

May 2, 1950

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ARIZONA ATTORNEY GENERAL

Mr. P. A. Isley
Dairy Commissioner
State House
Phoenix, Arizona

Dear Mr. Isley:

Replying to your letter of April 17, 1950, wherein you ask this question:

"Can graded milk or cream packaged in the final container in which it is sold to the consumer, and which is produced outside of Arizona, be sold in Arizona without complete inspection by the State Dairy Commissioner or his authorized representative?"

you are advised as follows:

We assume when you say "graded milk or cream" that you refer to milk that is defined by Part (r) of Section 50-901, ACA 1939, which is designated as "market milk or cream", which reads as follows:

"'Market milk or cream,' either raw or pasteurized, is such milk or cream as shall be used or intended for use as a food for human consumption, as a beverage either with or without the addition of other foods, or for use in the culinary preparation of foods;
* * *"

We desire further to call your attention to an opinion written by this office under date of December 1, 1949 which was given in respect to shipments of bulk milk into the state but which we believe applies to packaged milk referred to in your letter. In addition to the section quoted by the December opinion, we call your attention to parts of several other sections.

Section 50-914:

"No person shall sell or distribute market milk or cream under any designation of grade such as 'grade A' or 'guaranteed A' or 'certified' or any similar designation which does not meet

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all the requirements of the existing United States public health services standard milk ordinance from its production to delivery to the ultimate consumer. All dairies producing market milk sold under grade classification shall be inspected by the commissioner or his deputies or by a licensed veterinarian or a licensed physician who shall first be approved for the purpose by the commissioner at least once in every four-months' period. Any inspection other than by the commissioner or his regular deputies shall be at the expense of the owner of the dairy. * * *

Our statutes cover the State of Arizona and this one says that no person shall sell or distribute, etc., and further that all dairies producing market milk sold under grade classification shall be inspected. This does not prohibit packaged milk from coming into the state, but it does require that production of the milk shall be under the same regulations as are required of Arizona dairymen.

Section 50-915 provides:

"Dairy barn.-- All cows producing milk to be sold as market milk shall be milked only in such dairy barns as shall meet all requirements as herein specified for such. * * *

Section 50-916 determines the care to be given the dairy barn.

Section 50-917 provides for the surroundings of the dairy barn, and the other sections of the code provide for other matters pertaining to handling, utensils, people who do the work, etc.

We would like to conclude this opinion by practically the same words used in the opinion of December 1, 1949. There are a number of sections in this dairy code which provide for the inspection of dairies, examination of cattle, and other regulations which obviously could not be met by an out-of-state dairy. Therefore, milk from such dairy could not meet the requirements of our law unless all such inspections were made by

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Arizona inspectors on the premises of the out-of-state dairy, or by a licensed veterinarian or licensed physician who shall first be approved for the purpose by the commissioner, such inspections to be made at least once in every four-months' period. Any inspection other than by the commissioner or his legal deputy shall be at the expense of the owner of the dairy.

It is therefore our opinion that no out-of-state milk or cream, packaged in the final container in which it is sold to the consumer may legally be sold in Arizona until and unless it complies with all the laws of the State of Arizona in its inspection, production, handling and distribution, or until the laws of this state are amended in such fashion as to permit the legal importation and sale of milk into this state without such rigid inspection.

Trusting this answers your inquiry, we are

Very truly yours,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

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