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March 15, 1952
Opinion No. 52-78

Mr. A. Warren Austin
State Dairy Commissioner
State House
Phoenix, Arizona

Dear Mr. Austin:

This is in reply to your letter of February 29, 1952 wherein you ask two questions regarding Paragraph (b) of Section 50-975, ACA 1939. Your questions are:

"In the Arizona Code of 1939, Volume 4, Section 50-975 Paragraph (b) does the product referred to in this paragraph mean the production of a cow or the production of a milk or manufacturing plant? If to a manufacturing plant, would the name and address of the plant comply with the provision of showing whether the product was produced within or without the State?"

It is our interpretation that in answer to your first question, the product referred to is the production of a cow or a dairy product. The new code failed to define dairy product but Section 50-963 directs us to take the regulations and definitions, etc. as contained in 1939 edition of United States Public Health Service Milk Ordinance and Code. Page 22 of the 1939 Code defines milk products as follows:

"Milk products shall be taken to mean and include cream, sour cream, homogenized milk, goat milk, vitamin D milk, buttermilk, skimmed milk, reconstituted or recombined milk and cream, milk beverages, skimmed milk beverages, and any other product made by the addition of any substance to milk or any of these

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products and used for similar purposes and designated as a milk product by the health officer."

Milk is a dairy product and all the enumerated things in this definition likewise would be a dairy product. The Public Health Service interpreted this definition as follows:

"This definition is not intended to include such products as milk powder, evaporated milk, and butter, except when combined with other substances to produce buttermilk, reconstituted milk, or reconstituted cream. Ice cream and other frozen desserts should not be designated as milk products under this ordinance, but should preferably be controlled under a separate frozen desserts ordinance."

The above definition of milk products and the interpretation placed on it is controlling in our State. The person, then, who sells or offers for sale any of the milk products that are enumerated in the definition above would be required to have plainly and legibly labeled upon the container the contents, grade or class and whether produced within or without the state.

Answering your second question, we do not believe that the name and address of the plant printed on the package sufficiently complies with this statute.

Very truly yours,

FRED O. WILSON
Attorney General

CHAS. ROGERS
Assistant Attorney General

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