

CHAPTER.....

AN ACT relating to dairy products; making various changes relating to the transfer of responsibility for the dairy inspection program to the state dairy commission of the department of business and industry; and providing other matters properly relating thereto.

WHEREAS, Fresh wholesome milk and other dairy products are basic food commodities whose availability at reasonable prices is a necessity for consumers; and

WHEREAS, It is recognized by the Legislature that the perishable nature of milk and other dairy products has led, in the past, to disruption in both production and marketing; and

WHEREAS, The consolidated regulation of the Nevada dairy industry from the dairy farm to the distributor will benefit both the consumer and the industry by creating a single source of regulation and a streamlined regulatory structure; and

WHEREAS, The state dairy commission is charged with consolidating this regulation and ensuring that fresh wholesome milk and other dairy products are produced and distributed within Nevada in a manner free from destructive competition and unfair trade practices; now, therefore,

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 584 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this act.

Sec. 2. *As used in this chapter, unless the context otherwise requires, “commission” means the state dairy commission created pursuant to NRS 584.420.*

Sec. 3. *The commission may adopt and enforce regulations to carry out the provisions of this chapter.*

Sec. 4. *The state health officer shall, if requested, consult with the commission on any matter concerning the public health and welfare of the people of this state that arises pursuant to this chapter.*

Sec. 5. *Before the commission may adopt a regulation pursuant to NRS 584.013 to 584.285, inclusive, and sections 5 and 6 of this act, the commission shall submit the regulation to the state board of health for review and comment. The board shall complete its review and return the regulation to the commission not later than 30 days after its receipt thereof unless the commission agrees to a longer time.*

Sec. 6. *1. The commission may enter into contracts with any person to assist it in carrying out the duties of the commission by performing any duty imposed on the commission pursuant to NRS 584.013 to 584.285, inclusive, or sections 5 and 6 of this act.*

2. As used in this section, “person” includes a government, a governmental agency and a political subdivision of a government.

Sec. 7. NRS 584.017 is hereby amended to read as follows:

584.017 Except as otherwise provided by law, the ~~state board of health~~ *commission* shall adopt, and may amend and repeal, reasonable regulations governing:

1. The production, manufacturing, mixing, preparing, processing, pasteurizing, freezing, packaging, transportation, handling, sampling, examination, labeling and sale of all mix and frozen desserts sold for ultimate consumption within the State of Nevada.
2. The inspection of all establishments engaged in the production, processing and distribution of mix and frozen desserts.
3. The issuing and revocation of permits to frozen desserts plants.
4. The grading and regrading of frozen desserts plants.
5. The displaying of grade placards.
6. The fixing of penalties for *a* violation of ~~such~~ *the* regulations.

Sec. 8. NRS 584.023 is hereby amended to read as follows:

584.023 A copy of every regulation adopted by the ~~state board of health~~ *commission* must be published immediately after adoption and issued in pamphlet form for distribution to local health officers and ~~citizens of the state~~ *, upon application therefor, to licensed or other dairymen, creameries and other persons interested in them.*

Sec. 9. NRS 584.027 is hereby amended to read as follows:

584.027 Any person who violates any provision of the regulations adopted pursuant to NRS 584.017, or refuses or neglects to obey any lawful order of the ~~state board of health~~ *commission*, is guilty of a misdemeanor.

Sec. 10. NRS 584.125 is hereby amended to read as follows:

584.125 For the purposes of NRS 584.110 to 584.160, inclusive, "wholesome butter" is defined to be butter made from cream and milk wherein the entire procedure from dairy to creamery, or other place of manufacture of such product or products, is conducted under sanitary conditions ~~it~~ *, and wherein the milk or cream has either been produced by cows all of which have been duly certified by some reputable veterinarian as free from tuberculosis, or, if not so certified, wherein such milk or cream has been pasteurized as prescribed by the* ~~commissioner of food and drugs~~ *commission* pursuant to NRS 584.135.

Sec. 11. NRS 584.130 is hereby amended to read as follows:

584.130 The inspection of butter under the provisions of NRS 584.110 to 584.160, inclusive, and the determination of the same as wholesome or impure, are hereby made duties of the ~~commissioner of food and drugs~~ *commission*. ~~The commissioner of food and drugs~~ *The commission* is hereby given all necessary authority and power for such inspection and determination and may employ such inspectors or agents therefor as may be necessary within any *revenues generated or* appropriation provided for such purposes.

Sec. 12. NRS 584.135 is hereby amended to read as follows:

584.135 The ~~commissioner of food and drugs is authorized and empowered to make and enforce such reasonable rules and~~ *commission shall make such* regulations, within the meaning and purposes of NRS 584.110 to 584.160, inclusive, as may be necessary in their administration, and which may include the sanitary production, care and handling of milk and cream used in the making of butter.

Sec. 13. NRS 584.140 is hereby amended to read as follows:

584.140 The ~~commissioner of food and drugs~~ *commission* shall supply local dealers in butter with a list of persons, firms and creameries

commonly supplying butter for local consumption classified as makers of wholesome or impure butter, and shall, from time to time thereafter, supply such dealers with additions to or alterations in such classifications.

Sec. 14. NRS 584.150 is hereby amended to read as follows:

584.150 1. It ~~{shall be}~~ **is** unlawful for any person, firm or corporation to sell or exchange, or offer or expose for sale or exchange, for human consumption, any impure butter.

