

damages caused by feral swine trespassing upon lands of another shall be recovered in any manner provided by law.
Added by Laws 2007, c. 5, § 12, eff. Nov. 1, 2007.

§2-6-613. Ownership of feral swine.

A person shall not be considered the owner of a feral swine if, within a twenty-four-hour period, the person catches, tags, and releases the feral swine in the same location that it was caught.
Added by Laws 2012, c. 32, § 3, eff. Nov. 1, 2012.

§2-6-614. Legislative encouragement of Judas pig tagging system.

Recognizing the success of other states, like Mississippi and New Mexico, utilizing the Judas pig tagging system, the Legislature encourages using the Judas pig tagging system as an effective technique of hunting and controlling the feral swine population.
Added by Laws 2012, c. 32, § 4, eff. Nov. 1, 2012.

§2-7-1.1. Repealed by Laws 2007, c. 93, § 4, eff. Nov. 1, 2007.

§2-7-10. Repealed by Laws 2021, c. 57, § 1, eff. Nov. 1, 2021.

§2-7-21. Definitions.

As used in this subarticle:

1. "Cooperative association" means any group in which farmers or producers act together in the market preparation, processing, or marketing of farm products or any association, not having capital stock or operated for a profit, and organized under this subarticle;

2. "Dairy farmer" means a person engaged in the business of producing milk for sale to milk processors directly or through a cooperative association of which the person is a member. When a dairy farmer has sold milk through a cooperative association of which the dairy farmer is a member, the cooperative association shall be considered a dairy farmer;

3. "Escrow account agent" means an entity within this state, which is insured by the Federal Deposit Insurance Corporation;

4. "Milk processor" means a person who operates a milk, milk products, or frozen desserts processing plant that is located in the State of Oklahoma; and

5. "Purchase price" means an amount of money, based on estimated butterfat content and other common industry standards at the time of delivery, that a milk processor agrees to pay a dairy farmer for a purchase of raw milk.

Added by Laws 1988, c. 139, § 1, eff. Nov. 1, 1988. Amended by Laws 1989, c. 182, § 2, operative July 1, 1989; Laws 2001, c. 146, § 4, emerg. eff. April 30, 2001. Renumbered from § 751 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-22. Requirement of escrow account - Notice - Deposits - Commingling of monies.

A. 1. A dairy farmer from whom milk was purchased by a milk processor may require the milk processor to establish an escrow account for the benefit of the dairy farmer for the payment of the purchase price of milk as specified in paragraph 2 of this subsection.

2. A dairy farmer may require the milk processor to establish an escrow account only if:

- a. the dairy farmer has not received payment of the purchase price for the milk and has given written notice by certified mail, return receipt requested, to the milk processor within thirty (30) days following the final date the payment is due, or
- b. a payment instrument received by the dairy farmer from the milk processor has been dishonored and the dairy farmer has given written notice by certified mail, return receipt requested, to the milk processor within fifteen (15) business days after the notice of dishonor was received.

3. The notice specified by subparagraphs a and b of paragraph 2 of this subsection shall require that an escrow account be established and that the payment received from the sale of any milk or dairy product as specified in subsection B of this section be deposited in the escrow account until the dairy farmer has received full payment of the purchase price for the milk.

B. 1. The milk processor shall deposit a share of all payments received from the sale of milk or dairy products by the milk processor which is equal to the amount of the milk sold by the dairy farmer to the milk processor in proportion to the total amount of milk purchased for the sale of the milk and dairy products by the milk processor into the escrow account upon receipt. The payments shall be deposited in the escrow account until the dairy farmer has received full payment of the purchase price for the milk.

2. The escrow account shall be a segregated interest bearing account and shall be established for the benefit of the dairy farmer. Upon sufficient proof of identification, the escrow account agent shall promptly pay to the dairy farmer any sum accumulated for the benefit of the dairy farmer in the escrow account.

C. 1. If any milk processor is required to establish more than one escrow account by operation of the provisions of this section, then the monies accruing may all be commingled in a single account.

2. The commingled monies accumulated in the account shall be distributed to each dairy farmer in the amount due to each.

3. If the commingled monies accumulated in the account are insufficient to pay all the dairy farmers, the escrow account agent

shall distribute the monies so accumulated in proportion to the current amount due each.

