

Department of Legislative Services
2014 Session

FISCAL AND POLICY NOTE

House Bill 3 (Delegates Hubbard and Kipke)
Health and Government Operations

Health - Milk Products - Raw Milk - Consumer-Owned Livestock

This bill exempts the sale of raw milk and raw milk products from regulations governing the production, processing, labeling, and distribution of milk products where the sale is made directly from a milk producer to the final consumer. However, the exemption only applies if the consumer, via written contract, acquires an ownership interest in the animal or herd that produces the raw milk. The exemption does not apply to restaurant, retail, commercial, wholesale, or other sales of milk and milk products to subsequent buyers.

Fiscal Summary

State Effect: General fund expenditures increase by at least \$66,100 in FY 2015 for the Department of Health and Mental Hygiene (DHMH) to hire an additional employee to investigate and respond to increased raw milk disease outbreaks and for necessary additional laboratory testing materials. Future years reflect annualization and inflation. General fund revenues are not affected.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	66,100	84,500	87,900	91,600	95,400
Net Effect	(\$66,100)	(\$84,500)	(\$87,900)	(\$91,600)	(\$95,400)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local health departments can likely handle the additional disease reports with existing staff and resources as discussed below.

Small Business Effect: Potential meaningful for small farmers or producers who sell milk directly to consumers under the bill.

Analysis

Current Law: A person is prohibited from selling raw milk for human consumption unless it is being sold by a milk producer to a milk processor, or for the sale of farmstead cheese.

A seller, processor, or producer of milk has to hold a State permit with a Grade A or manufactured grade classification. The permit is contingent on passing an inspection to determine whether the property, buildings, equipment, and their operation conform to specified rules and regulations. To ensure continued conformity, the Secretary of Health and Mental Hygiene may periodically reinspect the property, buildings, equipment, and their operation.

Regulations require that, within a certain time period, milk samples be collected and tested for potential health hazards including, among other things, drugs, bacteria, and cooling temperatures. All results have to be reported to DHMH.

Background: Raw milk or milk products have not gone through the pasteurization process to make the milk or milk product free of pathogens. Proponents of drinking raw milk claim that raw milk is more nutritious than pasteurized milk and that it is antimicrobial, making pasteurization unnecessary.

However, the U.S. Food and Drug Administration (FDA) and the Centers for Disease Control and Prevention (CDC) advise that there is no meaningful nutritional difference. They also warn that raw milk can contain harmful bacteria that may cause illness or death including Salmonella, E. coli O157:H7, Listeria, Campylobacter, and Brucella. FDA advises that illnesses caused by pathogens found in raw milk can be especially severe for pregnant women, the elderly, infants, young children, and people with weakened immune systems. FDA and CDC have concluded that the health risks associated with consuming raw milk far outweigh any benefits.

According to the National Conference of State Legislatures (NCSL), 30 states allow consumers to purchase raw milk directly either from a farmer's market or retail stores, depending on statute. In the other 20 states, consumption of raw milk is prohibited.

Between 1998 and 2011, CDC recorded 148 outbreaks of disease from the consumption of raw milk products. These outbreaks caused 2,384 illnesses, 284 hospitalizations, and two deaths. CDC explains that those states that allow the consumption of raw milk have higher incidences of milk product-related illness than those that do not allow raw milk to be sold legally.

State Expenditures: General fund expenditures increase by at least \$66,125 in fiscal 2015, which accounts for the bill's October 1, 2014 effective date. This estimate reflects the cost of hiring one additional employee who will function as a hybrid epidemiologist and environmental health specialist to investigate and respond to increased disease outbreaks. It includes a salary, fringe benefits, one-time start-up costs, ongoing operating expenses, and laboratory testing supplies. The information and assumptions used in calculating the estimate are stated below.

DHMH estimates that allowing the sale of raw milk in Maryland could double the number of milk-borne outbreaks from the current level of one to two a year, to two to four a year. In addition, sporadic, isolated cases could increase from almost none to at least 100 and as many as 165 per year. This estimate is based on the number of outbreaks traceable to raw milk consumption in other states that allow similar direct raw milk sales from a producing farm. An outbreak is defined as milk-caused illness found in at least two individuals who are not part of the same household.

The Prevention and Health Promotion Administration (PHPA) advises that an epidemiologist or environmental health specialist, on average, needs 40 hours to fully investigate an outbreak and 8 to 16 hours to investigate a sporadic, isolated case. Investigations require significant coordination with the Laboratories Administration, local health departments, and possibly other states, depending on the scope of an outbreak. Additionally, employees must interview patients, examine evidence for linkages between cases and exposure sources, disseminate results, and possibly implement product recalls, among other various tasking. Based on these estimates, the Department of Legislative Services (DLS) advises that hiring an additional employee within PHPA is justified.

Increases in general fund expenditures reflect increased laboratory costs for testing for bacterial pathogens in milk samples. DHMH's Laboratories Administration anticipates an increase of 100 samples on an annual basis. Samples cost approximately \$100 each, which increases laboratory costs for supplies, testing materials, and reagents by an estimated \$10,000 on an annualized basis. The Laboratories Administration also advises that current losses in federal funds and grants for laboratory scientists and supplies means that the administration is understaffed and underfunded. Thus, the administration advises it needs an additional laboratory scientist to handle the workload associated with 100 new samples. However, DLS advises that this bill *alone* does not appear to necessitate hiring additional staff within that administration. Although these samples require sophisticated testing and each series of tests may take anywhere from a few days to a few weeks to complete, the administration did not provide sufficient justification on the amount of staff time dedicated to handling each such sample.

Position	1
Salary and Fringe Benefits	\$51,745
Operating Expenses	6,880
Laboratory Testing	<u>7,500</u>
Total FY 2015 State Expenditures	\$66,125

Future year expenditures reflect a full salary with annual increases, employee turnover, annual increases in ongoing operating expenses, and ongoing laboratory testing costs.

DLS advises that, if the number of outbreaks exceeds the estimate, additional staff – within PHPA as well as the Laboratories Administration – may be needed.

Local Fiscal Effect: Local health departments anticipate being able to accommodate investigations and coordination with DHMH on additional raw milk outbreaks within their existing budgets. However, the Maryland Association of County Health Officers advises that if the number of additional outbreaks per year is greater than the two estimated by DHMH, local health departments will likely have to hire additional employees to handle the caseload.

Additional Information

Prior Introductions: HB 1080 of 2009, a substantially similar bill, received a hearing in the House Health and Government Operations Committee. No further action was taken.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Department of Health and Mental Hygiene, Maryland Association of Counties, Maryland Association of County Health Officers, Centers for Disease Control and Prevention, U.S. Food and Drug Administration, Department of Legislative Services

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