2. Imported butter from states having similar laws, if made by creameries, dairies or farms recognized by the authorities of such states as manufacturing wholesome butter, and imported pasteurized butter from states not having similar laws but the makers of which ~~{shall}~~ have satisfied the ~~{commissioner of food and drugs}~~ **commission** that such butter conforms to the requirements of NRS 584.110 to 584.160, inclusive, shall be ~~{regarded as}~~ **deemed** wholesome if offered for sale or exchange in this state. All other imported butter shall be deemed impure.

3. All impure butter offered for sale or exchange, for human consumption, ~~{shall be}~~ **is** subject to confiscation by the police authorities and **may be** destroyed.

4. Any person, firm or corporation violating the provisions of this section ~~{shall be}~~ **is** guilty, for the first offense, of a misdemeanor, and for any subsequent offense, of a gross misdemeanor.

Sec. 15. NRS 584.155 is hereby amended to read as follows:

584.155 On complaint by the ~~{commissioner of food and drugs}~~ **commission** of the violation of NRS 584.150 by any person, firm or corporation, the district attorney of the county in which ~~{such}~~ **the** violation is alleged to have occurred shall institute criminal proceedings against the person complained of and shall prosecute the same in the proper courts.

Sec. 16. NRS 584.180 is hereby amended to read as follows:

584.180 1. ~~{No}~~ **A** person, firm, association or corporation shall **not** sell or offer to sell fresh fluid milk or fresh fluid cream in the State of Nevada without obtaining a permit issued by the ~~{health division of the department of human resources pursuant to the regulation of the state board of health governing the sanitation and grading of milk and milk products.}~~ **commission**.

2. No such permit ~~{shall be}~~ **is** required from any person, firm, association or corporation who sells solely to a permittee or purchases solely from a permittee.

Sec. 17. NRS 584.185 is hereby amended to read as follows:

584.185 The application for the permit required by NRS 584.180 ~~{shall:}~~ **must:**

1. Be submitted in writing on ~~{such form as the state board of health shall prescribe.}~~ **a form prescribed by the commission.**

2. Include the name and address of the applicant, and, if a partnership, the names and addresses of all partners, and, if a corporation, association or other organization, the names and addresses of the president, vice president, secretary and managing officers.

3. Specify the name and location of the premises or business for which the license is sought.

4. Contain such other information as may be reasonably required by the ~~{board.}~~ **commission.**

Sec. 18. NRS 584.190 is hereby amended to read as follows:

584.190 If it ~~{shall appear}~~ *appears* to the satisfaction of the ~~{health division of the department of human resources}~~ *commission* that the applicant has complied with ~~{the}~~ *all* regulations governing the sanitation and grading of milk and milk products, the ~~{health division}~~ *commission* shall cause the dairy farms, milk plants and facilities of the applicant to be inspected. ~~{as provided by the regulations of the state board of health.}~~

Sec. 19. NRS 584.195 is hereby amended to read as follows:

584.195 1. If, after the application and inspection, it ~~{shall appear}~~ *appears* to the satisfaction of the ~~{health division of the department of human resources}~~ *commission* that the applicant has fully complied with ~~{the regulations of the state board of health}~~ *all regulations* governing the sanitation and grading of milk and milk products, the ~~{health division}~~ *commission* shall issue a permit to the applicant.

2. The ~~{health division}~~ *commission* shall keep a record of all applications for permits and permits issued by it, which ~~{shall}~~ *must* be a public record.

Sec. 20. NRS 584.200 is hereby amended to read as follows:

584.200 1. Whenever any inspection of the dairy farms, milk plants or facilities of an applicant or a permittee necessitates departing beyond the territorial limits of the State of Nevada, the applicant or permittee on whose behalf ~~{such}~~ *the* inspection is to be made shall pay the per diem expense allowance and travel expenses of the inspector or inspectors for the amount of their travel beyond the territorial limits of the State of Nevada in an amount equivalent to that paid other state officers performing similar duties. ~~{Claims for per diem expense allowances and travel expenses of inspectors must be paid by the health division of the department of human resources.}~~

2. Before an inspection is made outside the State of Nevada, the ~~{health division}~~ *commission* shall collect from the applicant or permittee an amount of money equal to the expenses to be incurred for the inspection. The money must be deposited with the state treasurer for credit to the appropriate account ~~{of the health division}~~ *in the dairy commission fund* and may be used only to pay for claims filed in accordance with this section.

3. Failure of an applicant or a permittee to pay the amount demanded by the ~~{health division}~~ *commission* pursuant to the provisions of subsection 2 is a ground for the denial, suspension or revocation of a permit. Money paid by any applicant or permittee pursuant to the provisions of subsection 2 must not be refunded.

Sec. 21. NRS 584.205 is hereby amended to read as follows:

584.205 1. In addition to the initial inspection of new applicants, the ~~{state board of health}~~ *commission* shall, except as *otherwise* provided in subsection 2, direct a periodic inspection, not less than annually, of all facilities belonging to permittees ~~{in order}~~ to ascertain whether ~~{or not}~~ the services, facilities and equipment continue to comply with the regulations referred to in NRS ~~{584.180 and}~~ 584.195.

