

112TH CONGRESS  
1ST SESSION

# S. 458

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

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IN THE SENATE OF THE UNITED STATES

MARCH 2, 2011

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

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## 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. SHORT TITLE.**

4       This Act may be cited as the “Milk Quality Stand-  
5       ards Act of 2011”.

6       **SEC. 2. MAXIMUM SOMATIC CELL COUNT.**

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

1 **“SEC. 424. MAXIMUM SOMATIC CELL COUNT.**

2 “(a) MAXIMUM SOMATIC CELL COUNT.—

3 “(1) IN GENERAL.—The maximum somatic cell  
4 count for all dairy products sold, transported, or of-  
5 fered for sale or transport, in interstate commerce  
6 shall be 400,000 cells per milliliter of fluid milk, or  
7 equivalent, as determined by the Secretary.

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

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

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

22 “(d) ENFORCEMENT.—

23 “(1) IN GENERAL.—Beginning on the date that  
24 is 18 months after the date of enactment of this sec-  
25 tion, any person that sells, transports, or offers for  
26 sale or transport, in interstate commerce any dairy

1 product in violation of subsection (a) shall be subject  
2 to a civil penalty in an amount determined in ac-  
3 cordance with the regulations promulgated under  
4 paragraph (2).

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

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