



## NATIONAL CONFERENCE *of* STATE LEGISLATURES

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### **Summary of Raw Milk Statutes and Administrative Codes**

Compiled by Scott Hendrick and Doug Farquhar

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The Federal Government does not allow the sale and distribution of raw milk, but it does permit states to adopt laws allowing its sale. Since the Food and Drug Administration (FDA) does not regulate raw milk, it cannot be sold across state lines or internationally, only within the state where it was purchased. It also forbids states from permitting the sale of products made from raw milk, such as yogurt, cottage cheese, butter and ice cream (though some hard cheeses, like cheddar and Swiss, can be made from raw milk).

Since FDA, which oversees the interstate sale of milk, considers raw milk unsafe, it will not authorize its sale. In an 1987 Federal Register notice, FDA published a regulation mandating the pasteurization of all milk and milk products in final package form for direct human consumption for all milk shipped in interstate commerce. (21 CFR Part 1240.61).

FDA bases this conclusion on studies it and other federal and state health agencies have produced which prove the risks to human health associated with the consumption of raw milk. The Centers for Disease Control and Prevention (CDC) states that 'unpasteurized (milk) product outbreak are more common and cause more severe illness than pasteurized product outbreaks,' and has determined that outbreaks from raw milk are 150 times more likely than outbreaks from pasteurized milk. Illness from raw milk include E. coli O157, *Campylobacter* and *Salmonella*. CDC has also noted that outbreaks more often occur in states where the sale of raw milk is legal, vs. states that do not permit its sale.

Clinical and epidemiological studies from FDA, state health agencies, and others have established a direct causal link between gastrointestinal disease and the consumption of raw milk. The microbial flora of raw milk may include human pathogens present on the cow's udder and teats. Further, the intrinsic properties of milk, including its pH and nutrient content, make it an excellent media for the survival and growth of bacteria.

Before pasteurization of milk (heating to a certain temperature designed to kill any organisms present) became more or less the norm in the 1930s in the U.S., milk in this country was linked to over 25 percent of food and water borne illness outbreaks and



many infant deaths. Now milk is responsible for less than 1 percent of foodborne outbreaks.

The leading milk related human illnesses before pasteurization were brucellosis, diphtheria and bovine tuberculosis, three diseases now well-controlled or virtually eliminated in modern dairy herds in the U.S., but still present in some other countries. The illnesses today are not tuberculosis or diphtheria, but instead are Salmonella, E. coli O157:H7 and Campylobacter, bacteria found in the intestines of many feed animals.

These studies, however, has not led FDA to forbid states from permitting the sale of raw milk.

### **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.

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.

States that permit the sale of raw milk in retail stores include:

Arizona	New Mexico
California	Nevada
Connecticut	Pennsylvania
Idaho	South Carolina
Maine	Utah
New Hampshire	Washington

States that allow the sale of raw milk on the farm include:

Arkansas*	Nebraska
Illinois	New York
Kansas	Oklahoma
Kentucky*	Rhode Island*
Massachusetts	Texas
Minnesota	Wisconsin

Mississippi\*

\* Arkansas, Kentucky, Mississippi and Rhode Island restrict sales to goat milk, with Kentucky and Rhode Island requiring a prescription from a physician.

Five states allow for the sale of raw milk at farmers' markets or through other avenues:

Colorado  
Missouri  
Oregon

South Dakota  
Vermont

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

1. Statute. Any state statute conflicting with Section 9 of the PMO overrides the PMO.
2. Administrative rule or regulation. Any state regulation conflicting with Section 9 of the PMO overrides the PMO.
3. Policy. This would include cowshare 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 cowshare 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.

The remaining states prohibit the sale of raw milk:

Alabama  
Alaska  
Delaware  
Florida  
Georgia  
Hawaii  
Indiana  
Iowa  
Louisiana  
Maryland

Michigan  
Montana  
New Jersey  
North Carolina  
North Dakota  
Ohio  
Tennessee  
Virginia  
West Virginia  
Wyoming

Raw milk sales for animal consumption are at least potentially legal in all states but one 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.

Many states permitting the sale of raw milk for human consumption prohibit the sale of most or all raw milk products. With yogurt providing the highest profit margins of any raw dairy product, the benefits to farmers of expanding state legalization of raw milk to include raw milk products are obvious. Butter and cheese fall outside the PMO's

definition of milk products. They are manufactured milk products, not Grade "A" milk products, and are generally regulated under a state's dairy manufacturing laws. Farmers can typically sell raw cheese (at least raw cheese produced according to federal guidelines) if they have obtained a manufacturing plant license.

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

Sources:

Grade "A" Pasteurized Milk Ordinance, 2003 Revision  
National Association of State Departments of Agriculture, 2011 survey  
Association of State and Territorial Health Officials, 2012

## **ALABAMA**

### **Summary**

Raw milk sales for human consumption are illegal. Raw milk sales for animal consumption are legal if the farmer has obtained a commercial feed license. There are currently no raw milk producers in the state with a commercial feed license.

### **Alabama Administrative Code**

Alabama State Board of Health, Alabama Department of Health Administrative Code Chapter 420-3-16 Production Processing, Handling or Distribution of Milk, Milk Products, and Frozen Desserts:

"only Grade A pasteurized, ultra-pasteurized or aseptically processed milk and milk products and approved frozen desserts shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments."

## **ALASKA**

### **Summary**

Alaska has banned the sale of raw milk for human consumption. The ban does "not apply to a person who owns a cow, goat or sheep and uses the milk from the animal for that person's personal use. "With this exception, not limited to farmers or those who live on farms, cow-share programs and any kind of boarding agreement are legal. Raw milk sales for animal consumption are legal.

### **Alaska Administrative Code**

TITLE 18. ENVIRONMENTAL CONSERVATION.  
CHAPTER 32. MILK AND ANIMAL PRODUCTS PROCESSING.  
ARTICLE 1. MILK AND MILK PRODUCTS.

#### **18 AAC 32.060. RAW MILK AND RAW MILK PRODUCTS.**

Except as provided in 18 AAC 32.010(c), a milk producer may not allow raw milk or a raw milk product, including cream from raw milk, to be removed from the dairy farm unless

- (1) the product is being transported directly to a milk processing plant with a permit issued under 18 AAC 32.030 or by another state; or
- (2) the product has been decharacterized with an approved denaturant and labeled "FOR ANIMAL FOOD NOT FOR HUMAN CONSUMPTION" in letters at least three inches high on each container; for purposes of this paragraph, "approved denaturant" means:
  - (A) finely powdered charcoal;
  - (B) FD & C Blue No. 1, FD, & C Blue No. 2, Ultramarine Blue; or
  - (C) FD & C Green No. 3, FD & C Red. No. 3, or FD & C Red No. 40.

#### **18 AAC 32.010. PURPOSE AND APPLICABILITY OF 18 AAC 32.010 — 18 AAC 32.060**



(c) The provisions of 18 AAC 32.010 and 18 AAC 32.060 do not apply to a person who owns a cow, goat, or sheep and uses the milk from the animal for that person's personal use.

## **ARIZONA**

### **Summary:**

Arizona permits the sale of raw milk and raw milk products as long as they carry the required warning label. Their sale can take place on the farm and in grocery stores. Farmers selling raw milk and cream must obtain a producer-distributor license. Selling other raw dairy products requires obtaining a producer-manufacturer license in addition. There must be state approved bottling equipment on the farm. There are currently two licensed farms selling raw milk and raw milk products in the state.

### **Arizona Statutes**

TITLE 3 AGRICULTURE

CHAPTER 4 DAIRIES AND DAIRYING

ARTICLE 1. GENERAL PROVISIONS

#### **3-601. Definitions**

10. "Manufactured milk products" includes:

- (a) Butter.
- (b) Natural or processed cheese.
- (c) Manufacturing milk or manufacturing cream.
- (d) Dried, frozen, evaporated, stabilized or condensed milk products.
- (e) Frozen desserts.
- (f) Dry whey.
- (g) Dry buttermilk.

19. "Producer-distributor" means a producer of milk handling his own product exclusively and distributing it as milk.

20. "Producer-manufacturer" means a producer of milk handling his own product exclusively, and manufacturing milk products therefrom and distributing the products.

#### **3-607. Annual licenses; revocation; fees**

A. No person shall operate a milk distributing plant or a manufacturing milk processing plant, engage in the business of producer-distributor or producer-manufacturer, or engage in the business of selling at wholesale milk or dairy products, or both, without a license.

#### **3-606. Sale of milk, milk products, raw milk and raw milk products; regulation**

A. All milk and milk products, including cottage cheese, as defined in the federal milk ordinance, sold to the final consumer, restaurants, soda fountains, grocery stores or similar establishments shall be Grade A pasteurized or certified pasteurized milk and milk products. No other milk or milk products may be sold to the final consumer, restaurants, soda fountains, grocery stores or similar establishments except:

1. Grade A raw or certified raw milk and cream only when produced and bottled or produced, manufactured and placed in containers for final sale within this state.



2. Cottage cheese, buttermilk, butter, kefir and other cheeses made from Grade A raw or certified raw milk.

3. Manufactured milk products made from manufacturing milk.

B. Any raw milk, raw cream or raw milk products authorized under subsection A shall meet the same health and sanitation standards provided for in this chapter for similar Grade A pasteurized milk and milk products.

C. Raw milk or cream or cottage cheese, butter, buttermilk, kefir or cheeses made from raw milk or cream shall be displayed for sale separately from and shall not be commingled with pasteurized dairy products. The display shall be prominently marked "raw milk" or "raw milk products". The principal display panel of the label on a raw milk product shall prominently state "raw milk product". The principal display panel of the label on raw milk shall prominently state "raw milk: not pasteurized and may contain organisms injurious to your health." In each case the label statement shall appear in conspicuous and easily legible bold-faced print or type in distinct contrast to other matter on the package. The label statement shall appear as a distinct item on the principal display panel, shall be separated by a space at least equal to the height of the lettering used in the statement from other printed label information appearing above or below the statement and by a space at least equal to twice the width of the letter "N" of the type style used in the statement from other printed label information appearing to the left or right of the statement. The statement shall be in letters in a type size established in relationship to the area of the principal display panel of the package and shall be uniform for all packages of substantially the same size by complying with the following type specifications:

1. Not less than one-eighth inch in height on packages the principal display panel of which has an area of twenty-five square inches or less.
2. Not less than three-sixteenths inch in height on packages the principal display panel of which has an area of more than twenty-five but not more than one hundred square inches.
3. Not less than one-fourth inch in height on packages the principal display panel of which has an area of more than one hundred square inches but not more than four hundred square inches.
4. Not less than one-half inch in height on packages the principal display panel of which has an area of more than four hundred square inches.

D. Raw milk products authorized under the provisions of subsection A may be produced outside this state and sold in this state and may be manufactured and placed in containers for final sale on premises other than those where the milk is produced.

E. Raw milk and raw milk products authorized under subsection A may not be sold or used by restaurants, soda fountains or other similar establishments.

**Arizona Administrative Code**

**TITLE 3. AGRICULTURE**

**CHAPTER 2. DEPARTMENT OF AGRICULTURE ANIMAL SERVICES DIVISION**

**ARTICLE 8. DAIRY AND DAIRY PRODUCTS CONTROL**

### **R3-2-805. Grade A Raw Milk For Consumption**

C. Grade A raw milk shall be bottled on the farm where it is produced. Bottling and capping shall be done in a sanitary manner on approved equipment. Hand-capping is prohibited. Caps and cap stock shall be kept in sanitary containers until used.

## **ARKANSAS**

### **Summary:**

Raw milk sales in Arkansas are illegal with one exception. Arkansas permits the sale of up to 100 gallons of raw goat milk per month directly to consumers on the farm where the milk is produced.

### **Arkansas Regulations**

ARKANSAS DEPARTMENT OF HEALTH  
ARKANSAS STATE BOARD OF HEALTH  
RULES AND REGULATIONS PERTAINING TO GRADE "A" MILK AND MILK PRODUCTS

#### **PART I. AUTHORITY.**

The following Rules and Regulations for Grade "A" Milk and Milk Products are duly adopted and promulgated by the Arkansas State Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including without limitation Act 96 of 1913 as amended. (Ark. Code Ann. § 20-7-109) and Act 114 of 1941 (Ark. Code Ann. § 20-59-204).

#### **PART II. PURPOSE AND STATEMENT OF POLICY.**

The State Board of Health hereby finds and declares that uniform regulation is needed to govern the production, processing, labeling, and distribution of Grade "A" milk and milk products within the State of Arkansas. This regulation relating to Grade "A" milk and milk products shall be applicable throughout the State of Arkansas. No sanitary requirement of standard shall be imposed by a local regulation or ordinance which prohibits the sale of Grade "A" milk or milk products in Arkansas which are produced, processed, or distributed in accordance with the provisions of this regulation and which are under routine supervision of the Arkansas Department of Health. No sanitary requirements or standards contained in this regulation shall prohibit the sale of Grade "A" milk or milk products which are produced or processed under laws or ordinances or regulations of any government units outside the State of Arkansas which are substantially equivalent to the requirements of this regulation, and which are enforced with equal effectiveness in the opinion of the Arkansas State Board of Health, and further provided that said governmental units accepts Arkansas Grade "A" milk and milk products on a reciprocal basis. Except as otherwise provided herein or by law or regulation of the State Board of Health, this regulation shall be interpreted and enforced where applicable in accordance with the administrative procedures contained in the current Grade "A" Pasteurized Milk Ordinance recommendation of the U. S. Public Health Service, a copy of which shall be on file in the office of the Arkansas Milk Program of the Arkansas Department of Health.

### **Arkansas Code**

Title 20. Public Health And Welfare.  
Subtitle 4. Food, Drugs, and Cosmetics

Chapter 59. Milk And Dairy Products.  
Subchapter 2. Regulation Of Manufacture And Sale Generally

**20-59-248. Incidental sales of goat milk not prohibited.**

(a) For purposes of this section, "incidental sales of goat milk" are those sales where the average monthly number of gallons sold does not exceed one hundred (100) gallons.

(b) The provisions of this subchapter shall not be construed to prohibit incidental sales of raw goat milk directly to consumers at the farm where the milk is produced or to preclude the advertising of incidental sales of goat milk.

**History.** Acts 1993, No. 816, § 1.

**CALIFORNIA**

**Summary:**

Sales of raw milk and raw milk products are legal both in stores and on the farm. In order for raw milk to be sold legally, it must be 'market milk.' This is milk that meets the standards provided in the Milk and Milk Products Act of 1947.

Under the Act, market milk is graded and designated into three classes: 'certified milk,' 'guaranteed milk,' and 'Grade A milk.' Of the three classes, only Grade A raw milk is available for sale today in California. The standards for guaranteed raw milk to be market milk are more stringent than those for Grade A raw milk. While the Milk and Milk Products Act calls for county milk commissions to set the standards for certified raw milk, not a single county milk commission still exists.

Raw milk dairy farmers need market milk permits in order to produce their product. In addition, any person engaged in an aspect of the milk business that falls under the statutory definition of milk products plant must obtain a milk products plant license. There is an exemption from the license requirement, however, for "any producer whose business consists exclusively of producing and distributing raw market milk produced by such producer."

Raw milk and most raw milk products require warning labels. Municipalities and counties in the state have the power to establish compulsory pasteurization laws but only Humboldt County has done so.

**California Code**

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 1. GENERALLY  
Chapter 1. Short Title and Definitions

S 32510 Food & Agric.

"'Market Milk' means milk which conforms to the standards which are provided in Chapter 2 (commencing with Section 35751), Part 2 of this division, market milk includes components and derivatives of market milk. Market milk may be supplied to the consumer in the fluid state or may also be utilized in the manufacture of milk products."

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 2. MILK AND CREAM  
Chapter 2. Market Milk and Cream  
Article 2. Market Milk Standards and Grades

S 35787 Food & Agric.

Where a milk inspection service has been approved or established pursuant to this code, market milk shall be graded and designated into one of the following classes:

- (a) "Certified milk."
- (b) "Guaranteed milk."
- (c) "Grade A milk."

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 2. MILK AND CREAM  
Chapter 2. Market Milk and Cream  
Article 6. Grade A Market Milk

S 35891 Food & Agric.

Grade A raw milk is market milk which conforms to all the following minimum requirements:

- (a) The health of the cows and goats shall be determined at least once in two months by an official representative of an approved milk inspection service, or a milk inspection service which is established by the director.
- (b) It shall be produced on dairy farms that score not less than 85 percent on the dairy farm scorecard.
- (c) It shall be cooled immediately after being drawn from the cow or goat to 50 degrees Fahrenheit or less, and so maintained until delivered to the consumer, at which time it shall contain not more than 15,000 bacteria per milliliter.

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 2. MILK AND CREAM  
Chapter 2. Market Milk and Cream  
Article 5. Guaranteed Market Milk

S 35861 Food & Agric.

Guaranteed raw milk is market milk which conforms to all of the following minimum requirements:

- (a) The health of the cows and goats shall be determined at least once each month by an official representative of an approved milk inspection service, or a milk inspection service which is established by the director.
- (b) It shall be produced on dairy farms which score not less than 90 percent on the dairy farm scorecard.
- (c) It shall be bottled on the premises where produced and delivered in containers which have the pouring lip completely protected from contamination.
- (d) It shall be cooled immediately after being drawn from the cow or goat to 50 degrees Fahrenheit or less, and so maintained until it is delivered to the consumer, at which time

it shall contain not more than 10,000 bacteria per milliliter.

