

2021 HOUSE AGRICULTURE

HB 1244

2021 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee Room JW327C, State Capitol

HB 1244
1/29/2021
a.m.

Relating to licensure for the sale of raw milk or raw milk products
--

Chair D. Johnson called to order at 9:00 a.m.

Attendance	P or Ab
Chair D. Johnson	P
Vice Chair Trottier	P
Representative Beltz	P
Representative Buffalo	AB
Representative Dobervich	P
Representative Fisher	P
Representative Headland	P
Representative Kiefert	P
Representative Richter	P
Representative Satrom	P
Representative Schreiber-Beck	P
Representative Skroch	P
Representative Thomas	P
Representative Tveit	P

Discussion Topics:

- Farm inspection by consumer
- Agriculture Department monitors

Representative Marvin Nelson: Introduced the bill
Attachments #4200, 4201, 4202, 4203

Opposition

Becky Reich, Dairy Farmer: testified

Kenton Holle, Dairy Farmer, Morton County: Attachment #4192

In support

Alexa Johnson, Mother from Fargo: Attachment #4204

Neutral

Emmery Mehlhoff, ND Farm Bureau: testified

Nathan Kroh, Dairy Program, ND Department of Agriculture: testified

Additional written testimony:
#4125, 4205

Chair D. Johnson closed the hearing at 10:24 a.m.

ReMae Kuehn, Committee Clerk

HB1244 Raw milk direct sales

Representative Marvin E. Nelson, District 9

House Agriculture Committee, Representative Dennis Johnson, Chairman.

HB1244 makes direct sales of raw milk and raw milk products legal.

It sets up a license simply to have it so in the case of a disease outbreak, the sales can be stopped until the situation is fixed.

The idea was to make this all very simple. But I have had some feedback that since the bill doesn't set out a lot of criteria that some people are concerned, they will have to make Grade A standards and be inspected all the time and so on. That is not the intention. The consumer is given the right to inspect with certain sanitary precautions some producers may require.

The Dept. can check for disease, it is not the intention to have a big inspection program but I felt it was necessary to have it where the department could come in and if there was a disease situation could stop sales temporarily.

One potential difficulty is with the administrative rules, there of course aren't any currently covering this and so people are reading and thinking those are what they must do. So we may need to put something additional into the bill to make it clear. If there needs to be a delay in implementation to give time for rules, that would be understandable.

I should note too that the idea is not to limit direct milk sales to only the very small producer. If someone wants to buy a pail of milk from an existing farm with however many cows, that should be legal. Grade A, Grade B, Grade whatever, if direct sale it should be allowed.

I find a lot of the interest in in goat milk and goat milk products like some of the cheeses. Maybe this can be a stepping stone for the growth of an industry here.

#4201



[Last updated](#) on: 2/2/2018 | Author: [ProCon.org](#)

Raw Milk Laws State-by-State

(as of Apr. 19, 2016)

[I. Introduction](#)

[II. State Law Summary](#)

[III. Raw Milk Laws by State](#)

[IV. Sources](#)

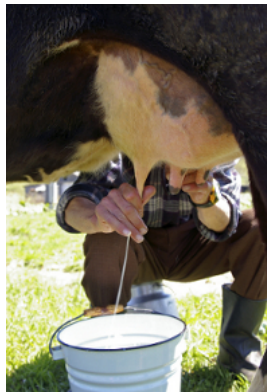
Collect e-signatures
in Google Drive.

Try free



I. Introduction

States may adopt their own laws on raw milk sales. However, at the federal level, the US Food and Drug Administration (FDA) bans the interstate sale or distribution of raw milk. All milk sold across state lines must be pasteurized and meet the standards of the [US Pasteurized Milk Ordinance](#).



According to [US Federal Regulation \(21 CFR § 1240.61\)](#), "No person shall cause to be delivered into interstate commerce or shall sell, otherwise distribute, or hold for sale or other distribution after shipment in interstate commerce any milk or milk product in final package form for direct human consumption unless the product has been pasteurized."

As of Apr. 2016, the sale of raw milk in stores is legal in [13 states](#). [17 states](#) only permit raw milk sales on farms; [8 of the states](#) that prohibit sales allow acquisition of raw milk only through "cow-share" agreements; and in [20 other states](#) all sales of raw milk are prohibited.

Drinking or otherwise consuming raw milk is legal in all 50 states. With the exception of Michigan, no state expressly prohibits the sale of raw milk as animal feed.

II. State Law Summary



Milk – Pros & Cons



Top Pro & Con Quotes



Top 10 Pro & Con Arguments



Historical Timeline

- 1 [Did You Know?](#)
- 2 [Lactose Intolerance by Country](#)
- 3 [How Milk Gets from the Cow to the Store](#)
- 4 [Raw Milk Laws State-by-State](#)
- 5 [Comparison of Calcium Content in Select Foods](#)
- 6 [What Do Teens Drink? High School Student Beverage Consumption by Race and Sex](#)
- 7



the purchase of raw milk on farms or the acquisition of raw milk through cow-share agreements. Click on each state for more information.

13 states allow the sale of raw milk in retail stores

- 11 states allow raw milk to be sold in any retail store: [Arizona](#), [California](#), [Connecticut](#), [Idaho](#), [Maine](#), [Nevada](#), [New Hampshire](#), [New Mexico](#), [Pennsylvania](#), [South Carolina](#), and [Washington](#)
- 1 state requires that the store be owned by the producer of the milk: [Utah](#)
- 1 state allows raw goat or sheep milk (not cow milk) to be sold in any retail store: [Oregon](#)

17 states allow sales of raw milk only on the farm on which it was produced

- 10 states allow on-farm sales of raw milk: [Arkansas](#), [Illinois](#), [Kansas](#), [Massachusetts](#), [Minnesota](#), [Nebraska](#), [New York](#), [Oklahoma](#), [Texas](#), and [Wisconsin](#)
- 4 states allow on-farm sales of raw milk as well as delivery of raw milk directly from the farm to consumers: [Missouri](#), [South Dakota](#), [Vermont](#), and [Wyoming](#)
- 3 states allow on-farm sales of raw goat milk (not cow milk): [Kentucky](#), [Mississippi](#), and [Rhode Island](#)

8 states allow raw milk to be obtained only through "cow-share" agreements

- 8 states allow people to obtain raw milk only through [cow-share agreements](#): [Alaska](#), [Colorado](#), [Michigan](#), [North Dakota](#), [Ohio](#), [Tennessee](#), [Virginia](#), and [West Virginia](#)

20 states prohibit the sale of raw milk for human consumption

- 8 [Video: Is Drinking Milk Healthy for Humans?](#)
- 9 [Who is the author? How to cite this page.](#)
- 10 [Source Biographies](#)
- 11 [Site Map](#)
- 12 [Additional Resources](#)

Should People Become Vegetarian?

[READ MORE...](#)

Raw Milk Laws State-by-State

[READ MORE...](#)

Is Obesity a Disease?

[READ MORE...](#)

BRITANNICA
ProCon.ORG

RELIABLE.
NONPARTISAN. [e.](#) [Florida](#), [Georgia](#),
EMPOWERING. [Maryland](#), [Michigan](#),
[Montana](#), [New Jersey](#), [North Carolina](#), [North Dakota](#), [Ohio](#),
Tennessee, Virginia and West Virginia



III. Raw Milk Laws by State



Legal Status and Additional Information

All quoted information in this column is taken from the state government website or from Real Raw Milk Facts, "Raw Milk Facts State by State," realrawmilkfacts.com (accessed Feb. 6, 2013)

Applicable Statutes & Codes

All statute and code abbreviations in this column are taken from the state government website or from Real Raw Milk Facts, "Raw Milk Facts State by State," realrawmilkfacts.com (accessed Feb. 6, 2013)

1. **Alabama** **Sale of raw milk for human consumption is prohibited.** [Ala. Admin. Code r. 420-3-16-.12](#) 🇺🇸
2. **Alaska** **Sale of raw milk for human consumption is prohibited.** Raw milk may be legally obtained through ownership of a cow, sheep, or goat, including through [cow-share agreements](#), but only where a legal contract clarifying ownership of the animal is established. [18 AAC 32.020; 18 AAC 32.060](#) 🇺🇸
[Alaska's Department of Environmental Conservation Raw Milk Factsheet](#) 🇺🇸
3. **Arizona** **Retail sale of raw milk in stores is allowed.** "Raw milk for retail sale must be clearly labeled and displayed/offered separately from pasteurized milk; Cattle producing raw milk must be tested for tuberculosis and brucellosis before beginning production and every 12 months." [AZ St §3-606](#) 🇺🇸



cow's milk or raw goat's milk is permitted only on farms (not in retail stores).

5. California

Retail sale of raw milk in stores is allowed. "Raw milk must have warning either on display or, if sold from place of production, may be attached to bottle. 17 CCR § 11380. Raw milk for consumption to have not greater than 10 coliform bacteria/mL and not greater than 15,000 bacteria/mL. CA Food & Ag Code § 35781 (a)(1)."

[CA Food & Ag § 35891](#)

6. Colorado

Retail sale of raw milk is prohibited. Raw milk may be legally obtained through [cow-share agreements](#).






[C.R.S.A. § 25-5.5-117](#) 

7. Connecticut

Retail sale of raw milk in stores is allowed. "Retail raw milk only to be sold in its unprocessed form, with no added ingredients or processing. C.G.S.A. § 22-173a. Only pasteurized milk may be served at food service establishments. C.G.S.A. § 22-193. Regulatory standards for retail raw milk found at CT ADC §§ 22-133-124 thru 22-133-132, including bacterial sampling standards at CT ADC § 22-133-129."








