CHAPTER 49

Supervision and Regulation of Milk and Milk Products

**SECTION 46‑49‑10.** Definitions.

As used in this chapter, unless otherwise stated or the context of the subject matter clearly indicates otherwise:

(1) “Person” means an individual, partnership, corporation, association, or other business entity.

(2) “Distributor” means one or more of the persons listed in this item wherever located or operating, within or without South Carolina, doing business and engaged in receiving, producing, processing, manufacturing, subdistributing, distributing, marketing, or handling one or more of the products covered by this chapter and offering the products for sale in this State. Distributor means a person, whether or not a producer, except a distributor who sells less than one hundred gallons of fluid milk products a day produced on his own farm, who:

(a) receives, processes, manufactures, and packages products covered by this article for human consumption;

(b) offers for sale products covered by this chapter at wholesale or retail;

(c) operates a store or other establishment from which products covered by this chapter are offered for sale at retail.

(3) “Producer” means a person, whether or not the person also is a distributor or member or a producer association who produces milk for sale as fluid milk in the State.

(4) “Independent producer” means a producer who is not a member of a producer association or association of producers.

(5) “Market” means a county or group of counties within this State, including the State as a whole.

(6) “Producer association or association of producers” means a cooperative association of producers incorporated and existing under the cooperative laws of South Carolina or an association incorporated and existing under similar laws of another state, which is authorized to do business in South Carolina and which the board determines to have full authority for the sales of milk and dairy products of its members.

(7) “Store” means an establishment which purchases or otherwise acquires in processed and packaged form one or more of the products covered by this chapter for use or resale for human consumption.

(8) “Licensee” means a person required to obtain a license by this chapter and who is a de facto licensee under this chapter.

(9) “Milk” means the clean lacteal secretion obtained by the complete milking of one or more healthy cows, including milk cooled, pasteurized, standardized, or otherwise processed with a view of selling it as fluid milk, cream, skimmed milk, cultured milk, or as another fluid milk product.

(10) “Doing business” means the engaging in or the transaction of activity in this State for financial profit or gain.

(11) “Department” means the South Carolina Department of Agriculture.

HISTORY: 1986 Act No. 540, Part II, Section 32A; 1992 Act No. 407, Section 1, eff June 1, 1992.

**SECTION 46‑49‑20.** Products covered by chapter.

The products covered by this chapter are all Grade A milk and milk products defined pursuant to Section 44‑1‑140. The products include Grade A raw milk for pasteurization, reconstituted milk derived by recombining dry milk solids, evaporated or condensed milk with water, which is processed for sale as a fluid milk product, and all Grade A milk products from whatever source derived which include, but are not limited to, pasteurized, homogenized, flavored and cultured milk, skim milk, lowfat milk, creamy buttermilk, and cultured milk products.

HISTORY: 1986 Act No. 540, Part II, Section 32A.

**SECTION 46‑49‑40.** Authority of Department of Agriculture to hold hearings to investigate matters affecting dairy industry; additional powers.

The department may hold hearings to investigate any matters affecting the state dairy industry.

The department has the authority under this section to issue subpoenas, take depositions of witnesses, and grant immunity from prosecution for violation of terms under the statutes for giving testimony or furnishing records in the course of an investigation.

The department may apply to any court of competent jurisdiction for orders requiring compliance by persons failing or refusing to comply with the provisions of this chapter.

HISTORY: 1986 Act No. 540, Part II, Section 32A.

Library References

Food 1.8(4).

Westlaw Topic No. 178.

C.J.S. Food Sections 14, 28.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Agriculture Section 14, Milk and Dairy Products.

**SECTION 46‑49‑60.** Issuance of licenses by Department of Agriculture; suspension or revocation of licenses; monetary penalties.

A distributor shall not engage, either directly or indirectly, in doing business in any market until he has applied for and obtained a license from the department. A store is not required to make application for a license but is considered to be a de facto licensee as required in this chapter. The department may classify licensees and may issue licenses to distributors to produce, receive, process, manufacture, or sell any of the products covered by this chapter in any particular market.

The department may decline to grant a license or may suspend or revoke a license already granted upon due notice and after a hearing before the department whenever the applicant or licensee has violated regulations issued by the Department of Health and Environmental Control, or any provisions of this chapter.

The department may, in lieu of license suspensions, invoke a penalty of not less than fifty dollars nor more than five thousand dollars. All receipts from the penalties must be paid by the department to the State Treasurer.

HISTORY: 1986 Act No. 540, Part II, Section 32A.

Library References

Food 3.

Westlaw Topic No. 178.

C.J.S. Food Sections 17 to 20, 31 to 36, 40.

**SECTION 46‑49‑70.** Violations and penalties.

Any person violating any provision of this chapter is guilty of a misdemeanor and, upon conviction, must be punished by a fine of not less than twenty‑five dollars nor more than two hundred dollars or by imprisonment for not more than thirty days, and each day during which the violation continues is considered a separate violation.

HISTORY: 1986 Act No. 540, Part II, Section 32A; 2017 Act No. 31 (S.570), Section 7, eff May 10, 2017.

Effect of Amendment

2017 Act No. 31, Section 7, deleted “or any regulations or orders promulgated pursuant to this chapter or any license issued by the department” following “of this chapter”, and made nonsubstantive changes.

Library References

Food 12, 23.

Westlaw Topic No. 178.

C.J.S. Adulteration Section 7.

C.J.S. Food Sections 41 to 45, 47 to 48, 52, 60.

**SECTION 46‑49‑80.** Liability of all persons participating in violation or using misrepresentation, threat, intimidation, or boycott to effectuate commission of violation.

Solicitation by or collusion or joint participation between or among any producer, association of producers, manufacturer, distributor or store, or any representative, to violate any of the provisions of this chapter and regulations or orders issued pursuant to this chapter, or the use of any misrepresentation, threat, intimidation, or boycott to effectuate the commission of the violations makes all persons participating subject to the same penalties as for actual violations.

HISTORY: 1986 Act No. 540, Part II, Section 32A.

Library References

Food 12, 23.

Westlaw Topic No. 178.

C.J.S. Adulteration Section 7.

C.J.S. Food Sections 41 to 45, 47 to 48, 52, 60.

**SECTION 46‑49‑90.** Promulgation of regulations by Department of Agriculture.

The department shall promulgate regulations to carry out the provisions of this chapter.

HISTORY: 1986 Act No. 540, Part II, Section 32A.

CROSS REFERENCES

Department of Agriculture regulations pertaining to milk, see S.C. Code of Regulations R. 5‑430 et seq.

Milk producer tax credit regulations, see S.C. Code of Regulations R. 5‑610 et seq.

Salvage operations dealing in food and cosmetics, see S.C. Code of Regulations R. 5‑360 et seq.