2. Except as *otherwise* provided in NRS 584.208 and *the* regulations adopted pursuant to that section, milk and milk products, including certified raw milk and products made from it, imported from outside the

State of Nevada may be sold in this state without inspection by the ~~health division of the department of human resources~~ **commission** if the requirements of paragraph (c) and the requirements of paragraph (a) or paragraph (b) are met:

(a) In the case of certified raw milk and products made from it, they have been produced under standards adopted by the American Association of Medical Milk Commissions and under the statutory provisions of the State of California applicable to such products.

(b) The milk and milk products have been produced, pasteurized, processed, transported and inspected under statutes or regulations substantially equivalent to the Nevada milk and milk products statutes and regulations.

(c) The milk and milk products have been awarded an acceptable milk sanitation, compliance and enforcement rating by a state milk sanitation rating officer certified by the United States Public Health Service.

3. Whenever the ~~health division~~ **commission** has reasonable grounds to believe that a seller of milk or milk products, including certified raw milk and products made from it, is violating any of the regulations adopted by the ~~state board of health~~ **commission** or any county milk commission relating to the sanitation and grading of milk and milk products, including certified raw milk and products made from it, or that his facilities or products fail to meet the regulations, or that his operation is in any other manner not in the best interests of the people of this state, the ~~health division~~ **commission** may conduct a reasonable inspection, and if any violation or other condition inimical to the best interests of the people of this state is found, to take corrective action pursuant to NRS 584.180 to 584.210, inclusive.

Sec. 22. NRS 584.207 is hereby amended to read as follows:

584.207 1. Certified raw milk is unpasteurized, marketed milk which conforms to the regulations and standards adopted by the county milk commission for the production and distribution of certified raw milk and certified raw milk products in the county in which they are produced.

2. In each county in which certified raw milk or certified raw milk products are produced for public consumption, there must be a county milk commission to regulate the production and distribution of those products. The board of county commissioners shall appoint to the commission three members for terms of 4 years, all of whom are eligible for reappointment. The members must all be residents of the county and have the following respective qualifications:

(a) One member must be a physician licensed in this state and a member of the medical society of the state;

(b) One member must be a veterinarian licensed in this state and a member of the county or regional veterinarian association; and

(c) One member must be a representative of the public at large.

3. A county milk commission shall:

(a) Elect one of its members **as** chairman and adopt appropriate rules to govern:

(1) The time and place of its meetings;

(2) Its rules of procedure; and

(3) Its recordkeeping and other internal operations.

(b) Adopt written regulations, which must be approved by the state ~~{board of health,}~~ *dairy commission*, governing the production, distribution and sale in the county of certified raw milk and products made from it, to protect the public health and safety and the integrity of the product. The regulations so adopted must conform as nearly as practicable to, but may be more stringent than, the standards adopted by the American Association of Medical Milk Commissions.

(c) Certify raw milk and the products thereof for any applicant producing raw milk within the county, whose product and methods of production, distribution and sale comply with the regulations and standards adopted by the *county milk* commission.

4. A county milk commission may:

(a) Establish and collect such fees and charges as appear reasonably necessary to defray the costs and expenses incurred by it in the performance of its duties under this section, and expend any money so collected as is necessary for such performance.

(b) Conduct such tests, inspections and analyses as are necessary to enable it to perform its duties under this section and employ such personnel and equipment as it deems necessary therefor.

5. Each applicant for certification ~~{shall,}~~ *must*, as a condition for entertaining his application and as a condition for any certification granted, submit for testing by the *county milk* commission such samples as the *county milk* commission requests, and allow inspections by the *county milk* commission or its agents at any reasonable times, of any or all of his facilities, equipment, herds or other property employed in his dairy operations, including, without limitation, all of his books and records relating thereto.

Sec. 23. NRS 584.208 is hereby amended to read as follows:

584.208 1. Certified raw milk and products made from it may be sold if the milk has been:

(a) Cooled to 45 degrees Fahrenheit or less immediately after being drawn from the cow or goat and maintained at or below that temperature until it is delivered to the consumer, at which time it may not contain more than 10 coliform bacteria per milliliter or more than 10,000 bacteria per milliliter; and

(b) Certified by the county milk commission of the county in which it was produced.

2. No person may come in contact with or be near raw milk before it is sold to the consumer unless the person maintains scrupulous cleanliness and is not afflicted with any communicable disease or in a condition to disseminate any disease which can be transmitted by milk. No person may handle milk to be sold as raw unless he has a physical examination before any employment requiring him to do so and every 3 months thereafter while continuing in the employment.

3. The state ~~{board of health,}~~ *dairy commission* shall adopt regulations governing:

(a) Inspections to determine the health of cows and goats which produce milk for sale as raw milk.

(b) Inspections of dairy farms which produce milk for sale as raw milk and establishing minimum standards of cleanliness and sanitation for the farms.

(c) Examinations of all persons who come in contact with raw milk before it is sold to a consumer.

(d) Other matters connected with the production and sale of raw milk which the ~~board~~ **commission** deems necessary to protect the public health.

