

1 H.125
2 Introduced by Representatives Pellett of Chester, Ancel of Calais, Atkins of
3 Winooski, Bohi of Hartford, Cheney of Norwich, Clarkson of
4 Woodstock, Conquest of Newbury, Copeland-Hanzas of
5 Bradford, Davis of Washington, Devereux of Mount Holly,
6 Donaghy of Poultney, Donahue of Northfield, Donovan of
7 Burlington, Edwards of Brattleboro, Emmons of Springfield,
8 Evans of Essex, Fisher of Lincoln, Frank of Underhill, French
9 of Shrewsbury, French of Randolph, Haas of Rochester, Head
10 of S. Burlington, Heath of Westford, Helm of Castleton,
11 Howard of Rutland City, Howrigan of Fairfield, Hube of
12 Londonderry, Jewett of Ripton, Johnson of S. Hero, Kilmartin
13 of Newport City, Kitzmiller of Montpelier, Klein of East
14 Montpelier, Larson of Burlington, Lenes of Shelburne, Leriche
15 of Hardwick, Lippert of Hinesburg, Lorber of Burlington,
16 Manwaring of Wilmington, Marek of Newfane, Martin of
17 Springfield, Martin of Wolcott, Masland of Thetford,
18 McCullough of Williston, Milkey of Brattleboro, Minter of
19 Waterbury, Mitchell of Barnard, Morley of Barton, Mrowicki of
20 Putney, Obuchowski of Rockingham, Orr of Charlotte, Peltz of
21 Woodbury, Potter of Clarendon, Rodgers of Glover, Shand of

1 Weathersfield, Sharpe of Bristol, South of St. Johnsbury,
2 Spengler of Colchester, Stevens of Waterbury, Sweaney of
3 Windsor, Townsend of Randolph, Trombley of Grand Isle,
4 Weston of Burlington, Wizowaty of Burlington and Zuckerman
5 of Burlington

6 Referred to Committee on

7 Date:

8 Subject: Agriculture; dairy operations; sale of unpasteurized milk

9 Statement of purpose: This bill proposes to provide for the certification of
10 dairy farmers to allow unlimited direct sales of unpasteurized milk.

11 An act relating to farm-fresh milk

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. SHORT TITLE

14 This act shall be known and may be cited as the Farm-Fresh Milk
15 Restoration Act of 2009.

16 Sec. 2. GOAL; INTENT

17 The general assembly declares as its goal the support of programs and
18 policies that foster the development of a diversified agricultural sector that:

19 (1) Offers farmers an opportunity to sell their products to a marketplace
20 that pays them a reasonable rate of return for their labor and capital

1 investments;

2 (2) Offers the public nutritious and safe foods;

3 (3) Produces, markets, and distributes agricultural products in a

4 sustainable manner that conserves energy and the environment;

5 (4) Provides economic stability to preserve the necessary infrastructure

6 of the agricultural industry;

7 (5) Expands the market opportunities for agricultural products;

8 (6) Enables agricultural operations of diverse sizes and producing a

9 wide array of products to prosper in Vermont and contribute to the state and

10 regional economy;

11 (7) Assures continued stewardship of the land with respect for the

12 environment and efficient use of energy.

13 Sec. 3. FINDINGS

14 The general assembly finds:

15 (1) Commodity foods travel far, and most of the consumer dollar spent

16 goes toward processing, transport, marketing, and packaging of these foods.

17 Farmers receive only \$0.10 for every consumer dollar spent in the commodity

18 market. Direct sales by the farmer to the consumer often provide the best

19 return to the farm. Sale of farm-fresh milk can yield as much as \$10.00 per

20 gallon for Vermont family farmers.

21 (2) Locally grown food supports the local economy. Farmers support

1 the local economy by spending their money in the community and providing
2 jobs and training for beginning farmers and farm workers. Also, farmers keep
3 land open and managed. Providing Vermont farmers with additional income
4 possibilities will help to keep farms viable in our state.

5 (3) There is now a consumer demand for local products, and it is
6 growing. Vermont's current rules on selling raw milk are restrictive, and
7 Vermont farmers should be allowed to take advantage of the growing local
8 market, that provides them with a stable income source.

9 (4) Farmers who sell their products directly to consumers are very
10 concerned with product safety and consumer health. Farm-fresh milk farmers
11 want to produce a safe, healthy product for direct sale to consumers and should
12 be supported in their efforts by the state of Vermont.

13 (5) The number of dairy farms in Vermont is decreasing, and it is
14 difficult for young dairy farmers to get started. The ability to sell products
15 directly to consumers can break down the barriers to entry for new farmers and
16 keep farmers in business because of the stable price and loyal customer base.

