

By: Senator(s) Thames

To: Agriculture

SENATE BILL NO. 2408
(As Sent to Governor)

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 edition of the Pasteurized
27 Milk Ordinance, or its successor, as the basis for regulation of
28 Grade "A" milk and milk products. Unless as otherwise provided by
29 law, the board, in its discretion, may amend, modify or make
30 additions to the Pasteurized Milk Ordinance if the board
31 determines that such amendment, modification or addition is in the
32 best interest of public health.

(2) The board shall assess fees in the following amount and for the following purpose:

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

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

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

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

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

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

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

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

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

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

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

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

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

66 production and other related subjects. For the purposes of this
67 subsection, the term "incidental sales" means sales from a farm
68 where not more than nine (9) goats are producing milk.

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

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

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

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

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

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

132 subsection.

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

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

140 SECTION 2. Sections 75-31-1, 75-31-3, 75-31-5, 75-31-6,
141 75-31-7, 75-31-9, 75-31-11, 75-31-13, 75-31-15, 75-31-17,
142 75-31-19, 75-31-21, 75-31-23, 75-31-25, 75-31-27, 75-31-29,
143 75-31-31, 75-31-33, 75-31-35, 75-31-37, 75-31-39, 75-31-40,
144 75-31-41, 75-31-43, 75-31-45, 75-31-47, 75-31-49, 75-31-51,
145 75-31-53, 75-31-55, 75-31-57, 75-31-59, 75-31-61 and 75-31-63,
146 Mississippi Code of 1972, which provide for the regulation of milk
147 and milk products by the Commissioner of Agriculture and Commerce,
148 are repealed. 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 3. This act shall take effect and be in force from
155 and after July 1, 1999.