[C.G.S.A. § 22-129](#) 



- | | | |
|--------------|--|--|
| 9. Florida | Sale of raw milk for human consumption is prohibited. | F.S.A. § 502.091  |
| 10. Georgia | Sale of raw milk for human consumption is prohibited. “The sale of raw milk cheese properly processed and aged according to Federal requirements is legal. The sale of raw milk for animal consumption is legal if the distributor is licensed under the commercial feed laws. The Georgia Department of Agriculture currently has several distributors of raw goat milk for pet food under license.” | O.C.G.A. 26-2-242  |
| 11. Hawaii | Sale of raw milk for human consumption is prohibited. | Hawaii Admin. Rule §11-15-46  |
| 12. Idaho | Retail sale of raw milk in stores is allowed. Raw milk may also be legally obtained through cow-share agreements . “Producers of raw milk for retail sale must have permit; retailers aside from grocery stores/food retailers must also have permit. Bacterial counts < 15K/mL, coliform < 25/mL, other applicable limits available at ID ADC 02.04.13.060.” | ID ADC 02.04.13.001-999  |
| 13. Illinois | On-farm sale of raw milk is allowed. | 410 ILCS 635/8  |










2016 email to ProCon.org, the Indiana State Board of Public Health confirmed that [cow-share agreements](#) are not recognized as legal by the state of Indiana.

- | | | |
|---------------|---|--|
| 15. Iowa | <p>Sale of raw milk for human consumption is prohibited.</p> | <p>I.C.A. 192.103 </p> |
| 16. Kansas | <p>On-farm sale of raw milk is allowed. "Raw milk bacterial count < 100K/mL. Kan. Admin. Regs. 4-7-6. Farm sales of raw milk may not be promoted beyond sign on premises, which must identify milk as raw."</p> | <p>K.S.A. 65-771 </p> |
| 17. Kentucky | <p>Sale of raw cow milk for human consumption is prohibited. On-farm sale of raw goat milk is allowed with doctor's recommendation.</p> | <p>902 KAR 50:110 
902 KAR 50:120 </p> |
| 18. Louisiana | <p>Sale of raw milk for human consumption is prohibited.</p> | <p>La. Admin. Code tit. 51, pt. VII, § 919 </p> |
| 19. Maine | <p>Retail sale of raw milk in stores is allowed. "Must be labeled 'Not pasteurized.' Bacterial limits < 50K/mL. Coliform < 10/mL. Code Me. R. 01-001 Ch. 329, § V."</p> | <p>7 M.R.S.A. § 2902-B </p> |
| 20. Maryland | <p>Sale of raw milk for human consumption is prohibited.</p> | <p>MD Code, Health – General, § 21-434 </p> |



< 10/mL. 330 MA ADC
27.06. Containers must be
conspicuously labeled as
raw and carry required
warning text. Containers
must be sold within 5
days of filling. Sign must
be posted conspicuously
in raw milk sale area. 330
MA ADC 27.08.”

- | | | |
|-----------------|--|---|
| 22. Michigan | <p>Sale of raw milk for human consumption is prohibited. Raw milk may be legally obtained through cow-share agreements.</p> | <p>MCLA 288.538 
Policy # 1.40 </p> |
| 23. Minnesota | <p>On-farm sale of raw milk is allowed.</p> | <p>M.S.A. § 32D.20 </p> |
| 24. Mississippi | <p>Sale of raw cow milk for human consumption is prohibited. On-farm sale of raw goat milk is allowed.</p> | <p>Miss. Code Ann. § 75-31-65 </p> |
| 25. Missouri | <p>On-farm sale of raw milk is allowed. Delivery and sale of raw milk directly from farm to consumer is allowed, including at farmers’ markets.</p> | <p>MO Code 196.935 </p> |
| 26. Montana | <p>Sale of raw milk for human consumption is prohibited.</p> | <p>Mont.Admin.R. 32.8.103 </p> |
| 27. Nebraska | <p>On-farm sale of raw milk is allowed.</p> | <p>Neb.Rev.St. § 2-3969 </p> |



must meet standards set by county raw milk commissions (which must be established and set regulations prior to sale being permitted); certified raw milk must have bacteria count < 10K/mL and coliform < 10/mL." As of Apr. 1, 2016 there were no raw milk commissions in Nevada imposing a *de facto* ban on the sale of raw milk.

29. **New Hampshire**

Retail sale of raw milk in stores is allowed. On-farm sale of raw milk is also allowed. "The following requirements do not apply to a producer that sells fewer than 20 quarts/day. Must be clearly labeled as raw and carry specific warning, unless sold at the farm, in which case a sign with warning is sufficient; bacteria count < 20K/mL, coliform < 10/mL."

[N.H. Rev. Stat. § 184:30-a](#)

30. **New Jersey**


Sale of raw milk for human consumption is prohibited.

[N.J.S.A. 24:10-57.17](#)









also allowed. "Bacteria < 20K/mL, coliform < 50/mL. Seller of raw milk must have permit to use grade A labeling/advertising for product. Requires testing of all cows before production of milk and every 12 months thereafter. Must be bottled at farm. Bottles must be conspicuously labeled as raw and carry warning text. Raw milk must be displayed separately from pasteurized milk products."

32. New York

On-farm sale of raw milk is allowed. [1NYCRR Part 2.3](#) 
 "Milk must be sold directly to consumer from a farm licensed by the NY AGRI & MKTS where produced, sign must be posted warning that milk does not have protection of pasteurization; Bacteria count < 30K/mL; quarterly pathogen testing conducted."



milk for animal feed is permitted. "Any raw milk sold as animal feed must be clearly labeled with the text "NOT FOR HUMAN CONSUMPTION. IT IS NOT LEGAL TO SELL RAW MILK FOR HUMAN CONSUMPTION IN NORTH CAROLINA."

- | | | |
|------------------|--|---|
| 34. North Dakota | <p>Sale of raw milk for human consumption is prohibited. Raw milk may be legally obtained through cow-share agreements.</p> | <p>N.D. Admin. Code § 33-33-04-12 
S.B. 2072 </p> |
| 35. Ohio | <p>Sale of raw milk for human consumption is prohibited. Raw milk may be legally obtained through cow-share agreements.</p> | <p>OH ST 917.04 
Schmitmeyer v. Ohio </p> |
| 36. Oklahoma | <p>On-farm sale of raw milk is allowed.</p> | <p>OK. Stat. T. 2 § 7-406 & OK Stat. T.2 § 7-414 </p> |
| 37. Oregon | <p>Retail sale of raw goat or sheep milk (not cow milk) is allowed. On-farm sale of raw cow milk is allowed. On-farm sale is prohibited on farms with 3 or more cows.</p> | <p>O.R.S. § 621.012 </p> |



also allowed. "Raw milk must come from cows certified by department as in good physical health and disease free; cows must be tested for brucellosis and tuberculosis at least once a year; bacterial limits < 20K/mL, coliform < 10/mL."

39. Rhode Island

Sale of raw cow milk for human consumption is prohibited. The sale of raw goat milk directly from producer to consumer is permitted only with a doctor's prescription.

[RI ST § 21-2-2](#) 

40. South Carolina

Retail sale of raw milk in stores is allowed. On-farm sale of raw milk is also allowed. "Unlawful for anyone without a permit to manufacture, sell, or give away raw milk. Must be clearly labeled as raw with statement indicating milk has not been pasteurized. Farms must be inspected prior to production and every 3 months after production begins. Bacterial count < 10K/mL, coliform < 10/g, zero presence of pathogenic organisms."

[SC ADC 61-34](#) 



consumer is also allowed, including at farmers' markets. "Farms making sales direct to consumer or making delivery must still have permit for production of milk. Milk must be clearly labeled as 'raw.'"

42. Tennessee **Retail sale of raw milk is prohibited.** Raw milk may be legally obtained through [cow-share agreements](#). [Tenn. Code Ann. § 53-3-119](#) 🇺🇸
43. Texas **On-farm sale of raw milk is allowed.** "Bacteria < 20K/mL, coliform < 10/mL, pathogen count zero. 25 TX ADC § 217.28." [25 TX ADC § 217.32](#) 🇺🇸
44. Utah **On-farm sale of raw milk is allowed.** Off farm sale of raw milk is allowed if store is owned by the producer. Bottles must be labeled raw and carry warning label. Obtaining raw milk through [cow-share agreements](#) is permitted. [Utah Dairy Act](#) 🇺🇸




consumer is also allowed.

“Raw milk sales are prohibited at farmers markets, but advertising is not restricted. Producers of more than 12.5 gallons/day must meet bacteriological stds: bacteria < 15K/mL, coliform < 10/mL. Must be clearly labeled as raw and carry required warning.”

46. Virginia

Sale of raw milk for human consumption is prohibited. In an Apr. 19, 2016 phone call with ProCon.org, the Virginia Department of Agriculture confirmed that [cow-share agreements](#) are legal and are authorized on a case-by-case basis.


[2 VAC 5-490-70 through 75](#) 



obtained through [cow-share agreements](#). "Must have warning label with required text. If sold at food establishment, sign with warning text must be posted nearby. Herd must have tested negative for brucellosis, Q fever, and tuberculosis within previous 12 months. Monthly retail testing: bacterial count < 20K/mL, coliform < 10/mL; somatic cell < 750k/ml (cow & sheep) or < 1 million/ml (goat)."



48. West Virginia

Sale of raw milk for human consumption is prohibited. Raw milk may be legally obtained through [cow-share agreements](#).