Sec. 24. NRS 584.210 is hereby amended to read as follows:

584.210 1. Whenever the ~~health division of the department of human resources~~ **commission** has reasonable grounds to believe that any applicant or permittee under NRS 584.180 to 584.210, inclusive, is violating any of the provisions of those sections, or any of the rules, regulations or specifications adopted by the ~~state board of health~~ **commission** relative to the sanitation and grading of milk and milk products, or whenever the results of tests indicate that the facilities, milk or milk products do not meet those regulations or are not reliable or are questionable, or when the ~~health division~~ **commission** determines that the operation in any other manner is inimical and not for the best interests of the health, safety or welfare of the people of this state, the ~~health division of the department of human resources~~ **commission** may, after providing notice and opportunity for a hearing pursuant to the provisions of subsection 2, refuse to grant a permit or suspend or revoke any or all permits previously issued.

2. Except as otherwise provided in this subsection, if the ~~health division~~ **commission** intends to refuse to grant a permit or to suspend or revoke a permit pursuant to the provisions of subsection 1, the ~~health division~~ **commission** shall provide to the applicant or permittee, by certified mail, written notice of the intended action within the period established pursuant to regulations adopted by the ~~state board of health~~ **commission**. The notice must specify the reasons, the legal authority and the jurisdiction of the ~~health division~~ **commission** for taking the intended action. Upon receipt of the notice, an applicant or permittee may request a hearing, and, if so requested, the ~~health division~~ **commission** shall conduct a hearing pursuant to regulations adopted by the ~~state board of health~~ **commission**. If an applicant or permittee does not request a hearing after being notified pursuant to the provisions of this subsection, any decision of the ~~health division~~ **commission** made pursuant to this section is final and not subject to judicial review. Such notice and hearing is not required and a permit may be summarily disapproved, revoked or suspended by the ~~health division~~ **commission** if the ~~health division~~ **commission** finds that, based upon the particular circumstances of the case, it is in the best interests of the health, safety or welfare of the people of this state to so proceed.

3. The ~~health division~~ **commission** may conduct the investigations, summon and compel the attendance of witnesses, require the production of any records or documents, and provide for the taking of depositions under the Nevada Rules of Civil Procedure in connection with a hearing conducted pursuant to the provisions of this section.

4. The findings of the ~~{health division}~~ *commission* and the judgment or order must be reduced to writing and filed in the permanent public records of the ~~{health division}~~ *commission*. The findings must state the reasons why the application for a permit was disapproved or the permit was suspended or revoked. Copies must be furnished to the applicant or permittee who may, if he requested and was given a hearing or if his application or permit was summarily disapproved, revoked or suspended pursuant to the provisions of subsection 2, file an appeal pursuant to regulations adopted by the ~~{state board of health}~~ *commission*. Upon the filing of the appeal, the ~~{administrator}~~ *chairman* of the ~~{health division}~~ *commission* or his designee shall appoint a person who did not participate in the decision of the ~~{health division}~~ *commission* to conduct a hearing in accordance with those regulations. The applicant or permittee is entitled to judicial review of the decision of the person so appointed in the manner provided by chapter 233B of NRS. Upon the filing for appeal or review, the enforcement of the ~~{health division's}~~ *commission's* order must be stayed pending final disposition of the matter. If the order is judicially affirmed, it becomes final and the stay of enforcement is automatically vacated.

5. In any case where the ~~{health division}~~ *commission* refuses to issue a permit, or suspends or revokes a permit, the applicant or accused is entitled to submit another application for the consideration of the ~~{health division}~~ *commission*.

6. The ~~{state board of health}~~ *commission* shall adopt such regulations as are necessary to carry out the provisions of this section.

Sec. 25. NRS 584.215 is hereby amended to read as follows:

584.215 1. Except as otherwise provided in subsection 2, all testing of milk or cream purchased on the basis of the amount of butterfat contained therein must be done by a licensed tester, who shall supervise and is responsible for the operation of the Babcock test of milk or cream.

2. Methods of testing such milk, other than the Babcock test, may be used if approved by the ~~{commissioner of food and drugs}~~ *commission*. If such approval is given, equipment suitable for the performance of the Babcock test must be provided and maintained.

3. A license may be issued to a tester by the ~~{commissioner of food and drugs. The commissioner}~~ *commission*. *The commission* shall examine the qualifications of the applicant for a license, and every applicant must satisfy the ~~{commissioner}~~ *commission* of his qualifications and comply with the provisions in NRS 584.215 to 584.285, inclusive, before a license may be issued to him.

4. If a method of testing other than the Babcock test is used, the tester must be licensed to perform that method of testing and the Babcock test.

Sec. 26. NRS 584.216 is hereby amended to read as follows:

584.216 1. An applicant for the issuance or renewal of a milk tester's license shall submit to the ~~{commissioner of food and drugs}~~ *commission* the statement prescribed by the welfare division of the department of human resources pursuant to NRS 425.520. The statement must be completed and signed by the applicant.

2. The ~~{commissioner}~~ *commission* shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the license; or

(b) A separate form prescribed by the ~~commissioner~~ **commission**.

