

H.218

An act relating to the sale of unpasteurized raw milk

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

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

CHAPTER 152: SALE OF UNPASTEURIZED (RAW) MILK

§ 2775. LIMITED SALE OF UNPASTEURIZED (RAW) MILK

PERMISSIBLE

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

§ 2776. DEFINITIONS

~~It~~ As used in this chapter:

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

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

(3) “Personal consumption” means the use by a consumer of unpasteurized milk for food or to create a food product made with or from

unpasteurized milk that is intended to be ingested by the consumer, members of his or her household, or any nonpaying guests.

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

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

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

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

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

(a) ~~Unpasteurized~~ Except as provided under section 2778 of this title, unpasteurized milk shall be sold directly from the producer to the consumer for personal consumption only and shall not be resold.

(b) Unpasteurized milk shall be sold only from the farm on which it was produced except when sale or delivery off the farm is allowed under section 2778 of this chapter. Unpasteurized milk shall not be offered as free samples at any location other than on the farm on which the milk was produced.

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

(1)(A) Unpasteurized milk shall be derived from healthy animals that are subject to appropriate veterinary care, including rabies vaccination administered by a licensed veterinarian according to accepted vaccination standards established by the Agency.

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Record keeping and reporting.

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

(B) A producer shall maintain a current list of all customers, including addresses, telephone numbers, and, when available, e-mail addresses.

(C) The producer shall maintain a list of transactions for at least one year that shall include customer names, the date of each purchase, and the amount purchased.

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

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

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

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

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

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

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

(4) Storage. An unpasteurized milk bulk storage container shall be cleaned and sanitized after each emptying. Each container shall be emptied within 24 hours of the first removal of milk for packaging. Milk may be stored for up to 72 hours, but all storage containers shall be emptied and cleaned at least every 72 hours. Unless milk storage containers are cleaned and sanitized

daily, a written log of dates and times when milking, cleaning, and sanitizing occur shall be posted in a prominent place and be easily visible to customers.

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

(6) Customer inspection and notification.

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

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

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

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

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

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

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

(3) Testing.

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

- (i) total bacterial (aerobic) count: 15,000 cfu l (cattle and goats);
- (ii) total coliform count: 10 cfu l (cattle and goats); and
- (iii) somatic cell count: 225,000 l (cattle); 500,000 l (goats).

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

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

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

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

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

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

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

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

(a) Sale or delivery of unpasteurized milk off the farm, at a farm stand, or by a CSA organization is permitted ~~only~~ within the State of Vermont and ~~only~~ of milk produced by a producer meeting the requirements of subsection 2777(f) of this chapter.

(b) Sale or delivery of unpasteurized milk off the farm, at a farm stand, or by a CSA organization shall conform to the following requirements:

(1) ~~Vendors~~ Persons selling or delivery unpasteurized milk shall ~~verbally~~ inform each customer of the need to keep milk refrigerated.

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

(A) at the customer's home or may deliver it to the customer's home when delivery is into a refrigerated unit at the customer's home if such unit is

capable of maintaining the unpasteurized milk at 40 degrees Fahrenheit or lower until obtained by the customer; or

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

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

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

(c)(1) A producer may contract with another individual, a farm stand, or a CSA organization to deliver or sell the unpasteurized milk in accordance with this section.

(2) The producer shall be jointly and severally liable for the delivery or sale of the unpasteurized milk in accordance with this section.

(3) The producer shall submit to the Agency of Agriculture, Food and Markets notice of the farm stands or CSA organizations with whom the producer has contracted to sell the producer's unpasteurized milk under this section.

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

- (1) include the producer's name and proof of registration;
- (2) identify the farmers' market or markets where the producer will deliver milk; and
- (3) specify the day or days of the week on which delivery or sale will be made at a farmers' market.

(e) A producer selling or delivering unpasteurized milk at a farmers' market under this section shall display the registration required under subdivision 2777(f)(4) of this title and the sign required under subdivision 2777(d)(6) on the farmers' market stall or stand in a prominent manner that is clearly visible to consumers.

(f) A farm stand or a CSA organization selling unpasteurized milk produced on a farm other than the farm or farms where the farm stand or CSA organization is located shall:

(1) maintain a list of all customers to whom unpasteurized milk is sold, including addresses, telephone numbers, and, when available, e-mail addresses; date of purchase; and amount purchased;

(2) submit the records required under subdivision (1) of this section to the producer weekly;

(3) store unpasteurized milk in a refrigerated unit or other adequate storage that is capable of keeping the milk at 40 degrees Fahrenheit or lower in a sanitary and effective manner; and

(4) display the sign required for producers under subdivision 2777(d)(6)(B) in a place where clearly visible to and easily readable by customers at the farm stand or CSA organization.

(g) Sale of unpasteurized milk by a farm stand or a CSA organization under this subsection shall be deemed to be farming under 10 V.S.A. § 6001(22) and the Required Agricultural Practices.

(h) The Secretary may inspect a farm stand or CSA organization selling unpasteurized milk under this section during reasonable hours for the purposes of determining compliance with this section.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2021.