

House File 2055 - Introduced

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BY HEARTSILL

A BILL FOR

1 An Act providing for certain items relating to milk to be
2 transferred directly by operators of dairy farms, providing
3 for the labeling of unpasteurized and ungraded milk and
4 products, and making penalties applicable.

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

1 Section 1. Section 159.6, subsection 6, Code 2018, is
2 amended to read as follows:

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

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

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

15 Sec. 2. Section 191.2, subsection 5, Code 2018, is amended
16 to read as follows:

17 5. ~~All bottles, containers, and packages~~ Bottles,
18 containers, and packages. Except as provided in subsection
19 5A, a container or package enclosing milk or a milk products
20 product shall be conspicuously labeled or marked with all of
21 the following:

22 a. The name of the contents as given in the definitions of
23 this chapter and chapters 190 and 192.

24 b. The word "reconstituted" or "recombined" if the product
25 is made by reconstitution or recombination.

26 c. The grade of the contents.

27 d. The word "pasteurized" if the contents are pasteurized
28 and the identity of. The package or container shall identify
29 the plant where the milk or milk product is pasteurized.

30 ~~e. The word "raw" if the contents are raw and the name or~~
31 ~~other identity of the producer.~~

32 ~~f.~~ e. The designation vitamin "D" and the number of
33 U.S.P. units per quart in the case of vitamin "D" milk or milk
34 products.

35 ~~g.~~ f. The volume or proportion of water to be added for

1 recombining in the case of concentrated milk or milk products.

2 ~~h.~~ g. The words "nonfat milk solids added" and the
3 percentage added if such solids have been added, except that
4 this requirement shall not apply to reconstituted or recombined
5 milk and milk products.

6 ~~i.~~ h. The words "artificially sweetened" in the name if
7 nonnutritive or artificial sweeteners or both are used.

8 ~~j.~~ i. The common name of stabilizers, distillates, and
9 ingredients, provided that:

10 (1) Only the identity of the milk producer shall be required
11 on cans delivered to a milk plant as provided in [chapter 192](#)
12 which receives only grade "A" raw milk for pasteurization, and
13 which immediately dumps, washes, and returns the cans to the
14 milk producer.

15 (2) The identity of both milk producer and the grade shall
16 be required on cans delivered to a milk plant as provided
17 in [chapter 192](#) which receives both grade "A" raw milk for
18 pasteurization and ungraded raw milk and which immediately
19 dumps, washes, and returns the cans to the milk producer.

20 (3) In the case of concentrated milk products, the specific
21 name of the product shall be substituted for the generic term
22 "concentrated milk products", e.g., "homogenized concentrated
23 milk", "concentrated skim milk", "concentrated chocolate milk",
24 "concentrated chocolate flavored low fat milk".

25 (4) In the case of flavored milk or flavored reconstituted
26 milk, the name of the principal flavor shall be substituted for
27 the word "flavored".

28 (5) In the case of cultured milk and milk products,
29 the special type culture used may be substituted for the
30 word "cultured", e.g., "acidophilus buttermilk", "Bulgarian
31 buttermilk", and "yogurt".

32 Sec. 3. Section 191.2, Code 2018, is amended by adding the
33 following new subsection:

34 NEW SUBSECTION. 5A. *Unpasteurized milk and milk products* A
35 container holding unpasteurized milk or a milk product

1 containing unpasteurized milk shall be labeled as required in
2 section 191.9A.

3 **Sec. 4. NEW SECTION. 191.9A Dairy farms — sale of**
4 **unpasteurized milk and milk products.**

5 1. A person who operates a dairy farm as provided in chapter
6 192 and who sells unpasteurized milk, a milk product containing
7 unpasteurized milk, or a dairy product containing unpasteurized
8 milk to an individual in compliance with section 192.145
9 shall label the container holding the milk, milk product, or
10 dairy product. The label shall be permanently affixed to the
11 container. The words on the label shall be printed using upper
12 case letters in at least twelve point boldface type. If the
13 container includes a main informational or advertising panel,
14 the label shall be part of the panel.

15 2. *a.* For a container holding unpasteurized milk, the label
16 shall state the following:

17 Notice to Consumers

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

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

23 Notice to Consumers

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

28 **Sec. 5. Section 192.103, Code 2018, is amended to read as**
29 **follows:**

30 **192.103 Sale of grade "A" milk to final consumer —**
31 **impoundment of adulterated or misbranded milk.**

32 1. Only grade "A" pasteurized milk and milk products
33 shall be sold to the final consumer, or to restaurants, soda
34 fountains, grocery stores, or similar establishments, except
35 in an as follows:

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

5 b. A person who operates a dairy farm may sell milk or
6 a milk product to an individual in compliance with section
7 192.145.