[W. Va. Code St. R. § 64-34](#) 
[S.B. 387](#) 

49. Wisconsin






On-farm sale of raw milk is allowed. "The sale or distribution of raw or unpasteurized milk is illegal. The law exempts the 'incidental sale' of raw milk directly to a consumer at the dairy farm where the milk is produced, for consumption by that consumer (or the consumer's family or nonpaying guests). But those sales are also illegal if done as a regular business, or if they involve advertising of any kind."

[WI St 97.24](#) 
[WDATCP Raw Milk Q&A](#) 



consumer is also allowed,
including at farmers'
markets. Raw milk may be
legally obtained through
[cow-share agreements](#).

IV. Sources

1. A Campaign for Real Milk, "State Updates," [realmilk.com](#) (accessed Feb. 6, 2013)
2. Farm to Consumer Legal Defense Fund, "FDA Steps Up Enforcement Against Raw Milk," [farmtoconsumer.org](#), Apr. 26, 2010
3. Farm to Consumer Legal Defense Fund, "Raw Milk Nation – Interactive Map," [farmtoconsumer.org](#), Oct. 19, 2015
4. National Association of State Departments of Agriculture (NASDA), "[Raw Milk Survey](#)" , [nasda.org](#), July 19, 2011
5. National Conference of State Legislatures (NCSL), "[Summary of Raw Milk Statutes and Administrative Codes](#)" , [ncsl.org](#) (accessed Feb. 6, 2013)
6. National Conference of State Legislatures (NCSL), "[NCSL Updated Summary of Raw Milk Statutes and Administrative Codes](#)" , [ncsl.org](#) (accessed Apr. 19, 2016)
7. Ohio Raw Milk, [ohiorawmilk.info](#) (accessed Feb. 15, 2013)
8. Real Raw Milk Facts, "Raw Milk Facts State by State," [realrawmilkfacts.com](#) (accessed Feb. 6, 2013)
9. US Department of Health and Human Services, "[US Pasteurized Milk Ordinance](#)" , 2011
10. United States Code of Federal Regulations (21 CFR § 1240.61) – [Mandatory Pasteurization for all Milk and Milk Products](#) 

For more information about the debate surrounding raw milk, please read our pro and con question "[Is raw milk more healthful than pasteurized milk?](#)"



**Top Pro & Con
Quotes**



**Top 10 Pro &
Con Arguments**



**Historical
Timeline**



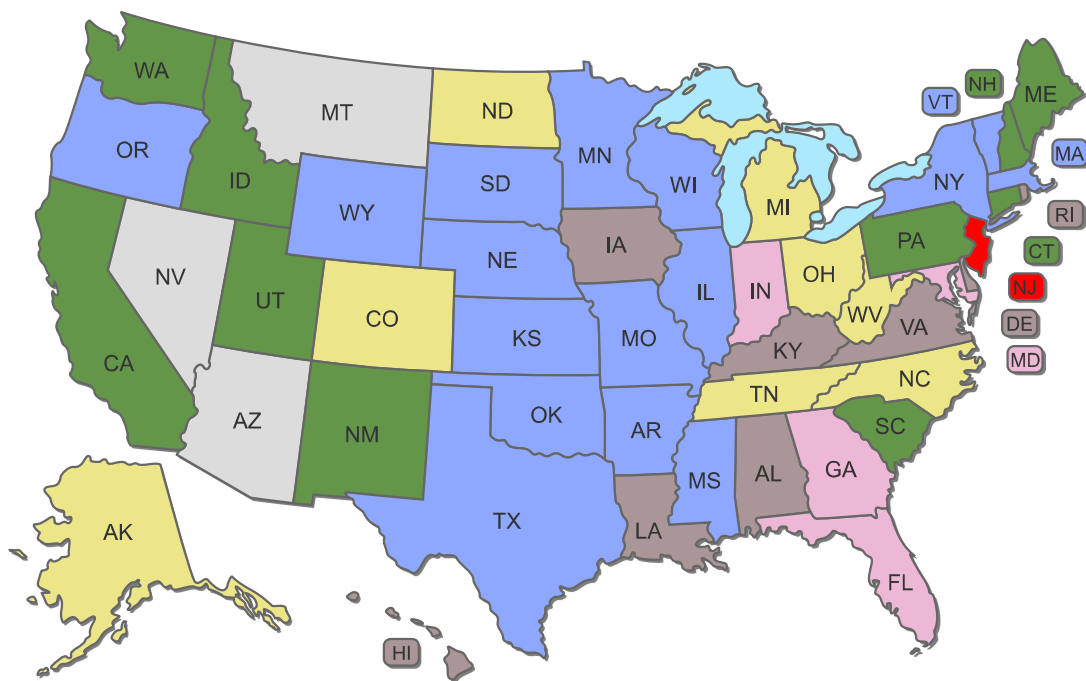
1. [US and International Meat Consumption Chart](#)
2. [Should Animals Be Used for Scientific or Commercial Testing?](#)
3. [Should Any Vaccines Be Required for Children?](#)



Raw Milk Nation – Interactive Map

State-by-State¹ Review of Raw Milk Laws

Please note: every state has very discrete laws and regulations. Read detailed information provided below the map.



- ☐ Retail Store Sales Legal
- ☐ Farm-to-Consumer Sales Legal²
- ☐ Herdshares Legal
- ☐ No Law on Herdshares³
- ☐ Sale for Pet Food Legal
- ☐ Cannot Be Legally Obtained in Any Way
- ☐ Other

April 22, 2020

¹ Other forms of raw milk distribution may also be allowed in any particular state.

² Some states further limit the direct-to-consumer sales to on-farm only or other location restriction.

³ There is no law either legalizing or prohibiting herd shares. State is aware herd share programs currently exist and has taken no action to try to stop them.

⁴ On-the-ground situation may be more restrictive because of agency

actions or agency interpretation of statutory language (Nevada and Wisconsin). Please see these states in the chart below for more details.

⁵ A traditional herd share is not permissible since the farmer must go through state requirements to set up their herd as a security and further comply with the requirements for the sale of a security (Montana). Please see below chart for more details.

The map above indicates the most permissive category for obtaining raw milk in each state. Please see the chart below for a more detailed look at how raw milk can legally be obtained in your state. See the glossary below the chart.

Due mainly to the federal ban on raw milk for human consumption in interstate commerce, the laws are different state to state.

State raw milk laws have been changing in recent years. If you have specific questions, please **Contact Us**.

If you have questions about the laws applicable to you in your state, you should consult with a licensed attorney. Farm-to-Consumer Legal Defense Fund (FTCLDF) **members**: you are welcome to contact FTCLDF concerning laws that apply to your farm.

Copyright © 2010-2020 Farm-to-Consumer Legal Defense Fund farmtoconsumer.org. The map is the property of the Farm-to-Consumer Legal Defense Fund.

This map may not be reproduced or altered without the express, written permission of FTCLDF and if permission is granted all reproductions must cite FTCLDF as the source of the original material. This map is not intended to be used as or construed as legal advice.

BY STATE – LEGALITY OF RAW MILK SALES/DISTRIBUTION

The below chart complements the interactive [Raw Milk Nation Map](#)® above and at farmtoconsumer.org/raw-milk-map

This chart goes into more detail than the map by summarizing the specific laws for each state.

If there is a stated legal limit on the number of lactating animals producing milk, herd size, or the volume of milk sold each month, the chart reflects that.

A couple of states have no law on herd shares, yet selling raw milk in these states is still illegal. A herd share allows people to buy shares of a milking animal or herd and pay the farmer to care for the animals and milk them. As owners of the animals, the shareholders are entitled to the milk from their own animals and are not actually buying the milk.

The sale of raw pet milk is legal in almost every state if the producer has a commercial feed license or its equivalent or has otherwise fulfilled state specific requirements to sell pet food. Most states, however, will not issue commercial feed licenses for the sale of raw pet milk. The chart shows only those states where it is known that raw milk producers have received permits or otherwise are in compliance with the law.

State	Statute or Regulation	Retail Store Sales Legal	On Farm Sales Legal	Off Farm Sales Legal	Herd Shares Legal	Sale for Pet Food Legal	License Rec Human Con Sale
Alabama	Ala. Admin. Code r. 420-3-16.12 (only pasteurized milk may be sold)	No	No	No	No law on herd shares	Yes, if producer has obtained a commercial feed license through the Department of Agriculture	N/a
Alaska	18 AAC 32.060; 18 AAC 32.010	No	No	No	The ban on unpasteurized milk does not apply to people who own a cow,	Yes, but must be denatured or colored and clearly marked for animal consumption only.	N/a

					goat, or sheep and use the milk for their personal use.		
Arizona	AZ Statutes: 3-601, 606, 607; AZ Admin Code: R3-2-805	Retail sale only permitted after an involved permitting process.	Yes	Yes	No law on herd shares. The Department of Agriculture takes the position that herd shares are not legal since there is an avenue to sell raw milk.	Yes	Yes, a dai permit is required. minimum Pasteuriz Ordinance standards be compl with. Catt be tested sales of r for consu may begi annually thereafte
Arkansas	Ark. Code Ann. Sec. 20-59-248	No	Yes	No	No law on herd shares	To be determined	No
California	CA Code Div. 15, Pt. 1, Ch. 1: S 32510; S 35787; S 35891; S 35861; S 35921; S 33222; S 33226; S 32513; S 35017; S 17:11380; S 35756 Food and Agriculture	Yes	Yes	Yes	Yes	Yes	Yes
Colorado	6 CCR 1010-4; 6 CCR 1010-3; CRS 25-5.5-117	No	No	No	Yes	Yes, must be dyed in accordance with State Department of Public Health requirements.	Yes

