

Sections 1 and 2 are effective the day following final enactment.

Approved May 20, 1983

## CHAPTER 202 — S.F.No. 755

*An act relating to agriculture; making changes in the Artificial Dairy Products Act; amending Minnesota Statutes 1982, sections 32.53; 32.531; 32.5311; 32.532; 32.533; and proposing new law coded in Minnesota Statutes, chapter 32.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1982, section 32.53, is amended to read:

### 32.53 DECLARATION OF POLICY PURPOSE.

~~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, transportation, possession, 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 sections 32.53 to 32.534, 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.

Sec. 2. Minnesota Statutes 1982, section 32.531, is amended to read:

### 32.531 DEFINITIONS.

~~Whenever used in sections 32.53 to 32.534:~~

(a) The term Subdivision 1. SCOPE. For the purposes of sections 32.53 to 32.534, the terms defined in this section have the meanings given them.

Subd. 2. PERSON. "Person" includes means individuals, firms, partnerships, associations, trusts, estates, corporations, and ~~any and all~~ other business units, devices, or arrangements.

(b) The term Subd. 3. FILLED DAIRY PRODUCT; DAIRY PRODUCT. "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

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therefrom, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat so that the resulting product is in imitation or semblance of any dairy product, including "Dairy product" includes, but is not limited to, milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed 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, where such compound is customarily used on the order or advice 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 cacao fat naturally present in the chocolate or cocoa used and the food oil, not in excess of .01 percent of the weight of the finished product, used as a carrier of such vitamins; or (3) oleomargarine, and forms of dairy products for which no standard of identity exists which are manufactured principally from milk or milk-derived ingredients, provided milk-derived ingredients are not used at levels in excess of those permitted in similar standardized dairy products.

(e) The term Subd. 4. COMMISSIONER. "Commissioner" means the commissioner of agriculture or the commissioner's designee.

Subd. 5. ARTIFICIAL DAIRY PRODUCT. "Artificial dairy product" means any food which by its composition, intended use, sensory qualities, physical properties, package, or label description purports to resemble or imitate any dairy product listed in subdivision 3. "Artificial dairy product" does not include:

(1) any distinctive proprietary food compound not readily mistaken for a dairy product, which is customarily used on the order or advice of a physician and is prepared and designed for medicinal or special dietary use and predominantly so labeled; or

(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 the 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 .01 percent of the weight of the finished product, used as a carrier of the vitamins.

Subd. 6. MILK. "Milk" means milk, skim milk, cream, lowfat milk, nonfat dry milk, and any fluid derivative of the listed items.

Subd. 7. MILK-DERIVED INGREDIENTS. "Milk-derived ingredients" means buttermilk, whey, products derived from whey, casein, lactose, lacto albumen, and any fluid derivative of the listed items.

Sec. 3. Minnesota Statutes 1982, section 32.5311, is amended to read:

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**32.5311 FILLED OR ARTIFICIAL DAIRY PRODUCTS, RESTRICTIONS AS TO MANUFACTURE, SALE, OR EXCHANGE.**

**Subdivision 1. UNLAWFUL ACT.** It shall be is unlawful for any person, firm or corporation, by himself or itself, his or its employee or agent, or as the employee or agent of another, to knowingly manufacture, sell, or exchange, or to have in possession a filled possess an artificial dairy product knowing the same to be a filled dairy product and with intent to sell or exchange, any filled dairy product either under the name of any dairy product, including but not limited to, milk, cream, sour cream, butter cream, skimmed milk, ice cream, whipped cream, flavored milk or skim milk drink, dried or powdered milk, cheese, cream cheese, cottage cheese, creamed cottage cheese, ice cream mix, sherbet, condensed milk, evaporated milk, or concentrated milk, or as a labeled imitation thereof, or under any fictitious or trade name. Nothing herein shall be deemed to prohibit the use of filled dairy products in state institutions when approved by the medical director or if there be none, by the superintendent of the institution, for the purpose of conducting medical research limited to the effect of animal fat in the diet of humans which does not adhere to the labeling requirements for artificial dairy products in subdivisions 2 to 5.

**Subd. 2. REQUIRED STATEMENT.** The statement "an artificial dairy product" must be indicated in the upper 30 percent of the principal display panel of the package or container of an artificial dairy product. The statement may not be less than one-half of the size of the product name, but in no event smaller than one-quarter of an inch or 18 point type, and must be of similar type, style, and color.

**Subd. 3. FEDERAL REQUIREMENTS.** Artificial dairy products must comply with the applicable federal requirements set forth in section 403 of the Federal Food, Drug and Cosmetic Act, and Code of Federal Regulations, title 21, sections 101 and 105.

**Subd. 4. PRODUCT NAME.** The product name of an artificial dairy product must be presented in bold face type on the principal display panel and must be in lines generally parallel to the base of the container or package.

**Subd. 5. EXEMPT PRODUCTS.** Nonliquid toppings, dry coffee whiteners, frozen liquid whiteners, dips, dressings, and margarine-type products are not subject to the requirements in this section or section 4.

**Sec. 4. [32.5312] INGREDIENT AND NUTRITIONAL VALUES.**

**Subdivision 1. STATEMENT OF DIFFERENCES.** An artificial dairy product must have on the principal display panel information which will provide the major differences between the artificial dairy product and the dairy product it resembles. The information must be in a type size which is at least 25 percent of the name of the artificial dairy product, but not less than one-eighth of an inch.

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This information shall include the difference in the fat or oil used and the major difference in the basic ingredients used to replace nonfat milk solids.

Subd. 2. NUTRITIONAL PANEL. A nutritional panel must be provided on an artificial dairy product which indicates the quantitative nutritional differences between the artificial dairy product and the dairy product it resembles in comparative columns. The nutrients to be included are those for which a U.S. Recommended Daily Allowance has been established.

Subd. 3. EXEMPTION. This section does not apply to any package containing an individual serving of less than one-half ounce or one-half fluid ounce of an artificial dairy product for use in a restaurant, institution, or passenger carrier, and not otherwise packaged for sale at retail.

Sec. 5. Minnesota Statutes 1982, section 32.532, is amended to read:

**32.532 ENFORCEMENT.**

The commissioner is authorized and directed to administer and supervise the enforcement of sections 32.53 to 32.534; to provide for such periodic inspections and investigations 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 these sections may be enforced by injunction in any court having jurisdiction to grant injunctive relief, ~~and filled.~~ Artificial dairy products illegally held or otherwise involved in a violation of these sections shall be ~~are~~ subject to seizure and disposition in accordance with an appropriate court order or ~~any applicable regulation a rule~~ adopted by the commissioner. The commissioner may adopt temporary or permanent rules necessary to implement and administer sections 32.53 to 32.534.

Sec. 6. Minnesota Statutes 1982, section 32.533, is amended to read:

**32.533 OPERATION AND EFFECT.**

Sections 32.53 to 32.534 are supplemental to all other laws relating to ~~filled~~ artificial dairy products not expressly referred to therein, and to all laws relating to the manufacture, sale, exchange, or transportation of ~~filled~~ artificial dairy products, ~~or the manufacture or possession thereof, with the intent to sell, exchange or transport the same, either within or without outside~~ the state of Minnesota, and shall not be construed to modify, repeal, or in any wise affect any part or provisions of any such laws not expressly repealed therein.

Sec. 7. **EFFECTIVE DATE.**

Sections 1 to 6 are effective on January 1, 1984.

Approved May 20, 1983

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