

AMENDED IN SENATE JUNE 13, 1995
AMENDED IN ASSEMBLY APRIL 17, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 1476

Introduced by Assembly Member Cannella

February 24, 1995

An act to ~~add Section 33704.7 to~~ amend Sections 33704, 36801, 36802, 36803, 36805, 36806, 36808, and 37401 of, to add Sections 33704.7 and 33704.8 to, and to repeal Article 4 (commencing with Section 36921) of Chapter 2 of Part 3 of Division 15 of, the Food and Agriculture Code, and to amend Section 49 of Chapter 95 of the Statutes of 1994, relating to milk products.

LEGISLATIVE COUNSEL'S DIGEST

AB 1476, as amended, Cannella. Milk products: frozen dessert.

Existing law requires various dairy products, including frozen dessert *and ice milk*, to be labeled in accordance with regulations of the federal Food and Drug Administration.

Existing law also provides that any person who manufactures and directly serves, among other things, lowfat frozen dairy dessert, nonfat frozen dairy dessert, or nondairy frozen dessert in a specified manner, shall post on premises where the manufacture and service takes place a sign, or signs, stating that these items are served on the premises and list the ingredients in each of the products served.

This bill, in addition, would define “frozen dairy dessert,” and would provide that other frozen desserts, not subject to a standard of identity prescribed by federal regulations may be manufactured or sold, or both, if they are in compliance with all applicable health, safety, and labeling requirements, and if their labels bear a statement of identity approved by the Secretary of Food and Agriculture. *This bill would also repeal provisions relating to ice milk.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 33704 of the Food and*
2 *Agricultural Code is amended to read:*

3 33704. (a) Sections 33701, 33731, 33732, 33733, 33734,
4 33767, 33768, 33770, 33771, 33776, and 34593 do not apply
5 to the manufacture of ice cream that is manufactured
6 from ice cream mix, ~~to ice milk that is manufactured from~~
7 ~~ice milk mix~~ *to frozen dairy dessert that is manufactured*
8 *from frozen dairy dessert mix, to frozen dessert that is*
9 *manufactured from frozen dessert mix, to frozen yogurt*
10 *that is manufactured from frozen yogurt mix, or to*
11 *nondairy frozen dessert that is manufactured from*
12 *nondairy frozen dessert mix, if those products are*
13 *manufactured in a freezing device from which those*
14 *products are served directly in a semifrozen state,*
15 *without packaging of any type, for consumption on the*
16 *premises in or from rooms where food is served to the*
17 *public.*

18 Except for nondairy frozen dessert mix, all mixes so
19 used shall be secured from a licensed manufacturer of
20 milk products.

21 Ice cream mix, ~~ice milk~~, frozen yogurt mix, frozen dairy
22 dessert mix, *frozen dessert mix*, and nondairy frozen
23 dessert mix shall be manufactured into a semifrozen state
24 without adulteration and freezing device salvage shall
25 not be reused as a mix.

26 (b) A limited packaging permit may be issued by the
27 secretary to a semifrozen (soft-serve) milk products plant



1 for on-premises manufacture and packaging of hard
2 frozen dairy products or hard frozen dairy product
3 novelties. The permit may only be issued after the
4 suitability of the facility for manufacture and packaging
5 has been determined by the secretary. An annual onsite
6 evaluation of compliance with the specific permit
7 conditions shall be completed by the secretary prior to
8 renewal of the limited packaging permit. A semifrozen
9 milk products plant issued a limited packaging permit
10 shall meet all of the following standards:

11 (1) The manufacturing and packaging of hard frozen
12 dairy product novelties shall be done when the
13 establishment is closed to the public.

14 (2) The hard frozen products shall only be sold to
15 purchasers for consumption. No hard frozen product
16 manufactured pursuant to the limited packaging permit
17 shall be sold for resale.

18 (3) All frozen dairy product mixes used for the
19 manufacture and packaging of hard frozen dairy product
20 novelties shall be dispensed from single service
21 containers sealed at the licensed milk products plant
22 where processed and pasteurized. Reconstitution of dry
23 mix or condensed mix is prohibited at a semifrozen milk
24 products plant issued a limited packaging permit.

