

As Introduced

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A B I L L

To amend sections 917.01, 917.02, 917.04, and 917.05 1
and to enact section 917.25 of the Revised Code to 2
revise the law governing the gift or sale of raw 3
milk to ultimate consumers. 4

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 917.01, 917.02, 917.04, and 917.05 5
be amended and section 917.25 of the Revised Code be enacted to 6
read as follows: 7

Sec. 917.01. As used in this chapter: 8

(A) "Person" means any individual, government agency, 9
political subdivision, partnership, corporation, association, 10
co-operative association, or other business unit. 11

(B) "Co-operative association" or "agricultural cooperative 12
association" means any agricultural cooperative organized under 13
Chapter 1729. of the Revised Code and qualified to do business in 14
this state if the director of agriculture finds the association 15
has, in good faith, its entire activities under the control of its 16
members and has been and is exercising full authority in the sale 17
of milk or cream for its members. 18

(C) "Market area" means any area that the director finds is a natural marketing area and designates as such. 19
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(D) "Dealer" or "milk dealer" means a person who purchases or receives milk from a producer for the purpose of bottling, packaging, selling, processing, jobbing, brokering, or distributing the milk except where the milk is disposed of in the same container in which it is received, without removal from the container and without processing in any way except by necessary refrigeration. Any person who buys and distributes milk in containers under the person's own label is a dealer. 21
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(E) "Imitation" means imitation as described in 21 C.F.R. 101.3, as amended. 29
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(F) "Milk" means the lacteal secretion, substantially free from colostrum, obtained by the complete milking of one or more healthy cows, goats, sheep, or other animals and intended for either of the following purposes: 31
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(1) To be sold for human consumption or for use in dairy products; 35
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(2) To be used for human consumption or for use in dairy products on the premises of a governmental agency or institution. 37
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"Milk" does not include a blend of the lacteal secretions of different species. 39
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(G) "Grade A milk" means milk produced by a person holding a valid producer license of the grade A milk category issued pursuant to section 917.09 of the Revised Code. 41
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(H) "Manufacture milk" means milk produced by a person holding a valid producer license of the manufacture milk category issued pursuant to section 917.09 of the Revised Code. 44
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(I) "Producer" or "milk producer" means a grade A milk producer or a manufacture milk producer. 47
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(J) "Grade A milk producer" means a person located in this state who sells or offers for sale grade A milk obtained from a cow, goat, sheep, or other animal that the person owns or controls.

(K) "Manufacture milk producer" means a person located in this state who sells or offers for sale manufacture milk obtained from a cow, goat, sheep, or other animal that the person owns or controls.

(L) "Grade A milk products" means products derived from grade A milk and having the standard of identity, quality, strength, purity, grade, and, if added, permitted optional ingredients found in the standards of identity established for the products in rules adopted by the director under section 917.02 or 3715.02 of the Revised Code, and includes:

(1) Cottage cheese;

(2) Raw, pasteurized, or aseptically processed products derived from milk and described in either of the following:

(a) The most recent published recommendations of the food and drug administration, public health service, United States department of health and human services;

(b) Rules adopted by the director.

(M) "Manufactured milk products" means all products, other than raw milk for sale to the ultimate consumer and grade A milk products, that are derived from milk and are for human consumption, including:

(1) Butter;

(2) Natural or processed cheese;

(3) Evaporated, condensed, and dry products;

(4) Frozen desserts;

(5) Such other products derived from milk as the director may 78
specify by rule that have the standard of identity, quality, 79
strength, purity, grade, and, if added, permitted optional 80
ingredients found in the standards of identity established for the 81
product in rules adopted by the director under section 917.02 or 82
3715.02 of the Revised Code. 83

(N) "Dairy products" means milk, raw milk for sale to the 84
ultimate consumer, grade A milk products, and manufactured milk 85
products. 86

(O) "Frozen desserts" means frozen desserts, including the 87
mixes, described in 21 C.F.R. 135, as amended, unless otherwise 88
specified by the director by rule. 89

(P) "Milk plant" means a grade A milk plant or manufacture 90
milk plant. 91

(Q) "Grade A milk plant" means a place, including a 92
governmental operation, where grade A milk or a grade A milk 93
product is collected, handled, controlled, processed, stored, 94
pasteurized, ultra-pasteurized, repasteurized, aseptically 95
processed, bottled, or prepared for distribution, but does not 96
include a place where a grade A milk product is purchased in 97
packaged form and is stored and handled for the sole purpose of 98
sale to the ultimate consumer. 99

(R) "Manufacture milk plant" means a place, including a 100
governmental operation, where manufacture milk or a manufactured 101
milk product is collected, handled, controlled, manufactured, 102
processed, stored, pasteurized, ultra-pasteurized, repasteurized, 103
commercially sterilized, aseptically processed, bottled, or 104
prepared for distribution, but does not include a place where a 105
manufactured milk product is purchased in packaged form and is 106
stored and handled for the sole purpose of sale to the ultimate 107
consumer. 108

(S) "Raw milk for sale to the ultimate consumer" means the raw milk sold or offered for sale by a raw milk retailer.

