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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO FOOD AND DRUGS -- MILK SANITATION CODE -- SANITATION IN
FOOD ESTABLISHMENTS

Introduced By: Representative David J. Place

Date Introduced: February 02, 2024

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.

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

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

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

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

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

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

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

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

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

29 **21-2-3. Definitions.**

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

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

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

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

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

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

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

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

18 **21-2-5. Analysis of raw milk by private milk laboratories.**

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

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

33 (c) Regulations promulgated by the director pursuant to this section requiring sampling by
34 a private milk laboratory shall not impose an unreasonable burden on milk plants. The director may

1 in his or her discretion engage private laboratories to perform any additional tests that he or she
2 may require in the event the expense of the tests constitutes an unreasonable burden on milk plants.
3 The director may by regulation require producers of raw milk and raw milk cheese to submit
4 samples of unpasteurized milk for said analysis.

5 **21-2-7. Permits.**

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

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

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

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

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

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

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

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

1 (f) It shall be unlawful for any person located in the state of Rhode Island to sell or offer
2 for sale to any milk hauler or milk plant, or for any milk plant to pasteurize any raw milk for
3 pasteurization, any part of which shall be used for grade A pasteurized milk or for any grade A
4 milk product, unless the person at all times is in possession of a Rhode Island grade A producer's
5 permit.

6 (g) The fees for the following permits referred to in this section shall be as set forth in §
7 23-1-54:

8 (1) In-state milk processors;

9 (2) Out-of-state milk processors; and

10 (3) Milk [and raw milk](#) distributors.

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

12 **21-2-23. Director empowered to make regulations.**

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

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

1 adopt any other regulations for milk, [raw milk](#), and other related products that he or she deems
2 necessary in accordance with authority granted under this chapter, chapters 27 and 31 of this title
3 and § 23-1-18(5).

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

6 **21-2-29. Standards to be maintained.**

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

12 **21-2-30. Information to be furnished to director.**

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

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

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

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

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

34 **21-2-32. Labeling as to breed of cows.**

1 (a) The labels of milk [or raw milk](#) containers may carry in addition to one of the above
2 grade names, but set apart from those grade names, the name of the breed of cows producing the
3 milk [and raw milk](#) or the registered trade name or trademark for the breed; provided containers so
4 labeled contain only milk produced from the breed named.

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

10 **21-2-44. State statutory provisions and rules paramount to local.**

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

20 SECTION 2. Section 21-27-6.1 of the General Laws in Chapter 21-27 entitled "Sanitation
21 in Food Establishments" is hereby amended to read as follows:

22 **21-27-6.1. Farm home food manufacture.**

23 Notwithstanding the other provisions of this chapter, the department of health shall permit
24 farm home food manufacture and the sale of the products of farm home food manufacture at
25 farmers' markets, farmstands, and other markets and stores operated by farmers for the purpose of
26 the retail sale of the products of Rhode Island farms, provided that the requirements of this section
27 are met.

28 (1) The farm home food products shall be produced in a kitchen that is on the premises of
29 a farm and meets the standards for kitchens as provided for in minimum housing standards, adopted
30 pursuant to chapter 24.2 of title 45 and the Housing Maintenance and Occupancy Code, adopted
31 pursuant to chapter 24.3 of title 45, and in addition the kitchen shall:

32 (i) Be equipped at minimum with either a two (2) compartment sink or a dishwasher that
33 reaches one hundred fifty degrees Fahrenheit (150° F) after the final rinse and drying cycle and a
34 one compartment sink;

1 (ii) Have sufficient area or facilities, such as portable dish tubs and drain boards, for the
2 proper handling of soiled utensils prior to washing and of cleaned utensils after washing so as not
3 to interfere with safe food handling; equipment, utensils, and tableware shall be air dried;

4 (iii) Have drain boards and food preparation surfaces that shall be of a nonabsorbent,
5 corrosion resistant material such as stainless steel, formica or other chip resistant, nonpitted surface;

6 (iv) Have self-closing doors for bathrooms that open directly into the kitchen;

7 (v) If farm is on private water supply it must be tested once per year.

