

Approved

Fred A. Kerr  
Date

2/22/83

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS

The meeting was called to order by Senator Fred A. Kerr at  
Chairperson

10:00

~~10:00~~ a.m./~~noon~~ on Thursday, February 17, 1983, 1983 in room 423-S of the Capitol.

All members were present except: Senator Ed Reilly (Excused)

Committee staff present:

Conferees appearing before the committee:

Kenneth Wilke, Chief Counsel for the State Board of Agriculture  
Steve Graham, Kansas Wheat Commission

Kenneth Wilke distributed Attachment 1 regarding filled milk and filled dairy products. Mr. Wilke explained a filled dairy product is a combination of a dairy ingredient and a non-dairy fat or oil.

The Federal Filled Milk Act was enacted in 1923 and shortly thereafter in 1923 the Kansas Legislature enacted a Filled Milk Act which prohibited the manufacture, sale or distribution of filled milk products within the state.

In 1927, the law was modified slightly to read: "K.S.A. 65-707 (E) (2) It shall be unlawful to manufacture, sell, keep for sale, or have in possession with intent to sell or exchange, any milk, cream, skim milk, buttermilk, condensed skim milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products, or articles, or the derivatives thereof, or under any fictitious or trade name whatsoever."

And reference was made a number of times to "1953. K.S.A. 65-728. Same; unlawful acts. It shall be unlawful for any person to manufacture, sell, exchange, or offer for sale or exchange any filled dairy product."

In many cases, it is very difficult for a consumer to distinguish between true evaporated milk and the filled dairy product unless a chemical analysis is made. Mr. Wilke pointed out a number of lawsuits challenging this law have been filed and in years past the courts have upheld the law.

In 1972 a court action in Illinois declared the Federal Filled Milk Act to be unconstitutional as applied to the Milnot product. Since that action was not appealed by the Federal Food and Drug Administration, that decision has been used in several courts to strike down filled milk acts in various states. There have been a number of lawsuits filed against the Secretary of the State Board of Agriculture and the Dairy Commissioner. In 1980, the Shawnee County District Court decided the Milnot case in favor of the State and enjoined Milnot from selling its product in Kansas. In the other two cases, one product was removed from the marketplace and the other products were reformulated to remove the dairy ingredients.

On April 15, 1982, Shawnee County District Court enjoined the Dairy Commissioner from enforcing the FDPA against the Meadow Fresh product on the grounds the application of the Act to this product was unconstitutional. The Dairy Commissioner appealed this decision to the Kansas Supreme Court and on January 15, 1983, said court sustained the Shawnee County District Court decision.

(MORE)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON AGRICULTURE AND SMALL BUSINESS,  
room 423-S, Statehouse, at 10:00 ~~a.m.~~ on Thursday, February 17, 1983, 19   .

At the present time there are two additional suits pending involving the FDPA and the Court has temporarily enjoined the Dairy Commissioner from enforcing the FDPA against the specific products manufactured by Kraft Foods and General Foods (refer to Attachment 1).

Steve Graham in a few minutes stated they feel there is a need in the budget for the hiring of a Director-Coordinator of the numerous IGP; and there is need for more revenue to provide additional space in Waters Hall Annex for more classrooms and laboratories for the program. He stated they will provide the translation equipment, some other needed staff, new course ideas and the contacts to find participants for the courses in the future. They are approaching the surrounding hard red winter wheat states for contributions and support for the IGP since it benefits them too. There is stiff competition from other countries. (Note Attachment 3 to 2/16/83 minutes)

Mr. Graham felt perhaps the \$145,000 allotted by the 1982 legislature would not be sufficient to complete the building project.

Senator Gannon stated he supports the IGP at KSU. What bothers him is the fact we make the initial contacts but the business is turned over to the multi-national giants. However, after talking to large grain dealers in Kansas they assured him they were in no position to follow through on the contacts and all of the other endeavors in connection therewith.

The meeting was adjourned.

