



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-3053/1
MDE:amn

2023 ASSEMBLY BILL 831

December 22, 2023 - Introduced by Representatives BEHNKE, RETTINGER, BODDEN, SCHMIDT, S. JOHNSON, BRANDTJEN, CALLAHAN, MACCO, MAXEY, GOEBEN, TITTL, WICHGERS, GUNDRUM, MICHALSKI, MURPHY and O'CONNOR, cosponsored by Senator STROEBEL. Referred to Committee on Agriculture.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT to amend** 97.22 (2) (a) and 97.27 (1) (b) 4.; and **to create** 97.17 (7), 97.176
2 (8), 97.177 (3m), 97.20 (2) (e) 6., 97.22 (11), 97.24 (2) (d) 5. and 97.26 of the
3 statutes; **relating to:** the sale of unpasteurized dairy products.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the sale of unpasteurized (commonly called raw) milk and other milk products and prohibits the sale to consumers of milk or fluid milk products that are not grade A milk or fluid milk products. Current law requires a dairy farmer to have a milk producer license from the Department of Agriculture, Trade and Consumer Protection (DATCP) and a grade A permit from DATCP to sell grade A milk and requires a buttermaker or cheesemaker to have a buttermaker or cheesemaker license from DATCP to engage as a buttermaker or cheesemaker. Also under current law, DATCP promulgates rules governing the operation of dairy farms and the testing and quality of milk.

This bill allows a milk producer to receive a license from DATCP to sell unpasteurized dairy products processed on farm premises to consumers through delivery, at retail stores, or directly from a dairy farm. Under the bill, a milk producer who has a license to sell unpasteurized dairy products is not required to obtain a milk producer license, a grade A permit, or a buttermaker or cheesemaker license if the milk producer does not send any milk to a dairy plant and sells no milk or milk products other than unpasteurized dairy products processed on farm premises.

To receive a license to sell unpasteurized dairy products, a milk producer must submit a series of samples for testing for a number of bacteria and coliform and

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standard plate counts, provide results from tests performed by a licensed veterinarian that show that the cows used to produce the unpasteurized dairy products do not have tuberculosis or brucellosis, and show proof of training on raw milk safety. Additionally, DATCP must conduct an on-site inspection of the milk producer's processing plant.

A milk producer licensed to sell unpasteurized dairy products must submit regular test results for coliforms and standard plate counts that show coliform levels below 10 and a standard plate count below 10,000. A milk producer who only produces unpasteurized dairy products must also submit testing for other solids, somatic cell count, milk urea nitrogen, and plate loop count.

Every three months, a milk producer must submit test results for various bacteria. Additionally, DATCP may, after giving 24 hours' notice, take a sample of unpasteurized milk from the processing plant of a milk producer licensed to sell unpasteurized dairy products and test for the bacteria. If there is a positive test result, the milk producer must initiate a recall and stop all production and sale of unpasteurized dairy products until the milk tests negative.

All cows used to produce unpasteurized dairy products must be tested yearly for tuberculosis and brucellosis. The tests must be administered by a licensed veterinarian.

Under the bill, unpasteurized dairy products, processing plants that produce unpasteurized dairy products, and milk producers that produce unpasteurized dairy products must meet certain standards regarding cleanliness, temperature, labeling, record keeping, and food safety planning.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 97.17 (7) of the statutes is created to read:

2 97.17 (7) This section does not apply to milk producers licensed under s. 97.26
3 who do not produce butter or cheese other than unpasteurized butter or cheese as
4 authorized under s. 97.26.

5 **SECTION 2.** 97.176 (8) of the statutes is created to read:

6 97.176 (8) This section does not apply to milk producers licensed under s. 97.26
7 who do not produce butter other than unpasteurized butter as authorized under s.
8 97.26.

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1 **SECTION 3.** 97.177 (3m) of the statutes is created to read:

2 97.177 **(3m)** This section does not apply to milk producers licensed under s.
3 97.26 who do not produce cheese other than unpasteurized cheese as authorized
4 under s. 97.26.

