

SENATE BILL 1092

J1
HB 1015/09 – HGO

4lr3358

By: **Senator Jennings**

Introduced and read first time: February 28, 2014

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Health General – Milk Products – Direct-to-Consumer Sale of Raw Milk**

3 FOR the purpose of excluding certain sales of raw milk from certain State regulation
4 of milk products; creating an exception to the prohibition against the sale of raw
5 milk; authorizing the sale of raw milk directly to the consumer in accordance
6 with certain requirements; restricting the authorization to sell raw milk directly
7 to the consumer to certain persons; requiring a milk producer that sells raw
8 milk directly to the consumer to register with the Department of Health and
9 Mental Hygiene and the Department of Agriculture; prohibiting the sale of raw
10 milk unless a certain contract is executed; requiring certain disclosures in the
11 contract; prohibiting certain sales of raw milk unless certain labeling
12 requirements are satisfied; prohibiting the sale of abnormal raw milk; requiring
13 certain testing of certain animals; prohibiting certain animals from being a part
14 of a herd under certain circumstances; requiring certain raw milk samples to be
15 taken; requiring certain testing of raw milk samples; requiring the results of the
16 raw milk sample testing to be reported to certain departments; prohibiting the
17 sale of raw milk when certain tests exceed certain levels; requiring the
18 Department of Health and Mental Hygiene to adopt certain regulations for raw
19 milk sample testing; requiring a certain milk producer to record certain testing
20 information; requiring a raw milk producer to milk certain animals last or with
21 separate equipment; requiring a raw milk producer to discard certain raw milk;
22 establishing certain sanitary requirements for raw milk production; requiring a
23 raw milk producer to keep a dairy farm and its immediate surroundings in a
24 clean and sanitary condition; requiring milking to be done in a certain
25 environment; requiring the brushing of animals to occur before milking;
26 prohibiting wet-hand milking; requiring certain individuals to wear certain
27 clothes while milking animals; requiring a certain individual's hands to be
28 washed at certain times during the milking process; prohibiting certain
29 individuals from participating in certain raw milk production tasks; requiring
30 certain equipment to be cleaned and sanitized; requiring raw milk to be stored
31 in a certain manner; requiring raw milk to be stored at certain temperatures;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



requiring raw milk to be bottled on the farm where the raw milk is produced; requiring the raw milk producer to keep certain records for a certain period of time; defining certain terms; and generally relating to direct-to-consumer sales of raw milk.

BY repealing and reenacting, with amendments,
Article – Health – General
Section 21–403 and 21–434
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

BY adding to
Article – Health – General
Section 21–501 through 21–516 to be under the new subtitle “Subtitle 5.
Direct-to-Consumer Sale of Raw Milk”
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

21–403.

[This] **EXCEPT FOR SALES OF RAW MILK MADE UNDER SUBTITLE 5 OF THIS TITLE, THIS** subtitle applies only to milk products that are intended for sale for immediate or eventual human consumption.

21–434.

[Except] **SUBJECT TO SUBTITLE 5 OF THIS TITLE AND EXCEPT** for sale of raw milk by a holder of a milk producer permit to a holder of a milk processor permit or the sale of a farmstead cheese, a person may not sell raw milk for human consumption.

SUBTITLE 5. DIRECT-TO-CONSUMER SALE OF RAW MILK.

21–501.

(A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.**

(B) **“CONSUMER” MEANS AN INDIVIDUAL PURCHASING RAW MILK THAT WILL BE INGESTED BY THE INDIVIDUAL OR A MEMBER OF THE INDIVIDUAL’S HOUSEHOLD.**

1 (C) “MILK PRODUCER” HAS THE MEANING STATED IN § 21-401 OF THIS
2 TITLE.

3 (D) “RAW MILK” HAS THE MEANING STATED IN § 21-401 OF THIS TITLE.
4 21-502.

5 (A) THE SALE OF RAW MILK FROM A MILK PRODUCER DIRECTLY TO A
6 CONSUMER SHALL MEET THE REQUIREMENTS OF THIS SUBTITLE.

7 (B) ONLY A MILK PRODUCER ACTING IN ACCORDANCE WITH THE
8 REQUIREMENTS OF THIS SUBTITLE MAY SELL RAW MILK TO A CONSUMER.
9 21-503.

