

1 H.218

2 Introduced by Representatives Surprenant of Barnard, Burke of Brattleboro,

3 Burrows of West Windsor, Cina of Burlington, Colburn of

4 Burlington, Donnally of Hyde Park, Hooper of Randolph,

5 Kornheiser of Brattleboro, Mulvaney-Stanak of Burlington,

6 Pearl of Danville, Small of Winooski, and Vyhovsky of Essex

7 Referred to Committee on

8 Date:

9 Subject: Agriculture; unpasteurized raw milk; sales

10 Statement of purpose of bill as introduced: This bill proposes to authorize
11 farm stands and community-supported agriculture organizations (CSAs) to sell
12 unpasteurized raw milk produced on a farm other than the farm or farms where
13 the farm stand or CSA organization is located provided that the farm producing
14 the unpasteurized milk is located within 30 miles of the point of sale at the
15 farm stand or CSA organization.

16 An act relating to the sale of unpasteurized raw milk

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

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

3 CHAPTER 152: SALE OF UNPASTEURIZED (RAW) MILK

4 § 2775. LIMITED SALE OF UNPASTEURIZED (RAW) MILK

5 PERMISSIBLE

6 Notwithstanding section 2701 of this title, the production and sale of
7 unpasteurized milk to a consumer for personal consumption is permitted within
8 the State of Vermont only when produced, marketed, and sold in conformance
9 with this chapter.

10 § 2776. DEFINITIONS

11 ~~In~~ As used in this chapter:

12 (1) “Consumer” means a customer who purchases, barter for, receives
13 delivery of, or otherwise acquires unpasteurized milk according to the
14 requirements of this chapter.

15 (2) “Milk” ~~shall have~~ has the same meaning as set forth in section 2672
16 of this title.

17 (3) “Personal consumption” means the use by a consumer of
18 unpasteurized milk for food or to create a food product made with or from
19 unpasteurized milk that is intended to be ingested by the consumer, members
20 of his or her household, or any nonpaying guests.

1 (4) “Unpasteurized milk” or “unpasteurized (raw) milk” means milk that
2 is unprocessed.

3 (5) “Unprocessed” means milk that has not been modified from the
4 natural state it was in as it left the animal, other than filtering, packaging, and
5 cooling.

6 (6) “Community-supported agriculture organization” or “CSA
7 organization” means a farm or group of farms subject to regulation under the
8 Required Agricultural Practices that grow, raise, or produce agricultural
9 products for consumer shareholders or subscribers who pledge or contract to
10 buy a portion of the agricultural products of the farm or group of farms.

11 (7) “Farm stand” means a site on a farm subject to the Required
12 Agricultural Practices where agricultural products principally produced on the
13 farm are sold to the public.

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.

18 (b) Unpasteurized milk shall be sold only from the farm on which it was
19 produced except when sale or delivery off the farm ~~is allowed~~ off the farm, at a
20 farm stand, or by a CSA organization as authorized is allowed under section

1 2778 of this chapter. Unpasteurized milk shall not be offered as free samples
2 at any location other than on the farm on which the milk was 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 that
6 are subject to appropriate veterinary care, including rabies vaccination
7 according to accepted vaccination standards established by the Agency.

8 (B) A producer shall ensure that all ruminant animals are tested for
9 brucellosis and tuberculosis, according to accepted testing standards
10 established by the Agency, prior to the sale of unpasteurized milk.

11 (C) A producer shall ensure that dairy animals entering the
12 producer's milking herd, including those born on the farm, are tested for
13 brucellosis and tuberculosis, according to accepted testing standards
14 established by the Agency, prior to the animal's milk being sold to consumers,
15 unless:

16 (i) ~~The~~ the dairy animal has a negative U.S. Department of
17 Agriculture approved test for brucellosis within 30 days prior to importation
18 into the State, in which case a brucellosis test shall not be required;

19 (ii) ~~The~~ the dairy animal has a negative U.S. Department of
20 Agriculture approved tuberculosis test within 60 days prior to importation into
21 the State, in which case a tuberculosis test shall not be required; or

1 (iii) ~~The~~ the dairy animal leaves and subsequently reenters the
2 producer's herd from a state or Canadian province that is classified as
3 "certified free" of brucellosis and "accredited free" of tuberculosis or an
4 equivalent classification, in which case a brucellosis or tuberculosis test shall
5 not be required.

6 (D) A producer shall post test results and verification of vaccinations
7 on the farm in a prominent place and make results available to customers and
8 the Agency.

9 (2) The animal's udders and teats shall be cleaned and sanitized prior to
10 milking.

11 (3) The animals shall be housed in a clean, dry environment.