5 **SECTION 4.** 97.20 (2) (e) 6. of the statutes is created to read:

6 97.20 **(2)** (e) 6. A milk producer licensed under s. 97.26 who does not sell milk
7 or milk products other than unpasteurized dairy products as authorized under s.
8 97.26.

9 **SECTION 5.** 97.22 (2) (a) of the statutes is amended to read:

10 97.22 **(2)** (a) *License required.* ~~No~~ Except as provided in sub. (11), no person
11 may operate a dairy farm as a milk producer without a valid license issued by the
12 department for that dairy farm. A license expires on April 30 annually and is not
13 transferable between persons or dairy farms. Every milk producer shall comply with
14 standards applicable to the production of milk and fluid milk products under this
15 chapter and rules promulgated under this chapter.

16 **SECTION 6.** 97.22 (11) of the statutes is created to read:

17 97.22 **(11)** EXCEPTION. (a) A license is not required under sub. (2) for a milk
18 producer licensed under s. 97.26 who does not sell milk or milk products other than
19 unpasteurized dairy products as authorized under s. 97.26.

20 (b) The rules promulgated under sub. (8) and s. 97.24 (3) do not apply to a milk
21 producer described in par. (a) or to dairy products produced by a milk producer
22 described in par. (a).

23 **SECTION 7.** 97.24 (2) (d) 5. of the statutes is created to read:

24 97.24 **(2)** (d) 5. The sale of unpasteurized dairy products under s. 97.26.

25 **SECTION 8.** 97.26 of the statutes is created to read:

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1 **97.26 Unpasteurized milk and milk products. (1) DEFINITIONS.** In this
2 section:

3 (a) “Dairy farm” has the meaning given in s. 97.24 (1) (a).

4 (b) “Dairy product” has the meaning given in s. 97.20 (1) (b).

5 (c) “Industry standards” means standards that have been widely adopted in the
6 unpasteurized dairy industry for the production of unpasteurized dairy products for
7 human consumption.

8 (d) “Milk producer” has the meaning given in s. 97.24 (1) (f).

9 (e) “On-farm processing plant” means a dairy farm that, on farm premises,
10 processes milk produced on the farm into unpasteurized dairy products for sale to
11 consumers.

12 **(2) LICENSING REQUIREMENTS.** (a) A milk producer who obtains a license from
13 the department under this section may sell or distribute unpasteurized dairy
14 products through delivery, at retail stores, or directly from a dairy farm and may
15 advertise the sale or distribution of unpasteurized dairy products.

16 (b) Before receiving a license under this section, a milk producer shall do all of
17 the following:

18 1. Submit an unpasteurized dairy sample per week for 3 consecutive weeks to
19 the department for testing. Each sample shall test negative for salmonella,
20 campylobacter, escherichia coli 0157:H7, and listeria monocytogenes and be in
21 compliance with the coliform and standard plate count standards under sub. (3).

22 2. Provide to the department results from tests administered by a licensed
23 veterinarian that cows used to produce unpasteurized dairy products do not have
24 tuberculosis or brucellosis.

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1 3. Show proof of training on raw milk safety by a 3rd party qualified to provide
2 such training under industry standards or by a 3rd party in collaboration with the
3 department. The training may consist of a 5-hour online course.

4 (c) The department shall conduct an on-site inspection at the milk producer's
5 on-farm processing plant before issuing a license.

6 **(3) TESTING STANDARDS; COLIFORM AND STANDARD PLATE COUNT STANDARDS.** (a) 1.
7 A milk producer licensed under this section that does not perform daily on-farm
8 testing of its unpasteurized milk for coliform and standard plate count shall every
9 other week submit to the department results from testing of its unpasteurized milk
10 by a state certified laboratory for coliform and standard plate counts.

