

**House File 338 - Introduced**

HOUSE FILE 338

BY HOLT

**A BILL FOR**

1 An Act relating to raw milk, by providing for the production  
2 of raw milk at certain dairies, the manufacture of products  
3 using raw milk, and the labeling and distribution of raw  
4 milk and manufactured products, and making penalties  
5 applicable.

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

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

3 The department of health and human services may demand that  
4 a raw milk producer provide the department with all records of  
5 tests to determine the coliform count and standard plate count  
6 of dairy animals maintained at the raw milk dairy as required  
7 in section 195.6.

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

10 NEW PARAGRAPH. e. Demand that a raw milk producer provide  
11 the board with all records of tests to determine the coliform  
12 count and standard plate count of dairy animals maintained at  
13 the raw milk dairy as required in section 195.6.

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

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

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

22 NEW PARAGRAPH. o. (1) The premises of a raw milk dairy  
23 where raw milk is produced, processed, labeled, marketed, or  
24 distributed by a raw milk producer in compliance with chapter  
25 195.

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

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

32 NEW PARAGRAPH. d. (1) The premises of a raw milk dairy  
33 where raw milk is produced, processed, labeled, marketed, or  
34 distributed by a raw milk producer in compliance with chapter  
35 195.

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

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

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

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

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

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

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

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

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

31 a. The manufacture, labeling, marketing, or distribution of  
32 raw milk by a raw milk producer in compliance with chapter 195.

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

1     Sec. 9. Section 191.2, subsection 5, unnumbered paragraph  
2 1, Code 2023, is amended to read as follows:

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

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

9     NEW SUBSECTION. 5A. Raw milk and associated products. A  
10 container holding raw milk, or a manufactured raw milk product  
11 or a raw milk dairy product, distributed by a raw milk producer  
12 shall be labeled as required in section 195.8.

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

15     1. Only grade "A" pasteurized milk and milk products  
16 shall be sold to the final consumer, or to restaurants, soda  
17 fountains, grocery stores, or similar establishments. ~~However,~~  
18 ~~in~~ except as follows:

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

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

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

34     Sec. 12. NEW SECTION. 194.22 Raw milk dairies — exception.  
35     This chapter does not apply to any of the following:

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

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

8 Sec. 13. NEW SECTION. 195.1 **Definitions.**

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

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

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

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

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

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

21 6. "*Raw milk dairy*" means an operation where not more than  
22 ten dairy animals are maintained to actively produce milk at  
23 any one time.

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

27 8. "*Raw milk producer*" means a milk producer who owns or  
28 operates a raw milk dairy.

29 9. "*Raw milk product*" means a product manufactured using  
30 milk as its exclusive ingredient as described in 21 C.F.R.  
31 §1240.3 and that includes any quantity of raw milk.

32 Sec. 14. NEW SECTION. 195.2 **Conflicts with other law.**

33 This chapter shall be construed to supplement applicable  
34 provisions in chapters 190, 191, 192, and 194. If there is a  
35 conflict between a provision in this chapter and one of those

1 other chapters, the provision in this chapter shall prevail  
2 but only to the extent of interpreting the provision in this  
3 chapter.

4 Sec. 15. NEW SECTION. 195.3 Exclusions.

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

8 Sec. 16. NEW SECTION. 195.4 Rulemaking prohibited.

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

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

13 A raw milk producer may elect to process, market, or  
14 distribute raw milk produced at the raw milk producer's  
15 raw milk dairy in compliance with this chapter. A raw milk  
16 producer may also elect to use the raw milk to manufacture,  
17 market, or distribute a raw milk product or raw milk dairy  
18 product at the raw milk producer's raw milk dairy in compliance  
19 with this chapter.

20 Sec. 18. NEW SECTION. 195.6 Production and processing of  
21 raw milk.

22 If a raw milk producer makes an election described in section  
23 195.5 to produce and process raw milk, all of the following  
24 apply:

25 1. The raw milk must be produced exclusively from dairy  
26 animals maintained at the raw milk dairy.

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

28 3. The raw milk must be processed in a manner that ensures  
29 the health and safety of persons consuming the raw milk  
30 produced at the raw milk dairy, or consuming raw milk products  
31 or raw dairy products manufactured at the raw milk dairy. The  
32 raw milk producer must do all of the following:

33 a. Each month, test each dairy animal maintained at the raw  
34 milk producer's raw milk dairy to determine the dairy animal's  
35 coliform count and standard plate count. The raw milk producer

1 shall retain a record of each test at the raw milk dairy for at  
2 least three years.

