

**Senate File 315 - Enrolled**

Senate File 315

AN ACT

RELATING TO RAW MILK, BY PROVIDING FOR THE PRODUCTION OF RAW MILK AT CERTAIN DAIRIES, THE MANUFACTURE OF PRODUCTS USING RAW MILK, AND THE LABELING AND DISTRIBUTION OF RAW MILK AND MANUFACTURED PRODUCTS, AND MAKING PENALTIES APPLICABLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. **135.16B Raw milk — associated products.**

The department of health and human services may demand that a raw milk producer provide the department with all records required to be retained by the raw milk producer as provided in section 195.6, including any of the following:

1. The coliform count and standard plate count of dairy animals maintained at a raw milk dairy owned or operated by the raw milk producer.

2. The administration of antibiotic drugs to dairy animals maintained at a raw milk dairy owned or operated by the raw milk producer.

Sec. 2. Section 137.104, subsection 2, Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. *e.* Demand that a raw milk producer provide the board with all records required to be retained by the raw milk producer as provided in section 195.6, including any of the following:

(1) The coliform count and standard plate count of dairy animals maintained at a raw milk dairy owned or operated by the

raw milk producer.

(2) The administration of antibiotic drugs to dairy animals maintained at a raw milk dairy owned or operated by the raw milk producer.

Sec. 3. NEW SECTION. 137D.2A Raw milk — associated products.

A home food processing establishment shall not advertise for sale, offer for sale, sell or otherwise distribute, or use raw milk, or a manufactured raw milk product or raw milk dairy product, as provided in chapter 195.

Sec. 4. Section 137F.1, subsection 9, Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* (1) The premises of a raw milk dairy where raw milk is produced, processed, labeled, marketed, or distributed by a raw milk producer in compliance with chapter 195.

(2) The premises of a raw milk dairy where a raw milk product or a raw milk dairy product is manufactured, labeled, marketed, or distributed by a raw milk producer in compliance with chapter 195.

Sec. 5. Section 137F.1, subsection 10, Code 2023, is amended by adding the following new paragraph:

NEW PARAGRAPH. *d.* (1) The premises of a raw milk dairy where raw milk is produced, processed, labeled, marketed, or distributed by a raw milk producer in compliance with chapter 195.

(2) A premises of a raw milk dairy where a raw milk product or raw milk dairy product is manufactured, labeled, marketed, or distributed by a raw milk producer in compliance with chapter 195.

Sec. 6. NEW SECTION. 137F.8B Raw milk — associated products.

A food establishment or farmers market shall not advertise for sale, offer for sale, sell or otherwise distribute, or use raw milk, or a manufactured raw milk product or a raw milk dairy product, regardless of whether the food establishment or farmers market is regulated by the department under this chapter or another chapter, another state agency, or a municipality.

Sec. 7. Section 159.6, subsection 6, Code 2023, is amended to read as follows:

6. Regulation and inspection of foods, drugs, and other articles, as provided in ~~Title V, subtitle 4, but.~~ However, chapter 205 of that subtitle shall be enforced as provided in that chapter. Except as expressly authorized in subtitle 4, the department shall not regulate any of the following:

a. The production, processing, labeling, marketing, or distribution of raw milk by a raw milk producer in compliance with chapter 195.

b. The manufacture, labeling, marketing, or distribution of a raw milk product or raw milk dairy product by a raw milk producer in compliance with chapter 195.

Sec. 8. Section 190.2, Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 3. This section does not apply to any of the following:

a. The production, processing, labeling, marketing, or distribution of raw milk by a raw milk producer in compliance with chapter 195.

b. The manufacture, labeling, marketing, or distribution of a raw milk product or raw milk dairy product by a raw milk producer in compliance with chapter 195.

Sec. 9. Section 191.2, subsection 5, unnumbered paragraph 1, Code 2023, is amended to read as follows:

~~All bottles, containers, and packages~~ Bottles, containers, and packages. Except as provided in subsection 5A, a container or package enclosing milk or a milk ~~products~~ product shall be conspicuously labeled or marked with all of the following:

Sec. 10. Section 191.2, Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. *Raw milk and associated products.* A container holding raw milk, or a manufactured raw milk product or a raw milk dairy product, distributed by a raw milk producer shall be labeled as required in section 195.9.