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SENATE

AGRICULTURE AND SMALL BUSINESS COMMITTEE

10:00 a.m., Room 423-S

Thursday, Feb. 17, 1983  
Date

NAME	ADDRESS	ORGANIZATION
Glenn Auld	Rt 1 Eskridge	Kansas Farm Bureau
Phyllis Auld	" "	" "
BRAD ECKART	EMPORIA, KS.	" " "
DAVID BADGER	CARBONDALE, KS	" " "
MARION FLOREN	HARVEY, ILL	" " "
Mrs. Inez	Winfield	Kans Wheat Comm
John Blythe	Manhattan	K, F, B.
Grubert Marten	Scranton	K F B
Verl Strong	Americus	
DON JACKA	TOPEKA	KANSAS STATE BOARD OF AGRICULTURE
KEN WILKE	TOPEKA	" " " " "
BRUCE ROWLEY	TOPEKA	" " " "
SIM MOORE	WICHITA	Associated Milk Producers Inc
Steven Graham	Hutchinson	KS. Wheat Commission
Le Roy Stearns	Alma, Ks.	Kansas Farm Bureau
Charmaine Stearns	Alma, Ks	" " "
Wendell Baker	Eskridge, Ks	" " "
Edna Baker	" "	" " "
Dary Rowley	" "	" " "
Frances Kaslun	Topeka	KFDA

TESTIMONY ON BEHALF OF THE KANSAS STATE BOARD OF  
AGRICULTURE REGARDING FILLED MILK AND FILLED DAIRY PRODUCTS

Atch. 1 2/17/83

Mr. Chairman, members of the committee, ladies and gentlemen, my name is Kenneth M. Wilke and I am chief counsel for the Kansas State Board of Agriculture. Today's briefing concerns the subject of filled milk and filled dairy products. On behalf of the Kansas State Board of Agriculture, I would like to present testimony regarding this subject in these areas: a brief history of the legislative and judicial action in Kansas and a brief summary of present litigation in State and Federal Courts.

At the outset, a definition of filled dairy product will place this whole topic in perspective. Consider three containers, one which contains cream or half and half, a dairy product; one which contains a non-dairy coffee creamer, such as Meyer's Non-Dairy Coffee Creamer or Coffee-Rich; and one container which is empty. The dairy product is legal under present laws in Kansas because it contains no combination of dairy products and non-dairy fats or oils. The non-dairy coffee creamer is legal in Kansas because it does not contain any dairy ingredients whatsoever. It is a totally artificial product usually made from hydrogenated vegetable fats and oils. If these two products are combined, we have a filled dairy product; i.e., a product which very closely resembles cream for your coffee but which contains a combination of a dairy ingredient and a non-dairy fat or oil.

Congress enacted the Federal Filled Milk Act in 1923. Shortly thereafter the Kansas Legislature enacted a Filled Milk Act in 1923 which prohibited the manufacture, sale or distribution of filled milk products within the state. Under the Kansas Act, a filled milk product was any milk, cream, skim milk, buttermilk or condensed or evaporated milk to which had been

Atch. 1

added any fat or oil other than milk fat. This law was modified slightly in 1927. Its present form appears in K.S.A. 65-707 (E)(2) and is referred to as FMA. Note that this Act concerns only fluid dairy products. The primary purpose of this Act was to preserve the public health by preventing commercial distribution of imitation dairy products which might contain harmful additives. Another purpose was to prevent consumer fraud and deception in the marketplace because various filled milk products at that time were quite a bit like evaporated milk and it was virtually impossible for the purchaser of such a product to distinguish between true evaporated milk and the filled dairy product unless a chemical analysis was made.

This law was first challenged in 1940 when the Carolene Products Company marketed a filled milk product called "Milnut" whose basic substitute oil was coconut oil. In Carolene Products v. Mohler, 152 Kan. 2, the Supreme Court upheld this statute as a valid exercise of the state's police power and also upheld the District Court's determination that the existence of such a product in the marketplace caused confusion among consumers.