D. For the purposes of this section, the monies held by the escrow account agent shall be the property of the dairy farmer, or dairy farmers if the monies have been commingled, in the current amount due to each or in proportion to the amount due each.

Added by Laws 1988, c. 139, § 2, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 5, emerg. eff. April 30, 2001. Renumbered from § 752 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-23. Conditions of purchase of raw milk.

A milk processor may not purchase raw milk from a dairy farmer unless:

1. Payment of the purchase price is made according to the provisions prescribed by an applicable federal milk marketing order;
2. Any additional provisions are agreed on by both the dairy farmer or the agent of the dairy farmer and the milk processor; and
3. The medium of exchange used is cash, a check for the full amount of the purchase price, or a wire transfer of money in the full amount.

Added by Laws 1988, c. 139, § 3, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 6, emerg. eff. April 30, 2001. Renumbered from § 753 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-24. Exception.

This subarticle does not apply to transactions between a cooperative association while acting as a marketing agent and its members.

Added by Laws 1988, c. 139, § 4, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 7, emerg. eff. April 30, 2001. Renumbered from § 754 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-25. Liability of milk processor.

A milk processor who fails to pay for raw milk as provided by this subarticle is liable to the dairy farmer for:

1. The purchase price of the raw milk;
2. Interest on the purchase price at the rate fixed by law for civil judgments commencing from the date possession is transferred until the date the payment is made; and
3. A reasonable attorney fee for the collection of the payment.

Added by Laws 1988, c. 139, § 5, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 8, emerg. eff. April 30, 2001. Renumbered from § 755 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-26. Failure to establish escrow account - Failure to continue payments - Penalties.

Any milk processor failing to establish an escrow account upon receipt of notification of a dairy farmer pursuant to the provisions of this subarticle or who fails to continue to make payments until the dairy farmer has received full payment of the purchase price, upon conviction thereof shall be guilty of a misdemeanor and shall be punished by the imposition of a fine of not more than One Thousand Dollars (\$1,000.00), imprisonment in the county jail for a period not to exceed one (1) year, or both such fine and imprisonment.

Added by Laws 1988, c. 139, § 6, eff. Nov. 1, 1988. Amended by Laws 2001, c. 146, § 9, emerg. eff. April 30, 2001. Renumbered from § 756 of this title by Laws 2001, c. 146, § 247, emerg. eff. April 30, 2001.

§2-7-401. Short title.

Sections 4 through 23 of this act shall be known and may be cited as the "Oklahoma Milk and Milk Products Act".

Added by Laws 1981, c. 43, § 1, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 17, operative July 1, 1987; Laws 1987, c. 236, § 3, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 4, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.1 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§2-7-402. Purpose - Public policy.

It is the policy of this state and the purpose of the Oklahoma Milk and Milk Products Act to regulate the quality and the minimum sanitary requirements of the production, processing, and distribution of milk and milk products in a manner that shall:

1. Protect the health, safety, and welfare of the consumer public; and
2. Allow Oklahoma milk and milk product producers, processors, and distributors to enjoy free trade and commerce.

Added by Laws 1981, c. 43, § 2, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 18, operative July 1, 1987; Laws 1987, c. 236, § 4, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 5, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.2 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 68, emerg. eff. June 6, 2000.

§2-7-403. Definitions.

As used in the Oklahoma Milk and Milk Products Act:

1. "Bulk milk hauler/sampler" means any person collecting official samples who may transport raw milk from a farm or raw milk products to or from a milk plant, receiving station, or transfer

station and has in his or her possession a permit from any state to sample these products;

2. "Dairy farm" means any premises owned or operated by a "milk producer" where one or more cows or goats are kept, and from which a part or all of the milk or milk products is sold or offered for sale;

3. "Goat milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy goats;

4. "Grade A milk and milk products" means milk and milk products at any stage from production through pasteurization and packaging, that are of the minimum quality and are produced, hauled, processed and distributed under conditions which meet the requirements of the Oklahoma Milk and Milk Products Act;

5. "Inhibitor" means any chemical or antibiotic substance which inhibits or retards the growth of bacteria in milk;

