

MILK SALES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jacob L. Anderegg

Senate Sponsor: Margaret Dayton

LONG TITLE

General Description:

This bill modifies provisions governing the sale of raw milk.

Highlighted Provisions:

This bill:

- ▶ allows a producer who sells raw milk at a self-owned retail store to also offer pasteurized milk for sale at the same location; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-3-14, as last amended by Laws of Utah 2013, Chapters 167 and 461

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

Section 1. Section **4-3-14** is amended to read:

4-3-14. Sale of raw milk -- Suspension of producer's permit -- Severability not permitted.

(1) As used in this section:

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

(b) "Self-owned retail store" means a retail store:

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

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

34 (2) Raw milk may be manufactured, distributed, sold, delivered, held, stored, or offered
35 for sale if:

36 (a) the producer obtains a permit from the department to produce milk under
37 Subsection 4-3-8(5);

38 (b) the sale and delivery of the milk is made upon the premises where the milk is
39 produced, except as provided by Subsection (3);

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

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

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

45 (f) the raw milk is:

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

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

50 (iii) maintained at 41 degrees Fahrenheit or a lower temperature until the raw milk is
51 delivered to the consumer;

52 (g) the bacterial count of the raw milk does not exceed 20,000 colony forming units per
53 milliliter;

54 (h) the coliform count of the raw milk does not exceed 10 colony forming units per
55 milliliter;

56 (i) the production of the raw milk conforms to departmental rules for the production of
57 grade A milk;

58 (j) all dairy animals on the premises are:
59 (i) permanently and individually identifiable; and
60 (ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and
61 (k) any person on the premises performing any work in connection with the production,
62 bottling, handling, or sale of the raw milk is free from communicable disease.

63 (3) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk at a
64 self-owned retail store, which is properly staffed, if, in addition to the requirements of
65 Subsection (2), the producer:

66 (a) transports the raw milk from the premises where the raw milk is produced to the
67 self-owned retail store in a refrigerated truck where the raw milk is maintained at 41 degrees
68 Fahrenheit or a lower temperature;

69 (b) retains ownership of the raw milk until it is sold to the final consumer, including
70 transporting the raw milk from the premises where the raw milk is produced to the self-owned
71 retail store without any:

72 (i) intervening storage;
73 (ii) change of ownership; or
74 (iii) loss of physical control;

75 (c) stores the raw milk at 41 degrees Fahrenheit or a lower temperature in a display
76 case equipped with a properly calibrated thermometer at the self-owned retail store;

77 (d) places a sign above ~~[the]~~ each display case that contains raw milk at the self-owned
78 retail store that ~~[reads, "Raw Unpasteurized Milk";]~~:

79 (i) is prominent;
80 (ii) is easily readable by a consumer;
81 (iii) reads in print that is no smaller than .5 inches in bold type, "This milk is raw and
82 unpasteurized. Please keep refrigerated"; and

83 (iv) meets any other requirement established by the department by rule;

84 (e) labels the raw milk with:

85 (i) a date, no more than nine days after the raw milk is produced, by which the raw

86 milk should be sold;

87 (ii) the statement "Raw milk, no matter how carefully produced, may be unsafe.";

88 (iii) handling instructions to preserve quality and avoid contamination or spoilage;

89 [~~and~~]

90 (iv) by January 1, 2017, a specific colored label as determined by the department by
91 rule; and

92 [~~(iv)~~] (v) any other information required by rule;

93 (f) refrains from offering the raw milk for sale until:

94 (i) the department or a third party certified by the department tests each batch of raw
95 milk for standard plate count and coliform count; and

96 (ii) the test results meet the minimum standards established for those tests;

97 (g) (i) maintains a database of the raw milk sales; and

98 (ii) makes the database available to the Department of Health during the self-owned
99 retail store's business hours for purposes of epidemiological investigation;

100 [~~(h) refrains from offering any pasteurized milk at the self-owned retail store;]~~

101 [(i)] (h) ensures that the plant and retail store complies with Title 4, Chapter 5, Utah
102 Wholesome Food Act, and the rules governing food establishments enacted under Section
103 4-5-9; and

104 [(j)] (i) complies with all applicable rules adopted as authorized by this chapter.

105 (4) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk and
106 pasteurized milk at the same self-owned retail store if:

107 (a) the self-owned retail store is properly staffed; and

108 (b) the producer:

109 (i) meets the requirements of Subsections (2) and (3);

110 (ii) operates the self-owned retail store on the same property where the raw milk is
111 produced; and

112 (iii) maintains separate, labeled, refrigerated display cases for raw milk and pasteurized
113 milk.

114 ~~[(4)]~~ (5) A person who conducts a test required by Subsection (3) shall send a copy of
115 the test results to the department as soon as the test results are available.

116 ~~[(5)]~~ (6) (a) The department shall adopt rules, as authorized by Section [4-3-2](#),
117 governing the sale of raw milk at a self-owned retail store.

118 (b) The rules adopted by the department shall include rules regarding:

119 (i) permits;

120 (ii) building and premises requirements;

121 (iii) sanitation and operating requirements, including bulk milk tanks requirements;

122 (iv) additional tests;

123 (v) frequency of inspections, including random cooler checks;

124 (vi) recordkeeping; and

125 (vii) packaging and labeling.

126 (c) (i) The department shall establish and collect a fee for the tests and inspections
127 required by this section and by rule in accordance with Section [63J-1-504](#).

128 (ii) Notwithstanding Section [63J-1-504](#), the department shall retain the fees as
129 dedicated credits and may only use the fees to administer and enforce this section.

130 ~~[(6)]~~ (7) (a) The department shall suspend a permit issued under Section [4-3-8](#) if:

131 (i) two out of four consecutive samples or two samples in a 30-day period violate
132 sample limits established under this section; or

133 (ii) a producer violates a provision of this section or a rule adopted as authorized by
134 this section.

135 (b) The department may reissue a permit that has been suspended under Subsection
136 ~~[(6)]~~ (7)(a) if the producer has complied with all of the requirements of this section and rules
137 adopted as authorized by this section.

138 ~~[(7)]~~ (8) For 2014 and 2015, the Department of Health and the Department of
139 Agriculture and Food shall report on or before November 30th to the Natural Resources,
140 Agriculture, and Environment Interim Committee on any health problems resulting from the
141 sale of raw whole milk at self-owned retail stores.

142 [~~8~~] 9 (a) If any subsection of this section or the application of any subsection to any
143 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,
144 the remainder of the section may not be given effect without the invalid subsection or
145 application.

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