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Raw Milk Amendments
2025 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Cheryl K. Acton

Senate Sponsor: Wayne A. Harper

2

3 **LONG TITLE**

4 **General Description:**

5 This bill addresses enforcement steps with regard to raw milk, including when raw milk is
6 suspected in a food borne illness outbreak.

7 **Highlighted Provisions:**

8 This bill:

- 9 ▶ defines terms;
- 10 ▶ directs the Department of Agriculture and Food (department) to make rules regarding raw
11 milk testing at third-party laboratories;
- 12 ▶ addresses epidemiological investigation;
- 13 ▶ addresses when and how testing occurs;
- 14 ▶ provides the standard for reissuing a suspended permit;
- 15 ▶ addresses the issuance of a cease and desist order;
- 16 ▶ provides the standard for removing a cease and desist order following a foodborne illness
17 outbreak;
- 18 ▶ addresses disclosure of persons subject to a cease and desist order;
- 19 ▶ requires the department to provide information to a producer under certain circumstances;
- 20 ▶ clarifies penalty provisions; and
- 21 ▶ makes technical and conforming changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **4-3-503**, as last amended by Laws of Utah 2023, Chapter 78

29

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

31 Section 1. Section **4-3-503** is amended to read:

32 **4-3-503 . Sale of raw milk products -- Suspension of producer's permit --**

33 **Severability not permitted.**

34 (1) As used in this section:

35 (a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

36 (b) "Foodborne illness outbreak" means the occurrence of two or more cases from
37 different households of a similar illness resulting from the ingestion of a common
38 food.

39 [~~(b)~~] (c) "Raw milk product" means any product produced from raw milk.

40 [~~(c)~~] (d) "Self-owned retail store" means a retail store:

41 (i) of which the producer owns at least 51% of the value of the real property and
42 tangible personal property used in the operations of the retail store; or

43 (ii) for which the producer has the power to vote at least 51% of any class of voting
44 shares or ownership interest in the business entity that operates the retail store.

45 (2) Except as provided in Subsection (5), a raw milk product may be manufactured,
46 distributed, sold, delivered, held, stored, or offered for sale if:

47 (a) the producer obtains a permit from the department to produce the raw milk product
48 under Subsection 4-3-301(6);

49 (b) the sale and delivery of the raw milk product is made upon the premises where the
50 raw milk product is produced, except as provided by Subsection (3);

51 (c) the raw milk product is sold to consumers for household use and not for resale;

52 (d) the raw milk product is bottled or packaged under sanitary conditions and in sanitary
53 containers on the premises where the raw milk product is produced;

54 (e) the raw milk product is labeled "raw milk product" and meets the labeling
55 requirements under 21 C.F.R. Parts 101 and 131 and rules established by the
56 department;

57 (f) the raw milk used to produce the raw milk product is:

58 (i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after
59 being drawn from the animal;

60 (ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the
61 animal; and

62 (iii) maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is
63 delivered to the consumer or used to produce the raw milk product;

64 (g) the bacterial count of the raw milk used to produce the raw milk product does not

