

1 S.105

2 Introduced by Committee on Agriculture

3 Date: April 5, 2011

4 Subject: Agriculture; dairy; technical corrections

5 Statement of purpose: This bill proposes to make technical and housekeeping
6 changes to existing dairy laws.

7 An act relating to miscellaneous agricultural subjects

8 It is hereby enacted by the General Assembly of the State of Vermont:

9 * * * Supervision, Inspection, and Licensing

10 of Dairy Operations * * *

11 Sec. 1. 6 V.S.A. § 2672 is amended to read:

12 § 2672. DEFINITIONS

13 As used in this part, the following terms have the following meanings:

14 * * *

15 (7) "Milk": Unless preceded or succeeded by an explanatory term,
16 means the pure lacteal secretion of a type of dairy livestock listed in this
17 subdivision. Such milk may be standardized by the addition of pure, fresh
18 skim milk or cream as defined by regulation. The secretary may, in
19 accordance with chapter 25 of Title 3, promulgate a list of food grade additives
20 ~~which may be added to milk. The additives used in milk sold in retail~~

1 ~~packages shall be conspicuously stated in descending order of volume on the~~
2 ~~label of the package in a manner approved by the secretary.~~

3 (A) "Cows' milk" is the colostrum-free, pure, lacteal product of
4 healthy ~~ewes~~ cattle which contains not less than 11.50 percentum of total milk
5 solids (to which nothing has been added or taken away). Cows' milk sold in
6 retail packages shall contain not less than 3.25 percent milk fat, and not less
7 than 8.25 percent nonfat milk solids. ~~The secretary may, in accordance with~~
8 ~~chapter 25 of Title 3, promulgate a list of food grade additives which may be~~
9 ~~added to cows' milk. The additives used in cows' milk sold in retail packages~~
10 ~~shall be conspicuously stated in descending order of importance on the label of~~
11 ~~the package in a manner approved by the secretary. Such milk may be~~
12 ~~standardized by the addition of pure, fresh skim milk or cream as defined by~~
13 ~~regulation.~~

14 (B) "Goats' milk" is the colostrum-free, pure, lacteal product of
15 healthy dairy goats which contains not less than 10 percentum of total milk
16 solids (to which nothing has been added or taken away). Goats' milk sold in
17 retail packages shall contain not less than 2.5 percent milk fat and not less than
18 7.5 percent nonfat milk solids. ~~The secretary may, in accordance with chapter~~
19 ~~25 of Title 3, promulgate a list of food grade additives which may be added to~~
20 ~~goats' milk. The additives used in goats' milk sold in retail packages shall be~~
21 ~~conspicuously stated in descending order of importance on the label of the~~
22 ~~package in a manner approved by the secretary. Such milk may be~~

1 ~~standardized by the addition of pure, fresh skim milk or cream as defined by~~
2 ~~regulation.~~

3 (C) "Sheep's milk" is the colostrum-free, pure, lacteal product of
4 healthy dairy sheep which contains no less than 11.50 percent of total milk
5 solids (to which nothing has been added or taken away).

6 (D) "Water buffalo's milk" is the colostrum-free, pure, lacteal
7 product of healthy dairy water buffalo which contains no less than 11.50
8 percent of total milk solids (to which nothing has been added or taken away).

9 (8) ~~"Imitation dairy products" are those products containing no milk~~
10 ~~which by their texture, flavor, color, packaging, or other characteristics, could~~
11 ~~be confused by consumers with established and defined dairy products or are~~
12 ~~sold or offered for sale as substitutes for milk or fluid dairy products. "Raw~~
13 ~~milk" means unpasteurized milk that may be cooled and filtered but is~~
14 ~~otherwise unprocessed.~~

15 (9) ~~"An imitation dairy product handler" is a person, firm,~~
16 ~~unincorporated association or corporation engaged in the business of buying,~~
17 ~~selling, packaging or processing imitation dairy products for sale within or~~
18 ~~without the state of Vermont. "Raw milk product" means a milk product that~~
19 ~~is unpasteurized but may have other limited processing as approved by the~~
20 ~~agency and that is only available for sale to licensed milk handlers for further~~
21 ~~processing.~~

1 ~~(10) "An imitation dairy product handler's license" is a license issued by~~
2 ~~the secretary which authorizes the licensee to carry on the business of an~~
3 ~~imitation dairy products handler.~~

4 ~~(11)(10) "Retail package of dairy product or imitation dairy product" is~~
5 ~~a package to be sold to a consumer.~~

6 ~~(12)(11) "Dairy products" are milk, or the products derived therefrom,~~
7 ~~which conform to the appropriate legal standard or definition for the specific~~
8 ~~product as defined in this part and regulations made under this part.~~

9 ~~(13) "Fluid dairy products" are milk and fluid dairy products derived~~
10 ~~from milk, including cultured products, as defined by regulations made under~~
11 ~~this part.~~

12 ~~(14)(12) "Licensed technician" is a person who has demonstrated by~~
13 ~~appropriate tests, to the satisfaction of the secretary, that he or she has the skill,~~
14 ~~experience, ability, and integrity to perform tests that are used as a basis for~~
15 ~~payment or acceptance of dairy products or imitation dairy products, and who~~
16 ~~holds one or more licenses issued by the secretary authorizing ~~him~~ the person~~
17 ~~to carry on one or more of these activities.~~

18 ~~(15)(13) "Approved dairy laboratory" is any place or premise which has~~
19 ~~been inspected and approved by the secretary or, if not located in Vermont, is~~
20 ~~approved and listed by the National Conference on Interstate Milk Shipments~~
21 ~~in accordance with the most recent evaluation of milk laboratories as published~~
22 ~~by the U.S. Department of Health and Human Services, Public Health Service,~~

1 ~~Food and Drug Administration, where tests are made on milk, or dairy~~
2 ~~products, or imitation dairy products,~~ to determine the quality or acceptance of
3 the products. The laboratory shall meet recommendations as set forth in the
4 latest edition of APHA "standard methods for the examination of dairy
5 products." The secretary may terminate approval for cause.

6 ~~(16)~~(14) "Adulteration" means an adulterated dairy product ~~or~~
7 ~~adulterated imitation dairy product~~ containing noxious, unwholesome, or
8 deleterious material, preservative, drugs, or chemical in a quantity injurious to
9 health; or which does not conform to the definition of the product; or which is
10 not produced, processed, or distributed according to the provisions of this part.

11 ~~(17)~~(15) "Commission" means the Vermont milk commission as
12 constituted in section 2922 of this title.

13 ~~(18)~~(16) "Charitable uses" means the distribution of milk among poor
14 and needy persons without charge or compensation therefor.

15 ~~(19)~~(17) "Distributor" means any person who sells milk ~~or imitation~~
16 ~~dairy products~~ to consumers within the state, except those who sell milk ~~or~~
17 ~~imitation dairy products~~ for consumption on the premises. ~~A producer or~~
18 ~~person who delivers or sells milk to a distributor only shall not be deemed a~~
19 ~~distributor.~~

20 ~~(20)~~(18) "Market" means any area designated by the board as a natural
21 marketing area.

1 ~~(21)(19) “School lunch milk” means milk sold, offered for sale, or~~
2 distribution at school buildings, grounds, or other places used for school
3 purposes.

4 ~~(22)(20) “Person” means individuals, corporations, partnerships, trusts,~~
5 associations, cooperatives, and any and all other business units or entities.

