



General Assembly

February Session, 2006

**Raised Bill No. 5567**

LCO No. 2032

\*02032\_\_\_\_\_ENV\*

Referred to Committee on Environment

Introduced by:  
(ENV)

***AN ACT CONCERNING THE SEIZURE OF MILK PRODUCTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22-129 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2006*):

3 The Commissioner of Agriculture or [his deputy] the  
4 commissioner's duly authorized agent shall prohibit the sale or  
5 offering for sale or distribution of any cheese, milk or other milk  
6 product which is insanitary or detrimental to health, and which has  
7 not been produced, processed, cared for or handled in the manner  
8 prescribed in this chapter and in chapter 431 and by the regulations of  
9 the Milk Regulation Board.

10 Sec. 2. Section 22-129a of the general statutes is repealed and the  
11 following is substituted in lieu thereof (*Effective October 1, 2006*):

12 (a) The Commissioner of Agriculture or the commissioner's duly  
13 authorized agent may seize, destroy, dispose of or [quarantine]  
14 embargo any milk, [or] milk product or cheese that does not comply  
15 with the provisions of this chapter, chapter 431 or regulations adopted

16 hereunder or pursuant to chapter 431 and is deemed to be unfit or  
17 unsafe for use as a food or is a threat to public health.

18 (b) Whenever the commissioner finds or has probable cause to  
19 believe that any milk, [or] milk product or cheese is adulterated,  
20 misbranded or deleterious to health, [he] the commissioner or the  
21 commissioner's duly authorized agent may affix to such milk, [or] milk  
22 product or cheese a tag or other appropriate marking, giving warning  
23 that such milk, [or] milk product or cheese is or is suspected of being  
24 adulterated or misbranded. No person shall remove or dispose of such  
25 milk, [or] milk product or cheese by sale or otherwise without the  
26 express permission of the commissioner or [his] the commissioner's  
27 duly authorized agent. [Before destruction or other disposition of  
28 perishable fluid milk or milk products, the commissioner shall conduct  
29 a hearing for the owner or custodian of such milk or milk product to  
30 show cause why such milk or milk product should not be destroyed or  
31 disposed of in a manner authorized by the commissioner. Notice of the  
32 hearing shall be in writing and shall be served upon the owner or  
33 custodian not less than forty-eight hours before such hearing.] Not  
34 later than twenty four hours after such tagging or marking, the  
35 commissioner or the commissioner's duly authorized agent shall notify  
36 the owner or custodian of such milk, milk product or cheese of the  
37 commissioner's or the commissioner's agent's findings, or of any  
38 violations or proposed disposition and of the right to a hearing. Any  
39 person aggrieved by an order of the commissioner may request a  
40 hearing before the commissioner not more than five days after the  
41 issuance of such order. The hearing shall be conducted not [more] later  
42 than [ten] twenty days after the tagging or marking of any milk, milk  
43 product or cheese and not [more] later than [three] seven days after the  
44 tagging or marking of any perishable fluid milk.

45 (c) Following such hearing the commissioner shall make a  
46 determination as to whether such milk, [or] milk product [is unsafe] or  
47 cheese complies with the provisions of this chapter, chapter 431 and  
48 any regulations adopted pursuant to this chapter or chapter 431 and is

49 safe for use as a food. [or is detrimental to public health and] If the  
50 commissioner determines the milk, milk product or cheese is unsafe or  
51 unfit for use as food, the commissioner may order the owner or  
52 custodian to destroy or dispose of such milk, [or] milk product or  
53 cheese. The commissioner or the commissioner's duly authorized agent  
54 shall supervise the destruction or other disposition of such milk, [or]  
55 milk product or cheese. If the commissioner finds the milk, milk  
56 product or cheese is safe for use as food and is not detrimental to  
57 public health, or can be properly packaged, marked or otherwise  
58 brought into compliance with the provisions of this chapter, chapter  
59 431, or any regulations adopted pursuant to this chapter or chapter  
60 431, the commissioner may order such milk, milk product or cheese to  
61 be so packaged, marked or otherwise brought into compliance and  
62 may thereafter authorize the release of such milk, milk product or  
63 cheese. The owner or custodian of such milk, [or] milk product or  
64 cheese shall pay the costs of storage, handling and other incidental  
65 expenses.

66 (d) A certificate of analysis from a laboratory of the Department of  
67 Public Health, the Agricultural Experiment Station, the United States  
68 Food and Drug Administration, the United States Department of  
69 Agriculture or The University of Connecticut Veterinary Medical  
70 Diagnostic Laboratory or other certified laboratory acceptable to the  
71 commissioner shall be considered prima facie evidence of the  
72 ingredients and constituents of a sample of milk, milk product or  
73 cheese.

74 [(d)] (e) Any person aggrieved by the determination of the  
75 commissioner may appeal therefrom in accordance with the provisions  
76 of section 4-183.

77 [(e)] (f) The commissioner shall not be liable for any damages  
78 caused by the seizure, embargo, destruction, tagging or marking of  
79 any milk, [or] milk products or cheese pursuant to this section unless a  
80 court finds there was no probable cause for such tagging or marking.

81 Sec. 3. Section 22-153 of the general statutes is repealed and the  
82 following is substituted in lieu thereof (*Effective October 1, 2006*):

83 (a) No person shall, by himself, his employee or agent, sell or  
84 exchange, or offer for sale or exchange, or have in his possession with  
85 intent to sell or exchange any milk which is misbranded or any milk,  
86 milk product or cheese diluted with water or adulterated by [the  
87 addition of] any foreign substance, or shall knowingly [deliver or offer  
88 for delivery milk that is tainted or partly sour to any customer buying  
89 the same for milk] sell, distribute, exchange or offer for sale any milk,  
90 milk product or cheese not produced in compliance with the  
91 provisions of this chapter or chapter 431.

92 (b) No municipality or subdivision thereof shall require a dealer to  
93 place on any bottle, container or label any words, designs or  
94 illustrations which are not approved, required or permitted by the  
95 Milk Regulation Board.

96 (c) Milk, milk products or cheese shall be deemed to be misbranded  
97 when [it is] they are not labeled with the name and address of the  
98 dealer, the common name of the product and any other labeling  
99 prescribed by the general statutes or the regulations of the Milk  
100 Regulation Board. The display or appearance of words, designs or  
101 illustrations on the label which are not so approved or prescribed shall  
102 also constitute misbranding.

103 [(d) The use of materials in the processing of flavored milks, or the  
104 addition of approved vitamin A and D units in the processing of milk,  
105 low-fat milk or other milk products, or the use of materials, vitamins  
106 or other substances in grades or types of milk having the approval of  
107 the Milk Regulation Board shall not constitute adulteration under this  
108 section.]

109 (d) No milk dealer licensed pursuant to section 22-229 shall accept  
110 milk, milk products or cheese from any person, firm or corporation  
111 whose license or permit to produce, distribute or process milk, milk

112 products or cheese is suspended or has been revoked.

113 (e) Any person who violates any provision of this section [shall]  
114 may be assessed a civil penalty in accordance with the provisions of  
115 section 22-7.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	22-129
Sec. 2	<i>October 1, 2006</i>	22-129a
Sec. 3	<i>October 1, 2006</i>	22-153

**Statement of Purpose:**

To protect the health of the public by clarifying the Department of Agriculture's authority and duties regarding adulterated, unsanitary or misbranded milk and milk products.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*