8 (2) The farm home food products are prepared and produced ready for sale under the
9 following conditions:

10 (i) Pets are kept out of food preparation and food storage areas at all times;

11 (ii) Cooking facilities shall not be used for domestic food purposes while farm home food
12 products are being prepared;

13 (iii) Garbage is placed and stored in impervious covered receptacles before it is removed
14 from the kitchen, which removal shall be at least once each day that the kitchen is used for farm
15 home food manufacture;

16 (iv) Any laundry facilities which may be in the kitchen shall not be used during farm home
17 food manufacture;

18 (v) Recipe(s) for each farm home food product with all the ingredients and quantities listed,
19 and processing times and procedures, are maintained in the kitchen for review and inspection;

20 (vi) List ingredients on product;

21 (vii) Label with farm name, address and telephone number.

22 (3) Farm home food manufacture shall be limited to the production of nonpotentially
23 hazardous food and foods that do not require refrigeration, including:

24 (i) Jams, jellies, preserves and acid foods, such as vinegars, [pickles and relish](#), that are
25 prepared using fruits, vegetables and/or herbs that have been grown locally;

26 (ii) Double crust pies that are made with fruit grown locally;

27 (iii) Yeast breads;

28 (iv) Maple syrup from the sap of trees on the farm or of trees within a twenty (20) mile
29 radius of the farm;

30 (v) Candies and fudges;

31 (vi) Dried herbs and spices.

32 (4) Each farm home kitchen shall be registered with the department of health and shall
33 require a notarized affidavit of compliance, in any form that the department may require, from the
34 owner of the farm that the requirements of this section have been met and the operation of the

1 kitchen shall be in conformity with the requirements of this section. A certificate of registration
2 shall be issued by the department upon the payment of a fee as set forth in § 23-1-54 and the
3 submission of an affidavit of compliance. The certificate of registration shall be valid for one year
4 after the date of issuance; provided, however, that the certificate may be revoked by the director at
5 any time for noncompliance with the requirements of the section. The certificate of registration,
6 with a copy of the affidavit of compliance, shall be kept in the kitchen where the farm home food
7 manufacture takes place. The director of health shall have the authority to develop and issue a
8 standard form for the affidavit of compliance to be used by persons applying for a certificate of
9 registration; the form shall impose no requirements or certifications beyond those set forth in this
10 section and § 21-27-1(8). No certificates of registration shall be issued by the department prior to
11 September 1, 2002.

12 (5) Income from farm home food manufacture shall not be included in the calculation of
13 farm income for the purposes of obtaining an exemption from the sales and use tax pursuant to §
14 44-18-30(32), nor shall any equipment, utensils, or supplies acquired for the purpose of creating or
15 operating farm home food manufacture be exempt from the sales and use tax as provided for in §
16 44-18-30(32).

17 SECTION 3. Chapter 32-1 of the General Laws entitled "General Provisions" is hereby
18 amended by adding thereto the following section:

19 **32-1-23. Taking of mushrooms from state parks, recreational areas, and forests**
20 **permitted.**

21 (a) The director of the department of environmental management ("director") shall
22 promulgate, adopt, and enforce any and all rules and regulations deemed necessary to authorize
23 any person to take mushrooms from any lands under the control of the director, provided such
24 taking is for personal use only. The state shall have no liability to any person or the heirs or assigns
25 of any such person who engages in the taking of mushrooms from any lands under the control of
26 the director.

27 (b) Pursuant to the rules and regulations promulgated in accordance with the provisions of
28 subsection (a) of this section, any person lawfully using or present on the premises of any state
29 park, recreational area, forest or public land under the control or management of the director, may
30 collect and harvest wild mushrooms found growing thereon for personal use.

31 SECTION 4. 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 -- SANITATION IN
FOOD ESTABLISHMENTS

1 This act would add pickles and relish to those foods not requiring refrigeration which are
2 permitted to be manufactured and sold as a farm home food product, and would permit and legalize
3 the sale of raw milk. This act would also provide for the authorized taking of mushrooms from
4 lands under control of the DEM for personal use.

5 This act would take effect upon passage.

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