6 ~~(23)(21) “Additional definitions”:~~ The secretary may, (after due notice
7 and public hearing) in accordance with chapter 25 of Title 3, promulgate,
8 amend, or rescind definitions of other dairy products ~~and imitation dairy~~
9 ~~products~~ including modified milk, dairy processes, and rules relating to
10 specially trained personnel.

11 ~~(24)(22) “Drug” or “drugs” mean:~~

12 (A) articles recognized in the official United States Pharmacopeia,
13 official Homeopathic Pharmacopeia of the United States, or official National
14 Formulary, or supplement thereto; and

15 (B) articles intended for use in the diagnosis, cure, mitigation,
16 treatment or prevention of disease in man or other animals; and

17 (C) articles (other than food) intended to affect the structure or any
18 function of the body of man or other animals; and

19 (D) articles intended for use as a component of any articles specified
20 in subdivision ~~(24)~~(A), (B), or (C), of this ~~section~~ subdivision (22), but not
21 including devices or their components, parts, or accessories.

1 ~~(25)(23) Definitions and standards of milk products not herein defined~~

2 shall be those established by federal agencies and published in the Code of
3 Federal Regulations.

4 ~~(26)(24)~~ “Vermont fresh milk” means milk consisting entirely of fresh
5 milk produced in Vermont.

6 ~~(27)(25)~~ “Northeastern fresh milk” means milk consisting entirely of
7 fresh milk produced in Delaware, Maryland, New Jersey, Pennsylvania, New
8 York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire,
9 or Maine.

10 ~~(26)~~ “National Conference on Interstate Milk Shipments” means the
11 national nonprofit organization of that same name, or its successor in interest,
12 that deliberates and votes on proposals submitted by individuals from state or
13 local regulatory agencies, the U.S. Food and Drug Administration, the U.S.
14 Department of Agriculture, producers, processors, and consumers who have an
15 interest in the safety of dairy products.

16 Sec. 2. 6 V.S.A. § 2677 is amended to read:

17 § 2677. FLUID DAIRY PRODUCTS FOR LIVESTOCK FEED

18 A milk plant or handler shall not dispense or deliver fluid dairy products
19 other than whey for livestock feed including poultry except under regulations
20 as may be promulgated by the secretary.

1 ~~Sec. 3. 6 V.S.A. § 2701 is amended to read:~~

2 § 2701. REGULATIONS

3 (a) The secretary, in accordance with chapter 25 of Title 3, shall
4 promulgate, and may amend and rescind, dairy sanitation regulations relating
5 to dairy products ~~and imitation dairy products~~ to enforce this chapter including
6 but not limited to: labeling, weighing, measuring and testing facilities,
7 buildings, equipment, methods, procedures, health of animals, health and
8 capability of personnel and quality standards. In addition, the uniform
9 regulation for sanitation requirements, as adopted by the National Conference
10 on Interstate Milk Shippers, and published by the U.S. Department of Health
11 and Human Services, Public Health Service, Food and Drug Administration,
12 Grade A Pasteurized Milk Ordinance (PMO), together with amendments,
13 supplements and revisions thereto, are adopted as part of this chapter, except as
14 modified or rejected by regulation. On non-Grade "A" products, when
15 adherence to the PMO is deemed by the agency not to be practical, the most
16 current version of the Recommended Requirements of the United States
17 Department of Agriculture, Agricultural Marketing Service, Milk for
18 Manufacturing Purposes and its Production and Processing may be used.

19 * * *

20 Sec. 4. 6 V.S.A. § 2721 is amended to read:

21 § 2721. HANDLERS' LICENSES

22 * * *

1 ~~(c) An imitation dairy products handler shall not transact business in the~~
2 ~~state unless he or she secures and holds an imitation dairy product handler's~~
3 ~~license from the secretary. The license shall terminate September 1 each year~~
4 ~~and shall be procured by August 15 of each year. The secretary shall furnish all~~
5 ~~forms for applications, licenses and bonds. The imitation dairy products~~
6 ~~handler shall pay a license fee of \$200.00 for an initial application or a license~~
7 ~~fee of \$50.00 for a renewal application at the time the application is delivered~~
8 ~~to the secretary.~~

9 Sec. 5. 6 V.S.A. § 2722a is amended to read:

10 § 2722a. HEARINGS, AND ACTION UPON APPLICATIONS

11 (a) Upon receipt of an application for a milk handler's license the secretary
12 shall examine it. If the application is deficient the secretary shall so notify the
13 applicant and return the application together with one-half of the application
14 fee within 30 days of the receipt of the application. If the application is
15 not deficient, the secretary ~~shall set a date for a~~ may forgo the required hearing
16 on the application; for those applications approved by the secretary only. If a
17 hearing is to be held by the agency, the agency shall notify the applicant of that
18 date and shall cause public notice of the hearing to be published in three
19 newspapers of general circulation within the state at the applicant's expense.
20 The hearing must be held within 60 days of receipt of an application but not
21 less than 10 days after public notice has been published.

1 ~~(b) In the case of a new application, the hearing shall be held in central~~
2 ~~Vermont unless requested by the applicant to be in the specific area which the~~
3 ~~applicant intends principally to serve where the applicant will be located.~~

4 Additional hearings may be held at the discretion of the secretary.

5 * * *

6 Sec. 6. 6 V.S.A. § 2723 is amended to read:

7 § 2723. EXEMPTIONS

8 Handlers' licenses shall not be required from the following persons:

9 (1) Producers, except producers who sell fluid dairy products at retail in
10 Vermont.

11 (2) A hotel, restaurant, or other public eating place that sells ~~fluid~~ dairy
12 products for consumption on the premises, or a store which sells packaged
13 dairy products, provided the entire supply of ~~fluid~~ dairy products is purchased
14 from licensed milk handlers.

15 (3) A person producing unpasteurized milk under chapter 152 of this
16 title, with respect to the sale of that unpasteurized milk only.

17 (4) A person who holds a frozen dessert license that only utilizes
18 pasteurized frozen dessert mix.

19 Sec. 7. 6 V.S.A. § 2741 is amended to read:

20 § 2741. MILK PLANTS AND IMITATION DAIRY PRODUCTS PLANTS

21 Before issuing a milk handler's license ~~or an imitation dairy products~~
22 handler's license and at least twice a year thereafter, the secretary shall inspect

1 ~~or cause to be inspected all milk plants and imitation dairy products plants as~~
2 to their premises, equipment, procedures, and sanitary conditions. ~~He~~ The
3 secretary may enter into reciprocal agreements with or accept the inspection
4 reports of appropriate dairy sanitation agencies of other states, municipalities,
5 or the federal government in lieu of inspection by the secretary, provided their
6 standards and administration are substantially equal to the standards
7 established by the secretary under the provisions of this chapter.

8 Sec. 8. 6 V.S.A. § 2743 is amended to read:

9 § 2743. DAIRY LABORATORIES

10 (a) The secretary shall, at least annually, inspect or cause to be inspected all
11 premises where dairy products are tested to determine the basis of payment or
12 acceptance. Each handler shall notify the secretary of the place in which tests
13 of producer's dairy products are conducted. Such tests shall be performed only
14 by licensed technicians. Approved dairy laboratories located outside Vermont
15 are exempt from this inspection.

16 (b) The secretary shall at least annually inspect ~~approved~~ all in-state dairy
17 laboratories and those out-of-state dairy laboratories not approved by the
18 National Conference on Interstate Milk Shipments and if qualified, they shall
19 be ~~so certified~~ approved by the secretary.