3 *b.* Each twelve-month period, employ a licensed veterinarian  
4 to examine each dairy animal maintained at the raw milk  
5 producer's raw milk dairy to determine the dairy animal's  
6 health status. The examination must at least include a blood  
7 test for common diseases afflicting the type of dairy animal  
8 being examined.

9 **Sec. 19. NEW SECTION. 195.7 Distribution of raw milk or**  
10 **associated products.**

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

16 *a.* The raw milk producer shall post the summary of the test  
17 to determine the coliform count and standard plate count of  
18 the dairy animals retained at the raw milk dairy as provided  
19 in section 195.6. The summary shall be posted at the raw milk  
20 dairy's distribution point for the raw milk. The individual  
21 being distributed the raw milk may examine the records for the  
22 three-year period that the records are required to be retained  
23 by the raw milk producer under section 195.6.

24 *b.* If the raw milk producer distributes raw milk in a  
25 container, the container shall be labeled as provided in  
26 section 195.8.

27 *c.* The raw milk producer shall distribute the raw milk  
28 directly to the individual at the raw milk dairy or to a  
29 location specified by the individual. However, a person shall  
30 not deliver the raw milk to a place of business where food or  
31 food items are distributed on a retail basis, including but  
32 not limited to a home food processing establishment regulated  
33 under chapter 137D or a food establishment or farmers market  
34 regulated under chapter 137F. The raw milk shall only be used  
35 for consumption by the individual, members of the individual's

1 household, and the individual's nonpaying guests or nonpaying  
2 employees.

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

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

13 *a.* The raw milk producer shall post the summary of the most  
14 recent test to determine the coliform count and standard plate  
15 count of dairy animals as retained at the raw milk dairy as  
16 provided in section 195.6. The summary shall be posted at the  
17 raw milk dairy's distribution point for the raw milk products  
18 or raw milk dairy products. The individual being distributed  
19 the raw milk product or raw milk dairy product may examine the  
20 records for the three-year period that the records are required  
21 to be retained by the raw milk producer under section 195.6.

22 *b.* If the raw milk producer distributes a raw milk product  
23 or raw milk dairy product in a container, the container shall  
24 be labeled as provided in section 195.8.

25 *c.* The raw milk producer shall distribute the raw milk  
26 product or raw milk dairy product directly to the individual  
27 at the raw milk dairy or to a location specified by the  
28 individual. However, a person shall not deliver the raw milk  
29 product or raw milk dairy product to a place of business where  
30 food or a food item is distributed on a retail basis, including  
31 but not limited to a home food processing establishment  
32 regulated under chapter 137D or a food establishment or farmers  
33 market regulated under chapter 137F. The raw milk product or  
34 raw milk dairy product shall only be used for consumption by  
35 the individual, members of the individual's household, or the



1 individual's nonpaying guests or nonpaying employees.

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

4 Sec. 20. NEW SECTION. **195.8 Labeling containers holding**  
5 **raw milk or associated products.**

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

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

17 Notice to Consumers

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

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

23 Notice to Consumers

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

27 Sec. 21. NEW SECTION. **195.9 Enforcement actions.**

28 The department of health and human services acting under  
29 chapter 135 or a local board of health acting under chapter  
30 137 may demand that the raw milk producer provide it with all  
31 records of tests to determine the coliform count and standard  
32 plate count of dairy animals maintained at the raw milk dairy  
33 as required in section 195.6. The demand shall be based on an  
34 affidavit signed by a licensed physician certifying that in  
35 the physician's opinion an individual contracted an illness as

1 a direct result of consuming raw milk produced at a raw milk  
2 dairy, or consuming a raw milk product or a raw milk dairy  
3 product manufactured at a raw milk dairy.

4

EXPLANATION

5

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

6

7 BACKGROUND. This bill amends provisions regulating dairies  
8 where raw milk is produced and processed for human consumption  
9 (fluid milk), or produced and processed to be manufactured as  
10 a food item (a milk product or dairy product) at a processing  
11 or manufacturing facility (milk plant or dairy plant).