- 65 exceed 20,000 colony forming units per milliliter **and, if the bacterial count of the**
 65a **raw milk used to produce the raw milk product exceeds 40,000 colony forming units**
 65b **per milliliter or the producer is implicated in a foodborne illness outbreak, the raw**
 65c **milk shall be tested and may not contain the following pathogens:**
- 65d (i) **STEC;**
 - 65e (ii) **e.coli 0157:H7;**
 - 65f (iii) **listeria;**
 - 65g (iv) **salmonella; and**
 - 65h (v) **campylobacter ;**
- 66 (h) the coliform count of the raw milk used to produce the raw milk product does not
 67 exceed 10 colony forming units per milliliter **and, if the coliform count of the raw**
 67a **milk used to produce the raw milk product exceeds 20 colony forming units per**
 67b **milliliter or the producer is implicated in a foodborne illness outbreak, the raw milk**
 67c **shall be tested and may not contain the following pathogens:**
- 67d (i) **STEC;**
 - 67e (ii) **e.coli 0157:H7;**
 - 67f (iii) **listeria;**
 - 67g (iv) **salmonella; and**
 - 67h (v) **campylobacter ;**
- 68 (i) the production of the raw milk product conforms to departmental rules for the
 69 production of grade A milk products;
- 70 (j) the dairy animals on the premises are:
- 71 (i) permanently and individually identifiable; and
 - 72 (ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and
- 73 (k) any ~~person~~ individual on the premises performing any work in connection with the
 74 production, bottling, packaging, handling, or sale of the raw milk product is free from
 75 communicable disease.
- 76 (3) A producer may distribute, sell, deliver, hold, store, or offer for sale a raw milk product
 77 at a self-owned retail store, that is properly staffed, or from a mobile unit where the raw
 78 milk product is maintained through mechanical refrigeration at 41 degrees Fahrenheit or
 79 a lower temperature, if, in addition to the requirements of Subsection (2), the producer:
- 80 (a) transports the raw milk product from the premises where the raw milk product is
 81 produced to the self-owned retail store in a refrigerated truck where the raw milk

- 82 product is maintained at 41 degrees Fahrenheit or a lower temperature;
- 83 (b) retains ownership of the raw milk product until it is sold to the final consumer,
84 including transporting the raw milk product from the premises where the raw milk
85 product is produced to the self-owned retail store without any:
- 86 (i) intervening storage;
- 87 (ii) change of ownership; or
- 88 (iii) loss of physical control;
- 89 (c) stores the raw milk product at 41 degrees Fahrenheit or a lower temperature in a
90 display case equipped with a properly calibrated thermometer at the self-owned retail
91 store;
- 92 (d) places a sign above each display case that contains a raw milk product at the
93 self-owned retail store that:
- 94 (i) is prominent;
- 95 (ii) is easily readable by a consumer;
- 96 (iii) reads in print that is no smaller than .5 inch in bold type, "This milk product is
97 raw and unpasteurized. Please keep refrigerated."; and
- 98 (iv) meets any other requirement established by the department by rule;
- 99 (e) labels the raw milk product with:
- 100 (i) a date, no more than nine days after the raw milk product is produced, by which
101 the raw milk product should be sold;
- 102 (ii) the statement "Raw milk products, no matter how carefully produced, may be
103 unsafe.";
- 104 (iii) handling instructions to preserve quality and avoid contamination or spoilage;
- 105 (iv) a specific colored label as determined by the department by rule; and
- 106 (v) any other information required by rule;
- 107 (f) refrains from offering the raw milk product for sale until:
- 108 (i) the department or a third party certified by the department tests each batch of raw
109 milk used to produce a raw milk product for standard plate count and coliform
110 count; and
- 111 (ii) the test results meet the minimum standards established for those tests;
- 112 (g)(i) maintains a database of the raw milk product sales; and
- 113 (ii) makes the database available to the Department of Health and Human Services
114 during the self-owned retail store's business hours for purposes of epidemiological
115 investigation;

- 116 (h) ensures that the plant and retail store complies with Chapter 5, Utah Wholesome
117 Food Act, and the rules governing food establishments enacted under Section 4-5-301;
118 and
- 119 (i) complies with the applicable rules adopted as authorized by this chapter.
- 120 (4) A producer may distribute, sell, deliver, hold, store, or offer for sale a raw milk product
121 and pasteurized milk at the same self-owned retail store if:
- 122 (a) the self-owned retail store is properly staffed; and
- 123 (b) the producer:
- 124 (i) meets the requirements of Subsections (2) and (3);
- 125 (ii) operates the self-owned retail store on the same property where the raw milk
126 product is produced; and
- 127 (iii) maintains separate, labeled, refrigerated display cases for raw milk products and
128 pasteurized milk.
- 129 (5) A producer may, without meeting the requirements of Subsection (2), sell up to 120
130 gallons of raw milk per month if:
- 131 (a) the sale is directly to an end consumer, for household use and not for resale;
- 132 (b) the sale and delivery of the raw milk is made upon the premises where the raw milk
133 is produced;
- 134 (c) the producer labels the raw milk with:
- 135 (i) the producer's name and address;
- 136 (ii) a date, no more than nine days after the raw milk is produced, by which the raw
137 milk should be sold;
- 138 (iii) the statement "This raw milk has not been licensed or inspected by the state of
139 Utah. Raw milk, no matter how carefully produced, may be unsafe."; and
- 140 (iv) handling instructions to preserve quality and avoid contamination or spoilage;
- 141 (d) the raw milk is:
- 142 (i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after
143 being drawn from the animal; and
- 144 (ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the
145 animal;
- 146 (e) the producer conducts a monthly test ensuring the coliform count of the raw milk
147 does not exceed 10 colony-forming units per milliliter;
- 148 (f) the dairy animals on the producer's premises are free of tuberculosis, brucellosis, and
149 other diseases carried through milk;

