

IN THE SENATE

SENATE BILL NO. 1338

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO DAIRY PRODUCTS; AMENDING SECTION 37-301, IDAHO CODE, TO REMOVE  
2 PROVISIONS RELATING TO THE MAINTENANCE OF NAMES OF CERTAIN DAIRYMEN AND  
3 TO PROVIDE A STATEMENT OF PURPOSE; AMENDING SECTION 37-302, IDAHO CODE,  
4 TO PROVIDE FOR INSPECTIONS, TO PROVIDE THAT INSPECTIONS SHALL ASCERTAIN  
5 AND CERTIFY SANITARY CONDITIONS AND MILK QUALITY, TO AUTHORIZE THE DI-  
6 RECTOR OF THE DEPARTMENT OF AGRICULTURE TO DESIGNATE AGENTS TO PERFORM  
7 CERTAIN DUTIES, TO PROVIDE FOR SANITARY INSPECTIONS, TO PROVIDE THAT  
8 INSPECTIONS, EXAMINATIONS AND TESTS SHALL MEET REQUIREMENTS OF STATE  
9 AND FEDERAL LAW, TO PROVIDE THAT DESIGNATED AGENTS MAY ENTER PREMISES  
10 AND BUILDINGS FOR INSPECTIONS, TO PROVIDE FOR FEES OR ASSESSMENTS AS-  
11 SOCIATED WITH INSPECTIONS AND TO PROVIDE FOR THE DAIRY INDUSTRY AND IN-  
12 SPECTION FUND; AMENDING CHAPTER 3, TITLE 37, IDAHO CODE, BY THE ADDITION  
13 OF A NEW SECTION 37-303, IDAHO CODE, TO AUTHORIZE RULEMAKING AND EN-  
14 FORCEMENT BY THE DIRECTOR OF THE DEPARTMENT OF AGRICULTURE, TO PROVIDE  
15 THAT CERTAIN MILK, CREAM AND MANUFACTURED DAIRY PRODUCTS SHALL COMPLY  
16 WITH SPECIFIED LAW AND TO PROVIDE STANDARDS RELATING TO THE SANITATION  
17 OF MILK AND CREAM; AMENDING CHAPTER 3, TITLE 37, IDAHO CODE, BY THE AD-  
18 DITION OF A NEW SECTION 37-304, IDAHO CODE, TO PROVIDE FOR THE ISSUANCE  
19 OF PERMITS, TO SPECIFY REQUIREMENTS FOR THE ISSUANCE OF PERMITS TO NEW  
20 OR EXPANDING DAIRY FARMS, TO DEFINE TERMS, TO PROVIDE FOR EXAMINATION,  
21 INSPECTION AND REPORTS OF FINDINGS AND CONCLUSIONS BY THE DIRECTOR AND  
22 TO PROVIDE THAT THE ISSUANCE OR REVOCATION OF LICENSES OR PERMITS SHALL  
23 BE BASED UPON THE REPORT OR REPORTS OF THE DIRECTOR; AMENDING CHAPTER  
24 3, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-305, IDAHO  
25 CODE, TO AUTHORIZE THE DIRECTOR TO BRING CIVIL ACTIONS FOR ENFORCEMENT  
26 OF SPECIFIED LAW; REPEALING SECTION 37-306, IDAHO CODE, RELATING TO  
27 MILK-BOTTLING PLACES; AMENDING CHAPTER 3, TITLE 37, IDAHO CODE, BY THE  
28 ADDITION OF A NEW SECTION 37-306, IDAHO CODE, TO AUTHORIZE THE DEPART-  
29 MENT OF AGRICULTURE TO ADVISE, ASSIST AND COOPERATE WITH THE FEDERAL  
30 GOVERNMENT, AGENCIES AND OTHER ENTITIES IN THE EXERCISE OF ITS POWERS  
31 AND DUTIES UNDER SPECIFIED LAW; AMENDING CHAPTER 3, TITLE 37, IDAHO  
32 CODE, BY THE ADDITION OF A NEW SECTION 37-307, IDAHO CODE, TO DEFINE  
33 TERMS RELATING TO MILK HAULERS AND TANKS; REPEALING SECTION 37-308,  
34 IDAHO CODE, RELATING TO THE BOTTLING AND PACKAGING OF MILK; AMENDING  
35 CHAPTER 3, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-308,  
36 IDAHO CODE, TO PROVIDE STANDARDS FOR TRANSPORTATION TANKS; AMENDING  
37 CHAPTER 3, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-309,  
38 IDAHO CODE, TO PROVIDE STANDARDS RELATING TO MILK HAULERS AND THE OPER-  
39 ATION OF TRANSPORTATION TANKS; REPEALING SECTION 37-310, IDAHO CODE,  
40 RELATING TO EMPTY BOTTLES FROM QUARANTINED PREMISES; AMENDING CHAPTER  
41 3, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 37-310, IDAHO  
42 CODE, TO PROVIDE STANDARDS RELATING TO QUALITY CONTROL OF MILK SAMPLES  
43 TAKEN FROM TANKS; REPEALING SECTION 37-313, IDAHO CODE, RELATING TO  
44 THE PROHIBITION OF THE SALE OF DILUTED MILK; REPEALING SECTION 37-314,  
45

