

ASSEMBLY, No. 743

STATE OF NEW JERSEY 214th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2010 SESSION

Sponsored by:

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District 23 (Warren and Hunterdon)

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District 38 (Bergen)

Co-Sponsored by:

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SYNOPSIS

Permits sale of raw milk under certain conditions and establishes raw milk permit program.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 3/16/2010)

1 AN ACT permitting the sale of raw milk, amending P.L.1964, c.62
2 and supplementing Title 24 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 17 of P.L.1964, c.62 (C.24:10-57.17) is amended to
8 read as follows:

9 17. No person shall sell, offer for sale, or distribute to the
10 ultimate consumer any milk or cream that is not pasteurized unless
11 the person is a holder of a valid raw milk permit issued by the
12 department pursuant to section 3 of P.L. , c. (C.) (pending
13 before the Legislature as this bill).

14 (cf: P.L.1987, c.302, s.2)

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16 2. Section 18 of P.L.1964, c.62 (C.24:10-57.18) is amended to
17 read as follows:

18 18. No milk products nor fluid milk products shall be
19 manufactured, shipped, transported, or imported for use or sale
20 within this State unless the milk and fluid milk products used in the
21 manufacture of such food products are pasteurized before or during
22 manufacture into milk products or fluid milk products, provided,
23 however, that this shall not apply to cheese which has been kept for
24 at least 60 days after manufacture at a temperature no lower than 35
25 degrees Fahrenheit. This section shall not apply to milk products or
26 fluid milk products produced by a holder of a valid raw milk permit
27 issued by the department.

28 (cf: P.L.1964, c.62, s.18)

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30 3. (New section) a. The department shall establish a raw milk
31 permit program. The raw milk permit program shall allow a permit
32 holder to sell, offer for sale or otherwise make available raw milk
33 directly to consumers or retail stores.

34 b. The raw milk permit program shall require: (1) the applicant
35 to be in compliance, and once a permit has been issued, to continue
36 to be in compliance with all applicable provisions of the New Jersey
37 dairy laws, rules and regulations; (2) the permit holder to submit to,
38 and the department to conduct, semi-annual inspections to ensure
39 compliance with the requirements prescribed in this section; (3) the
40 permit holder to post a notice conspicuously on the permit holder's
41 property, and prominently on the labels of bottles containing the
42 permit holder's raw milk, stating that raw milk does not provide the
43 protection of pasteurization; and (4) the applicant to sign an
44 affidavit agreeing that the applicant will not use growth hormones
45 or cows that are given growth hormones in the production of raw

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 milk. The department shall establish standards for proper
2 packaging of raw milk with the exception of single serve containers
3 of hand filled milk, which shall be permissible within the milk
4 room.

5 c. The department shall establish a raw milk permit fee to be
6 collected by the department in an amount estimated to cover the
7 department's cost of administering the raw milk permit program.
8 This fee shall be in addition to any other fee required by law for the
9 production or sale of milk in the State.

10 d. The department shall conduct cattle health tests, for those
11 cattle used in the production of raw milk, for evidence of
12 tuberculosis, brucellosis, Johnes disease and any other disease the
13 department determines poses a danger to public health on an initial
14 basis and continuing basis as required.

15 e. Raw milk for sale, pursuant to this section, shall be cooled to
16 40 degrees Fahrenheit or less within two hours after milking, and
17 during milking the blended milk shall not exceed 50 degrees
18 Fahrenheit.

19 f. A permit holder shall test the raw milk produced to
20 demonstrate compliance with standards established in this
21 subsection. Raw milk shall: (1) contain a bacterial count not in
22 excess of 10,000 colonies standard plate count per milliliter; (2)
23 contain a coliform count not in excess of 10 per milliliter; (3)
24 contain a somatic cell count not in excess of 300,000 per milliliter
25 of retail raw milk; and (4) contain no antibiotic residue according to
26 current accepted standards. Testing to establish the standards
27 required under this subsection shall be conducted on a bimonthly
28 basis, at the permit holder's expense, by an independent laboratory
29 approved by the department. Each permit holder shall maintain a
30 log of the test results on a rolling thirteen month schedule. Test
31 results that fail to meet the standards established in this section
32 shall be reported to the department by the permit holder and the
33 independent laboratory that performed the test.

34 g. If testing results fail to meet the compliance requirements
35 established in subsection f. of this section, then a second test shall
36 be conducted. If the second test results fail to meet the compliance
37 requirements established in subsection f. of this section, then the
38 sale of milk from the failing facility shall be suspended. Sale of
39 raw milk from the failing facility may resume only upon a showing
40 of two consecutive tests, within a ten day period, meeting the
41 compliance requirements established in subsection f. of this section.
42 If a permit holder receives two suspensions within a one year period
43 for failure to meet the compliance requirements established in
44 subsection f. of this section, then the permit holder's permit shall be
45 revoked.

46 h. Raw milk products such as yogurt, kefir, butter, cottage
47 cheese, and raw milk cheese may be produced and sold by a permit

1 holder provided they are in compliance with all of the requirements
2 of this section.

3 i. Nothing in this section, nor any other law, shall preclude a
4 consumer, for the purpose of obtaining raw milk, and a farmer from
5 entering into a contract for shared ownership of a cow and
6 contractually prescribing the terms and conditions of milk
7 production. If a contract is entered into pursuant to this subsection,
8 no raw milk permit shall be required.

9 j. For the purposes of this section:

10 "Applicant" means a person seeking a raw milk permit from the
11 department.

12 "Department" means the New Jersey Department of Agriculture.

13 "Permit holder" means a person in possession of a valid raw milk
14 permit issued by the department pursuant to this section

15 "Raw milk" means milk that has not been pasteurized.

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17 4. This act shall take effect on the 180th day after the date of
18 enactment, but the Secretary of Agriculture may take such
19 anticipatory administrative action in advance thereof as shall be
20 necessary for the implementation of this act.

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23 STATEMENT

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25 This bill would permit the sale of raw milk by a person holding a
26 valid raw milk permit. The bill would also require the Department
27 of Agriculture to establish a raw milk permit program.

28 The bill requires that the permit program allow a permit holder to
29 sell, offer for sale or otherwise make available raw milk. The permit
30 program would also enforce certain standards for the quality of the
31 raw milk that is produced by a permit holder. To protect the public
32 health, the bill establishes certain prerequisites that must be met
33 before a raw milk permit may be granted, including: (1) a signed
34 affidavit by the permit applicant certifying that no growth hormones
35 will be used in the process of producing raw milk; (2) conspicuous
36 warning requirements stating that raw milk does not provide the
37 protection of pasteurization; (3) submission to certain inspections
38 by the department; and (4) compliance with all applicable
39 provisions of New Jersey's dairy laws, rules and regulations.

40 The permit program would be funded by a permit fee estimated
41 by the department to cover the costs of administering the program.

42 The department would be required to conduct initial testing of
43 the cows intended to be used for the production of raw milk, with
44 ongoing testing as necessary. The permit holder is also required to
45 conduct tests, at the permit holder's expense, to measure the levels
46 of certain bacteria and pathogens in the raw milk produced. Failing
47 test results are required to be reported to the department. If the

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- 1 permit holder fails to meet certain standards, by failing two
- 2 consecutive tests in a one year period, then the raw milk permit may
- 3 be revoked.