

By: Senator(s) Thames

To: Agriculture

SENATE BILL NO. 2408
(As Passed the Senate)

1 AN ACT TO PROVIDE FOR THE REGULATION OF MILK AND MILK
2 PRODUCTS BY THE STATE BOARD OF HEALTH; TO AUTHORIZE THE BOARD TO
3 COLLECT ANNUAL PERMIT FEES FOR MILK PRODUCT PROCESSING PLANTS AND
4 FROZEN DESSERT PROCESSING PLANTS; TO PROVIDE FOR THE INCIDENTAL
5 SALE OF RAW GOAT MILK; TO DEFINE TERMS; TO REQUIRE THE BOARD TO
6 USE FUNDS COLLECTED FROM PERMIT FEES FOR THE MILK PROGRAM; TO
7 PROHIBIT THE SALE OF ADULTERATED MILK OR MILK PRODUCTS; TO
8 PROHIBIT UNFAIR DISCRIMINATION IN THE PRICING OF DAIRY PRODUCTS;
9 TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ACT; TO EXEMPT PERSONS
10 NOT SELLING MILK; TO REPEAL SECTIONS 75-31-1 THROUGH 75-31-63 AND
11 SECTIONS 75-31-401 THROUGH 75-31-427, MISSISSIPPI CODE OF 1972,
12 WHICH PROVIDE FOR THE REGULATION OF MILK AND MILK PRODUCTS AND
13 CREAM AND CREAM PRODUCTS BY THE COMMISSIONER OF AGRICULTURE AND
14 COMMERCE; AND FOR RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 SECTION 1. (1) The State Board of Health shall:

17 (a) Exercise general supervision over the production,
18 processing and sale of milk and milk products and the processing
19 and sale of frozen desserts.

20 (b) Adopt, modify, repeal and promulgate rules and
21 regulations, after due notice and hearing, and, where not
22 otherwise prohibited by federal law or state law, make exceptions
23 to, grant exemptions from and enforce rules and regulations
24 implementing or effectuating the duties of the board under this
25 act to protect the public health.

26 (c) Use the most current education of the Pasteurized
27 Milk Ordinance, or its successor, as the basis for regulation of
28 Grade "A" milk and milk products. The board, in its discretion,
29 may amend, modify or make additions to the Pasteurized Milk
30 Ordinance if the board determines that such amendment,
31 modification or addition is in the best interest of public health.

32 (2) The board shall assess fees in the following amount and

33 for the following purpose:

34 Milk product processing plant annual permit fee..... \$300.00

35 Frozen dessert processing plant annual permit fee.... \$300.00

36 The fees authorized under this subsection shall not be
37 assessed for milk or frozen dessert processing plants operated by
38 public schools, by public junior colleges or by state agencies or
39 institutions, including, without limitation, the state
40 institutions of higher learning.

41 (3) Incidental sales of raw goat milk shall be legal if:

42 (a) The milk is sold directly to the consumer on the
43 premises where the milk is produced;

44 (b) No more than nine (9) producing goats are located
45 on the premises where the milk is produced;

46 (c) The person selling the milk does not advertise the
47 milk for sale; and

48 (d) The following conditions, which apply to the
49 milking of goats involved in legal incidental sales of raw goat
50 milk, are satisfied:

51 (i) The milking takes place in a clean environment
52 on a cement or comparable floor;

53 (ii) The milking place is enclosed by a wall
54 and/or a screen to prevent insects from entering the milking area;

55 (iii) A fly strap is located in the milking area;

56 and

57 (iv) Sterile containers are used in the milking
58 process and for storage.

59 It shall not be unlawful to store raw goat milk in a separate
60 sterile place from pasteurized goat milk. The Cooperative
61 Extension Service at Alcorn State University shall publish and
62 make available literature on the requirements of this subsection,
63 and other related milk-goat maintenance, explaining the
64 recommended care of milk goats and the process of goat milk
65 production and other related subjects. For the purposes of this

66 subsection, the term "incidental sales" means sales from a farm
67 where not more than nine (9) goats are producing milk.

68 (4) For purposes of this act, the term "person" includes an
69 individual, firm, partnership, association or corporation, foreign
70 or domestic.

71 (5) All fees collected by the board under this act shall be
72 paid into a special fund within the Department of Health to be
73 used by the department to discharge its duties under this act.

74 (6) Any person coming within the provisions of this act who
75 fails to comply with or violates any of the provisions of this act
76 or regulations promulgated thereunder, unless otherwise
77 specifically provided in this act, is guilty of a misdemeanor and,
78 upon conviction, shall be fined not more than One Hundred Dollars
79 (\$100.00) or confined in jail for not more than sixty (60) days,
80 or both.