- 150 (g) the producer maintains records of tests and sales for a minimum of two years; and
- 151 (h) the producer notifies the department of the producer's intent to sell raw milk pursuant
- 152 to this Subsection (5) and includes in the notification the producer's name and address.
- 153 (6) A person who conducts a test required by Subsection (3) shall send a copy of the test
- 154 results to the department as soon as the test results are available.
- 155 (7)(a) The department shall ~~adopt~~ make rules, as authorized by Section 4-3-201 and in
- 156 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 157 governing the sale of raw milk products at a self-owned retail store.
- 158 (b) The rules adopted by the department shall include rules regarding:
- 159 (i) permits;
- 160 (ii) building and premises requirements;
- 161 (iii) sanitation and operating requirements, including bulk milk tanks requirements;
- 162 (iv) additional tests;
- 163 (v) use of a third-party testing laboratory within or outside of the state;
- 164 ~~(vi)~~ (vi) frequency of inspections, including random cooler checks;
- 165 ~~(vii)~~ (vii) recordkeeping; and
- 166 ~~(viii)~~ (viii) packaging and labeling.
- 167 (c) The department may make rules, in accordance with Title 63G, Chapter 3, Utah
- 168 Administrative Rulemaking Act, regarding the standards of identity for a raw milk
- 169 product.
- 170 (d)(i) The department shall establish and collect a fee for the tests and inspections
- 171 required by this section and by rule in accordance with Section 63J-1-504.
- 172 (ii) Notwithstanding Section 63J-1-504, the department shall retain the fees as
- 173 dedicated credits and may only use the fees to administer and enforce this section.
- 174 (8)(a) The department shall suspend a permit issued under Section 4-3-301 if:
- 175 (i) two out of four consecutive samples or two samples in a 30-day period violate
- 176 sample limits established under this section; or
- 177 (ii) a producer violates this section or a rule adopted as authorized by this section.
- 178 (b) The department may reissue a permit that has been suspended under Subsection (8)(a)
- 179 if the producer has:
- 180 (i) obtained a sample result that meets the standards described in Subsections (2)(g)
- 181 and (h); and
- 182 (ii) complied with all of the requirements of this section and rules ~~adopted~~ made as
- 183 authorized by this section.

184 (c) Upon written request by a producer with a suspended permit, the department shall
185 provide the producer information on how to request a hearing regarding the
186 department's decision to suspend the permit.

187 (9)(a) If any subsection of this section or the application of any subsection to any person
188 or circumstance is held invalid by a final decision of a court of competent
189 jurisdiction, the remainder of the section may not be given effect without the invalid
190 subsection or application.

191 (b) The provisions of this section may not be severed.

192 (10)(a) Nothing in this chapter shall [be construed to]impede the Department of Health
193 and Human Services or the [Department of Agriculture and Food] department in an
194 investigation of a foodborne illness outbreak.

195 (b) Notwithstanding Subsection (10)(a), if the Department of Health and Human
196 Services or the department uses a survey to determine whether there is a foodborne
197 illness outbreak linked to a raw milk product, the survey shall include questions that
198 probe the common sources of the implicated pathogen for the foodborne illness
199 outbreak.

