

ASSEMBLY, No. 696

STATE OF NEW JERSEY 217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblyman JOHN DIMAIO

District 23 (Hunterdon, Somerset and Warren)

Co-Sponsored by:

**Assemblymen Peterson, Giblin, Eustace, Space and Assemblywoman
Phoebus**

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: 4/8/2016)

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

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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** a consumer any milk or cream that is not pasteurized
11 unless the person is a holder of a valid raw milk permit issued
12 pursuant to section 3 of P.L. , c. (C.) (pending before the
13 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 pursuant to section 3 of P.L. , c. (C.) (pending before
28 the Legislature as this bill).

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

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31 3. (New section) a. The Department of Agriculture, in
32 consultation with the Department of Health, shall establish a raw
33 milk permit program. The raw milk permit program shall allow the
34 holder of a raw milk permit to sell, offer for sale or otherwise make
35 available raw milk directly to consumers but only at the farm or
36 property where the raw milk is produced. The Department of
37 Agriculture shall issue a raw milk permit to an applicant after the
38 Department of Agriculture and the Department of Health have each
39 received, reviewed, and approved a permit application from the
40 applicant, pursuant to the provisions of this section and any rules
41 and regulations adopted pursuant thereto.

42 b. The raw milk permit program shall require: (1) the applicant
43 to be in compliance and, once a permit has been issued, to continue
44 to be in compliance with all applicable provisions of the New Jersey

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 dairy laws, rules and regulations; (2) the permit holder to submit to,
2 and the Department of Agriculture, in consultation with the
3 Department of Health, to conduct, inspections in conjunction with
4 any other inspections currently conducted by the Department of
5 Health and or Department of Agriculture at dairy farms, to ensure
6 compliance with the requirements prescribed in this section; (3) the
7 permit holder to post a notice conspicuously on the permit holder's
8 property stating that raw milk does not provide the protection of
9 pasteurization, and to comply with the labeling and signage
10 requirements established by subsection c. of this section; and (4) the
11 applicant to sign an affidavit agreeing that the applicant will not use
12 growth hormones or cows that are given growth hormones in the
13 production of raw milk. The Department of Agriculture, in
14 consultation with the Department of Health, shall establish
15 standards for proper packaging of raw milk with the exception of
16 single serve containers of hand filled milk, which shall be
17 permissible within the milk room.

18 c. Wherever raw milk is advertised, sold, or dispensed, the
19 permit holder shall affix on the container from which raw milk is
20 dispensed, and on each container of raw milk or raw milk product
21 sold, a label that reads: "Raw Milk Is Not Pasteurized and May
22 Contain Organisms that Cause Human Disease." The permit holder
23 shall also post at least one sign that can easily be observed by
24 anyone entering the place where the raw milk is advertised, sold, or
25 dispensed. Each sign shall be no less than eight by 11 inches in
26 total dimension and shall state, in letters not less than one inch in
27 height: "Raw Milk Is Not Pasteurized and May Contain Organisms
28 that Cause Human Disease."

29 d. The Department of Agriculture, in consultation with the
30 Department of Health, shall establish a raw milk permit fee to be
31 collected by the Department of Agriculture in an amount estimated
32 to cover the costs of administering the raw milk permit program
33 incurred by the Department of Agriculture and the Department of
34 Health. The Department of Agriculture shall transfer to the
35 Department of Health the appropriate portion of collected fees in
36 accordance with an appropriate schedule established and agreed to
37 by the departments. This fee shall be in addition to any other fee
38 required by law for the production or sale of milk in the State.

39 e. The Department of Agriculture, in consultation with the
40 Department of Health, shall conduct cattle health tests, for those
41 cattle used in the production of raw milk, for evidence of
42 tuberculosis, brucellosis, Johnes disease and any other disease the
43 Department of Agriculture, in consultation with the Department of
44 Health, determines poses a danger to public health on an initial
45 basis and continuing basis as required.

46 f. Raw milk for sale, pursuant to this section, shall be cooled to
47 40 degrees Fahrenheit or less within two hours after milking, and

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1 during milking the blended milk shall not exceed 50 degrees
2 Fahrenheit.