10 A MILK PRODUCER THAT SELLS RAW MILK DIRECTLY TO THE CONSUMER
11 SHALL REGISTER WITH THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE
12 AND THE DEPARTMENT OF AGRICULTURE.

13 21-504.

14 (A) IN THIS SECTION, “ABNORMAL RAW MILK” INCLUDES:

15 (1) RAW MILK PRODUCED BY AN ANIMAL WITH MASTITIS; AND

16 (2) RAW MILK CONTAMINATED WITH:

17 (I) BLOOD;

18 (II) SERUM;

19 (III) DIRT;

20 (IV) MANURE; OR

21 (V) COLIFORM, SALMONELLA, ESCHERICHIA COLI O157 OR
22 ANY OTHER BACTERIA THAT MAY BE HARMFUL TO HUMAN HEALTH.

23 (B) RAW MILK MAY NOT BE SOLD OR PURCHASED UNLESS THE MILK
24 PRODUCER AND CONSUMER EXECUTE A WRITTEN CONTRACT FOR THE SALE OF
25 RAW MILK.

1 **(C) A CONTRACT FOR THE SALE OF RAW MILK SHALL INDICATE**
2 **CLEARLY TO THE CONSUMER THAT:**

3 **(1) THE MILK BEING SOLD IS UNPASTEURIZED; AND**

4 **(2) ONCE THE RAW MILK PRODUCT IS IN THE POSSESSION OF THE**
5 **CONSUMER, THE PROPER HANDLING, TRANSPORTING, AND COOLING OF THE**
6 **MILK ARE THE RESPONSIBILITIES OF THE CONSUMER.**

7 **(D) RAW MILK MAY NOT BE SOLD TO A CONSUMER UNLESS IT IS SOLD IN**
8 **A CONTAINER MARKED WITH A PROMINENT WARNING STATEMENT THAT THE**
9 **MILK IS NOT PASTEURIZED.**

10 **(E) ABNORMAL RAW MILK MAY NOT BE SOLD TO A CONSUMER.**

11 **21-505.**

12 **(A) ALL ANIMALS IN THE HERD SHALL BE TESTED INITIALLY AND THEN**
13 **ONCE EVERY 3 YEARS FOR TUBERCULOSIS AND BRUCELLOSIS.**

14 **(B) ANY ANIMAL THAT TESTS POSITIVE FOR TUBERCULOSIS OR**
15 **BRUCELLOSIS SHALL BE REMOVED FROM THE HERD IMMEDIATELY.**

16 **(C) A NEW ANIMAL COMING FROM OFF-FARM SHALL TEST NEGATIVE**
17 **FOR TUBERCULOSIS AND BRUCELLOSIS BEFORE BEING ADDED TO THE HERD.**

18 **21-506.**

19 **(A) A MILK PRODUCER THAT SELLS RAW MILK DIRECTLY TO A**
20 **CONSUMER SHALL TAKE A MILK SAMPLE EVERY MONTH.**

21 **(B) MILK FROM ALL LACTATING ANIMALS OF A SINGLE SPECIES MAY BE**
22 **COMMINGLED INTO A SINGLE SAMPLE FOR MONTHLY TESTING.**

23 **(C) MILK SAMPLES TAKEN UNDER SUBSECTION (A) OF THIS SECTION**
24 **SHALL BE TESTED FOR:**

25 **(1) BACTERIA;**

26 **(2) COLIFORM;**

27 **(3) SALMONELLA;**

1 **(4) ESCHERICHIA COLI O157; AND**

2 **(5) ANY OTHER CONTAMINANTS DETERMINED BY THE**
3 **DEPARTMENT TO BE A DANGER TO HUMAN HEALTH IF INGESTED.**

4 **(D) THE RESULTS OF SAMPLE TESTING SHALL BE REPORTED TO THE**
5 **DEPARTMENT OF HEALTH AND MENTAL HYGIENE AND THE DEPARTMENT OF**
6 **AGRICULTURE.**

7 **(E) (1) IF A MILK SAMPLE TEST INDICATES THE ACCEPTABLE LIMITS**
8 **OF A CONTAMINANT LISTED IN SUBSECTION (C) OF THIS SECTION ARE**
9 **EXCEEDED, THE MILK PRODUCER SHALL CEASE DISTRIBUTION OF RAW MILK**
10 **UNTIL TESTING IS FREE OF THE CONTAMINANT.**

