

## CHAPTER 350

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**HEALTH AND ENVIRONMENT**


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**HOUSE BILL 09-1320**

BY REPRESENTATIVE(S) Marostica, Ferrandino, Pommer, Vigil, McFadyen;  
also SENATOR(S) White, Keller, Tapia.

**AN ACT**

**CONCERNING AN INCREASE IN FEES PAID FOR CERTAIN DAIRY LICENSES, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 25-5.5-101 (3) and (4) (b), Colorado Revised Statutes, are amended, and the said 25-5.5-101 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**25-5.5-101. Definitions.** As used in this part 1, unless the context otherwise requires:

(3) "Dairy farm" means the place or premises on which one or more ~~milking cows or goats~~ LACTATING HOOVED ANIMALS are kept and from which a part or all of the milk produced thereon is delivered, sold, or offered for sale to a dairy plant for manufacturing purposes.

(4) (b) For the purposes of this subsection (4), "dairy plant", when used in connection with the requirements therefor or the licensing thereof, means any establishment that manufactures dairy products; except that any "dairy plant" ~~which~~ THAT is located in an establishment licensed pursuant to part ~~2 of article 44 of title 12, C.R.S.~~ 16 OF ARTICLE 4 OF TITLE 25 is exempt from the licensing requirements of this article if such establishment sells or serves dairy products exclusively and directly to the final consumer of the product.

(20) "TRANSFER OR RECEIVING STATION" MEANS ANY PLACE, PREMISES, OR ESTABLISHMENT WHERE MILK OR MILK PRODUCTS ARE TRANSFERRED DIRECTLY FROM ONE MILK TANK TRUCK TO ANOTHER OR WHERE RAW MILK IS RECEIVED, COLLECTED, HANDLED, STORED, OR COOLED AND PREPARED FOR FURTHER

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

TRANSPORTING. THE TERM "TRANSFER OR RECEIVING STATION" SHALL NOT INCLUDE A DAIRY FARM.

**SECTION 2.** 25-5.5-107 (2), (4) (a), and (7), Colorado Revised Statutes, are amended to read:

**25-5.5-107. Testing and sampling of dairy products - unlawful acts - licensing - dairy protection cash fund - created.** (2) It is unlawful for any person to sample or test milk, cream, or any other dairy product to determine the value of such product when bought and sold or to instruct another person for such purpose without first having a license granted by the department, ~~and such~~ WHICH license shall be conspicuously displayed in ~~his~~ THE PERSON'S place of business. Licenses shall be granted to those persons who have completed a course in milk and cream testing in any recognized college or dairy school or to those persons who have passed a satisfactory examination under the direction of the department. Payment of a yearly fee of ~~three~~ FIFTY dollars is required, and the license shall be issued for a period of one year from the July 1 next preceding the actual date of issue; however, ~~such~~ THE license shall be subject to cancellation by the department at any time if it finds that the person holding ~~said~~ THE license is incompetent or guilty of violating ~~any of the provisions of~~ this part 1.

(4) (a) (I) A temporary permit to operate the following dairy plants may be issued by the department upon application and upon the payment of a yearly license fee in the amount ~~of ten dollars~~ SPECIFIED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (a) for each condensary, cheese factory, ice-cream factory, or other place of business where dairy products are manufactured or put in containers for sale or distribution.

(II) EXCEPT FOR A TRANSFER OR RECEIVING STATION, WHICH SHALL BE CHARGED THE FEE SET FORTH IN SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II), THE FEE FOR A LICENSE ISSUED UNDER THIS SUBSECTION (4) SHALL BE DETERMINED AND PAID ACCORDING TO THE ANNUAL AVERAGE DAILY AMOUNT OF MILK RECEIVED FOR MANUFACTURING BY THE DAIRY PLANT, AS FOLLOWS:

ANNUAL AVERAGE DAILY AMOUNT OF MILK RECEIVED	FEE
(A) UNDER 1,000 POUNDS	\$ 300
(B) 1,000 TO 19,999 POUNDS	\$ 600
(C) 20,000 TO 449,999 POUNDS	\$1,000
(D) 450,000 OR MORE POUNDS	\$1,600

(7) All moneys collected by the department for the license fees provided for in this section shall be transmitted to the state treasurer, who shall credit the same to the ~~general fund~~ DAIRY PROTECTION CASH FUND, REFERRED TO IN THIS SUBSECTION (7) AS THE "FUND", WHICH IS HEREBY CREATED IN THE STATE TREASURY. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE THE MONEYS IN THE FUND TO THE DEPARTMENT FOR THE PAYMENT OF EXPENSES NECESSARY TO ADMINISTER THIS SECTION. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE

FUND AT THE END OF ANY FISCAL YEAR SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND.

**SECTION 3. Appropriation.** In addition to any other appropriation, there is hereby appropriated, out of any moneys in the dairy protection cash fund created in section 25-5.5-107 (7), Colorado Revised Statutes, not otherwise appropriated, to the department of public health and environment, for allocation to the consumer protection division, for the fiscal year beginning July 1, 2009, the sum of twenty-five thousand one hundred fifty-one dollars (\$25,151) cash funds and 0.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

**SECTION 4. Effective date - applicability.** This act shall take effect June 30, 2009, and shall apply to fees paid for licenses issued under section 25-5.5-107, Colorado Revised Statutes, on or after said date.

**SECTION 5. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2009