(e) It shall be sold to the consumer within 30 hours after production and labeled to indicate the date of sale to the consumer.

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 2. MILK AND CREAM  
Chapter 2. Market Milk and Cream  
Article 7. Certified Milk

S 35921 Food & Agric.

Certified milk is market milk which conforms to the rules, regulations, methods, and standards for the production and distribution of certified milk adopted by the county milk commission established in a county pursuant to this article.

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 1. GENERALLY  
Chapter 4. Inspection Services  
Article 7. Permits

S 33222 Food & Agric.

Every person, before engaging in the business of producing market milk, shall obtain a permit from the director or from the approved milk inspection service which is maintained by the county which is designated by the director pursuant to this chapter for each dairy farm.

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 1. GENERALLY  
Chapter 4. Inspection Services  
Article 7. Permits

S 33226 Food & Agric.

Every person shall obtain a permit from the director before engaging in the business of processing or distributing market milk. Upon receipt of an application for a permit, the director shall cause an investigation to be made of the milk products plant or place of business from which milk is distributed. If this division and the standards which are established pursuant to the authority which is granted in this division are complied with, a permit shall be issued by the director of the milk products plant or place of business. The permit shall be issued for a period not to exceed one year.

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 1. GENERALLY  
Chapter 1. Short Title and Definitions

S 32513 Food & Agric.

"Milk products plant' means any place in which a person engages in the business of handling, receiving, manufacturing, freezing, processing or packaging milk, or any product of milk..."

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 1. GENERALLY

Chapter 12. Licenses, Records, and Reports

Article 3. Licensing of Milk Products Plants and Other Places of Business

S 35017 Food & Agric.

This article does not apply to any of the following:

Any producer whose business consists exclusively of producing and distributing raw market milk produced by such producer.

**California Code of Regulations**

Title 17. Public Health

Division 1. State Department of Health Services

Chapter 5. Sanitation (Environmental)

Subchapter 2. Foods and Drugs

Article 3.7. Raw Milk and Raw Milk Products

S 17:11380. Required Health Warning on Labels of Raw Milk and Raw Milk Products.

(a) Raw Milk and raw milk products shall bear the following warning on the principal display panel or panels of the label:

WARNING

Raw (unpasteurized) milk and raw milk dairy products may contain disease-causing micro-organisms. Persons at highest risk of disease from these organisms include newborns and infants; the elderly; pregnant women; those taking corticosteroids, antibiotics or antacids; and those having chronic illnesses or other conditions that weaken their immunity.

'Raw milk product' means any food which contains raw milk, and shall include, but not be limited to, cheese (except when ripened or cured at least 60 days pursuant to sections 37975 and 38001 Food & Agric. of the Food and Agricultural Code), cream, butter and kefir.

**California Code**

CALIFORNIA FOOD AND AGRICULTURE CODE  
DIVISION 15. MILK AND MILK PRODUCTS ACT OF 1947  
PART 2. MILK AND CREAM

Chapter 2. Market Milk and Cream

Article 1. General Provisions

S 35756 Food & Agric.

This division, and the regulations of the director are not a limitation on the power of a municipality or county, by ordinance or regulation, to establish compulsory pasteurization of market milk or reasonable higher standards for milk fat and solids-not-fat than those

which are established in this division, but such standards shall apply only to market milk after standardization by a milk distributor.

## **COLORADO**

### **Summary:**

The state's Grade A Pasteurized Milk and Fluid Milk Products Regulations prohibit the sale of raw milk. The regulatory definition of sale does not include cowshare programs. The Board of Health, the rule making body for the Department of Public Health and Environment, voted against a proposed regulation that would have extended the definition of sale to "the sale of undivided shares or interests in a cow or dairy herd." Even though the state regulations have not codified the exemption of cowshare programs from the definition of sale, the Department of Health won't regulate cowshare programs as the sale of raw milk as a matter of policy.

Farmers running cowshare programs can only distribute unpasteurized "fluid milk products" legally. Under state regulatory definitions, this would include milk, cream, yogurt, and cottage cheese. This would not include butter and cheese. State regulations define butter and cheese as manufactured milk and dairy products. The state code prohibits any cowshare programs involving manufactured milk and dairy products.

Raw milk sales for animal consumption are legal if the farmer treats the milk with a dye approved by the Department of Public Health and Environment prior to sale.

### **Colorado Regulations**

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Consumer Protection Division

6 CCR 1010-4

STATE BOARD OF HEALTH

COLORADO GRADE A PASTEURIZED MILK AND FLUID MILK PRODUCTS  
REGULATIONS

Adoption of United States Public Health Service Ordinance: Applicability of the Grade "A" Pasteurized Milk Ordinance and the prohibition of the sale of raw milk.

The provisions and supplements of the U. S. Department of Health and Human Services, Public Health Service/Food and Drug Administration, Grade "A" Pasteurized Milk Ordinance (PMO), 2003 Revision, including the Grade "A" Condensed and Dry Milk Products and Condensed and Dry Whey – Supplement I to the Grade "A" Pasteurized Milk Ordinance, including supplements, administrative procedures and appendices in effect as of this date, shall apply to regulate dairy sanitation and the labeling and grading of milk pursuant to the provisions of S25-1. 5-104(1)(b)(I), in so far that they are not inconsistent with Colorado statues and regulations except that:

### Incorporation by Reference:

These rules incorporate by reference the U. S. Department of Health and Human Services, Public Health Service/Food and Drug Administration *Grade "A" Pasteurized Milk Ordinance (PMO) 2003 Revision*.

### **Colorado Regulations**



DEPARTMENT OF PUBLIC HEALTH ENVIRONMENT – 1000 SERIES  
CONSUMER PROTECTION SECTION (1010)

6 CCR 1010-3 Manufactured Milk and Dairy Products

DAIRY PRODUCTS. – Dairy products also include those dairy foods made by modifying the federally standardized products listed in this Section in accordance with 21 C. F. R. S 133 & 135 (1999).

This definition is intended to include but not limited to ice cream and other desserts, butter, and cheese.

SALE. The sale of undivided shares or interests in a dairy herd is considered to constitute the sale of raw milk, which is prohibited under state law.

CHAPTER 105, COLO. SESS. LAWS OF 2005

**THE FIRST REGULAR SESSION OF THE SIXTY-FIFTH GENERAL ASSEMBLY**

SENATE BILL 05-055

BY SENATOR(S) Johnson, Isgar, Entz, Hanna, Shaffer, Spence, Teck, Tupa, Williams, and Windels;

also REPRESENTATIVE(S) Hodge, Larson, Lundberg, Plant, Coleman, Frangas, Madden, Penry, Schultheis, and Stafford.

AN ACT CONCERNING LIMITED DISTRIBUTION OF RAW MILK TO CONSUMERS WHO HAVE A CONSENSUAL OR CONTRACTUAL RELATIONSHIP WITH PRODUCERS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Part 1 of article 5.5 of title 25, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

25-5.5-117. Raw milk. (1) THE ACQUISITION OF RAW MILK FROM COWS OR GOATS BY A CONSUMER FOR USE OR CONSUMPTION BY THE CONSUMER SHALL NOT CONSTITUTE THE SALE OF RAW MILK AND SHALL NOT BE PROHIBITED IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(a) THE OWNER OF A COW, GOAT, COW SHARES, OR GOAT SHARES SHALL RECEIVE RAW MILK DIRECTLY FROM THE FARM OR DAIRY WHERE THE COW, GOAT, OR DAIRY HERD IS LOCATED AND THE FARM OR DAIRY IS REGISTERED PURSUANT TO SUBSECTION (2) OF THIS SECTION. A PERSON WHO IS THE OWNER OF A COW SHARE OR GOAT SHARE IN A COW, GOAT, OR DAIRY HERD MAY RECEIVE RAW MILK ON BEHALF OF ANOTHER OWNER OF THE SAME COW, GOAT, OR DAIRY HERD. A PERSON

WHO IS NOT AN OWNER OF A COW SHARE OR GOAT SHARE IN THE SAME COW, GOAT, OR DAIRY HERD SHALL NOT RECEIVE RAW MILK ON BEHALF OF THE OWNER OF A COW SHARE OR GOAT SHARE.

(b) THE MILK IS OBTAINED PURSUANT TO A COW SHARE OR A GOAT SHARE. A COW SHARE OR A GOAT SHARE IS AN UNDIVIDED INTEREST IN A COW, GOAT, OR HERD OF COWS OR GOATS, CREATED BY A WRITTEN CONTRACTUAL RELATIONSHIP BETWEEN A CONSUMER AND A FARMER THAT INCLUDES A LEGAL BILL OF SALE TO THE CONSUMER FOR AN INTEREST IN THE COW, GOAT, OR DAIRY HERD AND A BOARDING CONTRACT UNDER WHICH THE CONSUMER BOARDS THE COW, GOAT, OR DAIRY HERD IN WHICH THE CONSUMER HAS AN INTEREST WITH THE FARMER FOR CARE AND MILKING, AND UNDER WHICH THE CONSUMER IS ENTITLED TO RECEIVE A SHARE OF MILK FROM THE COW, GOAT, OR DAIRY HERD.

(c) A PROMINENT WARNING STATEMENT THAT THE MILK IS NOT PASTEURIZED IS DELIVERED TO THE CONSUMER WITH THE MILK OR IS DISPLAYED ON A LABEL AFFIXED TO THE MILK CONTAINER; AND

(d) INFORMATION DESCRIBING THE STANDARDS USED BY THE FARM OR DAIRY WITH RESPECT TO HERD HEALTH, AND IN THE PRODUCTION OF MILK FROM THE HERD, IS PROVIDED TO THE CONSUMER BY THE FARMER TOGETHER WITH RESULTS OF TESTS PERFORMED ON THE COWS OR GOATS THAT PRODUCED THE MILK, TESTS PERFORMED ON THE MILK, AND AN EXPLANATION OF THE TESTS AND TEST RESULTS.

(2) REGISTRATION OF A FARM OR DAIRY AS REQUIRED BY PARAGRAPH (a) OF SUBSECTION (1) OF THIS SECTION SHALL BE ACCOMPLISHED BY DELIVERING TO THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT A WRITTEN STATEMENT CONTAINING:

(a) THE NAME OF THE FARMER, FARM, OR DAIRY;

(b) A VALID, CURRENT ADDRESS OF THE FARMER, FARM, OR DAIRY; AND

(c) A STATEMENT THAT RAW MILK IS BEING PRODUCED AT THE FARM OR DAIRY.

(3) RETAIL SALES OF RAW, UNPASTEURIZED MILK SHALL NOT BE ALLOWED. RESALE OF RAW MILK OBTAINED FROM A COW SHARE OR GOAT SHARE IS STRICTLY PROHIBITED. RAW MILK THAT IS NOT INTENDED FOR PASTEURIZATION SHALL NOT BE SOLD TO, OR OFFERED FOR SALE AT, FARMERS' MARKETS, EDUCATIONAL INSTITUTIONS, HEALTH CARE FACILITIES, NURSING HOMES, GOVERNMENTAL ORGANIZATIONS, OR ANY FOOD ESTABLISHMENT.

(4) NO PERSON WHO, AS A CONSUMER, OBTAINS RAW MILK IN ACCORDANCE WITH THIS SECTION SHALL BE ENTITLED TO SELL OR REDISTRIBUTE THE MILK.

(5) NO PRODUCER OF RAW MILK SHALL PUBLISH ANY STATEMENT THAT IMPLIES APPROVAL OR ENDORSEMENT BY THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

SECTION 2. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 22, 2005

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

### **Colorado Revised Statutes**

TITLE 25 HEALTH ADMINISTRATION

ARTICLE 1 Administration

PART 1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

114-114-114. Unlawful acts – penalties.

It is unlawful for any person, association, or corporation and the officers thereof:

To sell or offer for sale any raw milk, milk product, or unsanitary dairy product, as defined in section 25-5.5-104, for other than human consumption unless it has first been treated with a dye approved by the department.

### **CONNECTICUT**

#### **Summary:**

Raw milk sales are legal on the farm and in retail stores. In order to operate legally farmers must obtain producer permits and raw milk retailer permits from the State Agriculture Commissioner. Additionally, they must obtain a milk dealer license from the public health board of the town or city where their farms are located.

The state Milk Regulation Board has issued a regulation on the quality standards for retail raw milk. The state does not charge any fees for the testing required to ensure the

quality of the milk. Notwithstanding the quality standard regulation, towns and cities have the power to ban the sale of retail raw milk. At the present time, only two towns have done so.

### **Connecticut Statutes**

#### **TITLE 22 AGRICULTURE. DOMESTIC ANIMALS**

#### **CHAPTER 430 MILK AND MILK PRODUCTS**

#### **Sec. 22-172. Registration of producers. Permits. Penalty.**

(a) Any person, firm or corporation engaged in the production of milk in Connecticut, which milk or the products thereof are to be used or disposed of elsewhere than on the premises where such milk is to be produced, and any person, firm or corporation engaged in the production of milk outside Connecticut for sale within Connecticut, shall register with the Commissioner of Agriculture in a manner prescribed, and on forms furnished, by the commissioner for such registration. Such registration shall be renewed annually, during the first six months of the calendar year.

(b) Milk shall not be used, sold or disposed of away from the dairy farm located in Connecticut without a permit from the commissioner. Milk shall not be sold directly or indirectly into Connecticut from a dairy farm located outside Connecticut without a permit from the commissioner.

(c) Such permits shall be designated "Dairy Farm or Milk Producer Permit" and may be suspended or revoked by the commissioner for cause

#### **Sec. 22-167. Local regulations for the sale of milk.**

No provision of section 22-133 shall affect the authority of any town, city or borough to enact ordinances concerning the sale or distribution, within its limits, of milk which may be detrimental to public health. In any town, city or borough where no local system of milk and cream control is provided for by charter, the local director of health or board of health may present, at a meeting of the electors warned and held for such purpose, proposed rules and regulations concerning the inspection of dairies and the production, care, handling, marketing or sale of milk or cream, the protection of the public from the use of milk or cream which may be detrimental to the public health and the granting of licenses to milk dealers.

#### **Sec. 22-133-113c. Quality standards for retail raw milk**

Testing shall be administered in order to determine whether a producer's retail raw milk meets quality standards as set by the Commissioner. All such testing shall be conducted in accordance with procedures described in the latest edition of Standard Methods for the Examination of Dairy Products, published by the American Public Health Association. Such testing shall demonstrate that a producer's milk has met the following standards:

(a) Bacteria count. Retail raw milk shall not exceed thirty thousand (30,000) colonies standard plate count' per milliliter and fifty (50) coliform count per milliliter.

(b) Standard quality. The standard quality of retail raw milk shall comply with the requirements of Sec. 22-152 of the Connecticut General Statutes.



(c) Somatic Cells. The somatic cell count shall be no more than one million per milliliter of retail raw milk.

(d) Sediment. A milk sediment test shall be conducted by a State approved laboratory. Such test results shall comply with the Number 2 USDA sediment standard and shall be reported to the Commissioner.

## **DELAWARE**

### **Summary:**

Raw milk sales are illegal. The state has adopted the 2001 version of the Pasteurized Milk Ordinance in its entirety.

### **State of Delaware Regulations Governing the Production and Sale of Milk and Milk Products**

These regulations were adopted by Delaware Health and Social Services (DHSS) on \_\_\_\_\_ to become effective on \_\_\_\_\_.

Adoption: That certain document entitled "Grade A Pasteurized Milk Ordinance 2001 Revision", herein included as Section 2, is hereby adopted by reference as the State of Delaware Regulations Governing the Production and Sale of Milk and Milk Products

## **DISTRICT OF COLUMBIA**

### **Summary:**

Raw milk sales are illegal.

### **District of Columbia Municipal Regulations**

Title 25 Food And Food Code

Subtitle C: Food

Chapter 7 Sources, Specifications And Original Containers And Records For Food

700 Sources- Compliance With Food Law

02 Sources-Fluid Milk And Milk Products

702.1 Fluid milk and milk products shall be obtained from sources that comply with Grade A standards specified by the USDA.

710 Specifications For Receiving-Eggs And Milk Products, Pasteurized

710.2 Fluid and dry milk and milk products complying with Grade A standards as specified shall be obtained pasteurized.

## **FLORIDA**

### **Summary:**

Raw milk sales for human consumption are illegal. The Department of Agriculture and Consumer Services interprets the definition of "sell" in the state administrative code to extend the ban on raw milk sales to any cowshare agreements as well.

Department of Agriculture policy permits the sale of raw milk for animal consumption even though there is no state law that covers this issue. The state permits raw milk sales



for animal consumption either on the farm or in retail stores. Containers should have a label clearly stating that the raw milk is for animal consumption only.

### **Florida Statutes**

TITLE XXXIII REGULATION OF TRADE, COMMERCE, INVESTMENTS, AND SOLICITATIONS

CHAPTER 502 MILK AND MILK PRODUCTS

#### **502.091 Milk and milk products which may be sold.**

(1) Only Grade A pasteurized milk and milk products or certified pasteurized milk shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

### **Florida Administrative Code**

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

CHAPTER 5D-1 MILK, MILK PRODUCTS AND FROZEN DESSERTS

**5D-1.001 Documents Incorporated by Reference and Definitions(j)** "Sold" means a transfer of milk or milk products that involves any direct or indirect form of compensation in exchange for the right to acquire such milk or milk products.