6. "Milk" means the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which contains not less than eight and one-fourth percent (8 1/4%) milk solids-not-fat and not less than three and one-fourth percent (3 1/4%) milk fat. The term "milk" shall include goat milk, fluid market milk, and milk products for the purpose of distribution to the consumer, and may contain optional ingredients defined by the State Board of Agriculture and shall include ungraded and Grade A milk;

7. "Milk contact surface" means any pipe, tank, equipment, or facility which contacts or may contact milk during the producing, transporting, processing, or distributing of milk and milk products;

8. "Milk distribution center" means any premises, owned or operated by a "milk distributor", which distributes and sells or offers to sell milk and milk products but does not include an establishment which sells or offers to sell Grade A milk and milk products at retail;

9. "Milk facility" means the producing, processing, transporting, or distributing premises and facilities which operate under an appropriate and valid permit issued by the Commissioner, in compliance with the Oklahoma Milk and Milk Products Act and the rules of the Board;

10. "Milk fat" or "butter fat" means the fat of milk;

11. "Milk plant" means any premises owned or operated by a "milk processor" where milk or milk products are collected, manufactured, processed, pasteurized, bottled, stored, or prepared for distribution for commercial purposes including, but not limited to, a receiving or transfer station;

12. "Milk products" means those products produced or obtained from milk or any component or product of milk and defined by the

Board, including Grade A milk products, ungraded raw milk and ungraded milk products;

13. "Milk tank truck cleaning facility" means any premises or establishment, separate from a milk plant, receiving station, or transfer station, where a milk tank truck is cleaned and sanitized;

14. "Milk tank truck driver" means any person transporting raw or pasteurized milk products between a milk plant, receiving station, or transfer station;

15. "Milk transportation company" means any person responsible for a milk tank truck;

16. "Pasteurized milk" means Grade A raw milk which has been pasteurized and stored in accordance with the chemical, bacteriological, and temperature standards required by the Board;

17. "Receiving station" means any premises where raw milk is received, collected, handled, stored, or cooled and prepared for further transporting;

18. "Retail food store" means any establishment which offers for retail sale packaged or bulk food goods for human consumption;

19. "Transfer station" means any establishment or premises where milk or milk products are transferred directly from one milk tank truck to another; and

20. "Ungraded milk products" and "manufacture grade milk products" include, but are not limited to, butter, cheese, dry milk, condensed milk, filled or evaporated milk, frozen dairy dessert and mello-drink products.

Added by Laws 1981, c. 43, § 3, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 19, operative July 1, 1987; Laws 1987, c. 236, § 5, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 6, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.3 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 69, emerg. eff. June 6, 2000.

§2-7-404. Rules.

A. The State Board of Agriculture shall promulgate rules governing:

1. The production, transportation, processing, pasteurization, handling, identity, sampling, examination, labeling, marking, shipping statements, optional ingredients, definitions and sanitary conditions for milk and milk products;

2. The inspection and sanitary rating of dairy farms, bulk milk hauler/samplers, milk transportation companies, milk tank truck cleaning facilities, milk plants and distribution centers engaged in producing, transporting, processing and distributing milk and milk products;

3. The issuing, modifying, suspending and revoking of permits to producers, bulk milk hauler/samplers, milk transportation

companies, milk tank truck cleaning facilities, processors and distributors of milk and milk products;

4. The approval of facilities therefor;

5. All cheese factories;

6. All modes of transportation used for the distribution of milk and cream to market; and

7. The labeling and packaging of milk and milk products.

B. The rules promulgated by the Board shall be in accord with the minimum standards and requirements for milk and milk products currently recommended and established by the United States Department of Health and Human Services, Food and Drug Administration, including the Recommended Grade A Pasteurized Milk Ordinance.

Added by Laws 1981, c. 43, § 4, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 20, operative July 1, 1987; Laws 1987, c. 236, § 6, emerg. eff. July 20, 1987; Laws 1993, c. 145, § 350, eff. July 1, 1993; Laws 1994, c. 140, § 7, eff. Sept. 1, 1994.

Renumbered from § 1-1301.4 of Title 63 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 70, emerg. eff. June 6, 2000; Laws 2019, c. 254, § 1, eff. Nov. 1, 2019.

§2-7-405. Commissioner - Power and duty.