Sec. 11. Section 192.103, subsections 1 and 2, Code 2023, are amended to read as follows:

1. Only grade "A" pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda

fountains, grocery stores, or similar establishments. ~~However,~~  
~~in~~ except as follows:

a. In an emergency, the sale of pasteurized milk and milk products ~~which~~ that have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case, such products shall be labeled "ungraded".

b. A raw milk producer may distribute raw milk, or a manufactured raw milk product or raw milk dairy product, in compliance with chapter 195.

2. ~~No~~ A person shall not within the state produce, provide, sell, offer, or expose for sale, or have in possession with intent to sell, any milk or milk product which is adulterated or misbranded. However, in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case such products shall be labeled "ungraded".

Sec. 12. NEW SECTION. 194.22 Raw milk dairies — exception.

This chapter does not apply to any of the following:

1. The production, processing, marketing, and distribution of raw milk, if the raw milk is produced by a raw milk producer at a raw milk dairy as provided in chapter 195.

2. The manufacture, marketing, and distribution of a raw milk product or raw milk dairy product, if the raw milk product or raw milk dairy product is manufactured by a raw milk producer at a raw milk dairy as provided in chapter 195.

Sec. 13. NEW SECTION. 195.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "Dairy animal" means a cow, goat, or sheep that is actively producing milk.

2. "Department" means the department of agriculture and land stewardship.

3. "Distribute" means to transfer an item or offer to transfer an item to another person, either free of charge or by sale or exchange.

4. "Milk" means the lacteal secretion of a dairy animal.

5. "Raw milk" means milk that is not pasteurized or graded as otherwise required in chapters 190, 192, and 194.

6. "*Raw milk dairy*" means an operation, owned or operated by a raw milk producer, where not more than ten dairy animals are maintained to actively produce milk at any one time.

7. "*Raw milk dairy product*" means a product, other than a milk product, manufactured using milk or a milk product as the primary ingredient, and that includes any quantity of raw milk.

8. "*Raw milk producer*" means a milk producer who owns or operates a raw milk dairy, if the milk producer makes the election provided in section 195.5.

9. "*Raw milk product*" means a product manufactured using milk as its exclusive ingredient as described in 21 C.F.R. §1240.3 and that includes any quantity of raw milk.

10. "*Recognized bacteria count limit*" means the results of a test measuring the presence of bacteria in raw milk at a level that does not exceed the following:

a. For a bacteria coliform count, ten colony forming units per milliliter (10 cfu/mL).

b. For a standard plate count, twenty-five thousand colony forming units per milliliter (25,000 cfu/mL).

Sec. 14. NEW SECTION. 195.2 **Construing this chapter with other applicable chapters.**

1. This chapter shall be construed to supplement applicable provisions in chapters 190, 191, 192, and 194. If there is a conflict between a provision in this chapter and one of those other chapters, the provision in this chapter shall prevail but only to the extent of interpreting the provision in this chapter.

2. This chapter does not apply to the powers and duties of the department to control an infectious or contagious disease that may affect dairy animals within the state as provided in another chapter, including a rule adopted pursuant to that other chapter. The control of an infectious or contagious disease includes the prevention, suppression, or eradication of an infectious or contagious disease among a population of dairy animals as provided in that other chapter. However, the department shall not administer or enforce a provision of the other chapter if it results in treating a raw milk producer differently than producers of milk pasteurized or graded as otherwise required in chapter 190, 192, or 194.

Sec. 15. NEW SECTION. 195.3 Exclusions.

This chapter does not apply to a bulk milk tanker, milk grader, milk hauler, milk plant, milk processing plant, dairy plant, transfer station, or receiving station.

Sec. 16. NEW SECTION. 195.4 Rulemaking prohibited.

The department shall not adopt rules to administer or enforce this chapter.

Sec. 17. NEW SECTION. 195.5 General — election by raw milk producer.

A raw milk producer may elect to produce, process, market, or distribute raw milk at the raw milk producer's raw milk dairy in compliance with this chapter. A raw milk producer may also elect to use the raw milk to manufacture, market, or distribute a raw milk product or raw milk dairy product at the raw milk producer's raw milk dairy in compliance with this chapter.

Sec. 18. NEW SECTION. 195.6 Production of raw milk.

