

Chapter 530

(Senate Bill 922)

AN ACT concerning

~~Agriculture – Milk and Milk-Based Products~~ Public Health – Milk – Labeling

FOR the purpose of ~~prohibiting a person from selling, offering for sale, or advertising a product labeled as milk or a milk-based product if the product is not derived from a cow or another animal; defining a certain term~~ prohibiting a person from stating on a label of a food product that ~~a~~ the product is milk unless ~~it~~ the product meets a certain definition; requiring the Maryland Department of Health to establish and implement a certain plan to enforce a certain prohibition; altering a certain definition; making this Act subject to a certain contingency; requiring the Maryland Department of Health to track certain legislation and notify the Department of Legislative Services of a certain occurrence within a certain period of time; providing for the application of certain provisions of this Act; providing for the effective date of certain provisions of this Act; and generally relating to labeling for milk ~~and milk-based products.~~

BY ~~adding to~~ repealing and reenacting, without amendments,

Article – ~~Agriculture~~ Health – General
Section ~~10-401 to be under the new subtitle “Subtitle 4. Milk and Milk-Based Products”~~ 21-401(a)
Annotated Code of Maryland
~~(2016~~ (2015 Replacement Volume and 2018 Supplement)

BY repealing and reenacting, with amendments,

Article – Health – General
Section 21-401(l) and 21-424
Annotated Code of Maryland
(2015 Replacement Volume and 2018 Supplement)

Preamble

WHEREAS, It is necessary to take steps to ensure the continued viability of dairy farming and to assure consumers of an adequate, local supply of pure and wholesome milk; and

WHEREAS, The dairy industry is an essential agricultural activity and dairy farms, and associated suppliers, marketers, and processors, and retailers, are an integral component of the region’s economy; and

WHEREAS, The U.S. Food and Drug Administration has not provided consistent guidance to the State Department of Agriculture, dairy farms, associated suppliers,

marketers, processors, retailers, and consumers on the application of the established standard of identity of milk as defined in 21 C.F.R. § 131.110; and

WHEREAS, The State of Maryland seeks to be a national leader in the preservation of the dairy industry while balancing the need to maintain commerce; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

~~Article – Agriculture~~

~~SUBTITLE 4. MILK AND MILK-BASED PRODUCTS.~~

~~10-401.~~

~~(A) (1) IN THIS SUBTITLE, “MILK” MEANS THE LACTEAL SECRETION OF COWS OR OTHER ANIMALS.~~

~~(2) “MILK” INCLUDES ALL SKIM, BUTTERFAT, OR OTHER CONSTITUENTS OBTAINED FROM SEPARATION OR OTHER PROCESSES.~~

~~(B) A PERSON MAY NOT SELL, OFFER FOR SALE, OR ADVERTISE A PRODUCT LABELED AS MILK OR A MILK-BASED PRODUCT IF THE PRODUCT IS NOT DERIVED FROM A COW OR ANOTHER ANIMAL.~~

Article – Health – General

21-401.

(a) In this subtitle the following words have the meanings indicated.

(l) (1) “Milk” means the [milk of a cow, goat, or other hooved mammal] LACTEAL SECRETION, PRACTICALLY FREE OF COLOSTRUM, OBTAINED BY THE COMPLETE MILKING OF ONE OR MORE HEALTHY HOOVED MAMMALS, INCLUDING MEMBERS OF THE ORDER CETARTIODACTYLA, INCLUDING:

(I) FAMILY BOVIDAE, INCLUDING CATTLE, WATER BUFFALO, SHEEP, GOATS, AND YAKS;

(II) FAMILY CERVIDAE, INCLUDING DEER, REINDEER, AND MOOSE; AND

(III) FAMILY EQUIDAE, INCLUDING HORSES AND DONKEYS.

(2) “Grade A milk” means the milk of a cow, goat, or other hooved mammal produced, processed, pasteurized, bottled, packaged, or prepared in accordance with the Grade A Pasteurized Milk Ordinance.

(3) “Manufactured milk” means the milk of a cow, goat, or other hooved mammal which is not Grade A milk and which is produced, processed, pasteurized, bottled, packaged, or prepared in accordance with “Milk for Manufacturing Purposes and Its Production and Processing: Recommended Requirements”.

21–424.

(A) After the milk product has been processed, each milk product shall be labeled with:

(1) The description of that milk product under this subtitle or the rules and regulations adopted under this subtitle; and

(2) Any other information that the Secretary requires by rule or regulation.

(B) (1) THIS SUBSECTION DOES NOT APPLY TO HUMAN BREAST MILK.

(2) A PERSON MAY NOT STATE ON A LABEL OF A FOOD PRODUCT THAT THE PRODUCT IS MILK UNLESS ~~IF~~ THE PRODUCT MEETS THE DEFINITION OF “MILK” ESTABLISHED IN § 21–401 OF THIS SUBTITLE.

(C) THE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT A PLAN TO ENFORCE THE PROHIBITION IN SUBSECTION (B) OF THIS SECTION, INCLUDING NOTICE OF THE DEPARTMENT’S INTENT TO IMPLEMENT A BAN ON ALL PRODUCTS THAT DO NOT MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION, INCLUDING PLANT–BASED PRODUCTS MISLABELED AS MILK.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on the enacting of a similar act in *any 11 states of the group of states composed of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia.* The Maryland Department of Health shall notify the Department of Legislative Services within 10 days after 11 of these 14 states have enacted an act that is similar to this Act. If notice of enactment is not received by the Department of Legislative Services on or before October 1, 2029, this Act, with no further action required by the General Assembly, shall be null and void.

SECTION 3. AND BE IT FURTHER ENACTED, That:

(a) Section 21–424(b) of the Health – General Article, as enacted by Section 1 of this Act, shall go into effect 6 months after the date on which this Act becomes effective under Section 2 of this Act.

(b) The Maryland Department of Health shall meet the requirements of § 21-424(c) of the Health – General Article, as enacted by Section 1 of this Act, on or before 6 months after the date on which this Act becomes effective under Section 2 of this Act.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, subject to Sections 2 and 3 of this Act, this Act shall take effect October 1, 2019.

Approved by the Governor, May 13, 2019.