

Agriculture & Markets Law

ARTICLE 4-B MILK SANITATION

Section 71-1. Milk sanitation; powers, functions and duties of commissioner.

71-m. Milk sanitation; appointment of specialists; appliances.

71-n. Milk and milk products; permit required.

71-o. Violations.

S 71-1. Milk sanitation; powers, functions and duties of commissioner.

1. The commissioner is charged with the duty of protecting and promoting the health and welfare of the people of this state by inspecting, regulating, and supervising the sanitary quality of milk and cream distributed, consumed or sold within this state, whether produced within or without the state.

2. (a) Notwithstanding the provisions of any other general, special or local law, the commissioner may, in order to secure uniformity of inspection, regulation and supervision of the sanitary quality of milk and milk products, as defined under the authority of section forty-six-a of this chapter, reverse, modify or annul in whole or in part any rule, regulation, direction, order or ordinance heretofore adopted by the board of health of any local health district or any other body exercising the powers and duties of a board of health therein, or any order, direction or requirement made pursuant thereto, pertaining to or affecting the production, processing, handling, storage, transportation, sale, resale or distribution of milk and cream, or any operations or procedures incident thereto.

(b) The order of the commissioner reversing, modifying or annulling any such rule, regulation, direction, order, ordinance or requirement, shall state the date on which it takes effect and a copy thereof, duly signed by the commissioner shall be filed as a public record in the department.

(c) Nothing contained in this article shall affect any existing rule, regulation, direction, order, ordinance or requirement relating to the dating of milk in cities.

S 71-m. Milk sanitation; appointment of specialists; appliances. The commissioner may, within the appropriations made therefor:

(a) appoint such milk control specialists, bacteriologists, and such other employees and assistants as may be required, and

(b) secure such equipment and appliances as may be necessary to carry out the purposes of this article.

S 71-n. Milk and milk products; permit required. 1. (a) No person, firm, association, partnership or corporation shall engage in or carry on the business of shipping, transporting or importing into this state from any other state, territory or foreign country any milk or milk products, as defined in subdivision two of section seventy-one-1 of this article, for sale, resale or distribution to consumers without first having obtained from the commissioner a permit authorizing all such shipments, transportations or importations.

(b) All such permits shall expire on June thirtieth following; provided, however, that before the commissioner shall issue such permit he or she shall (i) cause an inspection by a New York state inspector of

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the out-of-state producers` cows, barns, stables, milk houses, water supply, milk equipment, utensils and milk; (ii) require a veterinarian`s certificate showing the cows to be in a healthy condition; and (iii) require the applicant or applicants for the permit to satisfy him or her that the milk or milk products to be shipped, transported or imported into the state meet all of the sanitary requirements and standards for such milk and milk products produced within the state of New York.

(c) Nothing in this section shall be held or construed to apply to evaporated or condensed milk manufactured, sold or exposed for sale or exchange in hermetically sealed cans.

(d) The commissioner shall not issue a permit for the shipment, transportation or importation into this state of any milk or milk products, as defined in subdivision two of section seventy-one-1 of this article, for sale, resale or distribution to consumers which fail to meet in detail in accordance with the actual inspection hereinabove described, all sanitary requirements, regulations and product standards now in force or hereafter promulgated by the department for the production of milk or milk products within the state. When the commissioner inspects a plant beyond the boundary of the state, the commissioner may require such plant to reimburse the department for all necessary and reasonable expenses incurred in making such inspections. In lieu of the inspection requirements set forth in paragraph (b) of this subdivision, the commissioner is authorized to effectuate and enter into such reciprocal agreements with governmental units of other states, commonwealths or jurisdictions as will insure the inhabitants of this state milk and milk products complying with all the sanitary requirements and product standards and regulations now in force or hereafter promulgated by the department for the production and handling of milk or milk products within the state, through reciprocal inspection agreements, and in aid of such agreements, may approve or accept inspections conducted by other commonwealths, states and jurisdictions with respect to milk and milk products.

2. No person, firm, association, partnership or corporation shall engage in the production, processing or manufacture of milk and milk products without a permit issued by the commissioner pursuant to this subdivision. The commissioner may decline to grant or renew or may revoke a permit, after due notice and opportunity for a hearing, when he or she is satisfied that the applicant or permit holder is not capable of complying or has not complied with the requirements relating to production, processing or manufacture of milk and milk products set forth in this chapter or the rules and regulations promulgated pursuant thereto. No fee shall be charged for a permit and it shall remain in effect until revoked or until suspended by the commissioner. With respect to a milk producer, the permit required by this section shall consist of a satisfactory sanitary inspection report of a department inspector or a certified milk industry inspector. An emergency suspension of a milk producer`s permit pursuant to section four hundred one of the state administrative procedure act may be ordered by a department employee authorized by the commissioner. Such an order may be based upon facts as reported by a certified milk industry inspector.

3. The commissioner may, after public hearing, promulgate such rules and regulations as he or she deems necessary to give full force and effect to the purpose and intent of this article and to conform such rules and regulations to the provisions of the Grade A Pasteurized Milk Ordinance, published by the food and drug administration of the United States department of health and human services, including those

provisions concerning the disposition of milk as a sanction for violation of such ordinance.

S 71-o. Violations. Any person, firm, association or corporation violating any of the provisions of section seventy-one-n of this chapter shall be guilty of a misdemeanor.