

FILLED MILK ACT¹

[As Amended Through Act of August 27, 1935 (chapter 743; 49 Stat. 885), Enacted August 27, 1935]

【Currency: This publication is a compilation of the text of Chapter 262 of the 67th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That 【21 U.S.C. 61】 whenever used in this Act—

(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.

SEC. 2. 【21 U.S.C. 62】 It is hereby declared that filled milk, as herein defined, is an adulterated article of food, injurious to the

¹Act of March 4, 1923 (chapter 262; 42 Stat. 1486). The short title is not established by any provision of such Act, but rather is established by the Labor-Federal Security Appropriation Act, 1944. See 57 Stat. 499.

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.

SEC. 3. [21 U.S.C. 63] Any person violating any provision of this Act 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; except that no penalty shall be enforced for any such violation occurring within thirty days after this Act becomes law. When construing and enforcing the provisions of this Act, 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.

SEC. 4. [21 U.S.C. 64] The [Secretary of Health and Human Services]¹ is hereby authorized and directed to make and enforce such regulations as may in his judgment be necessary to carry out the purposes of this Act.

¹The reference to the Secretary of Health and Human Services is editorially supplied. As enacted, the Act referred to the Secretary of Agriculture. The Food and Drug Administration, which was part of the Department of Agriculture, was administering the Act in 1940. Section 12 of Reorganization Plan No. IV of 1940 transferred the Food and Drug Administration to the Federal Security Agency, and then section 5 of Reorganization Plan No. 1 of 1953 transferred all functions of the Federal Security Administrator to the Secretary of Health, Education, and Welfare. (See 5 U.S.C. App.) Section 509(b) of Public Law 96-88 (20 U.S.C. 3508(b)) provides that any reference to the Secretary of Health, Education, and Welfare shall be deemed to refer and apply to the Secretary of Health and Human Services.