17 Sec. 4. 6 V.S.A. chapter 152 is added to read:

18 CHAPTER 152. SALE OF UNPASTEURIZED MILK

19 § 2775. DEFINITIONS

20 For the purposes of this chapter:

1 (1) “Farm-fresh milk” is unpasteurized raw milk that conforms to the
2 regulations and standards set forth in this chapter for the production and
3 distribution directly from the farm to the end-user in the state of Vermont of
4 unpasteurized milk and is sold by farm-fresh milk farmers.

5 (2) A “farm-fresh milk farmer” (FFMF) is an individual farmer that has
6 been certified by a local certification committee in accordance with this
7 chapter to sell farm-fresh milk within the state of Vermont.

8 (3) A “health care professional” is a person who is licensed in the state
9 of Vermont to practice medicine, including medical doctors, naturopathic
10 physicians, veterinarians, and osteopathic physicians.

11 (4) A “local certification committee” (LCC) is a committee composed of
12 at least three dairy farmers, two consumers of farm-fresh milk, and one health
13 care professional approved by the state certification board to carry out this
14 chapter in a particular geographical area within the state of Vermont.

15 (5) “Prepurchased milk” is farm-fresh milk that is scheduled to be
16 delivered to a customer.

17 § 2776. STATE CERTIFICATION BOARD

18 (a) A state certification board (SCB) of six members is created for the
19 purpose of carrying out the goals and purposes of this chapter and overseeing
20 LCCs, which will have the authority to certify FFMFs for the sale of
21 farm-fresh milk in Vermont. The members of the board shall be:

1 (1) the state veterinarian ex officio;

2 (2) two farmers selected jointly by the speaker of the house, the

3 president pro tempore of the senate, and the governor who shall be:

4 (A) for the initial appointment term of one year, two farmers who
5 have sold unpasteurized milk in Vermont pursuant to subdivision 2723(3) of
6 this title for a period of at least three years; and

7 (B) for the subsequent terms of three years, two other farmers who
8 are or have been members of an LCC;

9 (3) a member of the board of the Vermont grass farms association
10 (VGFA), selected by the VGFA board initially for a term of two years; and

11 (4) two members of the public from different regions of the state,
12 selected by a majority vote of the four members first appointed. The initial
13 members shall meet within 30 days of the appointment of the board for the sole
14 purpose of selecting the two public members. The initial and subsequent terms
15 for public members shall be three years.

16 (b) All members shall serve for a term of three years, except in some cases
17 the initial appointees pursuant to subdivision (a)(2)(A) of this section.

18 Vacancies shall be filled in the same manner as the original appointment for
19 the unexpired portion of the term vacated. Each year, the SCB shall meet at
20 least once. The state veterinarian shall be responsible for scheduling the first
21 meeting.

1 (c) The SCB shall:

2 (1) Elect one of its members as chair and adopt appropriate rules to
3 govern the time and place of its meetings, its rules of procedure, and its
4 record-keeping and other internal operations.

5 (2) No later than June 30, 2009, adopt rules governing the creation and
6 operation of LCCs, which shall certify FFMFs in accordance with this chapter.

7 The rules shall include:

8 (A) A process for an LCC to be formed and recognized by the SCB,
9 including how an LCC will define its geographic coverage area so that no two
10 LCCs serve the same area.

11 (B) Record-keeping, inspection, and reporting requirements for the
12 LCCs to the SCB, and how the LCCs will document compliance with this
13 chapter and the rules adopted under this chapter. LCCs shall inspect each farm
14 at least two times each year.

15 (C) Certification fees for FFMFs to be paid to the LCCs.

16 (D) Stipend amounts and mileage reimbursement rates for the LCC
17 members for meetings and inspection tours and other related costs.

18 (E) Procedures for collecting certification fees by the LCCs, as well
19 as procedures for stipend payment, mileage reimbursement, and farmer
20 assistance from these fees.

1 (F) A procedure for ensuring that LCCs are carrying out their duties
2 properly, including enforcement protocol for the SCB if an LCC is not carrying
3 out its duties.

4 (G) An enforcement procedure to be followed if an FFMF is found to
5 be out of compliance with the standards. The procedure shall include a
6 notification, with a suggested schedule of compliance, to the FFMF and the
7 SCB from the LCC. The LCC will check with the FFMF to determine whether
8 the schedule of compliance has been met and then report to the SCB. After
9 receiving the report, the SCB will determine whether enforcement action will
10 be taken.

11 (H) An application form and process for FFMFs to apply for
12 certification and renew their certificates through the LCCs.

