

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

775V0219

## SENATE BILL NO. 126

Introduced by: Senators Jensen, Begalka, Bradford, Curd, Ewing, Jones (Chuck), Jones (Tom), Lederman, Maher, Monroe, Otten (Ernie), Rampelberg, Sutton, Van Gerpen, and Welke and Representatives Sly, Campbell, Craig, Feickert, Haggar (Don), Haggar (Jenna), Heinemann (Leslie), Hickey, Hunhoff (Bernie), Kaiser, Killer, Kopp, Latterell, May, Nelson, Olson (Betty), Otten (Herman), Peterson, Qualm, Rasmussen, Russell, Schaefer, Schoenfish, Schrempp, Stalzer, Steele, Tulson, Tyler, and Werner

1 FOR AN ACT ENTITLED, An Act to regulate the sale of raw milk for human consumption.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. The requirements of chapters 39-6 and 40-32 do not apply to raw milk for human  
4 consumption, or related products such as cream, cheese, or yogurt, if:

5 (1) The raw milk or related product is packaged on the farm where it is produced;

6 (2) The milk is not destined for sale by a retailer as defined in subdivision 10-45-1(11)  
7 and is sold in its raw form by the producer directly to the consumer for the  
8 consumer's personal consumption; and

9 (3) The producer of the raw milk for sale directly to the consumer meets the  
10 requirements of sections 2 and 3 of this Act.

11 Raw milk for human consumption is any lactic secretion, practically free from colostrum,  
12 obtained by milking one or more healthy cows, goats, sheep, or other hoofed mammals and is



1 not pasteurized nor homogenized. Raw milk for human consumption is regulated pursuant to  
2 sections 1 to 4, inclusive, of this Act.

3 Section 2. Each producer of raw milk for human consumption for direct sale from the  
4 producer to the consumer shall meet the following requirements. Each month the producer shall  
5 test the milk to determine if the milk meets these standards:

- 6 (1) Somatic cell count for cow, sheep, and other hoofed mammals' milk may not exceed  
7 750,000, and for goat's milk not to exceed 1.5 million;
- 8 (2) Bacteria/standard plate count may not exceed 30,000 per milliliter;
- 9 (3) Coliform count may not exceed 50 per milliliter; and
- 10 (4) No drug or pesticide residue.

11 The tests shall be paid for by the producer and shall be completed at an accredited  
12 laboratory. The test results shall be available to a consumer upon request.

13 Each raw milk container shall be clearly labeled as containing raw milk, with its date of  
14 production, and identify the producer or farm on which the milk is produced.

15 Section 3. No more than once each year, the secretary of the Department of Agriculture may  
16 request the previous year's test results from the producer. If the secretary finds the producer has  
17 not met the testing requirements and standards in section 2 of this Act, the secretary shall work  
18 with the producer to identify the source of and solutions to any problems with the producer's  
19 production.

20 Section 4. Nothing in this Act regulates or prohibits the isolated or occasional sale, trade,  
21 or barter of raw milk by a person who is selling, trading, or bartering less than an average of five  
22 hundred gallons of raw milk per month.

23 Section 5. That § 39-6-3 be repealed.

24 ~~39-6-3. The provisions of § 39-6-2 do not apply to milk or goat milk secured or purchased~~

1 for personal use by any consumer at the place or farm where the milk is produced or to any  
2 active farm producer of milk, selling and delivering the producer's own production direct to  
3 consumers only, if the place or farm where the milk is produced has a license or permit issued  
4 by the department pursuant to § 40-32-4 or 40-32-10.1. The containers in which any  
5 unpasteurized milk is sold shall be clearly labeled by the producer as "raw milk."

6 Section 6. That ARSD 12:81:01:01 be repealed.

7 —12:81:01:01. Definitions. Terms defined in SDCL 39-6-1 and SDCL 40-32-2 and in the  
8 Grade "A" Pasteurized Milk Ordinance have the same meanings when used in this article. In  
9 addition, terms used in this article mean:

10 —(1) "Accredited Laboratory," a laboratory using the approved methods found in the  
11 Association of Official Agricultural Chemist (AOAC) and United States Food & Drug  
12 Administration Bacteriological Analytical Manual (FDA-BAM) for pathogen testing in milk,  
13 and successfully participates in a food pathogen testing proficiency program;

14 —(2) "Adulterated milk and milk products," any milk or milk product which bears or contains  
15 any poisonous or deleterious substance in a quantity which may render it injurious to health;  
16 bears or contains any added poisonous or deleterious substances for which no safe tolerance has  
17 been established by state or federal regulation or in excess of any tolerance established; consists  
18 in whole or in part of any substance unfit for human consumption; has been produced,  
19 processed, prepared, packed, or held under unsanitary conditions; has a container composed in  
20 whole or in part of any poisonous or deleterious substance which may render the contents  
21 injurious to health; or has any substance added to it or mixed or packed with it to increase its  
22 bulk or weight, reduce its quality or strength, or make it appear better or of greater value than  
23 it is;

24 —(3) "Bottled raw milk for human consumption," milk that has not been pasteurized and is

1 packaged for human consumption. The term, milk, includes cow's, goat's, sheep's, and other  
2 hoofed mammal's milk;

3 —(4) "Misbranded milk and milk products," products whose containers bear or accompany any  
4 false or misleading written, printed, or graphic matter; products which do not conform to their  
5 definitions as contained in this article;

6 —(5) "Officially Designated Laboratory," a commercial laboratory authorized to do official  
7 work by the department, or an official laboratory which is under the direct supervision of the  
8 department, or a milk industry laboratory officially designated by the department for the  
9 examination of producer samples of raw milk and commingled milk tank truck samples of raw  
10 milk for somatic cell limits, drug residues, and bacterial limits;

11 —(6) "Official sample", milk or water sample collected by a sampler that is licensed by the  
12 department using the universal sampling system as defined in Appendix B of the PMO;

13 —(7) "Pesticide," a substance or mixture of substances intended for preventing, destroying,  
14 repelling, or mitigating any pest; a substance or mixture of substances intended for use as a plant  
15 regulator, defoliant, or desiccant; or a substance or mixture of substances intended to be used  
16 as a spray adjuvant;

17 —(8) "PMO," "Grade "A" Pasteurized Milk Ordinance," the Grade "A" Pasteurized Milk  
18 Ordinance (PMO) and Appendices, 2011, except sections 16 and 17, United States Public  
19 Health Service.

20 Section 7. That ARSD 12:81:02:01 to 12:81:04:05, inclusive, be repealed.