## **GEORGIA**

### **Summary:**

The state has banned the sale of raw milk for human consumption through its interpretation of the Georgia Dairy Act of 1980 and also through its adoption of the 2003 version of the Pasteurized Milk Ordinance.

The sale of raw milk for animal consumption is legal if the distributor is licensed under the commercial feed laws. The Department of Agriculture currently has several distributors of raw goat milk for pet food under license.

### **Georgia Rules and Regulations**

RULES OF GEORGIA DEPARTMENT OF AGRICULTURE MILK AND MILK PRODUCTS

CHAPTER 40-2-1 DEFINITIONS

#### **40-2-1-.01 Definitions.**

The following definitions shall apply in the interpretation and enforcement of the Georgia Dairy Act of 1980.

(a) "**Raw Milk and Raw Milk Products for Human Consumption.**" It shall be unlawful to sell, offer for sale, or otherwise dispense raw or unpasteurized milk, cream, or other milk products except raw milk cheese properly processed and aged according to Federal requirements.

### **Georgia Code**

TITLE 26 FOOD, DRUGS, AND COSMETICS

CHAPTER 2 STANDARDS, LABELING, AND ADULTERATION OF FOOD

ARTICLE 7 MILK AND MILK PRODUCTS



## **26-2-238. Standards and requirements generally.**

The standards and requirements of the May, 2003, Amended Version of the Grade A Pasteurized Milk Ordinance Recommendations of the United States Public Health Service — Food and Drug Administration and supplements thereto, except as otherwise provided in this article, are expressly adopted as the standards and requirements for this state. Future changes in and supplements to said milk ordinance may be adopted by the Commissioner as a part of the standards and requirements for this state.

## **HAWAII**

### **Summary:**

Raw milk sales are illegal.

### **Hawaii Administrative Rules**

TITLE 11 DEPARTMENT OF HEALTH

CHAPTER 15 MILK

§ 11-15-46 Milk and milk products which may be sold.

Only Grade "A" pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments

## **IDAHO**

### **Summary:**

Raw milk sales are legal on the farm and in retail stores. Farmers must obtain a Grade A Milk License and a Retail Raw Milk license.

There has not been a retail raw milk licensee in the state for the past 15 years. According to the state Department of Agriculture, the biggest reason no one has sold retail raw milk during that time is the requirement that 'bottling and packaging of retail raw milk and retail raw milk products shall be done on the premises where produced in approved mechanical equipment. 'Several small farmers have contacted the state about obtaining a raw milk license but the cost of constructing a milk plant has discouraged them from doing so.

There is one cowshare program currently operating in Idaho, with the state Department of Agriculture's approval. According to the Department, dairy farms running only a cowshare program, and not selling to pasteurization plants would need no license to operate.

### **Idaho Administrative Code (IDAPA)**

IDAPA 02 IDAHO DEPARTMENT OF AGRICULTURE

TITLE 04

CHAPTER 13 02.04.13 RULES OF THE DEPARTMENT OF AGRICULTURE

GOVERNING RETAIL RAW MILK

### **02.04.13.004. DEFINITIONS**

#### **11. Milk Plant.**



Any place, premises, or establishment where milk or milk products are collected, handled, stored, bottled, or prepared for distribution

### **Idaho Statutes**

TITLE 37 FOOD, DRUGS, AND OIL

CHAPTER 5 INSPECTION AND LICENSING OF DAIRY PRODUCT DEALERS AND ESTABLISHMENTS BABCOCK TESTS

#### **37-503. Licenses — Retail vendor excepted — Fees — Posting — Definitions. —**

Every creamery, milk plant, shipping or cream buying station, milk condensing plant, cheese factory, mix making plant, ice cream factory, reprocessing plant, casein plant, powdered milk plant, or factory of milk products, or other person receiving or purchasing milk or cream in bulk other than a retail vendor of milk on the basis of the amount of milk fat therein, shall annually obtain a license therefor.

### **Idaho Administrative Code (IDAPA)**

IDAPA 02IDAHO DEPARTMENT OF AGRICULTURE

TITLE 04

CHAPTER 13 02.04.13 RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING RETAIL RAW MILK

#### **02.04.13.006. PERMITS.**

##### **01. Requirements.**

It shall be unlawful for any person who does not possess a permit from the regulatory agency of the State to produce within, process within, bring into, send into, or receive into the State or its jurisdiction, for sale, or to sell, or offer for sale therein, or to have in storage any raw milk or raw milk products defined in these rules; provided, that grocery stores and similar establishments where milk or milk products are sold at retail, but not processed, may be exempt from the requirements of this Section.

IDAPA 02 IDAHO DEPARTMENT OF AGRICULTURE

TITLE 04

CHAPTER 13 02.04.13 RULES OF THE DEPARTMENT OF AGRICULTURE GOVERNING RETAIL RAW MILK

#### **02.04.13.218. BOTTLING AND PACKAGING.**

##### **01. Requirements.**

Bottling and packaging of retail raw milk and retail raw milk products shall be done on the premises where produced in approved mechanical equipment.

##### **03. Administrative Procedures.**

**b.** All bottling or packaging is done on approved mechanical equipment. The term "approved mechanical equipment" shall not be interpreted to exclude manually operated machinery but is interpreted to exclude methods in which the bottling and capping devices are not integral in one system.

## **ILLINOIS**



## **Summary:**

Raw milk sales are legal on the farm if the farmer complies with the following conditions:

1. No advertising the sale of raw milk.
2. Customers must bring their own individual containers. If the farmer uses his own container to bottle the milk, he is operating a "milk plant" according to the Department of Health Regulations, and the milk must be pasteurized. The farmer can only collect the milk in the customer's container. The farmer cannot process the milk in any way. Sales of raw cream and raw butter are illegal.
3. The farmer must produce the milk "in accordance with the Department (of Public Health) rules and regulations. "The Department does not apply these rules and regulations, including the permit requirement, to farmers with just a few cows who sell raw milk only on the farm."

## **Illinois Statutes**

CHAPTER 410 PUBLIC HEALTH

ACT 635. Grade A Pasteurized Milk and Milk Products Act.

### ***410 ILCS 635/8***

Sec. 8. After the effective date of this Act, no person shall sell or distribute, offer to sell or distribute any milk or milk product for human use or consumption unless such milk or milk product has been pasteurized and has been produced and processed in accordance with rules and regulations promulgated by the Department.

The term "sell or distribute for use or consumption" means to sell or distribute to a person for human use or consumption and not for processing or resale in any form.

The pasteurization requirement of this Section shall not be applicable to milk produced in accordance with Department rules and regulations if sold or distributed on the premises of the dairy farm.

CHAPTER 410 PUBLIC HEALTH

ACT 635. Grade A Pasteurized Milk and Milk Products Act.

### ***410 ILCS 635/5***

Sec. 5. After the effective date of this Act, it shall be unlawful for any person to establish, maintain, conduct, or operate a dairy farm, milk plant, receiving station, or transfer station processing milk or milk products, to establish and operate a cleaning and sanitizing facility or milk tank truck, to haul or sample milk, or to act as a certified pasteurizer sealer within this State, or to bring into and distribute from out-of-state milk and milk products without first obtaining a permit therefor from the Department.

## **INDIANA**

### **Summary:**

Raw milk sales for human consumption are illegal. Cowshare programs exist in the state and are legal. Cowshares do not constitute a "sale" under the statutory definition of the word.

Raw milk sales for animal consumption are legal on the farm and in stores if the farmer has obtained a commercial feed license from the state.

### **Indiana Code**

#### TITLE 15. AGRICULTURE AND ANIMALS ARTICLE 2. 1. ANIMAL HEALTH

##### Chapter 23. Milk and Milk Products; Permits; Standards; Inspections

IC 15-2. 1-23-8 Only Grade A pasteurized milk, Grade A pasteurized milk products, and manufacturing grade milk products that meet the requirements of this chapter, including rules adopted under this chapter, may be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

(a) Only Grade A pasteurized milk, Grade A pasteurized milk products, and manufacturing grade milk products that meet the requirements of this chapter, including rules adopted under this chapter, may be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

### **IOWA**

#### **Summary:**

Raw milk sales are illegal.

### **Iowa Statutes**

#### TITLE V AGRICULTURE SUBTITLE 4 AGRICULTURE-RELATED PRODUCTS AND ACTIVITIES CHAPTER 192 GRADE "A" MILK INSPECTION

192.103 Sale of Grade "A" milk to final consumer — impoundment of adulterated or misbranded milk.

Only Grade "A" pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; except in an emergency, the sale of pasteurized milk and milk products which have not been graded, or the grade of which is unknown, may be authorized by the secretary, in which case, such products shall be labeled "*ungraded*".

### **KANSAS**

#### **Summary:**

"On-farm retail sales" of raw milk and raw milk products are legal to the "final consumer." The farmer can only advertise the sales of raw dairy with a sign posted on the farm. The sign must state that the milk or milk products are raw. Farmers must clearly label as "ungraded raw milk" each container of unpasteurized milk for sale.

Farmers whose business consists only of on-farm sales of raw milk do not need a license to operate. The Department of Agriculture considers farmers selling raw butter or cream to be running a "dairy manufacturing plant" and requires them to obtain a dairy manufacturing plant license.

The state does not inspect farmers selling raw milk and raw milk products on a routine basis like they inspect farmers selling Grade A raw milk for pasteurization. They only inspect raw milk and raw milk product sellers if there is a complaint.

### **Kansas Statutes**

#### Chapter 65. PUBLIC HEALTH

#### Article 7. MILK, CREAM AND DAIRY PRODUCTS

##### **65-789. Unlawful acts.**

(d) sell, offer for sale or have in such person's possession with the intent to sell at retail to the final consumer any milk or milk product which has not been inspected and designated Grade A pasteurized in accordance with the provisions of this act and any rules and regulations adopted thereunder, except that on-farm retail sales of milk or milk products shall be exempt from the provisions of this act unless stated otherwise; or

##### **65-771. Definitions**

(b) "Dairy manufacturing plants" means any place where dairy products, Grade A milk or milk products are manufactured or prepared for sale or distribution, either at wholesale or retail. This term shall not include a licensed food service establishment which is licensed to manufacture homemade ice cream pursuant to this act.

(w) "On-farm retail sales of milk or milk products" means the sale of milk or milk products on the farm by the producer from the production of the dairy herd to the final consumer, so long as the person making such sales does not promote the sale of milk or milk products to the public in any manner other than by the erection of a sign upon the premises of the dairy farm. The advertisement upon any such sign shall state that such milk or milk products are raw and shall be in letters of a uniform size. Each container in which any unpasteurized milk is sold or offered for sale shall be clearly labeled as ungraded raw milk.

#### Chapter 65. PUBLIC HEALTH

#### Article 7. MILK, CREAM AND DAIRY PRODUCTS

##### **65-778. License requirement for certain persons engaged in milk, cream or dairy business; fees**

(a) Any person who engages in business as a dairy manufacturing plant shall first apply for and obtain a dairy manufacturing plant license from the secretary and shall pay a license fee of \$120, or commencing July 1, 2002, and ending June 30, 2005, a license fee of \$155.

### **KENTUCKY**

#### **Summary:**

Raw milk sales are illegal with one exception. An individual with a written recommendation from a physician may purchase raw goat milk. The goat milk producer must have a permit from the state Cabinet for Health Services and can only sell raw milk directly to individuals on the farm. Goat milk producers must keep the written recommendation statement on file for at least one year. In addition, "the producer shall



keep on file records stating volume of unpasteurized goat milk sold and date of sales to each person having submitted a written recommendation statement."

### **Kentucky Regulations**

TITLE 902 CABINET FOR HEALTH SERVICES DEPARTMENT FOR PUBLIC HEALTH  
CHAPTER 45 FOOD AND COSMETICS

*902 KAR 45:005.* Retail food code.

(2) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law and administrative regulation. Dry milk and milk products shall be made from pasteurized milk and milk products.

### **Kentucky Statutes**

TITLE XVIII PUBLIC HEALTH  
CHAPTER 217C MILK AND MILK PRODUCTS

*217C.090.* Sale of unpasteurized goat milk.

The secretary shall issue administrative regulations allowing the sale, upon written recommendation of a physician, of goat milk which has not been pasteurized.

### **Kentucky Regulations**

TITLE 902 CABINET FOR HEALTH SERVICES DEPARTMENT FOR PUBLIC HEALTH  
CHAPTER 50 MILK AND MILK PRODUCTS

*902 KAR 50:120.* Unpasteurized goat milk.

#### Section 1. Permits.

(1) No person shall sell or offer for sale unpasteurized goat milk, without first obtaining a permit from the cabinet.

#### Section 2. Sale Restrictions and Volume Control.

(1) Unpasteurized goat milk shall be sold from a permitted goat producer only to persons with a written recommendation from a physician.

(2) A written recommendation statement from a physician shall be for a specific individual and shall be kept on file at the producer location and subject to inspection by the cabinet.

(3) Written recommendation statements shall be kept on file by the producer for at least one (1) year.

(4) The producer shall keep on file records stating volume of unpasteurized goat milk sold and date of sales to each person having submitted a written recommendation statement.

(5) All sale of unpasteurized goat milk regulated under this administrative regulation shall be from on-the-farm sales only.

Section 8. Milk Which May Be Sold. Goat milk sold at a farm permitted under this administrative regulation shall be limited to milk produced at the particular farm and no



milk shall be transferred from one farm to another or delivered from the farm to another place or location for sale.

## **LOUISIANA**

### **Summary:**

Raw milk sales are illegal. State law prohibits the Department of Public Health from "setting up standards lower than those as set forth in the U. S. Public Health Service Pasteurized Milk Ordinance and Code." Likewise, parishes and municipalities cannot adopt local milk ordinances that conflict with the PMO.

### **Louisiana Revised Statutes**

TITLE 40 PUBLIC HEALTH AND SAFETY

CHAPTER 4. FOOD AND DRUGS

PART VII. MILK, MILK PRODUCTS, AND SUBSTITUTES

SUBPART B. STANDARDS; IMPORTATION; LOCAL REGULATION

**40:922.** Rules and regulations prescribing sanitary standard requirements and grade labeling requirements

A. The department is hereby empowered and shall hereby have the authority to promulgate rules and regulations prescribing the sanitary standard requirements of all milk sold or offered for sale in this state, provided that no rules and regulations shall be promulgated setting up standards lower than those as set forth in the U. S. Public Health Service Milk Ordinance and Code.

### **Louisiana Administrative Code**

Title 51 PUBLIC HEALTH SANITARY CODE

Part VII. Milk, Milk Products, and Manufactured Milk Products Regulations Cross Reference

Chapter 9. Specification of Grades of Milk

### **51:VII.919. Grades of Milk to Be Sold [formerly paragraph 7:099]**

A. No milk or milk products (except dry-milk products) shall be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments except Grade A pasteurized.

Title 51 PUBLIC HEALTH SANITARY CODE

Part VII. Milk, Milk Products, and Manufactured Milk Products Regulations Cross Reference

Chapter 1. Milk and Milk Products

### **51:VII.103. Local Ordinances [formerly paragraph 7:003]**

A. Parishes and municipalities may adopt local milk ordinances provided that such ordinances do not conflict with the United States Public Health Service Pasteurized Milk Ordinance, the Code, or state statutes pertaining to milk and further provided that such ordinances are approved by the state health officer prior to adoption.

## **MAINE**

### **Summary:**



Raw milk sales are legal on the farm and in retail stores. Raw milk and raw milk products must have a label on the product containing the words "not pasteurized." Farmers do not have to obtain permit to sell raw milk if their sales are only on the farm *and* they do not advertise.

**Maine Revised Statutes**

TITLE 7 AGRICULTURE AND ANIMALS  
PART 7 MILK AND MILK PRODUCTS  
CHAPTER 601 MILK AND MILK PRODUCTS

*7 M. R. S. A. § 2910.* Standards for milk and milk products

The commissioner, in a manner consistent with the Maine Administrative Procedure Act, shall establish standards by rule for the inspection and examination, licensing, permitting, testing, labeling and sanitation of milk and milk product production and distribution.

The standards must be consistent with the requirements of the official standards, known as the Pasteurized Milk Ordinance, as issued by the Secretary of the United States Department of Health and Human Services, Food and Drug Administration, except that the standards may not prohibit the sale of unpasteurized milk and milk products in the State.

Amendments to the rules may not prohibit the sale of unpasteurized milk or milk products in the State.

TITLE 7 AGRICULTURE AND ANIMALS  
PART 7 MILK AND MILK PRODUCTS  
CHAPTER 601 MILK AND MILK PRODUCTS

*7 M. R. S. A. § 2902-B.* Sale of unpasteurized milk and milk products

1. Sale of unpasteurized milk or milk product. A person may not sell unpasteurized milk or a product made from unpasteurized milk unless the label on that product contains the words "not pasteurized."
2. Sale of unpasteurized milk or milk product at eating establishment. A person may not sell unpasteurized milk or a product made from unpasteurized milk at an eating establishment as defined in Title 22, section 2491, subsection 7.
3. Exception. This section does not apply to farm cheese or to cheese that has been aged at a temperature above 35 degrees Fahrenheit for at least 60 days prior to sale.

