

SENATE BILL 922

M4

9lr3140
CF HB 815

By: **Senators Gallion, Bailey, Hershey, and Jennings**

Introduced and read first time: February 14, 2019

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 22, 2019

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 15, 2019

CHAPTER _____

1 AN ACT concerning

2 ~~Agriculture – Milk and Milk-Based Products~~ Public Health – Milk – Labeling

3 FOR the purpose of ~~prohibiting a person from selling, offering for sale, or advertising a~~
4 ~~product labeled as milk or a milk-based product if the product is not derived from a~~
5 ~~cow or another animal; defining a certain term~~ prohibiting a person from stating on
6 a label that a product is milk unless it meets a certain definition; requiring the
7 Maryland Department of Health to establish and implement a certain plan to enforce
8 a certain prohibition; altering a certain definition; making this Act subject to a
9 certain contingency; requiring the Maryland Department of Health to track certain
10 legislation and notify the Department of Legislative Services of a certain occurrence
11 within a certain period of time; providing for the effective date of certain provisions
12 of this Act; and generally relating to labeling for milk and milk-based products.

13 BY ~~adding to~~ repealing and reenacting, without amendments,

14 Article – ~~Agriculture~~ Health – General

15 Section ~~10-401~~ to be under the new subtitle “Subtitle 4. Milk and Milk-Based
16 Products” 21-401(a)

17 Annotated Code of Maryland

18 ~~2016~~ (2015 Replacement Volume and 2018 Supplement)

19 BY repealing and reenacting, with amendments,

20 Article – Health – General

21 Section 21-401(l) and 21-424

22 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2015 Replacement Volume and 2018 Supplement)

Preamble

WHEREAS, It is necessary to take steps to ensure the continued viability of dairy farming and to assure consumers of an adequate, local supply of pure and wholesome milk; and

WHEREAS, The dairy industry is an essential agricultural activity and dairy farms, and associated suppliers, marketers, and processors, and retailers, are an integral component of the region's economy; and

WHEREAS, The U.S. Food and Drug Administration has not provided consistent guidance to the State Department of Agriculture, dairy farms, associated suppliers, marketers, processors, retailers, and consumers on the application of the established standard of identity of milk as defined in 21 C.F.R. § 131.110; and

WHEREAS, The State of Maryland seeks to be a national leader in the preservation of the dairy industry while balancing the need to maintain commerce; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

~~Article – Agriculture~~

~~SUBTITLE 4. MILK AND MILK BASED PRODUCTS.~~

~~10-401.~~

~~(A) (1) IN THIS SUBTITLE, "MILK" MEANS THE LACTEAL SECRETION OF COWS OR OTHER ANIMALS.~~

~~(2) "MILK" INCLUDES ALL SKIM, BUTTERFAT, OR OTHER CONSTITUENTS OBTAINED FROM SEPARATION OR OTHER PROCESSES.~~

~~(B) A PERSON MAY NOT SELL, OFFER FOR SALE, OR ADVERTISE A PRODUCT LABELED AS MILK OR A MILK BASED PRODUCT IF THE PRODUCT IS NOT DERIVED FROM A COW OR ANOTHER ANIMAL.~~

Article – Health – General

21-401.

(a) In this subtitle the following words have the meanings indicated.

1 (1) (1) “Milk” means the [milk of a cow, goat, or other hooved mammal]
2 LACTEAL SECRETION, PRACTICALLY FREE OF COLOSTRUM, OBTAINED BY THE
3 COMPLETE MILKING OF ONE OR MORE HEALTHY HOOVED MAMMALS, INCLUDING
4 MEMBERS OF THE ORDER CETARTIODACTYLA, INCLUDING:

5 (I) FAMILY BOVIDAE, INCLUDING CATTLE, WATER BUFFALO,
6 SHEEP, GOATS, AND YAKS;

7 (II) FAMILY CERVIDAE, INCLUDING DEER, REINDEER, AND
8 MOOSE; AND

9 (III) FAMILY EQUIDAE, INCLUDING HORSES AND DONKEYS.

10 (2) “Grade A milk” means the milk of a cow, goat, or other hooved mammal
11 produced, processed, pasteurized, bottled, packaged, or prepared in accordance with the
12 Grade A Pasteurized Milk Ordinance.

13 (3) “Manufactured milk” means the milk of a cow, goat, or other hooved
14 mammal which is not Grade A milk and which is produced, processed, pasteurized, bottled,
15 packaged, or prepared in accordance with “Milk for Manufacturing Purposes and Its
16 Production and Processing: Recommended Requirements”.

17 21–424.

18 (A) After the milk product has been processed, each milk product shall be labeled
19 with:

20 (1) The description of that milk product under this subtitle or the rules and
21 regulations adopted under this subtitle; and

22 (2) Any other information that the Secretary requires by rule or regulation.

23 (B) A PERSON MAY NOT STATE ON A LABEL THAT THE PRODUCT IS MILK
24 UNLESS IT MEETS THE DEFINITION OF “MILK” ESTABLISHED IN § 21–401 OF THIS
25 SUBTITLE.

26 (C) THE DEPARTMENT SHALL ESTABLISH AND IMPLEMENT A PLAN TO
27 ENFORCE THE PROHIBITION IN SUBSECTION (B) OF THIS SECTION, INCLUDING
28 NOTICE OF THE DEPARTMENT’S INTENT TO IMPLEMENT A BAN ON ALL PRODUCTS
29 THAT DO NOT MEET THE REQUIREMENTS OF SUBSECTION (B) OF THIS SECTION,
30 INCLUDING PLANT–BASED PRODUCTS MISLABELED AS MILK.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is contingent on the
32 enacting of a similar act in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana,
33 Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and

1 West Virginia. The Maryland Department of Health shall notify the Department of
 2 Legislative Services within 10 days after 11 of these 14 states have enacted an act that is
 3 similar to this Act. If notice of enactment is not received by the Department of Legislative
 4 Services on or before October 1, 2029, this Act, with no further action required by the
 5 General Assembly, shall be null and void.

6 SECTION 3. AND BE IT FURTHER ENACTED, That:

7 (a) Section 21-424(b) of the Health – General Article, as enacted by Section 1 of
 8 this Act, shall go into effect 6 months after the date on which this Act becomes effective
 9 under Section 2 of this Act.

10 (b) The Maryland Department of Health shall meet the requirements of §
 11 21-424(c) of the Health – General Article, as enacted by Section 1 of this Act, on or before
 12 6 months after the date on which this Act becomes effective under Section 2 of this Act.

13 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That, subject to Sections 2 and
 14 3 of this Act, this Act shall take effect October 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.