3 g. A permit holder shall test the raw milk produced to
4 demonstrate compliance with standards established in this
5 subsection. Raw milk shall: (1) contain a bacterial count not in
6 excess of 10,000 colonies standard plate count per milliliter; (2)
7 contain a coliform count not in excess of 10 per milliliter; (3)
8 contain a somatic cell count not in excess of 300,000 per milliliter
9 of retail raw milk; and (4) contain no antibiotic residue according to
10 current accepted standards. Testing to establish the standards
11 required under this subsection shall be conducted on a bimonthly
12 basis, at the permit holder's expense, by an independent laboratory
13 approved by the Department of Agriculture, in consultation with the
14 Department of Health. Each permit holder shall maintain a log of
15 the test results on a rolling thirteen month schedule. Test results
16 that fail to meet the standards established in this subsection shall be
17 reported to the Department of Agriculture and to the Department of
18 Health by the permit holder and the independent laboratory that
19 performed the test.

20 h. If testing results fail to meet the compliance requirements
21 established in subsection g. of this section, then a second test shall
22 be conducted. If the second test results fail to meet the compliance
23 requirements established in subsection g. of this section, then the
24 sale of milk from the failing facility shall be suspended. Sale of
25 raw milk from the failing facility may resume only upon a showing
26 of two consecutive tests, within a ten day period, meeting the
27 compliance requirements established in subsection g. of this
28 section. If a permit holder receives two suspensions within a one
29 year period for failure to meet the compliance requirements
30 established in subsection g. of this section, then the permit holder's
31 permit shall be revoked.

32 i. Raw milk products such as yogurt, kefir, butter, cottage
33 cheese, and raw milk cheese may be produced and sold by a permit
34 holder provided they are in compliance with all of the requirements
35 of this section.

36 j. Nothing in this section, nor any other law, shall preclude a
37 consumer, for the purpose of obtaining raw milk, and a farmer from
38 entering into a contract for shared ownership of a cow and
39 contractually prescribing the terms and conditions of milk
40 production. If a contract is entered into pursuant to this subsection,
41 no raw milk permit shall be required.

42 k. For the purposes of this section:

43 "Applicant" means a person who owns, and produces milk or
44 milk products from, one cow or goat or more and is seeking a raw
45 milk permit pursuant to this section.

46 "Permit holder" means a person in possession of a valid raw milk
47 permit issued pursuant to this section.

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

1 4. This act shall take effect on the 180th day after the date of
2 enactment, but the Secretary of Agriculture and the Commissioner
3 of Health may take such anticipatory administrative action in
4 advance thereof as shall be necessary for the implementation of this
5 act.

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STATEMENT

10 This bill would permit the sale of raw milk by a person holding a
11 valid raw milk permit. The bill would also require the Department
12 of Agriculture, in consultation with the Department of Health, to
13 establish a raw milk permit program.

14 The bill authorizes permit holders to sell, offer for sale or
15 otherwise make available raw milk at the farm or property where
16 the raw milk is produced. The bill also establishes standards for the
17 quality of the raw milk that is produced by a permit holder. To
18 protect the public health, the bill establishes certain prerequisites
19 that must be met before a raw milk permit may be granted,
20 including: (1) a signed affidavit by the permit applicant certifying
21 that no growth hormones will be used in the process of producing
22 raw milk; (2) conspicuous warning requirements stating that raw
23 milk does not provide the protection of pasteurization, including
24 specific labeling on dispensing containers and sold containers and
25 specific signage; (3) submission to certain inspections by the
26 Department of Agriculture, in consultation with the Department of
27 Health; and (4) compliance with all applicable provisions of New
28 Jersey's dairy laws, rules and regulations.

29 The permit program would be funded by a permit fee estimated
30 by the Department of Agriculture, in consultation with the
31 Department of Health, to cover the costs of administering the
32 program.

33 The Department of Agriculture, in consultation with the
34 Department of Health, would be required to conduct initial testing
35 of the cows intended to be used for the production of raw milk, with
36 ongoing testing as necessary. The permit holder is also required to
37 conduct tests, at the permit holder's expense, to measure the levels
38 of certain bacteria and pathogens in the raw milk produced. Failing
39 test results are required to be reported to the Department of
40 Agriculture and the Department of Health. If the permit holder fails
41 to meet certain standards, by failing two consecutive tests in a one
42 year period, then the raw milk permit would be revoked.