1 IDAHO CODE, RELATING TO ADULTERATED MILK; REPEALING SECTION 37-315,  
2 IDAHO CODE, RELATING TO MILKMEN AFFLICTED WITH DISEASE; REPEALING SEC-  
3 TION 37-316, IDAHO CODE, RELATING TO THE SALE OF MILK FROM INFECTED  
4 PREMISES; REPEALING SECTION 37-317, IDAHO CODE, RELATING TO THE RE-  
5 QUIREMENT THAT MILK BE COOLED; REPEALING SECTION 37-322, IDAHO CODE,  
6 RELATING TO STANDARDS FOR CREAM; REPEALING SECTION 37-324, IDAHO CODE,  
7 RELATING TO PENALTIES FOR VIOLATIONS; AMENDING SECTION 37-325, IDAHO  
8 CODE, TO REDESIGNATE THE SECTION, TO REMOVE CERTAIN REPORTING PROVI-  
9 SIONS RELATING TO CREAMERIES, CHEESE FACTORIES AND MILK DAIRIES, TO  
10 REMOVE PROVISIONS RELATING TO THE ATTACHMENT OF TAGS REFLECTING CAPAC-  
11 ITY, TO REMOVE CERTAIN VIOLATION PROVISIONS AND TO PROVIDE THAT CERTAIN  
12 MILK PROCESSORS, COOPERATIVES AND ORGANIZATIONS SHALL PROVIDE FULL  
13 AND ACCURATE ACCOUNTS OF AMOUNTS OF MILK PURCHASED AND VOLUME OF DAIRY  
14 PRODUCTS PROCESSED; REPEALING SECTION 37-326, IDAHO CODE, RELATING TO  
15 STANDARDS FOR DAIRY PRODUCTS; REPEALING SECTION 37-330, IDAHO CODE,  
16 RELATING TO PENALTIES FOR VIOLATIONS OF SPECIFIED LAW; AMENDING SECTION  
17 37-332, IDAHO CODE, TO REDESIGNATE THE SECTION, TO MAKE TECHNICAL COR-  
18 RECTIONS AND TO MAKE A CODIFIER CORRECTION; AMENDING SECTION 37-332a,  
19 IDAHO CODE, TO REDESIGNATE THE SECTION, TO REMOVE CERTAIN GRADING PRO-  
20 VISIONS AND TO PROVIDE THAT GRADES OF BUTTER SHALL COMPLY WITH SPECIFIED  
21 STANDARDS; AMENDING SECTION 37-332b, IDAHO CODE, TO REDESIGNATE THE  
22 SECTION, TO REMOVE CERTAIN VIOLATIONS, GRADE AND EXCEPTION PROVISIONS  
23 RELATING TO BUTTER, TO PROVIDE FOR THE REJECTION OF CERTAIN BUTTER AND  
24 TO PROVIDE FOR THE RELABELING, REGRADING AND REPROCESSING OF CERTAIN  
25 REJECTED BUTTER; REPEALING SECTION 37-332c, IDAHO CODE, RELATING TO  
26 BUTTER GRADERS, WRAPPERS AND GRADE EMBLEMS; REPEALING SECTION 37-332d,  
27 IDAHO CODE, RELATING TO THE LICENSING OF BUTTER GRADERS; REPEALING  
28 SECTION 37-332e, IDAHO CODE, RELATING TO THE REVOCATION OR SUSPEN-  
29 SION OF LICENSES; REPEALING SECTION 37-332f, IDAHO CODE, RELATING TO  
30 ENFORCEMENT; REPEALING SECTION 37-332g, IDAHO CODE, RELATING TO VIOLA-  
31 TIONS; REPEALING SECTION 37-332h, IDAHO CODE, RELATING TO THE DEPOSIT  
32 OF FEES AND FINES INTO THE DAIRY INDUSTRY AND INSPECTION FUND; REPEAL-  
33 ING SECTION 37-333, IDAHO CODE, RELATING TO THE DISPLAY OF THE WEIGHT  
34 OF BUTTER; AMENDING SECTION 37-334, IDAHO CODE, TO REDESIGNATE THE  
35 SECTION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 37-334a,  
36 IDAHO CODE, TO REDESIGNATE THE SECTION, TO REVISE CODE REFERENCES AND  
37 TO MAKE TECHNICAL CORRECTIONS; AMENDING SECTION 37-334d, IDAHO CODE,  
38 TO REDESIGNATE THE SECTION; AMENDING SECTION 37-334e, IDAHO CODE, TO  
39 REDESIGNATE THE SECTION, TO REVISE CODE REFERENCES AND TO MAKE A TECH-  
40 NICAL CORRECTION; AMENDING SECTION 37-335, IDAHO CODE, TO REDESIGNATE  
41 THE SECTION AND TO REVISE CODE REFERENCES; REPEALING SECTION 37-338,  
42 IDAHO CODE, RELATING TO ADMINISTRATION BY THE DEPARTMENT OF AGRICUL-  
43 TURE; REPEALING SECTION 37-339, IDAHO CODE, RELATING TO THE DESIGNATION  
44 OF BREED NAME OF DAIRY CATTLE ON LABELS; REPEALING SECTION 37-340, IDAHO  
45 CODE, RELATING TO THE UNLAWFUL USE OF BREED NAMES ON LABELS; REPEALING  
46 SECTION 37-341, IDAHO CODE, RELATING TO ADMINISTRATION AND ENFORCE-  
47 MENT; REPEALING SECTION 37-342, IDAHO CODE, RELATING TO VIOLATIONS; AND  
48 REPEALING SECTION 37-343, IDAHO CODE, RELATING TO INJUNCTION PROCEED-  
49 INGS.