The Carolene Products Company again challenged this statute in 1943. The basic distinction between the product marketed in 1943 and the prior product is two-fold: the product's name had been changed from Milnut to Milnot and the substitute oil was now cottonseed oil instead of coconut oil. In State ex rel. v. Sage Stores Company, 157 Kan. 404, the State prevailed and the Supreme Court ruled that Sage Stores and Carolene Products Company would be enjoined from marketing the Milnot product in Kansas. Carolene Products Company appealed this decision to the Supreme Court of the United States on the issue of whether the Kansas statute was arbitrary, unreasonable and discriminatory and in interference with defendant's property rights. The United States Supreme Court upheld the Kansas statute on this issue.

As a result of the litigation in 1942 and 1945, the legislature, confident in its position regarding these products, enacted Senate Bill 458 which became the Filled Dairy Products Act (FDPA) now found at K.S.A. 65-725 et seq. The FDPA, enacted in 1953, expanded the coverage of the FMA to include additional dairy products such as sour creams, cottage cheeses and other cheese products. The Kansas FDPA contains prohibitions similar to the FMA mentioned earlier, but it also contains certain exemptions for distinctive proprietary food compounds, for dairy products flavored with chocolate or cocoa or which use oils as carriers for vitamins and for oleomargarine. At the time the FDPA was passed, the distinctive proprietary food compounds considered were infant formulas whose sale would have been barred but for this exemption.

In 1972, the Carolene Products Company challenged the Federal Filled Milk Act in court action in Illinois. In Milnot v. Richardson, 350 F. Supp. 221 (S.D. Ill. 1972), the United States District Court for the Southern District of Illinois declared the Federal Filled Milk Act to be unconstitutional as applied to the Milnot product. Since that action was not appealed by the Federal Food and Drug Administration, that decision has been used in several courts to strike down filled milk acts in various states.

In 1973, the Milnot Company, a successor to the Carolene Products Company, filed a suit in Montgomery County District Court requesting a declaratory judgment regarding the interpretation of the FDPA as applied to the then current product "Milnot." In October, 1974, this case was dismissed for lack of prosecution.

In 1975 Milnot again appeared in the marketplace in Topeka, Kansas. At this time the product was virtually identical to the Carolene product which had been before the Kansas Supreme Court on two separate occasions; now the substitute oil was soybean oil. The composition of the product was otherwise unchanged. Milnot officials asked the Dairy Commissioner for permission to sell Milnot in Kansas. The Dairy Commissioner and the State Board of Agriculture advised Milnot that this product could not be sold in view of the provisions of both the FMA and the FDPA. Milnot then initiated a test case by marketing the product in Kansas. The State Board of Agriculture sought assistance from then Attorney General Curt T. Schneider and enforcing the Act. On August 2, 1976, Attorney General Curt Schneider filed an action seeking an injunction to prevent the marketing of Milnot in Kansas.

During the 1977 legislative session, Senate Bill 453 was introduced which would have repealed the FMA and it would have modified the FDPA to allow the sale of filled dairy products in Kansas provided they were properly labeled. While that bill did not pass, it was assigned to a Special Interim Committee on Agriculture and Livestock for interim study during the summer of 1977. This was studied as Proposal No. 4 that year. During 1977, also, two other suits were filed against the Secretary of the State Board of Agriculture and the Dairy Commissioner. These suits involved the products Bar-Scheeze and Matey Imitation Sour Cream and Matey Imitation Sour Cream With Chives. In 1980, the Shawnee County District Court decided the Milnot case in favor of the State and enjoined Milnot from selling its product in Kansas. Milnot Company appealed but subsequently withdrew that appeal. In the other two cases, the Bar-Scheeze product was removed from the marketplace in Kansas and the Matey products were reformulated to remove the dairy ingredients.