12 (4) Milking equipment shall be of sanitary construction, cleaned after
13 each milking, and sanitized prior to the next milking.

14 (5) Milking shall be conducted in a clean environment appropriate for
15 maintaining cleanliness.

16 (6) The farm shall have a potable water supply ~~which~~ that is sampled for
17 bacteriological examination according to Agency standards every three years
18 and whenever any alteration or repair of the water supply has been made.

19 (7) If an animal is treated with antibiotics, that animal's milk shall be
20 tested for and found free of antibiotics before its milk is offered for sale.

1 (d) Unpasteurized milk shall conform to the following production and
2 marketing standards:

3 (1) Record keeping and reporting.

4 (A) A producer shall collect one composite sample of unpasteurized
5 milk each day and keep the previous 14 days' samples frozen. The producer
6 shall provide samples to the Agency if requested.

7 (B) A producer or the manager of a farm stand or CSA organization
8 where unpasteurized milk is sold shall maintain a current list of all customers,
9 including addresses, telephone numbers, and, when available, e-mail addresses.

10 (C) The producer or the manager of a farm stand or CSA
11 organization where unpasteurized milk is sold shall maintain a list of
12 transactions for at least one year that shall include customer names, the date of
13 each purchase, and the amount purchased.

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

16 (A) The date the milk was obtained from the animal.

17 (B) The name, address, zip code, and telephone number of the
18 producer.

19 (C) The common name of the type of animal producing the milk,
20 such as cattle, goat, sheep, or an image of the animal.

1 (D) The words “Unpasteurized (Raw) Milk. Keep Refrigerated.” on
2 the container’s principal display panel, and these words shall be clearly
3 readable in letters at least one-eighth inch in height and prominently displayed.

4 (E) The words “Consuming raw unpasteurized milk may cause
5 illness, particularly in children, seniors, persons with weakened immune
6 systems, and pregnant women.” on the container’s principal display panel and
7 clearly readable in letters at least one-sixteenth inch in height.

8 (3) Temperature. Unpasteurized milk shall be cooled to 40 degrees
9 Fahrenheit or lower within two hours of the finish of milking and so
10 maintained until it is obtained by the consumer. All farms, farm stands, or
11 CSA organization selling unpasteurized milk shall be able to demonstrate to
12 the Agency’s inspector that they have the capacity to keep the amount of milk
13 sold on the highest volume day stored and kept at 40 degrees Fahrenheit or
14 lower in a sanitary and effective manner.

15 (4) Storage. An unpasteurized milk bulk storage container shall be
16 cleaned and sanitized after each emptying. Each container shall be emptied
17 within 24 hours of the first removal of milk for packaging. Milk may be stored
18 for up to 72 hours, but all storage containers shall be emptied and cleaned at
19 least every 72 hours. Unless milk storage containers are cleaned and sanitized
20 daily, a written log of dates and times when milking, cleaning, and sanitizing
21 occur shall be posted in a prominent place and be easily visible to customers.

1 (5) Shelf life. Unpasteurized milk shall not be transferred to a consumer
2 after four days from the date on the label.

3 (6) Customer inspection and notification.

4 (A) The producer shall provide the customer with the opportunity to
5 tour the farm and any area associated with the milking operation. The
6 producer shall permit the customer to return to the farm at a reasonable time
7 and at reasonable intervals to reinspect any areas associated with the milking
8 operation.

9 (B)(i) A sign, provided by the Agency of Agriculture, Food and
10 Markets, that is 8 and one half inches by 11 inches in size with the words
11 “Unpasteurized (Raw) Milk. Keep Refrigerated.” “Consuming raw
12 unpasteurized milk may cause illness, particularly in children, seniors, persons
13 with weakened immune systems, and pregnant women.” shall be displayed
14 prominently on the farm, at a farm stand, or by a CSA organization where
15 unpasteurized milk is sold or provided for delivery in a place where it can be
16 easily seen by customers. The text of the sign required under this subdivision
17 shall be clearly visible and easily readable to consumers on the farm or at a
18 farmers’ market.

19 (ii) The Secretary of Agriculture, Food and Markets shall post a
20 copy of the sign required under subdivision (6)(B)(i) of this section to the
21 website of the Agency of Agriculture, Food and Markets for use by producers.

1 (e) A producer selling 87.5 or fewer gallons (350 quarts) of unpasteurized
2 milk per week shall meet the requirements of subsections (a) through (d) of
3 this section and shall sell unpasteurized milk from the farm on which it was
4 produced. A producer selling 87.5 or fewer gallons of unpasteurized milk may
5 choose to meet the requirements of subsection (f) of this section, in which case
6 the producer may deliver or sell in accordance with section 2778 of this title.