13 (I) A plan for responding when a sample of milk tests positive for
14 pathogens. The LCC will be notified of the test result by the FFMF and the
15 testing laboratory immediately upon receiving the information of the result.
16 The LCC will then immediately notify the SCB. The response plan will be
17 implemented by the SCB and shall include procedures for the following:

18 (i) inspection of the farm by the LCC within 48 hours of the
19 notice;

20 (ii) stopping the sale of milk from the FFMF until the milk is
21 determined to be free of pathogens;

1 (iii) notifying customers;

2 (iv) any enforcement measures recommended by the LCC and

3 deemed appropriate by the SCB; and

4 (v) collecting the frozen milk samples from the FFMF and having
5 them tested at a state-approved laboratory, as well as testing every day until the
6 farmer's milk is free from pathogens for three consecutive days, at which time
7 sales may resume.

8 § 2777. PERMITS FOR PRODUCTION AND MARKETING OF

9 FARM-FRESH MILK

10 (a) Every person, before engaging in the business of producing and
11 marketing farm-fresh milk, shall obtain a permit from the designated LCC for
12 his or her region. Upon receipt of an application for a permit, the LCC shall
13 inspect the applicant's milking animals and the farm, facility, or other place of
14 business from which milk is produced or distributed. If the application meets
15 the standards set forth in this chapter and the rules adopted by the SCB, a
16 permit shall be issued for a period not to exceed one year and shall be
17 renewable annually.

18 (b) A person holding a permit from an LCC who is not otherwise in
19 violation of any rule or procedure set by the SCB and whose milk, milking
20 animals, farm, and facility or other place of business from which milk is

1 produced or distributed have passed the most recent inspection by the LCC for
2 that region shall be authorized to:

3 (1) sell unlimited quantities of farm-fresh milk directly from the FFMF
4 to the end-user within the state of Vermont; however, this authorization does
5 not include resale;

6 (2) advertise the sale of milk by hanging a sign on the farm property
7 with the words “Certified Farm-Fresh Milk for Sale Here” or placing an
8 advertisement with the words “Certified Farm-Fresh Milk for Sale” with
9 contact information and the location of the farm, provided that such
10 advertisement does not state or imply particular health benefits associated with
11 farm-fresh milk; and

12 (3) deliver prepurchased milk. The customer must arrange with the
13 FFMF prior to the delivery to pay for the milk in advance, either as a one-time
14 purchase or through a subscription.

15 (c) Nothing in this section shall be read to limit the ability of a farmer to
16 produce and sell or offer for sale milk pursuant to subdivision 2723(3) of this
17 title.

18 § 2778. STANDARDS

19 In order to be certified by an LCC, an FFMF shall demonstrate
20 procedures and practices in place to meet the following standards:

1 (1) Farm-fresh milk shall be bottled on the premises where
2 produced.

3 (2) Farm-fresh milk shall be sold in containers which have been
4 filled by the FFMF, with the pouring lip completely protected from
5 contamination, and which have been thoroughly cleaned in compliance
6 with subdivisions (A)–(C) of this subdivision (2).

7 (A) Containers shall be cleaned by the FFMF. FFMFs may
8 allow customers to clean their own containers only if each customer’s
9 container is labeled with the customer’s name and address, and the
10 customers always use their own containers.

11 (B) Farm-fresh milk shall be cooled to 40 degrees Fahrenheit
12 within two hours of finishing milking and so maintained until it is
13 delivered to the consumer.

14 (C) Farm-fresh milk shall be labeled as such, and the label
15 shall contain:

16 (i) the date the milk was obtained from the animal;

17 (ii) the name, address, zip code, and telephone number of
18 the producing FFMF;

19 (iii) the common name of the type of animal producing the
20 milk or a picture of the animal;

1 (iv) the words “Farm-Fresh Milk. Not pasteurized. Keep
2 Refrigerated.”

3 (D) Farm-fresh milk must be obtained from the milking
4 animal by the FFMF who sells the milk or another regular worker on
5 the farm. In either case, the milker shall thoroughly wash and dry his
6 or her hands before milking. The milker shall examine each teat before
7 milking and ensure that it is healthy, clean, and dry. If a quarter or half
8 section of the udder is compromised, each compromised section shall
9 be milked separately, and that milk shall not be sold for human
10 consumption.

11 (E) Milking equipment shall be made of food-grade material
12 and shall be thoroughly cleaned and air-dried after each use and
13 sanitized before each use.

14 (F) The milking area shall be kept free of manure.

15 (G) Clean, dry bedding shall be provided at all times.

16 (H) An FFMF shall have a health care plan for the animals
17 producing farm-fresh milk. This plan shall include provisions for the
18 following:

19 (i) A preventive health care plan;

20 (ii) A sickness treatment plan;

21 (iii) A feeding and grazing plan;

1 (iv) A low stress environment.