3. A milk tester's license may not be issued or renewed by the ~~commissioner~~ **commission** if the applicant:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the ~~commissioner~~ **commission** shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 27. NRS 584.217 is hereby amended to read as follows:

584.217 1. If the ~~commissioner of food and drugs~~ **commission** receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a person who is the holder of a milk tester's license, the ~~commissioner~~ **commission** shall deem the license issued to that person to be suspended at the end of the 30th day after the date on which the court order was issued unless the ~~commissioner~~ **commission** receives a letter issued to the holder of the license by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the license has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The ~~commissioner of food and drugs~~ **commission** shall reinstate a milk tester's license that has been suspended by a district court pursuant to NRS 425.540 if the ~~commissioner~~ **commission** receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose license was suspended stating that the person whose license was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 28. NRS 584.220 is hereby amended to read as follows:

584.220 1. Every creamery, shipping station, milk factory, cheese factory, ice cream factory, condensery, or any person, firm or corporation receiving or purchasing milk or cream on the basis of butterfat contained therein ~~shall be~~ **is** required to hold a license so to do.

2. The license ~~shall~~ **must** be issued to ~~such~~ **the** creamery, shipping station, milk factory, condensery, ice cream factory, cheese factory, or person, firm or corporation by the ~~commissioner of food and drugs~~ **commission** upon complying with all sanitary laws, rules and regulations of the State of Nevada, and upon complying with the provisions of NRS

584.215 to 584.285, inclusive, and upon payment of a license fee as provided in NRS 584.225.

Sec. 29. NRS 584.225 is hereby amended to read as follows:

584.225 1. The fee for issuing and renewing a milk tester's license ~~{shall be}~~ **is** \$10 for a full year or fraction thereof.

2. All licenses required under NRS 584.215 to 584.285, inclusive, ~~{shall}~~ expire at the end of each calendar year.

3. The provisions of this section ~~{shall}~~ **do** not apply to ~~{individuals,}~~ **natural persons**, hotels, restaurants or boardinghouses buying milk or cream for private use.

~~{4. All moneys received by the commissioner of food and drugs shall be accounted for by him annually to the state treasury. Such moneys as are received by the commissioner of food and drugs under the provisions of NRS 584.215 to 584.285, inclusive, may be used by him for expenses necessary or incident to the carrying into effect of NRS 584.215 to 584.285, inclusive, and for performing such duties as are required by him thereunder. The overplus, if any, shall be paid into the state treasury annually at the time of making his annual accounting.}~~

Sec. 30. NRS 584.230 is hereby amended to read as follows:

584.230 A license may be revoked by the ~~{commissioner of food and drugs}~~ **commission** if, after due notice, the licensee fails or has failed to comply with the laws, rules and regulations under which the license was granted.

Sec. 31. NRS 584.235 is hereby amended to read as follows:

584.235 The ~~{commissioner of food and drugs}~~ **commission** shall make uniform regulations for the proper enforcement of NRS 584.215 to 584.285, inclusive. The regulations must be printed in the state printing division of the department of administration and distributed by the ~~{commissioner of food and drugs}~~ **commission** upon application therefor to licensed or other dairymen, creameries and other persons interested in them.

Sec. 32. NRS 584.240 is hereby amended to read as follows:

584.240 1. A licensed tester shall, in addition to the records required to be kept by NRS 584.215 to 584.285, inclusive, record all tests made by him in a permanent book of record, a form for which ~~{shall}~~ **must** be supplied at cost or approved by the ~~{commissioner of food and drugs,}~~ **commission**, and tests ~~{shall}~~ **must** be indelibly recorded in the record book in such a manner as to identify the patron whose milk or cream has been tested, and also in such a manner as to prevent erasures or changes being made in these tests.

2. The record ~~{shall}~~ **must** be at all times during business hours kept open for inspection by the ~~{commissioner of food and drugs or his}~~ **commission or its** agents, or by any officer of the city and county board of health, or by any peace officer of the city, county or state, or by any patron who may be delivering milk or cream to the plant or place where such tests are made.

Sec. 33. NRS 584.250 is hereby amended to read as follows:

584.250 All cream sold in the State of Nevada on the basis of the richness or the percentage of milk fat contained therein ~~{shall}~~ **must** be

tested by the Babcock test, using a procedure approved by the ~~commissioner of food and drugs.~~ *commission.*

Sec. 34. NRS 584.255 is hereby amended to read as follows:

584.255 The ~~commissioner of food and drugs.~~ *commission* shall, from time to time, inspect and examine as to their accuracy, or their adaptability to give accurate results, all glassware, measures, scales, weights and other apparatus used in creameries and factories of dairy products, where milk and cream are purchased, to determine the amount of percentage of fat in milk or cream.

Sec. 35. NRS 584.265 is hereby amended to read as follows:

584.265 The ~~commissioner of food and drugs or his~~ *commission's* duly authorized representative or appointee shall make analyses of all samples of milk or cream deemed necessary for the enforcement of NRS 584.215 to 584.285, inclusive.

Sec. 36. NRS 584.270 is hereby amended to read as follows:

584.270 The ~~commissioner of food and drugs.~~ *commission*, on complaint of any licensed milk producer, showing good cause therefor, that the tests made by any licensed tester are incorrect or inaccurate, shall investigate and test milk from ~~such~~ *the* producer, at the source, until ~~the~~ *the commission* is satisfied as to the correctness or incorrectness of ~~such~~ *the* complaint.