11 2. A milk producer licensed under this section that performs daily on-farm
12 testing of its unpasteurized milk for coliform and standard plate count shall every
13 month submit to the department test results of its unpasteurized milk gathered
14 on-farm for coliform and standard plate count. The test result shall include the date
15 the sample was taken and the temperature of the sample at the time of testing.

16 3. Test results gathered under subd. 1. or 2. shall show a coliform level below
17 10 bacteria per milliliter of milk and a standard plate count below 10,000 bacteria
18 per milliliter of milk.

19 (b) A milk producer licensed under this section that only produces milk and
20 milk products under this section and does not ship any milk or milk products to any
21 processing plant, as defined in s. 97.20 (1) (h), shall every other week submit to the
22 department test results of its unpasteurized milk for other solids, somatic cell count,
23 milk urea nitrogen, and plate loop count.

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1 (c) A milk producer licensed under this section shall every 3 months submit to
2 the department test results of its unpasteurized milk for campylobacter, salmonella,
3 escherichia coli 0157:H7, and listeria monocytogenes.

4 (d) The department may, after giving 24 hours' notice, take a sample of
5 unpasteurized milk from the on-farm processing plant of a milk producer licensed
6 under this section and test for campylobacter, salmonella, escherichia coli 0157:H7,
7 and listeria monocytogenes.

8 (e) If a test result under sub. (c) or (d) is positive, the milk producer shall do all
9 of the following:

10 1. Initiate a recall.

11 2. Stop all production and sale of unpasteurized dairy products until the milk
12 tests negative for campylobacter, salmonella, escherichia coli 0157:H7, and listeria
13 monocytogenes.

14 (f) All cows used to produce unpasteurized dairy products shall be tested yearly
15 for tuberculosis and brucellosis. Tests shall be administered by a licensed
16 veterinarian.

17 **(4) STORAGE AND LABELING REQUIREMENTS.** (a) All areas, facilities, and
18 equipment on a dairy farm or on-farm processing plant subject to the requirements
19 of this section shall be well maintained and clean.

20 (b) All unpasteurized milk shall be chilled to less than 40 degrees Fahrenheit
21 within one hour after the completion of milking and must maintain a temperature
22 of less than 40 degrees Fahrenheit until the milk is sold.

23 (c) All dairy products subject to the requirements of this section shall be affixed
24 with a label containing the following consumer advisory statement: "This product

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1 is not pasteurized and may contain bacteria harmful to those with weakened
2 immune systems.”

3 (d) For on-farm and online sales of unpasteurized milk, only a milk producer
4 or other authorized personnel may fill a container from a bulk tank.

5 **(5) RECORD KEEPING AND FOOD SAFETY PLANNING.** (a) A milk producer subject to
6 the requirements under this section shall do all of the following:

7 1. Maintain a record of all testing performed on products for at least one year
8 after the testing has been performed.

9 2. Maintain a record of consumer complaints for at least one year after the
10 complaint was made.

11 3. Maintain bulk tank records for 3 years. All bulk tanks shall have a chart
12 recorder to establish the record of milk chilling and cleaning processes for the
13 on-farm processing plant.

14 (b) A milk producer subject to the requirements under this section shall create
15 and maintain a written food safety plan that identifies the risks associated with
16 operating the on-farm processing plant and a plan for managing those risks. Upon
17 request, the milk producer shall submit a copy of the plan to the department.

18 **(6) RULE MAKING.** The department shall promulgate rules to carry out the
19 requirements of this section. The rules may include standards for the construction,
20 maintenance, and sanitation of on-farm processing plant buildings and equipment.
21 The rules shall be consistent with industry standards.

22 **SECTION 9.** 97.27 (1) (b) 4. of the statutes is amended to read:

23 97.27 (1) (b) 4. A warehouse located in a dairy plant licensed under s. 97.20,
24 an on-farm processing plant under s. 97.26, a food processing plant licensed under
25 s. 97.29, or a meat establishment licensed under s. 97.42, and used primarily for the

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SECTION 9

1 storage of food ingredients or food products manufactured or processed at the
2 licensed establishment.

3 (END)