(T) "Raw milk retailer" means a person who, ~~prior to October 31, 1965, was engaged continuously in the business of selling or offering for sale~~ has been issued a raw milk directly to ultimate consumers retailer license under section 917.09 of the Revised Code.

(U) "Processor" or "milk processor" means a grade A milk processor or a manufacture milk processor.

(V) "Grade A milk processor" means a person who operates or controls a milk plant, transfer station, receiving station, or milk transport cleaning facility that is located in this state or from which grade A milk or grade A milk products are sold or offered for sale for human consumption, as applicable.

(W) "Manufacture milk processor" means any person who operates or controls a manufacture milk plant, transfer station, receiving station, or milk transport cleaning facility that is located in this state or from which manufacture milk or manufactured milk products are sold or offered for sale for human consumption, as applicable.

(X) "Weigher, sampler, or tester" means a person who, in order to determine volume, weight, or composition for the purpose of determining price, weighs, tests, or samples either of the following:

(1) Milk at a dairy farm;

(2) Milk or cream purchased by a dealer from a milk producer or co-operative association.

(Y) "Hauler" or "milk hauler" means a person who owns or leases a vehicle or conveyance used to transport raw milk, but does not include a producer transporting raw milk that the

producer has produced.	139
(Z) "License" means a license issued under section 917.09 of	140
the Revised Code and includes a registration issued under division	141
(J) of that section.	142
Sec. 917.02. (A) The director of agriculture may do any of	143
the following:	144
(1) Adopt rules in accordance with Chapter 119. of the	145
Revised Code regulating all of the following:	146
(a) The sanitary production, storage, transportation,	147
manufacturing, handling, processing, sampling, testing,	148
examination, and sale of dairy products;	149
(b) The suspension and revocation of licenses issued under	150
section 917.09 of the Revised Code, provided that the rules are in	151
accordance with and do not conflict with section 917.22 of the	152
Revised Code;	153
(c) Terms and renewal periods, registration requirements,	154
categories, and fees for licenses issued under section 917.09 of	155
the Revised Code, except that the fee for a producer's license	156
shall not exceed fifteen dollars;	157
(d) Examinations that must be passed prior to issuance of a	158
weigher, sampler, or tester license and inspections that must be	159
passed prior to issuance of any other type of license issued under	160
section 917.09 of the Revised Code;	161
(e) Procedures for issuing and renewing licenses under	162
section 917.09 of the Revised Code;	163
(f) Information that an applicant for a license issued under	164
section 917.09 of the Revised Code is required to provide on the	165
application for licensure;	166
(g) Standards for equipment or materials used for the	167

production, processing, and handling of dairy products;	168
(h) Records to be kept by persons holding a license issued under this chapter and the inspection and auditing of books and records of those persons, and any other records that are required to be kept by other rules adopted under this section;	169 170 171 172
(i) Security arrangements and evidence of financial responsibility for milk dealers, to ensure prompt payment to milk producers;	173 174 175
(j) Standards of identity, quality, strength, purity, grading, and labeling of dairy products;	176 177
(k) The production, processing, and handling of dairy products and the prompt and accurate payment for milk and cream by milk dealers, but not the establishment or control of the price of milk and cream;	178 179 180 181
(l) Criteria for the equipment, methods, or materials to be used in performing weighing, volumetric measuring, sampling, and testing of milk and its components when such an operation is used as the basis for determining payment for milk delivered to or purchased by dealers;	182 183 184 185 186
(m) The size and placement of labels and of words on labels required by section 917.04 of the Revised Code to be placed on final delivery containers used for the sale of raw milk to ultimate consumers;	187 188 189 190
<u>(n) The size and placement of notices required to be displayed by a grade A milk producer for the sale of raw milk to the ultimate consumer under that section;</u>	191 192 193
<u>(o) Procedures and standards for the hand-filling, hand-capping, and on-premises storage of raw milk in single-use or reusable final delivery containers that are used for the sale of raw milk to the ultimate consumer by a grade A milk producer.</u>	194 195 196 197

The director shall have exclusive authority to administer and	198
enforce rules adopted under division (A)(1) of this section.	199
(2) Enter into, with the approval of the milk sanitation	200
board created in section 917.03 of the Revised Code, an agreement	201
with a public or private entity that the director determines is	202
properly qualified for the performance of any of the inspections	203
and analyses required by this chapter;	204
(3) Adopt rules by reference to all or any part of the	205
following recommendations:	206
(a) The grade A pasteurized milk ordinance, as amended, and	207
the "grade A condensed and dry milk products and condensed and dry	208
whey" supplement I to the grade A pasteurized milk ordinance of	209
the food and drug administration, public health service, of the	210
United States department of health and human services, to the	211
extent those provisions do not conflict with the laws of this	212
state;	213
(b) The most recent recommendations for milk for	214
manufacturing purposes and its production and processing published	215
in final form in the Federal Register by the United States	216
department of agriculture, to the extent those recommendations do	217
not conflict with the laws of this state.	218
(4) Administer and enforce this chapter and rules adopted	219
under it and appoint inspectors and other personnel necessary to	220
carry out this chapter and those rules;	221
(5) Embargo a dairy product that the director reasonably	222
suspects, believes, or determines is adulterated as described in	223
section 3715.59 of the Revised Code or is misbranded as described	224
in section 3715.60 of the Revised Code;	225
(6) Adopt by reference all or any part of the rules governing	226
the dairy industry adopted by the United States food and drug	227