The Commissioner of Agriculture shall have the power and duty to:

1. Administer and supervise the enforcement of the Oklahoma Milk and Milk Products Act;

2. Provide for periodic inspection and investigation as necessary to determine compliance with the Oklahoma Milk and Milk Products Act and to record each inspection on a form approved by the Commissioner. Every milk producer, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk processor, or milk distributor engaged in producing, transporting, processing, or distributing milk and milk products shall, upon request, permit access of the Commissioner to all areas of establishment, during normal business hours, to evaluate compliance with the provisions of the Oklahoma Milk and Milk Products Act;

3. Secure and analyze samples of milk and milk products from any milk producer, bulk milk hauler/sampler, milk transportation company, milk tank truck cleaning facility, milk processor, or milk distributor. Milk and milk products packaged for retail sale to consumers shall not be taken without first paying or offering to pay for the sample;

4. Prohibit the producing, processing, and sale of adulterated milk and milk products;

5. Receive and investigate complaints;

6. Issue permits to the owner or operator of dairy farms, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plants, milk distribution centers, and receiving or transfer stations to engage in the producing, transporting, processing, or distributing of milk and milk products upon receipt of permit applications and upon determining that these facilities are in compliance with the Oklahoma Milk and Milk Products Act and to modify, suspend, or revoke such permits;

7. Maintain laboratory reports of samples collected by the Commissioner, listings of permits issued, modified, suspended, and revoked;

8. Require submission, timely review, and approval, of plans, specifications, and other information relative to the construction or alteration of milk and milk product facilities, prior to the commencement of work;

9. Examine statements of the actual quantities of milk and milk products purchased and sold, lists of all sources of milk and milk products, and records of cleaning, tests, and pasteurization times and temperatures of appropriate facilities; and

10. Examine and approve laboratories to conduct those analyses required by the Oklahoma Milk and Milk Products Act.

Added by Laws 1981, c. 43, § 5, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 21, operative July 1, 1987; Laws 1987, c. 236, § 7, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 8, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.5 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 1994, c. 289, § 3, emerg. eff. June 6, 1994; Laws 2000, c. 367, § 71, emerg. eff. June 6, 2000.

§2-7-406. Sale of Grade A milk and milk products.

A. Only Grade A pasteurized milk and milk products or Grade A raw milk shall be sold to the final consumer; provided, however:

1. Only Grade A pasteurized milk shall be sold through restaurants, soda fountains, grocery stores, or similar establishments, including school lunch rooms; and

2. In an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade is unknown, may be authorized by the Commissioner of Agriculture so long as the milk and milk products shall be labeled "ungraded".

B. Approval by the Commissioner pursuant to rules promulgated by the State Board of Agriculture for the use of Grade A label on milk and milk products processed at any milk plant in accordance with the provisions of the Oklahoma Milk and Milk Products Act shall constitute an acceptable rating for all intrastate purposes. No sanitary requirement or standard issued pursuant to the Oklahoma Milk and Milk Products Act or by any governmental subdivision shall

prohibit the sale of Grade A milk and milk products which are produced and processed under laws or rules of any governmental unit which are substantially equivalent to the requirements of the Oklahoma Milk and Milk Products Act, and which are enforced with equal effectiveness, as determined by a milk sanitation rating certified to the U.S. Department of Health and Human Services, Food and Drug Administration or its successor.

Added by Laws 1981, c. 43, § 6, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 9, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.6 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 72, emerg. eff. June 6, 2000.

§2-7-407. Adulterated or misbranded milk or milk product.

A. Any Grade A milk or milk product shall be adulterated if:

1. It bears or contains any poisonous, deleterious, or inhibitor substance in a quantity which may render it injurious to health;

2. It bears or contains any added poisonous, inhibitor, or deleterious substance for which no safe tolerance has been established by state rule or federal regulations, or in excess of the tolerance if one has been established;

3. It consists, in whole or in part, of any substance unfit for human consumption;

4. It has been produced, processed, prepared, packed, held, or transported under unsanitary conditions;

5. Its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or

6. Any substance has been added, mixed, packed, or any process applied to increase its bulk or weight, or reduce its quality, strength, or make it appear better or of greater value than it is.