50 Be It Enacted by the Legislature of the State of Idaho:

1 SECTION 1. That Section 37-301, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 ~~37-301. NAMES OF DAIRYMEN STATEMENT OF PURPOSE. All wholesale dairy-~~  
4 ~~men and other persons having stationary places of business, keeping and~~  
5 ~~offering for sale milk, shall at all times keep the name or names of the~~  
6 ~~dairyman or dairymen, from whom the milk on sale shall have been obtained~~  
7 It is hereby declared to be the policy of the legislature of the state of  
8 Idaho that the public interest requires that all dairy products produced,  
9 distributed, offered for sale or sold in Idaho meet minimum standards of  
10 sanitary condition, quality, identity, classification and grade. To ac-  
11 complish this purpose, the director of the department of agriculture shall  
12 inspect dairy products, dairy farms, production facilities and processing  
13 facilities, issue permits and enforce minimum standards in accordance with  
14 the provisions of this chapter.

15 SECTION 2. That Section 37-302, Idaho Code, be, and the same is hereby  
16 amended to read as follows:

17 ~~37-302. DAIRIES TO BE INSPECTED~~ INSPECTIONS. (1) It shall be the duty  
18 of the director of the department of agriculture to cause to be visited as  
19 frequently as it may deem necessary all dairies supplying dealers and con-  
20 sumers with milk, and inspect the same to ascertain and certify sanitary con-  
21 ditions and milk quality. A copy of the inspection report shall be left with  
22 the owner and such information given as will assist the producer to improve  
23 the sanitary conditions or remedy such defects as the inspection report in-  
24 dicates. A copy of the inspection report shall be kept on file in the office  
25 of the director.

26 (2) The director of the department of agriculture is hereby authorized  
27 and directed to designate any agent to inspect, examine and test any or all  
28 dairy products in accordance with rules as the department may prescribe;  
29 and to ascertain and certify the grade, classification, quality or sanitary  
30 condition thereof and other pertinent facts as the department may require.  
31 The director or agent of the department of agriculture of the state of Idaho  
32 shall make sanitary inspection of milk, cream, butter and dairy products  
33 of any kind whatsoever, intended for human consumption, and of containers,  
34 utensils, equipment, buildings, premises or anything whatsoever employed  
35 in the production, handling, storing, processing or manufacturing of dairy  
36 products or that would affect the purity of the products. Inspections, exam-  
37 inations and tests shall be made to meet the requirements of the laws of the  
38 state and of the United States for the sale of the products or their trans-  
39 portation in both intrastate and interstate commerce. Any agent designated  
40 by the director to make inspections shall have the right for that purpose to  
41 enter any premises and buildings where milk, cream, butter or dairy products  
42 shall be produced, stored, processed or manufactured.

43 (3) Whenever an inspection of any dairy product is made by the depart-  
44 ment of agriculture, or whenever permanent or temporary inspectors or em-  
45 ployees are used by the department for the purpose of enforcing or promulgat-  
46 ing an inspection or sanitary program for any dairy product, the department  
47 is authorized to fix, assess and collect or cause to be collected from the  
48 dairy processors, fees or assessments for services when they are performed

1 by employees or agents of the department, the fees to be on a uniform basis in  
2 an amount reasonably necessary to cover the cost of such inspection and the  
3 administration of the department of agriculture dairy inspection program;  
4 provided however, that the department shall so adjust the fees to be col-  
5 lected under this section as to meet the expenses necessary for this inspec-  
6 tion service only, all of the fees to be used for this purpose alone; and pro-  
7 vided further, that in no event shall the fees or assessments exceed four (4)  
8 mills per pound of butterfat produced by any dairyman in Idaho or received  
9 by processors. All such fees and moneys collected or received by the depart-  
10 ment, its employees or agents under this act shall be deposited in the dairy  
11 industry and inspection fund, which fund is hereby created. All moneys com-  
12 ing into the fund are hereby appropriated to the department of agriculture to  
13 be used in the inspection required by law to be made of the dairy industry and  
14 dairy products. The fees and assessments accrued in any given month are due  
15 and payable no later than the twentieth day of the following month.

16 SECTION 3. That Chapter 3, Title 37, Idaho Code, be, and the same is  
17 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
18 ignated as Section 37-303, Idaho Code, and to read as follows:

19 37-303. STANDARDS AND RULES. (1) The director of the department of  
20 agriculture is hereby authorized to promulgate and enforce reasonable rules  
21 as may be necessary or desirable to establish standards and to carry out its  
22 functions and the intent and purposes of this chapter.

23 (2) All milk or cream utilized in the manufacture of dairy products and  
24 all manufactured dairy products produced, distributed, offered for sale,  
25 or sold in Idaho shall meet the requirements established by this chapter,  
26 of federal law, and rules or regulations promulgated or adopted pursuant to  
27 state or federal law.

28 (3) The following standards concerning the sanitation of milk and cream  
29 are hereby established:

30 (a) The term "processor" means any individual, partnership, associa-  
31 tion or corporation doing business in the state of Idaho that produces,  
32 purchases, obtains or uses in the state of Idaho any milk or cream  
33 for use in the manufacture of butter, cheese, evaporated milk, frozen  
34 desserts, frozen novelties, edible dry milk or other dairy products.  
35 The term "processor" shall not include any individual, partnership, as-  
36 sociation or corporation that produces, purchases, obtains or uses milk  
37 or cream for his or its own consumption. The term "producer" means any  
38 person, firm or corporation who owns or controls one (1) or more cows,  
39 goats, sheep or water buffalo, a part or all of the milk from which is  
40 sold or offered for sale to a processor.

41 (b) No processor shall purchase or obtain in any manner, or use in any  
42 manner, for the sale or manufacture of any dairy products as provided  
43 in paragraph (a) of this subsection, any unacceptable milk or cream as  
44 herein defined.