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

15 3. Any adulterated or misbranded milk or milk product
16 may be impounded by the secretary or authorized municipal
17 corporation and disposed of in accordance with applicable laws
18 or regulations.

19 Sec. 6. NEW SECTION. 192.144 Definitions.

20 As used in this subchapter, unless the context otherwise
21 requires:

22 1. "*Dairy product*" means a product, other than a milk
23 product, in which milk is the principal ingredient at any
24 temperature and in either a manufactured or unmanufactured
25 state. To the extent that it is not classified as a milk
26 product, a dairy product includes but is not limited to butter,
27 cheese, cream, cottage cheese, ricotta cheese, kefir, or ice
28 cream.

29 2. "*Manufacture*" means to convert or condition personal
30 property by changing the form, composition, quality, or
31 character of a product, and includes activities associated with
32 a creamery or cheese factory.

33 Sec. 7. NEW SECTION. 192.145 On-farm production,
34 processing, manufacturing, and marketing.

35 1. A person who operates a dairy farm may do any of the

1 following:

2 *a.* Produce milk at the dairy farm or process the milk at the
3 dairy farm, if the person does not sell the milk. Nothing in
4 this paragraph prevents the person from disposing of the milk
5 without receiving compensation.

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

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

16 *a.* The person does not sell the milk product or dairy
17 product. Nothing in this paragraph prevents the person
18 from disposing of the milk product or dairy product without
19 receiving compensation.

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

28 3. A person who operates a dairy farm shall not be subject
29 to regulation by the department for acting in compliance with
30 this section. Such regulation includes but is not limited to
31 licensing, permitting, or inspection requirements under this
32 chapter or chapter 194.

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

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

1 1. The production, processing, or marketing of milk, if
2 the milk is produced by a person operating a dairy farm in
3 compliance with section 192.145.

4 2. The manufacturing or marketing of a milk product or dairy
5 product, if the milk product or dairy product is manufactured
6 by a person operating a dairy farm in compliance with section
7 192.145.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 BACKGROUND. This bill amends provisions affecting persons
12 who operate dairy farms, including provisions for the
13 processing of milk and the manufacture of milk products, and
14 dairy products on such farms. The provisions are administered
15 and enforced by the department of agriculture and land
16 stewardship.

17 Generally, statutory provisions and departmental rules
18 regulating milk are based on model legislation referred to
19 as the "Grade 'A' Pasteurized Milk Ordinance" (Code section
20 192.101A). The "Grade 'A' Pasteurized Milk Ordinance" defines
21 a milk product as including cream, sour cream, dry milk,
22 concentrated milk, eggnog, buttermilk, and yogurt. All food
23 offered or exposed for sale must be labeled (Code section
24 191.1). All milk must be sold on the basis of grade (Code
25 section 194.10) and only grade "A" pasteurized milk and milk
26 products can be sold to the final consumer (Code section
27 192.103). Grade "B" milk may be sold for manufacturing
28 purposes (21 IAC 68.2). All dairy farms selling grade "A" or
29 grade "B" milk must be issued a permit by the department of
30 agriculture and land stewardship (21 IAC 68.2).

31 BILL'S PROVISIONS. The bill provides that these regulatory
32 provisions do not apply to a person who operates a dairy farm.
33 The person may produce milk and dispose of it or sell it to
34 an individual on a retail basis. The operator may deliver
35 the milk to a location specified by the individual. The bill

1 also provides that the regulatory provisions do not apply to
2 the operator of a dairy farm who manufactures a milk product
3 or dairy product, who may dispose of the product or sell it
4 in the same manner as milk originating from the dairy farm.
5 A milk product is defined by the "Grade 'A' Pasteurized Milk
6 Ordinance" and includes cream or yogurt. A dairy product
7 includes a product other than a milk product whose principal
8 ingredient is milk (e.g., ice cream). The bill provides for
9 the labeling of unpasteurized and ungraded milk, or a product
10 that includes such milk.

11 APPLICABLE PENALTIES. A person who violates the bill's
12 provisions is guilty of a simple misdemeanor (Code section
13 189.21). A simple misdemeanor is punishable by confinement for
14 no more than 30 days or a fine of at least \$65 but not more than
15 \$625 or by both.