20 * * *

21 (d) In case the producer's milk is transported from the farm to a milk plant
22 in another state, the purchaser shall keep the samples and test them at some

1 ~~approved place within the state of Vermont, or if the purchaser elects and~~
2 ~~agrees to pay the additional cost of supervision by the secretary or his agent, he~~
3 ~~may test the samples in another state in the plant where the milk is first~~
4 ~~received from the farm. All testing shall be done by persons holding a testing~~
5 ~~license issued by the secretary. The secretary may enter the premises of a milk~~
6 ~~handler and take possession of any or all samples including those from milk~~
7 ~~producers' deliveries and test them samples must be tested in an approved~~
8 ~~dairy laboratory.~~

9 Sec. 9. 6 V.S.A. § 2744 is amended to read:

10 § 2744. ENFORCEMENT

11 * * *

12 (d) Right of entry. The secretary or his or her agent may for the purpose of
13 inspection enter at all reasonable times the premises, except the residence, of
14 all milk handlers and producers and examine all pertinent records and
15 personnel and may use reasonable means of determining the sanitary condition
16 of the entire milk producing and handling process. Refusal to permit
17 inspection or physical or verbal threats to the secretary or an agent of the
18 secretary shall be grounds for revoking a license or ability to ship milk
19 pursuant to chapter 25 of Title 3.

1 ~~Sec. 10. 6 V.S.A. § 2744a is amended to read:~~

2 § 2744a. DRUGS

3 (a) No producer shall sell or offer for sale milk or livestock which contains
4 any drug or drugs in excess of tolerances established by the United States Food
5 and Drug Administration in the Code of Federal Regulations.

6 (b) In the event that milk from a dairy farm contains a drug, no more milk
7 produced by that producer shall be received by any milk dealer, or handler, ~~for~~
8 a period of up to two days until a sample of at least one complete milking has
9 been collected and found negative. In the event of a second violation within a
10 12-month period, no more milk produced by that producer shall be received by
11 any milk dealer, or handler, for a period of up to ~~four~~ two days and until a
12 sample of at least one complete milking has been collected and found negative.
13 In the event of a third violation within a 12-month period, the secretary shall,
14 at a minimum, take the same action as required for a second violation and may
15 prohibit the producer from selling milk in this state. No handler, or dealer,
16 shall accept milk from a producer whose ability to sell milk is suspended or
17 terminated.

18 * * *

19 (d) In the event that livestock from a farm is found to contain a drug or
20 drugs in excess of levels established by the United States Food and Drug
21 Administration in the Code of Federal Regulations, the secretary may assess an
22 administrative penalty not to exceed \$1,000.00 for each violation.

1 ~~(d)(e) Before issuing an order or administrative penalty under this section,~~
2 the secretary shall provide the producer and the handler, or dealer, an
3 opportunity for hearing. Notwithstanding this requirement, the secretary may
4 at any time issue an emergency order prohibiting a producer from selling, and
5 a handler from accepting, any milk until the milk tests negative for drugs.

6 Sec. 11. REPEAL

7 6 V.S.A. § 2753 (segregation of products) is repealed.

8 * * * Sale of Unpasteurized (Raw) Milk * * *

9 Sec. 12. 6 V.S.A. § 2775 is amended to read:

10 § 2775. LIMITED SALE OF UNPASTEURIZED (RAW) MILK

11 PERMISSIBLE

12 ~~The Notwithstanding section 2701 of this title, the production and sale of~~
13 ~~unpasteurized milk to a consumer for fluid personal consumption is permitted~~
14 ~~within the state of Vermont only when produced, marketed, and sold in~~
15 ~~conformance with this chapter.~~

16 Sec. 13. 6 V.S.A. § 2776 is amended to read:

17 § 2776. DEFINITIONS

18 For the purposes of this chapter,:

19 (1) "Consumer" means a customer who purchases, barter for, or
20 otherwise acquires unpasteurized milk from the farm or delivered from the
21 farm.

1 ~~(2) "Personal consumption" means the use by a consumer of~~
2 ~~unpasteurized milk for food or to create a food product made with or from~~
3 ~~unpasteurized milk which is intended to be ingested by the consumer, members~~
4 ~~of his or her household, or any nonpaying guests.~~

5 (3) "Unpasteurized milk" or "unpasteurized (raw) milk" means
6 unpasteurized milk sold for fluid consumption and does not include
7 unpasteurized milk to be pasteurized or unpasteurized milk produced for use in
8 manufacturing of milk products other than fluid milk that may be filtered and
9 cooled but has not been pasteurized.

10 Sec. 14. 6 V.S.A. § 2777 is amended to read:

11 § 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW)
12 MILK

13 (a) Unpasteurized milk for fluid consumption shall be sold directly from
14 the producer to the end user consumer for personal consumption only and shall
15 not be resold.

16 (b) Unpasteurized milk shall be sold only from the farm on which it was
17 produced except when delivery is arranged in conformance with section 2778
18 of this chapter. Unpasteurized milk shall not be sold or offered as free samples
19 at any location other than on the farm on which the milk was produced.

20 * * *

21 (h) Instructional classes or workshops for the use of unpasteurized milk as
22 an ingredient in food may be held at the farm or sponsored off-site by a farm,

1 ~~person, or organization for current or prospective consumers, provided the~~
2 following conditions are met:

3 (1) The classes or workshops shall be conducted at a location that shall
4 be cleaned prior to and following each class or workshop;

5 (2) A roster of attendees or participants with current contact information
6 as required by subdivision (d)(1)(C) of this section shall be maintained for one
7 year by the sponsor; and

8 (3) A sign as required by subdivision (d)(4)(B) of this section shall be
9 prominently displayed in the class or workshop area.

10 * * * Standards and Purity * * *

11 Sec. 15. 6 V.S.A. § 2801 is amended to read:

12 § 2801. ADULTERATION PROHIBITED

13 It is prohibited to sell, transfer, or offer for sale any adulterated dairy
14 product ~~or adulterated imitation dairy product~~ which does not conform to
15 Vermont statutes and regulations adopted thereunder. Nothing herein shall be
16 construed to prohibit the salvage of milk solids for human consumption under
17 regulations adopted by the secretary.

18 Sec. 16. 6 V.S.A. § 2802 is amended to read:

19 § 2802. FOREIGN FATS PROHIBITED

20 A person, firm, or corporation, by himself or herself, his or her servant or
21 agent, or as the servant or agent of another, shall not manufacture, sell, or
22 exchange, or have in possession with intent to sell or exchange, any dairy

1 ~~products or any of the fluid or solid derivatives of any of them to which has~~
2 ~~been added any fat or oil other than milk fat, except chocolate ice cream and~~
3 ~~chocolate milk which may contain the amount of fats other than milk fat~~
4 ~~normally contained in the chocolate or cocoa used in the manufacture of~~
5 ~~chocolate ice cream and chocolate milk. This section does not prohibit fat~~
6 ~~substitutes if the ingredient is approved for the intended purpose and is clearly~~
7 ~~identified in the list of ingredients on the label.~~

8 Sec. 17. 6 V.S.A. § 2811 is amended to read:

9 § 2811. MARKING OF RETAIL PACKAGES

10 (a)(1) All retail packages of dairy products, ~~and~~ fluid dairy products ~~and~~
11 ~~imitation dairy products~~ sold or offered for sale shall be plainly and
12 conspicuously marked with:

13 (1)(A) The true name of the product as defined by statute or regulation.

