

# HOUSE BILL 865

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By: Delegates Haddaway, Eckardt, Aumann, Cane, Conway, Elliott, Elmore, Frank, Jennings, Krebs, Mathias, Rudolph, Shewell, Smigiel, Sossi, Stocksdale, ~~and Walkup~~ Walkup, Hammen, Beitzel, Bromwell, Donoghue, Kach, Kipke, Kullen, McDonough, Mizeur, Montgomery, Morhaim, Nathan-Pulliam, Oaks, Pena-Melnyk, Pendergrass, Riley, Tarrant, and Weldon

Introduced and read first time: February 9, 2007

Assigned to: Health and Government Operations

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 2007

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Milk Products – Farmstead Cheese Production – Pilot Study**

3 FOR the purpose of establishing a milk processor – farmstead cheese producer permit;  
4 authorizing the holder of a milk processor – farmstead cheese producer permit  
5 to perform certain functions and to produce farmstead cheese; requiring the  
6 Department of Health and Mental Hygiene to issue only a certain number of  
7 milk processor – farmstead cheese producer permits; establishing certain  
8 qualifications for a certain milk processor – farmstead cheese producer permit;  
9 providing for the expiration date of a milk processor – farmstead cheese  
10 producer permit; exempting the sale of farmstead cheese from a certain  
11 prohibition on the sale of raw milk; defining a certain term; providing for the  
12 termination of this Act; and generally relating to a pilot study for the production  
13 of farmstead cheese.

14 BY repealing and reenacting, with amendments,  
15 Article – Health – General

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 21–401, 21–410, 21–413, 21–416, 21–417, and 21–434  
2 Annotated Code of Maryland  
3 (2005 Replacement Volume and 2006 Supplement)

4 BY adding to  
5 Article – Health – General  
6 Section 21–416.1  
7 Annotated Code of Maryland  
8 (2005 Replacement Volume and 2006 Supplement)

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

11 **Article – Health – General**

12 21–401.

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

14 (b) “Bobtailer” means a person who operates or controls a Grade A milk route  
15 and distributes Grade A pasteurized milk products that the person buys from a Grade  
16 A distributor or a milk processor.

17 (c) “Bulk milk hauler/sampler” means any person who collects official  
18 samples and transports raw milk from a farm or raw milk products or both to or from  
19 a milk plant, receiving station, or transfer station and who possesses a permit from  
20 any state to sample the milk or raw milk products.

21 (d) “Certified industry dairy farm inspector” means an individual who is  
22 certified by the Secretary under § 21–414 of this subtitle.

23 (e) “Dairy farm” means a place where at least 1 cow or goat is kept, and from  
24 which the milk is sold or offered for sale.

25 (f) “Departmental inspection area” means the area in which the Department  
26 routinely makes inspections under this subtitle.

27 (g) **“FARMSTEAD CHEESE” MEANS CHEESE MADE ON A FARM:**

28 (1) **USING ONLY THE RAW MILK PRODUCED BY THE HERD ON THE**  
29 **FARM; AND**

1                   **(2) THAT MEETS THE DEFINITIONS AND STANDARDS OF A HARD**  
2 **CHEESE ESTABLISHED IN 21 C.F.R. 133.**

3           **[(g)] (H)**     “Grade A distribution station” means any place or vehicle where,  
4 for redistribution and sale, Grade A pasteurized milk products routinely are received,  
5 stored, or transferred.

6           **[(h)] (I)**     “Grade A distributor” means a person who sells a Grade A  
7 pasteurized milk product.

8           **[(i)] (J)**     (1)   “Grade A milk product” means:  
9                           (i)   Grade A milk;  
10                          (ii)   Grade A cream; or  
11                          (iii)  Any other Grade A milk product that the Secretary  
12 designates.

13                       (2)   “Manufactured grade milk product” means:  
14                           (i)   Manufactured grade milk;  
15                           (ii)   Manufactured grade cream; or  
16                           (iii)  Any other manufactured grade milk product that the  
17 Secretary designates.

