

1 A bill to be entitled
 2 An act relating to unpasteurized milk; creating s.
 3 502.172; providing applicability, legislative intent, and
 4 definitions; providing requirements for retail and
 5 nonretail sales of unpasteurized milk, including
 6 standards, sanitation, labels, and bottling, packaging,
 7 and capping; requiring testing of milk-producing animals
 8 for certain diseases; requiring monthly sampling of
 9 certain milk and bacterial analysis of such samples;
 10 requiring the Department of Agriculture and Consumer
 11 Services to issue a stop-sale order upon a positive test
 12 or an analysis indicating high bacteria or the presence of
 13 human pathogens; requiring certain recordkeeping;
 14 providing exemptions; providing certain prohibitions;
 15 providing penalties; providing rulemaking authority;
 16 providing applicability with respect to conflicting
 17 provisions; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 502.172, Florida Statutes, is created
 22 to read:

23 502.172 Unpasteurized milk.--
 24 (1) APPLICABILITY.--This section shall apply to
 25 unpasteurized milk and producers of unpasteurized milk that
 26 maintain any ruminant mammal, including, but not limited to,
 27 cattle, goats, sheep, or buffalo.

28 (2) LEGISLATIVE INTENT.--It is the intent of the
29 Legislature that:

30 (a) The right of all citizens of the state to purchase
31 unpasteurized milk be protected and ensured.

32 (b) Dairy farmers have the right to produce, distribute,
33 and market unpasteurized milk directly to consumers.

34 (c) Basic standards be set to ensure the safety of
35 unpasteurized milk through testing, analysis, and regulation.

36 (3) DEFINITIONS.--As used in this section, the term:

37 (a) "Nonretail sale" means the offering for sale or
38 selling of unpasteurized milk for public consumption on the
39 premises of the farm at which the unpasteurized milk is produced
40 or the delivery to the consumer of unpasteurized milk that is
41 maintained at a temperature of no higher than 40 degrees
42 Fahrenheit.

43 (b) "Producer" or "producer of unpasteurized milk" means a
44 farmer who harvests or produces unpasteurized milk for retail or
45 nonretail sale.

46 (c) "Retail sale" means the offering for sale or selling
47 of unpasteurized milk for public consumption at a location that
48 is not on the premises of the farm at which the unpasteurized
49 milk is produced.

50 (d) "Unpasteurized milk" means milk that has not undergone
51 the process of pasteurization as defined by department rule.

52 (4) RETAIL SALES.--

53 (a) Producers offering retail sale of unpasteurized milk
54 must meet and comply with all Grade A standards for milk as set
55 forth in this chapter and rules adopted thereunder.

HB 1215

2006

56 (b) Producers offering retail sale of unpasteurized milk
57 shall submit proof to the department of the successful
58 completion of a department-approved unpasteurized milk safety
59 course. The course shall include both classroom hours and on-
60 the-farm, hands-on training hours.

61 (c) The department shall adopt rules governing the
62 unpasteurized milk safety course.

63 (5) INSPECTION; NONRETAIL SALES; SAMPLING; ANALYSIS; STOP-
64 SALE ORDERS.--

65 (a) All ruminant mammals producing milk for retail or
66 nonretail sale under this section must be tested annually for
67 tuberculosis and brucellosis. The department shall issue a stop-
68 sale order on retail and nonretail sales upon a positive test
69 result for tuberculosis or brucellosis. The department shall
70 provide by rule the circumstances under which the order may be
71 withdrawn; however, the order shall remain in effect for no
72 longer than is required to protect the health of the public and
73 ruminant mammals.

74 (b) Once each month the department shall sample the
75 unpasteurized milk of each producer that offers unpasteurized
76 milk for nonretail sale.

77 (c) The department shall take a total of two samples from
78 the producer's herd. Each sample shall be sealed and labeled
79 with consecutive serial numbers. The department shall retain one
80 sample and the producer shall retain the remaining sample.

81 (d) Bacterial analyses shall be performed by a department-
82 approved independent laboratory on the sample retained by the
83 department pursuant to this section to determine whether there

84 is a presence of human pathogens, including, but not limited to
85 Listeria monocytogenes, E. coli 0157:H7, and Salmonella, and for
86 Standard Plate Count, which must be no higher than 20,000 total
87 bacteria per milliliter.

88 (e) Upon completion of the bacterial analyses, the
89 laboratory shall send the results of the analyses by mail or
90 facsimile to the producer and to the department.

91 (f) When the analyses show the Standard Plate Count is
92 higher than 20,000 total bacteria per milliliter or any human
93 pathogens are detected, the producer's sample shall be tested.

94 (g) When the analyses of the producer's sample show the
95 Standard Plate Count is higher than 20,000 total bacteria per
96 milliliter or any human pathogens are detected:

97 1. The department shall issue a stop-sale order and the
98 producer shall immediately stop the nonretail sale of all
99 unpasteurized milk.

100 2. The department shall take samples of the unpasteurized
101 milk daily until the analyses of three consecutive daily tests
102 show the Standard Plate Count is lower than 20,000 total
103 bacteria per milliliter and no human pathogens are detected, at
104 which time the producer immediately may resume nonretail sales
105 of unpasteurized milk.