12 Generally, the department of inspections and appeals (DIA), or  
13 a local authority under contract with DIA, provides for the  
14 licensing and inspection of both food processing plants and  
15 food establishments such as grocery stores and restaurants.  
16 The production and processing of milk, and the processing  
17 and manufacture of milk products and dairy products, are  
18 administered and enforced by the department of agriculture and  
19 land stewardship (DALs).

20 FEDERAL LAW. Generally, states are provided responsibility  
21 for enacting health and sanitation standards for their dairy  
22 industry subject to oversight by the federal government.

23 DALs' regulations are based on voluntary standards published  
24 by the United States food and drug administration (FDA),  
25 and specifically the "Grade 'A' Pasteurized Milk Ordinance"  
26 commonly referred to as the PMO (Code section 192.102).

27 The PMO provides standards for the production, processing,  
28 distribution, transportation, handling, sampling, examination,  
29 grading, labeling, and sale of grade "A" pasteurized milk  
30 and grade "A" milk products. In administering the PMO, DALs  
31 conducts inspections of dairy herds, dairy farms, milk plants,  
32 milk receiving stations, and milk transfer stations. DALs  
33 issues licenses or permits to milk producers, milk haulers,  
34 and milk transfer stations subject to suspension or revocation  
35 (21 IAC 68.12). FDA also regulates the labeling of milk and

1 dairy products (21 C.F.R. pt. 131). The United States, acting  
 2 through FDA, prohibits the delivery of unpasteurized milk,  
 3 or milk products manufactured using unpasteurized milk, into  
 4 interstate commerce (21 C.F.R. pt. 1240). Voluntary standards  
 5 governing the grading of milk are established by the United  
 6 States department of agriculture (USDA) (7 C.F.R. pt. 58,  
 7 adopted by DALs pursuant to Code section 190.2; 21 IAC 71.1).  
 8 Grade "A" milk is the standard used for fluid milk production.  
 9 Grade "B" milk is subject to less restrictive standards  
 10 allowing it to be used in manufacturing (Code chapter 194).

11 DALs GENERAL AUTHORITY. Under Code chapter 189, DALs  
 12 regulates adulterated articles and the labeling of those  
 13 articles and may report violations to the appropriate county  
 14 attorney (Code section 189.25). This includes inspections of  
 15 locations (Code section 189.4). A person is prohibited from  
 16 manufacturing, selling, or delivering an adulterated article  
 17 (Code section 189.15). DALs may act to enjoin a person from  
 18 violating provisions prohibiting the marketing of adulterated  
 19 food (Code section 190.15), including adulterated milk, and  
 20 adulterated milk products and dairy products (Code sections  
 21 190.4 and 190.5). DALs may confiscate an adulterated or  
 22 improperly labeled article (Code section 189.17). DALs is  
 23 granted authority to petition a district court to restrain  
 24 a person who violates a statute or rule regulating milk  
 25 production, processing, manufacture, labeling, and sales (Code  
 26 sections 190.15, 191.10, and 192.146).

27 BILL'S PROVISIONS — TERMINOLOGY. The bill uses a number  
 28 of key terms, including "raw milk" meaning milk that is not  
 29 graded or pasteurized, "raw milk dairy" which includes a dairy  
 30 farm where dairy animals (milk-producing cows, goats, or  
 31 sheep) are maintained and where a "raw milk producer" owning  
 32 or operating the dairy farm may store and process the raw milk  
 33 for distribution as fluid milk, or may manufacture the raw  
 34 milk into "raw milk products" or "raw milk dairy products" for  
 35 distribution (new Code section 195.1). Code chapters refer to

1 both terms "milk product" and "dairy product" as does federal  
 2 law. Generally, FDA defines "milk product" to include cheese,  
 3 butter, ice cream, and yogurt (21 C.F.R. §1240.3) and USDA  
 4 defines a "dairy product" similarly (7 C.F.R. §58.101). The  
 5 bill defines a "raw milk product" as a product using milk as  
 6 an exclusive ingredient, if any quantity of the milk is raw  
 7 milk, and a "raw dairy product" as a product using milk as the  
 8 primary ingredient, if any quantity of the milk is raw milk  
 9 (new Code section 195.1). The term "distribute" refers to both  
 10 the transfer of raw milk or a manufactured raw milk product  
 11 or raw milk dairy product to final consumers with or without  
 12 charge (new Code section 195.7).