18           **[(j)] (K)**     “Grade A Pasteurized Milk Ordinance” means the recommended  
19 Grade “A” Pasteurized Milk Ordinance published by the federal government.

20           **[(k)] (L)**     (1)   “Milk” means the milk of a cow or goat.  
21                           (2)   “Grade A milk” means the milk of a cow or goat produced,  
22 processed, pasteurized, bottled, packaged, or prepared in accordance with the Grade A  
23 Pasteurized Milk Ordinance.

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

1           **[(l)] (M)**       “Milk fat” means the natural fat of milk.

2           **[(m)] (N)**       “Milk for Manufacturing Purposes and Its Production and  
3 Processing: Recommended Requirements” means the Milk for Manufacturing Purposes  
4 and Its Production and Processing: Recommended Requirements published by the U.S.  
5 Department of Agriculture.

6           **[(n)] (O)**       (1)   “Milk plant” means any place where, for distribution, milk  
7 products are:

8                           (i)    Processed;

9                           (ii)   Pasteurized;

10                          (iii)   Bottled or packaged; or

11                          (iv)   Prepared.

12                          (2)   “Milk plant” does not include a place where milk products are sold  
13 at retail only.

14           **[(o)] (P)**       “Milk processor” means a person who owns, operates, or controls a  
15 milk plant.

16           **[(p)] (Q)**       “Milk producer” means a person who operates a dairy farm.

17           **[(q)] (R)**       “Milk tank truck” means a truck and its equipment that are used  
18 to transport milk products.

19           **[(r)] (S)**       “Milk transportation company” means a person responsible for a  
20 milk tank truck.

21           **[(s)] (T)**       “Misbranded milk product” means a milk product:

22                          (1)   That is in a container that bears or is accompanied by any false or  
23 misleading written, printed, or graphic material; or

24                          (2)   That is not labeled in accordance with this subtitle.

25           **[(t)] (U)**       (1)   “Pasteurized” means having undergone the process of  
26 uniformly heating each particle of milk product, holding it in the heated state, and  
27 cooling it, in approved and properly operated equipment and under the conditions of

1 temperature and time that the Secretary by rule or regulation establishes, to make the  
2 milk product safe and free of pathogens.

3 (2) "Pasteurized" includes having undergone any other process that:

4 (i) Is recognized by the appropriate federal authority to be  
5 equally as effective as the process described in paragraph (1) of this subsection in  
6 making milk products safe and free of pathogens; and

7 (ii) Is approved by the Secretary.

8 [(u)] (V) "Permit" means a permit issued by the Secretary under this  
9 subtitle that authorizes the holder of the permit to do any act that is within the scope  
10 of the permit.

11 [(v)] (W) "Raw milk" means unpasteurized milk.

12 [(w)] (X) "Receiving station" means any place where, for delivery to a milk  
13 plant, raw milk is collected, cooled, and stored.

14 [(x)] (Y) "Transfer station" means a place where milk is transferred directly  
15 from a milk tank truck to another milk tank truck for delivery to a milk plant.

16 21-410.

17 (a) Except as otherwise provided in this section, a person shall obtain a  
18 permit with a Grade A or a manufactured grade classification from the Secretary  
19 before that person may:

20 (1) Bring, send, or receive a milk product into this State for sale;

21 (2) Offer a milk product for sale;

22 (3) Give a milk product away;

23 (4) Store a milk product; or

24 (5) Transport a milk product.

25 (b) A permit is required to:

26 (1) Be a bobtailer;