TITLE 22 HEALTH AND WELFARE  
SUBTITLE 2 HEALTH  
SUBTITLE 2 HEALTH  
PART 5 FOODS AND DRUGS  
CHAPTER 562 CAMPING AREAS AND EATING ESTABLISHMENTS

*22 M. R. S. A. § 2491.* Definitions

7. Eating establishment. "Eating establishment" means any place where food or drink is prepared and served, or served to the public for consumption on the premises, or

catering establishments, or establishments dispensing food from vending machines, or establishments preparing foods for vending machines dispensing foods other than in original sealed packages, such as hotels, motels, boarding homes, restaurants, mobile eating places, coffee shops, cafeterias, short order cafes, luncheonettes, grills, tearooms, sandwich shops, soda fountains, bars, cocktail lounges, night clubs, roadside stands, industrial feeding establishments, private or public institutions routinely serving foods, retail frozen dairy product establishments, airports, parks, theaters, vacation camps or any other catering or nonalcoholic drinking establishments or operations where food is prepared and served or served for consumption on the premises, or catering establishments where food is prepared, or where foods are prepared for vending machines dispensing food other than in original sealed packages.

## **MARYLAND**

### **Summary:**

Raw milk sales for human consumption are illegal.

### **Maryland Code**

HEALTH-GENERAL

TITLE 21. Food, Drugs, and Cosmetics.

Subtitle 4. Regulation of Milk Products.

Part IV. Acts Prohibited

§ 21-434 HEALTH-GEN. Sale of raw milk generally prohibited.

Except for sale of raw milk by a holder of a milk producer permit to a holder of a milk processor permit, a person may not sell raw milk for human consumption.

HEALTH-GENERAL

TITLE 21. Food, Drugs, and Cosmetics.

Subtitle 4. Regulation of Milk Products.

Part I. Definitions and General Provisions.

§ 21-401 HEALTH-GEN. Definitions.

(m) *Milk plant*. — (1) "Milk plant" means any place where, for distribution, milk products are:

- (i) Processed;
- (ii) Pasteurized;
- (iii) Bottled or packaged; or
- (iv) Prepared.

(2) "Milk plant" does not include a place where milk products are sold at retail only.

(n) *Milk processor*. — "Milk processor" means a person who owns, operates, or controls a milk plant.

## **MASSACHUSETTS**

### **Summary:**

The state legislature has granted the power to city and town boards of health to determine whether raw milk sales are legal. If the local board of health makes raw milk



sales legal, farmers must follow state regulations on the production and sale of raw milk, including the following:

1. A five day maximum period for the sale of retail raw milk commencing from the time the farmer fills the container. Each container of retail raw milk must indicate the last date on which the container may be offered for sale.
2. The farmer shall label the product "Raw cow's milk" or "Raw goat's milk" and the label shall include the name, address, and zip code of the producing farm.
3. All retail containers of raw milk shall have the following warning on the label: "Raw milk is not pasteurized. Pasteurization destroys organisms that may be harmful to human health."
4. A sign must be posted in the area where the raw milk is sold, stating "Raw milk is not pasteurized. Pasteurization destroys organisms that may be harmful to human health."

According to the state Department of Agricultural Resources, raw milk sales are legal on the farm and in retail stores. While the Department of Agricultural Resources regulates on farm sales, it is the responsibility of the local health boards to regulate store sales of raw milk.

Like dairy farmers selling raw milk to pasteurization plants, farmers selling retail raw milk must obtain a vendor's license from the milk inspector in the town nearest to their farm. Farmers who sell twenty quarts of milk a day or less are exempt from this requirement.

### **General Laws of Massachusetts**

PART I ADMINISTRATION OF THE GOVERNMENT

TITLE XV REGULATION OF TRADE

CHAPTER 94 INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES  
MILK AND CREAM.

G. L. c. 94, § 16J. Rules for handling and sale of milk.

Section 16J. Boards of health of cities and towns may establish, amend or repeal rules and regulations for the handling and sale of milk within said cities and towns; provided, that such rules and regulations shall be consistent with those established pursuant to sections twelve and thirteen.

### **Code of Massachusetts Regulations**

330 CMR: DEPARTMENT OF FOOD AND AGRICULTURE

330 CMR 27.00: STANDARDS AND SANITATION REQUIREMENTS FOR GRADE A  
RAW MILK

(D) Date. The date on the container of retail raw milk shall indicate the last date on which the container may be offered for sale. There shall be a five day maximum period for the sale of retail raw milk which shall commence from the time of filling. Said five day maximum period may be shortened by the Commissioner if she/he deems such modification to be in the best interest of the consumer.



(E) Labeling. The name of the product is Raw Cow's Milk or Raw Goat's Milk and shall be so plainly labeled. The label shall contain the name, address and zip code of the producing farm.

(F) Consumer Warning Statement

(1) All retail containers of raw cow's or raw goat's milk shall be conspicuously labeled with the following statement: "Raw milk is not pasteurized. Pasteurization destroys organisms that may be harmful to human health". The minimum size of the printed words shall not be less than 1/16 inch in height, with the words "not pasteurized" being not less than 1/8 inch in height or twice the height of any other lettering in the label, whichever is greater.

(2) A sign must be posted in the area where the raw milk is sold and placed in a location where it can be easily observed by anyone entering therein. Such sign shall not be less than eight by eleven inches in total dimension and shall display the following statement: "Raw milk is not pasteurized. Pasteurization destroys organisms that may be harmful to human health." The minimum size of the printed words shall not be less than 1/2 inch in height, with the words "not pasteurized" being not less than one inch in height.

**General Laws of Massachusetts**

PART I ADMINISTRATION OF THE GOVERNMENT

TITLE XV REGULATION OF TRADE

CHAPTER 94 INSPECTION AND SALE OF FOOD, DRUGS AND VARIOUS ARTICLES  
MILK AND CREAM.

G. L. c. 94, § 40. License to sell milk; contents; display.

Section 40. No person, except a producer or dealer selling milk to other than consumers, or selling not more than twenty quarts per day to consumers, shall deliver, exchange, expose for sale or sell or have in his custody or possession with intent so to do any milk or cream in any town where an inspector of milk is appointed, without obtaining from such inspector a license which shall contain the number thereof, the name and place of business.

**MICHIGAN**

**Summary:**

Raw milk sales are illegal for human and animal consumption. The state is aware of at least four cow share programs that currently exist. While the state department of agriculture has not approved of any of the cow share programs, they have not tried to shut any of them down.

Michigan Compiled Laws  
CHAPTER 288 DAIRY INDUSTRY  
ARTICLE VI

288.538 Pasteurized milk and milk products required for sale or offering to consumer; exceptions.

Sec. 68.

(1) Only pasteurized milk and milk products shall be offered for sale or sold, directly or indirectly, to the final consumer or to restaurants, grocery stores, or similar establishments.

(2) All milk and milk products shall be pasteurized according to the requirements of the pasteurized milk ordinance and the time-temperature relationships described in the pasteurized milk ordinance.

(3) All dairy plant by-products used for feeding purposes for farm animals shall be pasteurized or be derived from pasteurized products.

## **MINNESOTA**

### **Summary:**

The Department of Agriculture prohibits the sale of raw dairy with the exception of "milk, cream, skim milk, goat milk, or sheep milk occasionally secured or purchased for personal use by any consumer at the place or farm where the milk is produced." The farmer cannot advertise and customers must bring their own containers. The state interprets "occasionally secured or purchased for personal use" to mean that farmers cannot sell raw milk to regular customers on a routine basis.

The Minnesota Constitution states that "any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefore." The Minnesota statutes also contain this exemption. The state interprets this provision to apply to produce farmers and their right to sell on site and at farmer's markets without a license. The department does not apply the licensing exemption laws to raw milk farmers with the limited exception of occasional sales to consumers on the farm. Several farmers are contesting the department's interpretation of the licensing exemption laws.

### **Minnesota Statutes**

#### **AGRICULTURE**

#### **CHAPTER 32 DAIRY PRODUCTS**

##### **32.393 Limitation on sale.**

Subdivision 1. Pasteurization. No milk, fluid milk products, goat milk, or sheep milk shall be sold, advertised, offered or exposed for sale or held in possession for sale for the purpose of human consumption in fluid form in this state unless the same has been pasteurized and cooled, as defined in section [32.391](#); provided, that this section shall not apply to milk, cream, skim milk, goat milk, or sheep milk occasionally secured or purchased for personal use by any consumer at the place or farm where the milk is produced.

#### **CONSTITUTION OF THE STATE OF MINNESOTA**

##### **Preamble**

#### **ARTICLE XIII MISCELLANEOUS SUBJECTS**

Sec. 7. NO LICENSE REQUIRED TO PEDDLE. Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.



AGRICULTURE  
CHAPTER 28A LICENSING FOOD HANDLERS

**28A. 15 Exclusions.**

Subdivision 1. Licensing provisions applicability. The licensing provisions of sections 28A. 01 to 28A. 16 shall not apply to the following:

Subd. 2. Sales by farmers; others not in food business. Persons selling the products of the farm or garden occupied and cultivated by them, or to persons not regularly engaged in the business of manufacturing and selling food and who prepare food only on order of and for sale directly to the ultimate consumer, or to educational, charitable or religious organizations not regularly engaged in the business of manufacturing, processing, or selling food at their established educational, charitable or religious institutions.

**MISSISSIPPI**

**Summary:**

On-farm sales of raw goat milk are legal if the selling farm has no more than nine milk producing goats lactating on it. The farmer cannot advertise and must sell directly to the consumer.

**Mississippi Code of 1972**

TITLE 75 REGULATION OF TRADE, COMMERCE AND INVESTMENTS

CHAPTER 31 Milk and Milk Products

ARTICLE 1. GENERAL PROVISIONS.

§ 75-31-65. Regulation of milk and milk products by State Board of Health.

(3) Incidental sales of raw goat milk shall be legal if:

(a) The milk is sold directly to the consumer on the premises where the milk is produced;

(b) No more than nine (9) producing goats are located on the premises where the milk is produced;

(c) The person selling the milk does not advertise the milk for sale; and

(d) The following conditions, which apply to the milking of goats involved in legal incidental sales of raw goat milk, are satisfied:

(i) The milking takes place in a clean environment on a cement or comparable floor;

(ii) The milking place is enclosed by a wall and/or a screen to prevent insects from entering the milking area;

(iii) A fly strap is located in the milking area; and

(iv) Sterile containers are used in the milking process and for storage.

It shall not be unlawful to store raw goat milk in a separate sterile place from pasteurized goat milk. The Cooperative Extension Service at Alcorn State University shall publish and make available literature on the requirements of this subsection, and other related

milk-goat maintenance, explaining the recommended care of milk goats and the process of goat milk production and other related subjects. For the purposes of this subsection, the term "incidental sales" means sales from a farm where not more than nine (9) goats are producing milk.

## **MISSOURI**

### **Summary:**

Raw milk sales are legal, both on the farm and by delivery from the farmer to the consumer. Farmers must obtain a permit from the state in order to be able to sell raw milk and must have state approved bottling equipment on the premises. Customers cannot bring their own containers. In addition, farmers must comply with state labeling regulations for retail raw milk and raw milk products.

According to the Missouri Department of Agriculture, there are no licensed retail raw milk producers in the state at the present time.

### **Missouri Statutes**

TITLE XII PUBLIC HEALTH AND WELFARE  
Chapter 196 FOOD, DRUGS AND TOBACCO  
FLUID MILK AND FLUID MILK PRODUCTS

*196.935. State milk inspection required on all graded fluid milk or milk products pasteurization required, exception.*

No person shall sell, offer for sale, expose for sale, transport, or deliver any graded fluid milk or graded fluid milk products in this state unless the milk or milk products are graded and produced, transported, processed, manufactured, distributed, labeled and sold under state milk inspection and the same has also been produced or pasteurized as required by a regulation authorized by section 196.939 and under proper permits issued thereunder. Only pasteurized graded fluid milk and fluid milk products as defined in subdivision (3) of section 196.931 shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments; except an individual may purchase and have delivered to him for his own use raw milk or cream from a farm.

### **Missouri Regulations**

Title 2 DEPARTMENT OF AGRICULTURE  
Division 80 State Milk Board  
Chapter 3 Production and Distribution of Grade A Retail Raw Milk and Milk Products

#### *2 CSR 80-3.030 Permits*

1) Every producer-distributor producing and distributing Grade A retail raw milk under terms of these regulations shall secure a permit from the state authority. Only a person who complies with the requirements of these regulations shall be entitled to receive and retain such a permit. Permits shall not be transferable with respect to persons, locations, or both.

#### *2 CSR 80-3.070 The Grading of Milk and Milk Products*

*PURPOSE: This rule provides standards which Grade A retail raw milk and milk products must meet. This rule was previously known as Section 7.*



25. Bottling and capping. Milk and milk products not for pasteurization shall be bottled on the farm where produced. Bottling and capping shall be done in a sanitary manner by means of approved equipment and these operations shall be integral in one (1) machine. Caps or cap stock shall be purchased in sanitary containers and shall be kept in a clean, dry place until used.

## 2 CSR 80-3.040 Labeling

*PURPOSE: This rule provides regulations for the proper labeling of Grade A retail raw milk or milk products. This rule was previously known as Section 4.*

(1) All bottles and other containers enclosing milk, skim milk or cream as defined in 2 CSR 80-3.010 shall be plainly labeled with the name of the contents as given in the definition of these regulations; the word raw; the grade of the contents; and the name and address of the producer-distributor.

(2) The label shall be in letters of an approved size, kind and color, and shall contain no marks or words which are misleading.

## **MONTANA**

### **Summary:**

Raw milk sales are illegal. The state issued retail raw milk licenses until 1998 when a number of illnesses blamed on raw milk consumption led to the current ban.

### **Montana Administrative Rules**

TITLE 32 DEPARTMENT OF LIVESTOCK

CHAPTER 8 FLUID MILK AND GRADE A MILK PRODUCTS

Sub-Chapter 1 Fluid Milk and Grade A Milk Products

### **32.8.102 MILK AND MILK PRODUCTS WHICH MAY BE SOLD**

(1) The only milk and milk products which may be sold to the final consumer, to restaurants, soda fountains, grocery stores or similar establishments are:

(a) Grade A pasteurized milk and milk products produced and processed according to the terms of the Pasteurized Milk Ordinance.

### **32. 8.103 RAW MILK MAY NOT BE SOLD FOR PUBLIC CONSUMPTION**

(1) No retail raw milk dairies will be licensed to sell Grade A raw milk for public consumption.

## **NEBRASKA**

### **Summary:**

On-farm sales of raw milk and raw milk products to consumers are legal. Farmers cannot advertise.

If a farmer's business involves only on-farm sales of raw milk, the farmer does not have to obtain a permit and is not subject to state milk regulations.



**Nebraska Revised Statutes**  
CHAPTER 2. AGRICULTURE.  
ARTICLE 39 MILK

(a) Nebraska Pasteurized Milk Law.

(3) Milk and milk products produced by farmers exclusively for sale at the farm directly to customers for consumption and not for resale shall be exempt from the Nebraska Pasteurized Milk Law.

**NEVADA**

**Summary:**

Raw milk sales are legal but, in practice, there are no raw milk sales in the state.

In order for a farmer to obtain a permit from the state dairy commission to produce and distribute raw milk, the county milk commission must first certify the farm for the production of raw milk or a raw milk product.

Under state statute, the board of county commissioners must establish the county milk commission. The county must issue regulations governing the production and distribution of raw milk and raw milk products. These regulations are not valid unless the State Board of Health and the State Dairy Commission first approve them.

There has never been a county milk commission in existence at any time, so to this point, there has been a de facto prohibition of raw milk sales.

There is a state law that permits the sale of raw milk and raw milk products produced out of state if the producer follows the relevant Nevada statutory requirements. However, one of the requirements is that the milk and milk products receive an acceptable milk sanitation, compliance and enforcement rating from a state milk sanitation rating officer certified by the United States Public Health Service. The U. S. P. H. S. would not certify a state employee who did not comply with the provisions of the Pasteurized Milk Ordinance. The PMO bans the sale of unpasteurized milk to the final consumer.

**Nevada Administrative Code**

CHAPTER 584 DAIRY PRODUCTS AND SUBSTITUTES  
RAW MILK  
Permits; Tests

NAC 584.2031 Permit to produce certified raw milk. (NRS 584.067, 584.210)

1. After a county milk commission has certified a facility for the production of certified raw milk or a product made from it, the state dairy commission will inspect the facility. If the facility fully complies with this section, the state dairy commission will issue a permit to operate the facility

**Nevada Statutes**

TITLE 51 FOOD AND OTHER COMMODITIES: PURITY; STANDARDS; WEIGHTS  
AND MEASURES; MARKETING  
CHAPTER 584 DAIRY PRODUCTS AND SUBSTITUTES

MILK AND CREAM  
PERMIT FOR SALE

**NRS 584.207 Certified raw milk: Definition; county milk commission.**

1. Certified raw milk is unpasteurized, marketed milk which conforms to the regulations and standards adopted by the county milk commission for the production and distribution of certified raw milk and certified raw milk products in the county in which they are produced.