14 (2)(B) The true name of all ingredients in descending order of
15 importance if it is not a single defined product.

16 (3)(C) The name and address of the producer or handler.

17 (4)(D) The net weight or volume of package contents.

18 (2) The secretary may assign identifying numbers for milk plants ~~and~~
19 ~~imitation dairy products plants~~, which may appear on the package.

20 (b) The following situations are exempted from the operation of subsection
21 (a) of this section:

22 (1) Milk sold by a producer to a handler.

1 ~~(2) A producer who does not deliver and who does not sell or offer for~~
2 ~~sale more than 25 quarts of milk to the public in any one day sells~~
3 ~~unpasteurized (raw) milk pursuant to chapter 152 of this title.~~

4 * * * Frozen Desserts * * *

5 Sec. 18. 6 V.S.A. § 2856 is added to read:

6 § 2856. EXEMPTIONS

7 A person who holds a valid milk handler's license shall be exempt from all
8 licensing provisions of this chapter.

9 * * * Bonds * * *

10 Sec. 19. 6 V.S.A. § 2881 is amended to read:

11 § 2881. CONDITIONS AND AMOUNT; FAILURE TO FILE

12 (a) Except as provided in section 2882 of this title, no handler shall
13 purchase milk from Vermont producers or milk cooperatives either directly or
14 through a marketing service owned by the cooperatives, and the secretary shall
15 not issue a handler's license, unless the handler furnishes the secretary a good
16 and sufficient surety bond, executed by a surety company duly authorized to
17 transact business in this state in an amount equal to 50 percent for all species
18 other than cattle, and 100 percent for cattle, of the maximum amount due all
19 milk producers in the state who sell milk to the handler for a 41-day period
20 during the previous 12 months. He or she may accept, in lieu of such bond, a
21 guaranteed irrevocable letter of credit. The bonds shall be taken for the benefit
22 of Vermont milk producers and milk cooperatives in this state. At any time in

1 ~~his or her discretion, the secretary may require such handlers to file detailed~~
2 statements of the business transacted by them in this state, and at any time may
3 require them to give such additional bonds as he or she deems necessary. If
4 the handler refuses or neglects to file the detailed statements or to give bonds
5 required by the secretary, the secretary may suspend the license of the handler
6 until he or she complies with the secretary's orders. The secretary shall report
7 to the attorney general the name of any handler doing business in this state
8 without a license or after suspension of its license by the secretary and the
9 attorney general shall forthwith bring injunction proceedings against the
10 handler. Renewals of bonds specified in this section shall be furnished the
11 secretary 60 days before the effective date of the bond. If the handler fails to
12 file the bonds as required, the secretary shall forthwith publish the name of the
13 handler in four newspapers of general circulation in the state for a period of
14 three consecutive days and notify, by registered mail, producers supplying
15 such handler.

16 (b) ~~{Deleted.}~~ A milk cooperative that sells milk from a Vermont producer
17 either directly or through a marketing service owned by one or more
18 cooperatives shall file a monthly detailed report that states where the milk from
19 each bulk tank unit served is sold and shall specify the volume of milk that is
20 sold by Vermont cooperative members and independent producers who market
21 their milk through a milk cooperative either directly or through a marketing
22 service owned by one or more cooperatives.

1 ~~Sec. 20. 6 V.S.A. § 2882 is amended to read:~~

2 § 2882. EXEMPTIONS FROM FILING BOND

3 * * *

4 (b) A handler who does not purchase milk from Vermont producers or milk
5 cooperatives either directly or through a marketing service owned by one or
6 more cooperatives shall not be required to furnish surety as provided under
7 section 2881 of this title.

8 (c) A handler who pays ~~a milk cooperative~~ for milk in advance or at the
9 time of delivery shall not be required to furnish surety as provided under
10 section 2881 of this title. Every producer, or milk cooperative either directly
11 or through a marketing service owned by the cooperatives, selling milk to
12 handlers who pay for milk in advance or at the time of delivery shall, on
13 ~~January 1~~ and July 1 of each year, notify the secretary in writing of the identity
14 of each handler and shall promptly notify the secretary, in writing, of any
15 changes to the most recent notification.

16 (d) A handler who purchases fewer than 150,000 pounds of milk per month
17 from a milk cooperative, either directly or through a marketing service owned
18 by the cooperatives, shall not be required to furnish surety as provided under
19 section 2881 of this title.

1 ~~Sec. 21. 6 V.S.A. § 2884 is amended to read:~~

2 § 2884. PROCEEDINGS FOR RECOVERY ON BOND

3 Upon breach of the condition of a bond or other security, upon application
4 by the producer or milk cooperative of a handler, whose account for products
5 furnished such handler remains unpaid as provided in section 2883 of this title,
6 the secretary shall institute appropriate proceedings thereon in his name as
7 trustee for the benefit of all the producers or milk cooperatives of such handler
8 in this state to whom such handler may be indebted at the time the proceedings
9 are instituted. The proceedings may be commenced in any county in this state
10 where a producer of the handler resides.

11 * * * Vermont Dairy Promotion Council; Producer Tax * * *

12 Sec. 22. 6 V.S.A. § 2971 is amended to read:

13 § 2971. CREATION OF COUNCIL

14 * * *

15 (b) The milk cooperatives shall provide the secretary of agriculture, food
16 and markets with two nominees for each entitlement of whom one shall be
17 appointed by the secretary. The second nominee shall become an alternate to
18 serve in the absence of the appointee. The secretary of agriculture, food and
19 markets shall appoint three producer members to the council and one alternate
20 to serve in the absence of any one of these three members to represent those
21 producers not members of a milk cooperative and those cooperatives not
22 eligible under the terms of this section, and one distributor representative, after

1 ~~seeking the advice of producer associations, distributor associations and~~
2 individual producers and distributors within the state. During the month of
3 February, six members shall be appointed for a one-year term and the balance
4 for a two-year term. Thereafter one-half of the members shall be appointed
5 annually. The council shall serve at the discretion of the secretary. A milk
6 producer who is serving on the Vermont dairy promotion council shall not be a
7 member of the agency disbursing the funds. The appointive members shall
8 each receive ~~\$50.00~~ \$75.00 per day for each day spent in actual attendance at
9 meetings of the council, but not exceeding a total compensation of ~~\$500.00~~
10 \$750.00 per annum for each member, and they also shall receive their actual
11 necessary expenses and mileage while attending to their duties. The secretary
12 shall serve as chair of the council and administer and enforce the provisions of
13 this act.

14 Sec. 23. 6 V.S.A. § 2988 is amended to read:

15 § 2988. REFERENDUM

16 * * *

17 (f) All administration costs associated with the referendum vote shall be
18 assessed against the ~~state dairy council~~ Vermont dairy promotion fund.

1 *** Weights and Measures ***

2 Sec. 24. 9 V.S.A. § 2692 is amended to read:

3 § 2692. BULK MILK TANKS

4 (a) When installing a farm bulk tank or reconstructing a floor area
5 supporting a bulk tank, the tank shall not be placed in service and used as a
6 commercial measuring device unless a foundation has been constructed with
7 due consideration of frost penetration and of sufficient strength to support the
8 completely liquid-laden tank without change of level, and a steel plate not less
9 than six inches square and not less than one-quarter inch thick is placed under
10 each leg and the steel plate and the tank legs are cemented to the floor. Bulk
11 tanks shall be calibrated using accepted practices approved by the weights and
12 measures division as soon as possible after the milk house and bulk tank
13 installation has been approved by the dairy ~~division~~ section.

