

House File 394 - Introduced

HOUSE FILE 394

BY SCHULTZ

A BILL FOR

1 An Act allowing certain milk and products using milk to be
2 transferred directly by operators of dairy farms, and making
3 penalties applicable.

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

1 Section 1. Section 159.6, subsection 7, Code 2011, is
2 amended to read as follows:

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

8 a. Producing, processing, labeling, or marketing of milk,
9 if the milk is produced by a person operating a dairy farm in
10 compliance with section 192.145.

11 b. Manufacturing, labeling, or marketing of a milk product
12 or dairy product, if the milk product or dairy product is
13 manufactured by a person operating a dairy farm in compliance
14 with section 192.145.

15 Sec. 2. Section 191.2, subsection 5, unnumbered paragraph
16 1, Code 2011, is amended to read as follows:

17 ~~All~~ Except as provided in subsection 5A, bottles,
18 containers, and packages enclosing milk or milk products shall
19 be conspicuously labeled or marked with the following:

20 Sec. 3. Section 191.2, Code 2011, is amended by adding the
21 following new subsection:

22 NEW SUBSECTION. 5A. A person who operates a dairy farm as
23 provided in chapter 192 and who sells milk or a milk product
24 to an individual in compliance with section 192.145 is not
25 required to label or mark a container which includes the milk
26 or milk product.

27 Sec. 4. NEW SECTION. 191.9A **Exception for on-farm sale of**
28 **dairy products.**

29 A person who operates a dairy farm as provided in chapter 192
30 and who sells a dairy product to an individual in compliance
31 with section 192.145 is not required to label or mark a
32 container which includes the dairy product.

33 Sec. 5. Section 192.103, Code 2011, is amended to read as
34 follows:

35 **192.103 Sale of grade "A" milk to final consumer —**

1 **impoundment of adulterated or misbranded milk.**

2 1. Only grade "A" pasteurized milk and milk products
3 shall be sold to the final consumer, or to restaurants, soda
4 fountains, grocery stores, or similar establishments, except
5 in as follows:

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

10 b. A person who operates a dairy farm may sell milk or
11 a milk product to an individual in compliance with section
12 192.145.

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

20 3. Any adulterated or misbranded milk or milk product
21 may be impounded by the secretary or authorized municipal
22 corporation and disposed of in accordance with applicable laws
23 or regulations.

24 **Sec. 6. NEW SECTION. 192.144 Definitions.**

25 As used in this subchapter, unless the context otherwise
26 requires:

27 1. "Dairy product" means a product, other than a milk
28 product, in which milk is the principal ingredient at any
29 temperature and in either a manufactured or unmanufactured
30 state. To the extent that it is not classified as a milk
31 product, a dairy product includes but is not limited to butter,
32 cheese, cream, cottage cheese, ricotta cheese, keifer, or ice
33 cream.

34 2. "Manufacture" means to convert or condition personal
35 property by changing the form, composition, quality, or

1 character of a product, and includes activities associated with
2 a creamery or cheese factory.

3 Sec. 7. NEW SECTION. 192.145 On-farm production,
4 processing, manufacturing, and marketing.

5 1. A person who operates a dairy farm may do any of the
6 following:

7 a. Produce milk at the dairy farm or process the milk at the
8 dairy farm, if the person does not sell the milk. Nothing in
9 this paragraph prevents the person from disposing of the milk
10 without receiving compensation.

11 b. Produce milk at the dairy farm or process the milk at
12 the dairy farm, if the person sells the milk to an individual,
13 regardless of whether the milk is unpasteurized or ungraded.
14 The milk must be sold to the individual on a retail basis
15 and not for resale. The person may deliver or cause to be
16 delivered the milk to a location specified by the individual.
17 An individual who receives the milk shall not resell it.

18 2. A person who operates a dairy farm may manufacture a
19 milk product or dairy product at the dairy farm by using milk
20 produced at the dairy farm, if any of the following apply:

21 a. The person does not sell the milk product or dairy
22 product. Nothing in this paragraph prevents the person
23 from disposing of the milk product or dairy product without
24 receiving compensation.

25 b. The person sells the milk product or dairy product
26 to an individual, regardless of whether the milk product or
27 dairy product is unpasteurized or ungraded. The milk product
28 or dairy product must be sold to the individual on a retail
29 basis and not for resale. The person may deliver or cause to
30 be delivered the milk product or dairy product to a location
31 specified by the individual. An individual who receives the
32 milk product or dairy product shall not resell it.

33 3. A person who operates a dairy farm shall not be subject
34 to regulation by the department for acting in compliance with
35 this section. Such regulation includes but is not limited

1 to labeling requirements under chapter 191 or licensing,
2 permitting, or inspection requirements under this chapter or
3 chapter 194.

4 Sec. 8. NEW SECTION. 194.22 On-farm production, processing,
5 manufacturing, and marketing — exception.

6 This chapter does not apply to any of the following:

- 7 1. Producing, processing, labeling, or marketing of milk,
8 if the milk is produced by a person operating a dairy farm in
9 compliance with section 192.145.
- 10 2. Manufacturing, labeling, or marketing of a milk product
11 or dairy product, if the milk product or dairy product is
12 manufactured by a person operating a dairy farm in compliance
13 with section 192.145.

14 Sec. 9. DIRECTIVE TO CODE EDITOR. The Code editor is
15 directed to divide chapter 192 into subchapters.

16 EXPLANATION

17 BACKGROUND. This bill amends provisions affecting persons
18 who operate dairy farms, including provisions for the
19 processing of milk and the manufacture of milk products, and
20 dairy products on such farms. The provisions are administered
21 and enforced by the department of agriculture and land
22 stewardship.

23 Generally, statutory provisions and departmental rules
24 regulating milk are based on model legislation referred to
25 as the "Grade 'A' Pasteurized Milk Ordinance" (Code section
26 192.101A). The "Grade 'A' Pasteurized Milk Ordinance" defines
27 a milk product as including cream, sour cream, dry milk,
28 concentrated milk, eggnog, buttermilk, and yogurt. All food
29 offered or exposed for sale must be labeled (Code section
30 191.1). This includes labeling the milk or milk product as
31 "raw" (Code section 191.2(5)(e)). All milk must be sold on
32 the basis of grade (Code section 194.10) and only grade "A"
33 pasteurized milk and milk products can be sold to the final
34 consumer (Code section 192.103). Grade "B" milk may be sold
35 for manufacturing purposes (21 IAC 68.2). All dairy farms

1 selling grade "A" or grade "B" milk must be issued a permit
2 by the department of agriculture and land stewardship (21 IAC
3 68.2).

4 The bill provides that these regulatory provisions do not
5 apply to a person who operates a dairy farm. The person may
6 produce milk and dispose of it or sell it to an individual on
7 a retail basis. The operator may also deliver the milk to a
8 location specified by the individual. The bill also provides
9 that the regulatory provisions do not apply to the operator of
10 a dairy farm who manufactures a milk product or dairy product,
11 who may dispose of the product or sell it in the same manner as
12 milk. A milk product is defined by the "Grade 'A' Pasteurized
13 Milk Ordinance" and includes cream or yogurt. A dairy product
14 includes a product other than a milk product whose principal
15 ingredient is milk (e.g., ice cream).

16 A person who violates the bill's provisions is guilty of a
17 simple misdemeanor (Code section 189.21). A simple misdemeanor
18 is punishable by confinement for no more than 30 days or a fine
19 of at least \$65 but not more than \$625 or by both.