*Best Food Co*

*Lyons Co  
Leav  
McPherson*

In the 1981 legislative session, two bills were introduced which would amend or modify the FDPA. House Bill 2325 would have amended the exemption for distinctive proprietary food compounds to permit the sale of products similar to Kraft Golden Image. House Bill 2353 would have repealed the Filled Dairy Products Act. Neither of these two bills were enacted in either 1981 or 1982.

*Low filled  
dry  
milk*

In August of 1981, the Dairy Commissioner learned that an imitation lowfat dry milk manufactured by Meadow Fresh Farms, Inc., was being distributed and sold throughout the state. After determining that said product was a filled dairy product and could not be sold in Kansas because it violated the Filled Dairy Products Act. In December of 1981, Dr. Chester H. Strehlow, a seller of this product, sued the Dairy Commissioner seeking a declaratory judgment determining the FDPA did not apply to a Meadow Fresh product or, in the alternative, that the Act was unconstitutional. On April 15, 1982, Shawnee County District Court enjoined the Dairy Commissioner from enforcing the FDPA against the Meadow Fresh product on the grounds the application of the Act to this product was unconstitutional. The Dairy Commissioner appealed this decision to the Kansas Supreme Court and the Kansas Supreme Court, on January 15, 1983, sustained the decision rendered in the Shawnee County District Court.

During this period, two additional suits involving the FDPA were filed in the United States District Court for the District of Kansas here in Topeka. The first case involves the frozen whipped toppings, "Dover Farms Frozen Whipped Topping" and "Extra Creamy Cool Whip Dairy Recipe," manufactured by General Foods. This case was filed in Federal District Court on May 14, 1982. At present the Court has temporarily enjoined the Dairy



Commissioner from enforcing the FDPA against these products and is allowing the sale of these products in Kansas. A decision in that suit has not been rendered.

In October of 1982, Kraft Foods filed a similar suit in Federal Court to permit the sale of its frozen whipped topping, La Creme, and to permit the sale of Kraft Golden Image Cheese substitutes in Kansas. The Court has temporarily enjoined the Dairy Commissioner from enforcing the FDPA against these products. The matter is presently awaiting a decision in the General Foods case before further action is taken.

Regarding other states, as summary of action taken by their states which have either filled milk or filled dairy product type statutes is attached in tabular form.

KANSAS FILLED MILK ACT (EM)  
K.S.A. 65-707 (E)(2)

(2) It shall be unlawful to manufacture, sell, keep for sale, or have in possession with intent to sell or exchange, any milk; cream, skim milk, buttermilk, condensed or evaporated milk, powdered milk, condensed skim milk, or any of the fluid derivatives of any of them to which has been added any fat or oil other than milk fat, either under the name of said products, or articles, or the derivatives thereof, or under any fictitious or trade name whatsoever.

KANSAS FILLED DAIRY PRODUCTS ACT (FDPA)  
K.S.A. 65-725 et seq.

1953  
prod  
sale

**65-725.** Filled dairy products act; title. This act may be cited as the Kansas filled dairy products act.

**History:** L. 1953, ch. 8, § 1; April 14.

**Research and Practice Aids:**  
Hatcher's Digest, Food § 1.

CASE ANNOTATIONS

1. Act discussed in holding 65-720 and 65-721 constitutional. Dairy Belle, Inc., v. Freeland, 175 K. 344, 345, 351, 264 P.2d 894.

**65-726.** Same; purpose; legislative finding. Filled dairy products resemble genuine dairy products so closely that they lend themselves readily to substitution for or confusion with such dairy products and in many cases cannot be distinguished from genuine dairy products by the ordinary consumer. The manufacture, sale, exchange or offering for sale or exchange of filled dairy products creates a condition conducive to substitution, confusion, deception, and fraud, and one which if permitted to exist tends to interfere with the orderly and fair marketing [of] foods essential to the well-being of the people of this state. It is hereby declared to be the purpose of this act to correct and eliminate the condition above referred to; to protect the public from confusion, fraud, and deception; to prohibit practices inimical to the general welfare; and to promote the orderly and fair marketing of essential foods.

