

1 H.426
2 Introduced by Representatives Zagar of Barnard, Ancel of Calais,
3 Bartholomew of Hartland, Baser of Bristol, Berry of
4 Manchester, Burditt of West Rutland, Burke of Brattleboro,
5 Buxton of Tunbridge, Chesnut-Tangerman of Middletown
6 Springs, Christie of Hartford, Conquest of Newbury, Dakin of
7 Chester, Davis of Washington, Deen of Westminster, Donahue
8 of Northfield, Eastman of Orwell, Frank of Underhill, French of
9 Randolph, Gonzalez of Winooski, Graham of Williamstown,
10 Head of South Burlington, Hooper of Montpelier, Huntley of
11 Cavendish, Jewett of Ripton, Kitzmiller of Montpelier, Klein of
12 East Montpelier, Komline of Dorset, Krowinski of Burlington,
13 Lenes of Shelburne, Lewis of Berlin, Lippert of Hinesburg,
14 Manwaring of Wilmington, Martin of Wolcott, Masland of
15 Thetford, McCormack of Burlington, McCullough of Williston,
16 Mrowicki of Putney, Nuovo of Middlebury, Patt of Worcester,
17 Pearson of Burlington, Potter of Clarendon, Ryerson of
18 Randolph, Stevens of Waterbury, Strong of Albany, Tate of
19 Mendon, Toleno of Brattleboro, Townsend of South Burlington,
20 Willhoit of St. Johnsbury, Woodward of Johnson, and
21 Yantachka of Charlotte

1 Referred to Committee on

2 Date:

3 Subject: Agriculture; milk; sale of unpasteurized milk

4 Statement of purpose of bill as introduced: This bill proposes to expand the
5 weekly volume of raw milk sales; allow for sale at farmer's markets,
6 community supported agriculture, and retail establishments; allow for sale of
7 value-added products; adjust the testing requirements for producers; change the
8 labeling language; and remove the farm visit requirement for sale.

9 An act relating to the expansion of raw milk sales

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

11 Sec. 1. 6 V.S.A. chapter 152 is amended to read:

12 CHAPTER 152. SALE OF UNPASTEURIZED (RAW) MILK

13 * * *

14 § 2776. DEFINITIONS

15 ~~It~~ As used in this chapter:

16 * * *

17 (3) "Unpasteurized milk" or "unpasteurized (raw) milk" means milk that
18 is unprocessed and value-added products.

19 * * *

1 (5) “Value-added products” means the following products made from
2 unprocessed raw milk:

3 (A) cheese made from raw milk when such cheese has been aged a
4 minimum of 60 days at a temperature above 35 degrees Fahrenheit;

5 (B) butter;

6 (C) cream;

7 (D) kefir;

8 (E) skim milk; and

9 (F) yogurt.

10 (6) “Community supported agriculture” means a farmer or group of
11 farmers who sell or offer for sale advance subscriptions to shares of the
12 products of their farms and at regular intervals deliver, or permit on-farm
13 retrieval of, the shares.

14 § 2777. STANDARDS FOR THE SALE OF UNPASTEURIZED (RAW)
15 MILK

16 (a) Unpasteurized milk shall be sold ~~directly from the producer to the~~
17 ~~consumer~~ for personal consumption only and shall not be resold, except as
18 provided in section 2779 of this title.

19 (b) Unpasteurized milk shall be sold only from the farm on which it was
20 produced except when ~~delivery is arranged in conformance with section 2778~~
21 of authorized by this chapter. ~~Unpasteurized milk shall not be sold or offered~~

1 as free samples at any location other than on the farm on which the milk was
2 produced.

3 (c) Unpasteurized milk operations shall conform to reasonable sanitary
4 standards, including:

5 (1)(A) Unpasteurized milk shall be derived from healthy animals which
6 are subject to appropriate veterinary care, including tuberculosis and
7 brucellosis testing and rabies vaccination, according to accepted testing and
8 vaccinations standards as established by the Agency.

9 (B) A producer shall test for tuberculosis and brucellosis once every
10 three years according to accepted testing standards established by the Agency.

11 (C) A producer shall post test results and verification of
12 vaccinations shall be posted on the farm in a prominent place and be easily
13 visible make results available to customers.

14 * * *

15 (7) If an animal is treated with antibiotics, that animal's milk shall be
16 tested for and found free of antibiotics before its milk is offered for sale or
17 used in value-added products.