106 (6) SANITATION REQUIREMENTS FOR NONRETAIL SALES.--

107 (a) All unpasteurized milk offered for nonretail sale
108 shall be drawn and collected in a clean and sanitary manner. All
109 unpasteurized milk must be maintained at a temperature of no
110 higher than 40 degrees Fahrenheit within 2 hours after the
111 initiation or completion of milking.

HB 1215

2006

112 (b) All unpasteurized milk offered for nonretail sale
113 shall be filtered using a standard dairy milk filter or its
114 equivalent.

115 (c) All unpasteurized milk offered for nonretail sale for
116 direct human consumption must be kept maintained at a
117 temperature of no higher than 40 degrees Fahrenheit until the
118 unpasteurized milk is sold and delivered to the consumer.

119 (d) This subsection does not require chart temperature
120 recorders. The use of a standard thermometer shall meet the
121 requirements of the subsection.

122 (7) LABEL REQUIREMENTS FOR NONRETAIL SALES.--Nonretail
123 unpasteurized milk shall be labeled with:

124 (a) A standard government food safety warning that states:

125
126 Unpasteurized Milk - Government Warning: Unpasteurized milk
127 may contain disease-causing microorganisms. Persons at
128 highest risk for these organisms include newborns and
129 infants, the elderly, pregnant women, persons taking
130 antibiotics and antacids, and persons having chronic
131 illness or other conditions that weaken the immune system.

132
133 (b) The production date of the unpasteurized milk.

134 (c) The producer's name and contact information.

135 (d) The contents of the unpasteurized milk.

136 (e) The weight or amount of the unpasteurized milk.

137 (8) BOTTLING, PACKAGING, AND CAPPING.--

138 (a) All unpasteurized milk offered for retail or nonretail
139 sale shall be bottled or packaged and capped on the farm at which

HB 1215

2006

140 it is produced.

141 (b) Bottling, packaging, and capping of unpasteurized milk
142 shall be conducted in a sanitary manner by hand or by the use of
143 equipment and operations approved by rule of the department.

144 (c) The caps or cap stock shall be sealed in sanitary
145 containers when purchased and stored in a clean, dry place until
146 used by the producer.

147 (d) The cap of the bottle or package containing
148 unpasteurized milk shall cover the pouring lip of the bottle or
149 package at no less than the diameter of the pouring lip.

150 (9) RECORDKEEPING.--

151 (a) A producer shall keep records of all unpasteurized
152 milk and animal tests required by this section at the farm at
153 which the unpasteurized milk is produced for a period of 2
154 years.

155 (b) A producer of unpasteurized milk must establish and
156 maintain a record or file of all consumer complaints. This
157 record shall contain details of the nature of the complaint; the
158 complainant's name, mailing address, and telephone number; the
159 date the complaint was made; and the date the unpasteurized milk
160 involved in the complaint was collected from the herd, if known.

161 (c) A producer shall provide all records by mail or
162 facsimile to the department or a county health department in
163 compliance with the request of the department.

164 (d) A producer shall maintain all records required by this
165 section for no less than 3 years, except for the records
166 required under paragraph (a), which shall be kept for 2 years.

167 (10) EXEMPTIONS.--The following persons are exempt from
 168 the provisions of this section and from any other provision of
 169 law or rule that restricts their ability to offer nonretail
 170 sales of unpasteurized milk:

171 (a) A farmer who produces or harvests unpasteurized milk
 172 for his or her own consumption.

173 (b) A farmer who produces or harvests unpasteurized milk
 174 through cow or herd share agreements or cow or herd boarding
 175 agreements.

176 (c) A farmer who produces or harvests no more than 50
 177 gallons per week of unpasteurized milk.

178 (11) PROHIBITIONS.--

179 (a) Unpasteurized milk may not be sold or offered for
 180 retail or nonretail sale unless it meets the provisions of this
 181 section.

182 (b) A producer must stop all operations, productions,
 183 distributions, and sales of unpasteurized milk when a county
 184 health department traces a confirmed illness or pathogen to the
 185 producer's farm. The producer shall correct the health safety
 186 issue before resuming operations. The state may not bring legal
 187 action against the producer or otherwise cause the farm
 188 operations to cease unless the producer does not take corrective
 189 action.

190 (c) A consumer of unpasteurized milk that is labeled
 191 pursuant to paragraph (7) (a) may not bring legal action against
 192 the producer of the milk because of an illness specified in
 193 paragraphs (5) (a) and (d).

194 (12) PENALTIES.--

HB 1215

2006

195 (a) Any violation of this section, including rules adopted
196 in accordance with such provisions, is a misdemeanor of the
197 first degree, punishable as provided in s. 775.082 or s.
198 775.083.

199 (b) The state attorney of the judicial district in which
200 the department reports a violation of this section shall
201 investigate, refer, and prosecute charges if the state attorney,
202 in the exercise of sound discretion, determines the action to be
203 proper.

204 (13) RULEMAKING.--The department has authority to adopt
205 rules pursuant to ss. 120.536(1) and 120.54 to implement the
206 provisions of this section conferring duties upon it.

207 (14) CONFLICTING PROVISIONS.--In the event of a conflict
208 between this section and the remainder of the chapter, this
209 section shall control.

210 Section 2. This act shall take effect July 1, 2006.