13 BILL'S PROVISIONS — EXCLUSION FROM DIA REGULATIONS. The  
 14 bill prohibits a home food processing establishment regulated  
 15 by DIA from advertising for sale, offering for sale, selling,  
 16 or otherwise distributing raw milk, or a manufactured raw milk  
 17 product or raw milk dairy product (new Code section 137D.2A).  
 18 The premises of a raw milk dairy is not a food establishment or  
 19 a food processing plant regulated by DIA (Code section 137F.1).  
 20 Similarly, the bill prohibits a food establishment or farmers  
 21 market from advertising for sale, offering for sale, selling,  
 22 or otherwise distributing raw milk, or a manufactured raw milk  
 23 product or a raw milk dairy product (new Code section 137F.8B).

24 BILL'S PROVISIONS — ADMINISTRATION AND ENFORCEMENT. The  
 25 bill's provisions are codified as new Code chapter 195. The  
 26 new chapter is construed to supplement applicable provisions of  
 27 the other Code chapters regulating the state's dairy industry  
 28 (Code chapters 190, 191, 192, and 194). DALS is prohibited  
 29 from adopting rules to administer or enforce provisions in the  
 30 new Code chapter.

31 BILL'S PROVISIONS — REQUIREMENTS FOR PROCESSING, MARKETING,  
 32 AND DISTRIBUTING RAW MILK OR MANUFACTURING, MARKETING, AND  
 33 DISTRIBUTING A RAW MILK PRODUCT OR RAW MILK DAIRY PRODUCT. A  
 34 raw milk producer must not own or operate a raw milk dairy  
 35 having more than 10 dairy animals actively producing milk (new

1 Code section 195.1). The milk cannot be pasteurized or graded.  
 2 On a monthly basis, the raw milk producer must test each dairy  
 3 animal to determine its coliform and standard plate counts. On  
 4 a yearly basis, the raw milk producer must employ a licensed  
 5 veterinarian to examine the health status of each dairy animal,  
 6 including by administering a blood test (new Code section  
 7 195.6).

8 In distributing raw milk, or a manufactured raw milk product  
 9 or raw dairy product, a raw milk producer can only take an  
 10 order by an individual (new Code section 195.7). The order  
 11 must be made at the raw milk dairy. The individual may examine  
 12 the health records of the raw milk dairy's dairy animals and  
 13 the records must be retained for three years. The raw milk  
 14 producer may deliver the raw milk or the manufactured raw milk  
 15 product or raw milk dairy product to the individual at the  
 16 raw milk dairy or at a location specified by the individual.  
 17 However, the raw milk producer cannot deliver the raw milk or  
 18 the manufactured raw milk product or raw milk dairy product  
 19 to a location where food or food items are sold on a retail  
 20 basis (e.g., a location regulated by DIA). The raw milk or  
 21 the manufactured raw milk product or raw milk dairy product  
 22 can only be used for consumption by the individual making  
 23 the order, a member of the individual's household, or the  
 24 individual's nonpaying guests or nonpaying employee. A  
 25 person cannot resell the raw milk or the manufactured raw milk  
 26 product or raw milk dairy product. If the raw milk, or the  
 27 manufactured raw milk product or raw milk dairy product is  
 28 distributed in a container, the container must be labeled with  
 29 a notice to consumers stating it contains raw milk or that raw  
 30 milk has been used as an ingredient in manufacturing the raw  
 31 milk product or raw dairy product, and the raw milk, or the  
 32 raw milk product or raw dairy product, has not been subject to  
 33 public health regulations (new Code section 195.8).

34 BILL'S PROVISIONS — RECORDS. The Iowa department of health  
 35 and human services or a local board of health may demand that

1 a raw milk producer provide it with all records of tests to  
2 determine the coliform count and standard plate count of dairy  
3 animals maintained at a raw milk dairy.

4 APPLICABLE PENALTIES. A person who violates the bill's  
5 provisions is guilty of a simple misdemeanor (Code section  
6 189.21). A person who violates a provision regulated by the  
7 Iowa department of health and human services is guilty of  
8 a simple misdemeanor (Code section 135.38). A person who  
9 violates a provision regulated by a local board of health is  
10 also guilty of a simple misdemeanor and subject to a civil  
11 penalty not to exceed \$750. A simple misdemeanor is punishable  
12 by confinement for no more than 30 days and a fine of at least  
13 \$105 but not more than \$855.