

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL DRH10068-TQ-8

Short Title: Small Dairy Sustainability Act. (Public)

Sponsors: Representatives Presnell, Hardister, Ager, and Harrison (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE SMALL DAIRY SUSTAINABILITY BY ALLOWING THE
3 RETAIL SALE OF RAW MILK FOR HUMAN CONSUMPTION.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. Article 28C of Chapter 106 of the General Statutes reads as rewritten:

6 "Article 28C.

7 "Grade "A" Milk and Raw Milk Sanitation.

8 **"§ 106-266.30. Definitions.**

9 The following definitions shall apply throughout this Article:

- 10 (1) "Grade 'A' milk" means fluid milk and milk products which have been
11 produced, transported, handled, processed and distributed in accordance with
12 the provisions of the rules adopted by the Board of Agriculture.
13 (2) "Milk" means the lacteal secretion practically free from colostrum obtained
14 by the milking of one or more cows, goats, or other lactating animals.
15 (3) "Raw milk" means fluid milk that has not been pasteurized.
16 (4) "Small herd operation" means a dairy farm with a herd of no more than ten
17 lactating cows, ten lactating goats, or ten lactating sheep. The total size of the
18 small herd may not exceed ten animals of any species. The dairy farm herd
19 may include other cows, goats, or sheep that are dry or are producing milk for
20 purposes other than raw milk for human consumption.

21 ...

22 **"§ 106-266.31A. Standards for raw milk.**

23 Raw milk intended for human consumption, except for raw milk that is dispensed to the
24 independent or partial owner of a cow, goat, or other lactating animal for the owner's personal
25 use or consumption, shall be produced and processed to conform with all of the following
26 standards:

- 27 (1) The raw milk shall be cooled to 40 degrees Fahrenheit or less within two hours
28 after milking, provided that the blend temperature after the first and
29 subsequent milking does not exceed 45 degrees Fahrenheit.
30 (2) Raw milk, except cultured raw milk products, shall contain no more than
31 10,000 bacteria per milliliter.
32 (3) Raw milk shall contain no more than 10 coliform bacteria per milliliter.
33 (4) The somatic cell count of bovine raw milk shall not exceed 300,000 cells per
34 milliliter. Goat or sheep raw milk shall not exceed 750,000 cells per milliliter.
35 Milk from commingled species must meet the somatic cell count of the most
36 restrictive species.



1 (5) Raw milk obtained from sheep or goats shall be from animals that have tested
2 negative on an annual brucellosis test performed by an official laboratory
3 approved by the Department. Raw milk obtained from bovines shall be from
4 animals that have tested negative on the Brucellosis Ring Test performed by
5 an official laboratory approved by the Department.

6 (6) All raw milk shall be from animals that have been accredited as tuberculosis
7 free or have passed an annual tuberculosis test.

8 (7) All raw milk shall be produced and processed on the same premises.

9 (8) Raw milk shall be produced in compliance with the requirements for
10 sanitation, construction, inspection, and operation of the most recent
11 Pasteurized Milk Ordinance recommended by the U.S. Public Health
12 Service/Food and Drug Administration.

13 **"§ 106-266.32. Permits required.**

14 (a) No person shall produce, transport, process, or distribute Grade "A" milk or raw milk
15 for human consumption without first having obtained a valid Grade "A" milk, raw milk, or Small
16 Herd Raw Milk permit from the Department of Agriculture and Consumer Services. A raw milk
17 permit shall be issued to any producer of raw milk for human consumption who has a dairy herd
18 for production of raw milk that is larger than a small herd operation. A Small Herd Raw Milk
19 permit shall be issued to any producer of raw milk who owns a small herd operation. A permit is
20 not required for the dispensing of raw milk for personal use or consumption to an independent or
21 partial owner of a cow, goat, or other lactating animal.

22 (b) The Small Herd Raw Milk permit shall indicate the physical location of the small herd
23 operation and the mailing address of the owner or operator in charge of the herd's care and milk
24 quality. A Small Herd Raw Milk permittee shall be exempt from the sanitary, construction,
25 inspection, and operation requirements of G.S. 106-266.31A(a)(8).

26 ...

27 **"§ 106-266.33A. Testing of raw milk.**

28 Raw milk produced by a raw milk permittee or a Small Herd Raw Milk permittee shall be
29 tested at the request of the permittee. A Small Herd Raw Milk permittee shall provide raw milk
30 quality test results if requested by any person.

31 **"§ 106-266.34. Certain other authorities of Department of Agriculture and Consumer**
32 **Services not replaced.**

33 This Article shall not repeal or limit the Department of Agriculture and Consumer Services'
34 authority to carry out labeling requirements, required butterfat testing, aflatoxin testing, pesticide
35 testing, other testing performed by the Department of Agriculture and Consumer Services, and
36 any other function of the Department of Agriculture and Consumer Services concerning Grade
37 "A" milk and raw milk under any other Article under this Chapter that is not inconsistent with
38 this Article.

39 **"§ 106-266.35. Sale or dispensing of milk.**

40 (a) Except as provided in subsection (d) of this ~~section~~section,

41 (1) Only only milk that is Grade "A" pasteurized milk or raw milk produced
42 subject to a valid raw milk permit or Small Herd Raw Milk permit may be
43 sold or dispensed directly to consumers for human consumption.