Connecticut	§22-172; §22-167; §22-133-113c	Yes	Yes	No, with the exception of raw milk cheese, aged over 60 days, and produced by a licensed producer.	Yes	Yes	Yes
Delaware	Fed. Grade A Pasteurized Milk Ordinance 2001 Revision adopted by reference	No	No	No	No law on herd shares	To be determined	No
District of Columbia	See USDA standards for Grade Milk	No	No	No	No law on herd shares	To be determined	No
Florida	FL Statutes: 502-091; FL Admin. Code: 5D-1.001	No	No	No	No	Yes	No
Georgia	GA Rules and Regulations.: 40-2-1-.01; GA Code: 26-2-238, 242(a), 249 (12); 40-5-8-.02; 2-13-6	No	No	No	No, no milk or milk product may be sold, offered for sale, or delivered for the purpose of human consumption if it is not in compliance with state law, which references the USFDA Pasteurized Milk Ordinance.	Yes, a license is required under the commercial feed laws.	No
Hawaii	HI Admin. Rules: §11-15-46	No	No	No	No law on herd shares	To be determined	No
Idaho	ID Admin Code: 02.04.13.004;	Yes, registration requirement	Yes, Small Herd Raw	Yes, if labeling	Yes. The herd share arrangement	Yes	Raw milk retail product must meet

	02.04.13.006; 02.04.13.218 ID Statutes: 37, Ch. 11.	with the State.	Milk Permit required.	requirements are met	must be registered with the state, and the milk must be received on the farm, only by the share owner. The herd share must be evidenced by a written bill of sale, with boarding terms satisfactory to the state. The dairy must provide information concerning health practices and herds must be tested every 4 to 6 months. See "Idaho Statutes — Title 37 — Food, Drugs, and Oil — Chapter 11 — Acquisition of Raw Milk"		Federal Pasteurized Ordinance they are registered small herd producer have registered herd share arrangements with the s
Illinois	77 IL Admin Code §775.55/td>	No	Yes	No	Yes	Yes	Dairy farms have a dairy permit and distribution permit.
Indiana	IN Code: 15-2.1-23-8; 15-18-1-21(a); 15-19-7-40	No	No	No	No law on herd shares	Yes, per Indiana Commercial Feed Law. Requires a "not for human consumption" label. Per Indiana Board of Animal Health guidance, raw milk for animals can only be purchased from the farm in bulk.	No
Iowa	IA Code Title V Ch. 192: 192.103	No	No	No	No law on herd shares	To be determined	No
Kansas	KS Statutes: Ch. 65, Art. 7: 65-784; 65-789; 65-771(cc); 65-778	No	Yes, includes butter, cream, and milk	No	No law on herd shares	Yes	No
Kentucky	KRS Sec. 217C.090 permits the secretary to	No	Yes, goat milk only with	No	No law on herd shares	Yes	N/a

	issue regulations allowing sale, by doctors note, of raw goat milk. 902 KY Admin regs. 50:120 Raw goat milk must have a permit from the cabinet, and inspection is required; record keeping requirement; on farm sales only		doctor's prescription				
Louisiana	LA Rev. Stats. Title 40, Ch. 4 Pt. VII, Subpart B: 40-922; Title 51, Part VII, Ch. 9: 51:VII.919; 51:VII.103	No	No	No	No law on herd shares	No	N/a
Maine	ME Rev. Stat. Title 7, Pt. 7, Ch. 601: 7 M. R. S. A. §2910; 7 M.R.S.A. §2902-B; Title 22, Subtitle 2, Pt. 5, Ch. 562: 22 M.R.S.A. §2491	Yes	Yes	Yes	No law on herd shares	Yes	Yes
Maryland	MD Code: Title 21, Subtitle 4, Pt. IV: §21-434; Pt. I: §21-401	No	No	No	No. Code of Maryland Regulations 10.15.06.02(B) (29) prohibits the sale of raw milk and defines sale to include the "right to acquire milk and milk products... through...an agistment agreement which is the sale of shares or interest in a cow..."	Yes	N/a
Massachusetts	Gen. Laws of MA: Pt. 1, Title XV, Ch. 94: G.L. c 94, §12, §13, §16J, §40; Code of MA Regs: 330 CMR 27.00; 330 CMR	No	Yes	No	No	Yes	Yes, must certificate registratio which rec inspection other requirem laid out ir regulator

	27.07 Sanitation requirements for Grade "A" Raw milk						
Michigan	Herdshares are permitted by Department Policy by way of a document titled: MDARD Policy # 1.40, dated 3/12/2013 Regarding Fresh Unprocessed Whole Milk.	No	No	No	Yes, for milk and cream only.	Yes	No
Minnesota	Minn. Stat. Ann. Sec. 32D.20	No	Yes	No	No law on herd shares	Yes	No
Mississippi	MS Code Title 75, Ch 31, Art. 1: §75-31-65	No	Yes, but limited to goat milk	No	No law on herd shares	To be determined	No
Missouri	MO Stat: Title XII, Ch. 196: 196.935; MO Regs. Title 2, Div. 80, Ch. 3: 2 CSR 80- 3.030,-3.040, -3.070	No	Yes	Yes	No law on herd shares	Yes	Yes
Montana	MT Admin Rules Title 32, Ch. 8, Sub- Chapter 1; 32.8.102; 32.8.103	No	No	No	Herdshares may be permitted only with state agency exemption. Please contact FTCLDF.	To be determined	No
Nebraska	Nebraska Revised Statutes Ch. 2, Art. 39	No	Yes	No	No law on herd shares	To be determined	No

Nevada	NV Admin Code Ch. 584: NAC 584.2031; NV Statutes Title 51, Ch. 584: NRS 584.205 & 207	Yes	Yes	Yes	No law on herd shares	To be determined	Yes, per c milk comi
New Hampshire	NH Statutes Title XIV, Ch. 184: 184:30-a, 79, 84; Code of NH Rules Ch. He-P 2300, Pt. He-P 2303: He-P 2303.01	Yes	Yes, if direct to consumer	Yes, if direct to consumer, or served at a boarding house where signage clearly indicates that raw milk is served.	No law on herd shares	To be determined	Yes, except on-farm c market producer: who sell l than an a of 20 qua day.
New Jersey	NJ Statutes Title 24, Subtitle 1, Ch. 10, Art. 6: 24:10-57.17	No	No	No	No	No	N/a
New Mexico	NM Statutes Section 25-8-1; NM Regs. Title 21, Ch. 34, Pt. 2: 21.34.2.9, 2.12 NMAC	Yes	Yes	Yes	No law on herd shares	Yes	Yes, if producer wants to i "Grade A" designati
New York	NY Codes, Rules & Regs. Title 1 Ch. 1 Subch. A Pt. 2: 1 NYCRR 2.3	No	Yes, with a permit	No	Yes, with a permit	Yes	Yes

North Carolina	NC Gen. Statutes Ch. 130A, Art. 8, Pt. 9: 130A-279; NC Admin Code Title 15A, Ch. 18, Subch. 18A, §1200; T15A-C18-S18A.1210; NCAC 09G.2010	No	No	No	Yes	Yes (see North Carolina General Statutes 130A-279)	No
North Dakota	Currently: ND Statutes: Title 4.1, Ch. 4.1-25; Title 33, Art.33-33, Ch. 33-33-04: 33-33-04-12	No	No	No	Yes, see ND Century Code Section 4.1-25-40	To be determined	No
Ohio	ORC Title IX, Ch. 917: §§917.02, 04, 09	No	No	No	Yes	To be determined	No
Oklahoma	OK Statutes Title 2, Ch. 1, Art 7: §2-7-406; §2-7-414; 2-7-408; 2-7-403; §2-7-417	No	Yes	No	No law on herd shares	Yes	No
Oregon	OR Statutes Title 49, Ch. 621: 621.012, .116, .003, .072, .076	Goat and sheep milk only.	Yes	No	No law on herd shares	Yes	No to small on-farm, direct-to-consumer milk sales; retail stores of goat or milk.

Pennsylvania	PA Statutes Title 31, Ch. 13: 31 P.S. §646; PA Code of Regs. Title 7, Pt. III, Subpt. B, Ch. 61, Subch. C: 7 Pa. Code §59.302, .773; §59a.401-416; 007 Pa. Code §7.24; §9.34	Yes	Yes	Yes	No law on herd shares	Yes, mentioned along with milk for human consumption, and milk must be from a tested, disease-free herd.	Yes
Rhode Island	RI Regs. See 2001 Pasteurized Milk Ordinance; RI Gen. Laws: Title 21, Ch. 2: §21-2-2, et seq.	No	Yes, goat milk only with prescription	Yes, goat milk only with prescription	No law on herd shares	To be determined	Yes, with restriction
South Carolina	SC Regs. Ch. 61: 61-34 §§ 1, 3, 9; 61-25 Ch. 1 Defs. P26	Yes	Yes	Yes	No law on herd shares	Yes	Yes
South Dakota	SD Admin Rules Title 12, Art. 12:05, Ch. 12:05:14: 12:05:14:01; SD Statutes Title 39, Ch. 39-6: 39-6-3; Title 40, Ch. 40-32: 40-32-2; 40-32-4	No	Yes	Yes, if by delivery from the farm on which the milk was produced	No law on herd shares	Yes	Yes
Tennessee	Tenn. Code Ann. 53-3-119; Attorney General opinion No. 12-04 (on butter and value added products)	No	No	No	Yes, by statute	Yes	No
Texas	Texas Administrative Code: Title 25, Section 217.32	No	Yes	No	No law on herd shares	To be determined	Yes

