ice cream cabinets or bulk milk dispensers;

(d) supplies, excluding expendable supplies commonly provided in connection with the sale of dairy products to a consumer; or

(e) other things having a real or substantial value.

(3) (a) Ice cream cabinets may be loaned or sold to a retailer if the ice cream cabinet:

(i) is portable;

(ii) has a storage capacity not exceeding 12 cubic feet; and

(iii) is used solely for retail display sales of novelty ice cream.

(b) Milk coolers may be loaned or sold to a retailer if the milk cooler:

(i) is portable;

(ii) has a storage capacity not exceeding 12 cubic feet; and

(iii) is used solely for retail display sales of liquid dairy products.

~~[(2)]~~ (4) The leasing or renting of cabinets, dispensers, or coolers for dairy products for civic

affairs, demonstrations, or exhibits is prohibited unless it is for a period of ten days or less in any one period of three consecutive months.

~~[(3)]~~ (5) (a) ~~[No]~~ Except as provided in Subsections (5)(b) and (5)(c), no retailer shall lease, sell, or loan shelf or refrigerator space for dairy products to a processor, manufacturer, or distributor or receive anything of value from a processor, manufacturer, or distributor in exchange for shelf or refrigerator space for dairy products [to a processor, manufacturer, or distributor].

(b) Subsection (5)(a) ~~[shall]~~ does not apply to a dairy by-product that is:

(i) a short-term special; or

(ii) a new product being introduced on a trial basis for a period not to exceed 45 days.

(c) A processor, manufacturer, or distributor may loan or sell an ice cream cabinet or milk cooler to a retailer for the display of the processor's, manufacturer's, or distributor's products, if the ice cream cabinet or milk cooler meets the requirements of Subsection (3).