SENATE FILE 2309
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3126)

(As Amended and Passed by the Senate March 9, 2022)

_____ and [= New Language by the Senate

A BILL FOR

An Act relating to milk and associated products, by providing for certain items relating to milk to be transferred directly to individuals by milk producers owning or operating certain dairy farms, providing for the labeling of raw milk and associated products, and making penalties applicable.

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

Section 1. NEW SECTION. **137D.2A Raw milk, raw milk products, and raw milk dairy products.**

A home bakery shall not advertise for sale, offer for sale, sell or otherwise distribute, or use raw milk, a raw milk product, or a raw milk dairy product as provided in section 192.145.

Sec. 2. Section 137F.1, subsection 8, Code 2022, is amended by adding the following new paragraph:

NEW PARAGRAPH. *o.* (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 section 192.145.

(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 section 192.145.

Sec. 3. Section 137F.1, subsection 9, Code 2022, 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 section 192.145.

(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 section 192.145.

Sec. 4. NEW SECTION. **137F.8B Raw milk, raw milk products, and raw milk dairy products.**

A food establishment or farmers market shall not advertise for sale, offer for sale, sell or otherwise distribute, or use raw milk, a 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. 5. Section 159.6, subsection 6, Code 2022, 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 section 192.145.

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 section 192.145.

Sec. 6. Section 191.2, subsection 5, Code 2022, is amended to read as follows:

5. ~~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:

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

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

c. The grade of the contents.

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

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

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

~~*g.*~~ *f.* The volume or proportion of water to be added for recombining in the case of concentrated milk or milk products.

~~*h.*~~ *g.* The words "nonfat milk solids added" and the

percentage added if such solids have been added, except that this requirement shall not apply to reconstituted or recombined milk and milk products.

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

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

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

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

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

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

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

Sec. 7. Section 191.2, Code 2022, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. *Raw milk, raw milk products, and raw milk dairy products.* A container holding raw milk, a raw milk product, or a raw milk dairy product sold by a raw milk producer shall be labeled as required in section 191.9A.

Sec. 8. NEW SECTION. 191.9A Raw milk dairies — sale of raw milk, raw milk products, and raw milk dairy products.

1. A raw milk producer who sells raw milk, a raw milk product, or a raw milk dairy product to an individual in compliance with section 192.145 shall label the container holding the raw milk, 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 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. 9. Section 192.103, subsections 1 and 2, Code 2022, 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 an~~ except as follows:

a. 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".

b. A raw milk producer may sell raw milk, a raw milk product, or a raw milk dairy product to an individual in

compliance with section 192.145.

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. 10. NEW SECTION. **192.144 Definitions.**

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

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

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

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

4. "*Raw milk*" means milk that is not pasteurized or graded.

5. "*Raw milk dairy*" means an operation where not more than a total of ten dairy animals are maintained, and milk produced from any of those animals is not pasteurized or graded.

6. "*Raw milk dairy product*" means a dairy product that includes raw milk or a raw milk product.

7. "*Raw milk producer*" means a person who owns or operates a raw milk dairy.

8. "*Raw milk product*" means a milk product that includes raw milk.

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Sec. 11. NEW SECTION. **192.145 Raw milk dairies — production, processing, marketing, and distribution.**

1. A raw milk producer may elect to process, market, or distribute raw milk produced at the raw milk producer's raw milk dairy in compliance with this section. 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 section. If a raw milk producer makes either election, all of the following apply:

a. The raw milk producer shall not pasteurize or grade milk produced from dairy animals maintained at the raw milk dairy.

b. The raw milk producer shall ensure the health and safety of consumers of the raw milk produced from dairy animals maintained at the raw milk dairy by doing all of the following:

(1) Each month, test each dairy animal to determine a coliform count and standard plate count. The raw milk producer shall maintain a record of each test. The raw milk producer shall retain the record at the raw milk dairy for at least three years.

(2) Each twelve-month period, employ a licensed veterinarian to examine each dairy animal 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.

2. 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 was produced. The raw milk producer shall only distribute the raw milk to an individual placing the order. The raw milk producer may distribute the raw milk to the individual without charge or on a retail basis.

a. The raw milk producer shall post the summary of the test to determine the coliform count and standard plate count of the dairy animals maintained at the raw milk dairy as provided in subsection 1. The summary shall be posted at the raw milk

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dairy's distribution point for the raw milk. 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 subsection 1.

b. If the raw milk producer sells raw milk in a container, the container shall be labeled as provided in section 191.9A.

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 items are distributed on a retail basis, including but not limited to a home bakery 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.

3. 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. 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 maintained at the raw milk dairy as provided in subsection 1. The summary shall be posted at the raw milk dairy's distribution point for the raw milk products or raw milk dairy products. 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 subsection 1.

b. If the raw milk producer sells a raw milk product or raw milk dairy product in a container, the container shall be labeled as provided in section 191.9A.

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 items are distributed on a retail basis, including but not limited to a home bakery 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.

4. 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, the Iowa department of public health acting under chapter 135 or a local board of health acting under chapter 137 may demand that the raw milk producer provide it with all records of tests to determine the coliform count and standard plate count of dairy animals maintained at the raw milk dairy as required in subsection 1.

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

6. This chapter does not apply to a receiving station, transfer station, milk handler, milk grader, or milk plant. A raw milk dairy is not a food establishment, food processing plant, or other person regulated under chapter 137F or other chapter regulating such entities.

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Sec. 12. NEW SECTION. **194.22 Raw milk dairies — production, processing, manufacturing, marketing, and distribution — exceptions.**

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 in compliance with section 192.145.

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 in compliance with section 192.145.