14 * * *

15 (c) If the secretary determines the bulk milk tank is not an accurate measure
16 for milk, (or because of continued movement of the tank caused by a poor
17 foundation) ~~he~~, the secretary may condemn the tank and forbid its use as a
18 measuring device. Any person who alters a bulk tank weight conversion chart,
19 uses other than latest conversion chart issued, uses a condemned tank as a
20 measure, uses a tank without the legs cemented to the floor or changes the
21 level position of a bulk milk tank without immediately notifying the secretary

1 ~~of agriculture, food and markets shall be fined not more than \$200.00 \$500.00~~
2 for each offense.

3 (d) The first handler receiving milk from a producer shall furnish
4 competent personnel licensed by the weights and measures section to assist in
5 ~~the calibration of~~ calibrate the producer's bulk milk tank. The word "handler"
6 as used in this subsection shall mean a person, firm, unincorporated
7 association, or corporation engaged in the business of buying, selling,
8 assembling, packaging, or processing milk or other dairy products, for sale
9 within or ~~without~~ outside the state of Vermont. ~~The handler shall pay \$75.00 if~~
10 ~~the capacity of the tank being calibrated is 0-500 gallons, and another \$25.00~~
11 ~~for each additional 500 gallons capacity or part thereof.~~

12 * * *

13 * * * Compost Educational Materials * * *

14 Sec. 25. AGENCY OF AGRICULTURE, FOOD AND MARKETS
15 EDUCATIONAL MATERIALS REGARDING THE
16 REGULATION OF COMPOSTING ON FARMS

17 (a) The agency of agriculture, food and markets and the agency of natural
18 resources, after consultation with the regional planning commissions and the
19 compost association of Vermont, shall develop educational materials regarding
20 the regulatory requirements for the operation of a compost facility on a farm.
21 The educational materials shall include a summary of the state regulations for
22 the operation of a compost facility, including the accepted composting

1 ~~practices, the solid waste management rules, and state land use planning under~~
2 ~~10 V.S.A. chapter 151.~~

3 ~~(b) The agency of agriculture, food and markets and the agency of natural~~
4 ~~resources shall post the educational materials required by this section on each~~
5 ~~agency's website and shall conduct outreach activities to inform farmers of the~~
6 ~~materials produced under this section.~~

7 Sec. 26. EFFECTIVE DATE

8 ~~This act shall take effect on July 1, 2011.~~

Sec. 1. 6 V.S.A. chapter 151 is amended to read:

*CHAPTER 151. SUPERVISION, INSPECTION AND LICENSING OF DAIRY
OPERATIONS*

** * **

§ 2672. DEFINITIONS

As used in this part, the following terms have the following meanings:

** * **

(5) "Milk handler" or "handler" is a person, firm, unincorporated association or corporation engaged in the business of buying, selling, assembling, packaging, or processing milk or other dairy products, for sale within or without the state of Vermont. "Milk handler" or "handler" shall not mean a milk producer.

** * **

(7) "Milk": Unless preceded or succeeded by an explanatory term, means the pure lacteal secretion of a type of dairy livestock listed in this subdivision. Such milk may be standardized by the addition of pure, fresh skim milk or cream as defined by regulation.

(A) "Cows' milk" is the colostrum-free, pure, lacteal product of healthy ~~cows~~ cattle which contains not less than 11.50 percentum of total milk solids (to which nothing has been added or taken away). Cows' milk sold in retail packages shall contain not less than 3.25 percent milk fat, and not less than 8.25 percent nonfat milk solids. ~~The secretary may, in accordance with chapter 25 of Title 3, promulgate a list of food grade additives which may be~~

~~added to cows' milk. The additives used in cows' milk sold in retail packages shall be conspicuously stated in descending order of importance on the label of the package in a manner approved by the secretary. Such milk may be standardized by the addition of pure, fresh skim milk or cream as defined by regulation.~~

~~(B) "Goats' milk" is the colostrum-free, pure, lacteal product of healthy dairy goats which contains not less than 10 percentum of total milk solids (to which nothing has been added or taken away). Goats' milk sold in retail packages shall contain not less than 2.5 percent milk fat and not less than 7.5 percent nonfat milk solids. The secretary may, in accordance with chapter 25 of Title 3, promulgate a list of food grade additives which may be added to goats' milk. The additives used in goats' milk sold in retail packages shall be conspicuously stated in descending order of importance on the label of the package in a manner approved by the secretary. Such milk may be standardized by the addition of pure, fresh skim milk or cream as defined by regulation.~~

~~(C) "Sheep's milk" is the colostrum-free, pure, lacteal product of healthy dairy sheep which contains no less than 11.50 percent of total milk solids (to which nothing has been added or taken away).~~

~~(D) "Water buffalo's milk" is the colostrum-free, pure, lacteal product of healthy dairy water buffalo which contains no less than 11.50 percent of total milk solids (to which nothing has been added or taken away).~~

~~(8) "Imitation dairy products" are those products containing no milk which by their texture, flavor, color, packaging, or other characteristics, could be confused by consumers with established and defined dairy products or are sold or offered for sale as substitutes for milk or fluid dairy products.~~

~~(9) "An imitation dairy product handler" is a person, firm, unincorporated association or corporation engaged in the business of buying, selling, packaging or processing imitation dairy products for sale within or without the state of Vermont.~~

~~(10) "An imitation dairy product handler's license" is a license issued by the secretary which authorizes the licensee to carry on the business of an imitation dairy products handler.~~

~~(11)(8) "Retail package of dairy product or imitation dairy product" is a package to be sold to a consumer.~~

~~(12)(9) "Dairy products product" are is milk, or the products a product derived therefrom, which conform conforms to the appropriate legal standard or definition for the specific product as defined in this part and regulations made under this part.~~

~~(13)~~(10) “Fluid dairy products” are milk and fluid dairy products derived from milk, including cultured products, as defined by regulations made under this part.

~~(14)~~(11) “Licensed technician” is a person who has demonstrated by appropriate tests, to the satisfaction of the secretary, that he or she has the skill, experience, ability, and integrity to perform tests that are used as a basis for payment or acceptance of dairy products ~~or imitation dairy products~~, and who holds one or more licenses issued by the secretary authorizing ~~him~~ the person to carry on one or more of these activities.

~~(15)~~(12) “Approved dairy laboratory” is any place or premise which has been inspected and approved by the secretary or, those premises outside Vermont approved and listed by the National Conference on Interstate Milk Shipments in accordance with the most recent evaluation of milk laboratories as published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, where tests are made on milk; or dairy products; ~~or imitation dairy products~~, to determine the quality or acceptance of the products. The laboratory shall meet recommendations as set forth in the latest edition of APHA “standard methods for the examination of dairy products.” The secretary may terminate approval for cause.

~~(16)~~(13) “Adulteration” means an adulterated dairy product ~~or adulterated imitation dairy product~~ containing noxious, unwholesome, or deleterious material, preservative, drugs, or chemical in a quantity injurious to health; or which does not conform to the definition of the product; or which is not produced, processed, or distributed according to the provisions of this part.

~~(17)~~(14) “Commission” means the Vermont milk commission as constituted in section 2922 of this title.

~~(18)~~(15) “Charitable ~~uses~~ use” means the distribution of milk among poor and needy persons without charge or compensation therefor.