If a raw milk producer makes an election described in section 195.5 to produce raw milk, all of the following apply:

1. The raw milk must be produced exclusively from dairy animals maintained at the raw milk dairy.
2. The raw milk must be produced at the raw milk dairy in a manner that ensures the health and safety of persons consuming the raw milk.
3. Each twelve-month period, a licensed veterinarian must examine each dairy animal maintained at the raw milk producer's raw milk dairy to determine the dairy animal's health status. The examination must at least include a blood test for common diseases afflicting the type of dairy animal being examined.
4. *a.* The raw milk producer shall, every month, test each dairy animal maintained at the raw milk producer's raw milk dairy to determine the dairy animal's coliform count and standard plate count.
  - b.* The raw milk producer shall not do any of the following:
    - (1) Process, market, or distribute raw milk, if the raw milk exceeds the recognized bacteria count limit.
    - (2) Manufacture, market, or distribute a raw milk product or raw milk dairy product, if raw milk used as an ingredient exceeds the recognized bacteria count limit.
  - c.* The raw milk producer shall retain a record of each test

conducted at the raw milk dairy for at least three years.

5. *a.* If a dairy animal maintained at a raw milk dairy is administered with an antibiotic drug, the raw milk producer shall comply with the following health protocols:

(1) The antibiotic drug must be all of the following:

(a) Approved by the United States food and drug administration for its intended use.

(b) Stored in a closed, labeled container as provided by the manufacturer of the antibiotic drug before being administered.

(c) Stored and administered as directed by the manufacturer of the antibiotic drug.

(2) For a dairy animal subject to a health protocol as provided in subparagraph (1), any raw milk produced from the dairy animal before the expiration of the production waiting period as directed by the manufacturer shall not be used to do any of the following:

(a) Process, market, or distribute the raw milk.

(b) Manufacture, market, or distribute a raw milk product or raw milk dairy product that uses the raw milk as an ingredient.

*b.* The manufacturer of an antibiotic drug administered to a dairy animal under this subsection may provide directions on the label of the container storing the antibiotic drug or other source of information regarding the use of the antibiotic controlled by the manufacturer.

*c.* The raw milk producer shall retain records identifying the type and dosage of each antibiotic drug administered to a dairy animal maintained at the raw milk dairy, each dairy animal administered the antibiotic drug, and date and place where the antibiotic drug was administered. The raw milk producer shall retain the records for at least three years.

Sec. 19. NEW SECTION. 195.7 Processing and manufacturing of raw milk.

1. Raw milk produced at a raw milk dairy must be processed and manufactured at the raw milk dairy in a manner that ensures the health and safety of persons consuming the processed raw milk, raw milk product, or raw milk dairy product.

2. The raw milk must not be pasteurized or graded.

3. The raw milk must be distributed not later than seven calendar days after it was produced by a dairy animal.

4. The raw milk, raw milk product, or raw milk dairy product, or any other item using raw milk as an ingredient, shall be kept for storage prior to distribution at not more than 45 degrees Fahrenheit.

Sec. 20. NEW SECTION. 195.8 Distribution of raw milk or associated products.

1. A raw milk producer shall only take an order for the distribution of raw milk at the raw milk producer's raw milk dairy where the raw milk is produced. The raw milk producer shall only distribute the raw milk to an individual placing the order.

a. (1) The raw milk producer shall post the summary of the test to determine the coliform count and standard plate count of the dairy animals retained at the raw milk dairy as provided in section 195.6. The summary shall be posted at the raw milk dairy's distribution point for the raw milk.

(2) (a) The individual being distributed the raw milk may examine records required to be retained by the raw milk producer as provided in section 195.6, including any of the following:

(i) The coliform count and standard plate count of dairy animals maintained at a raw milk dairy owned or operated by the raw milk producer.

(ii) The administration of antibiotic drugs to dairy animals maintained at a raw milk dairy owned or operated by the raw milk producer.

(b) The individual being distributed the raw milk may examine the records for the three-year period that the records are required to be retained by the raw milk producer under section 195.6.

b. If the raw milk producer distributes raw milk in a container, the container shall be labeled as provided in section 195.9.

c. The raw milk producer shall distribute the raw milk directly to the individual at the raw milk dairy or to a location specified by the individual. However, a person shall not deliver the raw milk to a place of business where food or food items are distributed on a retail basis, including but not limited to a home food processing establishment regulated



under chapter 137D or a food establishment or farmers market regulated under chapter 137F. The raw milk shall only be used for consumption by the individual, members of the individual's household, and the individual's nonpaying guests or nonpaying employees.