11 **(2) THE DEPARTMENT OF HEALTH AND MENTAL HYGIENE**
12 **SHALL ADOPT REGULATIONS:**

13 **(I) ESTABLISHING THE ACCEPTABLE LIMITS OF A**
14 **CONTAMINANT LISTED UNDER SUBSECTION (C) OF THIS SECTION; AND**

15 **(II) REQUIRING AN INCREASE IN THE FREQUENCY OF**
16 **SAMPLE COLLECTION AND TESTING WHEN THE ACCEPTABLE LIMITS OF A**
17 **CONTAMINANT LISTED UNDER SUBSECTION (C) OF THIS SECTION ARE**
18 **EXCEEDED.**

19 **(3) AN INCREASE IN TESTING FREQUENCY REQUIRED UNDER**
20 **PARAGRAPH (2) OF THIS SUBSECTION SHALL CONTINUE UNTIL AT LEAST THREE**
21 **CONSECUTIVE TESTS ARE WITHIN NORMAL LIMITS.**

22 **(F) A MILK PRODUCER SHALL KEEP A LEDGER DOCUMENTING:**

23 **(1) ALL TESTS PERFORMED;**

24 **(2) THE DATE OF EACH TEST; AND**

25 **(3) THE NAME OF THE PERSON PERFORMING EACH TEST.**

26 **21-507.**

27 **(A) A MILK PRODUCER THAT SELLS RAW MILK SHALL MILK THE**
28 **FOLLOWING LACTATING ANIMALS LAST OR WITH SEPARATE EQUIPMENT:**

1 (1) ANIMALS THAT SHOW EVIDENCE OF SECRETION OF
2 ABNORMAL MILK IN ONE OR MORE QUARTERS;

3 (2) ANIMALS THAT SHOW EVIDENCE OF SYSTEMIC ILLNESS; AND

4 (3) ANIMALS THAT HAVE CONSUMED AGENTS THAT MAY HAVE AN
5 ADVERSE EFFECT ON HUMAN HEALTH AND ARE CAPABLE OF BEING SECRETED
6 IN THE MILK.

7 (B) MILK PRODUCED BY AN ANIMAL DESCRIBED IN SUBSECTION (A)(1)
8 OR (2) OF THIS SECTION SHALL BE DISCARDED.

9 (C) MILK PRODUCED BY AN ANIMAL DESCRIBED IN SUBSECTION (A)(3)
10 OF THIS SECTION SHALL BE DISCARDED UNTIL THE ANIMAL PRODUCES MILK
11 SAFE FOR HUMAN CONSUMPTION.

12 **21-508.**

13 (A) (1) A MILK PRODUCER THAT SELLS RAW MILK SHALL KEEP THE
14 DAIRY FARM AND ITS IMMEDIATE SURROUNDINGS IN A CLEAN AND SANITARY
15 CONDITION TO PREVENT BREEDING OF FLIES AND RODENTS.

16 (2) MILKING SHALL BE PERFORMED IN AN ENVIRONMENT FREE
17 OF DIRT, MUD, OR ACCUMULATED MANURE.

18 (B) (1) THE FLANKS, UDDERS, AND TAILS OF ALL MILKING ANIMALS
19 SHALL BE FREE FROM VISIBLE DIRT AT THE TIME OF MILKING.

20 (2) ALL BRUSHING SHALL BE COMPLETED BEFORE MILKING
21 COMMENCES.

22 (C) THE TEATS OF A LACTATING ANIMAL SHALL BE:

23 (1) DISINFECTED BEFORE MILKING; AND

24 (2) FORE-STRIPPED.

25 **21-509.**

26 (A) AN INDIVIDUAL SHALL WEAR CLEAN OUTER GARMENTS WHILE:

27 (1) MILKING;

(2) HANDLING MILK; OR

(3) HANDLING MILK CONTAINERS, UTENSILS, OR EQUIPMENT.

(B) AN INDIVIDUAL'S HANDS SHALL BE WASHED CLEAN, RINSED, AND DRIED WITH A SINGLE SERVICE TOWEL IMMEDIATELY:

(1) BEFORE MILKING; AND

(2) BEFORE MILKING RESUMES AFTER ANY INTERRUPTION IN THE MILKING PROCESS.