2. In each county in which certified raw milk or certified raw milk products are produced for public consumption, there must be a county milk commission to regulate the production and distribution of those products. The board of county commissioners shall appoint to the commission three members for terms of 4 years, all of whom are eligible for reappointment. The members must all be residents of the county and have the following respective qualifications:

(a) One member must be a physician licensed in this state and a member of the medical society of the state;

(b) One member must be a veterinarian licensed in this state and a member of the county or regional veterinarian association; and

(c) One member must be a representative of the public at large.

3. A county milk commission shall:

(a) Elect one of its members as chairman and adopt appropriate rules to govern:

(1) The time and place of its meetings;

(2) Its rules of procedure; and

(3) Its recordkeeping and other internal operations.

(b) Adopt written regulations, which must be approved by the State Dairy Commission, governing the production, distribution and sale in the county of certified raw milk and products made from it, to protect the public health and safety and the integrity of the product. The regulations so adopted must conform as nearly as practicable to, but may be more stringent than, the standards adopted by the American Association of Medical Milk Commissions.

NRS 584.205 Commission to direct periodic inspections of facilities of permittees; sale of imported milk and milk products without inspection; authority of Commission to conduct inspections upon reasonable belief of violation of regulations.

2. Except as otherwise provided in NRS 584.208 and the regulations adopted pursuant to that section, milk and milk products, including certified raw milk and products made from it, imported from outside the State of Nevada may be sold in this state without inspection by the Commission if the requirements of paragraph (c) and the requirements of paragraph (a) or (b) are met:

(a) In the case of certified raw milk and products made from it, they have been produced under standards adopted by the American Association of Medical Milk Commissions and under the statutory provisions of the State of California applicable to such products.

(b) The milk and milk products have been produced, pasteurized, processed, transported and inspected under statutes or regulations substantially equivalent to the Nevada milk and milk products statutes and regulations.

(c) The milk and milk products have been awarded an acceptable milk sanitation, compliance and enforcement rating by a state milk sanitation rating officer certified by the United States Public Health Service.

## **NEW HAMPSHIRE**

### **Summary:**

Raw milk sales are legal:

1. On the farm
2. Through home delivery
3. Through the final consumer purchasing directly from a milk pasteurization plant.
4. At a boarding house provided that the milk is produced on the premises and the boarding house dining room displays a sign stating that raw milk is served therein.

Even though a state statute permits the sale of raw milk in retail stores, the Department of Health and Human Services prohibits this because of a New Hampshire administrative regulation that requires food service establishments and retail food stores to sell only pasteurized fluid milk and fluid milk products.

Raw milk producers who sell less than an average of twenty quarts of milk per day do not have to obtain a license from the state. They are not subject to state inspection either unless they sell to a milk plant.

### **New Hampshire Statutes**

TITLE XIV. MILK AND MILK PRODUCTS

CHAPTER 184 INSPECTION AND SALE OF DAIRY PRODUCTS

Milk for Drinking

*184:30-a* Pasteurization Required.

No milk or milk products as defined in RSA [184:79](#) shall be sold, offered for sale or served unless pasteurized. This shall not serve to prohibit the direct sale of raw milk or cream from the producer; store or milk pasteurization plant to the final consumer, or milk or cream from a producer to stores, nor the serving of raw milk at bona fide boarding houses where the milk is produced on the premises, provided that in the dining room of such boarding houses a sign is prominently displayed stating that such raw milk is served therein, nor the sale, within the state, of cheese made from raw milk when such cheese has been aged a minimum of 60 days at a temperature above 35 degrees Fahrenheit, and is clearly labeled as unpasteurized.



## **Code of New Hampshire Rules**

DEPARTMENT OF HEALTH AND HUMAN SERVICES FORMER DIVISION OF  
PUBLIC HEALTH SERVICES  
CHAPTER He-P 2300 SANITARY PRODUCTION AND DISTRIBUTION OF FOOD  
PART He-P 2303 CONDITION AND SOURCES OF FOOD

*He-P 2303. 01 Condition.*

(g) Only the following milk products shall be acceptable for sale or use:

(1) Pasteurized fluid milk and fluid milk products

*184:84 License Required.*

III. It shall be unlawful for any producer-distributor to sell or offer for sale milk or milk products within the state unless he shall possess a producer-distributor's license from the commissioner.

### **184:79 Terms Defined.**

XI. The term "producer-distributor" is a milk producer who is also a milk distributor and sells more than an average of 20 quarts of milk a day.

XIII. The term "milk plant" means any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, packaged, or prepared for distribution, except an establishment where milk or milk products are sold at retail only.

## **NEW JERSEY**

### **Summary:**

Raw milk sales are illegal.

### **New Jersey Statutes**

TITLE 24 FOOD AND DRUGS  
SUBTITLE 1. FOOD AND DRUGS  
CHAPTER 10 DAIRY PRODUCTS  
ARTICLE 6. PASTEURIZATION

*24:10-57.17. Pasteurization required*

No person shall sell, offer for sale, or distribute to the ultimate consumer any milk or cream that is not pasteurized.

## **NEW MEXICO**

### **Summary:**

Raw milk sales are legal if they farmer has obtained a permit from the state Department of Agriculture. Even though state law allows the sale of raw milk products, it has been the policy of the department to limit the permit to raw milk sales only.



There is a labeling requirement that all containers of retail raw milk must carry the statement "RAW MILK IS NOT PASTEURIZED AND MAY CONTAIN ORGANISMS THAT CAUSE HUMAN DISEASE."

At the present time, there is one farm that has a permit to sell raw goat milk. There are no other retail raw milk licensees in the state.

### **New Mexico Regulations**

TITLE 21 AGRICULTURE AND RANCHING  
CHAPTER 34 DAIRY AND EGG PRODUCERS  
PART 2 RETAIL SALE OF RAW MILK

#### **21.34.2.9 NMAC PERMITS:**

A. No person shall sell or offer for sale in the state of New Mexico raw milk or raw milk products without a permit issued by the department to use Grade A labeling in advertising, representing, or labeling such raw milk or raw milk products.

#### **21.34.2.12 NMAC LABELING:**

A. All retail containers of raw milk or raw milk products shall be conspicuously labeled or marked in accordance with the New Mexico Food Act and in addition shall contain: (4) the statement "RAW MILK IS NOT PASTEURIZED AND MAY CONTAIN ORGANISMS THAT CAUSE HUMAN DISEASE";

## **NEW YORK**

### **Summary:**

Raw milk sales are legal on the farm. The farmer must have a license from the state Department of Agriculture and Markets. The farmer must post a sign at the point of sale that states, "Notice:Raw milk sold here. Raw milk does not provide the protection of pasteurization." Raw milk vendors can only sell to consumers.

The state routinely inspects retail raw milk for pathogens which is not a requirement for raw milk for pasteurization.

Even though the seller's permit is currently for only the sale of raw milk, the state is considering expanding the license to include the sale of other raw dairy products.

### **New York Codes, Rules and Regulations**

TITLE 1 DEPARTMENT OF AGRICULTURE AND MARKETS  
CHAPTER I MILK CONTROL\*  
SUBCHAPTER A DAIRY PRODUCTS  
PART 2 REQUIREMENTS FOR THE PRODUCTION, PROCESSING,  
MANUFACTURING AND DISTRIBUTION OF MILK AND MILK PRODUCTS

1 NYCCR 2.3. General permits; permit to sell raw milk; permit to ship into the State; permit to produce milk.

(b) Permit to sell raw milk.

(1) Every person who sells, offers for sale or otherwise makes available raw milk for consumption by consumers shall hold a permit to sell raw milk issued by the



commissioner. A person who holds a permit to sell raw milk may sell, offer for sale or otherwise make available raw milk only:

- (i) directly to a consumer;
- (ii) on the dairy farm where such raw milk is produced;
- (iii) in a bottle or in a single service container mechanically filled and capped as set forth in this Part or in a container provided by the consumer filled in his presence; and
- (iv) if at the point of sale a sign is conspicuously posted, easily capable of being read, from such point, stating: "NOTICE: Raw milk sold here. Raw milk does not provide the protection of pasteurization."

## **NORTH CAROLINA**

### **Summary:**

The sale or dispensing of raw milk for human consumption is illegal. This ban extends to cow share agreements or to any other contractual arrangement or exchange.

State law does permit farmers to "dispense" raw milk and raw milk products for animal feed.

### **North Carolina General Statutes**

Chapter 130A. Public Health.

Article 8. Sanitation.

Part 9. Milk Sanitation.

#### 130A-279 Sale or dispensing of milk

Only milk that is Grade "A" pasteurized milk may be sold or dispensed directly to consumers for human consumption. Raw milk and raw milk products shall be sold or dispensed only to a facility which is permitted, graded, or regulated by a local, State, or federal agency. The Commission may adopt rules for dispensing raw milk and raw milk products for nonhuman consumption. 'Sale' or 'sold' shall mean any transaction that involves the transfer or dispensing of milk and milk products through barter or contractual arrangement or in exchange for any other form of compensation, including but not limited to, the sale of shares or interest in a cow, goat, or other lactating animal or herd.

### **North Carolina Administrative Code**

TITLE 15A DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

CHAPTER 18 ENVIRONMENTAL HEALTH

SUBCHAPTER 18A SANITATION

SECTION. 1200 GRADE A MILK SANITATION

#### **T15A-C18-S18A.1210 RESTRICTIONS ON DISPENSING RAW MILK**

(a) Dairy farms shall dispense raw milk or raw milk products only to a permitted milk hauler or to a processing facility for which the processing of milk is permitted, graded or regulated by a state or federal agency.

(b) The farmer or the owner of the raw milk or raw milk products may, nevertheless, destroy the milk or dispense it for animal feed in accordance with any applicable state and federal regulations.

## **NORTH DAKOTA**

### **Summary:**

Raw milk sales for human consumption are illegal. The state has adopted Section 9 of the Pasteurized Milk Ordinance which permits only the sale of pasteurized milk to the final consumer.

There are no state laws against the sale of raw milk for pet consumption. It is the policy of the state Department of Agriculture to permit on-farm sales of raw milk for pet consumption provided that the farmer posts signs stating that they are selling raw milk for pet consumption only.

### **North Dakota Statutes**

TITLE 4 AGRICULTURE

CHAPTER 4-30 DAIRY PRODUCTS REGULATIONS

*4-30-36.4.* Grade A pasteurized milk ordinance.

Dairy producers, processors, and manufacturers shall comply with the "Grade A Pasteurized Milk Ordinance, 2001 Revision, Public Health Service, Food and Drug Administration, Publication No. 229" and its supplements and follow the standards set by the "Procedures Governing the Cooperative State-Public Health Service Food and Drug Administration Program of the National Conference on Interstate Milk Shipments, 2001 Revision."

### **North Dakota Administrative Code**

TITLE 33 STATE DEPARTMENT OF HEALTH

ARTICLE 33-33 RULES INITIATED BY THE INSPECTION DIVISION

CHAPTER 33-33-04 FOOD CODE

*33-33-04-12.* Milk products - Pasteurized.

1. Fluid and dry milk and milk products complying with Grade A standards as specified in law shall be obtained pasteurized.

## **OHIO**

**Summary:** Raw milk sales are illegal. Raw milk sales are technically legal under state law, but only for vendors that hold a valid raw milk retailer license from the state and who have been "engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers" since 1965. There is no longer anyone in the state meeting that criterion.

### **Ohio Revised Code**

TITLE IX AGRICULTURE - ANIMALS - FENCES

CHAPTER 917 DAIRY PRODUCTS

§ *917.04.* Sale and labeling of raw milk.



No raw milk retailer shall sell, offer for sale, or expose for sale raw milk to the ultimate consumer except a raw milk retailer who, prior to October 31, 1965, was engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers, holds a valid raw milk retailer license issued under section 917.09 of the Revised Code, and is subject to the rules regulating the sale of raw milk adopted under this chapter.

No person shall fail to label, in accordance with rules adopted by the director of agriculture under section 917.02 of the Revised Code, all final delivery containers used for the sale of raw milk to ultimate consumers with the words "this product has not been pasteurized and may contain disease-producing organisms."

## **OKLAHOMA**

### **Summary:**

Raw milk sales are legal on the farm. Farmers can make "incidental sales of raw milk directly to consumers" without having to obtain a permit. While state law does not specifically define what incidental sales of raw cows milk are and leaves this determination to the discretion of the state inspector, raw goat milk producers can sell up to 100 gallons of goat milk per month without a permit. Farmers making incidental sales of raw goat milk have the right to advertise.

Even though the incidental sales exception does not apply to raw cheese, state law does not prohibit farmers from making cheese using milk or cream produced on their farm.

Farmers making more than incidental sales of raw milk must have a raw milk permit. This permit is only good for raw milk sales, not for any other raw dairy products. Producers wanting to sell raw milk products must obtain a manufacturing plant permit.

### **Oklahoma Statutes**

TITLE 2 AGRICULTURE

CHAPTER 1 AGRICULTURAL CODE

ARTICLE 7. MILK AND DAIRY PRODUCTS AND MILK PRODUCTS PLANTS

D. OKLAHOMA MILK AND MILK PRODUCTS ACT

§ 2-7-406. Sale of Grade A milk and milk products.

A. Only Grade A pasteurized milk and milk products or Grade A raw milk shall be sold to the final consumer; provided, however:

1. Only Grade A pasteurized milk shall be sold through restaurants, soda fountains, grocery stores, or similar establishments, including school lunch rooms

§ 2-7-414. Construction of Act.

A. The provisions of the Oklahoma Milk and Milk Products Act shall not be construed to:

1. Include incidental sales of raw milk directly to consumers at the farm where the milk is produced;

2. Preclude the advertising of the incidental sale of goat milk; and



3. Prohibit any farmer or producer from making cheese using milk or cream produced on the farm of such farmer or producer.

B. For purposes of this section, incidental sales of goat milk are those sales where the average monthly number of gallons sold does not exceed one hundred (100).

§ 2-7-408. Permits

A. No person shall produce, haul, process, or distribute Grade A raw milk for pasteurization or milk and milk products, or hold himself or herself out as a milk producer, transporter, processor, or distributor or represent a any farm, bulk milk hauler/sampler, milk tank truck driver, milk transportation company, milk tank truck cleaning facility, milk plant, receiving or transfer station, milk distribution center, or milk or milk products as "Grade A" unless that person possesses an appropriate and valid permit for the particular premises or facilities concerned.

§ 2-7-403. Definitions.

11. "Milk plant" means any premises owned or operated by a "milk processor" where milk or milk products are collected, manufactured, processed, pasteurized, bottled, stored, or prepared for distribution for commercial purposes including, but not limited to, a receiving or transfer station

20. "Ungraded milk products" and "manufacture grade milk products" include, but are not limited to, butter, cheese, dry milk, condensed milk, filled or evaporated milk, frozen dairy dessert and mello-drink products.

TITLE 2 AGRICULTURE

CHAPTER 1 AGRICULTURAL CODE

ARTICLE 7. MILK AND DAIRY PRODUCTS AND MILK PRODUCTS PLANTS

D. OKLAHOMA MILK AND MILK PRODUCTS ACT

§ 2-7-417. Permits required.

No person shall produce, haul, process or distribute ungraded raw milk or milk products or hold himself out as an ungraded milk producer, hauler, processor or distributor unless such person possesses an appropriate and valid permit for the particular premises or facilities concerned. The processing of permit applications and inspections shall be similar to the Grade A permit process.

**OREGON**

**Summary:**

Raw goat or sheep milk sales are legal on the farm and in retail stores. No permit is necessary for farmers with no more than nine producing goats and nine producing sheep who sell the milk on the farm directly to the consumer. Raw cow milk sales are illegal except for on-farm sales where the farmer has no more than three producing cows on the premises. The state prohibits advertising for on-farm sales.

Farmers producing raw goat or sheep milk can sell in retail stores if they obtain a producer-distributor license and have their own bottling plant on site. Licensees can sell

goat or sheep milk products such as butter, cream, yogurt, and cheese as well. There is one licensed goat milk farmer in the state at the present time.

### **Oregon Statutes**

#### **TITLE 49 FOOD AND OTHER COMMODITIES**

##### **Chapter 621 Milk; Dairy Products; Substitutes**

#### **GENERAL PROVISIONS**

*621.012* Exception for small-scale on-farm sales.

The provisions of ORS 621.062, 621.070, 621.072, 621.076, 621.084, 621.088, 621.116, 621.117 and 621.259 and standards developed under ORS 621.060, 621.083 or 621.224 do not apply to a person owning not more than three dairy cows that have calved at least once, nine sheep that have lactated at least once or nine goats that have lactated at least once, but such person may sell the fluid milk from those animals for human or other consumption without complying with the provisions of ORS 621.062, 621.070, 621.072, 621.076, 621.084, 621.116, 621.117 or 621.259 or standards developed under ORS 621.060, 621.083 or 621.224 only if:

- (1) The person does not advertise the milk for sale;
- (2) The milk is sold directly to the consumer at the premises where produced; and
- (3) No more than three producing dairy cows, nine producing sheep or nine producing goats are located on the premises where the milk is produced.

#### **TITLE 49 FOOD AND OTHER COMMODITIES**

##### **Chapter 621 Milk; Dairy Products; Substitutes**

#### **PROHIBITED ACTS, GENERALLY**

*621.116* Prohibition against retail sale of unpasteurized milk from cows.

