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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO FOOD AND DRUGS - MILK SANITATION CODE

Introduced By: Representatives Filippi, Cortvriend, Place, Kazarian, Nardone, and Alzate

Date Introduced: February 10, 2021

Referred To: House Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 21-2-2, 21-2-3, 21-2-5, 21-2-7, 21-2-23, 21-2-29, 21-2-30, 21-2-31,
2 21-2-32 and 21-2-44 of the General Laws in Chapter 21-2 entitled "Milk Sanitation Code" are
3 hereby amended to read as follows:

4 **21-2-2. Declaration of policy.**

5 Milk is recognized to be one of the most perfect foods afforded by nature. It is unique in
6 that its consumption in adequate quantities is essential to the nutritional well-being of the
7 individual; but if its production and distribution are not properly safeguarded, it may be
8 instrumental in the transmission of diseases infectious to people. It is declared to be the policy of
9 the state that, for the protection of the health and welfare of the people of the state of Rhode Island,
10 the environmental conditions surrounding the production, handling, transportation, distribution,
11 and sale of milk and milk products shall be to protect the public health and to provide consumers
12 with products that are identified in such a way as to promote honesty and fair dealing in the best
13 interests of the consumers. Specifically, it is declared to be the policy of the state to provide:

14 (1) That the people of Rhode Island shall have a supply of milk adequate to their needs and
15 demands under all conditions.

16 (2) That milk provided for consumers within the state of Rhode Island shall be of good
17 quality; shall be safe for human consumption; shall contain no live bacteria capable of transmitting
18 disease to people; shall contain adequate nutritional components; and shall be free of adulteration.

19 (3) That milk sold or produced in Rhode Island shall come from healthy cows or goats.

1 (4) That milk sold or produced in Rhode Island shall be produced on farms having
2 standards and conditions of sanitation adequate to ensure production of milk that is safe and of
3 good quality.

4 (5) That milk sold or produced in Rhode Island shall be produced, processed, and handled
5 by personnel free from any communicable disease.

6 (6) That milk to be consumed in the state of Rhode Island shall, at all stages in its travel
7 from animal to ultimate consumer, be transported in equipment and/or packages that shall be
8 designed, filled, operated, maintained, and emptied to prevent the introduction and/or propagation
9 of bacteria, dirt, or any other foreign substances.

10 (7) That all milk sold in Rhode Island shall be handled and processed under conditions of
11 good sanitation and shall be finally packaged free from contamination, dirt, or any other foreign
12 substances and/or adulteration.

13 (8) ~~That all Raw milk may be sold within the state of Rhode Island, shall be, except as~~
14 ~~specifically authorized by this chapter, pasteurized~~

15 (9) Pasteurization of milk shall be by a recognized method of pasteurizing adequate to
16 destroy bacteria capable of transmitting disease to people. Provided, that a physician may authorize
17 an individual sale of goat milk directly from producer to consumer by written, signed prescription.

18 ~~(9)~~(10) That the branding or labeling of packages in which all milk sold in the state of
19 Rhode Island shall be delivered to the consumer shall state the grade of milk packaged; may state
20 any special attributes of the milk; and that all statements made on any packaging labels shall not be
21 false or misleading.

22 ~~(10)~~(11) That this state shall cooperate in the preparation and promulgation of any set of
23 standards, regulations, statutes, or other means of control of sanitation in the production,
24 transportation, handling, processing, and distribution of milk, or any one or more of them,
25 according to a uniform system of requirements to be adopted alike by all or a majority of the states
26 that contribute milk to the Rhode Island market.

27 **21-2-3. Definitions.**

28 (a) "Cream" means the liquid milk product high in fat from milk, which may have been
29 adjusted by adding to it: milk, concentrated milk, dry whole milk, skim milk, or nonfat dry milk.

30 (b) "Director" means the director of the department of health, unless otherwise specified.

31 (c) "Goat milk" is the lacteal secretion, practically free from colostrum, obtained by the
32 complete milking of healthy goats. The word "milk" is interpreted to include goat milk.

