

**MILK SALES AMENDMENTS**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jacob L. Anderegg**

Senate Sponsor: Margaret Dayton

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**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

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*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.