

By Senator Haridopolos

26-1545-06

1                                         A bill to be entitled  
 2             An act relating to the sale of raw milk  
 3             products; providing legislative intent;  
 4             providing definitions; requiring that the  
 5             Department of Agriculture and Consumer Services  
 6             allow the sale of raw milk and raw milk  
 7             products in this state under certain  
 8             conditions; establishing standards for the sale  
 9             of such products at retail and wholesale;  
 10            requiring persons selling or distributing raw  
 11            milk to complete a safety course; providing for  
 12            testing, refrigeration, and packaging of a raw  
 13            milk product prior to sale; providing for  
 14            filtering and labeling a raw milk product prior  
 15            to sale at wholesale; providing for  
 16            discontinuation of the production,  
 17            distribution, or sale of a raw milk product  
 18            upon certain findings by the department;  
 19            requiring the department to adopt rules;  
 20            exempting a producer, distributor, or seller of  
 21            raw milk products from liability under certain  
 22            circumstances; providing that a violation of  
 23            the act is a first-degree misdemeanor;  
 24            providing for enforcement by the department,  
 25            the Attorney General, and the state attorney;  
 26            providing for severability; providing an  
 27            effective date.

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 29 Be It Enacted by the Legislature of the State of Florida:

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 31             Section 1.   Sale of raw milk and raw milk products.--

1       (1) It is the intent of the Legislature to recognize,  
2 protect, and assure the right of individuals to exercise the  
3 freedom of choice to purchase raw milk and the right of  
4 farmers and businesses to produce, distribute, and sell raw  
5 milk to consumers as specified in this section, and to set  
6 standards under which the safety of raw milk will be tested  
7 and regulated in this state.

8       (2) As used in this section, the term:

9       (a) "Animal" means a ruminant mammal.

10       (b) "Department" means the Department of Agriculture  
11 and Consumer Services.

12       (c) "Farmer" means a person who maintains an animal or  
13 a herd.

14       (d) "Herd" means a group of one type of ruminant  
15 mammal.

16       (e) "Raw milk" means milk from an animal which has not  
17 undergone the process of pasteurization as defined in the  
18 rules of the Division of Dairy Industry of the department. The  
19 term includes a dairy product made from raw milk.

20       (f) "Ruminant mammal" means a hoofed, even-toed,  
21 usually horned mammal of the suborder Ruminantia, including,  
22 but not limited to, cattle, sheep, goats, and buffalo,  
23 characteristically having a stomach divided into four  
24 compartments and chewing a cud consisting of regurgitated,  
25 partially digested food.

26       (3) Notwithstanding any other state or local law, the  
27 department shall allow the sale of raw milk in this state if  
28 it is sold in accordance with this section and the rules  
29 adopted by the department to administer this section.

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1           (4)(a) Raw milk may not be sold at retail in this  
2 state unless it meets all Grade A standards in the Florida  
3 Dairy Code, excepting those governing pasteurization.

4           (b) Each farmer or person who produces or distributes  
5 raw milk for sale in this state must:

6           1. Successfully complete a course covering the safe  
7 production and distribution of raw milk which is approved by  
8 the department. The department shall issue a list of approved  
9 courses. An approved course must include instruction in the  
10 classroom and hands-on training at a facility where a herd is  
11 maintained.

12           2. Maintain a record of any complaints from consumers  
13 concerning the raw milk produced or distributed by such  
14 person. The record must include each complaint received by the  
15 person during the prior 3 years and contain, for each  
16 complaint, the date of the complaint, details of the nature of  
17 the complaint, the name of and contact information regarding  
18 the complainant, and date that the raw milk that is the  
19 subject of the complaint was collected. The person shall make  
20 the record available by mail or facsimile upon the request of  
21 the department or the county health department.

22           (c) Each farmer who maintains an animal or herd that  
23 is the source of raw milk must ensure compliance with the  
24 following requirements before selling the raw milk to a  
25 distributor or consumer:

26           1. Fresh samples of the raw milk from the animal or  
27 herd must be tested once each month by an inspector of the  
28 department for bacteria, using standard plate count analyses,  
29 and for human pathogens, including Listeria monocytogenes,  
30 Ecoli 0157, and Salmonella.

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1           a. The inspector shall collect a total of two samples  
2 from the animal or herd, seal each sample, and label the  
3 container of each sample with consecutive numbers and the date  
4 of collection. The department shall give one of the sealed and  
5 labeled samples to the farmer and arrange for the other sample  
6 to be tested by a state-approved independent laboratory. The  
7 farmer must keep the second sample sealed, may not tamper with  
8 the contents or label, and must provide the sample to the  
9 department upon request.

10           b. The laboratory that tests a sample shall send the  
11 test results to the farmer and the department by facsimile and  
12 mail. If the results indicate that the standard plate count is  
13 above 20,000 total bacteria per ml. as per the PMO or indicate  
14 the presence of a human pathogen, the inspector shall retrieve  
15 the other sealed sample from the farmer and arrange for an  
16 independent laboratory to test the sample for bacteria, using  
17 standard plate count analyses, for human pathogens, including  
18 Listeria monocytogenes, Ecoli 0157, and Salmonella. If the  
19 second test indicates that the standard plate count is above  
20 20,000 total bacteria per ml. as per the PMO, or detects a  
21 human pathogen, raw milk from the animal or herd may not be  
22 sold unless, for 3 consecutive days, an inspector of the  
23 department collects and tests one fresh sample of raw milk  
24 from the animal or herd for bacteria, using standard plate  
25 count analyses, and for human pathogens, including Listeria  
26 monocytogenes, Ecoli 0157, and Salmonella and, in each of the  
27 three consecutive tests, the result is that the standard plate  
28 count is below 20,000 total bacteria per ml. as per the PMO,  
29 and a human pathogen is not detected.

