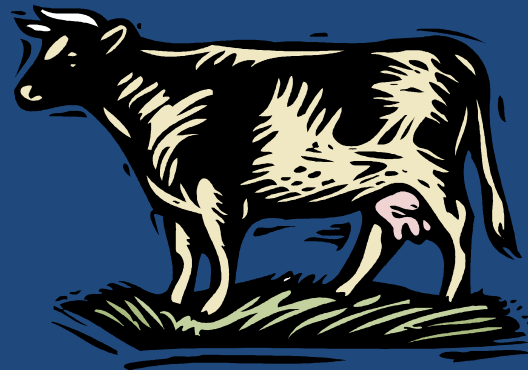


FEDERAL AND STATE REGULATION OF RAW MILK

How Now Brown Cow?



HISTORY OF MILK PASTEURIZATION

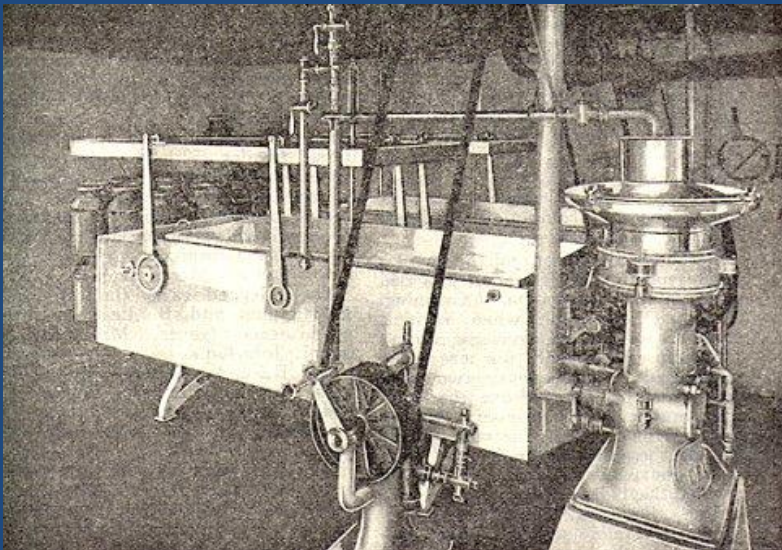
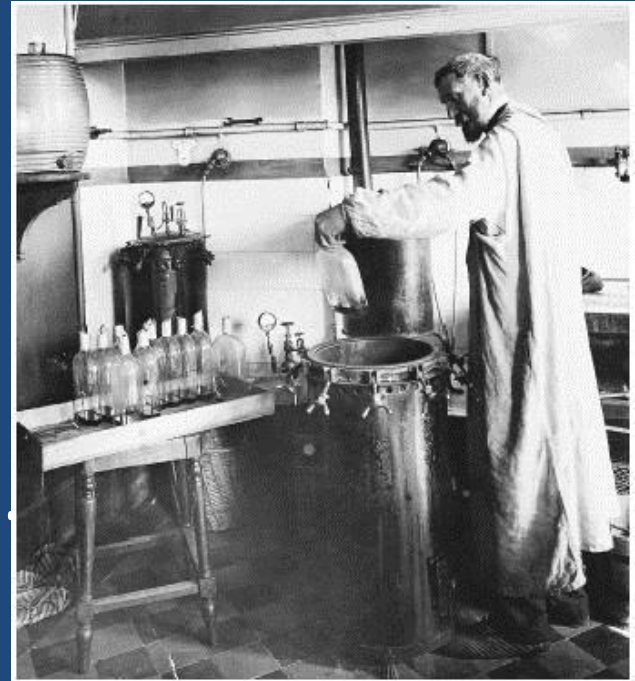


- EARLY MILK CONSUMPTION.
- LATER HALF OF 19TH CENTURY URBANIZATION/ INDUSTRIALIZATION.
- DISTILLERY DAIRIES – “SWILL MILK”.
- MILK BORNE DISEASE RAMPANT.



HISTORY OF MILK PASTEURIZATION

- PASTEURIZATION DISCOVERED BY LOUIS PASTEUR IN 1864.
- PASTEURIZATION IS A PROCESS THAT USES HEAT TO KILL BACTERIA IN FOODS.



- COMMERCIAL PASTEURIZATION MACHINES BECAME AVAILABLE IN 1895.

