

AMENDED IN ASSEMBLY APRIL 3, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2505

Introduced by Assembly Member Yamada

February 21, 2014

An act to add Section 32507 to, to add Article 6 (commencing with Section 33582) to Chapter 5 of Part 1 of Division 15 of, and to add Division 15.2 (commencing with Section 39950) to, the Food and Agricultural Code, relating to milk.

LEGISLATIVE COUNSEL'S DIGEST

AB 2505, as amended, Yamada. Milk: home dairy farms: sharing, exchange, or direct sale of raw milk.

(1) Existing law, the Milk and Milk Products Act of 1947, regulates the preparation, production, manufacture, distribution, and sale of milk, and specified milk products. For purposes of the act, “dairy farm” is defined to mean any place or premises upon which milk is produced for sale or other distribution and where more than 2 cows or water buffalo, or 6 goats, sheep, or other hooved mammals, are in lactation. Existing law makes a violation of the Food and Agricultural Code a misdemeanor, unless a different penalty is expressly provided.

This bill would, for purposes of the act, define “home dairy farm” to mean any place or premises upon which raw milk is produced, where no more than 3 cows or water buffalo, or 15 goats, sheep, or other hooved mammals, are in lactation, and the raw milk produced by those lactating animals is primarily intended for consumption at the home dairy farm. The bill would exclude raw milk produced at a home dairy farm from the act, and would enact the Home Dairy Farm Raw Milk Safety Act, which prescribes various requirements for the safe

production of raw milk, as defined, at home dairy farms that is shared, exchanged, or offered for direct sale, as defined, by the home dairy farm, as prescribed.

This bill would permit a home dairy farm to share, exchange, or engage in the direct sale of raw milk that is in excess of the consumption needs of the home dairy farm, if the raw milk is obtained from healthy, lactating animals kept and fed on the premises of the home dairy farm, and meets specified health and safety requirements. The bill would require that any raw milk that is shared, exchanged, or directly sold pursuant to the Home Dairy Farm Raw Milk Safety Act be clean, pure, and unadulterated, and obtained from healthy animals that do not test positive for specified diseases and meet other specified requirements.

By imposing new requirements on home dairy farms, with regard to the sharing, exchange, or direct sale of raw milk, a violation of which would be a crime, the bill would impose a state-mandated local program.

(2) Existing law, the Sherman Food, Drug, and Cosmetic Law (Sherman Law), requires the State Department of Public Health to regulate the manufacture, sale, labeling, and advertising activities related to food, drugs, devices, and cosmetics in conformity with the Federal Food, Drug, and Cosmetic Act. The Sherman Law authorizes any authorized agent of the department, upon presenting appropriate credentials and at a reasonable time, to enter and inspect factories, warehouses, or other establishments to determine, among other things, whether any food, drug, device, or cosmetic is adulterated, misbranded, or falsely advertised, as provided.

This bill would authorize, for purposes of determining compliance with the requirements of the Home Dairy Farm Raw Milk Safety Act bill, any authorized agent of a state or local enforcement agency, including the State Department of Public Health, or a representative of a local health department of a city, county, or city and county, upon presenting appropriate credentials and at a reasonable time, to access, for inspection purposes, a home dairy farm if the authorized agent or representative has, on the basis of a consumer complaint, or other reliable source of information, a reasonable belief, supported by standard epidemiological practice or credible scientific research, that raw milk produced or sold by a home dairy farm may be adulterated or otherwise unsafe for human consumption due to exposure to disease or contaminants, or improper storage or handling, or that the home dairy farm has violated the Home Dairy Farm Raw Milk Safety Act.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Farm families have been choosing to drink raw milk from
4 their cows, goats, or other lactating animals for decades, and have
5 traditionally shared and exchanged raw milk with neighbors and
6 friends.

7 (b) Individuals throughout California choose to drink
8 unprocessed raw milk for taste, access, or health reasons, and often
9 prefer to purchase fresh milk from a neighbor rather than at a retail
10 store, just as they might acquire eggs from family-owned chickens
11 or produce from family gardens.

12 (c) The consumption of raw milk is not prohibited by law in
13 this state, and 33 other states prescribe varying standards to allow
14 for limited forms of sale of raw cow or goat milk.

15 SEC. 2. It is the intent of the Legislature in enacting Division
16 15.2 (commencing with Section 39950) of the Food and
17 Agricultural Code, to accomplish all of the following:

18 (a) Authorize farm families in California to exchange, share, or
19 sell limited quantities of raw milk produced at a home dairy farm
20 that is in excess of household needs.

21 (b) Ensure that the exchange, sharing, and direct sale of raw
22 milk produced by a home dairy farm is regulated so that any raw
23 milk that is exchanged, shared, or sold conforms to appropriate
24 health and labeling standards.