45 (c) The processor shall, for the purpose of determining the acceptabil-  
46 ity or unacceptability of milk or cream, cause all milk or cream to be  
47 tested and graded according to the standards herein defined before pur-  
48 chase, acquisition or use in any manner. Provided however, that where  
49 the processor customarily purchases the milk or cream of any person reg-

1 ularly engaged in the production thereof, the processor is required to  
 2 test milk and cream of such producer not less than once each month by  
 3 the approved bacteria tests and approved mastitic tests, or other tests  
 4 as may be prescribed by the director of the department of agriculture.  
 5 When milk or cream from any producer is found unacceptable as a result of  
 6 required testing, the processor shall thereafter test the milk or cream  
 7 of the producer daily by the same test until it is found to be accept-  
 8 able. Each processor shall retain for at least one (1) year at the place  
 9 where milk or cream is received, a record of such tests in the form and  
 10 of the content that shall be prescribed by the department of agriculture  
 11 and shall exhibit the record at the place where the same is kept when-  
 12 ever requested to do so by the producer or the department and shall per-  
 13 mit copies thereof to be taken.

14 (d) Milk and dairy product quality standards and standards of identity  
 15 will be established by rules promulgated by the department.

16 (e) Any milk, cream or dairy product that is unclean, unwholesome or un-  
 17 fit for human consumption, as determined by the department, shall be re-  
 18 jected as unacceptable.

19 SECTION 4. That Chapter 3, Title 37, Idaho Code, be, and the same is  
 20 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 21 ignated as Section 37-304, Idaho Code, and to read as follows:

22 37-304. PERMIT ISSUANCE AND REVOCATION. (1) The director or the direc-  
 23 tor's authorized agent shall issue a permit authorizing the sale of milk for  
 24 human consumption to all dairy farms that meet the standards and require-  
 25 ments of this chapter, and rules promulgated pursuant to this chapter.

26 (2) The director or his agent may issue a permit to sell milk for human  
 27 consumption to a new or expanding dairy farm only upon presentation to the  
 28 director by the new or expanding dairy farm of the following:

29 (a) A certified letter, supplied by the board of county commissioners,  
 30 certifying the new or expanding dairy farm's compliance with applicable  
 31 county livestock ordinances; and

32 (b) Evidence that a valid water right exists to supply adequate water  
 33 for the new or expanding dairy farm; or

34 (c) A copy of an application for a permit to appropriate water that has  
 35 been filed with the Idaho department of water resources and which, if  
 36 approved, will supply adequate water for the dairy farm; or

37 (d) A copy of an application to change the point of diversion, place,  
 38 period and nature of use of an existing water right that has been filed  
 39 with the Idaho department of water resources and which, if approved,  
 40 will supply adequate water for the dairy farm.

41 (3) As used in this section:

42 (a) "Animal units" shall be as defined in rule by the director.

43 (b) "Expanding dairy farm" means an existing, legally permitted dairy  
 44 farm that increases, or applies to increase, its existing animal units  
 45 beyond the number for which it is permitted under applicable county  
 46 livestock ordinances or increases, or applies to increase, the waste  
 47 containment system.

48 (c) "New dairy farm" means a dairy farm constructed after the effective  
 49 date of this act.

1 (4) Whenever, under any law of this state or rule, the director of the  
2 department of agriculture or his agent is required to inspect dairy farms for  
3 compliance with rules prescribed by the department, or determine the sani-  
4 tary condition of anything referred to in section 37-303, Idaho Code, or the  
5 purity of milk, cream, butter or other dairy products intended for human con-  
6 sumption, the director shall make or cause to be made an examination and in-  
7 spection and shall report his findings and conclusions. When the issuance  
8 or the revoking of any license or permit by the department of agriculture  
9 is required to be made after an inspection involving milk quality, sanitary  
10 conditions and purity for human consumption of any milk, cream, butter or  
11 other dairy products, the issuance or revocation of license or permit shall  
12 be based upon the report or reports so made by the director.

13 SECTION 5. That Chapter 3, Title 37, Idaho Code, be, and the same is  
14 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
15 ignated as Section 37-305, Idaho Code, and to read as follows:

16 37-305. ENFORCEMENT. The director of the department of agriculture  
17 may bring civil actions to enjoin violations of this chapter or rules promul-  
18 gated to implement the provisions of this chapter.

19 SECTION 6. That Section 37-306, Idaho Code, be, and the same is hereby  
20 repealed.

21 SECTION 7. That Chapter 3, Title 37, Idaho Code, be, and the same is  
22 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
23 ignated as Section 37-306, Idaho Code, and to read as follows:

24 37-306. DEPARTMENT TO COOPERATE WITH OTHER AGENCIES. The department  
25 of agriculture is hereby authorized to advise and assist and to cooperate  
26 with the federal government or any of its agencies, other departments, agen-  
27 cies and institutions of this state, counties, school districts, and munic-  
28 ipalities and other public and private welfare agencies, in the exercise of  
29 any of the powers and duties of the department under this chapter.

30 SECTION 8. That Chapter 3, Title 37, Idaho Code, be, and the same is  
31 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
32 ignated as Section 37-307, Idaho Code, and to read as follows:

33 37-307. MILK HAULERS AND TANKS -- DEFINITIONS. As used in this act, un-  
34 less the context clearly requires otherwise, the following definitions are  
35 adopted:

36 (1) "Milk hauler" means the operator of a transportation tank and may be  
37 an employee or the owner of the equipment.

38 (2) "Farm tank" means a tank used to cool, store or cool and store milk  
39 prior to transportation to the processing plant.

40 (3) "Transportation tank," "bulk tank" and "feeder tank" mean tanks  
41 used to transport milk from a farm to a processing plant.