33 (d) "Grade A" means milk, cream, and products of milk and cream, that comply with the
34 applicable provisions of regulations established by the director.

1 (e) "Milk" means the lacteal secretion, practically free from colostrum, obtained by
2 complete milking of one or more healthy cows. Milk that is in final package form for beverage use
3 shall contain not less than eight and one-fourth percent (8.25%) milk solids not fat and not less than
4 three and one-fourth percent (3.25%) milk fat. Milk may have been adjusted by separating part of
5 the milk fat from it or by adding cream, concentrated milk, dry whole milk, skim milk, concentrated
6 skim milk, or nonfat dry milk to it. The milk may be homogenized.

7 (f) "Raw milk for pasteurization" means grade "A" milk for pasteurization and raw
8 products of milk that comply with the sanitary standards for their production, transportation,
9 receiving, handling, storage, processing, distribution, and sale as established by the director.

10 (g) "Raw milk cheese" means any cheese manufactured from raw milk that meets United
11 States food and drug administration (USFDA) standards for cheeses set forth in 21 C.F.R. 133 and
12 has not undergone the process of pasteurization and that contains, as appropriate for the cheese,
13 generally recognized as safe (GRAS) and suitable ingredients as defined in 21 C.F.R. 184.

14 [\(h\) "Raw milk" means milk that is neither pasteurized nor homogenized and comes directly](#)
15 [from a cow.](#)

16 **21-2-5. Analysis of raw milk by private milk laboratories.**

17 (a) Each milk plant engaged in processing milk shall, at least once in each calendar month,
18 either through its own agents or through its milk haulers, collect, preserve, and submit to a private
19 milk laboratory for analysis a sample or samples of the milk of each producer supplying milk to
20 the milk plant. The laboratory shall determine the bacterial counts of the sample, both as raw milk
21 and after pasteurization in the laboratory, the determination to be made by the standard plate count
22 method, as well as a determination for any harmful substances that the director may by regulation
23 require, and shall keep a record of these findings for a period of not less than one year following
24 the findings which shall be open to inspection by the director or any milk inspector. The laboratory
25 shall make a report to the milk plant submitting the sample with respect to each determination.

26 (b) The director may by regulation require any milk plant to submit samples of milk after
27 pasteurization in the plant to a private laboratory for analysis for the purpose of ascertaining
28 bacterial counts or the presence of harmful substances or organisms as the director may require,
29 and the laboratory shall make its reports on its analysis available to the director in the same manner
30 as with respect to samples of raw milk submitted by producers.

31 (c) Regulations promulgated by the director pursuant to this section requiring sampling by
32 a private milk laboratory shall not impose an unreasonable burden on milk plants. The director may
33 in his or her discretion engage private laboratories to perform any additional tests that he or she
34 may require in the event the expense of the tests constitutes an unreasonable burden on milk plants.

1 The director may by regulation require producers of [raw milk and](#) raw milk cheese to submit
2 samples of unpasteurized milk for said analysis.

3 **21-2-7. Permits.**

4 (a) It shall be unlawful for any milk producer whose dairy farm is located wholly or partly
5 in this state to sell or to offer to sell milk, [raw milk](#), or milk products or to have milk stored for sale
6 who does not possess at all times a Rhode Island producer's permit from the director.

7 (b) It shall be unlawful for any milk hauler to transport any milk or milk products to any
8 milk plant in the state of Rhode Island or to transport any milk, [raw milk](#) in this state destined for
9 sale in this state unless he or she shall at all times possess a Rhode Island milk hauler's permit from
10 the director.

11 (c) It shall be unlawful for any person to operate a milk plant in the state of Rhode Island
12 who does not possess a Rhode Island milk plant permit from the director with respect to each plant
13 located in Rhode Island.

14 (d) It shall be unlawful for any milk distributor to sell or offer to sell milk, [raw milk](#), or
15 milk products, including raw milk cheese, within the state of Rhode Island unless he or she shall at
16 all times possess a milk distributor's permit from the director.