25 (c) Exempt small scale home dairy farm operations from
26 burdensome laws and regulations applicable to the production of
27 market milk by large-scale retail milk producers that are not
28 necessary or appropriate for the operation of small home dairy
29 farms producing raw milk.

1 SEC. 3. Section 32507 is added to the Food and Agricultural
2 Code, to read:

3 32507. “Home dairy farm” means any place or premises upon
4 which raw milk is produced, where no more than three cows or
5 water buffalo, or 15 goats, sheep, or other hooved mammals, are
6 in lactation, and the raw milk produced by those lactating animals
7 is primarily intended for consumption at the home dairy farm.
8 Home dairy farm does not include any place or premises upon
9 which raw milk is produced, manufactured, or processed for retail
10 sale.

11 SEC. 4. Article 6 (commencing with Section 33582) is added
12 to Chapter 5 of Part 1 of Division 15 of the Food and Agricultural
13 Code, to read:

14
15 Article 6. Home Dairy Farms

16
17 33582. The requirements of this division regulating raw milk
18 do not apply to a home dairy farm as defined in Section 32507. A
19 home dairy farm shall instead be subject to Division 15.2
20 (commencing with Section 39950).

21 SEC. 5. Division 15.2 (commencing with Section 39950) is
22 added to the Food and Agricultural Code, to read:

23
24 DIVISION 15.2. HOME DAIRY FARM RAW MILK SAFETY
25 ACT

26
27 39950. For purposes of this division, the following terms have
28 the following meanings:

29 (a) “Direct sale” means a transaction between a home dairy
30 farmer and a consumer, where the consumer purchases the raw
31 milk directly from the home dairy farm. Direct sales are limited
32 to onsite sales at a home dairy farm, which may include the
33 preordering of raw milk from the home dairy farm. Direct sale
34 does not include any sales arranged online or through a retailer or
35 other distributor.

36 (b) “Home dairy farm” has the same meaning as in Section
37 32507.

38 (c) “Home dairy farmer” means a person who owns or operates
39 a home dairy farm.

1 (d) “Raw milk” means milk that is produced at a place or
2 premise of a home dairy farm that is not pasteurized, processed,
3 or otherwise adulterated.

4 39951. A home dairy farm shall not ~~engage~~ *do either of the*
5 *following*:

6 (a) *Engage* in the manufacturing, processing, or online or retail
7 sale of raw milk.

8 (b) *Sell or exchange any raw milk produced at the home dairy*
9 *farm at any temporary food events, such as food fairs, tastings, or*
10 *cooking demonstrations, or at farmers’ markets.*

11 39952. A home dairy farm may share, exchange, or engage in
12 the direct sale of raw milk that is in excess of the consumption
13 needs of the home dairy farm, if the raw milk is obtained from
14 healthy, lactating animals that are kept and fed on the premises of
15 the home dairy farm and meet the requirements of this division.
16 Any raw milk that is shared, exchanged, or directly sold pursuant
17 to this division shall be clean, pure, and unadulterated, and obtained
18 from healthy animals that do not test positive for brucellosis or
19 tuberculosis or other diseases.

20 39953. (a) A home dairy farm shall arrange for the testing of
21 all animals kept and fed on the premises of the home dairy farm,
22 at least once annually, for brucellosis and tuberculosis. The testing
23 shall be performed by a licensed veterinarian who is approved by
24 the department or accredited by the United States Department of
25 Agriculture. An animal that tests positive for brucellosis or
26 tuberculosis shall be immediately isolated from all other animals
27 at the home dairy farm, and its milk may not be shared, exchanged,
28 or sold until such time that the animal tests negative for brucellosis
29 or tuberculosis and is determined by a licensed veterinarian to be
30 healthy.

31 (b) *A home dairy farm shall maintain and make available for*
32 *review, for a period of at least two years after collection of the*
33 *information or records, at an accessible location on the premises*
34 *of the home dairy farm, the following records:*

35 (1) *A record of required analyses and bacteriological*
36 *examinations of raw milk produced at the home dairy farm.*

37 (2) *Records of brucellosis and tuberculosis testing results, as*
38 *required by subdivision (a).*

39 39954. Any raw milk sold by direct sale pursuant to this
40 division shall comply with the following requirements:

1 (a) The raw milk shall be kept in a container that is clearly
2 labeled with the product name, “raw milk,” with the words, “keep
3 refrigerated” on the label. The container label shall also contain
4 the name and address of the home dairy farm, the product quantity,
5 the date packaged, and the following warning prominently
6 displayed on the packaging:

7

8 **WARNING:** Raw unpasteurized milk and raw dairy products
9 may contain disease-causing microorganisms. Persons at highest
10 ~~risk of disease from these organisms include newborns and infants,~~
11 ~~the elderly, pregnant women, those taking corticosteroids,~~
12 ~~antibiotics, or antacids, and persons with chronic illnesses or other~~
13 ~~conditions that weaken their immune system~~ *risk of disease from*
14 *these organisms include newborns, infants and children, the*
15 *elderly, pregnant women, those taking corticosteroids, antibiotics,*
16 *or antacids, and those persons with chronic illnesses or other*
17 *conditions that weaken their immune system.*

18

19 (b) Raw milk produced by a home dairy farm that is subject to
20 this division shall not be sold or made available for other
21 distribution as market milk, guaranteed milk, certified milk, Grade
22 A milk, or processed milk, and shall not be subject to regulation
23 as those types of milk are under applicable laws.