administration and the United States department of agriculture; 228

(7) Annually, not later than ninety days after the end of the 229
state fiscal year, determine the expense of administering and 230
enforcing this chapter and rules adopted under it during the 231
preceding state fiscal year and report the determinations to the 232
milk sanitation board. 233

(B) The director shall do both of the following: 234

(1) Adopt rules in accordance with Chapter 119. of the 235
Revised Code establishing requirements for continuing education 236
courses for weighers, samplers, and testers licensed under section 237
917.09 of the Revised Code; 238

(2) Review continuing education courses for weighers, 239
samplers, and testers licensed under section 917.09 of the Revised 240
Code and grant approval to those that meet the requirements 241
established in rules adopted under division (B)(1) of this 242
section. 243

Sec. 917.04. ~~No raw A grade A milk retailer shall~~ producer 244
may give, sell, offer for sale, or expose for sale raw milk to the 245
ultimate consumer ~~except a raw milk retailer who, prior to October~~ 246
~~31, 1965, was engaged continuously in the business of selling or~~ 247
~~offering for sale raw milk directly to ultimate consumers, if the~~ 248
producer complies with all of the following: 249

(1) The producer holds a valid raw milk retailer license 250
issued under section 917.09 of the Revised Code, ~~and is subject to~~ 251
~~the rules regulating the sale of raw milk adopted under this~~ 252
~~chapter.~~ 253

~~No person shall fail to label, in accordance with rules~~ 254
~~adopted by the director of agriculture under section 917.02 of the~~ 255
~~Revised Code, all.~~ 256

(2) The gift, sale, offer for sale, or exposure for sale 257

occurs on the premises where the raw milk is produced. 258

(3) The producer displays a notice, in a conspicuous place 259
and complying with the requirements established in rules adopted 260
under section 917.02 of the Revised Code, with the words "this 261
product has not been pasteurized and may contain disease producing 262
organisms." 263

(4) All final delivery containers used for the sale of raw 264
milk to ultimate consumers have a label, complying with the 265
requirements established in rules adopted under section 917.02 of 266
the Revised Code, with the words "this product has not been 267
pasteurized and may contain disease producing organisms-" and have 268
been filled, capped, and stored in compliance with the procedures 269
and standards established in rules adopted under section 917.02 of 270
the Revised Code. 271

Sec. 917.05. No person shall do any of the following or cause 272
any of the following to be done: 273

(A) Represent an imitation to be a dairy product; 274

(B) Use a measure, test, or equipment, for the purpose of 275
determining the identity, quality, strength, purity, grade, 276
quantity, or price of a dairy product, that does not comply with 277
standards established by the director of agriculture by rule; 278

(C) Conduct a test to determine the identity, quality, 279
strength, purity, grade, quantity, or price of a dairy product in 280
a manner that is not in accordance with rules adopted by the 281
director; 282

(D) Alter or destroy the results of a test conducted to 283
determine the identity, quality, strength, purity, grade, 284
quantity, or price of a dairy product; 285

(E) Manufacture, sell, or deliver, hold, or offer for sale a 286
dairy product that is not labeled or represented in accordance 287

with the "Nutrition Labeling and Education Act of 1990," 104 Stat. 288
2353, 21 U.S.C.A. 343, as amended, and regulations adopted under 289
it, and with this chapter and Chapter 3715. of the Revised Code 290
and rules adopted under those chapters; 291

(F) Manufacture, sell, or deliver, hold, or offer for sale a 292
dairy product that is adulterated as described in section 3715.59 293
of the Revised Code or is misbranded as described in section 294
3715.60 of the Revised Code; 295

(G) Use for human consumption goat's milk, sheep's milk, or 296
another animal's milk, except to manufacture dairy products that 297
are described in 21 C.F.R., as amended, or recognized as 298
nonstandardized traditional products normally manufactured from 299
the animal's milk. This division does not apply to the gift, sale, 300
offering for sale, or exposing for sale of raw milk to the 301
ultimate consumer in accordance with section 917.04 of the Revised 302
Code. 303

Sec. 917.25. This chapter does not apply to an individual who 304
owns an animal for the purpose of personal consumption of the 305
dairy products produced by that animal. 306

Section 2. That existing sections 917.01, 917.02, 917.04, and 307
917.05 of the Revised Code are hereby repealed. 308