

**BEFORE THE FLORIDA DEPARTMENT OF EDUCATION**

**COMPLAINT TO PROHIBIT OR SEVERELY RESTRICT  
SALES OF FLAVORED MILK PRODUCTS  
IN VENDING MACHINES IN PUBLIC SCHOOLS**

**Submitted to:**

**Jim Horne, Commissioner  
Florida Department of Education  
Turlington Building, Suite 1514  
325 West Gaines Street  
Tallahassee, FL 32399**

**Submitted by:**

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## **NATURE OF THE COMPLAINT**

1. This is a complaint seeking action by the Florida Department of Education (“Department”) to prohibit or severely restrict the sale of flavored milk products in vending machines in public schools, the effect of which would be consistent with legal requirements regarding nutrition and health concerns for students. Flavored milk drinks contain more fat, sugar, cholesterol, and calories than even soft drinks do, and the sale of soft drinks is already significantly restricted in most jurisdictions, including at the federal level. Further, the milk industry is built on the widespread abuse of cows and their calves, who end up suffering at the hands of the nation’s cruel veal industry. At a time when students should be learning not just about how to take care of themselves, but also about how to respect and care for others, they are being served unhealthy products and shown an indifference to animal suffering. Such “lessons” do not serve the best interests of the students, of the public, or of the cows and their calves who are abused and slaughtered in the dairy industry.

## **JURISDICTION**

2. This complaint is filed pursuant to the Department’s authority to initiate rulemaking based on the requests of interested parties, as set forth in Section 120.54(7) of the Florida Administrative Procedure Act.

## **COMPLAINANT**

3. People for the Ethical Treatment of Animals (PETA), is an international nonprofit membership corporation that, along with its members, is committed to alleviating the suffering of animals and ensuring their humane treatment. PETA has conducted

investigations into and campaigned extensively against the dairy industry and the miserable conditions under which the majority of dairy cows are kept. PETA maintains several Web sites with information about the welfare of cows and the dairy industry, including DumpDairy.com, GoVeg.com, CowsAreCool.com, and its main site, PETA.org. PETA has numerous Florida members who are opposed to serving unhealthful and cruelly produced dairy products in schools. PETA files this complaint on its own behalf and on behalf of its approximately 20,000 Florida members.

### **FLAVORED MILK PRODUCTS**

4. As part of a campaign to increase sales, the dairy industry has recently begun marketing flavored-milk vending machines to schools. The products have been advertised as a “healthful” beverage for the students and a favorable alternative to soft drinks. The reality, however, is that flavored milk products are neither healthy for students, a good alternative to soft drinks, nor a responsible product for schools to sell.
5. Florida now has a significant number of these machines placed and operating within its public schools.
6. Contrary to the claims made by the slick public relations campaigns for the dairy industry, the flavored milk products sold in these machines are far from healthy. A typical nutritional analysis for a 16-ounce bottle of chocolate milk (taken from the actual nutrition label of one of the major vending-machine suppliers) reveals a staggering 460 calories; 16 grams of fat, 10 grams of which are saturated; 58 grams of sugar; 280 milligrams of sodium; and 60 milligrams of cholesterol. The same amount of Pepsi, for example, contains 0 grams of fat, 0 milligrams of cholesterol, 25 milligrams of sodium, and only 200 calories.