HISTORY OF PASTEURIZATION



- IN 1938 ESTIMATED THAT MILK BORNE OUTBREAKS CONSTITUTED 25% OF DISEASE OUTBREAKS DUE TO INFECTED FOOD AND WATER.
- 1% OF FOOD BORNE ILLNESS ATTRIBUTED TO MILK AND MILK PRODUCTS (INCLUDING RAW MILK) TODAY.

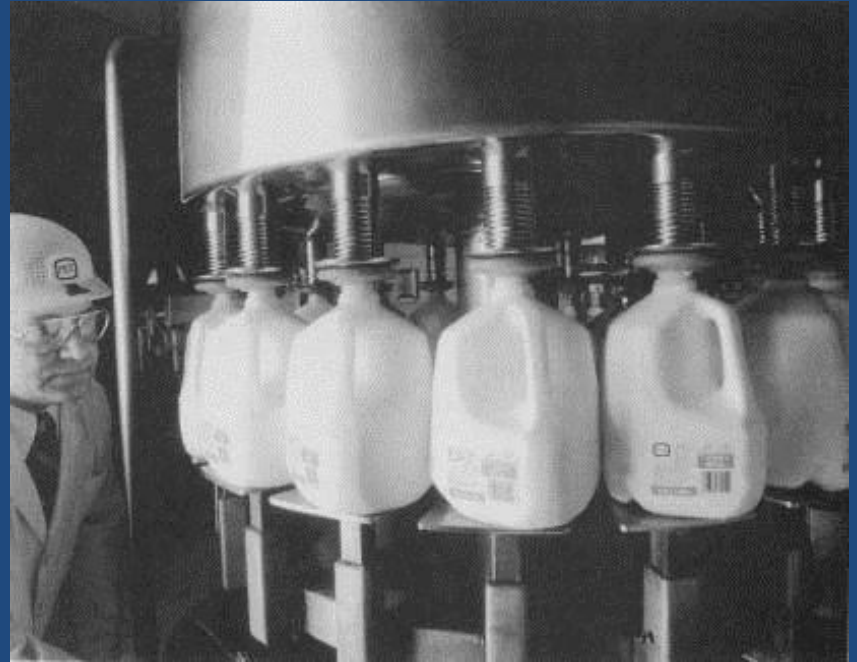
EARLY REGULATION



- 1908 - CITY OF CHICAGO PASSES ORDINANCE REQUIRING ALL MILK SOLD IN CITY TO BE PASTEURIZED.
- 1947 - MICHIGAN BECAME THE FIRST STATE TO REQUIRE PASTEURIZATION OF MILK.

FEDERAL REGULATION

- 1924 - US PUBLIC HEALTH SERVICE DEVELOPED THE STANDARD MILK ORDINANCE (SMO).



- SMO WAS VOLUNTARY. DESIGNED TO ASSIST STATES WITH EFFECTIVE PROGRAMS FOR THE PREVENTION OF MILK BORNE DISEASE.
- SMO PROVIDED GUIDANCE FOR PROPER MILK PRODUCTION AND HANDLING.

FEDERAL REGULATION



- SMO BECAME KNOWN AS THE PASTEURIZED MILK ORDINANCE (PMO) IN 1965.
- PMO IS THE BASIC STANDARD USED IN THE VOLUNTARY COOPERATIVE STATE/FDA PROGRAM FOR THE CERTIFICATION OF INTERSTATE MILK SHIPPERS.
- ALL 50 STATES PARTICIPATE.

FEDERAL REGULATION

- FDA AUTHORITY TO REGULATE THE SALE OF RAW MILK IS BASED ON THE PROVISIONS OF THE PUBLIC HEALTH SERVICE ACT, 42 USC 216, 243, 264, & 271, AND THE PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT, 21 USC 342 ET SEQ.



FEDERAL REGULATIONS

- 1973 - FDA PUBLISHED A FINAL RULE REQUIRING ALL MILK AND MILK PRODUCTS MOVING IN INTERSTATE COMMERCE TO BE PASTEURIZED.
- 1974 AN EXCEPTION WAS MADE FOR “CERTIFIED RAW MILK”.
- 1984 – A PUBLIC INTEREST GROUP SUED THE FDA TO FORCE ADOPTION OF REGULATIONS REQUIRING PASTEURIZATION OF MILK IN BOTH INTERSTATE AND INTRASTATE COMMERCE. *PUBLIC CITIZEN V. HECKLER*, 653 F. Supp. 1229 (D.D.C. 1986)

