

SENATE BILL REPORT

SB 6377

As Reported By Senate Committee On:
Agriculture & Rural Economic Development, January 26, 2006

Title: An act relating to milk sales.

Brief Description: Regarding milk sales under cow share agreements.

Sponsors: Senators Doumit, Rasmussen, Schoesler, Swecker, Morton, Zarelli, Shin and Pflug.

Brief History:

Committee Activity: Agriculture & Rural Economic Development: 1/19/06, 1/26/06 [DPS].

SENATE COMMITTEE ON AGRICULTURE & RURAL ECONOMIC DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6377 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rasmussen, Chair; Shin, Vice Chair; Schoesler, Ranking Minority Member; Delvin, Jacobsen, Morton and Sheldon.

Staff: Bob Lee (786-7404)

Background: Raw milk has received increased attention as a result of recent media reports alleging that persons have become sick from consuming uninspected raw milk from an unlicensed dairy. An investigation of the incident has been conducted by local and state health agencies.

There are a number of specific laws and agency rules that specifically include regulation of raw milk. For example, the Department of Agriculture is authorized to adopt rules pertaining to non-pasturized raw milk; raw milk is to be cooled to 40 degrees within two hours of milking, and the sampling frequency and health standards for raw milk are established.

The administrative code requires raw milk containers to contain a warning label that states: "*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 the use of this product.*"

Currently, several small dairies that provide raw milk to others through cow-share agreements are licensed and inspected on a regular basis. However, due to this incident, a review has been initiated relating to uninspected milk provided by unlicensed operators to consumers who receive raw milk through cow-share agreements.

Summary of Substitute Bill: The state milk quality laws apply to raw milk and arrangements known as "cow shares." It is not the intent to prohibit either the sale of raw milk or cow share arrangements.

Authority is provided to the Department of Agriculture to have access to a dairy farm that is not licensed if the director has information that the dairy farm is engaged in an activity that requires a license. If denied access to the dairy farm, the Department of Agriculture may apply to the court for a search warrant.

Included in the list of unlawful acts is operating as a milk producer or a milk processing plant without obtaining a license from the Department of Agriculture. Authority is provided for the Department of Agriculture to issue a cease and desist order if there is reason to believe that a person is operating without a license as required by this chapter. The person to whom the order is issued may request an adjudicative proceeding.

Authority is provided to embargo products and to order that embargoed products be destroyed. The department would not be liable for damages if the court finds that there was probable cause for embargoing the products.

Persons convicted violating the licensing requirements are guilty of a gross misdemeanor for the first offense and a class C felony for the second offense. This is in addition to civil fines that may be assessed for violations.

Substitute Bill Compared to Original Bill: Authority is added for the department to place an embargo on milk or milk products that are produced in violation of this chapter. The criminal penalty is modified so that the first conviction is punishable as a gross misdemeanor and any subsequent conviction punishable as a class C felony.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Six small raw milk dairies have worked with the Department of Agriculture and are now operating as licensed and inspected operations. Eighteen people became sick as a result of buying raw milk from an uninspected farm. Of these, five children were hospitalized, two of which were in intensive care. These were among the participants in a cow share arrangement with an uninspected and unlicensed dairy farm. Used equipment is available to reduce the cost of compliance. Incidents where people become sick from raw milk from an unlicensed facility also affects consumer perception of those operations that are licensed. Milk is pasturized to protect people from getting sick. If other incidents occur where consumers of raw milk get sick, it could lead to a ban on raw milk that is in effect in several states.

Testimony Against: The cost of complying with requirements of becoming a licensed grade A dairy is significant and beyond the means of many micro-dairy farms. More study is needed to find ways to reduce the expense of complying with licensing requirements. Some existing farms do not believe current law applies to cow share operations where a person buys a share of a cow and receives a share of the milk from that cow.

Who Testified: PRO: Senator Mark Doumit; Debbie Higgins, Raven Grade A Goat Dairy; Tim Lukens; Grade A dairy; Mark McAfee, OPPC/WAP; Lorrie Conway; Shaun Conway, Conway Family Farms; Mary Beth Lang and Claudia Coles, Department of Agriculture.

CON: Emmy McAllister, Lynn Parr, Melody Burone, Weston A. Price Foundation; Linda Kozak and Kelsey Kozak, Fort Bantam Creamery; Katrinna Hibbler, Giggling Goat Gardens; Chrys Ostrander, Wash. Assn. of Shareholder Dairy Owners; David Krauss, Byway Farms; Charlene Osman, citizen; Nia Wellman, raw milk consumer.