25 (4) Adequate facilities, consistent with recognized
26 good manufacturing practices for the production and
27 packaging of hard frozen dairy products, as determined
28 by the secretary, shall be provided as a condition of the
29 limited packaging permit. The facilities shall include, but
30 are not limited to, adequate utensil and novelty mold
31 washing, sterilization and storage, and sufficient sanitary
32 work area, including handwashing facilities, dedicated to
33 the manufacture and packaging of hard frozen dairy
34 product novelties. Sanitation guidelines consistent with
35 good manufacturing and handling practices for retail
36 food establishments manufacturing and packaging hard
37 frozen dairy products in conformance with Part 110
38 (commencing with Section 110.3) of Title 21 of the Code
39 of Federal Regulations shall be utilized by the secretary



1 as a condition for issuance and renewal of the limited
2 packaging permit.

3 (5) Each individually packaged hard frozen novelty
4 shall be labeled with the name of the product and the
5 name and address of the manufacturer.

6 (c) Nondairy frozen dessert mix shall be obtained
7 from manufacturers licensed pursuant to Section 38931 or
8 under Section 38984. Any dry or condensed mix to be
9 reconstituted into freezable form shall be reconstituted
10 on the premises in containers or equipment that meet the
11 requirements of Sections 33763, 33764, 33765, and 33766.
12 Any water used for reconstitution shall be treated in a
13 manner to ensure a quality equal to potable pasteurized
14 water. Upon reconstitution, the product shall be poured
15 directly into the freezing unit or refrigerated at a
16 temperature not to exceed 45 degrees Fahrenheit, and so
17 maintained until frozen, or both.

18 (d) Where any retail establishment manufactures two
19 or more of the products provided for under this section,
20 each of those products shall be processed in a separate
21 freezing device, and that freezing device shall be clearly
22 identified as to the product being manufactured therein.

23 (e) The secretary may, by agreement with any
24 approved milk inspection service, authorize the service
25 to inspect and enforce requirements of this code
26 applicable to the establishments covered by this section.
27 Any agreement shall provide that the approved
28 inspection service shall collect the applicable license fee
29 for those establishments as provided in Sections 35221 and
30 38933. The fees so collected shall be retained by the
31 approved service to cover its cost of enforcement, but 15
32 percent of the fees collected shall be remitted to the
33 secretary to cover the cost of administration.

34 *SEC. 2.* Section 33704.7 is added to the Food and
35 Agricultural Code, to read:

36 33704.7. ~~(a)~~ "Frozen dairy dessert" is the food
37 prepared by freezing while stirring a pasteurized mix
38 containing milk or ingredients, derived from milk, or
39 both, and which may contain other optional safe and
40 suitable ingredients. Frozen dairy desserts contain less



1 than six percent, by weight, of nonfat milk solids,
2 exclusive of any caseinates, and less than 75,000 bacteria
3 per gram.

4 ~~(b) Other frozen~~

5 *SEC. 3. Section 33704.8 is added to the Food and*
6 *Agricultural Code, to read:*

7 33704.8. Frozen desserts, not subject to a standard of
8 identity prescribed by Title 21 of the Code of Federal
9 Regulations, may be manufactured or sold, or both, if they
10 are in compliance with all applicable health, safety, and
11 labeling requirements, and if their labels bear a statement
12 of identity approved by the secretary.

13 *SEC. 4. Section 36801 of the Food and Agricultural*
14 *Code is amended to read:*

15 36801. Pasteurized cream ~~which that~~ is sold or used
16 for ice cream, ~~ice milk, light dairy dessert frozen dairy~~
17 ~~dessert, frozen dessert,~~ or sherbet manufacture shall be
18 clean, sweet, and free from undesirable flavors and odors.
19 It shall contain not more than 75,000 bacteria per
20 milliliter, official plate count.

21 *SEC. 5. Section 36802 of the Food and Agricultural*
22 *Code is amended to read:*

23 36802. Milk and any milk product ~~which that~~ is used
24 in the manufacture of ice cream, ~~ice milk, light dairy~~
25 ~~dessert frozen dairy dessert, frozen dessert,~~ or sherbet
26 shall be pasteurized.