Sec. 37. NRS 584.275 is hereby amended to read as follows:

584.275 1. It is unlawful for any person for himself or as the agent, servant, employee or officer of any person, firm or corporation receiving or purchasing milk or cream on the basis of the amount of butterfat contained therein to:

- (a) Underread, overread or otherwise fraudulently manipulate the official test used for determining the percent of butterfat in milk or cream;
- (b) Falsify the records thereof; or
- (c) Use any other test or deviate from an accepted procedure unless it is approved by the ~~commissioner of food and drugs.~~ *commission.*

2. In all tests for cream, the cream must be weighed into the bottle used for testing.

Sec. 38. NRS 584.325 is hereby amended to read as follows:

584.325 As used in NRS 584.325 to 584.690, inclusive, unless the context otherwise requires, the words and terms defined in NRS ~~584.330~~ *584.335* to 584.385, inclusive, have the meanings ascribed to them in those sections.

Sec. 39. NRS 584.410 is hereby amended to read as follows:

584.410 The purposes of NRS 584.325 to 584.690, inclusive, are:

1. To provide ~~funds~~ *money* for *the* administration and enforcement of ~~NRS 584.325 to 584.690, inclusive.~~ *the provisions of this chapter* by assessments to be paid by producers of fluid milk or fluid cream, or both, and from licenses issued to distributors in the manner prescribed herein.

2. To authorize and enable the commission to prescribe marketing areas and to fix prices at which fluid milk or fluid cream, or both, may be sold by producers, distributors and retailers, which areas and prices are necessary due to varying factors of costs of production, health regulations, transportation and other factors in the marketing areas of this state, ~~but~~ but the price of fluid milk or fluid cream within any marketing area ~~shall~~

must be uniform for all purchasers of fluid milk or fluid cream of similar grade or quality under like terms and conditions.

3. To authorize and enable the commission to formulate stabilization and marketing plans subject to the limitations prescribed in NRS 584.325 to 584.690, inclusive, with respect to the contents of ~~{such}~~ **the** stabilization and marketing plans and **to** declare ~~{such}~~ **the** plans in effect for any marketing area.

4. To enable the dairy industry with the aid of the state to correct existing evils, develop and maintain satisfactory marketing conditions, and bring about a reasonable amount of stability and prosperity in the production and marketing of fluid milk and fluid cream.

Sec. 40. NRS 584.440 is hereby amended to read as follows:

584.440 1. The members of the commission shall meet at least once each month and may meet at the call of the chairman or at the request of a majority of the members of the commission.

2. The commission shall conduct all hearings authorized pursuant to ~~{NRS 584.325 to 584.690, inclusive,}~~ **the provisions of this chapter.**

3. A majority of the members constitutes a quorum and a majority vote of the commission is required on all action taken by the commission.

4. The commission may retain an attorney to assist the commission in the administration of its duties.

Sec. 41. NRS 584.455 is hereby amended to read as follows:

584.455 1. The commission shall appoint an executive director, who shall serve ex officio as its secretary.

2. The executive director may appoint such assistants, deputies, agents, experts and other employees as are necessary for the administration of ~~{NRS 584.325 to 584.690, inclusive,}~~ **the provisions of this chapter,** prescribe their duties and fix their salaries.

3. The executive director is in the unclassified service of the state. All assistants, deputies, agents, experts and other employees are in the classified service.

4. The executive director may be removed by the commission.

Sec. 42. NRS 584.460 is hereby amended to read as follows:

584.460 1. There is hereby created in the state treasury a special revenue fund designated as the dairy commission fund. ~~{All}~~ **Except as otherwise required in NRS 584.670, all** money received by the commission pursuant to ~~{NRS 584.325 to 584.690, inclusive,}~~ **the provisions of this chapter** must be paid into the fund and must be expended solely for the ~~{enforcement of NRS 584.176 to 584.179, inclusive, and 584.325 to 584.690, inclusive,}~~ **administration and enforcement of the provisions of this chapter.**

2. The interest and income earned on the money in the dairy commission fund, after deducting any applicable charges, must be credited to the fund.

Sec. 43. NRS 584.470 is hereby amended to read as follows:

584.470 1. For the purposes of ~~{NRS 584.325 to 584.690, inclusive,}~~ **this chapter,** the commission may hold hearings, administer oaths, certify to official acts, take depositions, issue subpoenas, summon witnesses and examine the books and records of any producer, distributor or retailer.

Such an examination may be made at any reasonable time or place by the commission or any agent of the commission.

2. The district court for the county in which any investigation is being conducted by the commission may compel the attendance of witnesses, the giving of testimony and the production of books and papers as required by any subpoena issued by the commission.

3. In case of the refusal of any witness to attend or testify or produce any papers required by such subpoena, the commission may report to the district court for the county in which the investigation is pending by petition, setting forth:

(a) That due notice has been given of the time and place of attendance of the witness or the production of the books and papers;

(b) That the witness has been subpoenaed in the manner prescribed in this chapter; and

(c) That the witness has failed and refused to attend or produce the papers required by subpoena before the commission in the investigation named in the subpoena, or has refused to answer questions propounded to him in the course of such investigation, and asking an order of the court compelling the witness to attend and testify or produce the books or papers before the commission.