42 (4) "Chlorine" means chlorine, or other type of sanitizer approved by  
43 the director of the department of agriculture.

1 SECTION 9. That Section 37-308, Idaho Code, be, and the same is hereby  
2 repealed.

3 SECTION 10. That Chapter 3, Title 37, Idaho Code, be, and the same is  
4 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
5 ignated as Section 37-308, Idaho Code, and to read as follows:

6 37-308. STANDARDS FOR TRANSPORTATION TANKS. The following standards  
7 are hereby adopted relating to transportation tanks:

8 (1) The transportation tank and accessories in the milk handling oper-  
9 ation shall comply with the requirements of the 3A sanitary standards symbol  
10 administrative council, 3A standards for transportation tanks existing at  
11 the time of the passage of this act.

12 (2) Suitable facilities, including hot and cold running water, deter-  
13 gent, brushes, sanitizers and sanitizing equipment, a concrete floor with  
14 proper drainage and waste disposal, shall be provided for washing and san-  
15 itizing of transportation tanks. Unless the truck is to be used within a  
16 few hours of the washing operation the sanitizing of the tank shall be omit-  
17 ted until just before the tank truck is to be used. During the interim, the  
18 tank truck shall be protected from contamination by closing port holes, etc.  
19 Since the tank truck may be sanitized on a different date and at a different  
20 time from the cleaning and washing operation, a tag shall provide space for  
21 recording this information. The washing, sanitizing and maintenance of the  
22 transportation tank and accessories shall be the responsibility of the pro-  
23 cessor or milk hauler. The department of agriculture shall be informed in  
24 writing designating the person responsible for the cleaning, sanitizing and  
25 maintenance of the transportation tank.

26 (3) The transportation tank and all accessories shall be thoroughly  
27 rinsed after each usage, and shall be thoroughly cleaned and sanitized daily  
28 and the tank tagged and sealed with a tag attached indicating that the tank  
29 has been washed, sanitized or washed and sanitized. This tag shall also con-  
30 tain the name of the person doing the work and the date on which the work was  
31 done. The tag shall be removed by the hauler at his first pickup and retained  
32 at the receiving plant for a minimum of thirty (30) days.

33 (4) Single length, durable, nontoxic, flexible milk conductor tubing  
34 shall be used for conveying milk from the farm tank to the transportation  
35 tank. The inside diameter of milk conductor tubing shall not be less than one  
36 and three-eighths (1 3/8) inches. If two (2) lengths of tubing are used, they  
37 shall be connected either by the use of sanitary couplings or a piece of 3A  
38 sanitary tubing with clamps which can be removed without tools. The connec-  
39 tions between the pump and the vehicle tank, and between the pump and the milk  
40 conductor tubing shall remain assembled, except when dismantled for clean-  
41 ing. The open end of the milk tubing shall be capped with an approved protec-  
42 tive cap at all times, except when loading or unloading. The outlet valve,  
43 milk pump and the milk conductor tubing and samples shall be enclosed in a  
44 properly drained, insulated, dust-tight cabinet.

45 (5) The transportation tank and the accessories shall be used for no  
46 other purpose than the handling of milk unless such other use is approved by  
47 the department of agriculture.

1 SECTION 11. That Chapter 3, Title 37, Idaho Code, be, and the same is  
2 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
3 ignated as Section 37-309, Idaho Code, and to read as follows:

4 37-309. STANDARDS FOR MILK HAULERS. The following standards are  
5 hereby adopted relating to milk haulers and to the operation of transporta-  
6 tion tanks:

7 (1) All milk haulers must possess a permit issued by the state depart-  
8 ment of agriculture. All milk haulers shall be subject to such examination  
9 and abilities as the department of agriculture may prescribe by rule or reg-  
10 ulation in order to receive and retain such permit. The fee for the permit  
11 shall be twenty-five dollars (\$25.00). The permit shall be valid for three  
12 (3) years and must be renewed by December 31 of the third year.

13 (2) The milk line shall be passed through a special port opening through  
14 the milk house wall with care to prevent contact with the ground or floor of  
15 the milk house. The port opening shall be closed when not in use.

16 (3) It shall be the responsibility of the milk hauler to assure that in  
17 the event the processor washes and sanitizes the truck the operation has been  
18 adequately performed, and that prior to use the tank truck has been properly  
19 sanitized. In the event it is the milk hauler's responsibility to sanitize  
20 the tank truck, it shall be done with a chlorine solution of proper strength.

21 (4) The milk hauler's hands shall be washed immediately before gauging  
22 the milk.

23 (5) The milk shall be observed and checked for abnormalities or adul-  
24 terations, and all abnormal or adulterated milk shall be rejected.

25 (6) The milk volume in the farm tank shall be determined in a sanitary  
26 manner.

27 (7) The milk in the farm tank shall be thoroughly agitated. Milk sam-  
28 ples for analysis shall be taken in a sanitary manner into properly identi-  
29 fied sterile containers. All sampling shall follow standard methods.

30 (8) After the milk is pumped to the transportation tank the milk conduc-  
31 tor tubing shall be capped and returned to the vehicle storage cabinet. Care  
32 shall be taken to prevent soiling of the milk line by contact with the milk  
33 house floor, operator's hands or the ground.

34 (9) The milk hauler shall rinse the farm tank and accessories free of  
35 milk with clean water immediately after emptying.

36 (10) The milk hauler shall be responsible for proper use of the trans-  
37 portation tank and accessories.