18 (d) Unpasteurized milk shall conform to the following production and
19 marketing standards:

20 * * *

1 (2) Labeling. Unpasteurized (raw) milk shall be labeled as such, and the
2 label shall contain:

3 * * *

4 (E) The words “~~This product has not been pasteurized and therefore~~
5 ~~may contain harmful bacteria that can cause illness particularly in children,~~
6 ~~elders, and persons with weakened immune systems and in pregnant women~~
7 ~~can cause illness, miscarriage, or fetal death, or death of a newborn~~ Raw milk
8 is not pasteurized. Pasteurization destroys organisms that may be harmful to
9 health. If handled improperly, raw milk may be harmful to health. Raw milk
10 must be kept at 40 degrees Fahrenheit or lower at all times.” on the container’s
11 principal display panel and clearly readable in letters at least one-sixteenth inch
12 in height.

13 * * *

14 (5) Shelf life. ~~Unpasteurized~~ Unprocessed milk shall not be transferred
15 to a consumer after four days from the date on the label.

16 (6) Customer inspection and notification.

17 (A) ~~Prior to selling milk to a new customer, the new customer shall~~
18 ~~visit the farm and the~~ The producer shall provide the customer with the
19 opportunity to tour the farm and any area associated with the milking
20 operation. The producer shall permit the customer to return to the farm at a

1 reasonable time and at reasonable intervals to reinspect any areas associated
2 with the milking operation.

3 (B) A sign with the words “Unpasteurized (Raw) Milk. Not
4 pasteurized. Keep Refrigerated.” and ~~“This product has not been pasteurized
5 and therefore may contain harmful bacteria that can cause illness particularly
6 in children, elders, and persons with weakened immune systems and in
7 pregnant women can cause illness, miscarriage, or fetal death, or death of a
8 newborn~~ Raw milk is not pasteurized. Pasteurization destroys organisms that
9 may be harmful to health. If handled improperly, raw milk may be harmful to
10 health. Raw milk must be kept at 40 degrees Fahrenheit or lower at all times.”
11 shall be displayed prominently on the farm in a place where it can be easily
12 seen by customers. The lettering shall be at least one inch in height and shall
13 be clearly readable.

14 (e)(1) A producer selling 70 gallons (280 quarts) or less of unpasteurized
15 milk per week shall meet the requirements of subsections (a) through (c) of this
16 section and shall sell unpasteurized milk only from the farm on which it was
17 produced. A producer selling 70 gallons or less of unpasteurized milk may
18 choose to meet the requirements of subsections (d) and (f) of this section, in
19 which case the producer may sell or deliver in accordance with this chapter.

20 (2) ~~Producers selling 87.5 or fewer~~ A producer selling more than 70 to
21 100 gallons (350 280 to 400 quarts) of unpasteurized milk per week shall meet

1 the requirements of subsections (a) through (d) of this section and shall sell
2 unpasteurized milk only from the farm on which it was produced. A producer
3 selling ~~87.5 or fewer gallons~~ more than 70 to 100 gallons of unpasteurized
4 milk may choose to meet the requirements of subsection (f) of this section, in
5 which case the producer may sell or deliver in accordance with ~~section 2778 of~~
6 ~~this title~~ this chapter.

7 (f) ~~Producers selling 6 more than 87.5 gallons to 280 gallons (more than~~
8 ~~350 to 1,120 quarts)~~ A producer selling more than 100 gallons (400 quarts) of
9 unpasteurized milk per week shall meet the requirements of subsections (a)
10 through (d) of this section as well as the following standards:

11 * * *

12 (3) Testing.

13 (A) A producer shall have unpasteurized milk tested ~~twice~~ once per
14 month by a U.S. Food and Drug Administration accredited laboratory using
15 accredited lab approved containers. Milk shall be tested for the following and
16 the results shall be below these limits:

17 (i) total bacterial (aerobic) count: 15,000 cfu/ml (cattle and goats);

18 (ii) total coliform count: 10 cfu/ml (cattle and goats);

19 (iii) somatic cell count: ~~225,000~~ 400,000/ml (cattle); ~~500,000~~

20 750,000/ml (goats).

1 (B) The producer shall ~~assure~~ ensure that all test results are
2 forwarded to the Agency, by the laboratory, upon completion of testing or
3 within five days of receipt of the results by the producer.

