

AN ACT

relating to the regulation of milk and milk products.

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

SECTION 1. Subchapter A, Chapter 431, Health and Safety Code, is amended by adding Section 431.010 to read as follows:

Sec. 431.010. APPLICABILITY OF CHAPTER TO MILK AND MILK PRODUCTS. (a) This chapter applies to milk or a milk product subject to Chapter 435. Milk or a milk product is a food for purposes of this chapter.

(b) Except as provided by Subsection (c), this chapter applies to the conduct of a person who holds a permit under Chapter 435.

(c) A person who holds a permit under Chapter 435 related to the processing, producing, bottling, receiving, transferring, or transporting of Grade A milk or milk products and who is engaging in conduct within the scope of that permit is not required to hold a license as a food manufacturer or food wholesaler under Subchapter J.

SECTION 2. Section 431.2211, Health and Safety Code, is amended by adding Subsection (a-2) to read as follows:

(a-2) A person is not required to hold a license under this subchapter if the person holds a permit under Chapter 435 related to the processing, producing, bottling, receiving, transferring, or transporting of Grade A milk or milk products and is engaging in

1 conduct within the scope of that permit.

2 SECTION 3. Subchapter A, Chapter 435, Health and Safety  
3 Code, is amended by adding Section 435.0015 to read as follows:

4 Sec. 435.0015. APPLICABILITY OF OTHER LAW. Except as  
5 provided by Section 431.010(c), Chapter 431 applies to a person and  
6 milk or a milk product regulated under this chapter.

7 SECTION 4. Section 435.011, Health and Safety Code, is  
8 amended to read as follows:

9 Sec. 435.011. HEARING [~~ON APPLICATION OF RULE OR DENIAL OF~~  
10 ~~PERMIT~~]. (a) The board shall establish a procedure by which a  
11 person aggrieved by the application of a board rule [~~or the denial~~  
12 ~~of a permit~~] may receive a hearing [~~on that action~~] under Chapter  
13 2001, Government Code.

14 (b) The refusal or the suspension or revocation of a permit  
15 by the department and the appeal of that action are governed by the  
16 procedures for a contested case hearing under Chapter 2001,  
17 Government Code.

18 SECTION 5. Section 435.012, Health and Safety Code, is  
19 amended to read as follows:

20 Sec. 435.012. REFUSAL TO GRANT PERMIT; SUSPENSION OR  
21 REVOCAION OF PERMIT. (a) The department may refuse an  
22 application for a permit under this chapter or may suspend or revoke  
23 a permit issued under this chapter [~~if the permit holder fails to~~  
24 ~~make timely payment of the monthly fees required under Section~~  
25 ~~435.009~~].

26 (b) The board and its representative may revoke and regrade  
27 permits if on inspection the board or its representative finds that

1 the use of the grade label does not conform to the specifications or  
2 requirements adopted by the board under this chapter.

3 (c) The board by rule shall:

4 (1) provide for the denial, suspension, or revocation  
5 of a permit; and

6 (2) establish reasonable minimum standards for  
7 granting and maintaining a permit issued under this chapter.

8 SECTION 6. Section 435.014, Health and Safety Code, is  
9 amended by adding Subsection (d) to read as follows:

10 (d) The penalty prescribed by this section is subject to  
11 either the sanctions prescribed in the Grade A Pasteurized Milk  
12 Ordinance for products covered by the ordinance or any civil or  
13 administrative penalty or sanction otherwise imposed by Chapter 431  
14 or other law for products not covered by the ordinance.

15 SECTION 7. The Texas Board of Health shall adopt the rules  
16 and establish the procedures required by Section 435.012, Health  
17 and Safety Code, as amended by this Act, not later than December 1,  
18 2003.

19 SECTION 8. This Act takes effect September 1, 2003.

David Newkum

President of the Senate

Jim Caddick

Speaker of the House

I certify that H.B. No. 3542 was passed by the House on May 10, 2003, by a non-record vote.

Robert Haney  
Chief Clerk of the House

I certify that H.B. No. 3542 was passed by the Senate on May 22, 2003, by the following vote: Yeas 31, Nays 0.

Patricia Saw  
Secretary of the Senate

APPROVED: 20 JUN '03

Date

Rick Perry  
Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
10:30 AM O'CLOCK

JUN 20 2003  
Kevin Shea  
Secretary of State