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RAW MILK AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: David P. Hinkins

House Sponsor: Eric K. Hutchings

LONG TITLE

General Description:

This bill modifies provisions relating to the sale of raw milk.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ allows the sale of raw milk at a farmer's market under certain conditions;
- ▶ allows the sale of raw milk from a mobile refrigerated truck under certain conditions;
- ▶ allows the sale of a limited amount of raw milk to be exempt from certain regulations; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-3-503, as renumbered and amended by Laws of Utah 2017, Chapter 345

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



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

29 **4-3-503. Sale of raw milk -- Suspension of producer's permit -- Severability not**
30 **permitted.**

31 (1) As used in this section:

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

33 (b) "Farmer's market" means a market where producers of food products sell only
34 fresh, raw, whole, unprocessed, and unprepared food items directly to the final consumer.

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

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

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

40 (2) ~~[Raw]~~ Except as provided in Subsection (5), raw milk may be manufactured,
41 distributed, sold, delivered, held, stored, or offered for sale if:

42 (a) the producer obtains a permit from the department to produce milk under
43 Subsection [4-3-301\(5\)](#);

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

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

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

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

51 (f) the raw milk is:

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

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

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

58 (g) the bacterial count of the raw milk does not exceed 20,000 colony forming units per

59 milliliter;

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

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

64 (j) all dairy animals on the premises are:

65 (i) permanently and individually identifiable; and

66 (ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

67 (k) any person on the premises performing any work in connection with the production,
68 bottling, handling, or sale of the raw milk is free from communicable disease.

69 (3) A producer may distribute, sell, deliver, hold, store, or offer for sale raw milk at a
70 self-owned retail store, which is properly staffed, from a mobile refrigerated truck where the
71 raw milk is maintained at 41 degrees Fahrenheit or a lower temperature, or at a farmer's market,
72 if, in addition to the requirements of Subsection (2), the producer:

73 (a) transports the raw milk from the premises where the raw milk is produced to the
74 self-owned retail store or farmer's market in a refrigerated truck where the raw milk is
75 maintained at 41 degrees Fahrenheit or a lower temperature;

76 (b) retains ownership of the raw milk until it is sold to the final consumer, including
77 transporting the raw milk from the premises where the raw milk is produced to the self-owned
78 retail store or farmer's market without any:

79 (i) intervening storage;

80 (ii) change of ownership; or

81 (iii) loss of physical control;

82 (c) stores the raw milk at 41 degrees Fahrenheit or a lower temperature in a display
83 case equipped with a properly calibrated thermometer at the self-owned retail store or farmer's
84 market;

85 (d) places a sign above each display case that contains raw milk at the self-owned retail
86 store or farmer's market that:

87 (i) is prominent;

88 (ii) is easily readable by a consumer;

89 (iii) reads in print that is no smaller than .5 inches in bold type, "This milk is raw and

90 unpasteurized. Please keep refrigerated"; and

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

92 (e) labels the raw milk with:

93 (i) a date, no more than nine days after the raw milk is produced, by which the raw
94 milk should be sold;

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

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

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

99 (v) any other information required by rule;

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

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

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

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

105 (ii) makes the database available to the Department of Health during the self-owned
106 retail store's or farmer's market's business hours for purposes of epidemiological investigation;

107 (h) ensures that the plant and retail store complies with Chapter 5, Utah Wholesome
108 Food Act, and the rules governing food establishments enacted under Section [~~4-5-401~~
109 4-5-301]; and

110 (i) complies with all applicable rules adopted as authorized by this chapter.

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

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

114 (b) the producer:

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

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

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

120 (5) A producer may, without meeting the requirements of Subsection (2), sell up to 120

121 gallons of raw milk per month directly to a consumer if:

122 (a) the sale is for household use and not for resale;

123 (b) the sale and delivery of the milk is made upon the premises where the milk is
124 produced; and

125 (c) the producer labels the raw milk with:

126 (i) a date, no more than nine days after the raw milk is produced, by which the raw
127 milk should be sold;

128 (ii) the statement "This raw milk has not been licensed or inspected by the state of
129 Utah. Raw milk, no matter how carefully produced, may be unsafe."; and

130 (iii) handling instructions to preserve quality and avoid contamination or spoilage.

131 ~~[(5)]~~ (6) A person who conducts a test required by Subsection (3) shall send a copy of
132 the test results to the department as soon as the test results are available.

133 ~~[(6)]~~ (7) (a) The department shall adopt rules, as authorized by Section 4-3-201,
134 governing the sale of raw milk at a self-owned retail store or farmer's market.

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

136 (i) permits;

137 (ii) building and premises requirements;

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

139 (iv) additional tests;

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

141 (vi) recordkeeping; and

142 (vii) packaging and labeling.

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

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

147 ~~[(7)]~~ (8) (a) The department shall suspend a permit issued under Section 4-3-301 if:

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

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

152 (b) The department may reissue a permit that has been suspended under Subsection
153 [~~(7)~~] (8)(a) if the producer has complied with all of the requirements of this section and rules
154 adopted as authorized by this section.

155 [~~(8)~~] (9) (a) If any subsection of this section or the application of any subsection to any
156 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,
157 the remainder of the section may not be given effect without the invalid subsection or
158 application.

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

Legislative Review Note
Office of Legislative Research and General Counsel