B. Grade A milk and milk products shall be misbranded when:

1. Their containers bear or accompany any false or misleading written, printed, or graphic matter;

2. The milk and milk products do not conform to the definitions in the Oklahoma Milk and Milk Products Act;

3. The products are not labeled in accordance with the Oklahoma Milk and Milk Products Act; and

4. Products are labeled "Grade A" when the packaged products were filled from a dairy plant or milk plant which did not possess an appropriate and valid Grade A permit at the time the milk or milk product was produced or processed.

Added by Laws 1981, c. 43, § 7, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 10, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.7 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 73, emerg. eff. June 6, 2000.

§2-7-408. Permits.

A. No person shall produce, haul, process, or distribute Grade A raw milk for pasteurization or milk and milk products, or hold oneself out as a milk producer, transporter, processor, or distributor or represent a dairy farm, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plant, receiving or transfer station, milk distribution center, or milk or milk products as "Grade A" unless that person possesses an appropriate and valid permit for the particular premises or facilities concerned.

B. Applications for permits for dairy farms, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plants, receiving or transfer stations, and milk distribution centers shall be submitted on a form approved by the State Board of Agriculture. Each applicant shall allow the Commissioner to inspect the applicable premises, records, and facilities. The Board shall inspect premises and facilities and issue the permit applied for when compliance is confirmed. The permits shall be issued without an expiration date except for the bulk milk hauler/sampler and milk tank truck driver permit that shall be effective for two (2) years. Permits shall not be transferable among persons or places.

C. The Board may issue permits, which shall be contingent upon continuing compliance, to facilities located outside this state which comply with the provisions of subsection B of Section 7-406 of this title. If an out-of-state facility requests, or if the facility is not certified, then the cost for all inspections necessary pursuant to this subsection shall be paid by those facilities and the amounts paid shall be deposited in the State Department of Agriculture Revolving Fund.

D. The Board shall issue permits and establish classifications for milk and milk products.

E. The Board shall promulgate rules to establish fees for permits and inspections pursuant to this section.

Added by Laws 1981, c. 43, § 8, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 22, operative July 1, 1987; Laws 1987, c. 236, § 8, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 11, eff. Sept. 1, 1994. Renumbered from § 1-1301.8 of Title 63 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 74, emerg. eff. June 6, 2000; Laws 2002, c. 173, § 5, emerg. eff. May 6, 2002; Laws 2010, c. 90, § 2, emerg. eff. April 12, 2010.

§2-7-409. Sampling and testing.

A. The Commissioner of Agriculture shall collect and analyze representative samples, at least four times in any consecutive six (6) months, of Grade A raw milk for pasteurization and Grade A milk and milk products from each Grade A dairy farm, or milk plant and

shall collect and analyze representative Grade A milk and milk products, as required by the Oklahoma Milk and Milk Products Act and rules promulgated by the State Board of Agriculture.

B. Whenever two of the last four consecutive bacteria counts, somatic cell counts, coliform determinations, or cooling temperatures, taken on separate days, exceed the limit of the standard for the milk and milk products, the Commissioner shall send a written notice to the person concerned. This notice shall be in effect so long as two of the last four consecutive samples exceed the limit of the standard. An additional sample shall be taken within twenty-one (21) days of sending the notice, but not before the lapse of three (3) days.

C. Whenever a phosphatase test on Grade A pasteurized milk is positive, the cause shall be determined; and where the cause is improper pasteurization, it shall be corrected and any milk or milk product involved shall not be offered for sale as Grade A.

D. Whenever an inhibitor test is positive and confirmed, the cause shall be determined, any milk or milk product involved shall not be offered for sale as Grade A, and the dairy farm responsible shall not produce raw milk for Grade A purposes until the milk is found to be free of inhibitors.

E. Samples shall be analyzed in a laboratory approved by the Commissioner. All sampling procedures and required laboratory examinations shall be in substantial compliance with the latest edition of Standard Methods for the Examination of Dairy Products of the American Public Health Association and the latest edition of Official Methods of Analyses of the Association of Official Analytical Chemists. The procedures including the certification of sample collectors and the examinations shall be evaluated in accordance with the Evaluation of Milk Laboratories, 1995 Recommendations of the U.S. Public Health Service/Food and Drug Administration and its successors.

Added by Laws 1981, c. 43, § 9, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 12, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.9 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 75, emerg. eff. June 6, 2000.

§2-7-410. Suspension of permit.