A person may not sell or distribute for sale unpasteurized milk or fluid milk from cows, or dairy products from unpasteurized milk or fluid milk from cows, other than to a distributor, producer-distributor, dairy products plant licensee or nonprocessing cooperative. This section does not apply to the sale or distribution of cheese otherwise exempt from pasteurization requirements or to sales or distributions by a person described under ORS 621.012.

#### **TITLE 49 FOOD AND OTHER COMMODITIES**

##### **Chapter 621 Milk; Dairy Products; Substitutes**

#### **GENERAL PROVISIONS**

*621.003* Definitions.

- (3) "Dairy products" means:
  - (a) Butter.
  - (b) All varieties of cheese, frozen desserts and frozen dessert mixes containing milk, cream or nonfat milk solids.
  - (c) Evaporated, condensed, concentrated, powdered, dried or fermented milk, whey, cream and skimmed milk.



(19) "Producer-distributor" means:

(a) A person who bottles milk on the premises where production occurs, in pasteurized or unpasteurized form and for human consumption.

**TITLE 49 FOOD AND OTHER COMMODITIES**  
**Chapter 621 Milk; Dairy Products; Substitutes**  
**GRADE DESIGNATION USE**

621.072 Issuance of license to use grade designation; grading by milk hauler; facility inspections; fees.

(1) The State Department of Agriculture shall issue a license to use a grade designation to any person who:

(a) Makes written application for a license on forms provided by the department;

(b) Pays the designated license fee;

(c) Is engaged in the business of producing or distributing fluid milk; and

(d) Meets the requirements of the particular grade designation for which application is made.

(2) If a person carries on the activities of a producer and a producer-distributor, the person must obtain a separate license for each of those activities. If a producer-distributor manufactures products from both Grade A fluid milk and Grade B fluid milk at the same premises, the producer-distributor must obtain separate licenses for Grade A product manufacturing activity and Grade B product manufacturing activity.

621.076 Container labeling; bottling unpasteurized milk; prohibition against milk by or from suspended licensee.

(2) A person shall not bottle unpasteurized fluid milk except on the premises where it is produced.

**PENNSYLVANIA**

**Summary:**

Raw milk sales are legal on the farm and in retail stores. Raw milk for retail producers must have a permit and can only sell to stores if they have their own packaging operation with labeling and bottling machines. Stores purchasing raw milk from farmers for resale do not ordinarily need a permit. Producers selling raw milk only on the farm do not need bottling equipment because the state permits customers to bring their own containers.

The only raw milk product that licensees can sell legally is cheese. According to the Department of Agriculture, this is because the state has a standard of identity regulation only for raw cheese, not for any other raw dairy products. If a dairy product does not have a standard of identity regulation, the Department will not issue a permit for it.

**Pennsylvania Statutes**

TITLE 31 FOOD (P. S. )



CHAPTER 13 MILK AND CREAM MILK MARKETING LAW  
PERMITS FOR SALE OF MILK OR MANUFACTURED DAIRY PRODUCTS

31 P.S. § 646. Permit; application; reimbursement of Inspection expenses; reciprocal agreements

Except as hereinafter provided, no person shall sell milk, milk products or manufactured dairy products within this Commonwealth without first having obtained a permit from the "secretary," nor otherwise than in accordance with the requirements of this act.

Unless the "secretary" shall require a permit, this section shall not apply to a person selling milk or milk products from a store, when such milk or milk products are purchased from a person already in lawful possession of a permit to sell milk or milk products.

The "secretary" may, in his discretion, exempt a person selling milk from not more than one cow from such requirements of this act, as he may deem in each instance to be unnecessary for the protection of the public health.

**Pennsylvania Code of Regulations**

TITLE 7 AGRICULTURE

PART III. BUREAU OF FOOD SAFETY AND LABORATORY SERVICES

Subpart B. LIQUID FOODS

CHAPTER 61. [Reserved]

Subchapter C. MISCELLANEOUS PROVISIONS

**7 Pa. Code § 59.302. Raw milk.**

(b) *General requirements.* Raw milk shall meet all the requirements of §§ 59.101 - 59.121 (relating to sanitation requirements applicable to production of milk for pasteurization) with the following exceptions:

(2) Labeling on all containers and caps except those owned by customers shall be approved by the Department.

(7) For prepackaging, a mechanical means of filling and capping bottles shall be used. The cap or closure shall protect the pouring lip to its largest diameter.

TITLE 7 AGRICULTURE

PART III. BUREAU OF FOOD SAFETY AND LABORATORY SERVICES

Subpart B. LIQUID FOODS

CHAPTER 61. [Reserved]

Subchapter G. MANUFACTURING PLANTS

SUPPLEMENTAL REQUIREMENTS FOR PLANTS MANUFACTURING AND PACKAGING CHEESE

**7 Pa. Code § 59.773. Operations and operating procedures.**

(b) *Cheese from unpasteurized milk.* If the cheese is labeled as "heat treated," "unpasteurized," "raw milk," or "for manufacturing," the milk may be raw or heated at temperature below pasteurization. If the milk is held more than 2 hours between time of receipt or heat treatment and setting, it shall be cooled to 45°F or lower until time of setting.

## **RHODE ISLAND**

### **Summary:**

Raw milk sales are illegal with one exception. An individual may purchase raw goat milk from a producer if that person has a written, signed prescription from a physician. According to the state Department of Health, no one has ever taken advantage of this provision in the law.

### **Rhode Island Regulations**

GRADE "A" PASTEURIZED MILK ORDINANCE 2001 REVISION  
STANDARDS FOR GRADE "A" PASTEURIZED, ULTRAPASTEURIZED AND  
ASEPTICALLY PROCESSED MILK AND MILK PRODUCTS

DOH — SECTION 9. MILK AND MILK PRODUCTS WHICH MAY BE SOLD

From and after twelve (12) months from the date on which this Ordinance is adopted, 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.

### **Rhode Island General Laws**

TITLE 21 Food And Drugs  
CHAPTER 2 Milk Sanitation Code

§ 21-2-2. Declaration of policy. —

(8) That all milk sold within the state of Rhode Island shall be pasteurized by a recognized method of pasteurizing adequate to destroy bacteria capable of transmitting disease to people. Provided, that a physician may authorize an individual sale of goat milk directly from producer to consumer by written, signed prescription.

## **SOUTH CAROLINA**

### **Summary:**

Raw milk sales are legal on the farm and , to a limited extent, in retail stores. Farmers must obtain a permit and can only sell raw milk, not raw milk products. The state Department of Health and Environmental Control prohibits the sale of any processed raw dairy product. Advertising is legal.

A retail store can only sell raw milk if the store does not fall under the regulatory definition of a "food service establishment." Under current law, only convenience stores "which offer for sale prepackaged food" ... and "engage in limited preparation of nonpotentially hazardous food" are outside this definition.

At the present time, there are nine licensed raw milk producers in the state, five producing cow milk and four producing goat milk.

### **South Carolina Regulations**

CHAPTER 61 DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

61-34. Milk and Milk Products.

SECTION 1. Definitions.



Y. Dairy Farm — A dairy farm is any place or premises where one or more cows or goats are kept, and from which a part or all of the milk or milk product(s) is provided, sold, or offered for sale to a milk plant, transfer station, receiving station, or offers for sale raw milk for human consumption.

### SECTION 3. Permits.

It shall be unlawful for any person who does not possess a permit from the health authority to operate in South Carolina any establishment or business defined in these rules and regulations or otherwise offer milk or milk products for sale or have in storage any milk or milk products defined in these rules and regulations. PROVIDED: that, grocery stores, restaurants, soda fountains, and similar establishments where milk or milk products are served or sold at retail, but not processed, may be exempt from the requirements of this section.

Issuance of Permits — Every milk producer, producer distributor, milk distributor, milk hauler, and each milk plant, receiving station, and transfer station operator shall hold a valid permit.

### SECTION 9. Milk and Milk Products Which May Be Sold.

From and after adoption of these rules and regulations, only Grade A pasteurized and Grade A raw milk and milk products shall be offered for sale to final consumer.

### 61-25. Retail Food Establishments.

## CHAPTER I — DEFINITIONS

26. "RETAIL FOOD ESTABLISHMENT" — any operation that prepares, packages, serves, processes, or otherwise provides food for human consumption, either on or off the premises, regardless of whether there is a charge for the food. These establishments are further defined as:

a. Food Service Establishment — operations such as, but not limited to, restaurants, delicatessens, snack bars, catering operations, ice cream parlors, school cafeterias, mobile food units including bases of operations, and temporary food service establishments.

b. Retail Food Store — operations that process meat, meat products, or other potentially hazardous food, such as, but not limited to, grocery stores, retail meat markets, fish and seafood markets. These establishments may also engage in limited food service operations that comply with applicable requirements of this Regulation. A separate food service facility operating within a retail food store may be evaluated independently from the retail food store.

c. Retail food establishments do not include:

(15) Convenience food stores which offer for sale prepackaged food and may engage in limited preparation of nonpotentially hazardous food.

(17) Businesses selling only prepackaged food.

## **SOUTH DAKOTA**



## **Summary:**

Raw milk sales are legal on the farm and through home delivery. Even though the state has adopted the Grade A Pasteurized Milk Ordinance (including Section 9 of the PMO which only permits the sale of pasteurized milk to the final consumer) it has created a statutory exemption for raw milk, cream, skim milk or goat milk occasionally secured or purchased for his personal use by any consumer at the place or farm where the milk is produced..." and for a "farm producer of milk, selling and delivering his own production direct to consumers only."

Farmers are responsible for bottling the milk and must have a milk plant license in order to be able to use bottling equipment on their farm. They must clearly label each container as "raw milk." According to the state Department of Agriculture, there are no farmers selling raw milk on any noticeable scale at the present time.

### **South Dakota Administrative Rules**

TITLE 12 DEPARTMENT OF AGRICULTURE

ARTICLE 12:05 GRADE A MILK AND MILK PRODUCTS

CHAPTER 12:05:14 ADOPTION OF DOCUMENTS AND MINIMUM REQUIREMENTS

#### **12:05:14:01. Minimum requirements.**

The production, transportation, processing, handling, sampling, examination, grading, labeling, and sale of all milk and milk products and the inspection and suspension of permits for dairy farms, milk plants, receiving and transfer stations, milk tank truck cleaning facilities, milk tank trucks, bulk milk hauler/sampler, and single-service manufacturing plants shall be regulated in accordance with the provisions of the Grade A Pasteurized Milk Ordinance (PMO) (with the exception of sections 16 and 17) 2003 revision, published by Public Health Service/Food and Drug Administration, U. S. Department of Health and Human Services, Washington, D. C. The provisions of Article 12:05 supersede requirements of the PMO.

### **South Dakota Statutes**

TITLE 39

CHAPTER 39-6

39-6-3.

Section 39-6-2 shall not apply to milk, cream, skim milk, or goat milk occasionally secured or purchased for his personal use by any consumer at the place or farm where the milk is produced, and provided further, that § 39-6-2 shall not apply to any active farm producer of milk, selling and delivering his own production direct to consumers only. The containers in which any unpasteurized milk is sold shall be clearly labeled by the producer as "raw milk." Failure to affix such label is a Class 2 misdemeanor.

### **South Dakota Statutes**

TITLE 40

CHAPTER 40-32

40-32-2.

Terms as used in this chapter, mean:

(10) "Milk plant," any place where milk or milk products are delivered or processed for commercial purposes;

40-32-4.

Any person engaged in the operation of a creamery, cream station, receiving station, transfer station, plant fabricating single-service articles or milk distributor in South Dakota, or any person buying milk or cream produced in South Dakota, or any person selling milk or milk products, shall, before beginning business, obtain from the secretary a license for each place of business owned or operated by such person in South Dakota, and for each creamery, cream station, milk distributor, or milk plant buying or selling milk or milk products in South Dakota.

## **TENNESSEE**

### **Summary:**

Raw milk sales for human consumption are illegal. The state Department of Agriculture has interpreted "sale" to even cover giving away raw milk and raw milk products. In 2003, a state representative introduced a bill to legalize raw milk, but the Tennessee Senate Agricultural Committee voted the bill down and it never reached the floor of the legislature.

Raw milk and raw milk product sales for pet consumption are legal, even though the state animal feed laws contain no specific provision about raw dairy products. Producers and sellers must obtain a commercial feed license from the state.

### **Tennessee Rules and Regulations**

RULES OF DEPARTMENT OF AGRICULTURE DIVISION OF PLANT INDUSTRIES  
CHAPTER 0080-3-2 REGULATION GOVERNING FLUID MILK AND FLUID MILK  
PRODUCTS

*0080-3-2-.11* MILK AND MILK PRODUCTS WHICH MAY BE SOLD.

Only Grade A pasteurized milk and milk products shall be sold to the final consumer, or to restaurants, soda fountains, grocery stores, or similar establishments

## **TEXAS**

### **Summary:**

Raw milk sales are legal. Sales must be on the farm and can only be directly to the consumer. Farmers must obtain a Grade A Raw for Retail Milk Permit from the state Department of Health. Licensees can sell milk products such as raw cream and raw yogurt as well. There are currently eleven retail raw milk licensees in the state with all of them selling only raw goat milk and raw goat milk products.

Raw goat milk producers can also obtain an animal feed license. They get the license from the Texas Feed and Fertilizer Service, a branch of the Office of the State Chemist. Goat milk producers with an animal feed license must have their products contain a label with the statement "For Animal Feed Only." In addition, all raw goat milk products for animal feed must contain a blue dye.



## **Texas Regulations**

TITLE 25 HEALTH SERVICES

PART 1 TEXAS DEPARTMENT OF HEALTH

CHAPTER 217 MILK AND DAIRY

SUBCHAPTER C DEFINITIONS AND STANDARDS OF IDENTITY FOR YOGURT AND YOGURT PRODUCTS

### 25 TAC S 217.32 Selling of Raw Milk to the Consumer

Raw milk may be sold by the milk producer directly to the consumer only at the point of production, i. e. , at the farm, provided that such producer has been issued a Grade A Raw for Retail Milk Permit in accordance with S 217.91 of this title (relating to Permits), and complies with all the sections in this chapter relating to Grade A Raw for Retail Milk.

TITLE 25 HEALTH SERVICES

PART 1 TEXAS DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 217 MILK AND DAIRY

SUBCHAPTER B GRADE A RAW FOR RETAIL MILK AND MILK PRODUCTS

### 25 TAC S 217.24 Permits

A person must have a permit to sell raw milk at retail. Only a person who complies with the provisions of these sections shall be entitled to receive a Grade A Raw for Retail Milk permit.

TITLE 25 HEALTH SERVICES

PART 1 TEXAS DEPARTMENT OF STATE HEALTH SERVICES

CHAPTER 217 MILK AND DAIRY

SUBCHAPTER B GRADE A RAW FOR RETAIL MILK AND MILK PRODUCTS

### 25 TAC S 217.21 Grade A Raw for Retail Milk and Milk Products

Grade A raw for retail milk and milk products shall conform to all the applicable requirements in the "Grade A Pasteurized Milk Ordinance" which is adopted by reference in S 217. 2 of this title (relating to Grade A Pasteurized Milk Ordinance).

TITLE 25 HEALTH SERVICES

PART 1 TEXAS DEPARTMENT OF HEALTH

CHAPTER 217 MILK AND DAIRY

SUBCHAPTER A GRADE SPECIFICATIONS AND REQUIREMENTS FOR MILK

### 25 TAC S 217.1 Definitions

Grade A retail raw milk products – milk products that are manufactured under the provisions of Subchapter B of this Chapter, SS 217.21-217.25, 217.31 (relating to Grade A Raw for Retail Milk and Milk Products), and are offered for sale to the public without benefit of pasteurization. These products include: cream, light cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, sour cream, acidified sour cream, cultured sour cream, half-and-half, sour half-and-half, acidified sour half-and-half, cultured sour half-and-half, skim milk, low-fat milk, eggnog, buttermilk, cultured milk, cultured low-fat milk, cultured skim milk, yogurt, low-fat yogurt, and nonfat yogurt.



## **Texas Agricultural Experiment Station**

The Texas A&M University System

Office of the Texas State Chemist

FEED ADMINISTRATIVE MEMORANDUM NO. 3-15

LICENSING OF DISTRIBUTORS OF GOATS' MILK AS ANIMAL FEED  
POLICY

Investigators will, as part of their area responsibilities, actively seek out distributors of goats' milk and require them to obtain a license, determine whether licensees' products meet the terms of license requirements and, where lacking, help them to come into compliance.

Applications for a license must be accompanied by a label which meets the requirements of the Texas Commercial Feed Law and in addition bears the statement

1. "For animal feed only"; and
2. one of the following:
  - a. Grade A goats' milk
  - b. Heat-treated goats' milk
  - c. Contains 2 gpl Ultramarine Blue dye

## **UTAH**

### **Summary:**

Raw milk sales are legal. Sales must be on the farm to the final consumer. Producers must obtain a permit from the Department of Agriculture. State law requires producers to bottle the milk on the premises where produced and to label each bottle "raw milk." Farmers cannot sell raw milk products except for block cheese that has been produced according to federal specifications. Farmers can sell the block cheese on the farm, in retail stores or for wholesale distribution.

There are currently four licensed raw milk farmers, two selling cows milk and two selling goats milk.