7. Remarkably, a 16-ounce serving of Pepsi even has less sugar than the chocolate milk's 58 grams, which is equal to *14\_ teaspoons* per bottle.
8. Thus, in the face of a nutritional analysis that reveals flavored milk products to be *even worse* for kids than soft drinks, it is difficult to understand how the Department would be anything but eager to restrict the sale of such products in its schools.
9. In fact, restricting the sale of beverages high in fat, cholesterol, and sugar is exactly the type of action called for by the Department's own regulations. Florida Administrative Code, Rule 6-7.042(2)(c) mandates that "[c]onsideration should be given to allowing only the sale of nutritious food and beverage items which meet at least United States Department of Agriculture dietary guidelines for Americans." The USDA dietary guidelines recommend choosing foods that are low in saturated fat and cholesterol and moderating the intake of sugars and sodium. There is simply no way that an impartial analysis of the fat, cholesterol, sugar, sodium, and caloric contents of the full-fat flavored-milk products being sold in schools would result in anything other than an imposition of the most severe sales restrictions. To rule any other way would require that the Department blindly ignore the nutritional content of the milk products and the resulting health detriment to the students who consume them.
10. There is no medical dispute that saturated fat and cholesterol, which vending-machine milk products contain in abundance, are linked to serious health problems, including obesity and diabetes in the short term and artery-clogging heart disease and cancer in the long term.
11. Even the dairy industry's age-old argument that milk products supply needed calcium fails in light of the health-threatening components of dairy products. If a glass of turpentine were supplemented with calcium, it wouldn't suddenly be considered a healthful drink. The fact

that flavored milk contains calcium doesn't offset the high levels of fat, cholesterol, sugar, and other damaging components. And recent studies, including the comprehensive Harvard Nurses' Study, confirm that the consumption of milk does not, in fact, reduce the risk of bone fractures, despite the dairy industry's forceful claims to the contrary. So while kids do need calcium in their diets, they need to get it in healthy ways; flavored milk products are *not* a healthy way to get calcium, and their sale in public schools should be prohibited or very severely restricted.

12. Given the Department's legal obligation to choose only foods and beverages that are nutritious and not detrimental to the health of students, there is simply no reasonable justification for failing to take prompt and positive action to prohibit or severely restrict the sale of flavored milk products in school vending machines.

### **THE CRUELEST DRINK**

13. In addition to the health hazards associated with consuming dairy products, the industry itself is a lesson in cruelty. Florida Statute 1003.42(2)(j) requires that public school officials "efficiently and faithfully" teach kindness to animals. The sale of a product produced by an industry responsible for widespread cruelty to animals is inconsistent with both the spirit and letter of this legal mandate. One cannot demonstrate by action an indifference to cruelty to animals, but simultaneously be *faithful* to a mandate to teach kindness to animals. The following paragraphs illustrate a sampling of the widespread suffering that permeates the dairy industry.
14. Dairy cows live difficult lives, marked by intensive production demands. In 2002, the national annual average milk production per cow was 18,571 pounds. This inordinately high

level of production, which is significantly higher than what a cow would naturally produce, is not achieved as a result of cows' being treated well or being bred to naturally give so much milk. It is the result of bovine growth hormones or other drugs, intensive milking regimens, and high-energy feed concentrates, all designed to stimulate cows to produce as much milk as possible before their bodies wear out or collapse from the production demands.

15. This regular administration of growth hormones and other drugs, feed concentrates, and unduly intensive daily regimens and living conditions often results in dairy cows' suffering from painful maladies, such as laminitis (a painful hoof condition), mastitis (a bacterial infection of the cow's udder), milk fever (caused by inadequate levels of calcium in the cow's blood), and Johne's disease (a bacterial infection that can result in severe weight loss, diarrhea, and even death).
16. In order to cause them to produce milk, cows must be impregnated, which is done repeatedly, most often by artificial means, throughout the animals' lives, and they continue to be milked during most of their pregnancies. They generally deliver a calf every 12 to 13 months, and when they can no longer deliver calves or produce milk, they are sent to slaughter. In other words, their bodies are treated like machines, to be used until they can't keep up. Slaughter occurs at only a fraction of what a cow's natural lifespan would otherwise be.
17. Fully 25 percent of dairy cows nationwide are taken from their herds every year and sent to hang from a slaughter line because they are too sick, injured, emaciated, lame, or otherwise unable to keep up with production demands. And the calves are at great risk as well. Fetal deaths among the nation's dairy cows number as high as 10 percent annually. And of those

calves who are born alive each year, as many as 10 percent die before they even reach weaning. When cows are treated as mere milk machines, injury and death risks, such as those just detailed, are calculated simply in terms of economics, without regard for animal welfare.