A. Since analytical results may not become available until after the milk and milk products reach retail stores and consumers, the Commissioner of Agriculture, for the imperative protection of public health, safety, and welfare, as defined in the Administrative Procedures Act, shall upon receipt of the analysis, notify and suspend the permit of a dairy farm or milk plant:

1. Which produced raw milk containing an inhibitor, for at least twenty-four (24) hours and until the cause is corrected and the raw milk is found to be free of inhibitors; or

2. Which produced or processed milk that, in any consecutive six (6) months, exceeded in three of the last five samples the limit of the standard for the milk, in accordance with Section 7-409 of this title for at least twenty-four (24) hours and until the dairy farm or milk plant is inspected and/or sampled and found to be in compliance.

B. The Commissioner shall notify and suspend the permit of a facility refusing to allow an inspection of the applicable premises as required by the Oklahoma Milk and Milk Products Act or upon a second consecutive inspection, conducted not less than seventy-two (72) hours nor more than twenty-one (21) days after the first inspection, disclosing gross neglect of cleaning of milk contact surfaces. This suspension shall continue until an inspection is allowed or the milk contact surfaces are found to be clean.

C. The Commissioner may suspend, revoke or refuse to renew a permit for continuing or multiple violations of the Oklahoma Milk and Milk Products Act, or suspend a Grade A permit to protect the public health, safety, or welfare.

Added by Laws 1981, c. 43, § 10, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 23, operative July 1, 1987; Laws 1987, c. 236, § 9, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 13, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.10 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 76, emerg. eff. June 6, 2000.

§2-7-411. Persons affected with communicable disease.

A. No person affected with any disease capable of being transmitted to others through the contamination of food shall work at any dairy farm or milk plant in any capacity which brings that person into contact with the equipment involved or employees engaged in the producing, handling, storing, or transporting of milk, milk products, containers, equipment, and utensils; and no milk producer or milk plant operator shall employ in any capacity any affected person, any person suspected of having any disease capable of being transmitted to others through the contamination of food, or of being a carrier of communicable diseases. Any milk producer, processor, or distributor who suspects that any employee has contracted any disease or has become a carrier of a disease capable of being transmitted to others through the contamination of food shall notify the Commissioner of Agriculture immediately.

B. When reasonable cause exists to suspect the possibility of transmission of infection from any person concerned with the handling of milk and milk products, the Commissioner is authorized to require any or all of the following measures:

1. The immediate exclusion of that person from milk handling;
2. The immediate exclusion of the milk supply concerned from distribution and use; and

3. Adequate medical examination and testing of the person, of his or her associates, and of the bodily discharges of both. Added by Laws 1981, c. 43, § 11, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 14, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.11 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 77, emerg. eff. June 6, 2000.

§2-7-412. Herds - Diseased animals.

A. All milk for pasteurization and for Grade A raw distribution shall be from herds located in a Modified Accredited Tuberculosis Area as determined by the U.S. Department of Agriculture; provided, that herds located in an area that fails to maintain accredited status shall have been certified by the United States Department of Agriculture as tuberculosis-free, or shall have an annual negative tuberculosis test.

B. All milk for pasteurization and for Grade A raw distribution shall be from herds participating in Brucellosis Milk Surveillance program for brucellosis eradication which is conducted on a continuing basis at intervals of not less than every three (3) months or more than every six (6) months. Individual blood tests may be required on all animals in herds showing positive reactions to the Brucellosis Milk Surveillance test.

C. For diseases other than brucellosis and tuberculosis, the Commissioner shall require physical, chemical, or bacteriological tests as necessary. The diagnosis of other diseases in dairy cattle shall be based upon the findings of a licensed veterinarian or a veterinarian in the employ of an official agency.

D. Any diseased animal disclosed by the test shall be disposed of as the State Veterinarian directs. Added by Laws 1981, c. 43, § 12, emerg. eff. April 8, 1981. Amended by Laws 1994, c. 140, § 15, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.12 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 78, emerg. eff. June 6, 2000.

§2-7-413. Violations.