### **Utah Statutes**

TITLE 4 UTAH AGRICULTURAL CODE

CHAPTER 3 UTAH DAIRY ACT

4-3-14. Sale of raw milk prohibited- Exceptions- Suspension of producer's permit.

(1) Raw milk may be sold if:

(a) the producer obtains a permit from the department to produce milk under Subsection 4-3-8(2);

(b) the sale and delivery of the milk is made upon the premises where the milk is produced;

(c) it is sold to consumers for household use and not for resale;



(d) it is bottled or packaged under sanitary conditions and in sanitary containers on the premises where the milk is produced;

(e) it is labeled "raw milk" and meets the labeling requirements under 21 C. F. R. Parts 101 and 131 and rules established by the department

### **Utah Administrative Rules**

R70. Agriculture and Food, Regulatory Services.

R70-330. Raw Milk for Retail.

*R70-330-5. Sanitation and Operating Requirements.*

D. The sale and delivery of raw milk shall be made on the premise where the milk is produced and packaged. The sale shall be to consumers for household use and not for resale. The sale of block cheese, when held at 35 degrees F. for 60 days or longer, may be sold at retail or for wholesale distribution, at locations other than the premise where the milk was produced.

E. All products made from raw milk including cottage cheese, buttermilk, sour cream, yogurt, heavy whipping cream, half and half, butter, and ice cream shall not be allowed for sale in Utah to individual consumers due to potential negative public health implications of such products.

## **VERMONT**

### **Summary:**

On-farm sales of raw milk are legal. State law permits producers to sell up to 25 quarts of raw milk per day. The state has exempted farmers from needing a license to sell raw milk to the public and retail raw milk sales are subject to little regulatory oversight. The Vermont Department of Agriculture would not inspect any dairy operation that sells only retail raw milk.

Department policy prohibits advertising of raw milk sales. The state law permitting sales of raw milk on the farm does not extend to raw milk products.

### **Vermont Statutes**

TITLE SIX Agriculture

PART 6. MILK AND MILK PRODUCTS

CHAPTER 151: SUPERVISION, INSPECTION AND LICENSING OF DAIRY OPERATIONS

Subchapter 1. General Provisions

6 V. S. A. § 2672. Definitions

(5) "Milk handler" or "handler" is a person, firm, unincorporated association or corporation engaged in the business of buying, selling, assembling, packaging, or processing milk or other dairy products, for sale within or without the state of Vermont.

TITLE SIX Agriculture

PART 6. MILK AND MILK PRODUCTS

CHAPTER 151: SUPERVISION, INSPECTION AND LICENSING OF DAIRY OPERATIONS



Subchapter 3. Licensing and Inspection  
ARTICLE 1. LICENSES

6 V. S. A. § 2721. Handlers' licenses

(a) The secretary may classify and issue licenses to milk handlers to carry on milk handling businesses including, but not limited to, the purchase, distribution or sale of milk, processing or manufacturing of milk, bargaining and collecting for the sale of milk, and dealing in or brokering milk.

(b) A milk handler shall not transact business in the state unless the milk handler secures and holds a handler's license from the secretary.

TITLE SIX Agriculture

PART 6. MILK AND MILK PRODUCTS

CHAPTER 151: SUPERVISION, INSPECTION AND LICENSING OF DAIRY OPERATIONS

Subchapter 3. Licensing and Inspection

ARTICLE 1. LICENSES

6 V. S. A. § 2723. — Exemptions

Handlers' licenses shall not be required from the following persons:

(3) A person who produces and sells or offers for sale less than 25 quarts of milk in any one day, but in such case an inspection may be made and reasonable sanitary requirements shall be complied with.

**VIRGINIA**

**Summary:**

Raw milk sales are illegal. According to the State Department of Agriculture, there are two cow share programs operating in Virginia, one of which has state approval. At one time, state regulations governing milk for manufacturing purposes covered only dairy products (cheese, butter) made from cow milk and did not apply to raw butter and cheese made from the milk of any other animal. That changed in 2005 when the department issued new regulations covering the production and sale of dairy products from the milk of any animal.

Under the new regulations, cheese manufacturers, among other requirements, must:

1. Obtain a permit to operate "(i)a dairy farm producing milk for manufacturing purposes or (ii)a dairy plant."
2. Must manufacture cheese that complies with the federal standard of identity regulations.  
Any raw cheese not complying with a specific federal standard of identity is illegal. The regulations now require pasteurization of all "nonstandardized cheese."
3. Engage daily in the business for which the permit is issued. Failure to do this can result in the loss of the permit.



4. Not label or advertise any cheese made from unpasteurized milk as "fresh." Under the regulatory definition only pasteurized cheese can be fresh. The new regulations impose burdensome building, equipment and record-keeping requirements as well.

Read literally the regulations even apply to farmers producing dairy products strictly for their own consumption. The state legislature has addressed this with the passage of a law stating that:

"No regulation shall prohibit or restrict a person, his immediate family, or his guests from consuming products or commodities grown or processed on his property provided that the products or commodities are not offered for sale to the public."

In addition, the state Secretary of Agriculture and Consumer Services has acknowledged in writing that farmers can give raw milk and products made from raw milk free to the public. The new regulations apply only to the manufacture of dairy products for sale. At least one lawsuit has been filed trying to overturn them.

### **Virginia Regulations**

TITLE 2 AGRICULTURE

VAC AGENCY NO. 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

CHAPTER 490. REGULATIONS GOVERNING GRADE "A" MILK.

2 VAC 5-490-70. Milk or milk products which may be sold.

A. Except as specified in subsection B of this section from and after the date this chapter are effective, a person may sell, offer for sale, or expose for sale in the Commonwealth only Grade A pasteurized, ultra-pasteurized, or aseptically processed milk or milk products to the final consumer, or to restaurants, soda fountains, and grocery stores.

### **Virginia Regulations**

TITLE 2 AGRICULTURE

VAC AGENCY NO. 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CHAPTER 531. REGULATIONS GOVERNING MILK FOR MANUFACTURING PURPOSES.

2 VAC 5-531-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Dairy farm" means any premises where any cow, goat, sheep, water buffalo, or other mammal (except humans) are maintained and milked for the purpose of providing milk for manufacturing into dairy products as defined herein and intended for human consumption.

"Dairy plant" means any place, premises, or establishment where any milk or any dairy product is received or handled for processing or manufacturing or prepared for distribution.

"Dairy product" means butter, natural or processed cheese, dry whole milk, nonfat dry milk, dry buttermilk, dry whey, evaporated whole or skim milk, condensed whole milk and condensed plain or sweetened skim milk.



"Fresh" means the cheese or related dairy product (except Asiago Fresh Cheese) was: (i) made from pasteurized milk; (ii) not required to be aged by the standard of identity for the specific cheese product; (iii) not held longer than five days prior to being offered for sale; and (iv) never frozen or stored at temperatures below 35°F.

"Milk" means the normal lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, goats, sheep, water buffalo, or other mammal (except humans) intended for human consumption.

"Milk for manufacturing purposes" means any milk produced for processing and manufacturing into a dairy product as defined herein and intended for human consumption.

"Nonstandardized cheese" means any cheese or related product which does not conform to a standard of identity for a specific cheese or related product established under 21 CFR 133. Nonstandardized cheese and related products are dairy foods manufactured in conformance with this chapter from the milk of cows, goats, sheep, water buffalo, or other mammals (except humans) by the addition of clotting agents (Rennet, clotting enzymes of mammal, plant, or microbial origin, vinegar, acid or any other agent that causes the clotting of milk and the formation of curd) and other safe and suitable ingredients.

"Permit" means the written document issued by the Virginia Department of Agriculture and Consumer Services to the person who operates a (i) dairy farm producing milk for manufacturing purposes or (ii) dairy plant; after the Virginia Department of Agriculture and Consumer Services has inspected and approved the person's operation and determined the person's compliance with the provisions of this chapter.

## **Virginia Regulations**

### **TITLE 2 AGRICULTURE**

#### **VAC AGENCY NO. 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CHAPTER 531. REGULATIONS GOVERNING MILK FOR MANUFACTURING PURPOSES.**

##### **2 VAC 5-531-20. Standardized cheeses and related products.**

Standardized cheeses and related products shall comply with the specific standards of identity established for each cheese or related product under 21 CFR Part 133 and the requirements of this chapter. Standardized cheeses and related products include: asiago fresh cheese; asiago medium cheese; asiago old cheese; asiago soft cheese; blue cheese; brick cheese; brick cheese for manufacturing; caciocavallo siciliano cheese; cheddar cheese; cheddar cheese for manufacturing; club cheese; colby cheese; colby cheese for manufacturing; cold-pack cheese; cold-pack cheese food; cold-pack cheese food with fruits, vegetables, or meats; cook cheese; cream cheese; cream cheese with other foods; edam cheese; gammelost cheese; gorgonzola cheese; gouda cheese; granular and stirred curd cheese; granular cheese for manufacturing; grated cheese; grated American



cheese food; gruyere cheese; hard cheeses; hard grating cheeses; high-moisture jack cheese; koch kaese; limburg cheese; low-moisture part-skim mozzarella and scamorza cheese; low-moisture mozzarella and scamorza cheese; low sodium cheddar cheese; low sodium colby cheese; monterey cheese and monterey jack cheese; mozzarella cheese and scamorza cheese; muenster and munster cheese; muenster and munster cheese for manufacturing; neufchatel cheese; nuworld cheese; parmesan and reggiano cheese; part-skim mozzarella and scamorza cheese; part-skim spiced cheeses; pasteurized blended cheese; pasteurized blended cheese with fruits, vegetables, or meats; pasteurized cheese spread; pasteurized cheese spread with fruits, vegetables, or meats; pasteurized neufchatel cheese spread with other foods; pasteurized process cheese; pasteurized process cheese food; pasteurized process cheese food with fruits, vegetables, or meats; pasteurized process cheese spread; pasteurized process cheese spread with fruits, vegetables, or meats; pasteurized process cheese with fruits, vegetables, or meats; pasteurized process pimento cheese; provolone cheese; romano cheese; roquefort cheese; samsoe cheese; sap sago cheese; semisoft cheeses; semisoft part-skim cheeses; skim milk cheese for manufacturing; soaked curd cheese; soft ripened cheeses; spiced cheeses; spiced, flavored standardized cheeses; swiss and emmentaler cheese; swiss cheese for manufacturing; washed curd cheese; and washed curd cheese for manufacturing.

### **Virginia Regulations**

TITLE 2 AGRICULTURE VAC AGENCY NO. 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CHAPTER 531. REGULATIONS GOVERNING MILK FOR MANUFACTURING PURPOSES.

2 VAC 5-531-30. Nonstandardized cheese and related products.

Nonstandardized cheese and related products shall be made only from pasteurized milk or dairy ingredients (milk, milk products, or dairy products) that have all been pasteurized in accordance with the requirements of this chapter.

### **Virginia Regulations**

TITLE 2 AGRICULTURE  
VAC AGENCY NO. 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CHAPTER 531. REGULATIONS GOVERNING MILK FOR MANUFACTURING PURPOSES.

2 VAC 5-531-50. Permits.

A. No person may produce, provide, sell, offer for sale, or store in the Commonwealth of Virginia, or bring, send, or receive into the Commonwealth of Virginia, any milk for manufacturing purposes unless the person possesses a permit from the Virginia Department of Agriculture and Consumer Services.

B. No person may produce, process, manufacture, handle, package, reprocess, repack, rework, offer for sale or sell any manufactured dairy product in the Commonwealth of Virginia unless the person possesses a permit from the Virginia Department of Agriculture and Consumer Services. The requirement for a permit shall not apply to (i) any person's establishment where a manufactured dairy

product is served or sold at retail, so long as the manufactured dairy product is not produced, manufactured, reprocessed or reworked at the establishment; (ii) any person who distributes and does not process manufactured dairy product; or (iii) any person producing manufactured dairy product outside the Commonwealth of Virginia.

C. The Virginia Department of Agriculture and Consumer Services may cancel, suspend, or revoke the permit of any person, or may deny to any person a permit if:

1. The permit holder fails to engage daily in the business for which the permit is issued;
2. The permit holder does not daily produce, provide, manufacture, sell, offer for sale, or store in the Commonwealth of Virginia milk for manufacturing purposes or dairy product;

### **Virginia Regulations**

#### TITLE 2 AGRICULTURE

#### VAC AGENCY NO. 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CHAPTER 531. REGULATIONS GOVERNING MILK FOR MANUFACTURING PURPOSES.

##### 2 VAC 5-531-60. Labeling.

No person may produce, provide, manufacture, sell, offer for sale, or store in the Commonwealth of Virginia, or bring, send into, or receive into the Commonwealth of Virginia any milk or dairy product that is not labeled in compliance with the following:

11. No person may label or advertise any cheese made from unpasteurized milk as "fresh";

### Virginia Regulations

#### TITLE 2 AGRICULTURE

#### VAC AGENCY NO. 5 DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES CHAPTER 531. REGULATIONS GOVERNING MILK FOR MANUFACTURING PURPOSES.

##### 2 VAC 5-531-110. Dairy products which may be sold.

From and after [ January 26, 2005,] no person may produce, provide, manufacture, sell, offer for sale, expose for sale, or store in the Commonwealth of Virginia, or bring, send, or receive into the Commonwealth of Virginia any manufactured dairy product in final package form for direct human consumption unless (i) the product has been pasteurized in accordance with the requirements of this chapter; (ii) the product is made from dairy ingredients (milk, milk products, or dairy products) that have all been pasteurized in accordance with the requirements of this chapter; or (iii) in the case of cheese, the cheese complies with a standard of identity under 21 CFR Part 133 that allows for the cheese to be aged above 35°F for a minimum of 60 days or the minimum number of days specified under the standard of identity for that variety of cheese.

### **CHAPTER 882 OF THE 2005 SESSION**



An Act to amend the Code of Virginia by adding a section numbered 3.1-14.3, relating to a person consuming products grown and processed on his farm.

[H 2295]

Approved March 28, 2005

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 3.1-14.3 as follows:

§ 3.1-14.3. Right to consume farm products.

No regulation shall prohibit or restrict a person, his immediate family, or his guests from consuming products or commodities grown or processed on his property provided that the products or commodities are not offered for sale to the public.

## **WASHINGTON**

### **Summary:**

Raw milk sales are legal on the farm and through home delivery. They are legal in retail stores as well if local health ordinances do not prohibit.

Producers must obtain a permit from the State Department of Agriculture. This requirement applies to any farmer operating a cowshare program. Farmers must bottle the milk on the premises and each bottle must contain a warning label stating "WARNING: This product has not been pasteurized and may contain harmful bacteria. Pregnant women, children, the elderly, and persons with lowered resistance to disease have the highest risk of harm from use of this product. "Retail stores must display warning signs near the location of raw milk and raw milk products in the store.

The Department of Agriculture currently limits the raw dairy products licensees can sell to milk and cream. Producers can sell raw milk for animal consumption if they put coloring in the milk. There is currently one retail raw milk licensee in the state.

### **Revised Code of Washington**

TITLE 15 AGRICULTURE AND MARKETING  
CHAPTER 15.36 MILK AND MILK PRODUCTS

RCW 15.36.012 Definitions.

"Grade A raw milk" means raw milk produced upon dairy farms conforming with all of the items of sanitation contained in the PMO, in which the bacterial plate count does not exceed twenty thousand per milliliter and the coliform count does not exceed ten per milliliter as determined in accordance with RCW 15.36.201.

"Milk processing plant" means a place, premises, or establishment where milk or milk products are collected, handled, processed, stored, bottled, pasteurized, aseptically processed, bottled, or prepared for distribution, except an establishment that merely receives the processed milk products and serves them or sells them at retail.



"Producer" means a person or organization who operates a dairy farm and provides, sells, or offers milk for sale to a milk processing plant, receiving station, or transfer station.

TITLE 15 AGRICULTURE AND MARKETING  
CHAPTER 15.36 MILK AND MILK PRODUCTS  
RCW 15.36.041 Milk producer's license.

Every milk producer must obtain a milk producer's license to operate as a milk producer as defined in this chapter. A milk producer's license is not transferable with respect to persons or locations or both. The license, issued by the director upon approval of an application for the license and compliance with the provisions of this chapter, shall contain the license number, name, residence, and place of business, if any, of the licensee.

TITLE 15 AGRICULTURE AND MARKETING  
CHAPTER 15.36 MILK AND MILK PRODUCTS  
RCW 15.36.051 Milk processing plant license.

A milk processing plant must obtain an annual milk processing plant license from the department, which shall expire on June 30 of each year.

TITLE 16 AGRICULTURE, DEPARTMENT OF  
CHAPTER 16-101 MILK AND MILK PRODUCTS

(5) What warning label must be on raw milk containers? The raw milk container must bear the following labeling: *WARNING*: This product has not been pasteurized and may contain harmful bacteria. Pregnant women, children, the elderly and persons with lowered resistance to disease have the highest risk of harm from use of this product.

(6) What are the specific requirements for warning labels on raw milk? The raw milk warning labels must meet the following requirements:

- (a) The warning label type size must be consistent with the type size of other required labeling, but not less than one-sixteenth inch in height.
- (b) The warning label must be conspicuous and in contrasting color from other labeling.
- (c) The warning label must be prominently displayed on the container's principal display panel.
- (d) The warning label must be clearly readable.