- 1           (2)    Be a bulk milk hauler/sampler;
- 2           (3)    Be a certified industry dairy farm inspector;
- 3           (4)    Be a milk processor;
- 4           **(5)    BE A MILK PROCESSOR – FARMSTEAD CHEESE PRODUCER;**
- 5           [[5]] **(6)**    Be a milk producer;
- 6           [[6]] **(7)**    Operate a distribution station;
- 7           [[7]] **(8)**    Operate a milk transportation company;
- 8           [[8]] **(9)**    Operate a receiving station; or
- 9           [[9]] **(10)**   Operate a transfer station.
- 10          (c)    A permit is not required for:
- 11               (1)    A milk producer who is outside the departmental inspection area if
- 12               the raw milk from that milk producer is processed by a milk processor who holds a
- 13               permit issued under this subtitle;
- 14               (2)    A bulk milk hauler/sampler who receives raw milk from outside
- 15               the departmental inspection area;
- 16               (3)    A grocery store, restaurant, soda fountain, or similar
- 17               establishment where milk products are served or sold at retail if:
- 18                       (i)    The establishment complies with all applicable provisions of
- 19                       this subtitle and all applicable rules or regulations adopted under this subtitle; and
- 20                       (ii)   The milk product is received from a permit holder; or
- 21               (4)    A bulk milk hauler/sampler who is transporting a sealed tanker
- 22               and not producers' samples.
- 23          (d)    The Secretary shall designate all permits with one of the following
- 24               classifications, as required by rules and regulations:

1 (1) Grade A milk; or

2 (2) Manufactured milk.

3 21-413.

4 (a) If the property of the applicant is in the departmental inspection area,  
5 before issuing a permit, the Secretary shall inspect the property, buildings, and  
6 equipment of an applicant for:

7 (1) A bobtailer permit;

8 (2) A distribution station permit;

9 (3) A milk processor permit;

10 (4) **A MILK PROCESSOR - FARMSTEAD CHEESE PRODUCER**  
11 **PERMIT;**

12 [(4)] (5) A milk producer permit;

13 [(5)] (6) A milk transportation company permit;

14 [(6)] (7) A receiving station permit; or

15 [(7)] (8) A transfer station permit.

16 (b) Each inspection under this section shall be to determine whether the  
17 property, buildings, equipment, and their operation conform to the rules and  
18 regulations adopted under this subtitle.

19 (c) To ensure continued conformity to the rules and regulations adopted  
20 under this subtitle, the Secretary from time to time shall reinspect the property,  
21 buildings, and equipment of each permit holder for whom an initial inspection is  
22 required under this section.

23 21-416.

24 (a) While it is effective, a bobtailer permit authorizes the holder, on a Grade  
25 A milk route that the holder operates or controls, to distribute Grade A pasteurized  
26 milk products that the holder purchased from a Grade A distributor or a Grade A milk  
27 processor.

1 (b) While it is effective, a certified industry dairy farm inspector permit  
2 authorizes the holder to inspect dairy farms in accordance with this subtitle.

3 (c) While it is effective, a distribution station permit authorizes the holder,  
4 for redistribution and sale, whether from a fixed location or from a vehicle:

5 (1) To receive Grade A pasteurized milk products;

6 (2) To store Grade A pasteurized milk products; and

7 (3) To transfer Grade A pasteurized milk products for redistribution  
8 and sale.

9 (d) **(1)** While it is effective, a milk processor permit authorizes the holder:

10 [(1)] **(I)** To collect raw milk;

11 [(2)] **(II)** To handle raw milk;

12 [(3)] **(III)** To process raw milk;

13 [(4)] **(IV)** To pasteurize raw milk;

14 [(5)] **(V)** To store pasteurized milk;

15 [(6)] **(VI)** To bottle or package pasteurized milk;

16 [(7)] **(VII)** To prepare pasteurized milk for distribution; and

17 [(8)] **(VIII)** To distribute pasteurized milk.

18 **(2) WHILE IT IS EFFECTIVE, A MILK PROCESSOR – FARMSTEAD**  
19 **CHEESE PRODUCER PERMIT AUTHORIZES THE HOLDER:**

20 **(I) TO PERFORM ALL THE FUNCTIONS SET FORTH IN**  
21 **PARAGRAPH (1) OF THIS SUBSECTION; AND**

22 **(II) TO PRODUCE FARMSTEAD CHEESE.**

23 (e) While it is effective, a milk producer permit authorizes the holder:



1           (1)    To operate a dairy farm; and

2           (2)    To sell raw milk from the dairy farm to:

3                (i)    A receiving station;

4                (ii)   A transfer station; or

5                (iii)  A milk plant.

