

HB0104S02 compared with HB0104S01

~~text~~ shows text that was in HB0104S01 but was deleted in HB0104S02.

text shows text that was not in HB0104S01 but was inserted into HB0104S02.

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Representative Marc K. Roberts proposes the following substitute bill:

COW-SHARE PROGRAM AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Utah Dairy Act by removing a prohibition on cow-sharing programs.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ removes the prohibition on owning, operating, organizing, or otherwise participating in a cow-share program where the milk producing hooved animal is located in Utah;
- ▶ states that the Utah Dairy Act does not apply to milk or milk products produced on the farm if the milk or milk products are consumed by participants in a cow-share program;

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- ▶ states that the Department of Agriculture and Food may not adopt rules restricting an individual's ability to transfer or obtain:
 - raw milk in accordance with the terms of a cow-share agreement; or
 - an interest in a cow-share program in accordance with the terms of the cow-share program agreement; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-3-1, as last amended by Laws of Utah 2007, Chapters 165 and 179

4-3-10, as last amended by Laws of Utah 2007, Chapters 165 and 179

4-3-13, as enacted by Laws of Utah 1979, Chapter 2

ENACTS:

4-3-1.3, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **4-3-1** is amended to read:

4-3-1. Definitions.

As used in this chapter:

- (1) "Adulterated" means any dairy product that:
 - (a) contains any poisonous or deleterious substance that may render it injurious to health;
 - (b) has been produced, prepared, packaged, or held:
 - (i) under unsanitary conditions;
 - (ii) where it may have become contaminated; or
 - (iii) where it may have become diseased or injurious to health;
 - (c) contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;
 - (d) contains:

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- (i) any filthy, putrid, or decomposed substance;
 - (ii) fresh fluid milk with a lactic acid level at or above .0018; or
 - (iii) cream with a lactic acid level at or above .008 or that is otherwise unfit for human food;
- (e) is the product of:
- (i) a diseased animal;
 - (ii) an animal that died otherwise than by slaughter; or
 - (iii) an animal fed upon uncooked offal;
- (f) has intentionally been subjected to radiation, unless the use of the radiation is in conformity with a rule or exemption promulgated by the department; or
- (g) (i) has any valuable constituent omitted or abstracted;
 - (ii) has any substance substituted in whole or in part;
 - (iii) has damage or inferiority concealed in any manner; or
 - (iv) has any substance added, mixed, or packed with the product to:
 - (A) increase its bulk or weight;
 - (B) reduce its quality or strength; or
 - (C) make it appear better or of greater value.
- (2) "Cow-share program" means a program in which a person acquires an undivided interest in a milk producing hoofed mammal through an agreement with a producer that includes:
- (a) a bill of sale for an interest in the mammal;
 - (b) a boarding arrangement under which the person boards the mammal with the producer for the care and milking of the mammal and the boarding arrangement and bill of sale documents remain with the program operator; [and]
 - (c) an arrangement under which the person receives raw milk for personal [consumption.] use not to be sold or distributed in a retail environment; and
 - (d) no more than ~~{five milk producing animals}~~ two cows, 10 goats, and 10 sheep per farm in the program.
- (3) "Dairy product" means any product derived from raw or pasteurized milk.
- (4) "Distributor" means any person who distributes a dairy product.
- (5) (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed,

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evaporated, concentrated, powdered, dried, or desiccated, that has fat or oil other than milk fat added, blended, or compounded with it so that the resultant product is an imitation or semblance of milk, cream, or skimmed milk.

(b) "Filled milk" does not include any distinctive proprietary food compound:

(i) that is prepared and designated for feeding infants and young children, which is customarily used upon the order of a licensed physician;

(ii) whose product name and label does not contain the word "milk"; and

(iii) whose label conforms with the food labeling requirements.

(6) "Frozen dairy products" mean dairy products normally served to the consumer in a frozen or semifrozen state.

(7) "Grade A milk," "grade A milk products," and "milk" have the same meaning that is accorded the terms in the federal standards for grade A milk and grade A milk products unless modified by rules of the department.

(8) "License" means a document allowing a person or plant to process, manufacture, supply, test, haul, or pasteurize milk or milk products or conduct other activity specified by the license.

(9) "Manufacturer" means any person who processes milk in a way that changes the milk's character.

(10) "Manufacturing milk" means milk used in the production of non-grade A dairy products.