TITLE 15 AGRICULTURE AND MARKETING  
CHAPTER 15.36 MILK AND MILK PRODUCTS  
RCW 15.36.231 Raw milk or milk products — Bottling and capping — Packaging — Labeling.

(1) Milk and milk products for consumption in the raw state shall be bottled or packaged on the farm where produced. Bottling and capping shall be done in a sanitary manner by means of approved equipment and these operations shall be integral in one machine. Caps or cap stock shall be purchased in sanitary containers and kept therein in a clean dry place until used.

(2) All containers enclosing raw milk or any raw milk product shall be plainly labeled or marked with the word "raw" and the name of the producer or packager. The label or mark shall be in letters of a size, kind, and color approved by the director and shall contain no marks or words which are misleading.

**Washington Administrative Code**

TITLE 246 HEALTH, DEPARTMENT OF  
CHAPTER 246-215 FOOD SERVICE  
WAC 246-215-020 Food supplies.

(a) Grade "A" raw milk as defined under RCW 15. 36. 140 may be sold in the original container for off-premises consumption in retail food stores only

TITLE 246 HEALTH, DEPARTMENT OF  
CHAPTER 246-215 FOOD SERVICE

(6) Whenever raw milk or raw milk cheese or similar raw milk products are offered for sale in a food service establishment, the health officer shall:

(a) Require conspicuous labeling of raw milk or products containing raw milk as "raw milk" or "contains raw milk";

(b) Require conspicuous posting of signs near the product that state: "Warning: Raw milk or foods prepared from raw milk, such as unripened or fresh cheese, may be contaminated with dangerous bacteria capable of causing severe intestinal illnesses. Contact your local health department for advice or to report a suspected illness"

**Revised Code of Washington**

TITLE 15 AGRICULTURE AND MARKETING  
CHAPTER 15.37 MILK AND MILK PRODUCTS FOR ANIMAL FOOD  
RCW 15.37.100 Coloring of milk in containers, when required.

It shall be unlawful for any person to sell, offer for sale, hold for sale, advertise for sale, trade, barter, or to give as an inducement for the sale of another product, any milk, cream, or skim milk, for animal food consumption which does not meet, or has not been produced under conditions prescribed for Grade A milk, as prescribed in chapter 15. 36 RCW as enacted or hereafter amended and rules adopted thereunder, and the applicable provisions of chapter 69. 04 RCW (the Food, Drug and Cosmetic Act) as enacted and hereafter amended and rules adopted thereunder, in containers provided either by the vendor or vendee and which are capable of holding less than twenty liquid quarts, unless such milk, cream, or skim milk has been decharacterized with a color prescribed by the director which will not affect its nutritive value for animal food.

**WEST VIRGINIA**

**Summary:**

Raw milk sales are illegal. In addition, state law prohibits the sale of cow shares.

**West Virginia Code of State Rules**

TITLE 64 LEGISLATIVE RULE DEPARTMENT OF HEALTH  
SERIES 34 GRADE "A" PASTEURIZED MILK



### § 64-34-3. Definitions.

Milk and milk products defined in the state agriculture laws (Article 11, Chapter 19, Sections 1 and 2) and/or regulations adopted by the West Virginia department of agriculture shall apply in the interpretation and the enforcement of this regulation. The following definitions shall, also, apply in like manner: In absence of a definition established by the state agriculture department and/or the state board of health, definitions for all such products regulated by this regulation shall be identical to that contained in the 1978 edition of the U. S. food and drug administration's recommended Grade A pasteurized milk ordinance and to the products defined in the Code of Federal Regulations, Title 21, Sections 131 and 133.

### 64-34-2. Incorporation By Reference of Federal Model Grade "A" Pasteurized Milk Ordinance.

2.1.i.1. The following is added to Section 9, Milk and Milk Products Which May Be Sold: "The practice of selling shares or other interests in dairy animals as a means of providing unpasteurized milk to the final consumer is prohibited

## **WISCONSIN**

### **Summary:**

Wisconsin law states that, "no person may sell or distribute any milk or fluid milk products which are not Grade A milk or Grade A milk products to consumers, or to any restaurant, institution or retailer for consumption or resale to consumers. Grade A milk and Grade A milk products shall be effectively pasteurized.... "The law does provide an exception to the ban on raw milk consumption for "incidental sales of milk directly to consumers at the dairy farm where the milk is produced. "The administrative regulation for the State Department of Agriculture, Trade, and Consumer Protection (DATCP) states that the "incidental sales" exemption "shall not apply to sales which are regularly made in the course of business or are preceded by any advertising, offer to or solicitation of members of the public, but shall include any sales to employees or persons shipping milk to the dairy plant"

State regulations define "person" as "an individual, partnership, firm, association, corporation."

In a 2002 court decision, an administrative law judge further expanded what would constitute sales to "persons" under the "incidental sales" exemption. The case before the judge concerned the legality of cowshare agreements. While ruling that cowshare agreements were illegal, the judge did find that DATCP's interpretation of the "incidental sales" exemption "clearly allows regular distribution of ungraded raw milk to the "persons" shipping the milk and their employees. The person shipping milk includes the underlying owners, if the entity holding the milk producer license is a partnership, association, corporation, firm or any other legal business entity."

In response to this decision, two farms obtained permission from the State Department of Financial Institution (DFI) to issue shares to their customers giving them part

ownership in the "entity holding the milk producer license," enabling the shareholders to purchase raw milk and raw milk products.

DATCP responded to the farm's distribution of shares with a request to the judge seeking a further clarification of her finding that the underlying owners of the milk producer license could purchase raw milk and raw milk products on a regular basis.

In 2004, the judge issued a final order, holding that agreements sharing ownership in the milk producer license would enable shareholders to take a share of the ungraded raw milk produced if the following conditions were met:

1. "Investments in entities holding milk producer licenses must be for the purpose of holding a milk producer license, using milking animals to produce milk for sale or distribution in the public, human food chain. Disclosure agreements for this investment must include this as the purpose for the investment."
2. "Investments in entities holding milk producer licenses may not be solely for the purpose of purchasing non-pasteurized milk or milk products."
3. "The more limited the ownership in the milk producer license, the more the specific investment amount must be tied to the benefit amount received by the limited shareholders."
4. "The shareholder may be required to share or assume the risk of losing their investment in the entity holding the milk producer license."
5. "Disclosure agreements for investments must include the risks of ownership in the entity holding the milk producer license, including the investment risks and the risks of taking any product as a benefit of ownership, as specified in the decision."
6. "Milk and milk product preparation, handling, storage and distribution amongst owners must be physically separate from any food preparation, handling, storage, distribution and sales to the public on the premises."

In her final order, the judge made clear that if a farm sold milk and milk products exclusively to its shareholders (owners) and not to a milk plant or any other distributor, DATCP would not regulate the production and usage of dairy products from that farm.

## **Wisconsin Statutes**

### **CHAPTER 97 FOOD REGULATION**

#### **97.24 Milk and Milk Products**

Requirements for milk and fluid milk products; Grade A requirement.

No person may sell or distribute any milk or fluid milk products which are not Grade A milk or Grade A milk products to consumers, or to any restaurant, institution or retailer for consumption or resale to consumers. Grade A milk and Grade A milk products shall be effectively pasteurized, and shall be produced, processed and distributed in compliance with standards established by the department by rule under this chapter.

This section does not prohibit:

1. Incidental sales of milk directly to consumers at the dairy farm where the milk is produced.
2. Rules. The requirements for bottling and sterilization of bottles in such standards shall not apply to milk sold by a producer, selling only milk produced by the producer on the producer's dairy farm under the producer's own supervision, and selling such milk only in the producer's own milk house, which milk meets the requirements of Grade A standards as set forth by the department of agriculture, trade and consumer protection, to a purchaser who has provided his or her own container, which has been sanitized in a manner comparable to the sanitizing of the utensils used in the production of milk by the producer, if the purchaser is purchasing milk for his or her own consumption.

CHAPTER 551 WISCONSIN UNIFORM SECURITIES LAW  
 SUBCHAPTER II REGISTRATION AND NOTICE FILING PROCEDURES;  
 SECURITIES

21.21 Registration requirement.

It is unlawful for any person to offer or sell any security in this state unless at least one of the following conditions is met:

The security or transaction is exempted under S 551.22 or 551.23.

CHAPTER 551 WISCONSIN UNIFORM SECURITIES LAW  
 SUBCHAPTER II REGISTRATION AND NOTICE FILING PROCEDURES;  
 SECURITIES

21.22 Exempt transactions.

The following transactions are exempt from registration under S 551.21.

Any other transaction as to which the division by rule or order finds that registration is not necessary or appropriate for the protection of investors.

Wisconsin Administrative Code  
 AGRICULTURE, TRADE & CONSUMER PROTECTION  
 Chapter ATCP 60 DAIRY FARMS  
 Subchapter I – Definitions  
 ATCP 60. 01Definitions

"Person" means an individual, partnership, firm, association, corporation or any other business unit or entity.

State of Wisconsin

Department of Agriculture, Trade & Consumer Protection

IN THE MATTER OF MILK PRODUCER LICENSE NUMBER 85297 OR CLEARVIEW  
 ACRES, LLC, HAYWARD, WISCONSIN AND MILK PRODUCER LICENSE NUMBER  
 14958 OF MIDVALLEYVU FARM, ARKANSAW WISCONSIN,

RESPONDENTS

DOCKET NOS. 01-C-62, 01-C-96 AND 02-C-07 DECISION

The Department orders that:

1. Investments in entities holding milk producer licenses must be for the purpose of holding a milk producer license, using milking animals to produce milk for sale or distribution in the public, human food chain. Disclosure agreements for this investment must include this as the purpose for the investment.
2. Investments in entities holding milk producer licenses may not be solely for the purpose of purchasing non-pasteurized milk or milk products.
3. The more limited the ownership in the milk producer license, the more the specific investment amount must be tied to the benefit amount received by the limited shareowner.
4. The shareowner may be required to share or assume the risk of losing their investment in the entity holding the milk producer license.
5. Disclosure agreements for investments must include the risks of ownership in the entity holding the milk producer license, including the investment risks and the risks of taking any product as a benefit of ownership, as specified in the decision.
6. Milk and milk product preparation, handling, storage and distribution amongst owners must be physically separate from any food preparation, handling, storage, distribution and sales to the public on the premises.

Ag. 80.17 Applicability; enforcement. (7) The exemption in s. 97.24(2)(c), Stats. , for "incidental sales" of ungraded milk and cream to consumers at farms and dairy plants shall not apply to sales which are regularly made in the course of business or are preceded by any advertising, offer to or solicitation of members of the public, but shall include any sales to employees or persons shipping milk to the dairy plant.

Ag. 80.15 Enforcement interpretation. (3) The exemption in section 97.046 (2)(c), Wis. Stats. , for "incidental sales" of ungraded milk and cream to consumers at farms and dairy plants shall not include any sales which are regularly made in the course of business or are preceded by any advertising thereof, or offer to or solicitation of members of the public, but shall include any sales to employees or persons shipping milk to the dairy plant.

(7) The Division's interpretation of s.97.24(2)(d)2., Wis. Stats., clearly allows regular distribution of ungraded raw milk to the "persons" shipping the milk and their employees. The person shipping milk includes the underlying owners, if the entity holding the milk producer license is a partnership, association, corporation, firm or any other legal business entity.

In order to hold a milk producer license, a person must have a relationship with, often referred to as being a patron of, a dairy plant, milk distributor, or milk contractor. If an owner of one or more milking animals produces milk for the owner's use only, that production and use is not regulated by the Department.

## **WYOMING**

### **Summary:**

Raw milk sales are illegal.

**Wyoming Regulations**  
DEPARTMENT OF AGRICULTURE  
WYOMING FOOD AND SAFETY  
CHAPTER 3 FOOD CARE

AGR-FS § 3-8. Fluid Milk and Milk Products.

(a) Fluid milk and milk products shall be obtained from sources that comply with Grade A standards as specified in the United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance, as amended.

(b) Fluid and dry milk and milk products complying with Grade A standards as specified in United States Public Health Service/FDA Grade A Pasteurized Milk Ordinance, as amended, shall be obtained pasteurized.

The above abstracts state regulations governing milk and raw milk. This report is the property of The National Conference of State Legislatures (NCSL) and is intended as a reference for state legislators and their states. NCSL makes no warranty, expressed or implied, or assumes any legal liability or responsibility for third party's use of this information, or represents that its use by such third party would not infringe on privately owned rights.

March 18, 2003

[Addressee]

Dear [Addressee]

This is in reply to your e-mail message of March 11, 2003, in which you requested a statement on the Food and Administration's (FDA) position on the public health concerns surrounding the sale/consumption of raw milk.

Please be advised that FDA and other federal and state health agencies have documented a long history of the risks to human health associated with the consumption of raw milk. Clinical and epidemiological studies from FDA, state health agencies, and others have established a direct causal link between gastrointestinal disease and the consumption of raw milk. The microbial flora of raw milk may include human pathogens present on the cow's udder and teats. Further, the intrinsic properties of milk, including its pH and nutrient content, make it an excellent media for the survival and growth of bacteria.

On August 10, 1987, FDA published in 21 CFR Part 1240.61, a final regulation mandating the pasteurization of all milk and milk products in final package form for direct human consumption. This regulation addresses milk shipped in interstate commerce and became effective September 9, 1987.

In this Federal Register notification for the final rule to 21 CFR Part 1240.61, FDA made a number of findings including the following:

"Raw milk, no matter how carefully produced, may be unsafe."

"It has not been shown to be feasible to perform routine bacteriological tests on the raw milk itself to determine the presence or absence of all pathogens and thereby ensure that it is free of infectious organisms."

"Opportunities for the introduction and persistence of *Salmonella* on dairy premises are numerous and varied, and technology does not exist to eliminate *Salmonella* infection from dairy herds or to preclude re-introduction of *Salmonella* organisms. Moreover recent studies show that cattle can carry and shed *S. dublin* organisms for many years and demonstrated that *S. dublin* cannot be routinely detected in cows that are mammary gland shedders."

During this rulemaking process, the American Academy of Pediatrics and numerous others submitted comments in support of the proposed regulation.

In deciding upon mandatory pasteurization, FDA determined that pasteurization was the only means to assure the destruction of pathogenic microorganisms that might be present. This decision was science-based involving epidemiological evidence. FDA and the Centers for Disease Control and Prevention (CDC) in Atlanta have documented illnesses associated with the consumption of raw milk, including "certified raw milk" and have stated that the risks of consuming raw milk far outweigh any benefits.

In light of research showing no meaningful difference in the nutritional value of pasteurized and unpasteurized milk, FDA and CDC have also concluded that the health risks associated with the consumption of raw milk far outweigh any benefits derived from its consumption.

There are numerous documented outbreaks of milkborne disease involving *Salmonella* and *Campylobacter* infections directly linked to the consumption of unpasteurized milk in the past 20 years. Since the early 1980's, cases of raw milk-associated campylobacteriosis have been reported in the states of Arizona, California, Colorado, Georgia, Kansas, Maine, Montana, New Mexico, Oregon, and Pennsylvania. An outbreak of Salmonellosis, involving 50 cases was confirmed in Ohio in 2002. Recent cases of *E. coli* O157:H7, *Listeria monocytogenes* and *Yersinia enterocolitica* infections have also been attributed to raw milk consumption.

In the court case *Public Citizen v. Heckler*, 653f. Supp. 1229 (D.D.C. 1986), the federal district court concluded that the record presents "overwhelming evidence of the risks associated with the consumption of raw milk, both certified and otherwise". The court stated that the evidence FDA has accumulated concerning raw milk "Conclusively shows that raw and certified raw milk are unsafe" and "There is no longer any question of fact as to whether raw milk is unsafe".

State health and agricultural agencies routinely use the U.S. Public Health Service/FDA Pasteurized Milk Ordinance (PMO) as the basis for the regulation of Grade "A" milk production and processing. The PMO has been sanctioned by the National Conference on Interstate Milk Shipments (NCIMS) and provides a national standard of uniform measures that is applied to Grade "A" dairy farms and milk processing facilities to assure safe milk and milk products. Section 9 of the PMO specifies that only Grade "A" pasteurized milk be sold to the consumer.

In summary, since raw milk may contain human pathogens, the consumption of raw milk products increases the risk of gastrointestinal illness due to the likelihood that it may contain infective doses of human pathogens. The only method proven to be reliable in reducing the level of human pathogens in milk and milk products is by those milk products being produced and processed under sanitary conditions and subsequently being properly pasteurized. The U.S. Food and Drug Administration; therefore, strongly advises against the consumption of raw milk.

References related to this subject may be found in the following documents:

- *American Journal of Public Health*, -- November 21, 1997
- *Journal of the American Medical Association* -- October 1984, May 1999, March 3, 1989
- *Journal of Public Health Policy, Inc.* -- September 1981
- *Morbidity and Mortality Weekly* -- June 28, 2002
- *Journal of Food Protection* -- Volume 61, Number 10, 1998
- *United States Department of Agriculture (USDA)* -- Fact Sheet -- July 1995

We trust this information responds to your request. If you would like additional information or have any questions, please feel free to call Mr. Robert Hennes, Chief, Milk Safety Team at (301) 436-2175. If we can be of any further assistance, please feel free to contact us.

Sincerely,

Joseph R. Baca, Director  
Office of Compliance  
Center for Food Safety and Applied Nutrition