It shall be unlawful for any person to knowingly, willfully or recklessly:

1. Attempt to produce, haul, process or distribute milk or milk products without an appropriate and valid permit;
2. Sell, offer or expose for sale as Grade A any adulterated or misbranded milk or milk product;
3. Sell, offer, expose for sale or serve milk and milk products which have not been maintained at or below the temperature specified by the State Board of Agriculture;
4. Dip or ladle Grade A milk and milk products;

5. Transfer Grade A milk and milk products at any location other than a permitted Grade A facility designed and equipped for such purpose;

6. Prevent, interfere or attempt to impede the Commissioner from investigating and enforcing the Oklahoma Milk and Milk Products Act;

7. Sell or serve Grade A milk and milk products from other than the individual container, or approved bulk dispenser, received from the distributor; or

8. Violate any provision of the Oklahoma Milk and Milk Products Act.

Added by Laws 1981, c. 43, § 13, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 24, operative July 1, 1987; Laws 1987, c. 236, § 10, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 16, eff. Sept. 1, 1994. Renumbered from § 1-1301.13 of Title 63 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 79, emerg. eff. June 6, 2000; Laws 2019, c. 254, § 2, eff. Nov. 1, 2019.

§2-7-414. Construction of act.

A. The provisions of the Oklahoma Milk and Milk Products Act shall not be construed to:

1. Include incidental sales of raw milk directly to consumers at the farm where the milk is produced;

2. Preclude the advertising of the incidental sale of goat milk; and

3. Prohibit any farmer or producer from making cheese using milk or cream produced on the farm of such farmer or producer.

B. For purposes of this section, incidental sales of goat milk are those sales where the average monthly number of gallons sold does not exceed one hundred (100).

Added by Laws 1981, c. 43, § 14, emerg. eff. April 8, 1981. Amended by Laws 1987, c. 206, § 25, operative July 1, 1987; Laws 1987, c. 236, § 11, emerg. eff. July 20, 1987; Laws 1989, c. 182, § 1, operative July 1, 1989; Laws 1994, c. 140, § 17, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.14 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 80, emerg. eff. June 6, 2000.

§2-7-415. Fees.

A. A fee of one cent (\$0.01) shall be assessed on each one hundred (100) pounds of raw milk produced in this state. Each co-op, marketing agent, or processing plant where the raw milk is not collected by a co-op or marketing agent, doing business in Oklahoma shall pay the fees each calendar month to the Commissioner of Agriculture to be credited to the Milk and Milk Products Inspection Revolving Fund of the State Treasury.

B. There is hereby assessed a fee of one cent (\$.01) on each one hundred (100) pounds of Grade A milk or milk products processed or offered for retail sale in Oklahoma. Each milk plant doing business in Oklahoma shall pay the fees each calendar month to the Commissioner to be credited to the Milk and Milk Products Inspection Revolving Fund of the State Treasury.

C. A fee assessed on each one hundred (100) pounds of milk or milk products produced or processed in another state and imported into Oklahoma shall be the same amount assessed on milk or milk products shipped to that state from Oklahoma. The person shipping or causing the shipment of milk or milk products shall be responsible for paying the fees semi-annually on January 1 and July 1 of each year to the Commissioner and be credited to the Milk and Milk Products Inspection Revolving Fund of the State Treasury. Added by Laws 1987, c. 206, § 26, operative July 1, 1987. Amended by Laws 1987, c. 236, § 12, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 18, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.15 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 81, emerg. eff. June 6, 2000.

§2-7-416. Milk and Milk Products Inspection Revolving Fund.

There is hereby created in the State Treasury a revolving fund to be known as the "Milk and Milk Products Inspection Revolving Fund". The fund shall be a continuing fund not subject to fiscal year limitations and is appropriated and may be budgeted and expended by the Commissioner of Agriculture for the purpose of administering and enforcing the Oklahoma Milk and Milk Products Act. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment.

Added by Laws 1987, c. 206, § 27, operative July 1, 1987. Amended by Laws 1987, c. 236, § 13, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 19, eff. Sept. 1, 1994. Renumbered from § 1-1301.16 of Title 63 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 82, emerg. eff. June 6, 2000; Laws 2012, c. 304, § 7.

§2-7-417. Permits required.

No person shall produce, haul, process or distribute ungraded raw milk or milk products or hold himself out as an ungraded milk producer, hauler, processor or distributor unless such person possesses an appropriate and valid permit for the particular premises or facilities concerned. The processing of permit applications and inspections shall be similar to the Grade A permit process.