27 *SEC. 6. Section 36803 of the Food and Agricultural*
28 *Code is amended to read:*

29 36803. Sweet butter ~~which that~~ is used in ice cream,
30 ~~ice milk, and light dairy dessert frozen dairy dessert, and~~
31 ~~frozen dessert~~ shall be unsalted butter made from sweet
32 cream ~~which that~~ is free from undesirable flavor or odors.
33 It shall have a rating of not less than 92 in accordance with
34 the standards for quality of creamery butter ~~which that~~
35 are established in Article 2 (commencing with Section
36 37131) of Chapter 3. Cream to which has been added
37 ripener or starter, or cream ~~which that~~ has been
38 neutralized, is not sweet cream within the meaning of this
39 section.



1 SEC. 7. Section 36805 of the Food and Agricultural
2 Code is amended to read:

3 36805. Ice cream, ~~ice milk, light dairy dessert frozen~~
4 ~~dairy dessert, frozen dessert, sherbet, or quiescently~~
5 frozen confections when sold in package form shall be
6 labeled with the name, address, and zip code of the
7 manufacturer, the wholesale distributor, or the retailer.

8 When the name and address is not that of the original
9 milk products processing plant, then there shall be
10 stamped, printed, or embossed upon the package, in a
11 manner acceptable to the director, the plant number of
12 the manufacturer or packer. Any such plant
13 identification shall be consistent with, and not be more
14 restrictive than, the National Uniform Coding System for
15 packaging identification of milk and milk products
16 processing plants.

17 SEC. 8. Section 36806 of the Food and Agricultural
18 Code is amended to read:

19 36806. Ice cream mix, ~~ice milk mix, and light dairy~~
20 ~~dessert frozen dairy dessert mix, and frozen dessert mix~~
21 are unfrozen products ~~which~~ *that* are used in the
22 manufacture of ice cream, ~~ice milk, or light dairy dessert~~
23 ~~frozen dairy dessert, or frozen dessert.~~ They shall comply
24 with all the requirements for ice cream, ~~ice milk, or light~~
25 ~~dairy dessert frozen dairy dessert, or frozen dessert,~~
26 respectively.

27 SEC. 9. Section 36808 of the Food and Agricultural
28 Code is amended to read:

29 36808. Ice cream, ~~ice milk frozen dairy dessert, frozen~~
30 ~~dessert,~~ and sherbet may contain safe and suitable
31 nonmilk-derived ingredients as specified in applicable
32 provisions of the Code of Federal Regulations. ~~Light dairy~~
33 ~~dessert may contain safe and suitable nonmilk-derived~~
34 ~~ingredients as specified for ice milk in the Code of~~
35 ~~Federal Regulations.~~ If these nonmilk-derived
36 ingredients are used, the minimum quantity of food solids
37 required in this chapter for ice cream, ~~ice milk, light dairy~~
38 ~~dessert frozen dairy dessert, frozen dessert,~~ and sherbet
39 shall be maintained exclusively of these additives.



1 SEC. 10. Article 4 (commencing with Section 36921)
2 of Chapter 2 of Part 3 of Division 15 of the Food and
3 Agricultural Code is repealed.

4 SEC. 11. Section 37401 of the Food and Agricultural
5 Code is amended to read:

6 37401. Varieties of cheese are foods that conform to
7 the applicable standards of identity provided for in Part
8 133 of Title 21 of the Code of Federal Regulations.
9 Varieties of cheese that do not conform to these standards
10 are special varieties and shall conform to the standards of
11 composition adopted by the secretary by regulation and
12 that are not inconsistent with the standards of identity in
13 Part 133 of Title 21 of the Code of Federal Regulations.

14 SEC. 12. Section 49 of Chapter 95 of the Statutes of
15 1994 is amended to read:

16 Sec. 49. The Department of Food and Agriculture
17 shall repeal all regulations ~~that are inconsistent with this~~
18 ~~act, including, or portions thereof,~~ of Sections 415, 415.1,
19 415.2 to 428.3, inclusive, Article 5 (commencing with
20 Section 429), and Article 8 (commencing with Section
21 455) of Chapter 1 of Division 2 of Title 3 of the California
22 Code of Regulations *that are inconsistent with Chapter 95*
23 *of the Statutes of 1994, this act, or Title 21 of the Code of*
24 *Federal Regulations.*

