

COW-SHARE PROGRAM AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Mark B. Madsen

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 hoofed 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;
- ▶ 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

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **4-3-1**, as last amended by Laws of Utah 2007, Chapters 165 and 179

33 **4-3-10**, as last amended by Laws of Utah 2007, Chapters 165 and 179

34 **4-3-13**, as enacted by Laws of Utah 1979, Chapter 2

35 ENACTS:

36 **4-3-1.3**, Utah Code Annotated 1953



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

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

40 **4-3-1. Definitions.**

41 As used in this chapter:

42 (1) "Adulterated" means any dairy product that:

43 (a) contains any poisonous or deleterious substance that may render it injurious to
44 health;

45 (b) has been produced, prepared, packaged, or held:

46 (i) under unsanitary conditions;

47 (ii) where it may have become contaminated; or

48 (iii) where it may have become diseased or injurious to health;

49 (c) contains any food additive that is unsafe within the meaning of 21 U.S.C. Sec. 348;

50 (d) contains:

51 (i) any filthy, putrid, or decomposed substance;

52 (ii) fresh fluid milk with a lactic acid level at or above .0018; or

53 (iii) cream with a lactic acid level at or above .008 or that is otherwise unfit for human
54 food;

55 (e) is the product of:

56 (i) a diseased animal;

57 (ii) an animal that died otherwise than by slaughter; or

- 58 (iii) an animal fed upon uncooked offal;
- 59 (f) has intentionally been subjected to radiation, unless the use of the radiation is in
60 conformity with a rule or exemption promulgated by the department; or
- 61 (g) (i) has any valuable constituent omitted or abstracted;
- 62 (ii) has any substance substituted in whole or in part;
- 63 (iii) has damage or inferiority concealed in any manner; or
- 64 (iv) has any substance added, mixed, or packed with the product to:
- 65 (A) increase its bulk or weight;
- 66 (B) reduce its quality or strength; or
- 67 (C) make it appear better or of greater value.
- 68 (2) "Cow-share program" means a program in which a person acquires an undivided
69 interest in a milk producing hoofed mammal through an agreement with a producer that
70 includes:
- 71 (a) a bill of sale for an interest in the mammal;
- 72 (b) a boarding arrangement under which the person boards the mammal with the
73 producer for the care and milking of the mammal and the boarding arrangement and bill of sale
74 documents remain with the program operator; [and]
- 75 (c) an arrangement under which the person receives raw milk for personal
76 [consumption.] use not to be sold or distributed in a retail environment or for profit; and
- 77 (d) no more than two cows, 10 goats, and 10 sheep per farm in the program.
- 78 (3) "Dairy product" means any product derived from raw or pasteurized milk.
- 79 (4) "Distributor" means any person who distributes a dairy product.
- 80 (5) (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed,
81 evaporated, concentrated, powdered, dried, or desiccated, that has fat or oil other than milk fat
82 added, blended, or compounded with it so that the resultant product is an imitation or
83 semblance of milk, cream, or skimmed milk.
- 84 (b) "Filled milk" does not include any distinctive proprietary food compound:
- 85 (i) that is prepared and designated for feeding infants and young children, which is

86 customarily used upon the order of a licensed physician;

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

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

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

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

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

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

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

101 (11) "Misbranded" means:

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

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

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

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

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

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

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

116 (e) renovated butter unless the words "renovated butter," in letters not less than
117 1/2-inch in height appear on each package, roll, square, or container of such butter; or

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

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

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

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

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

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

128 (17) "Raw milk" means unpasteurized milk.

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

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

134 Section 2. Section **4-3-1.3** is enacted to read:

135 **4-3-1.3. Cow share program notification.**

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

138 (a) the producer's name; and

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

141 (2) Upon receipt, the department shall keep a notification of a cow-share program

142 described in Subsection (1) on file.

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

144 **4-3-10. Unlawful acts specified.**

145 It is unlawful for any person in this state to:

146 (1) operate a plant without a license issued by the department;

147 (2) market milk without a permit or certificate issued by the department;

148 (3) manufacture butter or cheese, pasteurize milk, test milk for payment, or haul milk
149 in bulk without a special license to perform the particular activity designated in this Subsection
150 (3); unless if more than one person working in a plant is engaged in the performance of a single
151 activity designated in this Subsection (3), the person who directs the activity is licensed;

152 (4) manufacture, distribute, sell, deliver, hold, store, or offer for sale any adulterated or
153 misbranded dairy product;

154 (5) manufacture, distribute, sell, deliver, hold, store, or offer for sale any dairy product
155 without a license, permit, or certificate required by this chapter;

156 (6) sell or offer for sale any milk not intended for human consumption unless it is
157 denatured or decharacterized in accordance with the rules of the department;

158 (7) manufacture, distribute, sell, or offer for sale any filled milk labeled as milk or as a
159 dairy product;

160 (8) keep any animals with brucellosis, tuberculosis, or other infectious or contagious
161 diseases communicable to humans in any place where they may come in contact with cows or
162 other milking animals;

163 (9) draw milk for human food from cows or other milking animals that are infected
164 with tuberculosis, running sores, communicable diseases, or from animals that are fed feed that
165 will produce milk that is adulterated;

166 (10) accept or process milk from any producer without verification that the producer
167 holds a valid permit or certification or, if milk is accepted from out of the state, without
168 verification that the producer holds a permit or certification from the appropriate regulatory
169 agency of that state;

170 (11) use any contaminated or unclean equipment or container to process, manufacture,
171 distribute, deliver, or sell a dairy product;

172 (12) remove, change, conceal, erase, or obliterate any mark or tag placed upon any
173 equipment, tank, or container by the department except to clean and sanitize it;

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

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

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

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

181 Section 4. Section **4-3-13** is amended to read:

182 **4-3-13. Exemption.**

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

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

186 (b) a member of the [~~members of such~~] owner's immediate family[~~;~~];

187 (c) a participant in a cow-share program; or

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

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

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

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