Utah	UT Statutes Title 4, Ch. 3: 4-3-14; UT Admin Rules R70-330: R70-330-5; UT Statute 4-3-9.5	Yes	Yes	Yes	Yes, see Title 4 Utah Agricultural Code / Chapter 3 Utah Dairy Act	Yes, but must be denatured/decharacterized in accordance with state regulations.	Not for the producer: sell direct to consumer on farm, and less than 120 quarts per month
Vermont	VT Statutes Title 6, Pt. 6, Ch. 152, Subch. 1: 6V.S.A. §2672; Subch. 3, Art. 1: 6 V.S.A. §2721, §2723; §2775-2778	No	Yes	Yes, but only for delivery regarding prepaid advance sales.	No law on herd shares	Yes, but must be denatured/decharacterized in accordance with state regulations.	No license required if producer sells more than 120 quarts of milk per day
Virginia	2 VAC 5-490-70 through 75	No	No	No	No law on herd shares	To be determined	No
Washington	Rev. Code of WA Title 15, Ch. 15.36: RCW 15.36.012, .041, .051, .231; Title 16, Ch. 16-101; Ch. 15.37: RCW 15.37.100; WA Admin Code Title 246, Ch. 246-215: WAC 246-215-020	Yes, for milk and cream and subject to labeling and signage requirements established by state law.	Yes	Yes, but statute provides that raw milk for off site consumption may be sold in retail stores only.	Yes. See Washington State Code — Title 15 — Chapter 15.36 — Section 15.36.012, “Definitions,” — “NOTES, Findings— 2006 c 157”	Yes, and milk must be colored to denote use for animal consumption	Yes, retail milk seller must maintain State Milk Producer and a Milk Processing License.

West Virginia	WV Code of State Rules Title 64, Series 34, §§64-34-2,3; Title 19, Series 1, §19-1-7	No	No	No	Yes. Ch. 19. Agriculture, Art. 1. Department of Agriculture, §19-1-7. Shared animal ownership agreement to consume raw milk.	No	Not a license, but rather herd share producer: register with state and subject to inspection; must pass state veterinary inspection. Producer: agree to report illnesses to consumer of raw milk.
Wisconsin	WI Statutes Ch. 97, 97.24; Ch. 551, Subch. II, 21.21, .22. See also opinion/ruling at summary PDF	No	Incidental only. "Incidental" is defined as not in the regular course of business.	No	No	Yes, and milk must be colored to denote use for animal consumption	No
Wyoming	WY Regs. Dept. of Ag. WY Food and Safety Ch. 3: AGR-FS §3-8; (g) Food Freedom Act	No	Yes	Yes, limited to farmers markets	Yes, according to Wyoming Food Safety Rule, Chapter 3 Food Care, Section 8,	To be determined	No

[CONTACT US](#)

[LOGIN](#)

Defending the rights and broadening the freedoms of family farms and protecting consumer access to raw milk and nutrient dense foods. Copyright © 2007-2020 · For more information: email: info@farmtoconsumer.org · Phone: (703) 208-FARM (3276) · Falls Church, VA Farm-to-Consumer Legal Defense Fund (FTCLDF) The content of this website is intended for educational and informational purposes only and is not intended to be nor should it be construed as either a legal opinion or as legal advice. Articles posted here do not necessarily represent the views or the position of the Farm-to-Consumer Legal Defense Fund.



Login (<https://www.ncsl.org/login.aspx?returnurl=%2fresearch%2fagriculture-and-rural-development%2fraw-milk-2012.aspx>)

|

Create Account (https://www.ncsl.org/fon_registration.aspx?returnurl=https%3a%2f%2fwww.ncsl.org%2fresearch%2fagriculture-and-rural-development%2fraw-milk-2012.aspx)

| Contact (</aboutus/ncslservice/ncsl-contact.aspx>) | Help (</aboutus/ncslservice/ncsl-website-guide.aspx>)



TABLE OF CONTENTS

50-State Map of Raw Milk Laws

Raw Milk Laws

An Overview of U.S. State Milk Laws

RESOURCES

PDF: NCSL Summary of Raw Milk Statutes and Administrative Codes (88 pages)
(/documents/agri/raw_milk_state_laws_2.pdf)

CONTACT

Jennifer Schultz

Agriculture and Rural Development

This website uses cookies to analyze traffic and for other purposes. You consent to the use of

All Documents (</search/results?isearch=false&kwid=366.aspx>) [Privacy policy](#)

State Milk Laws

8/29/2016

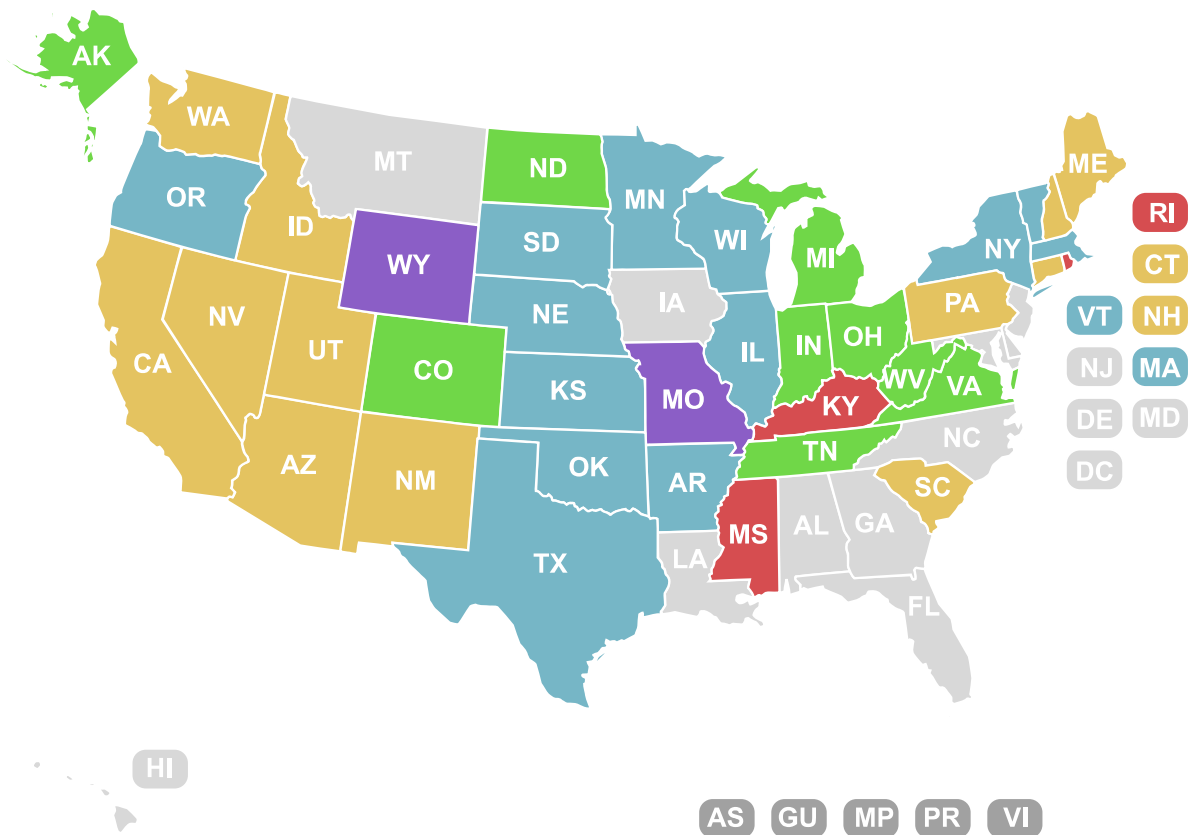


In the United States, milk is governed through a series of state rules and regulations based on the federal Pasteurized Milk Ordinance, or PMO. This ordinance guides the state programs to ensure that no major milk-borne disease outbreaks occur.

Forty-six states have adopted many or all of the provisions of the PMO. California, Maryland, New York and Pennsylvania have not adopted the PMO, but have their enacted their own strict milk safety laws. The PMO provides for national standards regarding the production, processing, packaging and sale of Grade “A” milk and milk products, a program in which every state and the District of Columbia participate.

States oversee all milk products produced and sold in their state. Milk products sold over state lines are subject to federal oversight, which will accept state PMO certification.

States that permit the sale of raw milk in retail stores	States that allow the sale of raw milk at farmers' markets, etc.	States that allow the sale of raw milk on the farm.	States that permit cow-share programs	States that only allow the sale of raw goat milk
---	---	--	--	---



Raw Milk Laws

The federal government, through the U.S. Food and Drug Administration (FDA), does not permit the sale of raw (unpasteurized milk) milk for human consumption, and advises states not to permit the sale of raw milk. Since the FDA does not regulate raw milk, it can be sold only in the state where it was purchased and cannot be sold across state lines or internationally. It also forbids states from permitting the sale of products made from raw milk, such as yogurt, cottage cheese, butter and ice cream. Some hard cheeses, such as cheddar and Swiss, can be made from raw milk.

Even though the federal government allows only Grade A pasteurized milk to be sold to consumers, 31 states allow for consumers to purchase raw milk directly. In many states, raw milk can be only purchased at the farm, at farmers' markets or through a "cow-share" program, where consumers combine resources to purchase a dairy cow. In 12 states, however, consumers can purchase raw milk at retail stores.

In the remaining 19 states, the sale of raw milk to consumers is prohibited. Raw milk, however, can be purchased for animal consumption.

States legalizing raw milk sales or distribution have done so through:

- **Statute.** Any state statute conflicting with Section 9 of the PMO overrides the PMO.

cookies if you use this website.