~~(19)~~(16) “Distributor” means any person who sells milk ~~or imitation dairy products~~ to consumers within the state, except those who sell milk ~~or imitation dairy products~~ for consumption on the premises. ~~A producer or person who delivers or sells milk to a distributor only shall not be deemed a distributor.~~

~~(20)~~(17) “Market” means any area designated by the board as a natural marketing area.

~~(21)~~(18) “School lunch milk” means milk sold, offered for sale, or distribution at school buildings, grounds, or other places used for school purposes.

~~(22)~~(19) “Person” means individuals, corporations, partnerships, trusts, associations, cooperatives, and any and all other business units or entities.

~~(23)~~(20) “Additional definitions”: The secretary may, (after due notice and public hearing) in accordance with chapter 25 of Title 3, promulgate, amend, or rescind definitions of other dairy products ~~and imitation dairy products~~, including modified milk, dairy processes, and rules relating to specially trained personnel.

~~(24)~~(21) “Drug” or “drugs” mean:

(A) articles recognized in the official United States Pharmacopeia, official Homeopathic Pharmacopeia of the United States, or official National Formulary, or supplement thereto; and

(B) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and

(C) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and

(D) articles intended for use as a component of any articles specified in subdivision ~~(24)~~(A), (B), or (C); of this ~~section~~ subdivision (21), but not including devices or their components, parts, or accessories.

~~(25)~~(22) Definitions and standards of milk products not herein defined shall be those established by federal agencies and published in the Code of Federal Regulations.

~~(26)~~(23) “Vermont fresh milk” means milk consisting entirely of fresh milk produced in Vermont.

~~(27)~~(24) “Northeastern fresh milk” means milk consisting entirely of fresh milk produced in Delaware, Maryland, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, or Maine.

(25) “National Conference on Interstate Milk Shipments” means the national nonprofit organization of that same name, or its successor in interest, that deliberates and votes on proposals submitted by individuals from state or local regulatory agencies, the U.S. Food and Drug Administration, the U.S. Department of Agriculture, producers, processors, and consumers who have an interest in the safety of dairy products.

* * *

§ 2677. FLUID DAIRY PRODUCTS FOR LIVESTOCK FEED

A milk plant or handler shall not dispense or deliver fluid dairy products other than whey for livestock feed including poultry except under regulations as may be promulgated by the secretary.

* * *

§ 2681. ADDITIVES

The secretary may, in accordance with chapter 25 of Title 3, promulgate a list of food grade additives which may be added to milk. The additives used in milk sold in retail packages shall be conspicuously stated in descending order of volume on the label of the package in a manner approved by the secretary.

* * *

§ 2701. REGULATIONS

(a) The secretary, in accordance with chapter 25 of Title 3, shall promulgate, and may amend and rescind, dairy sanitation regulations relating to dairy products ~~and imitation dairy products~~ to enforce this chapter, including but not limited to: labeling, weighing, measuring and testing facilities, buildings, equipment, methods, procedures, health of animals, health and capability of personnel, and quality standards. In addition, the uniform regulation for sanitation requirements, as adopted by the National Conference on Interstate Milk Shippers, and published by the U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Grade A Pasteurized Milk Ordinance (PMO), together with amendments, supplements and revisions thereto, are adopted as part of this chapter, except as modified or rejected by regulation. When adherence to the PMO is deemed unreasonable by the agency for non-Grade "A" products, the most current version of the Recommended Requirements of the United States Department of Agriculture, Agricultural Marketing Service, Milk for Manufacturing Purposes and its Production and Processing may be used.

* * *

§ 2721. HANDLERS' LICENSES

* * *

(c) ~~An imitation dairy products handler shall not transact business in the state unless he or she secures and holds an imitation dairy product handler's license from the secretary. The license shall terminate September 1 each year and shall be procured by August 15 of each year. The secretary shall furnish all forms for applications, licenses and bonds. The imitation dairy products handler shall pay a license fee of \$200.00 for an initial application or a license~~

~~fee of \$50.00 for a renewal application at the time the application is delivered to the secretary.~~

* * *

§ 2722a. HEARINGS, AND ACTION UPON APPLICATIONS

(a) ~~Upon receipt of an application for a milk handler's license the secretary shall examine it. If the application is deficient the secretary shall so notify the applicant and return the application together with one-half of the application fee within 30 days of the receipt of the application. If the application is not deficient, the secretary shall set a date for a hearing on the application, shall notify the applicant of that date and shall cause public notice of the hearing to be published in three newspapers of general circulation within the state. The publish notice of the application in one or more publications of general circulation within the state's dairy community at the applicant's expense. The secretary shall also publish notice of the handler's application on the agency's website. An interested party shall have 14 calendar days from the date of publication to request a hearing on the application. The secretary shall grant a request for a hearing when an interested party can demonstrate a reasonable belief that the applicant will not promote the general good of the dairy industry and the consuming public pursuant to Vermont rule 20-021-001 adopted by the agency of agriculture, food and markets. Where such a showing is made, a hearing ~~must~~ shall be held within 60 days of receipt of an application but not less than 10 days after public notice has been published the request. In the absence of such a showing or where no request for a hearing is received, the secretary may hold a hearing at his or her discretion.~~

(b) ~~In the ease of a new application event a hearing is convened, the hearing shall be held in central Vermont unless requested by the applicant to be in the specific area which the applicant intends principally to serve where the applicant will be located. Additional hearings may be held at the discretion of the secretary.~~

* * *

§ 2723. EXEMPTIONS

Handlers' licenses shall not be required from the following persons:

(1) Producers, except producers who sell fluid dairy products at retail in Vermont.

(2) A hotel, restaurant, or other public eating place that sells ~~fluid~~ dairy products for consumption on the premises, or a store which sells packaged dairy products, provided the entire supply of ~~fluid~~ dairy products is purchased from licensed milk handlers.

(3) A person producing unpasteurized milk under chapter 152 of this title, with respect to the sale of that unpasteurized milk only.

(4) A person who holds a frozen dessert license that only utilizes pasteurized frozen dessert mix.

* * *

§ 2741. MILK PLANTS ~~AND IMITATION DAIRY PRODUCTS PLANTS~~

~~Before issuing a milk handler's license or an imitation dairy products handler's license and at least twice a year thereafter, the secretary shall inspect or cause to be inspected all milk plants and imitation dairy products plants as to their premises, equipment, procedures, and sanitary conditions. He~~ The secretary may enter into reciprocal agreements with or accept the inspection reports of appropriate dairy sanitation agencies of other states, municipalities, or the federal government in lieu of inspection by the secretary, provided their standards and administration are substantially equal to the standards established by the secretary under the provisions of this chapter.

* * *

§ 2743. DAIRY LABORATORIES

(a) The secretary shall, at least annually, inspect or cause to be inspected all premises where dairy products are tested to determine the basis of payment or acceptance. Each handler shall notify the secretary of the place in which tests of producer's dairy products are conducted. Such tests shall be performed only by licensed technicians. Approved dairy laboratories located outside Vermont are exempt from this inspection.

(b) The secretary shall at least annually inspect ~~approved~~ all in-state dairy laboratories and those out-of-state dairy laboratories not approved by the National Conference on Interstate Milk Shipments and if qualified, they shall be ~~so certified~~ approved by the secretary.