Howell

**History:** L. 1953, ch. 8, § 2; April 14.

**Research and Practice Aids:**  
Food—2.  
Hatcher's Digest, Health § 4.  
C.J.S. Food § 3 et seq.

**65-727.** Same; definitions. Whenever used in this act:

(a) The term "person" includes individuals, firms, partnerships, associations, trusts, estates, corporations and any and all other business units, devices, or arrangements.

(b) The term "filled dairy product" means any milk, cream or skimmed milk or any combination thereof, whether or not condensed, evaporated, concentrated, frozen, powdered, dried or desiccated, or any food product made or manufactured therefrom, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, or any solids other than milk solids, except sweeteners, stabi-

lizers and flavorings, so that the resulting product is in imitation or semblance of any dairy product, including but not limited to, milk, sour cream, butter cream, skimmed milk, ice cream, ice milk, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk: *Provided, however,* That this term shall not be construed to mean or include: (1) Any distinctive proprietary food compound not readily mistaken for a dairy product, when such compound is customarily used on the order of a physician and is prepared and designed for medicinal or special dietary use and prominently so labeled; (2) any dairy product flavored with chocolate or cocoa, or the vitamin content of which has been increased, or both, where the fats or oils other than milk fat contained in such product do not exceed the amount of cocoa fat naturally present in the chocolate or cocoa used and the food oil, not in excess of one-hundredth of one percent of the weight of the finished product, used as a carrier of such vitamins; or (3) oleomargarine, when offered for sale and sold as and for oleomargarine.

**History:** L. 1953, ch. 8, § 3; April 14.

**65-728.** Same; unlawful acts. It shall be unlawful for any person to manufacture, sell, exchange, or offer for sale or exchange any filled dairy product.

**History:** L. 1953, ch. 8, § 4; April 14.

**65-729.** Same; penalties. Any person who shall violate any of the provisions of this act, and any officer, agent, or employee thereof who directs or knowingly permits such violations or who aids or assists therein, shall, upon conviction thereof, be subject to a fine of not more than five hundred dollars (\$500) or by imprisonment for not more than one year, or both.

**History:** L. 1953, ch. 8, § 5; April 14.

**65-730.** Same; enforcement of act by dairy commissioner; injunction. The dairy commissioner of the state of Kansas is authorized and directed to administer and supervise the enforcement of this act; to provide for such periodic inspection and investigation as he may deem necessary to disclose violations; to receive and provide for the investigation of complaints; and to provide for the institution and prosecution

of civil or criminal actions or both. The provisions of this act may be enforced by injunction in any court having jurisdiction to grant injunctive relief, and filled dairy products illegally held or otherwise involved in a violation of this act shall be subject to seizure and disposition in accordance with an appropriate court order.

**History:** L. 1953, ch. 8, § 6; April 14.

**65-731.** Same; invalidity of part. If any provision of this act, or any part of any section hereof, is declared unconstitutional or the applicability thereof to any person, circumstance, or product is held invalid, the validity of the remainder of this act and the applicability thereof to other persons, circumstances or products shall not be affected thereby.

**History:** L. 1953, ch. 8, § 7; April 14.

**Research and Practice Aids:**  
Statutes—64(2).  
C.J.S. Statutes § 96 et seq.

**65-732.** Same; act supplemental. This act shall be supplemental to existing statutes and shall not be deemed as repealing any section of the dairy law of the state of Kansas.