Continue

Our online privacy policy

- **Administrative rule or regulation.** Any state regulation conflicting with Section 9 of the PMO overrides the PMO.
- **Policy.** This would include cow share programs in states where, even though there is a prohibition on the sale of raw milk, state regulatory agencies have made a policy decision not to shut down cow share programs they know of that comply with state guidelines. State policy sometimes does conflict with and override state statutes, administrative rules or other written guidelines in the regulation of milk and milk products.

Raw milk sales for animal consumption are at least potentially legal in all states but under commercial feed licensing laws. Except for Michigan, not a single state law expressly prohibits the sale of raw milk for animal consumption. The variables are the states' willingness to grant licenses to producers of raw milk for animal feed and how strictly state agencies would monitor licensees to make sure that raw milk sales did only go for animal consumption. The PMO regulations do not apply to the sale of raw milk for animal feed.

The state milk law summaries are based on research of the state statutory and administrative codes and conversations with farmers and state dairy officials.

An Overview of U.S. State Milk Laws

In 1924, the United States Public Health Service (USPHS), a branch of the Food and Drug Administration, developed the Standard Milk Ordinance, known today as the Pasteurized Milk Ordinance (PMO). This is a model regulation helping states and municipalities have an effective program to prevent milk borne disease. The PMO contains provisions governing the production, processing, packaging and sale of Grade "A" milk and milk products. It is the basic standard used in the Voluntary Cooperative State – USPHS/FDA Program for the Certification of Interstate Milk Shippers, a program in which all 50 states, the District of Columbia and U. S. Territories participate.

Forty-six of the 50 have adopted most or all of the PMO for their own milk safety laws with those states not adopting it passing laws that are similar. California, Pennsylvania, New York and Maryland have not adopted the PMO, but do have laws as strict as the PMO.

Section 9 of the PMO states in part that, "only Grade "A" pasteurized, ultra-pasteurized or aseptically processed milk and milk products shall be sold to the final consumer, to restaurants, soda fountains, grocery stores or similar establishments." In spite of 46 states adopting the PMO, it is at least technically possible at the present time to legally sell or distribute raw milk for human consumption in 30 states.



(<https://www.ncsl.org/meetings-training/state-policy-101->

[sessions.aspx](https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx))

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

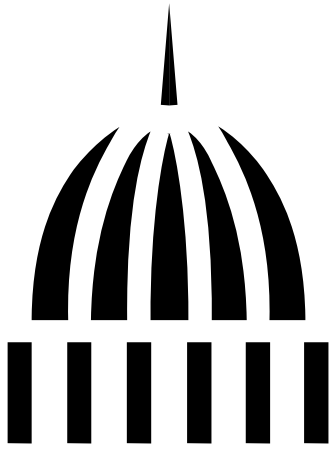
(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)



NCSL

We are the nation's most respected bipartisan organization providing states support, ideas, connections and a strong voice on Capitol Hill.

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

Members Resources

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

(<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>)

- (<https://www.ncsl.org/meetings-training/state-policy-101-sessions.aspx>) Get Involved With NCSL (</legislators-staff.aspx>)
- Jobs Clearinghouse (</legislators-staff/legislative-staff/jobs-clearinghouse-service.aspx>)
- Legislative Careers (</legislators-staff/legislative-staff/legislative-staff-coordinating-committee/legislative-careers.aspx>)
- NCSL Staff Directories (</aboutus/ncslservice/ncsl-staff-directories-and-online-requests.aspx>)
- Staff Directories (</aboutus/ncslservice/staff-directory-search-form.aspx>)
- Terms and Conditions (</aboutus/ncslservice/ncsl-website-terms-and-conditions.aspx>)

Policy & Research Resources

- Bill Information Service (</aboutus/ncslservice/bill-information-services-overview.aspx>)
- Legislative Websites (</aboutus/ncslservice/state-legislative-websites-directory.aspx>)
- NCSL Bookstore (</bookstore.aspx>)
- State Legislatures Magazine (</bookstore/state-legislatures-magazine.aspx>)

Accessibility Support

- Tel: 1-800-659-2656 or 711 (tel:18006592656)
- Accessibility Support (</aboutus/ncslservice/ncsl-accessibility-help.aspx>)
- Accessibility Policy (</aboutus/ncslservice/ncsl-accessibility-policy.aspx>)

Meeting Resources

- Calendar (</meetings-training/ncsl-meetings-calendar.aspx>)
- Online Registration (https://www.ncslcommunities.org/CPSBase_events?)

This website uses cookies to analyze site usage and for other purposes. You consent to the use of cookies if you use this website.

Continue

[Our online privacy policy](#)

Press Room

- Media Contact (/press-room.aspx)
- NCSL in the News (/press-room.aspx)
- Press Releases (/press-room.aspx)

Go 25319

Denver

7700 East First Place

Denver, CO 80230

Tel: 303-364-7700 | Fax: 303-364-7800

Washington

444 North Capitol Street, N.W., Suite 515

Washington, D.C. 20001

Tel: 202-624-5400 | Fax: 202-737-1069

f (<https://www.facebook.com/pages/Denver-CO/National-Conference-of-State-Legislatures/89855016270>)

t (<https://twitter.com/NCSLorg>) **YouTube** (<https://www.youtube.com/user/NCSLorg>)

in (<https://www.linkedin.com/company/national-conference-of-state-legislatures>)

@ (<https://www.instagram.com/ncslorg/>)

Copyright 2021 by National Conference of State Legislatures

Terms Of Use (<https://www.ncsl.org/terms.aspx>) | Privacy Statement
(<https://www.ncsl.org/privacy.aspx>)

This website uses cookies to analyze traffic and for other purposes. You consent to the use of cookies if you use this website.

HB 1244
ND House Ag Committee
January 29, 2021

Hello Chairman Johnson and Members of the House Ag Committee,

My name is Kenton Holle, from Mandan, ND. I am a third-generation dairy farmer from Morton County. January 1, my wife and I began the final stages of transferring our dairy farm to our oldest son and his family. At some point, I will be a retired dairy farmer (if there is such a thing) but more importantly providing for our family's next generations to milk cows in Morton county!

HB 1244 is very troubling for the dairy industry. I want to provide three insights why this is so troubling:

1. There is already the cow share program in ND that allows consumers to purchase raw milk.
2. Public Health concerns.
3. Impact on the state's dairy producers.

One thing very important about any conversation related to milk is that "MILK IS MILK!". By that I mean, that no matter what label it carries; raw, organic, all natural, a store brand, whole milk, reduced fat milk or any of the Brands that you can find in the dairy case; all milk contains 9 essential vitamins and nutrients. Plain and simple as that!

The other noteworthy thing is that this legislation will not make the consumption of raw milk safe. That is worth saying again **no legislation will make the consumption of raw milk safe!**

1. With the cow share program that already exists in North Dakota a consumer who wishes to risk consuming raw milk can make a deal with a dairy farmer to purchase a share of his cows and get a share of the milk. With that program in place, there is no need for further legislation.
2. Item b. on line 3 of page 2, the sponsors have identified the “Milk-borne disease” so by that admission they know the public health risk that raw milk presents. This is a quote from National Public Radio program: “The Salt”- *The CDC has been monitoring this move toward a broader legislation and recently reported a corresponding increase in the number of illnesses attributed to raw milk: “UP FOUR FOLD” from years past.* The possibility of human illness from **RAW MILK** is real.
3. Looking at this bill as a dairy farmer, I have questions and concerns about the inspections of raw milk and raw milk products. Inspecting raw milk would be limited to sight, taste and smell. In relation to the Milk-borne disease within the raw milk or raw milk products, the inspection of those would be completed through testing.
These questions arise: 1) who will do the sampling 2) where will the testing be done 3) who is responsible for the costs relating to raw milk and raw milk product inspections and samplings.
Paragraphs 2,3 & 4 of page two, brings up concerns that only can be cleared up through our State Department of Agriculture and the State Department of Health.

Paragraph 5 of page two; is asking to exempt raw milk sellers from requirements that must be met by producers that are selling raw milk to be pasteurized. If the raw milk producers want to be in the business of selling raw milk, they should have to abide by the same rules as those selling and buying milk for pasteurization.

Our farm ships milk to Land O Lakes. If a Land O Lakes producer sells raw milk to anyone other than Land O Lakes, they are in violation of membership agreement and would no longer be a Land O Lakes producer!! North Dakota has dairy producers who sell milk to DFA Coop and to AMPI Coop they also have similar requirements.

These past months we have all witnessed health risk that have been to a certain extent out of our control. The health risk of consuming raw milk certainly is in the control of this committee. Our state can keep this health concern to a minimum by NOT allowing this bill into law. For those who are concerned about the freedom to purchase raw milk, go buy a cow share and they can get the cow and the milk too!

In conclusion, the side effects of an illness from raw milk consumption would be a negative reflection on wholesome dairy products AND on the diligent efforts of our states' Dairy Farmers who are providing a safe dairy product! A bad experience either first hand or through fake news and social media hype can have a long reaching impact on the health of the public and the success of the States' Dairy Industry.

HB 1244 is a BAD IDEA! I humbly request that this bill leave this committee with a DO NOT PASS!

Thank you,
Kenton W. Holle



NEUTRAL TESTIMONY on HB 1244 - RAW MILK BILL

By LeAnn Harner
Oliver County, ND
701-516-0707
goat@harnersfarm.net

I operate a small raw milk goat dairy in Oliver County; selling milk and cheese via a share program. The demand for raw goat milk is high. I have a waiting list of customers and often refer people to other producers. I don't deliver so my customers come to the farm - some from 100 miles away because this milk is a major source of nutrition for a person with dietary allergies or other conditions.

I fully support the sale of raw milk and milk products directly from producer to consumers.