* * *

(d) ~~In case the producer's milk is transported from the farm to a milk plant in another state, the purchaser shall keep the samples and test them at some approved place within the state of Vermont, or if the purchaser elects and agrees to pay the additional cost of supervision by the secretary or his agent, he may test the samples in another state in the plant where the milk is first received from the farm. All testing shall be done by persons holding a testing license issued by the secretary. The secretary may enter the premises of a milk handler and take possession of any or all samples including those from milk producers' deliveries and test them~~ samples shall be tested in an approved dairy laboratory.

§ 2744. ENFORCEMENT

* * *

(d) *Right of entry.* The secretary or his or her agent may for the purpose of inspection enter at all reasonable times the premises, except the residence, of all milk handlers and producers and examine all pertinent records and personnel and may use reasonable means of determining the sanitary condition of the entire milk producing and handling process. Refusal to permit inspection shall be grounds for revoking a license or ability to ship milk pursuant to chapter 25 of Title 3.

§ 2744a. DRUGS

(a) *No producer shall sell or offer for sale milk which contains any drug or drugs in excess of tolerances established by the United States Food and Drug Administration in the Code of Federal Regulations.*

~~(b)(1)~~ *In the event that milk from a dairy farm contains a drug, no more milk produced by that producer shall be received by any milk dealer, or handler, for a period of up to two days until a sample of at least one complete milking has been collected and found negative. In the event of a second violation within a 12-month period, no more milk produced by that producer shall be received by any milk dealer, or handler, for a period of up to ~~four~~ two days and until a sample of at least one complete milking has been collected and found negative. In the event of a third violation within a 12-month period, the secretary shall, at a minimum, take the same action as required for a second violation and may prohibit the producer from selling milk in this state. No handler, or dealer, shall accept milk from a producer whose ability to sell milk is suspended or terminated.*

~~(e)(2)~~ *In lieu of suspending a producer's ability to sell milk, the secretary may issue an administrative penalty. The amount of the penalty shall not exceed the value of the milk which could have been prohibited from sale. A producer who fails to pay an administrative penalty, after opportunity for hearing, shall have his, or her, ability to sell milk suspended until the penalty is paid. In lieu of suspending a producer's ability to sell milk, the secretary may accept the assessment by the milk dealer or handler, against the producer, of damages beyond the milk dealer's, or handler's control which occurred as a result of purchasing the contaminated milk, as an equivalent penalty.*

(3) Notwithstanding the provisions of subsection (c) of this section, the secretary may at any time issue an emergency order prohibiting a producer from selling and a handler from accepting any milk until the milk tests negative for drugs.

(b)(1) No producer shall sell livestock for slaughter which contains any drug or drugs in excess of tolerances established by the United States Food and Drug Administration in the Code of Federal Regulations.

(2) In the event that livestock intended for slaughter is found to contain a drug or drugs in excess of levels established by the United States Food and Drug Administration in the Code of Federal Regulations at the time of sale, the secretary may assess an administrative penalty not to exceed \$1,000.00 for each violation.

~~(d)(c) Before issuing an order or administrative penalty under this section, the secretary shall provide the producer and the handler, or dealer, an opportunity for hearing. Notwithstanding this requirement, the secretary may at any time issue an emergency order prohibiting a producer from selling, and a handler from accepting, any milk until the milk tests negative for drugs.~~

* * *

Sec. 2. REPEAL

6 V.S.A. § 2753 (segregation of products) is repealed.

Sec. 3. 6 V.S.A. chapter 152 is amended to read:

CHAPTER 152. SALE OF UNPASTEURIZED (RAW) MILK

§ 2775. LIMITED SALE OF UNPASTEURIZED (RAW) MILK PERMISSIBLE

~~The Notwithstanding section 2701 of this title, the production and sale of unpasteurized milk to a consumer for fluid personal consumption is permitted within the state of Vermont only when produced, marketed, and sold in conformance with this chapter.~~

§ 2776. DEFINITIONS

~~For the purposes of In~~ In this chapter,:

(1) “Consumer” means a customer who purchases, barter for, or otherwise acquires unpasteurized milk from the farm or delivered from the farm.

(2) “Personal consumption” means the use by a consumer of unpasteurized milk for food or to create a food product made with or from unpasteurized milk which is intended to be ingested by the consumer, members of his or her household, or any nonpaying guests.

(3) “Unpasteurized milk” or “unpasteurized (raw) milk” means unpasteurized milk sold for fluid consumption and does not include unpasteurized milk to be pasteurized or unpasteurized milk produced for use in manufacturing of milk products other than fluid milk that is unprocessed.

(4) "Unprocessed" means milk that has not been modified from the natural state it was in as it left the animal, other than filtering, packaging, and cooling.

§ 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW) MILK

(a) ~~Unpasteurized milk for fluid consumption shall be sold directly from the producer to the end-user consumer for personal consumption only and shall not be resold.~~

* * *

Sec. 4. 6 V.S.A. chapter 153 is amended to read:

CHAPTER 153. STANDARDS AND PURITY

§ 2801. ADULTERATION PROHIBITED

~~It is prohibited to sell, transfer, or offer for sale any adulterated dairy product or adulterated imitation dairy product which does not conform to Vermont statutes and regulations adopted thereunder. Nothing herein shall be construed to prohibit the salvage of milk solids for human consumption under regulations adopted by the secretary.~~

§ 2802. FOREIGN FATS PROHIBITED

~~A person, firm, or corporation, by himself or herself, his or her servant or agent, or as the servant or agent of another, shall not manufacture, sell, or exchange, or have in possession with intent to sell or exchange, any dairy products or any of the fluid or solid derivatives of any of them to which has been added any fat or oil other than milk fat, except chocolate ice cream and chocolate milk which may contain the amount of fats other than milk fat normally contained in the chocolate or cocoa used in the manufacture of chocolate ice cream and chocolate milk. This section does not prohibit a fat substitute if it is approved for insertion into a dairy product by the U.S. Food and Drug Administration and is clearly identified in the list of ingredients on the label.~~

* * *

§ 2811. MARKING OF RETAIL PACKAGES

~~(a)(1) All retail packages of dairy products, and fluid dairy products and imitation dairy products sold or offered for sale shall be plainly and conspicuously marked with:~~

~~(1)(A) The true name of the product as defined by statute or regulation.~~

~~(2)(B) The true name of all ingredients in descending order of importance if it is not a single defined product.~~

~~(3)(C)~~ *The name and address of the producer or handler.*

~~(4)(D)~~ *The net weight or volume of package contents.*

~~(2)~~ *The secretary may assign identifying numbers for milk plants ~~and imitation dairy products plants~~, which may appear on the package.*

~~(b)~~ *The following situations are exempted from the operation of subsection (a) of this section:*

~~(1)~~ *Milk sold by a producer to a handler.*

~~(2)~~ *A producer who ~~does not deliver and who does not sell or offer for sale more than 25 quarts of milk to the public in any one day~~ sells unpasteurized (raw) milk pursuant to chapter 152 of this title.*

* * *

Sec. 5. 6 V.S.A. chapter 155 is amended to read:

CHAPTER 155. FROZEN DESSERTS

* * *

§ 2856. EXEMPTIONS

A person who holds a valid milk handler's license shall be exempt from all licensing provisions of this chapter.