**History:** L. 1953, ch. 8, § 8; April 14.

<u>YEAR</u>	<u>CASE</u>	<u>PRODUCT</u>	<u>STATUTE</u>	<u>COURT'S DECISION</u>	<u>OTHER ACTION</u>
1940	<u>Carolene Products Co. v. Mohler</u>	Milnut	FMA	FMA valid Injunction affirmed	Product withdrawn
1943	<u>State, ex re. Mitchell v. Sage Stores Co.</u>	Milnot	FMA	FMA valid <u>1/</u> Injunction issued	Product withdrawn
1973	<u>Milnot Company v. Richard A. Medley, County Attorney Montgomery County</u>	Milnot	FMA & FDPA	Case dismissed for lack of prosecution	Product withdrawn
1976	<u>State ex rel. Stephan v. The Milnot Company</u>	Milnot	FMA & FDPA	FMA & FDPA valid <u>2/</u> Injunction issued (1980)	Product withdrawn
1977	<u>Win Schuler's, Inc., v. William W. Duitsman, Secretary of the Kansas State Board of Agri- culture, et al.</u>	Bar-Scheeze	FDPA	Case dismissed (1980)	Product withdrawn
1977	<u>Presto Food Products Inc., v. William W. Duitsman, Secretary of the Kasnas State Board of Agriculture, et al.</u>	Matey Imitation Sour Cream	FDPA	Case dismissed (1980)	Product reformulated
1981	<u>Dr. Chester H. Strehlow et al. v. Kansas State Board of Agriculture</u>	Meadow Fresh Imitation Low Fat Dry Milk	FDPA	FDPA as applied to product uncon- stitutional. Injunction against enforcement affirmed by Kansas Supreme Court. (Jan. 14, 1983)	

<u>YEAR</u>	<u>CASE</u>	<u>PRODUCT</u>	<u>STATUTE</u>	<u>COURT'S DECISION</u>	<u>OTHER ACTION</u>
1982	<u>General Foods Corp.</u> <u>v. Harland E. Priddle,</u> <u>Secretary of the Kansas</u> <u>State Board of Agri-</u> <u>culture, et al.</u>	Dover Farms Whipped Topping with Real Cream & Cool Whip Extra Creamy Dairy Recipe	FDPA	Temporary injunction against enforcement. Final decision pending.	
1982	<u>Kraft, Inc., v.</u> <u>Harland E. Priddle,</u> <u>Secretary of the Kansas</u> <u>State Board of Agri-</u> <u>culture, et al.</u>	La Creme and Golden Image Cheese Substitutes	FDPA	Temporary injunction against enforcement. Final decision pending.	

1/ This decision was affirmed by the United States Supreme Court in Sage Stores Co. v. Kansas (1944).

2/ This decision, rendered in 1980, was appealed to the Kansas Supreme Court, but the appeal was withdrawn.

LEGISLATIVE SUMMARY

YEAR	BILL	PURPOSE OF BILL	ACTION TAKEN
1977	SB 453	Repeal of FMA and change FDPA to permit sale of filled dairy products which are so labeled.	Referred for interim study. See Proposal No. 4, "Filled Milk and Filled Milk Products" in <u>Report on Kansas Legislative Interim Studies to the 1978 Legislature</u> . The bill was not enacted.
1981	HB 2325	Bill modified "distinctive proprietary food compound" exception.	Bill was not enacted.
1981	HB 2353	Repeal FDPA	Bill was not enacted.