81 (7) Any person who sells or offers for sale adulterated milk
82 or milk products or cream or frozen desserts or any milk or cream
83 having therein any foreign substance or coloring matter or any
84 chemicals or preservatives, whether for the purpose of increasing
85 the quantity of milk or cream or for improving its appearance or
86 for the purpose of preserving the condition of sweetness thereof,
87 or for any other purpose whatsoever, or unpasteurized milk or milk
88 products except as otherwise authorized by law, is guilty of a
89 misdemeanor, and, upon conviction, shall be fined not more than
90 Five Hundred Dollars (\$500.00) or confined in jail not more than
91 sixty (60) days, or both; however, nothing in this subsection
92 shall be construed to prevent the addition of vitamins to milk or
93 milk products in accordance with the rules and regulations
94 promulgated by the board or to prohibit the sale of pasteurized
95 milk or cream or frozen desserts except unlawful cream or unlawful
96 milk products or unlawful frozen desserts as defined in the rules
97 and regulations promulgated by the board.

98 (8) (a) Any person doing business in the State of

99 Mississippi and engaged in the production, manufacture, sale or
100 distribution of any dairy products that, for the purpose of
101 destroying the business of a competitor in any locality or
102 creating a monopoly, discriminates between different sections,
103 localities, communities, cities or towns of the state by selling
104 such commodity at a lower rate or price in one (1) section,
105 locality, community, city or town than such commodity is sold by
106 such person in any other section, locality, community, city or
107 town, after making due allowance for the difference, if any, in
108 the grade or quality and in the actual cost of the transportation
109 from the point of production or purchase, if a raw product, to the
110 place of sale, storage or distribution, is guilty of unfair
111 discrimination, which is prohibited and declared unlawful;
112 however, prices made to meet competition in such section,
113 locality, community, city or town shall not be in violation of
114 this subsection.

115 (b) Any person doing business in the State of
116 Mississippi and engaged in the business of purchasing for
117 manufacture, storage, sale or distribution of any dairy product,
118 that, for the purpose of destroying the business of a competitor
119 or creating a monopoly, discriminates between different sections,
120 localities, communities, cities or towns in the state by
121 purchasing such commodity at a higher rate or price in one (1)
122 section, locality, community, city or town than is paid for such
123 commodity by such person in any other section, locality,
124 community, city or town, after making due allowance for the
125 difference, if any, in the grade or quality, and in the actual
126 cost of transportation from the point of purchase to the point of
127 manufacture, sale or distribution or storage, is guilty of unfair
128 discrimination, which is prohibited and declared to be unlawful;
129 however, prices made to meet competition in such locality,
130 section, community, city or town shall not be a violation of this
131 subsection.

132 (c) Any person convicted of a violation of this
133 subsection, shall be fined not less than Five Hundred Dollars
134 (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) or shall
135 be imprisoned in jail not more than twelve (12) months, or both.

136 (9) Nothing in this act shall be construed to apply to any
137 person who does not sell his milk, cream, butter or other products
138 mentioned herein to others.

139 SECTION 2. Sections 75-31-1, 75-31-3, 75-31-5, 75-31-6,
140 75-31-7, 75-31-9, 75-31-11, 75-31-13, 75-31-15, 75-31-17,
141 75-31-19, 75-31-21, 75-31-23, 75-31-25, 75-31-27, 75-31-29,
142 75-31-31, 75-31-33, 75-31-35, 75-31-37, 75-31-39, 75-31-40,
143 75-31-41, 75-31-43, 75-31-45, 75-31-47, 75-31-49, 75-31-51,
144 75-31-53, 75-31-55, 75-31-57, 75-31-59, 75-31-61 and 75-31-63,
145 Mississippi Code of 1972, which provide for the regulation of milk
146 and milk products by the Commissioner of Agriculture and Commerce,
147 are repealed.

148 SECTION 3. Sections 75-31-401, 75-31-403, 75-31-405,
149 75-31-407, 75-31-409, 75-31-411, 75-31-413, 75-31-415, 75-31-417,
150 75-31-419, 75-31-421, 75-31-423, 75-31-425 and 75-31-427,
151 Mississippi Code of 1972, which provide for the regulation of
152 cream and cream products by the Commissioner of Agriculture and
153 Commerce, are repealed.

154 SECTION 4. This act shall take effect and be in force from
155 and after July 1, 1999.