

DEPARTMENT OF AGRICULTURE: Vegetable or animal fats may not  
DAIRY PRODUCTS: be added to ice cream.

July 20, 1950

8/30/50

Hon. Joseph T. Stakes  
Director of Dairy Division  
Department of Agriculture  
Jefferson City, Missouri



Dear Mr. Stakes:

We are in receipt of your recent request for an opinion,  
which reads in part as follows:

"The Missouri Ice Cream Law, which we understood was written in 1919, gives a comparatively low percentage of milk fat. The majority of the ice cream manufactured in this State is 12% butterfat or above. If under this Law it would be possible to use vegetable and animal fats in ice cream, the manufacturer would see to it that the product contained a minimum of 8% milk fat and build that product to perhaps a 12, 14 or 16% fat content with the addition of vegetable or animal fats. This practice would be most detrimental to the ice cream industry in this State and inasmuch as the detection of foreign fats in ice cream by taste is practically impossible, the consumer would be lead to believe that the ice cream contained a high percentage of milk fat. The point on which we would like an opinion is whether or not it would be permissible to use vegetable and animal fats in ice cream regardless of whether or not the use of these fats is stated on the lable of the package."

Ice cream is defined by Section 14133, R. S. Mo. 1939 as follows:

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"Ice cream is a dairy product and a frozen mixture made of milk and cream or the products thereof; with sugar, stiffeners, flavors or extracts, and with or without certified coloring and containing not less than eight per cent milk fat. Ice cream, as in this section defined, and the various ingredients thereof, shall be free from filth, manure or other harmful or disease-bearing germs, or any element, ingredient or constituent deleterious to health. The manufacture or sale in this state of ice cream having a milk fat content less than required by this article, or containing any filth, manure or other harmful or disease-bearing germs, or any element, ingredient or constituent deleterious to health, shall be unlawful."

Section 14140, R. S. Mo. 1939, reads:

"It shall be unlawful for any person, firm, copartnership, association or corporation to whom or to which this article applies, to manufacture, sell or offer for sale in this state any frozen mixture, as or for, ice cream which does not conform to the standard prescribed in section 14133 of this article."

Therefore, a frozen mixture cannot be manufactured, sold or offered for sale as, or for, ice cream if such does not conform to the standard prescribed in Section 14133. It is our opinion that this standard is that product as defined in Section 14133, "a frozen mixture made of milk and cream or the products thereof; with sugar, stiffeners, flavors or extracts, and with or without certified coloring and containing not less than eight per cent milk fat." The question is whether or not vegetable or animal fats may be added to ice cream and the resulting product still conform to Section 14133.

Ice cream is a frozen mixture of "milk and cream or the products thereof", together with certain other permissible

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ingredients. Filled milk, which is milk or cream in its various forms to which fats or oils other than milk fat are added (Section 14062, R.S. Mo. 1939), is not included herein.

Nor is vegetable or animal fats among the other ingredients of ice cream, "sugar, stiffeners, flavors or extracts, with or without certified coloring," and furthermore it is specifically mentioned that ice cream shall contain "not less than eight per cent milk fat." Therefore, since vegetable and animal fats are not included among the ingredients which section 14133 declares shall constitute ice cream, the manufacturing, sale or offering for sale of a frozen mixture containing such as, -or for, ice cream would be unlawful under the provisions of Section 14140.


CONCLUSION

It is, therefore, the opinion of this department that a frozen mixture to which has been added vegetable or animal fats does not conform to Section 14133, R. S. Mo. 1939, which defines ice cream, and therefore cannot be manufactured, sold or offered for sale as, or for, ice cream.

Respectfully submitted

RICHARD H. VOSS  
Assistant Attorney General

APPROVED:

  
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J. E. TAYLOR  
ATTORNEY GENERAL

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