*d.* A person shall not resell raw milk.

2. A raw milk producer shall only take an order for the distribution of a raw milk product or raw milk dairy product at the raw milk producer's raw milk dairy where the raw milk product or raw milk dairy product is manufactured. The raw milk producer shall only distribute the raw milk product or raw milk dairy product to an individual placing the order. The raw milk producer may distribute the raw milk product or raw milk dairy product to the individual without charge or on a retail basis.

*a.* (1) The raw milk producer shall post the summary of the most recent test to determine the coliform count and standard plate count of dairy animals as retained at the raw milk dairy as provided in section 195.6. The summary shall be posted at the raw milk dairy's distribution point for the raw milk products or raw milk dairy products.

(2) (a) The individual being distributed the raw milk product or raw milk dairy product may examine records required to be retained by the raw milk producer as provided in section 195.6, including any of the following:

(i) The coliform count and standard plate count of dairy animals maintained at a raw milk dairy owned or operated by the raw milk producer.

(ii) The administration of antibiotic drugs to dairy animals maintained at a raw milk dairy owned or operated by the raw milk producer.

(b) The individual being distributed the raw milk product or raw milk dairy product may examine the records for the three-year period that the records are required to be retained by the raw milk producer under section 195.6.

*b.* If the raw milk producer distributes a raw milk product or raw milk dairy product in a container, the container shall be labeled as provided in section 195.9.

*c.* The raw milk producer shall distribute the raw milk

product or raw milk dairy product directly to the individual at the raw milk dairy or to a location specified by the individual. However, a person shall not deliver the raw milk product or raw milk dairy product to a place of business where food or a food item is distributed on a retail basis, including but not limited to a home food processing establishment regulated under chapter 137D or a food establishment or farmers market regulated under chapter 137F. The raw milk product or raw milk dairy product shall only be used for consumption by the individual, members of the individual's household, or the individual's nonpaying guests or nonpaying employees.

*d.* A person shall not resell the raw milk product or raw milk dairy product.

**Sec. 21. NEW SECTION. 195.9 Labeling containers holding raw milk or associated products.**

1. A raw milk producer who distributes raw milk, or a manufactured raw milk product or raw milk dairy product, shall label the container holding the raw milk, or the manufactured raw milk product or raw milk dairy product. The label shall be permanently affixed to the container. The words on the label shall be printed using upper case letters in at least twelve point boldface type. If the container includes a main informational or advertising panel, the label shall be part of the panel.

2. *a.* For a container holding raw milk, the label shall state the following:

**Notice to Consumers**

This container holds raw milk that is not subject to state inspection or other public health regulations that require pasteurization and grading.

*b.* For a container holding a raw milk product or raw milk dairy product, the label shall state the following:

**Notice to Consumers**

This container holds a raw milk product or raw milk dairy product that is not subject to state inspection or other public health regulations that require pasteurization and grading.

**Sec. 22. NEW SECTION. 195.10 Enforcement actions.**

1. The department of health and human services acting under chapter 135, or a local board of health acting under chapter

137, may demand that a raw milk producer provide it with all records required to be kept by the raw milk producer as provided in section 195.6, including any of the following:

*a.* The coliform count and standard plate count of dairy animals maintained by the raw dairy producer at a raw milk dairy.

*b.* The administration of antibiotic drugs to dairy animals maintained by the dairy producer at a raw milk dairy.

2. A demand described in subsection 1 shall be based on an affidavit signed by a licensed physician certifying that in the physician's opinion an individual contracted an illness as a direct result of consuming raw milk produced at a raw milk dairy, or consuming a raw milk product or a raw milk dairy product manufactured at a raw milk dairy.

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AMY SINCLAIR  
President of the Senate

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PAT GRASSLEY  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 315, Ninetieth General Assembly.

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W. CHARLES SMITHSON  
Secretary of the Senate

Approved \_\_\_\_\_, 2023

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KIM REYNOLDS  
Governor