4 (C) The producer shall keep test results on file for one year and shall
5 post results on the farm in a prominent place that is easily visible to customers.
6 The producer shall provide test results to the farm's customers if requested.

7 (D) The Secretary shall identify locations where a producer can drop
8 off samples to be transported by the Agency to an accredited laboratory for
9 testing. The Secretary shall adopt rules regarding the implementation of this
10 subdivision, including:

11 (i) time;

12 (ii) labeling;

13 (iii) temperature; and

14 (iv) payment methods for testing and transportation.

15 (E) The Secretary shall issue a warning to the producer if any two out
16 of four monthly tests exceed the standards. The Secretary shall have the
17 authority to suspend milk production if any three out of five monthly tests
18 exceed the standards.

19 * * *

1 (6) ~~Prearranged delivery~~ Off-farm sale. ~~Prearranged delivery~~ The sale
2 of unpasteurized milk off the farm is permitted and shall be in compliance with
3 ~~section 2778 of this title~~ this chapter.

4 (g) ~~The sale of more than 280 gallons (1,120 quarts) of unpasteurized milk~~
5 ~~in any one week is prohibited.~~ [Repealed.]

6 § 2778. SALE AND DELIVERY OF UNPASTEURIZED (RAW) MILK

7 (a) ~~Delivery~~ Sale and delivery of unpasteurized milk off the farm is
8 permitted only within the State of Vermont and only of milk produced by ~~those~~
9 a producers meeting the requirements of subsection 2777(f) of this chapter.

10 (b) ~~Delivery~~ Sale and delivery under this section shall conform to the
11 following requirements:

12 (1) ~~Delivery shall be to customers who have~~ A producer may sell:

13 (A) ~~visited the farm as required under subdivision 2777(d)(4) of this~~
14 ~~title; and~~ at a farmers' market, as that term is defined in section 5001 of this
15 title, where the producer is a vendor;

16 (B) ~~purchased milk in advance either by a one time payment or~~
17 ~~through a subscription.~~ as part of a membership to a community supported
18 agriculture; or

19 (C) to a retail establishment in conformance with section 2779 of
20 this title.

1 intent to sell or deliver unpasteurized milk at a farmers' market or community
2 supported agriculture. The notice shall:

3 (1) include the producer's name and proof of registration;

4 (2) identify the farmers' market ~~or~~, markets, or community supported
5 agriculture where the producer will sell or deliver milk; and

6 (3) specify the day or days of the week on which sale or delivery will be
7 made at a farmers' market or community supported agriculture.

8 (e) A producer delivering unpasteurized milk at a farmers' market or
9 community supported agriculture under this section shall display the
10 registration required under subdivision 2777(f)(4) of this title on the ~~farmers'~~
11 ~~market stall, or stand,~~ or other display in a prominent manner that is clearly
12 visible to consumers.

13 § 2779. SALE OF UNPASTEURIZED (RAW) MILK TO A RETAIL
14 ESTABLISHMENT

15 (a) A producer meeting the requirements of subsection 2777(f) of this
16 chapter may sell unpasteurized milk, except for value-added products, at a
17 retail establishment only within the State of Vermont and only of milk
18 produced by the producer.

19 (b) A producer who sells unpasteurized milk to a retail establishment shall
20 meet the following requirements:

1 (1) The Agency shall inspect the producer's facility twice annually and
2 determine whether the producer is in compliance with the required sanitary
3 standards.

4 (2) Testing shall be done according to subsection 2777(f)(3), except that
5 testing shall be done twice monthly and test results shall be made available to
6 retail customers at the retail establishments.

7 (3) The producer shall develop a written procedure in consultation with
8 the Agency for recalling product. Both the producer and the Agency shall
9 keep this procedure on file.

10 (4) A producer who sells to a retail establishment shall first receive a
11 license from the Secretary certifying that all requirements have been met. This
12 license shall be renewed annually.

13 (5) During delivery to a retail establishment, unpasteurized milk shall be
14 protected from exposure to direct sunlight.

15 (6) During delivery to a retail establishment, unpasteurized milk shall be
16 kept at 40 degrees Fahrenheit or lower at all times.

17 (c) A retail establishment selling unpasteurized milk shall register with the
18 Agency.

19 (d) The producer and retail establishment shall be jointly and severally
20 liable for the production and sale of milk in conformance with this chapter.

1 Sec. 2. EFFECTIVE DATE

2 This act shall take effect on passage.