17 (e) It shall be unlawful for any milk hauler to transport any milk, [raw milk](#), or milk products
18 from any point outside the state into the state of Rhode Island for sale or processing in this state or
19 for any milk plant located in Rhode Island to process any milk, [raw milk](#), or milk products which
20 come from any point outside the state of Rhode Island or for any milk distributor to sell any milk
21 or milk products within this state which come from any point outside this state, unless:

22 (1) Every producer who produces any part of the milk, [raw milk](#), or milk products shall
23 have been inspected and shall from time to time be inspected with the same minimum frequency,
24 to the same degree, and according to the same requirements as provided in this chapter or any
25 regulations promulgated under this chapter in the case of Rhode Island producers;

26 (2) Every vehicle in which the milk [or raw milk](#) is transported to the plant where processed
27 shall from time to time be inspected with the same minimum frequency, to the same degree, and
28 according to the same requirements as provided in this chapter or any regulations promulgated
29 pursuant to this chapter in the case of Rhode Island milk hauler permittees; and

30 (3) The operator of each milk plant located outside the state of Rhode Island where any
31 part of the milk is processed at all times possesses an out-of-state milk plant permit from the
32 director.

33 (f) It shall be unlawful for any person located in the state of Rhode Island to sell or offer
34 for sale to any milk hauler or milk plant, or for any milk plant to pasteurize any raw milk for

1 pasteurization, any part of which shall be used for grade A pasteurized milk or for any grade A
2 milk product, unless the person at all times is in possession of a Rhode Island grade A producer's
3 permit.

4 (g) The fees for the following permits referred to in this section shall be as set forth in §
5 23-1-54:

- 6 (1) In-state milk processors;
- 7 (2) Out-of-state milk processors; and
- 8 (3) Milk [and raw milk](#) distributors.

9 (h) Milk [and raw milk](#) producers and milk haulers shall be exempt from permit fees.

10 **21-2-23. Director empowered to make regulations.**

11 (a) The director of health is authorized to promulgate any regulations that are necessary to
12 carry into effect the provisions of this chapter, which shall include, but not be limited to, providing
13 for: (1) standards of identity, labeling requirements, maintaining standards for milk, [raw milk](#), and
14 milk products sold or offered for sale in final package forms; (2) standards for the production,
15 transportation, receiving, handling, storage, processing, distributions, and sale of [raw milk, and](#) raw
16 milk for pasteurization and products of raw milk, including all pertinent sanitary standards and
17 uniform minimum requirement for inspection of dairy farms, milk plants and receiving stations;
18 and may in like manner amend, modify or repeal those rules and regulations which shall be
19 consistent with the provisions of the Grade "A" Pasteurized Milk Ordinance 1978
20 recommendations of the U.S. Public Health Service/Food and Drug Administration, 1983
21 Revisions, which shall become upon the passage of this act the rules and regulations under this
22 chapter in accordance with § 21-2-2(10).

23 (b) The adoption and amendment of regulations in the future shall be in accordance with
24 chapter 35 of title 42; provided, that amendments to the Grade "A" Pasteurized Milk Ordinance
25 adopted by the interstate milk shippers conference shall become a part of the regulations under this
26 chapter. Provided, that a person adversely affected by any regulation may, within thirty (30) days,
27 file with the director, in writing, those objections to a regulation automatically adopted which stays
28 the effect of the regulation. If no substantial objections are received and no hearing is requested
29 within thirty (30) days after publication of a notice of the adoption of a regulation, it shall be
30 effective as of the date it was adopted by the interstate milk shippers conference. When automatic
31 adoption is stayed by a timely objection, the director, after notice, shall conduct a public hearing in
32 accordance with the provisions of chapter 35 of title 42. The director of health is authorized to
33 adopt any other regulations for milk, [raw milk](#), and other related products that he or she deems
34 necessary in accordance with authority granted under this chapter, chapters 27 and 31 of this title

1 and § 23-1-18(5).

