

Comments for the House Agriculture Committee to consider in relation to HB1515- sale of raw milk off of the farm.

Nathan Kroh- Dairy Program Coordinator- Dept of Agriculture, 701-328-4767

## Conflicts with State Laws:

### a) Conflict with current dairy regulation:

#### **4.1-25-30. Standards for grade A milk and milk products - Adoption of rules.**

Only grade A milk may be sold as a fluid beverage for human consumption. The minimum standards for milk and milk products designated as grade A are the same as the minimum requirements of the pasteurized milk ordinance which includes provisions from the "Grade A Condensed and Dry Milk Products and Condensed and Dry Whey - Supplement 1 to the Grade A PMO". The commissioner may adopt rules imposing other standards in the interest of public safety, wholesomeness of product, consumer interest, sanitation, good supply, saleability, and promotion of grade A milk and milk products.

- HB1515 would need a carve out or exemption from requirements of 4.1-25-30, for the sale of raw milk to avoid conflicting with state law. PMO does not allow raw milk to be bottled, whether grade A or not.

### b) Conflict with Health and Human Services- Food and Lodging Division Laws (NDCC 23-09 Food and Lodging Establishments and Assisted Living Facilities).

- Food and Lodging regulations require any facility that packages, stores, labels and sells any foods under their jurisdiction to be licensed and inspected by the Food and Lodging.
- Any law stating that raw milk may be sold as bottled and stored in a cooler without inspection, would conflict with DHHS laws and would conflict with food code regulations.
  - Contact Julie Wagendorf for Food and Lodging perspective 701-328-2523

Other concerns with from Dept of Health and Human Services- Food and Lodging:

#### **NDCC Chapter 23-09.5 Cottage Food Production and Sales**

Food and Lodging expressed concern that cottage food operators may decide source to use raw milk as an ingredient for Cottage Food production.

- Would the committee consider another clause or provision to limit the use of raw milk purchased to only personal use? Or amend the cottage foods act to prohibit raw milk from use in cottage foods?

## Other State's Laws and Information:

### Minnesota:

Minnesota Statutes 32D.20 Limitation on Sale of Milk:

"No milk or fluid milk products shall be sold, offered or exposed for sale...for the purpose of human consumption in fluid form in this state unless the milk or fluid milk product has been pasteurized... and cooled, provided that this section shall not apply to milk, cream or skim milk occasionally secured or purchased for personal use by a consumer at the place or farm where the milk is produced."

- MN does not regulate, register, or test
- MN does NOT allow milk to be bottled by the producer (this eliminates Health Dept licensing requirements for bottling, storing, and labeling facilities).
- <https://www.mda.state.mn.us/food-feed/what-raw-milk>

### Montana:

MT Code § 50-49-203 (2021)

[https://leg.mt.gov/bills/mca/title\\_0500/chapter\\_0490/part\\_0020/sections\\_index.html](https://leg.mt.gov/bills/mca/title_0500/chapter_0490/part_0020/sections_index.html)

Montana Local Food Choice Act:

- Small Dairies limitation: No more than 5 cows, 10 goats, 10 sheep are kept for producing milk
  - Producer **not subject** to labeling, licensure, inspection, sanitation, or other requirements of:
    - Commodity sales requirements (weights and measures)
    - Montana Food and Drug Act (health dept)
    - Title 81 Livestock Laws:
      - Disease controls
      - Slaughter
      - Dairy products
      - Manufacturing dairy products
      - Milk price controls
- Sales only to "informed end consumer"-
  - No licensing, no inspection
- Raw milk may NOT be donated to a traditional community social event
- Small Farms Shall:
  - Test for somatic cells, standard plate count, and coliform count every 6 months.
  - Test for brucellosis every lactating animal – every year.
  - Maintain records for 2 years and provide records to Dept of livestock if dept suspects foodborne illness outbreak.

## **South Dakota:**

### 39-6-3.1. License and permit required to sell raw milk for human consumption.

Any producer of milk who is selling raw milk for human consumption directly to the consumer shall obtain a license pursuant to the provisions of § 40-32-4 and a permit pursuant to the provisions of § 40-32-10.1.

- Shall be licensed as a producer and a licensed to specifically sell raw milk for consumption.

#### South Dakota Articles or Rules:

##### Permitting-

- pretest product (somatics, drug residue, and bacteria)- all at accredited laboratory
- Pathogen testing prior to permitting
- Water supply testing prior to permitting

##### Testing Requirements:

- Monthly somatics, coliform, bacteria and drug residues monthly- producer cost
- Monthly pathogenic bacteria (Salmonella, Listeria, Campylobacter, E.coli)- dept cost (\$225-\$300)
- Annual pesticide test – dept cost

##### Labeling Requirements:

- Farm identity
- “RAW MILK” or “RAW CREAM”
- Date of bottling

##### Farm records:

- 90 days of records for all consumer names, phone numbers, and dates of sales.

##### Farm Standards:

- Criteria for farm facility, equipment, and operation specific to raw milk for consumption

##### Enforcement Regulations:

- Inspection requirements and fees
- Violations and actions, permitting reinstatement, etc.

South Dakota carries most of regulations through rules. (Educational Guidance Booklet)

<https://danr.sd.gov/Agriculture/Livestock/DairyEggs/dairy.aspx>

- \$50 permit per farm annually
- \$50 inspection fee annually
- \$50 samplers annual license for farmers that sample their own milk
- Monthly testing costs for somatic, bacteria, drug residue