18. The prevalence of “downer” cows provides a clear indication of just how hard dairy cows are pushed. Each year, a significant number of cows arrive at slaughterhouses throughout the country unable to stand. Whether it is because they are injured, diseased, crippled, or simply too weak to support themselves, these cows suffer greatly as a result of their difficult lives. Invariably, dairy cows make up the highest percentage of downer cows arriving at slaughterhouses. Among the reasons for this are the intense difficulties and dangers associated with a life of constant milk production. Dairy cows are forced to produce significantly larger amounts of milk than their bodies are designed for. Nutrients like calcium and magnesium, which would otherwise be used for the cows’ own nutritional needs, are diverted to the milk that the cows produce. As a result, cows often suffer from brittle, broken bones, milk fever or other diseases, or emaciation and weakness to the point that they cannot even stand up.
19. Further, whether or not they are downers, because of the repeated calvings (which are physically demanding for the mother and are accompanied by the constant risk of complications, such as paralysis), the steady administration of hormones and other drugs, and the constant depletion of desperately needed nutrients throughout their lives, dairy cows are severely debilitated by the time they are sent to slaughter. As a result, much of the meat used to make hamburgers in this country—meat which is typically considered too tough to be used for “prime” beef—comes from the worn-out bodies of dairy cows.

20. Not even the calves of dairy cows are spared from the industry's abuses. Nearly all calves born on dairy operations are removed from their mothers forever within 24 hours of their births, which causes their mothers to suffer obvious, documented distress. Dr. Temple Grandin, consultant to many of the biggest corporations in the meat and dairy industry and widely recognized as one of the foremost experts on animal welfare and handling, has spoken about the intensely traumatic experience of separating calves from their mothers. In his book *An Anthropologist on Mars* (Alfred A. Knopf 1995), Oliver Sacks wrote of a visit that he and Dr. Grandin made to a cattle farm, usually a quiet place even on a large operation, and of the great tumult of bellowing that they heard when they arrived:

“They must have separated the calves from the cows this morning,” Temple said, and, indeed, this was what had happened. We saw one cow outside the stockade, roaming, looking for her calf, and bellowing. “*That’s not a happy cow,*” Temple said. “*That’s one sad, unhappy, upset cow.* She wants her baby. Bellowing for it, hunting for it. She’ll forget for a while, then start again. It’s like grieving, mourning—not much written about it. People don’t like to allow them thoughts or feelings.” (Emphasis added.) p. 267.

21. Once taken from their mothers, many of the calves are sent (through auctions, stockyards, and the like) to beef feedlots or directly to slaughter. Of the others, the females are raised to replace their mothers (often in cramped, solitary pens), while the males are condemned to another fate—to be killed for veal. These calves are kept in wooden stalls or metal crates barely larger than their own bodies, which limit their movement to standing or kneeling down on the bare, hard floors (some are even tied to the walls of their enclosures in order to restrict their movement even further). For nearly their entire lives, they are unable to turn around or even lie down fully. After suffering through as many as 17 weeks of being handled in this way, the calves are removed from their enclosures, their sore legs often too painful and swollen from lack of movement and from trying to balance on slatted or grated

floors even to permit them to walk properly, and then shipped through all weather extremes to the slaughterhouse, where they are killed. Their lives are characterized by constant misery.

### **CONCLUSION**

22. The Department has a responsibility to follow the letter and spirit of the laws of the state and to foster the good health and character of students in its schools. Serving food products that contain high levels of sugar, calories, fat, saturated fat, cholesterol, and sodium flies in the face of this responsibility. The request set forth in this complaint is an easy one to rule upon ... so long as the ruling is made intelligently and impartially. There are healthy ways for students to get vitamins and minerals. Consuming milk, especially flavored milk high in sugar, fat, and cholesterol, isn't one of them. Consistent with its legal, ethical, and educational obligations, the Department should grant this complaint and take prompt action to prohibit or severely restrict the sale of flavored milk products in school vending machines.

Respectfully submitted,

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