

117TH CONGRESS  
1ST SESSION

# H. R. 4835

To prohibit Federal interference with the interstate traffic of unpasteurized milk and milk products that are packaged for direct human consumption.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2021

Mr. MASSIE (for himself, Ms. PINGREE, Mr. DAVIDSON, Mr. GOSAR, Mrs. GREENE of Georgia, Mr. GRIFFITH, Mr. GROTHMAN, Mr. PERRY, Mr. ROY, and Mr. SMUCKER) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To prohibit Federal interference with the interstate traffic of unpasteurized milk and milk products that are packaged for direct human consumption.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Interstate Milk Free-  
5 dom Act of 2021”.

6 **SEC. 2. INTERSTATE TRAFFIC OF UNPASTEURIZED MILK**  
7 **AND MILK PRODUCTS.**

8 (a) IN GENERAL.—Notwithstanding the Federal  
9 Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.),

1 section 361 of the Public Health Service Act (42 U.S.C.  
2 264), and any regulations or other guidance thereunder,  
3 a Federal department, agency, or court may not take any  
4 action (including any administrative, civil, criminal, or  
5 other action) that would prohibit, interfere with, regulate,  
6 or otherwise restrict the interstate traffic of milk, or a  
7 milk product, that is unpasteurized and packaged for di-  
8 rect human consumption, if—

9           (1) such prohibition, interference, regulation, or  
10 restriction is based on a determination that, solely  
11 because such milk or milk product is unpasteurized,  
12 such milk or milk product is adulterated, mis-  
13 branded, or otherwise in violation of Federal law;

14           (2) the milk or milk product's State of origin  
15 allows (by law, regulation, or policy) unpasteurized  
16 milk or unpasteurized milk products to be distrib-  
17 uted for direct human consumption by any means,  
18 including any form of retail sale, direct farm to con-  
19 sumer distribution, or cowshare;

20           (3) the milk or milk product is produced, pack-  
21 aged, and moved in compliance with the laws of such  
22 State of origin, including any such laws relating to  
23 labeling, warning, and packaging requirements; and

24           (4) the milk or milk product is moved from the  
25 State of origin with the intent to transport the milk

1 or milk product to another State which allows the  
2 distribution of unpasteurized milk or unpasteurized  
3 milk products for direct human consumption, as de-  
4 scribed in paragraph (2), irrespective of whether the  
5 applicable laws of such other State are identical to  
6 the laws of the State of origin.

7 (b) NO PREEMPTION.—Nothing in this Act preempts  
8 any State law.

9 (c) DEFINITIONS.—In this Act, the following defini-  
10 tions apply:

11 (1) The term “cowshare” means an undivided  
12 interest in a milk-producing animal (such as a cow,  
13 goat, sheep, or water buffalo, or a herd of such ani-  
14 mals) created by a written contractual relationship  
15 between a consumer and a farmer—

16 (A) that includes a legal bill of sale to the  
17 consumer for an interest in the animal or dairy  
18 herd and a boarding contract under which the  
19 consumer boards the animal or dairy herd in  
20 which the consumer has an interest with the  
21 farmer for care and milking; and

22 (B) under which the consumer is entitled  
23 to receive a share of milk from the animal or  
24 dairy herd.

1           (2) The term “milk” means the lacteal secre-  
2           tion, practically free from colostrum, obtained by the  
3           milking of one or more healthy animals.

4           (3) The term “milk product”—

5                 (A) means a food product made from milk;  
6           and

7                 (B) includes low-fat milk, skim milk,  
8           cream, half and half, dry milk, nonfat milk, dry  
9           cream, condensed or concentrated milk prod-  
10          ucts, cultured or acidified milk or milk prod-  
11          ucts, kefir, eggnog, yogurt, butter, cheese,  
12          whey, condensed or dry whey or whey products,  
13          ice cream, ice milk, and other frozen dairy des-  
14          serts.

15          (4) The term “packaged for direct human con-  
16          sumption” with respect to milk or milk products—

17                 (A) means packaged for the final consumer  
18           and intended for human consumption; and

19                 (B) does not apply if the milk or milk  
20           products are packaged for additional proc-  
21           essing, including pasteurization, before being  
22           consumed by humans.

23          (5) The term “pasteurized” means the process  
24          of—

1           (A) heating milk or milk products to the  
2           applicable temperature specified in the tables  
3           contained in section 1240.61 of title 21, Code  
4           of Federal Regulations (as in effect on the date  
5           of enactment of this Act); and

6           (B) holding the milk or milk product con-  
7           tinuously at or above that temperature for at  
8           least the corresponding specified time in such  
9           tables.

10          (6) The term “unpasteurized” means not pas-  
11          teurized.

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