
A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. The legislature finds that while over forty
2 dairy farms once existed across the islands of Hawaii, only one
3 small dairy remains on the big island due to the high cost of
4 land, utilities, imported feed, labor, and competition from
5 mainland sources. Today, well over ninety per cent of all milk
6 sold in the State via grocers and retailers is imported from the
7 mainland United States.

8 The legislature further finds that some of this milk is
9 pasteurized and shipped in large unrefrigerated tanks from the
10 west coast of the United States to Hawaii. This ocean crossing
11 takes approximately one week, and additional time is needed to
12 re-pasteurize the milk in order to lower the amount of bacteria
13 that has increased during ocean transportation, before the milk
14 is packaged and sent to market.

15 The legislature additionally finds that when this re-
16 pasteurized milk is packaged and placed on the store shelves and
17 labeled as "fresh", it is often marketed as from "Hawaii's



1 dairy" or under a store's own private label brand as "fresh
2 milk", thereby causing potential confusion for consumers who may
3 believe this milk is actually locally produced.

4 Moreover, the legislature notes that a University of Hawaii
5 study found that milk sold on Oahu exceeded federal regulatory
6 limits for bacterial counts five days prior to the milk's
7 expiration date and that consumers frequently discover that
8 imported milk spoils before the stamped expiration date.

9 The legislature further finds that when the Milk Control
10 Act was first enacted in 1967, the dairy industry in Hawaii was
11 flourishing. The Milk Control Act was established to protect
12 the local dairy industry from the fluctuations of the market and
13 ensure the availability of milk. It was not intended to ensure
14 that milk shipped over long distances was safe to consume,
15 especially for infants, toddlers, and young children, who are
16 among the largest consumers of milk.

17 The legislature also notes that in 2017, the department of
18 health issued a cease-and-desist order to the processing plant
19 involved in re-pasteurization because the levels of coliform
20 bacteria that existed in the processing plant's two per cent
21 milk testing exceeded by ten times the legal limit for coliform



1 bacteria in three of five consecutive tests conducted by the
2 department of health.

3 The legislature further finds that according to recent data
4 from the federal Centers for Disease Control and Prevention,
5 48,000,000 individuals in the United States are sickened,
6 128,000 are hospitalized, and 3,000 die each year from foodborne
7 diseases. This significant public health burden is largely
8 preventable.

9 The legislature additionally finds that modern methods of
10 transportation that prioritize food safety as well as cold chain
11 logistics and controls required by the federal Food Safety
12 Modernization Act now exist and are available to all importers
13 of single-pasteurized, fresh milk, thus creating a level playing
14 field for all businesses involved in the shipping and
15 distribution of milk and making the re-pasteurization of milk
16 and its associated dangers an unnecessary risk for consumers in
17 Hawaii.

18 The purpose of this Act is to protect the health of
19 Hawaii's consumers by requiring that:

20 (1) All United States mainland milk shipped to and sold in
21 Hawaii is single pasteurized only and complies with



1 all handling, transportation, and distribution
2 requirements of the federal Food Safety Modernization
3 Act, including handling procedures, temperature
4 verifications, and proper refrigerated transportation
5 of all perishable foods; and

6 (2) Any processed milk or milk product must be entirely
7 produced in the State in order to be labeled with any
8 term or slogan that might imply that the milk or milk
9 products are produced locally.

10 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
11 amended by adding a new section to be appropriately designated
12 and to read as follows:

13 "§321- Milk; safety; transport; sale. (a) No person
14 shall:

15 (1) Transport into the State; or

16 (2) Keep, offer, display, expose for sale, or solicit for
17 the sale of,

18 any processed milk, unless the milk is single pasteurized and
19 the person has fully complied with all handling, transportation,
20 and distribution requirements of the federal Food Safety
21 Modernization Act, including handling procedures, temperature



1 verifications, and proper refrigerated transportation of all
2 perishable foods.

3 (b) As used in this section, "milk" shall have the same
4 meaning as that term is defined in section 157-1."

5 SECTION 3. Section 486-120, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) No person shall keep, offer, display, expose for
8 sale, or solicit for the sale of any processed milk or milk
9 product which is labeled with the term "island fresh", or like
10 terms, with any other term or slogan that implies that the
11 processed milk or milk product is produced locally, or which by
12 any other means misrepresents the origin of the item as being
13 from any place within the State unless the processed milk or
14 milk product has been [~~at least ninety per cent, by weight,~~]
15 produced entirely in the State."

16 SECTION 4. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 5. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

21 SECTION 6. This Act shall take effect upon its approval.



Report Title:

Milk; Food Safety Modernization Act; Shipping and Sale;
Transportation; Handling; Locally Produced Milk

Description:

Requires all United States mainland milk shipped to and sold in Hawaii to be single pasteurized only and comply with all handling, transportation, and distribution requirements of the federal Food Safety Modernization Act, including handling procedures, temperature verifications, and proper refrigerated transportation of all perishable foods. Requires any processed milk or milk product to be entirely produced in the State in order to be labeled with any term or slogan that might imply that the milk or milk products are produced locally. (HD1)

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