4. The court, upon petition of the commission, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than 10 days from the date of the order, and then and there show cause why he has not attended or testified or produced the books or papers before the commission. A certified copy of the order ~~{shall}~~ **must** be served upon the witness. If it ~~{shall appear}~~ **appears** to the court that the subpoena was regularly issued by the commission, the court shall thereupon enter an order that the witness appear before the commission at the time and place fixed in the order and testify or produce the required books or papers, and upon failure to obey the order, the witness ~~{shall}~~ **must** be dealt with as for contempt of court.

Sec. 44. NRS 584.495 is hereby amended to read as follows:

584.495 The commission shall enforce the provisions of ~~{NRS 584.325 to 584.690, inclusive,}~~ **this chapter** and any stabilization and marketing plan initiated pursuant to the provisions of ~~{those sections,}~~ **NRS 584.325 to 584.690, inclusive.**

Sec. 45. NRS 584.500 is hereby amended to read as follows:

584.500 The commission is hereby declared to be the instrumentality of this state for the purpose of administering and enforcing the provisions of ~~{NRS 584.325 to 584.690, inclusive,}~~ **this chapter** and to execute the legislative intent ~~{herein expressed,}~~ **expressed in this chapter**, and is hereby vested with the administrative authority described in ~~{NRS 584.325 to 584.690, inclusive,}~~ **this chapter.**

Sec. 46. NRS 584.543 is hereby amended to read as follows:

584.543 Constables, police officers and sheriffs may **, upon request,** render assistance to the commission, any member of the commission or any authorized representative of the commission, in the enforcement of the provisions of ~~{NRS 584.325 to 584.690, inclusive, upon request,}~~ **this chapter.**

Sec. 47. NRS 584.573 is hereby amended to read as follows:

584.573 1. A distributor shall not sell a substitute dairy product, as defined in NRS 584.176, below its cost to him.

2. A distributor who sells or distributes a substitute dairy product shall file with the commission a statement of the cost of the substitute dairy product to him. The statement must be supplemented periodically as required by regulations adopted by the ~~{state dairy}~~ commission. The commission shall keep all statements confidential except when used in a judicial proceeding or an administrative proceeding relating to the provisions of this chapter.

Sec. 48. NRS 584.630 is hereby amended to read as follows:

584.630 ~~{1. A distributor who is subject to any stabilization and marketing plan as established by the commission shall:~~

~~—(a) Pay to the commission an assessment of one half cent per pound of milk fat contained in all fluid milk or fluid cream, or both, produced by him or purchased from a producer in this state;~~

~~—(b) Deduct from any payment due a producer in this state and pay to the commission an assessment of one half cent per pound of milk fat contained in all fluid milk or fluid cream, or both, purchased from that producer, and pay to the commission the same amount on the same material if produced by the distributor; and~~

~~—(c) Pay to the commission an assessment of 1 cent per pound of milk fat contained in all fluid milk or fluid cream, or both, imported into this state in bulk or as finished products and not otherwise subject to assessment.~~

~~2. The assessments received by the commission must be used in the administration and enforcement of NRS 584.325 to 584.690, inclusive.}~~

The commission shall assess each distributor of fluid milk or fluid cream a sum not exceeding one-quarter cent per pound on all fluid milk or fluid cream distributed by the distributor.

Sec. 49. NRS 584.633 is hereby amended to read as follows:

584.633 1. The commission shall assess each distributor of butter a sum not exceeding 2 cents per pound on all butter distributed by the distributor.

2. ~~{Except as otherwise provided in subsection 3, the}~~ *The* commission shall assess all distributors of fresh dairy products a sum not exceeding 4 cents per gallon on all ice cream, sherbet or ice cream or ice milk mixes, and a sum not exceeding 2 cents per pound on all cottage cheese and yogurt distributed by the distributors.

~~{3. In determining the amount to be assessed a distributor pursuant to subsection 2, the commission shall credit the distributor with any amount which, pursuant to paragraph (a) or (c) of subsection 1 of NRS 584.630, was assessed and paid upon fluid milk and fluid cream which was then used in manufacturing the product subject to the assessment prescribed in subsection 2.}~~

Sec. 50. NRS 584.635 is hereby amended to read as follows:

584.635 1. The commission may lower the rate of any assessment required to be paid under NRS 584.630 or 584.633, whenever it finds that the cost of administering the provisions of ~~{NRS 584.325 to 584.690, inclusive.}~~ *this chapter* can be defrayed from revenues derived from the lower rates.

2. A distributor shall pay the amount of the assessment to the commission on or before the 15th of the month following the month during which the fluid milk or fluid cream was received or the butter or fresh dairy product was distributed. If the assessment for the month is less than \$3, the distributor may delay payment for 3 months or until the cumulative assessments are \$3 or more, whichever occurs first.

3. If payments of assessments are not made as provided in subsection 2, the commission shall charge, as a penalty for the late payment, the amount of \$10 or ~~1 percent per month~~ **10 percent** of the total amount due but remaining unpaid, whichever is greater.

Sec. 51. NRS 584.660 is hereby amended to read as follows:

584.660 **1.** The commission shall, within 30 days ~~prior to~~ **before** each general session of the legislature, submit to the governor a full and true report of the transactions ~~under NRS 584.325 to 584.690, inclusive,~~ **pursuant to this chapter** during the preceding biennium, including a complete statement of receipts and expenditures during ~~such~~ **that** period, together with its legislative recommendations.