44 (2) ~~Raw milk and raw milk products shall be sold or dispensed only to a permitted~~
45 ~~milk hauler or to a processing facility at which the processing of milk is~~
46 ~~permitted, graded, or regulated by a local, State, or federal agency.~~

47 (b) The Board of Agriculture may adopt rules to provide exceptions for dispensing raw
48 milk and raw milk products for nonhuman consumption. Any raw milk or raw milk product
49 dispensed as animal feed shall include on its label the statement "NOT FOR HUMAN
50 CONSUMPTION" in letters at least one-half inch in height. ~~Any raw milk or raw milk product~~
51 ~~dispensed as animal feed shall also include on its label the statement "IT IS NOT LEGAL TO~~

1 ~~SELL RAW MILK FOR HUMAN CONSUMPTION IN NORTH CAROLINA.~~ This labeling
2 requirement does not apply to raw milk or raw milk products dispensed for personal use or
3 consumption to the independent or partial owner of a cow, goat, or other lactating animal.

4 (c) As used in this section, the term "sale" or "sold" means any transaction that involves
5 the transfer or dispensing of milk and milk products or the right to acquire milk and milk products
6 through barter or contractual arrangement or in exchange for any other form of compensation.
7 The term "sale" or "sold" does not include the transfer or dispensing of raw milk or raw milk
8 products to, or the right to acquire raw milk or raw milk products by, the independent or partial
9 owner of a cow, goat, or other lactating animal.

10 (c1) Raw milk may not be sold at any location other than the premises on which the raw
11 milk is produced unless the product is labeled with all of the following:

- 12 (1) A date, no more than nine days after the raw milk is produced, by which the
13 raw milk should be sold.
- 14 (2) The statement "RAW (UNPASTEURIZED) MILK, NO MATTER HOW
15 CAREFULLY PRODUCED, MAY BE UNSAFE FOR HUMAN
16 CONSUMPTION" in letters at least one half-inch in height.
- 17 (3) Instructions to refrigerate at or below 40 degrees Fahrenheit to preserve
18 quality and avoid contamination or spoilage.
- 19 (4) A statement identifying the species from which the raw milk was obtained.
- 20 (5) The name and address or permit number of the Small Herd Raw Milk
21 permittee, if applicable.

22 (c2) Raw milk may not be sold or offered for sale through restaurants. A retail
23 establishment that sells raw milk shall place a sign above any display case that contains raw milk
24 that is prominent, easily readable by consumers, and reads in print no smaller than two inches in
25 bold type, "This milk is raw and unpasteurized. Please keep refrigerated." A retail establishment
26 that sells both Grade "A" milk and raw milk shall maintain separate, labeled, refrigerated display
27 cases for Grade "A" milk and raw milk.

28 (d) Nothing in this section shall prohibit the dispensing of raw milk or raw milk products
29 for personal use or consumption to, or the acquisition of raw milk or raw milk products for
30 personal use or consumption by, an independent or partial owner of a cow, goat, or other lactating
31 animal.

32 **"§ 106-266.36. Milk embargo.**

33 If the Commissioner of Agriculture or a local health director has probable cause to believe
34 that any milk designated as Grade "A" ~~milk~~ milk or raw milk is misbranded or does not satisfy
35 the milk sanitation rules adopted pursuant to ~~G.S. 106-266.31~~, G.S. 106-266.31 or the raw milk
36 standards provided in G.S. 106-266.31A, the Commissioner of Agriculture or a local health
37 director may detain or embargo the milk by affixing a tag to it and warning all persons not to
38 remove or dispose of the milk until permission for removal or disposal is given by the official by
39 whom the milk was detained or embargoed or by the court. It shall be unlawful for any person to
40 remove or dispose of the detained or embargoed milk without that permission.

41 The official by whom the milk was detained or embargoed shall petition a judge of the district
42 or superior court in whose jurisdiction the milk is detained or embargoed for an order for
43 condemnation of the article. If the court finds that the milk is misbranded or that it does not
44 satisfy the milk sanitation rules adopted pursuant to ~~G.S. 106-266.31~~, G.S. 106-266.31 or the raw
45 milk standards provided in G.S. 106-266.31A, either the milk shall be destroyed under the
46 supervision of the petitioner or the petitioner shall ensure that the milk will not be used for human
47 consumption as Grade "A" ~~milk~~ milk or raw milk. All court costs and fees, storage, expenses of
48 carrying out the court's order and other expense shall be taxed against the claimant of the milk.
49 If, the milk, by proper labelling or processing, can be properly branded and will satisfy the milk
50 sanitation rules adopted pursuant to ~~G.S. 106-266.31~~, G.S. 106-266.31 or the raw milk standards
51 provided in G.S. 106-266.31A, the court, after the payment of all costs, fees, and expenses and

1 after the claimant posts an adequate bond, may order that the milk be delivered to the claimant
2 for proper labelling and processing under the supervision of the petitioner. The bond shall be
3 returned to the claimant after the petitioner represents to the court either that the milk is no longer
4 ~~mislabeled~~ mislabeled or in violation of the milk sanitation rules adopted pursuant to
5 ~~G.S. 106-266.31, G.S. 106-266.31~~ or the raw milk standards provided in G.S. 106-266.31A, or
6 that the milk will not be used for human consumption, and that in either case the expenses of
7 supervision have been paid."

8 **SECTION 2.** This act is effective when it becomes law.