

**21 USC Ch. 3: FILLED MILK****From Title 21—FOOD AND DRUGS****CHAPTER 3—FILLED MILK**

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**FEDERAL FOOD, DRUG, AND COSMETIC ACT**

Nothing contained in chapter 9 (§301 et seq.) of this title shall be construed as in any way affecting, modifying, repealing, or superseding the provisions of sections 61 to 64 of this title, see section 392(b) of this title.

**BUREAU OF DAIRY INDUSTRY**

General provisions, see sections 401 to 404 of Title 7, Agriculture.

**§61. Definitions**

Whenever used in this chapter—

- (a) The term "person" includes an individual, partnership, corporation, or association;
- (b) The term "interstate or foreign commerce" means commerce (1) between any State, Territory, or possession, or the District of Columbia, and any place outside thereof; (2) between points within the same State, Territory, or possession, or within the District of Columbia, but through any place outside thereof; or (3) within any Territory or possession, or within the District of Columbia; and
- (c) The term "filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, so that the resulting product is in imitation or semblance of milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated. This definition shall not include any distinctive proprietary food compound not readily mistaken in taste for milk or cream or for evaporated, condensed, or powdered milk, or cream where such compound (1) is prepared and designed for feeding infants and young children and customarily used on the order of a physician; (2) is packed in individual cans containing not more than sixteen and one-half ounces and bearing a label in bold type that the content is to be used only for said purpose; (3) is shipped in interstate or foreign commerce exclusively to physicians, wholesale and retail druggists, orphan asylums, child-welfare associations, hospitals, and similar institutions and generally disposed of by them.

(Mar. 4, 1923, ch. 262, §1, 42 Stat. 1486.)

**SHORT TITLE**

Act July 12, 1943, ch. 221, title II, 57 Stat. 499, provided in part that act Mar. 4, 1923, which enacted this chapter, may be cited as the "Filled Milk Act".

**§62. Manufacture, shipment, or delivery for shipment in interstate or foreign commerce prohibited**

It is declared that filled milk, as defined in section 61 of this title, is an adulterated article of food, injurious to the public health, and its sale constitutes a fraud upon the public. It shall be unlawful for any person to manufacture within any Territory or possession, or within the District of Columbia, or to ship or deliver for shipment in interstate or foreign commerce, any filled milk.

(Mar. 4, 1923, ch. 262, §2, 42 Stat. 1487.)

**§63. Penalties; acts of agents deemed acts of principals**

Any person violating any provision of this chapter shall upon conviction thereof be subject to a fine of not more than \$1,000 or imprisonment of not more than one year, or both. When construing and enforcing the provisions of this chapter, the act, omission, or failure of any person acting for or employed by any individual, partnership,

corporation, or association, within the scope of his employment or office, shall in every case be deemed the act, omission, or failure, of such individual, partnership, corporation, or association, as well as of such person.

(Mar. 4, 1923, ch. 262, §3, 42 Stat. 1487.)

#### **CODIFICATION**

The original text of this section contained a further provision that no penalty should be enforced for any violation occurring within 30 days after act Mar. 4, 1923 became law and was omitted as temporary and obsolete.

### **§64. Regulations for enforcement**

The Secretary of Health and Human Services is authorized and directed to make and enforce such regulations as may in his judgment be necessary to carry out the purposes of this chapter.

(Mar. 4, 1923, ch. 262, §4, as added Aug. 27, 1935, ch. 743, 49 Stat. 885; 1940 Reorg. Plan No. IV, §12, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1237; 1953 Reorg. Plan No. 1, §5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

#### **CHANGE OF NAME**

"Secretary of Health and Human Services" substituted in text for "Secretary of Health, Education, and Welfare" pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### **TRANSFER OF FUNCTIONS**

For transfer of functions of Federal Security Administrator to Secretary of Health, Education, and Welfare [now Health and Human Services], and of Food and Drug Administration to Federal Security Agency, see notes set out under section 321 of this title.