38 SECTION 12. That Section 37-310, Idaho Code, be, and the same is hereby  
39 repealed.

40 SECTION 13. That Chapter 3, Title 37, Idaho Code, be, and the same is  
41 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
42 ignated as Section 37-310, Idaho Code, and to read as follows:

43 37-310. STANDARDS FOR QUALITY CONTROL OF MILK SAMPLES. The following  
44 standards are hereby adopted relating to quality control of milk samples  
45 taken from tanks:

46 (1) As often as is deemed necessary, the department of agriculture may  
47 take samples for analysis from each farm tank or each transportation tank.



1 (2) All milk samples taken from farm tanks or transportation tanks  
2 shall be taken in a sanitary manner in accordance with standard methods.  
3 Samples for bacteriological analysis shall be properly iced and transported  
4 in accordance with standard methods, thirty-two (32) to forty (40) degrees  
5 Fahrenheit.

6 (3) The department of agriculture shall have access to all records  
7 maintained by the receiving plant relating to butterfat, temperature and  
8 bacteriological sampling and any other samples of bulk farm tank milk.

9 (4) Milk samples for analysis shall be available on the farm tank pickup  
10 truck at all times during the collection period and delivery to the plant, as  
11 required by the department of agriculture.

12 SECTION 14. That Section [37-313](#), Idaho Code, be, and the same is hereby  
13 repealed.

14 SECTION 15. That Section [37-314](#), Idaho Code, be, and the same is hereby  
15 repealed.

16 SECTION 16. That Section [37-315](#), Idaho Code, be, and the same is hereby  
17 repealed.

18 SECTION 17. That Section [37-316](#), Idaho Code, be, and the same is hereby  
19 repealed.

20 SECTION 18. That Section [37-317](#), Idaho Code, be, and the same is hereby  
21 repealed.

22 SECTION 19. That Section [37-322](#), Idaho Code, be, and the same is hereby  
23 repealed.

24 SECTION 20. That Section [37-324](#), Idaho Code, be, and the same is hereby  
25 repealed.

26 SECTION 21. That Section 37-325, Idaho Code, be, and the same is hereby  
27 amended to read as follows:

28 ~~37-325~~11. REPORTS BY DAIRIES, CREAMERIES AND CHEESE FACTORIES OF VOL-  
29 UMES PURCHASED. ~~The department of agriculture shall furnish blanks to all~~  
30 ~~proprietors or managers of creameries, cheese factories or milk dairies that~~  
31 ~~ship milk, and all vendors and peddlers of milk and dairy goods handled, and~~  
32 ~~all owners or managers of such creameries and cheese factories, and all milk~~  
33 ~~dairies and all milk vendors, or milk peddlers shall fill out the blanks,~~  
34 ~~giving a full and accurate report of the business done during the year, and~~  
35 ~~send them to the department of agriculture before the first day of November~~  
36 ~~of each year. Every person or corporation who shall engage in the business of~~  
37 ~~purchasing or dealing in milk shall attach in a permanent manner to each can~~  
38 ~~furnished by him or the producer, a tag containing in plain figures a correct~~  
39 ~~statement of the capacity thereof. Any neglect or failure or false state-~~  
40 ~~ment on the part of the proprietor or manager of such creamery, cheese fac-~~  
41 ~~tory, dairy or milk vendor or milk peddler, shall be considered a misdemeanor~~  
42 All milk processors, cooperatives and organizations that procure milk from  
43 Idaho dairy farms or process milk received from other states shall, by the

1 twentieth day of the following month in which the milk was produced or pro-  
2 cessed, provide a full and accurate account of the amount of milk purchased  
3 and the volume of dairy products processed to the department of agriculture  
4 pursuant to procedures established by the department.

5 SECTION 22. That Section 37-326, Idaho Code, be, and the same is hereby  
6 repealed.

7 SECTION 23. That Section 37-330, Idaho Code, be, and the same is hereby  
8 repealed.

9 SECTION 24. That Section 37-332, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 37-33212. BUTTER AND WHEY BUTTER -- DEFINITIONS AND QUALITIES. Butter  
12 is the product made by gathering the fat of fresh or ripened milk or cream  
13 into a mass, which also contains a small portion of other milk constituents,  
14 with or without salt or a harmless coloring matter. Butter shall be clean  
15 and non-rancid and shall contain not less than eighty ~~per cent~~ percent (80%)  
16 of ~~butter fat~~ butterfat. Whey butter or whey cream butter is the food prod-  
17 uct made by gathering the fat of fresh or ripened whey cream separated from  
18 cheese whey and formed into a mass, which also contains a small portion of  
19 other milk constituents, with or without salt or a harmless coloring mat-  
20 ter. Whey butter shall be clean and ~~nonrancid~~ non-rancid and shall contain  
21 not less than eighty ~~per cent~~ percent (80%) ~~butter fat~~ butterfat. The term  
22 butter includes whey butter and whey cream butter.

23 SECTION 25. That Section 37-332a, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 37-332a13. BUTTER GRADES. ~~The official state consumer grades for but-~~  
26 ~~ter sold or distributed within this state shall be "grade AA," "grade A,"~~  
27 ~~"grade B" and "undergrade". "Grade AA" butter is butter scoring not less~~  
28 ~~than 93. "Grade A" butter is butter scoring 92. "Grade B" butter is butter~~  
29 ~~scoring 90 or 91. The grades of butter shall comply with the United States~~  
30 ~~department of agriculture's 1989 "Standards for Grades of Butter." "Under-~~  
31 ~~grade" butter is butter scoring less than 90 under this standard. United~~  
32 ~~States AA, A, and B grades and emblems of butter shall be accepted in lieu~~  
33 ~~of the corresponding Idaho AA, A, and B grades and emblems of butter, but all~~  
34 ~~United States grades of butter below B shall, for the purpose of this sec-~~  
35 ~~tion, correspond to Idaho "undergrade" butter. It is hereby declared to be~~  
36 ~~unlawful to sell, or offer for sale any butter within the state of Idaho un-~~  
37 ~~less the wrappers and containers in which said butter is packaged are con-~~  
38 ~~spicuously labeled as to grades. Any butter that scores less than 90 and is~~  
39 ~~sold or offered for sale within the state of Idaho must be conspicuously la-~~  
40 ~~beled with the words "undergrade butter" upon the wrappers and container in~~  
41 ~~which said butter is packaged.~~

