

SENATE BILL NO. 416

INTRODUCED BY G. HERTZ

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING LABELING REQUIREMENTS FOR PASTEURIZED MILK PLACED FOR SALE; PROVIDING REQUIREMENTS FOR A "SELL BY" DATE AND A "BEST BY" DATE; PROHIBITING CERTAIN SALES; PROVIDING AN APPLICATION AND DEPARTMENT APPROVAL FOR "SELL BY" DATE EXTENSION UNDER CERTAIN REQUIREMENTS; PROVIDING EXCEPTIONS; PROVIDING RULEMAKING AUTHORITY; REQUIRING THE DEPARTMENT OF LIVESTOCK TO AMEND ARM 32.8.101; AND REPEALING ARMS 32.8.202, 32.8.203, 32.8.204, 32.8.205, AND 32.8.206."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Standards and labeling for milk placed for sale -- "sell by" date -- "best by" date -- "sell by" date extension -- seizure -- exemptions. (1) (a) The processor of a unit of grade A milk shall establish:

(i) a "sell by" date indicating the 17th consecutive date, or as otherwise provided in subsection (3), following pasteurization of the unit of milk; and

(ii) a "best by" date indicating the number of days after pasteurization that the unit of milk should be fresh, healthful, and safe when purchased by a consumer. This date may also be referred to as a "use by" date.

(b) Each container into which grade A pasteurized milk is placed for sale for public consumption must be marked with the "sell by" date and the "best by" date by the packager of the milk.

(2) Except as provided in subsection (3), a person may not sell or offer for public consumption grade A milk or put grade A milk into any container marked for sale with a "sell by" date if more than 17 days have passed following the pasteurization of the milk.

(3) (a) A processor may apply to the department for approval to use a "sell by" date that exceeds the 17th consecutive date provided in subsection (1). A processor applying for approval shall use a form provided by the department.

1 (b) A processor applying for approval pursuant to this subsection (3) shall specify on the form
2 provided by the department each product, by milk type and type and volume of milk container, for which
3 approval is sought and the specific "sell by" date proposed for that product as packaged.

4 (c) For each milk type and type and volume of milk container for which approval is being sought,
5 the processor applying shall include scientific documentation that the department may require to confirm the
6 following:

7 (i) unopened samples from at least three different production days were maintained at a
8 temperature of between 35 and 45 degrees Fahrenheit for no less than the entire proposed "sell by" date
9 period;

10 (ii) after the proposed "sell by" date period ended, each sample was opened and tested for
11 bacterial count, and the bacterial count for each sample did not exceed the bacteriological standards for milk
12 set forth in the department's milk quality standards authorized under 81-22-102; and

13 (iii) the testing was completed within 3 months preceding the date the application was submitted to
14 the department.

15 (d) Approval issued by the department under this subsection (3) must remain in effect as long as
16 the processor continues to complete any periodic sampling and testing required by department rules and the
17 bacterial test results do not exceed the bacterial limits for pasteurized milk set forth by the department's milk
18 quality standards authorized under 81-22-102.

19 (4) (a) The "sell by" date and the "best by" date required in subsection (1) must be displayed in
20 Arabic numerals or standard abbreviations for day and month.

21 (b) Labels required by this section must be of a color clearly contrasting with the area immediately
22 surrounding the label. The labels may be put on by printing, stamping, burning, or a combination of any of those
23 methods or by some other method specifically approved in writing by the department.

24 (c) Labels placed on cartons or similar containers must be located on the top sealing fin. Labels on
25 molded plastic jugs may be placed anywhere on the upper half of the container or on the printed product label
26 except the lid.

27 (d) Labels for containers must be at least 1/8 inch in height.

28 (e) All characters in labels must be at least 1/8 inch in height.

1 (5) A person who offers pasteurized milk for sale to the public shall remove the milk at or before
2 the last "sell by" date.

3 (6) The following are exempt from the labeling rule in section (4):

4 (a) a processor not selling or distributing milk to the public; or

5 (b) a processor processing milk for sale out of state.

6 (7) Milk offered for sale contrary to the provisions of this section may be seized and destroyed by
7 agents of the department.

8 (8) The department shall adopt rules to implement and administer the provisions of subsection (3).

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10 NEW SECTION. Section 2. Department to amend rule. The department of livestock shall amend
11 ARM 32.8.101 to eliminate the definition of a "sell by" date.

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13 NEW SECTION. Section 3. Repealer. ARM 32.8.202, 32.8.203, 32.8.204, 32.8.205, and 32.8.206
14 are repealed.

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16 NEW SECTION. Section 4. Codification instruction. [Section 1] is intended to be codified as an
17 integral part of Title 81, chapter 21, and the provisions of Title 81, chapter 21, apply to [section 1].

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