STATES WHOSE STATUTES HAVE BEEN REPEALED  
OR WHOSE CONSTITUTIONALITY HAS BEEN QUESTIONED

<u>State</u>	<u>Statute</u>	<u>Citation</u>
Arizona	A.R.S. §3-630	<u>State v. A.J. Bayless Markets, Inc.</u> , 86 Ariz. 193, 342 P.2d 1088 (1959)
Arkansas	Ark.Stats. §§82-919, 920	<u>Milnot Co. v. Arkansas State Board of Health</u> , 388 F.Supp. 901 (E.D. Ark. 1975)
Colorado	C.R.S. 1963, 7-6-25 to 7-6-32	<u>People ex rel. Orcutt v. Instantwhip Denver, Inc.</u> , 176 Colo. 396, 490 P.2d 940 (1971)
Georgia	Georgia Code §42-511	<u>Department of Agriculture v. Quality Food Products, Inc.</u> , 224 Ga. 585, 163 S.E.2d 704 (1968)
Idaho	I.C. §§37-1102 to 37-1103	<u>Sun Ray Drive-In Dairy, Inc. v. Trenhaile</u> , 94 Idaho 308, 486 P.2d 1021 (1971)
Illinois	Smith-Hurd Stat. 1935, p. 1699	<u>Carolene Products Co. v. McLaughlin</u> , 365 Ill. 62, 5 N.E.2d 447 (1937)
Kansas	K.S.A. 65-725, et. seq.	<u>Strehlow v. Kansas State Board of Agriculture</u> , Case No. 81-CV-1503 (1982)
Michigan	Comp. Laws 1929, §§5358-5360	<u>Carolene Products Co. v. Thomson</u> , 276 Mich. 172, 267 N.W. 608 (1936)
Nebraska	Comp. St. 1929, §§1022, 1024	<u>Carolene Products Co. v. Banning</u> , 131 Neb. 429, 268 N.W. 313 (1936)
West Virginia	Code W. Va. 19-11-2	<u>Milnot Company v. Douglas</u> , 452 F.Supp. 505 (S.D.W.Va., 1978)
Wisconsin	W.S.A. 97.48	<u>Dean Foods Co. v. Wisconsin Department of Agriculture</u> , 478 F.Supp. 224 (W.D.Wis. 1979) modified in 504 F.Supp. 520 (1980)

ADMINISTRATIVE CASES

<u>State</u>	<u>Statute</u>	<u>Citation</u>
Michigan	MCLA 288.171 et. seq. WSA 12.618(21) et. seq.	Attorney General's Opinion No. 4902 (1975)
North Dakota	Section 54-12-01, N.D.C.C.	Attorney General's Opinion No. 81-127 (1981)

LEGISLATIVE REPEALS

<u>State</u>	<u>Statute</u>	<u>Citation</u>
Maine	M.R.S.A. 7 §3002	Repealed 1971, c. 99, §3
Nebraska	Neb.Stat. §81-233(a)	Repealed 1980, LB 632, §47
New Jersey	N.J. Stat. §24:10-29	Repealed 1964, c. 62, §30
Pennsylvania	Penn. Stat. 31 §553	Repealed 1961, Aug. 8, P. 975, §10
Wisconsin	§97.48	Repealed 1982, S.B. 773

STATES WHERE STATUTES ARE IN EFFECT

<u>State</u>	<u>Statute</u>	<u>Opinions Construing Statute</u>
Alabama	C.A. 2-13-4	<u>Quality Food Products, Inc., v. Beard,</u> 286 F.Supp. 351 (M.D. Ala. 1968)
Connecticut	C.G.S.A. 22-171	none found
Delaware	3 Del. C.1953, §3107	none found
Florida	F.S.A. 502.161-171 F.S.A. 502.018	none found
Minnesota	M.S.A. 32.529-32,534	none found
Missouri	V.A.M.S. 196.695	<u>Poole &amp; Creber Mkt. Co. v. Breshears,</u> 125 S.W. 2d, 23(1940) <u>State ex rel. McKittrick v. Carolene</u> <u>Products Co.,</u> 144 S.W. 2d 153 (1940) <u>State v. Hershman,</u> 143 S.W. 2d 1025, (1940)
Montana	R.C.M. 81-22-411	none found
South Dakota	S.D.C. 39-7-1-39-7-8	none found
Texas	T.P.C. Title 71, Article 4474a	<u>Martin v. Wholesome Dairy, Inc.,</u> 437 S.W. 2d 586 (1969)
Washington	R.C.W. 15.38.001-15.38.050	<u>Reesman v. State,</u> 445 P.2d 1004 (1968), <u>State v. 28 Containers of Thick &amp;</u> <u>Frosty,</u> 514 P.2d. 140 (1973)
Arizona	A.R.S. 3-626.01- 3-626.02	<u>Odle v. Imperial Ice Cream Co.,</u> 463 P.2d. 98 (1970)
Colorado	C.R.S. 35-24-201 as amended by L. 81, P.1702, Section 6-10	none found

*filled milk act*

*Prohibition  
Lynn  
as Ks*