FEDERAL REGULATIONS



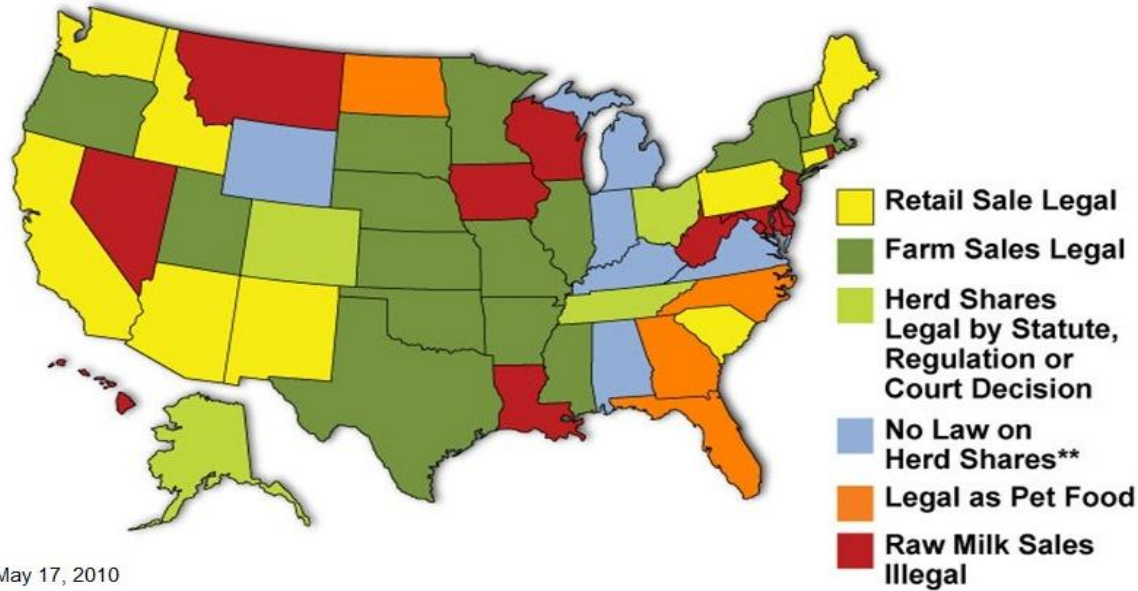
- COURT OPINION IN *HECKLER* ORDERED FDA TO ADOPT RULE BANNING THE INTERSTATE SALE OF RAW MILK AND RAW MILK PRODUCTS.
- FDA GIVEN 180 DAYS TO ADOPT THE RULE.
- INTRASTATE SALE OF RAW MILK WAS LEFT TO THE DISCRETION OF THE STATES.

FEDERAL REGULATIONS

- 1987 - THE FDA ADOPTED THE FINAL RULE IMPLEMENTING THE COURT ORDER IN *PUBLIC CITIZEN v. HECKLER*.
- 21 CFR 1240.61 PROVIDES “ NO PERSON SHALL CAUSE TO BE DELIVERED INTO INTERSTATE COMMERCE...ANY MILK OR MILK PRODUCT IN FINAL PACKAGE FORM FOR DIRECT HUMAN CONSUMPTION THAT HAS NOT BEEN PASTEURIZED...”

STATE REGULATIONS

State-by-State* Review of Raw Milk Laws



- ACCORDING TO THE 2011 ANNUAL SURVEY PUBLISHED BY THE NATIONAL ASSOCIATION OF STATE DEPARTMENTS OF AGRICULTURE 30 STATES ALLOW RAW MILK SALES AND 20 STATES PROHIBIT RAW MILK SALES.

STATE REGULATIONS



- THE STATES PROHIBITING THE SALE OF RAW MILK INCLUDE:
- AL AK DE FL GA HI IN IA LA MD MI MT NJ NC ND
OH TN VA WV WY

STATE REGULATIONS

- 7 OF THE 20 STATES PROHIBITING RAW MILK SALES ALLOW COW SHARE AGREEMENTS.
- ALABAMA, INDIANA, MICHIGAN, OHIO*, TENNESSEE*, VIRGINIA, & WYOMING.



STATE REGULATIONS



- 13 STATES RESTRICT SALE OF RAW MILK TO “ON FARM” SALES ONLY.
- AR IL KS KY MA MN MS NE
NY OK RI TX WI

STATE REGULATIONS

- 5 STATES HAVE UNIQUE /COMPOUND LAWS.
- COLORADO BY STATUTE ONLY ALLOWS FOR COW SHARE OPERATIONS.
- OREGON ALLOWS ON FARM SALES OF COW'S MILK ONLY FROM NO MORE THAN 2 PRODUCING COWS. GOAT MILK MAY BE RETAILED – BUT NO MORE THAN 9 MILKING GOATS OR SHEEP.