Sec. 6. 6 V.S.A. chapter 157 is amended to read:

CHAPTER 157. BONDS

§ 2881. CONDITIONS AND AMOUNT; FAILURE TO FILE

(a) Except as provided in section 2882 of this title, no handler shall purchase milk from a Vermont producers producer or milk cooperatives cooperative, either directly or through a marketing service owned by one or more cooperatives, and the secretary shall not issue a handler's license, unless the handler furnishes the secretary a good and sufficient surety bond, executed by a surety company duly authorized to transact business in this state in an amount equal to 50 percent for all species other than cattle, and 100 percent for cattle, of the maximum amount due all milk producers in the state who ~~sell~~ sold milk to the handler for a 41-day period during the previous 12 months. ~~He or she~~ The secretary may accept, in lieu of such bond, a guaranteed irrevocable letter of credit. The bonds shall be taken for the benefit of Vermont milk producers and milk cooperatives in this state. At any time in his or her discretion, the secretary may require such handlers to file detailed statements of the business transacted by them in this state, and at any time may require them to give such additional bonds as he or she deems necessary. If the handler refuses or neglects to file the detailed statements or to give bonds

required by the secretary, the secretary may suspend the license of the handler until he or she complies with the secretary's orders. The secretary shall report to the attorney general the name of any handler doing business in this state without a license or after suspension of its license by the secretary and the attorney general shall forthwith bring injunction proceedings against the handler. Renewals of bonds specified in this section shall be furnished the secretary 60 days before the effective date of the bond. If the handler fails to file the bonds as required, the secretary shall forthwith publish the name of the handler in four newspapers of general circulation in the state for a period of three consecutive days and notify, by registered mail, producers supplying such handler.

(b) ~~Deleted.~~ A milk cooperative that sells milk from a Vermont producer either directly or through a marketing service owned by one or more cooperatives shall file a monthly detailed report that states where the milk from each bulk tank unit served is sold and shall specify the volume of milk that is sold by Vermont cooperative members and independent producers who market their milk through a milk cooperative either directly or through a marketing service owned by one or more cooperatives.

§ 2882. EXEMPTIONS FROM FILING BOND

* * *

(b) A handler who does not purchase milk from Vermont producers or milk cooperatives either directly or through a marketing service owned by one or more cooperatives shall not be required to furnish surety as provided under section 2881 of this title.

(c) A handler who pays ~~a milk cooperative~~ for milk in advance or at the time of delivery shall not be required to furnish surety as provided under section 2881 of this title. Every producer, or milk cooperative either directly or through a marketing service owned by the cooperatives, selling milk to handlers who pay for milk in advance or at the time of delivery shall, on ~~January 1~~ and July 1 of each year, notify the secretary in writing of the identity of each handler and shall promptly notify the secretary, in writing, of any changes to the most recent notification.

(d) A handler who purchases fewer than 150,000 pounds of milk per month from a milk cooperative, either directly or through a marketing service owned by one or more cooperatives, shall not be required to furnish surety as provided under section 2881 of this title.

* * *

§ 2884. PROCEEDINGS FOR RECOVERY ON BOND

~~Upon breach of the condition of a bond or other security, upon application by the~~ When the condition of a bond or other security is breached, if a producer of or milk cooperative applies to a handler, for payment of products furnished to that handler whose account for products furnished such handler remains unpaid as provided in section 2883 of this title, the secretary shall institute appropriate proceedings thereon in his name as trustee for the benefit of all the producers of such or milk cooperatives in this state supplying the handler in this state and to whom such handler may be indebted at the time the proceedings are instituted. The proceedings may be commenced in any county in this state where a producer of the handler resides.

Sec. 7. 6 V.S.A. chapter 163 is amended to read:

CHAPTER 163. VERMONT DAIRY PROMOTION COUNCIL; PRODUCER TAX

§ 2971. CREATION OF COUNCIL

* * *

(b) ~~The milk cooperatives shall provide the secretary of agriculture, food and markets with two nominees for each entitlement of whom one shall be appointed by the secretary. The second nominee shall become an alternate to serve in the absence of the appointee. The secretary of agriculture, food and markets shall appoint three producer members to the council and one alternate to serve in the absence of any one of these three members to represent those producers not members of a milk cooperative and those cooperatives not eligible under the terms of this section, and one distributor representative, after seeking the advice of producer associations, distributor associations and individual producers and distributors within the state. During the month of February, six members shall be appointed for a one-year term and the balance for a two-year term. Thereafter one-half of the members shall be appointed annually. The council shall serve at the discretion of the secretary. A milk producer who is serving on the Vermont dairy promotion council shall not be a member of the agency disbursing the funds. The appointive members shall each receive \$50.00 \$75.00 per day for each day spent in actual attendance at meetings of the council, but not exceeding a total compensation of \$500.00 \$750.00 per annum for each member, and they also shall receive their actual necessary expenses and mileage while attending to their duties. The secretary shall serve as chair of the council and administer and enforce the provisions of this act.~~

* * *

§ 2988. REFERENDUM

* * *

(f) All administration costs associated with the referendum vote shall be assessed against the ~~state dairy council~~ Vermont dairy promotion fund.

* * *

Sec. 8. 9 V.S.A. chapter 73 is amended to read:

CHAPTER 73. WEIGHTS AND MEASURES

* * *

§ 2692. BULK MILK TANKS

(a) When installing a farm bulk tank or reconstructing a floor area supporting a bulk tank, the tank shall not be placed in service and used as a commercial measuring device unless a foundation has been constructed with due consideration of frost penetration and of sufficient strength to support the completely liquid-laden tank without change of level, and a steel plate not less than six inches square and not less than one-quarter inch thick is placed under each leg and the steel plate and the tank legs are cemented to the floor. Bulk tanks shall be calibrated using accepted practices approved by the weights and measures division ~~consumer protection section~~ as soon as possible after the milk house and bulk tank installation has been approved by the dairy ~~division~~ section.

* * *

(c) If the secretary determines the bulk milk tank is not an accurate measure for milk, (or because of continued movement of the tank caused by a poor foundation) ~~he, the secretary~~ may condemn the tank and forbid its use as a measuring device. Any person who alters a bulk tank weight conversion chart, uses other than latest conversion chart issued, uses a condemned tank as a measure, uses a tank without the legs cemented to the floor or changes the level position of a bulk milk tank without immediately notifying the secretary of agriculture, food and markets shall be fined not more than ~~\$200.00~~ \$500.00 for each offense.

(d) The first handler receiving milk from a producer shall furnish competent personnel licensed by the consumer protection section to ~~assist in the calibration of~~ calibrate the producer's bulk milk tank. The word "handler" as used in this subsection shall mean a person, firm, unincorporated association, or corporation engaged in the business of buying, selling, assembling, packaging, or processing milk or other dairy products, for sale within or ~~without~~ outside the state of Vermont. ~~The handler shall pay~~

~~\$75.00 if the capacity of the tank being calibrated is 0-500 gallons, and another \$25.00 for each additional 500 gallons capacity or part thereof.~~

* * *

*Sec. 9. AGENCY OF AGRICULTURE, FOOD AND MARKETS
EDUCATIONAL MATERIALS REGARDING THE
REGULATION OF COMPOSTING ON FARMS*

(a) The agency of agriculture, food and markets and the agency of natural resources, after consultation with the regional planning commissions and the compost association of Vermont, shall develop educational materials regarding the regulatory requirements for the operation of a compost facility on a farm. The educational materials shall include a summary of the state regulations for the operation of a compost facility, including the accepted composting practices, the solid waste management rules, and state land use planning under 10 V.S.A. chapter 151.

(b) The agency of agriculture, food and markets and the agency of natural resources shall post the educational materials required by this section on each agency's website and shall conduct outreach activities to inform farmers of the materials produced under this section.

Sec. 10. EFFECTIVE DATE

This act shall take effect on passage.