

LEGISLATIVE COUNCIL

Read 1^o 1 December 1982

(Brought in by the Honourable D. E. Kent)

A BILL

To amend the *Milk Pasteurization Act* 1958 and
for other purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty by and
with the advice and consent of the Legislative Council and
the Legislative Assembly of Victoria in this present Parliament
assembled and by the authority of the same as follows (that is to
5 say):

1. (1) This Act may be cited as the *Milk Pasteurization*
(*Amendment*) Act 1982.

Short title.

(2) In this Act the *Milk Pasteurization Act* 1958 is called the
Principal Act.

Principal Act
No. 6319.
Reprinted to
No. 7480.
Subsequently
amended by
No. 8532.

10 (3) The several provisions of this Act shall come into operation
on a day or the respective days to be fixed by proclamation or
successive proclamations of the Governor in Council published in
the *Government Gazette*.

Commence-
ment.

2. (1) In section 3 (1) of the Principal Act—

15 (a) for the interpretation of "Bottled" there shall be
substituted the following interpretations:

"Bottle" means a bottle or other prescribed container.

"To bottle" means to place in a bottle and cognate
forms of the verb have corresponding meanings.; and

Amendment of
No. 6319, s. 3.
Interpretation.

(b) for the interpretation of "Milk" there shall be substituted the following interpretation:

' "Milk" does not include—

- (a) cream;
- (b) evaporated milk; 5
- (c) condensed milk;
- (d) goats' milk;
- (e) yoghurt;
- (f) custard;
- (g) icecream, whether in a solid or semi-solid form; 10
- (h) lactose syrups;
- (i) whey-based products in liquid form;
- (j) butter oil;
- (k) ghee; and
- (l) milk of any other prescribed form.' 15

(2) After section 3 (2) of the Principal Act there shall be inserted the following sub-section:

"(3) This Act applies to milk, whether or not—

- (a) another substance (including milk in any form, cream or protein) has been added to or mixed with 20 the milk;
- (b) some of the ingredients of the milk have been removed; or
- (c) an ingredient has been removed in part from the 25 milk."

New ss. 3A and 3B inserted in No. 6319.

3. After section 3 of the Principal Act there shall be inserted the following sections:

Evidentiary provisions.

"3A. (1) In proceedings under this Act or the regulations, where it is proved that a liquid product to which the proceedings relate (not being a product mentioned in paragraphs (a) to (l) of the interpretation of "milk" in section 3 (1)) contains lactose and casein, the product shall be deemed to be milk to which this Act applies unless the contrary is proved. 30

(2) In proceedings under this Act or the regulations, evidence in relation to a liquid product of a representation (whether by a statement made orally or in writing or on a package or label) that the product is milk shall be *prima facie* evidence that the product is milk. 35

Milk is not required to be pasteurized twice.

3B. Nothing in this Act shall be construed as requiring milk which has been already pasteurized or sterilized by a prescribed method or subjected to ultra-heat treatment as prescribed to be pasteurized again." 40

4. In

4. In section 7 (2) (b) of the Principal Act, sub-paragraphs (ii) to (vi) are repealed.

Amendment of No. 6319, s. 7. Removal of requirements relating to equipment for bottling and canning milk.

5. After section 7 of the Principal Act there shall be inserted the following sections:

New ss. 7A and 7B inserted in No. 6319.

5 “7A. (1) In this section a reference to an officer is a reference to an officer appointed for the purposes of the *Milk and Dairy Supervision Act* 1958, and includes a supervisor and an inspecting officer within the meaning of that Act.

Powers of officers.

10 (2) For the purposes of the administration of this Act and the regulations and of ascertaining whether the provisions of this Act, the regulations and any licence under this Act have been or are being complied with, an officer may at all reasonable times of the day or night and with such assistance as he may require—

15 (a) enter, inspect and examine any premises or structure other than a dwelling house, whether the premises are or are not licensed under this Act;

(b) with respect to any matter under this Act or the regulations or a licence under this Act, require any person—

20 (i) to give such information as the officer requests; or
(ii) to answer any question put to him by the officer—
and make such other inquiries or examinations as he thinks fit;

25 (c) inspect and examine any document, product, material, equipment, plant or facility which in his opinion is used for or relates to the pasteurization, bottling, testing or sealing of milk or any other matter under this Act or the regulations or a licence under this Act;

30 (d) remove from the premises or structure mentioned in paragraph (a) a document, product or material mentioned in paragraph (c);

(e) take copies of or extracts from any document mentioned in paragraph (c);

35 (f) take samples of any substance found on the premises or the structure, without payment, if in his opinion the substance relates to a matter under this Act or the regulations or a licence under this Act, from any premises mentioned in paragraph (a); and

(g) open

(g) open any package found on premises mentioned in paragraph (a), if the package contains or the officer suspects the package to contain milk.

(3) The owner or occupier of premises mentioned in paragraph (a) of sub-section (2) shall provide an officer who wishes to exercise or is exercising a power under sub-section (2) with such assistance as is necessary or desirable to enable the officer to exercise the power effectively. 5

(4) A person who—

(a) wilfully delays, obstructs, hinders or resists or assaults, threatens or abuses an officer attempting to exercise or exercising a power under sub-section (2) or a person accompanying and assisting such an officer; 10

(b) without reasonable cause fails or refuses to comply with the requirement under paragraph (b) of sub-section (2); 15

(c) refuses admission to an officer or a person accompanying and assisting him to premises in respect of which the officer is entitled to exercise a power under paragraph (a) of sub-section (2); 20

(d) where an officer has required him to do an act pursuant to paragraph (b) of sub-section (2), gives information or an answer to the officer which is false or misleading in a material particular; or

(e) abets or assists another person to do an act mentioned in paragraph (a) of this sub-section— 25

is guilty of an offence against this Act and shall be liable to a penalty for a first offence of not more than 3 penalty units and for a second or subsequent offence of not more than 5 penalty units or three months imprisonment, or both. 30

(5) It is a defence to a prosecution for an offence of refusing or failing to comply with a requirement pursuant to paragraph (b) of sub-section (2) if the person charged with the offence proves that he had not been informed that he was required to give the information or reply to the question. 35

Proceedings.

7B. (1) Proceedings for an offence against this Act or the regulations may be taken by—

(a) an officer within the meaning of section 7A (1); or

(b) any other person authorized in that behalf in writing by the Minister, either generally or in any particular case. 40

(2) In proceedings under this Act or the regulations taken by a person no proof is required of the person's authority to take the proceedings, unless there is evidence that the person is not authorized to take the proceedings by or under this Act."

6. In section 10 of the Principal Act—

- (a) for the expression "\$40" there shall be substituted the expression "5 penalty units"; and
- (b) for the expression "\$100" there shall be substituted the expression "10 penalty units".

Amendment of
No. 6319, s. 10.
Increases in
general
penalties.

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