2 (c) The director shall publish a notice of the adoption in a newspaper having general
3 circulation throughout the state.

4 **21-2-29. Standards to be maintained.**

5 All milk, [raw milk](#), and milk products as defined in this chapter which are to be shipped,
6 brought, carried, or transported into Rhode Island for sale, distribution, use, or processing in this
7 state, shall come from animals that are of a substantially equal or higher health status as applied to
8 brucellosis, tuberculosis, or other diseases as those animals located within Rhode Island from which
9 milk is produced for sale, distribution, use, or processing.

10 **21-2-30. Information to be furnished to director.**

11 Every person engaged in the business of producing, handling, transporting, processing,
12 packaging, selling, or distributing milk [and raw milk](#) in Rhode Island shall upon request furnish the
13 director, whenever requested by the director, the following information: (1) full name and place of
14 business; (2) number of quarts of milk handled weekly by him or her or it; and (3) the names and
15 addresses of all producers, milk haulers or milk plants supplying milk to him or her. Every milk
16 plant holding a Rhode Island milk plant permit shall report coincidentally with and by means of a
17 copy of any report which he or she makes, or is required to make, to the federal milk marketing
18 administrator whenever he or she shall have added or dropped a milk producer.

19 **21-2-31. Labeling of containers of milk and milk products.**

20 (a) All containers in or from which milk, [raw milk](#), or milk products are sold or offered for
21 sale shall bear a label in accordance with regulations adopted under this chapter.

22 (b) All labels or marks shall be displayed in the manner and include any matters as shall be
23 prescribed by the rules and regulations of the director; provided, nothing contained in this section
24 shall be construed to empower the director to disapprove of or to change any dealer from using the
25 common name of his or her firm, or of any registered trademark, brand, or trade name customarily
26 used by him or her in the identification of any or all of his or her products.

27 (c) Samples of all labels or marks to be used on containers of milk, [raw milk](#), or milk
28 products shall be submitted for approval as to color, size of lettering, and matter. No misleading
29 mark or words shall be placed on any container of milk, [raw milk](#), or milk products. The cap or
30 cover of all containers of milk, [raw milk](#), or milk products must cover the pouring lip to at least its
31 largest diameter.

32 **21-2-32. Labeling as to breed of cows.**

33 (a) The labels of milk [or raw milk](#) containers may carry in addition to one of the above
34 grade names, but set apart from those grade names, the name of the breed of cows producing the

1 milk [and raw milk](#) or the registered trade name or trademark for the breed; provided containers so
2 labeled contain only milk produced from the breed named.

3 (b) The label of milk [and raw milk](#) product containers may carry in addition to one of the
4 terms defined in § 21-2-31 which correctly describes the contents, but set apart from that term, the
5 name of the breed of cows producing the milk from which the milk product was derived, or the
6 registered trade name or trademark for the breed; provided that containers so labeled contain only
7 a milk product derived from milk produced from the breed named.

8 **21-2-44. State statutory provisions and rules paramount to local.**

9 Whenever there is any provision of this chapter or any other statute defining a particular
10 kind, type, or grade of milk, [raw milk](#), or milk product or setting forth requirements as to the
11 chemical or bacteriological components, standards, or requirements for that kind, type, or grade of
12 milk, [raw milk](#), or milk product, or specifying standards or methods for the processing, treatment,
13 or packaging or labeling of the milk, [raw milk](#), or milk product, or when the director shall have
14 lawfully established a definition or requirements by regulation, the provisions of that chapter,
15 statute, or regulation shall supersede any definition or requirements for it which may be contained
16 in any city or town ordinance or in the regulations of any city or town office or department, whether
17 made under a statute or an ordinance.

18 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO FOOD AND DRUGS - MILK SANITATION CODE

- 1 This act would permit and legalize the sale of raw milk.
- 2 This act would take effect upon passage.

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