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

11 (1) Inspection. The Agency shall annually inspect the producer's
12 facility and determine that the producer is in compliance with the sanitary
13 standards listed in subsection (c) of this section.

14 (2) Bottling. Unpasteurized milk shall be sold in containers that have
15 been filled by the producer. Containers shall be cleaned by the producer
16 except that the producer may allow customers to clean their own containers
17 only if each customer's container is labeled with the customer's name and
18 address and the customers use their own containers. Producers shall ensure
19 that only clean bottles are filled and distributed.

20 (3) Testing.

1 (A) A producer shall have unpasteurized milk tested twice per month
2 by a U.S. Food and Drug Administration accredited laboratory using
3 accredited lab-approved testing containers. Milk shall be tested for the
4 following and the results shall be below these limits:

5 (i) total bacterial (aerobic) count: 15,000 cfu l (cattle and goats);

6 (ii) total coliform count: 10 cfu l (cattle and goats); and

7 (iii) somatic cell count: 225,000 l (cattle); 500,000 l (goats).

8 (B) The producer shall ensure that all test results are forwarded to the
9 Agency, by the laboratory, upon completion of testing or within five days of
10 receipt of the results by the producer.

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

14 (D) The Secretary shall issue a warning to a producer when any two
15 out of four consecutive, monthly tests exceed the limits. The Secretary shall
16 have the authority to suspend unpasteurized milk sales if any three out of five
17 consecutive, monthly tests exceed the limits until an acceptable sample result
18 is achieved. The Secretary shall not require a warning to the consumer based
19 on a high test result.

20 (4) Registration. Each producer operating under this subsection shall
21 register with the Agency.

1 (5) Reporting. On or before March 1 of each year, each producer shall
2 submit to the Agency a statement of the total gallons of unpasteurized milk
3 sold in the previous 12 months.

4 (6) Off-farm sale and delivery. The sale and delivery of unpasteurized
5 milk is permitted as provided for under section 2778 of this title.

6 (g) The sale of more than 350 gallons (1,400 quarts) of unpasteurized milk
7 in any one week is prohibited.

8 § 2778. SALE OR DELIVERY OF UNPASTEURIZED (RAW) MILK

9 (a) Sale or delivery of unpasteurized milk off the farm is permitted only
10 within the State of Vermont and only of milk produced by a producer meeting
11 the requirements of subsection 2777(f) of this chapter.

12 (b) Sale or delivery of unpasteurized milk off the farm shall conform to the
13 following requirements:

14 (1) Vendors shall ~~verbally~~ inform each customer of the need to keep
15 milk refrigerated.

16 (2) A producer may sell or deliver unpasteurized milk directly to the
17 customer:

18 (A) at the customer's home or may deliver it to the customer's home
19 when delivery is into a refrigerated unit at the customer's home if such unit is
20 capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or
21 lower until obtained by the customer; or

1 (B) at a farmers' market, as that term is defined in section 5001 of
2 this title, where the producer is a vendor.

3 (3) During delivery or storage prior to sale, unpasteurized milk shall be
4 protected from exposure to direct sunlight.

5 (4) During delivery or storage prior to sale, unpasteurized milk shall be
6 kept at 40 degrees Fahrenheit or lower at all times.

7 (c) A producer may contract with another individual to deliver the
8 unpasteurized milk in accordance with this section. The producer shall be
9 jointly and severally liable for the delivery of the unpasteurized milk in
10 accordance with this section.

11 (d) Prior to delivery or sale at a farmers' market under this section, a
12 producer shall submit to the Agency of Agriculture, Food and Markets written
13 or electronic notice of intent to deliver or sell unpasteurized milk at a farmers'
14 market. The notice shall:

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

16 (2) identify the farmers' market or markets where the producer will
17 deliver milk; and

18 (3) specify the day or days of the week on which delivery or sale will be
19 made at a farmers' market.

20 (e) A producer selling or delivering unpasteurized milk at a farmers'
21 market under this section shall display the registration required under

1 subdivision 2777(f)(4) of this title and the sign required under subdivision
2 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is
3 clearly visible to consumers.

4 (f) A farm stand or a CSA organization may sell unpasteurized milk
5 produced on a farm other than the farm or farms where the farm stand or CSA
6 organization is located provided that the farm producing the unpasteurized
7 milk is located within 30 miles of the point of sale at the farm stand or CSA
8 organization. Sale of unpasteurized milk by a farm stand or a CSA
9 organization under this subsection shall be deemed to be farming under
10 10 V.S.A. § 6001(22) and the Required Agricultural Practices.

11 Sec. 2. EFFECTIVE DATE

12 This act shall take effect on July 1, 2021.