200 (11)(a) [The] If after the investigation of a foodborne illness outbreak the department
201 links the foodborne illness outbreak to a producer, the department shall issue a cease
202 and desist order to [a] the producer linked to [a] the foodborne illness [and shall stop
203 sale of a raw milk product currently being sold.] outbreak prohibiting the sale of the
204 raw milk product pending testing required by Subsection (11)(h)(i).

205 (b) For purposes of the cease and desist order, to positively link a producer to a
206 foodborne illness outbreak, the department shall produce evidence from the
207 investigation under Subsection (10) that the foodborne illness outbreak originated
208 with the producer's raw milk product.

209 (c) A producer who receives a cease and desist order from the department shall:
210 (i) stop the sale of the raw milk product named in the cease and desist order; and
211 (ii) notify persons who purchased raw milk products from the implicated
212 contaminated batch of the cease and desist order.

213 (d) The department shall collect a sample within two working days of issuing a cease
214 and desist order for the purpose of submitting the sample to a laboratory for:

215 (i) testing for pathogens; and

216 (ii) if the department wants to publicly disclose a producer's name or identifying
217 information under Subsection (11)(g), whole genome sequencing testing.

218 (e) The time between the department collecting the sample under Subsection (11)(d) and
 219 the department notifying the producer of whole genome sequencing test results may
 220 not exceed 15 working days unless before the 15-working day period expires the
 221 department notifies the producer in writing that the department requires additional
 222 time to notify the producer of the whole genome sequencing test results.

223 (f)(i) Upon the producer's request and the producer being liable for the costs of the
 224 second laboratory, the department shall have the sample collected under
 225 Subsection (11)(d) analyzed by two laboratories.

226 (ii) The producer shall select the second laboratory from a list of laboratories
 227 approved by the department.

228 (g) Before publicly disclosing a producer's name or identifying information, the
 229 department shall notify the producer that the department has linked the producer to a
 230 foodborne illness outbreak with a positive whole genome sequencing test.

231 [~~(12) The~~]

232 (h)(i) A cease and desist order shall remain in effect until the department:

233 (A) [~~-~~]verifies that the producer who is subject to the cease and desist order[~~;~~]

234 [~~(a)~~] adheres to this section[~~;~~] and

235 [~~(b)~~] has three consecutive [~~clean~~]tests of the raw milk product[~~;~~] that show that
 236 the raw milk product meets the standards described in Subsections (2)(g) and

237 (h) ~~H~~→ **and is free of the pathogens listed in Subsections (2)(g) and (h)** ←~~H~~ ; or

238 (B) receives a genome sequencing test result that demonstrates that the producer's
 239 raw milk product is not linked to the foodborne illness outbreak that is the
 240 subject of the cease and desist order.

241 (ii) The department shall notify a producer who is subject to a cease and desist order
 242 that the cease and desist order is not in effect within one working day of the
 243 conditions of Subsection (11)(h)(i) being met.

244 (iii) For purposes of a test described in Subsection (11)(h)(i)(A), the department shall
 245 collect a sample for each test within two working days of the producer requesting
 246 that a sample be collected.

247 [~~(13) In addition to Subsections (11) and (12), if a producer's raw milk product has been~~
 248 ~~linked to a foodborne illness outbreak,]~~

249 (12)(a) If the Department of Health and Human Services or the department links a
 250 producer's raw milk product to a foodborne illness outbreak and the department finds
 251 that the producer has violated [~~the applicable provisions of~~]this section, the

252 department may impose upon the producer the following administrative penalties:

253 ~~[(a)]~~ (i) upon the first violation, a penalty of no more than \$300;

254 ~~[(b)]~~ (ii) upon a second violation, a penalty of no more than \$750; and

255 ~~[(c)]~~ (iii) upon a third or subsequent violation a penalty of no more than \$1,500.

256 (b) The department may impose the penalties described in Subsection (12)(a) in addition

257 to:

258 (i) issuing a cease and desist order under Subsection (11); or

259 (ii) suspending a permit under Subsection (8).

260 Section 2. **Effective date.**

261 This bill takes effect on May 7, 2025.