42 SECTION 26. That Section 37-332b, Idaho Code, be, and the same is hereby  
43 amended to read as follows:

1        37-332b<sup>14</sup>. IMPROPERLY GRADED BUTTER ~~--- SALE UNLAWFUL --- GRADE EMBLEM~~  
 2 ~~--- EXCEPTION. It shall be unlawful for any person to sell, offer or expose~~  
 3 ~~for sale, or to distribute, within this state to any consumer, or to any~~  
 4 ~~retailer, including among others hotels and restaurants, any butter not~~  
 5 ~~properly graded by a butter grader licensed under this act and labeled ac-~~  
 6 ~~cording to section 37-332a, Idaho Code. The official state consumer grades~~  
 7 ~~shall be designated by an official grade emblem the design of which shall be~~  
 8 ~~prescribed by the state department of agriculture, and said emblem shall be~~  
 9 ~~used in designating butter grades only in accordance with regulations of the~~  
 10 ~~state department of agriculture governing the manner of such use. Graded~~  
 11 ~~butter imported into this state, and otherwise meeting all of the require-~~  
 12 ~~ments of section 37-332a, Idaho Code, is not required to be designated with~~  
 13 ~~said grade emblem. Nothing contained in this act shall be construed to pre-~~  
 14 ~~vent a producer of cream from manufacturing into butter any cream produced by~~  
 15 ~~his own herd, provided it shall not exceed eighty (80) pounds in any calen-~~  
 16 ~~dar month, or from selling the same to consumers or retailers or to prevent~~  
 17 ~~the resale of such butter by such retailers Butter that fails to meet the~~  
 18 ~~grade labeled on the butter container may be rejected. Butter that has been~~  
 19 ~~rejected due to failure to meet the standard may be relabeled, regraded or~~  
 20 ~~reprocessed if authorized by the department of agriculture.~~

21        SECTION 27. That Section [37-332c](#), Idaho Code, be, and the same is hereby  
 22 repealed.

23        SECTION 28. That Section [37-332d](#), Idaho Code, be, and the same is hereby  
 24 repealed.

25        SECTION 29. That Section [37-332e](#), Idaho Code, be, and the same is hereby  
 26 repealed.

27        SECTION 30. That Section [37-332f](#), Idaho Code, be, and the same is hereby  
 28 repealed.

29        SECTION 31. That Section [37-332g](#), Idaho Code, be, and the same is hereby  
 30 repealed.

31        SECTION 32. That Section [37-332h](#), Idaho Code, be, and the same is hereby  
 32 repealed.

33        SECTION 33. That Section [37-333](#), Idaho Code, be, and the same is hereby  
 34 repealed.

35        SECTION 34. That Section 37-334, Idaho Code, be, and the same is hereby  
 36 amended to read as follows:

37        37-334<sup>15</sup>. ADVERTISING SUBSTITUTES FOR DAIRY PRODUCTS. It shall be un-  
 38 lawful for any person, firm or corporation to make use of the words, milk,  
 39 cream, butter, cheese, creamery, dairy, churn, cow, the name of any dairy  
 40 breed or any pictorial representation of any of these terms in connection  
 41 with the sale, offering for sale or advertisement of any substance designed  
 42 to be used as a so-called substitute for milk, cheese, butter or any other  
 43 dairy products.

1 SECTION 35. That Section 37-334a, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 37-334a~~16~~<sup>16</sup>. FOOD PRODUCTS MADE TO RESEMBLE DAIRY PRODUCTS -- DEFINI-  
4 TIONS. As used in sections 37-334~~15~~<sup>15</sup>, ~~37-334a~~, ~~37-334b~~, ~~37-334c~~, ~~37-334d~~,  
5 ~~37-334e~~ and 37-334~~f~~<sup>18</sup>, Idaho Code:

6 (1) "Dairy product" includes:

7 (a) Milk, skim milk, milk fat, cream, sour cream, lowfat milk and nonfat  
8 milk used in fluid, concentrated or dry form.

9 (b) Cheese. All varieties including asiago, blue, brick, caciocav-  
10 allo, cheddar, colby, cook cheese, cottage, cream, washed curd, edam,  
11 gammelost, gorgonzola, gouda, granular and grated, gruyere, hard,  
12 limburger, monterey, monterey jack, mozzarella, scamorze, muenster,  
13 neufchatel, nuworld, parmesan, reggiano, pasteurized, blended and pro-  
14 cessed cheeses, pasteurized cheese spreads, provolone, pasta filata,  
15 romano, roquefort, samsoe, sapsago, semi-soft and skim milk, spiced,  
16 swiss and emmentaler as described in 21 CFR, part 133.

17 (c) Butter as defined in section 37-33~~1~~<sup>12</sup>, Idaho Code.

18 (d) Ice cream, frozen custard, ice milk, sherbet as defined in 21 CFR,  
19 part 135, frozen yogurt dessert mix, frozen yogurt dessert, frozen low-  
20 fat and nonfat yogurt dessert, dietetic or dietary frozen dessert, low-  
21 fat or nonfat frozen dairy dessert, and milk shake base as defined in  
22 state department of agriculture dairy rules or regulations.