(11) "Misbranded" means:

(a) any dairy product whose label is false or misleading in any particular, or whose label or package fails to conform to any federal regulation adopted by the department that pertains to packaging and labeling;

(b) any dairy product in final packaged form manufactured in this state that does not bear:

(i) the manufacturer's, packer's, or distributor's name, address, and plant number, if applicable;

(ii) a clear statement of the product's common or usual name, quantity, and ingredients, if applicable; and

(iii) any other information required by rule of the department;

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(c) any butter in consumer package form that is not at least B grade, or that does not meet the grade claimed on the package, measured by U.S.D.A. butter grade standards;

(d) any imitation butter made in whole or in part from material other than wholesome milk or cream, except clearly labeled "margarine";

(e) renovated butter unless the words "renovated butter," in letters not less than 1/2-inch in height appear on each package, roll, square, or container of such butter; or

(f) any dairy product in final packaged form that makes nutritional claims or adds or adjusts nutrients that are not so labeled.

(12) "Pasteurization" means any process that renders dairy products practically free of disease organisms and is accepted by federal standards.

(13) "Permit or certificate" means a document allowing a person to market milk.

(14) "Plant" means any facility where milk is processed or manufactured.

(15) "Processor" means any person who subjects milk to a process.

(16) "Producer" means a person who owns a cow or other milk producing hoofed mammal that produces milk for consumption by persons other than the producer's family, employees, or nonpaying guests.

(17) "Raw milk" means unpasteurized milk.

(18) "Renovated butter" means butter that is reduced to a liquid state by melting and drawing off such liquid or butter oil and churning or otherwise manipulating it in connection with milk or any product of milk.

(19) "Retailer" means any person who sells or distributes dairy products directly to the consumer.

Section 2. Section ~~{4-3-10}~~4-3-1.3 is ~~{amended}~~enacted to read:

4-3-1.3. Cow share program notification.

(1) A producer who is in a cow-share program, as defined in Section 4-3-1, shall notify the department of the cow-share program and include in the notification:

(a) the producer's name; and

(b) a valid, current address of the farm on which the milk producing hoofed mammal in the cow-share program is located.

(2) Upon receipt, the department shall keep a notification of a cow-share program described in Subsection (1) on file.

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Section 3. Section 4-3-10 is amended to read:

4-3-10. Unlawful acts specified.

It is unlawful for any person in this state to:

- (1) operate a plant without a license issued by the department;
- (2) market milk without a permit or certificate issued by the department;
- (3) manufacture butter or cheese, pasteurize milk, test milk for payment, or haul milk in bulk without a special license to perform the particular activity designated in this Subsection (3); unless if more than one person working in a plant is engaged in the performance of a single activity designated in this Subsection (3), the person who directs the activity is licensed;
- (4) manufacture, distribute, sell, deliver, hold, store, or offer for sale any adulterated or misbranded dairy product;
- (5) manufacture, distribute, sell, deliver, hold, store, or offer for sale any dairy product without a license, permit, or certificate required by this chapter;
- (6) sell or offer for sale any milk not intended for human consumption unless it is denatured or decharacterized in accordance with the rules of the department;
- (7) manufacture, distribute, sell, or offer for sale any filled milk labeled as milk or as a dairy product;
- (8) keep any animals with brucellosis, tuberculosis, or other infectious or contagious diseases communicable to humans in any place where they may come in contact with cows or other milking animals;
- (9) draw milk for human food from cows or other milking animals that are infected with tuberculosis, running sores, communicable diseases, or from animals that are fed feed that will produce milk that is adulterated;
- (10) accept or process milk from any producer without verification that the producer holds a valid permit or certification or, if milk is accepted from out of the state, without verification that the producer holds a permit or certification from the appropriate regulatory agency of that state;
- (11) use any contaminated or unclean equipment or container to process, manufacture, distribute, deliver, or sell a dairy product;
- (12) remove, change, conceal, erase, or obliterate any mark or tag placed upon any equipment, tank, or container by the department except to clean and sanitize it;

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(13) use any tank or container used for the transportation of milk or other dairy products that is unclean or contaminated;

(14) refuse to allow the department to take samples for testing; or

(15) prohibit adding vitamin compounds in the processing of milk and dairy products in accordance with rules of the department~~[; or]~~.

~~[(16) own, operate, organize, or otherwise participate in a cow-share program where the milk producing hoofed mammal is located in Utah.]~~

Section ~~{3}~~4. Section **4-3-13** is amended to read:

4-3-13. ~~{Milk or milk products consumed by owner of farm exempt}~~Exemption.

(1) This chapter ~~[is inapplicable]~~ does not apply to milk or milk products produced on the farm if such milk or milk products are ~~[consumed]~~ used by:

~~(1)~~(a) the owner of the farm ~~[or]~~;

~~(2)~~(b) a member of the ~~[members of such]~~ owner's immediate family~~[-];~~ ~~{ or }~~

~~(3)~~(c) a participant in a cow-share program~~{;}~~ or

(d) a member of a participant in a cow-share program's immediate family.

(2) The department may not adopt a rule that restricts, limits, or imposes additional requirements on an individual obtaining:

(a) raw milk in accordance with the terms of a cow-share program agreement; or

(b) an interest in a cow-share program in accordance with the terms of the cow-share program agreement.