

Raw Milk Amendments
2025 GENERAL SESSION
STATE OF UTAH

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

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

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

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

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

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

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

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

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

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

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

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

(c) A producer who receives a cease and desist order from the department shall:

(i) stop the sale of the raw milk product named in the cease and desist order; and

(ii) notify persons who purchased raw milk products from the implicated contaminated batch of the cease and desist order.

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

(i) testing for pathogens; and

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

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

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

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

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

~~[(12) The]~~

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

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

[(a)] adheres to this section[+]; and

[(b)] has three consecutive [clean-]tests of the raw milk product[-] that show that

the raw milk product meets the standards described in Subsections (2)(g) and

(h) and is free of the pathogens listed in Subsections (2)(g) and (h); or

(B) receives a genome sequencing test result that demonstrates that the producer's

raw milk product is not linked to the foodborne illness outbreak that is the

subject of the cease and desist order.

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

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

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

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

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

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

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

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

270 (b) The department may impose the penalties described in Subsection (12)(a) in addition
271 to:

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

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

274 Section 2. **Effective date.**

275 This bill takes effect on May 7, 2025.