24 (c) Any raw milk directly sold under this division shall be
25 contained in containers no larger than one gallon in size.

26 (d) Any raw milk that is directly sold under this division shall
27 be contained in bottles, and shall be labeled by use of a securely
28 attached and readable neck tag.

29 *39955. A home dairy farm shall not mislabel or disseminate*
30 *any false advertising that makes a statement or claim regarding*
31 *the health benefits of raw milk, which is unsubstantiated by widely*
32 *accepted scientific or medical evidence, or that is otherwise*
33 *prohibited under state or federal law.*

34 ~~39955.~~

35 *39956. A home dairy farm that engages in the sharing,*
36 *exchange, or direct sale of raw milk under this division shall*
37 *comply with the following requirements for the care and feeding*
38 *of its animals:*

- 1 (a) Feed for dairy animals shall not be spoiled or otherwise unfit
2 for the consumption by milk-producing animals, and shall be
3 protected from contamination during storage.
- 4 (b) Dairy animals shall be kept in a clean, safe, and sanitary
5 environment.
- 6 (c) Dairy animals shall have access to supplies of clean water
7 that are free of contamination.
- 8 (d) Any person who has contact with raw milk produced by an
9 animal shall be clean and free of communicable disease, and not
10 in a condition to spread any communicable disease.
- 11 (e) Any person who will be milking a dairy animal shall be
12 required to wash his or her hands before contact with the animal.
- 13 (f) Dairy animals shall be milked in a location that has overhead
14 protection during inclement weather, that is kept clean and free of
15 accumulated dust, cobwebs, manure, urine, or other filth.
- 16 (g) Dairy animals shall be kept clean during milking.
- 17 (h) All equipment used for milking dairy animals shall be
18 thoroughly cleaned and sanitized after each use and stored in a
19 clean area protected from flies, rodents, and other contaminants.
- 20 (i) The water supply used for washing or cleaning animals or
21 equipment shall be from a potable source.
- 22 (j) Any raw milk collected pursuant to this division shall be
23 cooled to 50 degrees Fahrenheit (10 degrees Celsius) or less within
24 two hours of the commencement of milking and to 45 degrees
25 Fahrenheit (7 degrees Celsius) or less within four hours of the
26 completion of milking, and shall remain refrigerated at that
27 temperature until provided to the consumer. Any raw milk provided
28 to a consumer by a home dairy farm shall not contain more than
29 15,000 bacteria per milliliter or more than 10 coliform bacteria
30 per milliliter.
- 31 (k) Any raw milk offered for sharing, exchange, or direct sale
32 pursuant to this division shall not contain more than 600,000
33 somatic cells per milliliter of cow's milk or no more than 1,000,000
34 somatic cells per milliliter of goat's milk.
- 35 (l) Any raw milk offered for sharing, exchange, or direct sale
36 shall be filtered before final packaging using a single-service filter.
37 The filtering and packaging of raw milk shall be done in a room
38 that is clean and protected from flies, rodents, and other
39 contaminants.

1 (m) A person who purchases or receives raw milk from a home
2 dairy farm subject to this division shall not resell or redistribute
3 the raw milk to third parties.

4 ~~39956.~~

5 39957. (a) Notwithstanding any other law, for purposes of
6 determining compliance with the requirements of this division,
7 any authorized agent of a state or local enforcement agency,
8 including the State Department of Public Health, or a representative
9 of a local health department of a city, county, or city and county,
10 may, upon presenting appropriate credentials and at a reasonable
11 time, access, for inspection purposes, a home dairy farm if the
12 authorized agent or representative has, on the basis of a consumer
13 complaint, or other reliable source of information, a reasonable
14 belief, supported by standard epidemiological practice or credible
15 scientific research, that raw milk produced or sold by a home dairy
16 farm may be adulterated or otherwise unsafe for human
17 consumption due to exposure to disease or other contaminants, or
18 improper storage or handling, or that the home dairy farm has
19 violated this subdivision.

20 (b) Access to a home dairy farm for purposes of carrying out
21 an inspection of a home dairy farm pursuant to subdivision (a)
22 shall be limited to the premises where lactating animals ~~are kept,~~
23 *milking equipment, or bottling equipment is kept, or where milk*
24 *is bottled and worker sanitation facilities are maintained, as*
25 *required by Section 39956.*

26 SEC. 6. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.

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