STATE REGULATIONS



- VERMONT ALLOWS ON FARM SALES AND RETAIL SALES IF STANDARDS ARE MET. FARMERS MARKET SALES PROHIBITED.
- SOUTH DAKOTA AND MISSOURI ALLOW RAW MILK SALES AT FARMERS MARKETS.

STATE REGULATIONS



- 12 STATES ALLOW THE SALE OF RAW MILK AT RETAIL.
- AZ CA CT ID ME NH NM NV PA SC UT WA



NORTH CAROLINA LEGISLATIVE HISTORY



- MILK SANITATION LAW ORIGINALLY PROVIDED

**“SALE OF MILK. – ONLY MILK WHICH IS GRADE
“A” PASTEURIZED MILK MAY BE SOLD DIRECTLY
TO CONSUMERS FOR HUMAN CONSUMPTION.”**

Former G.S. 130A-279.



NORTH CAROLINA LEGISLATIVE HISTORY



- 2004 – THE GENERAL ASSEMBLY PASSED LEGISLATION PROHIBITING THE SALE OR DISPENSING OF RAW MILK AND RAW MILK PRODUCTS. THE TERM “SALE” WAS DEFINED TO INCLUDE THE TRANSFER OR DISPENSING OF RAW MILK OR THE RIGHT TO ACQUIRE RAW MILK THROUGH BARTER OR CONTRACTUAL AGREEMENTS INCLUDING COW OR HERD SHARE AGREEMENTS. S.L. 2004-193



NORTH CAROLINA LEGISLATIVE HISTORY

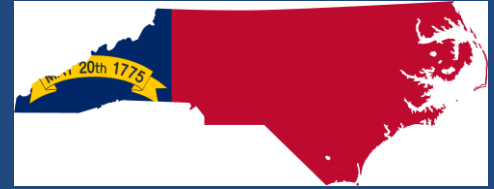


- 2008 – GENERAL ASSEMBLY ENACTED A LEGISLATION TO DISAPPROVE A RULE ADOPTED BY THE BOARD OF AGRICULTURE THAT WOULD HAVE REQUIRED CHARCOAL DYE TO BE ADDED TO RAW MILK SOLD OR DISPENSED AS ANIMAL FEED. S.L. 2008-88.
- COMPROMISE REQUIRED LABELING OF RAW MILK SOLD AS ANIMAL FEED.



NORTH CAROLINA

CURRENT LAW



- NORTH CAROLINA PROHIBITS THE SALE OF RAW MILK FOR HUMAN CONSUMPTION. G.S. 106-266.35.
- NORTH CAROLINA PROHIBITS THE USE OF COW/HERD SHARE AGREEMENTS AS A MEANS OF ACQUIRING RAW MILK OR RAW MILK PRODUCTS.



NORTH CAROLINA



- NORTH CAROLINA ALLOWS THE SALE OF RAW MILK AS ANIMAL FEED. RAW MILK SOLD AS ANIMAL FEED MUST BE LABELED.

NOT FOR HUMAN CONSUMPTION

IT IS NOT LEGAL TO SELL RAW
MILK FOR HUMAN CONSUMPTION
IN NORTH CAROLINA

SUMMARY

- FEDERAL LAW PROHIBITS THE INTERSTATE SALE OF RAW MILK AND RAW MILK PRODUCTS BUT DOES NOT PROHIBIT THE CONSUMPTION OF RAW MILK.
- STATE LAWS VARY WITH 30 STATES ALLOWING THE SALE OF RAW MILK AND 20 PROHIBITING SUCH SALES.

SUMMARY

- NORTH CAROLINA PROHIBITS THE SALE OR DISPENSING OF RAW MILK FOR HUMAN CONSUMPTION.
- NORTH CAROLINA PROHIBITS THE USE OF COW OR HERD SHARE AGREEMENTS AND TREATS SUCH AS A SALE OF RAW MILK.
- NORTH CAROLINA ALLOWS THE SALE OF RAW MILK AS LIVESTOCK FEED IF PROPERLY LABELED.



Barbara Riley Staff Attorney

Research Division
General Assembly of North Carolina
Barbara.riley@ncleg.net
919-733-2578