6           (f)    While it is effective, a bulk milk hauler/sampler permit authorizes the  
7 holder, while operating a milk tank truck:

8                (1)    To receive raw milk products from a milk producer, milk plant,  
9 receiving station, or transfer station;

10              (2)    To transport raw milk products that have been received from a  
11 milk producer, milk plant, receiving station, or transfer station; and

12              (3)    To deliver raw milk products that have been received from a milk  
13 producer, milk plant, receiving station, or transfer station.

14           (g)    While it is effective, a receiving station permit authorizes the holder:

15                (1)    To collect raw milk;

16                (2)    To cool raw milk;

17                (3)    To process raw milk;

18                (4)    To store raw milk; and

19                (5)    To prepare raw milk for delivery to a milk plant.

20           (h)    While it is effective, a transfer station permit authorizes the holder to  
21 operate a place where raw milk is transferred between milk tank trucks for eventual  
22 delivery to a milk plant.

23           (i)    A permittee authorized to perform a function under this subtitle shall  
24 only exercise that authority as to the classification for which it is designated, except  
25 that:

1 (1) Unless otherwise specified in this subtitle, a milk producer  
2 permittee with a Grade A classification authorized to perform a function under this  
3 subtitle may exercise that authority for manufactured milk; and

4 (2) A milk processor, receiving station, or transfer station with a  
5 manufactured milk classification may exercise that authority using Grade A raw milk.

6 (j) While it is effective, a milk transportation company permit authorizes the  
7 holder to operate one or more milk tank trucks.

8 **21-416.1.**

9 (A) **THE SECRETARY SHALL ISSUE MILK PROCESSOR - FARMSTEAD**  
10 **CHEESE PRODUCER PERMITS.**

11 (B) **TO QUALIFY FOR A MILK PROCESSOR - FARMSTEAD CHEESE**  
12 **PRODUCER PERMIT THE APPLICANT SHALL:**

13 (1) **OPERATE A DAIRY FARM WITH NO MORE THAN ~~50~~ 120 COWS**  
14 **IN THE HERD;**

15 (2) **BE LOCATED IN TALBOT COUNTY; AND**

16 (3) **MEET ANY OTHER REQUIREMENTS ESTABLISHED BY THE**  
17 **DEPARTMENT BY REGULATION.**

18 **21-417.**

19 (a) (1) Except for a milk producer permit **AND A MILK**  
20 **PROCESSOR - FARMSTEAD CHEESE PRODUCER PERMIT**, a permit expires on the  
21 first anniversary of its effective date, unless the permit is renewed for a 1-year term  
22 as provided in this section.

23 (2) A milk producer permit does not expire.

24 (3) **A MILK PROCESSOR - FARMSTEAD CHEESE PRODUCER**  
25 **PERMIT EXPIRES 5 YEARS AFTER ITS EFFECTIVE DATE.**

26 (b) Before the permit expires, its holder may renew it for an additional  
27 1-year term, if the holder:

- 1           (1)    Otherwise is entitled to a permit;
- 2           (2)    Pays to the Secretary a renewal fee equal to the fee for an original
- 3 permit of the same type; and
- 4           (3)    Submits to the Secretary a renewal application on the form that
- 5 the Secretary requires.
- 6           (c)    The Secretary shall renew the permit of each applicant for renewal who
- 7 meets the requirements of this section.
- 8           (d)    A permit is not transferable.

9 21-434.

10           Except for sale of raw milk by a holder of a milk producer permit to a holder of a  
11 milk processor permit **OR THE SALE OF A FARMSTEAD CHEESE**, a person may not  
12 sell raw milk for human consumption.

13           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2007. It shall remain effective for a period of 5 years and, at the end of  
15 September 30, 2012, with no further action required by the General Assembly, this Act  
16 shall be abrogated and of no further force and effect.

Approved:

\_\_\_\_\_  
Governor.

\_\_\_\_\_  
Speaker of the House of Delegates.

\_\_\_\_\_  
President of the Senate.