National trends are for states to loosen restrictions on such sales; though the methods vary widely. Interestingly, as easier access to raw milk increases, the incidence of reported foodborne illness has decreased. There's virtually no reported outbreaks in the last couple of years. Raw milk producers are doing a great job providing a safe, wholesome product our customers want.

The reason I'm not fully supporting this bill is that it is very limited in scope.

- First - HB 1244 **only applies to cow milk**. I suspect North Dakota has more goat producers of raw milk than cow. (*But the cow producers probably sell more gallons than our goat people.*) There are dairy sheep in our state; though I'm not aware of any of them selling shares right now.
- Second - the bill **requires a license**. By putting the raw milk producer under the license statute, it also **triggers Administrative Rule 7-03.2-04**.
<https://www.legis.nd.gov/information/acdata/pdf/7-03.2-04.pdf>

Here's a link to the Department's brochure on for milk production:

<https://www.nd.gov/ndda/sites/default/files/resource/Summary%20of%20Requirements%20for%20Grade%20A%20Milk%20Production%20for%20ND%20Dairy%20Producers.pdf>

Unless the Department of Ag changes its rules (*not required in the legislation*), **this bill potentially puts these producers under the same guidelines for facilities as a Grade A Dairy**. Check them for yourself. It requires an impervious floor (basically concrete) with a drain, walls that can be hosed down, etc.

If your raw milk dairy is in a current or former Grade A facility, you'll be in great shape. Some cow herd share producers also sell to a processor and clearly, this legislation will help them. That's why I don't oppose this bill.

I doubt there's a single goat or sheep dairy that would qualify under this standard and many of the cow dairies currently selling raw milk via shares **won't either**. Many of us milk by hand into buckets or machine milk into cans and then transport the milk to the house for filtering and cooling. We pride ourselves in being clean and careful. Further - we drink our product so we know it's good. We educate our customers so they understand the milk has to be kept cold - even during transport.

In my opinion the **best part of this bill is that it leaves herd shares intact**. We have the best herd share law in the nation. Several members of this committee took part in writing that law. Thank you!

If anyone has questions, feel free to contact me. Thank you for your time.

Raw Milk in Court: Implications for Public Health Policy and Practice

[Stephanie D. David](#), JD, MPH

[Author information](#) [Copyright and License information](#) [Disclaimer](#)

This article has been [cited by](#) other articles in PMC.

Although only about 3% of the U.S. population drinks raw—or unpasteurized—milk, in recent years, the raw milk movement has erupted into an impassioned and increasingly public debate between public health authorities and consumers.¹ In 2012, even as a raw milk outbreak in Pennsylvania sickened 80 people in four states and a new Centers for Disease Control and Prevention (CDC) study reaffirmed the link between foodborne illness risks and raw milk consumption, several states considered legislation that would legalize raw milk sales within their borders, and two federal court decisions involving the regulation and sale of raw milk—*U.S. v. Allgyer*² and *Farm-to-Consumer Legal Defense Fund (FTCLDF) v. Sebelius*³—added fodder to the arguments on both sides.

This installment of *Law and the Public's Health* examines the debate regarding raw milk regulation and sales in the United States and the implications of *U.S. v. Allgyer* and *FTCLDF v. Sebelius* for public health practice and policy.

[Go to:](#)

BACKGROUND

The past several years have witnessed an increased consumer demand for “whole,” locally grown and produced foods, particularly produce, meat, and dairy. Commensurate with this increase, heated debate has evolved regarding the sale of raw milk between a growing number of consumers on the one side, and state and federal food safety and public health officials on the other. Although the U.S. Food and Drug Administration (FDA) regulations prohibit the interstate sale of unpasteurized milk for human consumption, 30 states allow raw milk sales within their borders with varying restrictions.

Public health authorities have long noted the significant risk of serious foodborne illness associated with raw milk.⁴ To protect against this risk, the vast majority of dairy products consumed in the U.S. today are pasteurized, a technique in which the milk is heated rapidly to a temperature high enough to kill most foodborne pathogens. Raw milk is not subject to this heating process and, therefore, is more likely to harbor harmful pathogens such as *Campylobacter*, *Salmonella*, *Escherichia coli* O157:H7, and *Listeria*, all of which would have been killed during pasteurization.⁵

Despite the reportedly small number of consumers who drink raw milk, most outbreaks among both pasteurized and unpasteurized milk are attributed to raw milk. In a recent CDC study, researchers found that, of the 56 fluid-milk reported outbreaks between 1993 and 2006, 46 (82%) involved raw milk, while only 10 were attributed to pasteurized milk. These 46 outbreaks led to 930 reported illnesses and 71 reported hospitalizations, with a disproportionate impact on people younger than 20 years of age.⁶

Notwithstanding the known risks of foodborne illness associated with consuming raw milk, the demand for raw milk appears to be increasing. While better taste is often cited as the primary reason consumers choose to drink raw milk, many proponents also believe that the pasteurization process depletes the milk of important properties that otherwise would confer health benefits, such as a reduction in asthma and allergies and improved infection-fighting capabilities.⁷ Although public health authorities stress there is a lack of evidence to back these health-related assertions, state legislators, responding to constituent demand, have introduced a number of bills to legalize the sale of raw milk within their jurisdictions.

[Go to:](#)

REGULATION OF RAW MILK

Federal regulation

FDA authority for regulating the interstate sale of raw milk is found in the commerce clause of the U.S. Constitution, which, in turn, gives Congress the authority to enact legislation affecting interstate commerce, including laws regulating food, drugs, and cosmetics under the Public Health Service Act (PHSA)⁸ and the Food, Drug, and Cosmetic Act (FDCA).⁹ The PHSA authorizes the FDA to adopt and enforce regulations that are necessary, in the agency's view, to prevent the introduction, transmission, or spread of communicable diseases—such as those caused by foodborne pathogens—from one state to another.⁸ Pursuant to this authority, the FDA regulates the sale of milk in interstate commerce according to rules prescribed in its unpasteurized milk regulation, which provides that “no person shall cause to be delivered into interstate commerce or shall sell, otherwise distribute, or hold for sale or other distribution after shipment in interstate commerce any milk or milk product in final package form for direct human consumption unless the product has been pasteurized. ...”¹⁰

The FDA's authority with regard to raw milk is also found in the FDCA, which gives the FDA responsibility for protecting the public's health by ensuring that food entering interstate commerce is not adulterated or misbranded.¹¹ Raw milk harboring foodborne pathogens would be considered adulterated under the FDCA. But more often, raw milk is the subject of misbranding claims, because bottles of raw milk transported in interstate commerce do not conform to the FDA's “standard of identity” for milk, which requires

that any beverage in final packaged form that is labeled as “milk” and sold in interstate commerce be pasteurized.¹²

The federal government's authority to regulate products such as raw milk in interstate commerce is broad and may extend to purely intrastate activities when necessary to make a regulation of interstate commerce effective.¹³ Indeed, as a federal judge found in *Public Citizen v. Heckler*, “should it appear that the interstate sale of raw milk continues, it is within [the U.S. Department of Health and Human Services'] authority at that time to institute an intrastate ban as well. .. [if]. .. necessary to effectuate the interstate ban.”¹⁴ Moreover, in *Gonzales v. Raich*, which involved a federal ban under the federal Controlled Substances Act on locally grown and consumed marijuana, the U.S. Supreme Court held that actual movement of a regulated product into interstate commerce is not a necessary condition for federal intervention.¹⁵ Rather, as Justice Scalia offered in his concurrence, federal laws can reach purely intrastate practices if such regulation is considered “necessary and proper” to a broader regulatory scheme affecting commerce.¹⁵

State regulation

Although the FDA prohibits the sale of raw milk across state lines, states retain authority through their police powers to regulate the sale of raw milk within their borders. Currently, 20 states and the District of Columbia prohibit the sale of raw milk, while the remaining 30 states allow sales of raw milk; state regulations vary widely.¹⁶ Thirteen states permit sales only on the farm where the milk is produced, while 12 states permit sales of raw milk in retail stores separate from the farm. Five states maintain regulations that allow a combination approach, such as restricting sales to farmers' markets or to “owners” of the cow through “share” agreements.¹⁶

[Go to:](#)

RECENT LITIGATION

With the growing demand for raw milk, consumers in states where such sales are prohibited often seek out other ways to obtain the milk. One approach is in-person purchases from out-of-state farms where raw milk is sold legally; another is entering into cow “shares” or private “buyers' clubs” in which groups of individuals buy or lease partial ownership of a cow and the milk it produces to avoid any interstate transaction involving raw milk. Two recent federal cases examined the legality of these practices under the FDA's unpasteurized milk regulation and the FDCA.

FTCLDF v. Sebelius

In 2010, the FTCLDF brought an action against the FDA challenging the constitutionality of its prohibition on interstate sales of raw milk.³ Plaintiffs included individuals who sought to purchase raw milk in a state where sales were legal and transport it back to their

home states—which did not permit such sales—for personal or family consumption. They also included an “agent” for a raw milk buyers' club who obtained raw milk legally from one state and delivered it to club members for personal or family consumption in states that prohibit sales, as well as a farmer who produced raw milk in a state where sales were permitted but knowingly sold to its customers who came into the state to make their purchase but resided in states that prohibit sales.