30           2. A fresh sample of the raw milk from each animal or  
31 herd must be collected and tested once in each calendar year

1 for tuberculosis and brucellosis. Raw milk from that mammal or  
2 herd may not be sold if test results indicate that the animal  
3 or herd has tuberculosis or brucellosis.

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5 The farmer must maintain a record of the results of each test  
6 of each animal or herd pursuant to this paragraph for 2 years  
7 after a laboratory sends the test results to the farmer.

8 (d) If raw milk is intended for human consumption, it  
9 must be kept at or below 40 degrees Fahrenheit. Raw milk is  
10 subject to this paragraph if it is sold to a wholesale  
11 purchaser that may distribute the raw milk at retail for human  
12 consumption or if it is sold by a farmer to an individual  
13 purchasing the raw milk for human consumption on the premises  
14 of the farm where the animal or herd producing the raw milk is  
15 maintained or to an individual to whom the farmer directly  
16 delivers the raw milk for human consumption. Compliance with  
17 the temperature requirement in this paragraph may be  
18 demonstrated by use of a standard thermometer. Use of a chart-  
19 temperature recorder is not required to demonstrate such  
20 compliance.

21 (5) Raw milk may not be sold at retail or wholesale in  
22 this state unless it is bottled and capped or otherwise  
23 packaged on the farm where the animal or herd that is the  
24 source of the milk is maintained. Such bottling, capping, or  
25 packaging must be done in a sanitary manner as specified by  
26 department rule. Bottling, capping, or packaging may be by  
27 hand or by the use of equipment. Cap or cap stock and other  
28 packaging must be purchased in a sanitary container and kept  
29 prior to use in the sanitary container in a clean, dry place.  
30 A cap or cover must, at minimum, cover the largest diameter of  
31 the pouring lip of a bottle or other container.

1           (6) Each farmer who maintains an animal or herd that  
2 is the source of raw milk sold at wholesale in this state must  
3 ensure that the milk is drawn and collected in a clean and  
4 sanitary manner and that the raw milk is:

5           (a) Filtered using a standard dairy milk filter or its  
6 equivalent.

7           (b) Placed within 2 hours after the milking was  
8 started or completed in refrigeration and kept chilled at or  
9 below 40 degrees Fahrenheit continuously until final delivery  
10 to the distributor. Compliance with this paragraph may be  
11 demonstrated by use of a standard thermometer. Use of a  
12 chart-temperature recorder is not required to demonstrate such  
13 compliance.

14           (c) Placed in a container with a label that:

15           1. Includes the following statement:

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17           Not Pasteurized Government Warning: Raw,  
18 unpasteurized milk may contain disease-causing  
19 microorganisms. Persons at highest risk for  
20 these organisms include newborns and infants;  
21 the elderly; pregnant women; people taking  
22 antibiotics and antacids; and those having  
23 chronic illness or other conditions that weaken  
24 their immune systems. The health and safety of  
25 raw milk that is sold in this state is the  
26 responsibility of each person selling such raw  
27 milk except that a person who consumes raw milk  
28 that was sold in this state with this warning  
29 assumes responsibility to the extent that he or  
30 she is warned by the label.

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1           2. States the date the raw milk was produced and the  
2 name and contact information of the producer.

3           3. Includes a statement clearly indicating the  
4 contents of the product.

5           4. States the weight or amount of the contents.

6           (7) The department shall adopt rules to administer  
7 this section.

8           (8) If the department determines that a pathogen is  
9 present in raw milk that was produced, distributed, or sold in  
10 this state or that the consumption of raw milk that was  
11 produced, distributed, or sold in this state has made a person  
12 ill, each farmer and person responsible for producing,  
13 distributing, or selling the raw milk shall cease until the  
14 problem is corrected. If the farmer or person corrects the  
15 problem, he or she is not liable for his or her actions and  
16 the department may not require the farmer or person to  
17 terminate his or her production, distribution, or sale of raw  
18 milk.

19           (9) A person who violates any provision of this  
20 section or a rule adopted by the department under this section  
21 commits a misdemeanor of the first degree, punishable as  
22 provided by s. 775.082 or s. 775.083, Florida Statutes. The  
23 department shall report any such offense to the Attorney  
24 General or the state attorney in the judicial circuit in which  
25 the offense occurred. The Attorney General or state attorney  
26 may investigate and maintain an action for injunctive or other  
27 appropriate relief to enforce this section.

28           Section 2. If any provision of this act or its  
29 application to any person or circumstance is held invalid, the  
30 invalidity does not affect other provisions or applications of  
31 the act which can be given effect without the invalid

1 provision or application, and to this end the provisions of  
2 this act are severable.

3 Section 3. This act shall take effect upon becoming a  
4 law.

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7 SENATE SUMMARY

8 Directs the Department of Agriculture and Consumer  
9 Services to allow the sale of raw milk products meeting  
10 certain requirements. Sets standards for the sale of raw  
11 milk products in retail and wholesale markets in this  
12 state. Requires that persons producing or distributing  
13 raw milk to complete a safety course. Provides for  
14 testing, refrigeration, and packaging of raw milk  
15 products prior to sale. Provides for filtering and  
16 labeling of a raw milk product before a sale at  
17 wholesale. Provides for discontinuation of production,  
18 distribution, or sale of a raw milk product upon certain  
19 findings by the department. Exempts a producer,  
20 distributor, or seller of certain raw milk products from  
21 liability under certain circumstances. Provides that a  
22 violation is a first-degree misdemeanor. Provides for  
23 enforcement by the department, the Attorney General, and  
24 the state attorney.  
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