23 (e) Any manufactured food which:

24 1. Uses milk or a milk ingredient as the principal or characteriz-  
25 ing constituent of the food product;

26 2. Does not contain ingredients added for the purpose of replacing  
27 milk or milk ingredients;

28 3. Does not contain milk-derived ingredients at levels in excess  
29 of those permitted in similar standardized dairy products;

30 4. Does not contain any vegetable-derived ingredients unless the  
31 ingredients are used as carriers or function as stabilizers or  
32 emulsifiers; and

33 5. Has no standard of identity recognized by any federal or state  
34 of Idaho law, rule or regulation as a dairy product.

35 (2) "Milk ingredient" includes milk, skim milk, milk fat, cream, sour  
36 cream, lowfat milk and nonfat milk used in fluid, concentrated or dry form.

37 (3) "Milk derived ingredient" includes buttermilk, whey, modified whey  
38 products, casein, lactose, lactalbumins and lactoglobulins used in fluid,  
39 concentrated or dry forms.

40 (4) "Artificial dairy product" means any food manufactured or labeled  
41 so as to purport to resemble the identity, intended use, composition, physi-  
42 cal and sensory properties of a dairy product as defined in subsection (1) of  
43 this section.

44 (5) For the purpose and within the meaning of this act, an "artificial  
45 dairy product" shall not include a "dairy product" as defined in this section  
46 ~~37-334a(1)~~, Idaho Code, or any other manufactured food which has a federal or  
47 state of Idaho standard of identity as a food product.

48 ~~(a)~~ Food products made to resemble those food products other than dairy  
49 products in ~~section 37-334a(5)~~, Idaho Code this subsection, are exempt

1 from the labeling requirements ~~in sections 37-334b and 37-334c, Idaho~~  
2 ~~Code, and regulations adopted pursuant thereto~~ of this chapter.

3 SECTION 36. That Section 37-334d, Idaho Code, be, and the same is hereby  
4 amended to read as follows:

5 37-334d~~1~~17. QUALITY STANDARDS FOR FOOD PRODUCTS MADE TO RESEMBLE DAIRY  
6 PRODUCTS. Quality standards (e.g., bacteria, coliform, etc.) for food prod-  
7 ucts made to resemble dairy products shall be at least the equivalent of the  
8 established quality standards of the dairy product resembled.

9 SECTION 37. That Section 37-334e, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 37-334e~~1~~18. LICENSE REQUIREMENTS FOR MANUFACTURERS OF FOOD PRODUCTS  
12 MADE TO RESEMBLE DAIRY PRODUCTS. (1) It is unlawful to engage in the manu-  
13 facture of food products resembling dairy products, unless a license for the  
14 current calendar year for each separate plant or place used for such business  
15 is issued by the director of the Idaho department of agriculture.

16 (2) Applications for a license shall be in the form which shall be pre-  
17 scribed by the director of the Idaho department of agriculture.

18 (3) The application shall be accompanied by a fee of one hundred dollars  
19 (\$100). The fee shall be prorated on a monthly basis for any licensee that  
20 commences operations after the first quarter in any calendar year whether or  
21 not such plant was licensed during the preceding calendar year.

22 (4) Plant licenses are not required if the plant is located in a state  
23 other than Idaho.

24 (5) The director of the Idaho department of agriculture shall issue to  
25 each applicant that meets the requirements of this section, a license which  
26 entitles the applicant to manufacture, sell, or distribute food products re-  
27 sembling dairy products for the then current calendar year for which the li-  
28 cense is issued, unless the license is sooner revoked or suspended.

29 (6) The license shall expire at the end of each calendar year.

30 (7) It is unlawful for any person to sell any food product resembling  
31 dairy products which has been produced in a plant that is in an unsanitary  
32 condition.

33 (8) The manufacture of food products resembling dairy products under  
34 unhealthful or unsanitary conditions or which violate the provisions of  
35 sections 37-334~~15~~15 through 37-335~~18~~18, Idaho Code, and rules or regulations  
36 adopted pursuant thereto, shall be grounds for revocation or suspension of  
37 such license.

38 SECTION 38. That Section 37-335, Idaho Code, be, and the same is hereby  
39 amended to read as follows:

40 37-335~~1~~19. PENALTY -- ENFORCEMENT. (1) Any person, firm or corpora-  
41 tion, violating the provisions of sections 37-334~~15~~15 through 37-334~~18~~18, Idaho  
42 Code, or any part or provision of any of said sections, shall be guilty of  
43 a misdemeanor and punishable by a fine not exceeding two hundred dollars  
44 (\$200) or imprisonment in the county jail not exceeding six (6) months or by  
45 both such fine and imprisonment.

1           (2) In addition, any products not in compliance with the provisions  
2 of sections ~~37-33415~~ through ~~37-33418~~, Idaho Code, shall be subject to  
3 seizure and disposition in accordance with an appropriate court order or  
4 rule adopted by the director of the department of agriculture.

5           SECTION 39. That Section [37-338](#), Idaho Code, be, and the same is hereby  
6 repealed.

7           SECTION 40. That Section [37-339](#), Idaho Code, be, and the same is hereby  
8 repealed.

9           SECTION 41. That Section [37-340](#), Idaho Code, be, and the same is hereby  
10 repealed.

11           SECTION 42. That Section [37-341](#), Idaho Code, be, and the same is hereby  
12 repealed.

13           SECTION 43. That Section [37-342](#), Idaho Code, be, and the same is hereby  
14 repealed.

15           SECTION 44. That Section [37-343](#), Idaho Code, be, and the same is hereby  
16 repealed.