In the course of the litigation, the federal judge sought information from the FDA regarding the extent to which its unpasteurized milk regulation prohibited the types of sales in which plaintiffs were engaged. In its responses, the FDA generally asserted that all three types of sales would violate its unpasteurized milk regulation by “causing milk to be delivered into interstate commerce.” The agency further asserted that producers and buyers' agents who sell, ship, or transport raw milk to consumers in other states, or who solicit interstate sales, would be subject to FDA enforcement actions.³ Notably, however, the FDA indicated to both the court and in separate public communications that it has “never taken, nor does it intend to take, enforcement action against an individual who purchased and transported raw milk across state lines solely for his or her own personal consumption.”¹⁷ In March 2012, the judge dismissed the case against all plaintiffs for lack of standing on the grounds that none of them had actually been the subject of an FDA enforcement action under the unpasteurized milk regulation.³

U.S. v. Allgyer

In February 2012, the FDA emerged the victor in a suit against Daniel Allgyer, a dairy farmer in Pennsylvania. Allgyer had been shipping unpasteurized milk to buyers in Maryland, first through direct-to-consumer sales and later through a cow-share arrangement.² While raw milk sales are legal in Pennsylvania, they are prohibited in Maryland. The FDA filed suit against Allgyer, alleging that he had violated the PHSA, the FDA's unpasteurized milk regulation, and the FDCA. The agency sought an order from the court that he discontinue all interstate sales of raw milk.

The judge found that Allgyer's interstate sales of raw milk had violated both the PHSA and the unpasteurized milk regulation by “engaging in conduct that endangers the public health and safety by distributing in interstate commerce unpasteurized milk and milk products in final package form for human consumption.” The court concluded that Allgyer's cow-share arrangement with his buyers was simply a sham method for continuing his interstate sales. The court further found that, because bottles containing raw milk that were delivered from Allgyer's Pennsylvania farm to consumers in Maryland were not labeled, the milk was misbranded within the meaning of the FDCA. As a result, the judge issued a permanent injunction prohibiting Allgyer from continuing to sell his raw milk products across state lines.

[Go to:](#)

IMPLICATIONS FOR PUBLIC HEALTH POLICY AND PRACTICE

U.S. Supreme Court precedent grants the federal government broad powers to regulate both goods in commerce and wholly intrastate conduct that nonetheless has a substantial effect on commerce. With increasing interest in raw milk and the willingness of consumers to travel to neighboring states to obtain it, *U.S. v. Allgyer* and *FCLDF v. Sebelius* both provide an express legal basis for the FDA's actions while simultaneously offering greater clarity regarding the agency's enforcement intentions. Consumers living in states where raw milk sales are prohibited can continue to travel to other states where it is sold legally, and transport it back to their home states for personal and family consumption without fear of receiving a warning or worse from the FDA. At the same time, sellers of raw milk products cannot engage in practices that place their products in interstate commerce.

These cases do not in any way undermine the power of state public health agencies to regulate the sale of raw milk within their borders and suggest the importance of continuing efforts by state public health authorities to oversee the consumption of raw milk and educate residents about the associated foodborne illness risks, particularly in children, the elderly, and those with compromised immune systems. State public health agencies play a continuing and crucial role in monitoring raw milk production, responding to foodborne illness outbreaks, and educating state lawmakers regarding the health risks—to residents of their own states as well as other states—associated with raw milk consumption and laws that permit its sale.

At the same time, however, the *U.S. v. Allgyer* decision suggests that producers and buyers' agents will continue to be the focus of FDA investigations and enforcement actions aimed at curbing the interstate sale of raw milk. In this context, consumers who travel to other states to buy raw milk that is to be subsequently transported back to their own states may provide the evidence on which such enforcement actions will be based under federal law. This bifurcated policy approach—permitting purely local consumption of raw milk in states that allow it while regulating its interstate movement—represents a more tolerant approach than that taken by the federal government in the case of medical marijuana, balancing the authority of states to allow such practices within their borders with the role of the federal government in protecting the nation against unsafe commercial practices.

[Go to:](#)

REFERENCES

1. Centers for Disease Control and Prevention (US). Atlanta: CDC; [cited 2012 Jul 31]. Foodborne Active Surveillance Network (FoodNet) population survey atlas of exposures; pp. 2006–2007. Also available from:




URL: http://www.cdc.gov/foodnet/surveys/FoodNetExposureAtlas0607_508.pdf. [Google Scholar]

2. *U.S. v. Allgyer*, 2012 U.S. Dist. LEXIS 13257 (E.D. Pa., Feb. 2012).
3. *Farm-to-Consumer Legal Defense Fund v. Sebelius*, No. C 10-4018-MWB (N.D. Iowa, March 30, 2012).
4. Weisbecker A. A legal history of raw milk in the United States. *J Environ Health*. 2007;69:62–3. [PubMed] [Google Scholar]
5. Food and Drug Administration (US). The dangers of raw milk: unpasteurized milk can pose a serious health risk. [cited 2012 May 18]. Available from: URL: <http://www.fda.gov/Food/ResourcesForYou/consumers/ucm079516.htm>.
6. Langer AJ, Ayers T, Grass J, Lynch M, Angulo FJ, Mahon BE. Nonpasteurized dairy products, disease outbreaks, and state laws—United States, 1993-2006. *Emerg Infect Dis*. 2012;18:385–91. [PMC free article] [PubMed] [Google Scholar]
7. Mendelson A. “In bacteria land”: the battle over raw milk. *Gastronomica* (Berkeley Calif) 2011;11:35–43. [PubMed] [Google Scholar]
8. 42 U.S.C. §264(a).
9. U.S. Constitution. Art. 1, §8, cl. 3.
10. 21 C.F.R. Part 1240.61.
11. 21 U.S.C. §331(a).
12. 21 C.F.R. §131.110(a).
13. *Gonzales v. Raich*, 545 U.S. 1 (2005).
14. *Public Citizen v. Heckler*, 653 F. Supp. 1229 (D.D.C. 1986).
15. *Gonzales v. Raich*, 545 U.S. 1 (2005) (Scalia concurring).
16. National Association of State Departments of Agriculture. NASDA releases raw milk survey [press release]; 2011. Jul 19, [cited 2012 May 18]. Available from: URL: <http://www.nasda.org/cms/32211.aspx>.
17. Food and Drug Administration (US). Food safety and raw milk. 2011. Nov 1, [cited 2012 May 18]. Available from: URL: <http://www.fda.gov/Food/FoodSafety/ProductSpecificInformation/MilkSafety/ucm277854.htm>.

Formats:

- [Article](#)
- [PubReader](#)
- [ePub \(beta\)](#)
- [PDF \(209K\)](#)
- [Citation](#)

Share

-  [Facebook](#)
-  [Twitter](#)
-  [Google+](#)

Save items

[Add to Favorites](#)[View more options](#)

Similar articles in PubMed

- [Raw milk and the first amendment: implications for public health policy and practice.](#)[Public Health Rep. 2014]
 - [Consumption of raw or unpasteurized milk and milk products by pregnant women and children.](#)[Pediatrics. 2014]
 - [Policy coherence in US tobacco control: beyond FDA regulation.](#)[PLoS Med. 2009]
 - [Foodborne pathogens in milk and the dairy farm environment: food safety and public health implications.](#)[Foodborne Pathog Dis. 2005]
 - [Food poisoning. Causes, remedies, and prevention.](#)[Postgrad Med. 1998]
-

[See reviews...](#)[See all...](#)

Cited by other articles in PMC

- [Milk Consumption for the Prevention of Fragility Fractures](#)[Nutrients. 2020]
 - [Reservoirs of antimicrobial resistance genes in retail raw milk](#)[Microbiome. 2020]
 - [Transmission of Coxiella burnetii by ingestion in mice](#)[Epidemiology and Infection. 2020]
 - [Got milk? Understanding the farm milk effect in allergy and asthma prevention](#)[The Journal of allergy and cli...]
 - [Increased Outbreaks Associated with Nonpasteurized Milk, United States, 2007–2012](#)[Emerging Infectious Diseases. ...]
-

[See all...](#)

Links

- [PubMed](#)
 - [Taxonomy](#)
-

Recent Activity

[Clear](#)[Turn Off](#)

- [Raw Milk in Court: Implications for Public Health Policy and Practice](#)
-

Raw Milk in Court: Implications for Public Health Policy and Practice

Public Health Reports. Nov-Dec 2012; 127(6):598

[See more...](#)

[Support Center](#)[Support Center](#)

2021 HOUSE STANDING COMMITTEE MINUTES

Agriculture Committee
Room JW327C, State Capitol

HB 1244—Committee Work
2/4/2021

Relating to licensure for the sale of raw milk or raw milk products
--

Chair D. Johnson called the meeting to order at 10:22 a.m.

Attendance	P or Ab
Chair D. Johnson	P
Vice Chair Trottier	P
Representative Beltz	P
Representative Buffalo	P
Representative Dobervich	P
Representative Fisher	P
Representative Headland	AB
Representative Kiefert	P
Representative Richter	P
Representative Satrom	P
Representative Schreiber-Beck	P
Representative Skroch	P
Representative Thomas	P
Representative Tveit	P

Discussion Topics:

- Committee work

Representative Schreiber-Beck moved Do Not Pass

Representative Dobervich seconded the motion

Vote	
Chair D. Johnson	Y
Vice Chair Trottier	Y
Representative Beltz	Y
Representative Fisher	Y
Representative Headland	AB
Representative Kiefert	Y
Representative Richter	Y
Representative Satrom	Y
Representative Schreiber-Beck	Y
Representative Skroch	Y
Representative Thomas	Y
Representative Tveit	Y
Representative Buffalo	Y
Representative Dobervich	Y

Roll call vote. Motion passed 13-0-1. **Representative Tveit** is the carrier

Chair D. Johnson closed at 10:28 a.m.

ReMae Kuehn, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1244: Agriculture Committee (Rep. D. Johnson, Chairman) recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1244 was placed on the Eleventh order on the calendar.