2 (3) An FFMF shall have the milk produced on that farm tested
3 once per week in a state-approved laboratory for the following, and the
4 results must be below these limits:

5 (A) Total bacterial (aerobic) count: 15,000 cfu/ml (cows);
6 20,000 cfu/ml (goats);

7 (B) Total coliform count: 10 cfu/ml (cows and goats);

8 (C) Somatic cell count: 400,000/ml (cows); 750,000/ml
9 (goats).

10 (4) No FFMF shall sell milk which:

11 (A) Contains any drug or drugs in excess of tolerances established by
12 the United States Food and Drug Administration (FDA) in the Code of Federal
13 Regulations;

14 (B) Is contaminated, meaning milk that is unsaleable or unfit for
15 human consumption following treatment of the animal with veterinary
16 products, including antibiotics, which have withhold requirements, or
17 treatment with medicines or insecticides not approved for use on dairy animals
18 by the FDA or the Environmental Protection Agency (EPA) or meaning
19 adulterated milk, which means milk containing noxious, unwholesome, or
20 deleterious material, preservative, drugs, or chemical in a quantity injurious to
21 health;

1 (C) Does not conform to the definition of the product; or

2 (D) Is not produced, processed, or distributed according to the
3 provisions of this chapter.

4 (5) An FFMF shall also collect one composite sample of milk
5 each day, and keep 14 days' worth of samples frozen.

6 (6) An FFMF shall keep the farm's test result records for one
7 year and shall provide them to the farm's customers or the LCC if
8 asked.

9 (7) An FFMF shall provide each new customer with the
10 following information:

11 (A) The price that farm-fresh milk will be sold for and in
12 what size containers it will be available;

13 (B) Contact information for the FFMF;

14 (C) Acceptable procedures for the customer to obtain milk
15 from the farm;

16 (D) Names and contact information for LCC members;

17 (E) Procedures for arranging a farm visit upon customer
18 request;

19 (F) Procedures for obtaining milk test results from the FFMF
20 upon request by the customer.

1 (8) An FFMF shall have a list of all of its customers, including
2 their telephone numbers or e-mail addresses. In order to be certified,
3 the FFMF shall describe his or her method of keeping this list up to
4 date. The FFMF shall provide this list if asked by the LCC or the SCB.

5 § 2779. DELIVERY OF PREPURCHASED MILK

6 (a) Delivery of farm-fresh milk shall be permitted within the state
7 of Vermont:

8 (1) Only to customers who have prepurchased milk from an
9 FFMF:

10 (2) Directly to customers at a prearranged location; or

11 (3) To a predetermined common drop-off point that is outfitted
12 with refrigerated storage.

13 (b) A certified FFMF may deliver certified farm-fresh milk, or
14 contract with another individual to deliver milk to customers who have
15 prepurchased the milk. Before an FFMF may deliver farm-fresh milk
16 to a customer, the following criteria shall be met:

17 (1) The FFMF shall receive payment for the milk from the
18 customer.

19 (2) The FFMF shall have the customer's contact information as
20 provided for in this chapter.

1 (3) The customer shall receive the information required by this
2 chapter.

3 (c) In order to deliver certified farm-fresh milk, an FFMF or the
4 individual contracted to do the delivery shall ensure the following:

5 (1) A customer list is posted at the drop-off location with the
6 names of the customers to receive the milk. Customers shall sign and
7 date this list when they pick up their milk. The FFMF shall keep these
8 lists on file for one month.

9 (2) The drop-off location shall have a sign indicating that the
10 farm-fresh milk is for prepurchase customers only.

11 (3) The drop-off location shall have refrigerated storage at 40
12 degrees Fahrenheit or lower.

13 (4) During delivery, farm-fresh milk shall be protected from
14 exposure to direct sunlight.

15 (5) During delivery, farm-fresh milk shall be kept at 40 degrees
16 Fahrenheit or lower at all times.

17 (6) The number of filled containers in the delivery vehicle and at
18 the drop-off points shall match the number of containers indicated on
19 the customer lists.

1 Sec. 5. 6 V.S.A. § 2723 is amended to read:

2 § 2723. -EXEMPTIONS

3 Handlers' licenses shall not be required from the following persons:

4 (1) Producers, except producers who sell fluid dairy products at retail in
5 Vermont.

6 (2) A hotel, restaurant, or other public eating place that sells fluid dairy
7 products for consumption on the premises, or a store which sells packaged
8 dairy products, provided the entire supply of fluid dairy products is purchased
9 from licensed milk handlers.

10 (3) A person who produces and sells or offers for sale ~~less~~ fewer
11 than 50 quarts of milk in any one day, but in such case, an inspection
12 may be made and reasonable sanitary requirements shall be complied
13 with.

14 (4) Farm-fresh milk farmers certified pursuant to chapter 152 of this
15 title.