21-510.

WET-HAND MILKING IS PROHIBITED.

21-511.

(A) AN INDIVIDUAL WITH AN INFECTED CUT OR LESION ON THE INDIVIDUAL'S HAND OR ARM MAY NOT:

(1) MILK ANIMALS; OR

(2) HANDLE MILKING UTENSILS OR EQUIPMENT.

(B) AN INDIVIDUAL WHO HAS A COMMUNICABLE DISEASE OR IS A CARRIER OF A COMMUNICABLE DISEASE MAY NOT WORK IN ANY CAPACITY IN THE PRODUCTION, HANDLING, STORAGE, TRANSPORTATION, OR TESTING OF RAW MILK.

21-512.

(A) IN THIS SECTION, "MILK-CONTACT SURFACE" MEANS THE SURFACES OF:

(1) MILKING MACHINES;

(2) BUCKETS;

(3) PIPELINES;

(4) RAW MILK STORAGE DEVICES; OR

(5) CONTAINERS FOR FINAL DISTRIBUTION OF RAW MILK.

(B) ALL MILK-CONTACT SURFACES SHALL BE CLEANED AND SANITIZED TO REMOVE ALL MILK RESIDUE, DIRT, AND MILK STONE.

(C) (1) ALL EQUIPMENT USED IN THE HANDLING, STORAGE, FILLING, OR CAPPING OF RAW MILK SHALL BE CLEANED AND SANITIZED IMMEDIATELY AFTER EACH USE.

(2) AFTER BEING CLEANED AND SANITIZED, ALL EQUIPMENT SHOULD BE HANDLED IN A MANNER THAT PREVENTS CONTAMINATION OF ANY SURFACE WITH WHICH RAW MILK COMES INTO CONTACT.

21-513.

(A) RAW MILK INTENDED FOR SALE TO A CONSUMER SHALL BE FILTERED INTO:

(1) A PROPER STORAGE DEVICE; OR

(2) A GLASS OR IMPERMEABLE CONTAINER MEANT FOR FINAL DISTRIBUTION.

(B) RAW MILK SHALL BE COOLED TO A TEMPERATURE OF AT LEAST 45 DEGREES FAHRENHEIT WITHIN 2 HOURS AFTER MILKING IS COMPLETED.

(C) THE TEMPERATURE OF RAW MILK SUBSEQUENTLY PLACED INTO A BULK STORAGE DEVICE FOR BLENDING MAY NOT EXCEED 50 DEGREES FAHRENHEIT.

(D) BOTTLED MILK READY FOR DISTRIBUTION SHALL BE KEPT AT A TEMPERATURE OF AT LEAST 45 DEGREES FAHRENHEIT.

21-514.

(A) RAW MILK SHALL BE BOTTLED ON THE FARM WHERE THE RAW MILK IS PRODUCED.

(B) RAW MILK BOTTLING SHALL BE CONDUCTED IN A SANITARY MANNER.

(C) BEFORE DELIVERY TO THE CONSUMER, RAW MILK CONTAINERS SHALL BE LABELED INDICATING THE DATE OF BOTTLING.

1 **21-515.**

2 **THE MILK PRODUCER SHALL KEEP THE FOLLOWING RECORDS FOR A**
3 **MINIMUM OF 3 MONTHS:**

4 **(1) ALL CONTRACTS REQUIRED UNDER § 21-504 OF THIS**
5 **SUBTITLE;**

6 **(2) RESULTS OF TESTING REQUIRED UNDER § 21-506 OF THIS**
7 **SUBTITLE;**

8 **(3) THE LEDGER REQUIRED UNDER § 21-506(F) OF THIS**
9 **SUBTITLE;**

10 **(4) ALL RAW MILK BILLS OF SALE; AND**

11 **(5) ANY OTHER INFORMATION THE DEPARTMENT REQUIRES.**

12 **21-516.**

13 **A PERSON MAY NOT VIOLATE ANY PROVISION OF THIS SUBTITLE OR ANY**
14 **REGULATION ADOPTED UNDER THIS SUBTITLE.**

15 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
16 **October 1, 2014.**