

111TH CONGRESS  
2D SESSION

# S. 3758

To amend the Federal Food, Drug, and Cosmetic Act to establish and enforce a maximum somatic cell count requirement for fluid milk.

---

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2010

Mrs. GILLIBRAND introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

---

## A BILL

To amend the Federal Food, Drug, and Cosmetic Act to establish and enforce a maximum somatic cell count requirement for fluid milk.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. MAXIMUM SOMATIC CELL COUNT.**

4       Chapter IV of the Federal Food, Drug, and Cosmetic  
5       Act (21 U.S.C. 341 et seq.) is amended by adding at the  
6       end the following:

7       **“SEC. 418. MAXIMUM SOMATIC CELL COUNT.**

8       “(a) MAXIMUM SOMATIC CELL COUNT.—

9               “(1) IN GENERAL.—The maximum somatic cell  
10       count for all dairy products sold, transported, or of-

1       ferred for sale or transport, in interstate commerce  
2       shall be 400,000 cells per milliliter of fluid milk, or  
3       equivalent, as determined by the Secretary.

4           “(2) ADJUSTMENT.—The Secretary, after con-  
5       sideration of any recommendations submitted by the  
6       National Conference on Interstate Milk Shipments,  
7       may lower the maximum somatic cell count estab-  
8       lished under paragraph (1).

9           “(b) CALCULATION.—The Secretary shall promulgate  
10      regulations to require that the calculation of a herd aver-  
11      age somatic cell count under this section shall be made  
12      using a geometric, rather than an arithmetic, mean.

13          “(c) REVISION.—The Secretary, in consultation with  
14      the National Conference on Interstate Milk Shipments,  
15      shall revise the Pasteurized Milk Ordinance to take into  
16      account the requirement under subsection (a) and any reg-  
17      ulations promulgated under subsection (b).

18          “(d) ENFORCEMENT.—

19           “(1) IN GENERAL.—Beginning on the date that  
20      is 18 months after the date of enactment of this sec-  
21      tion, any person that sells, transports, or offers for  
22      sale or transport, in interstate commerce any dairy  
23      product in violation of subsection (a) shall be subject  
24      to a civil penalty in an amount determined in ac-

1 cordance with the regulations promulgated under  
2 paragraph (2).

3 “(2) REGULATIONS.—Not later than 18 months  
4 after the date of enactment of this section, the Sec-  
5 retary shall promulgate regulations establishing a  
6 schedule of civil penalties for violations of subsection  
7 (a).”.

○