2. This report is a public record and must be made available for public inspection within a reasonable time after it is submitted to the governor.

Sec. 52. NRS 584.665 is hereby amended to read as follows:

584.665 In addition to the compilation of information pertaining to fluid milk and fluid cream from the reports required by NRS 584.325 to 584.690, inclusive, the commission shall collect, assemble, compile and distribute statistical data relative to fluid milk, fluid cream, other milk and milk products, and such other information as may relate to the dairy industry and the provisions of ~~NRS 584.325 to 584.690, inclusive,~~ **this chapter**. For **the** purposes of this section, the commission may require such information as it deems necessary from distributors, producers, cooperative associations of producers, retailers and others who are engaged in the production, sale, distribution, handling or transportation of fluid milk, fluid cream or other dairy products.

Sec. 53. NRS 584.670 is hereby amended to read as follows:

584.670 **1.** The violation of any provision of NRS 584.325 to 584.690, inclusive, or of any stabilization and marketing plan, including any price requirements of such **a** plan, or of any of the unfair practice provisions set forth in ~~such~~ **those** sections, is a misdemeanor, and also is ground for revocation or suspension of **a** license in the manner set forth in NRS 584.325 to 584.690, inclusive.

2. Every distributor ~~must~~ **shall** pay for fluid milk or fluid cream delivered to him or it at the time and in the manner specified in the contract with the producer. Failure to make such **a** payment is ground for refusal, suspension or revocation of **a** license in the manner set forth in NRS 584.325 to 584.690, inclusive.

3. In addition to any other penalty provided by NRS 584.325 to 584.690, inclusive, the commission may impose a penalty of not more than \$1,000 for each violation, to be recovered by the commission in a civil action in a court of competent jurisdiction. All sums recovered under this subsection must be deposited with the state treasurer ~~to the credit of the~~

~~dairy commission fund and expended solely for the enforcement of NRS 584.325 to 584.690, inclusive.~~ *for credit to the state general fund.*

Sec. 54. NRS 584.675 is hereby amended to read as follows:

584.675 1. The commission may refuse to grant any license herein provided and may revoke or suspend any such license as the case may require when it is satisfied that any applicant or licensee has violated any provision of ~~NRS 584.325 to 584.690, inclusive;~~ *this chapter*, but no order ~~shall~~ *may* be made refusing, revoking or suspending any license except after hearing upon at least 10 days' notice to the applicant or licensee.

2. The decision may include an order refusing, revoking or suspending the license applied for or held by the respondent, or fixing such other conditional and probationary orders as may be proper for the enforcement of ~~NRS 584.325 to 584.690, inclusive;~~ *this chapter.*

3. After any decision, including any conditional or probationary orders, should *the* respondent fail, refuse or neglect to comply with any such orders, the commission may suspend or revoke the license in accordance with the procedure provided in this section.

4. Previous violation by any applicant or by any person connected with the applicant of any provision of ~~NRS 584.325 to 584.690, inclusive, shall be good and sufficient~~ *this chapter is* ground for denial, revocation or suspension of a license.

Sec. 55. NRS 439.240 is hereby amended to read as follows:

439.240 1. The University of Nevada School of Medicine shall maintain the state hygienic laboratory, heretofore established pursuant to the provisions of chapter 230, Statutes of Nevada 1909, and may establish and maintain such branch laboratories as may be necessary.

2. The purpose of the state hygienic laboratory is:

(a) To make available, at such charges as may be ~~determined upon,~~ *established,* to health officials *, the state dairy commission* and licensed physicians of the state *, proper* laboratory facilities for the prompt diagnosis of communicable diseases.

(b) To make necessary examinations and analyses of water, natural ice, sewage, milk, food and clinical material.

(c) To conduct research into the nature, cause, diagnosis and control of diseases.

(d) To undertake such other technical and laboratory duties as are in the interest of the health of the general public.

3. The person in charge of the state hygienic laboratory, or his designee, must be a skilled bacteriologist.

4. The person in charge of the state hygienic laboratory may have such technical assistants as that person, in cooperation with the University of Nevada School of Medicine, considers necessary.

5. Reports of investigations conducted at the state hygienic laboratory may be published from time to time in bulletins and circulars.

Sec. 56. NRS 439.540 is hereby amended to read as follows:

439.540 Nothing contained in this chapter ~~shall~~ *may* be construed as modifying or altering the powers conferred by law upon the commissioner of food and drugs with respect to the adulteration, mislabeling or misbranding of foods, drugs, medicines and liquors, or the *powers*

conferred by law upon the state dairy commission with respect to the weighing and testing of dairy products to prevent fraud.

Sec. 57. NRS 584.330 and 584.545 are hereby repealed.

Sec. 58. Any administrative regulations governing milk or milk products adopted by the state board of health, the commissioner of food and drugs or the health division of the department of human resources, shall be deemed to have been adopted by the state dairy commission of the department of business and industry and remain in effect until amended or repealed by the commission.

Sec. 59. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 47, inclusive, and 51 to 58, inclusive, of this act become effective upon passage and approval for the purpose of adopting regulations and conducting any preliminary activities necessary to carry out the provisions of this act in a timely manner, and on January 1, 2002, for all other purposes.

3. Sections 48, 49, and 50 of this act become effective on July 1, 2001.