Added by Laws 1987, c. 206, § 28, operative July 1, 1987. Amended by Laws 1987, c. 236, § 14, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 20, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.17 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994.

§2-7-418. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-7-419. Quarantine of dairy products - Condemnation actions - Costs - Correction of violation - Bond.

A. Whenever the Commissioner of Agriculture finds any dairy product, in whole or in part, that fails to meet the requirements of the Oklahoma Milk and Milk Products Act, or that a product is handled in violation of law or rules of the State Board of Agriculture, a tag or other appropriate marking shall be affixed which shall give notice that the dairy product is, or is suspected of, being manufactured, produced, handled, sold, or offered for sale in violation of law or rules of the Board, and is quarantined, and warning all persons not to remove or dispose of the dairy product until permission for removal or disposal is given by the Commissioner. It shall be unlawful for any person to remove or dispose of the dairy product quarantined without permission.

B. If the Commissioner finds that dairy product quarantined pursuant to subsection A of this section does not meet the requirements of law, or the rules, the Commissioner may institute an action in the district court in whose jurisdiction the dairy product is quarantined, for the condemnation and destruction of the dairy product. If the Commissioner finds that the dairy product quarantined does meet the requirements of law and the rules, the Commissioner shall remove the quarantine. In any court proceeding regarding a quarantine, the State Department of Agriculture or the Commissioner, shall not be held liable if the court finds probable cause for the quarantine.

C. If the court finds that a quarantined dairy product, in whole or in part, is in violation of the law, the dairy product shall be destroyed at the expense of the owner or defender, under the supervision of the Commissioner. All court costs, fees, cost of storage, and other proper expenses shall be paid by the owner or defender of the dairy product. The court may order that the dairy product be delivered to the owner or defendant for appropriate labeling or processing under the supervision of the Commissioner if the violation can be corrected by proper processing of the dairy product, all costs, fees, and expenses have been paid, and a sufficient bond is executed and conditioned for appropriate labeling or processing as the court may require. The expense of supervision shall be paid to the Commissioner by the person obtaining release of the dairy product under bond.

Added by Laws 1955, p. 53, art. 7(A), § 5. Amended by Laws 1987, c. 206, § 30, operative July 1, 1987; Laws 1987, c. 236, § 16, emerg. eff. July 20, 1987. Renumbered from Title 2, § 7-5 by Laws 1987, c. 206, § 97, operative July 1, 1987. Amended by Laws 1987, c. 236, § 205, emerg. eff. July 20, 1987; Laws 1994, c. 140, § 22, eff. Sept. 1, 1994. Renumbered from Title 63, § 1-1301.19 by Laws 1994, c. 140, § 30, eff. Sept. 1, 1994. Amended by Laws 2000, c. 367, § 83, emerg. eff. June 6, 2000.

§2-7-420. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-7-421. Official state agency.

The Oklahoma State Department of Agriculture is hereby designated as the official state agency of this state for purposes of cooperating with and implementing the dairy inspection and grading program under the jurisdiction of the United States Department of Agriculture.

Added by Laws 1994, c. 289, § 4, emerg. eff. June 6, 1994.

§2-8-1. Repealed by Laws 2000, c. 367, § 136, emerg. eff. June 6, 2000.

§2-8-21. Definitions.

As used in this subarticle:

1. "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means relating to seed;

2. "Agricultural seeds" means the seeds of grass, forage, cereal and fiber crops, and any other kinds of seeds commonly recognized within this state as agricultural seeds, lawn seeds, and mixtures of seeds;

3. "Certified seed", "registered seed", and "foundation seed" means seed that has been produced and labeled in accordance with the procedures and rules of an officially recognized seed-certifying agency or association;

4. "Coated seed" means a seed unit covered with any substance which changes the size, shape, or weight of the original seed. Seeds coated with ingredients including, but not limited to, rhizobia, dyes, and pesticides are excluded;

5. "Germination" means the percent of seeds capable of producing normal seedlings under ordinarily favorable conditions;

6. "Kind" means one or more related species or subspecies which singly or collectively is known by one common name, for example, corn, wheat, lespedeza, alfalfa, and fescue;

7. "Labeling" means all written, printed, or graphic representations accompanying and pertaining to any seed in bulk or