

Department of Legislative Services
 Maryland General Assembly
 2009 Session

FISCAL AND POLICY NOTE

House Bill 1015 (Delegate Jennings, *et al.*)
 Health and Government Operations

Health General - Milk Products - Direct-to-Consumer Sale of Raw Milk

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 registered dairy farmer to the final consumer. However, the bill requires farmers who sell raw milk directly to consumers to execute a written contract with each consumer that clearly indicates that the milk is unpasteurized, and that once it is in the consumer’s possession, the proper handling, transporting, and cooling are the responsibilities of the consumer. Containers of raw milk sold by a dairy farmer must be marked with a prominent warning statement that the milk is not pasteurized. In addition, farmers must register with the Department of Health and Mental Hygiene (DHMH) and the Maryland Department of Agriculture (MDA), and meet other specific sanitary, testing, and reporting requirements.

Fiscal Summary

State Effect: General fund expenditures increase by \$142,100 in FY 2010 for two additional employees to inspect producing farms, take milk samples, test milk samples, and handle additional cases of reported diseases. Future years reflect annualization and inflation. General fund revenues increase by \$5,000 in FY 2010 to collect an estimated \$100 registration fee from an estimated 50 farmers who choose to produce raw milk under the bill. Future years are constant and reflect annual fee collection at the same level.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$5,000	\$5,000	\$5,000	\$5,000	\$5,000
GF Expenditure	\$142,100	\$169,200	\$176,700	\$184,500	\$192,800
Net Effect	(\$137,100)	(\$164,200)	(\$171,700)	(\$179,500)	(\$187,800)

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

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

Small Business Effect: Meaningful for small farmers who sell milk directly to consumers under the bill.

Analysis

Bill Summary: Abnormal raw milk, which may not be sold to a consumer, means raw milk produced by an animal with mastitis and raw milk that is contaminated with blood, serum, dirt, manure, or coliform, salmonella, Escherichia Coli O157, or any other bacteria that may be harmful to human health.

The bill specifies testing requirements that raw milk producers must perform, which include testing of animals and milk. A milk producer (dairy farmer) must keep a ledger documenting all tests performed, the date of each test, and the name of the person performing the test. Producers have to report the results to DHMH and MDA.

A milk producer must keep records of its contracts with consumers, milk and animal test results, ledger, all raw milk bills of sale, and any other information required by DHMH for at least three months.

DHMH has to adopt regulations establishing acceptable levels of contaminants and the frequency of sample collection when limits are exceeded. If a milk sample test indicates that acceptable contaminant levels have been exceeded, the producer must stop distributing the raw milk until testing shows the milk to be contaminant free.

The bill outlines safety and sanitary guidelines that a milk producer must meet when milking, handling, and storing raw milk that is sold to a consumer.

There are no penalty provisions associated with a violation of the bill.

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 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) advises that there is no meaningful nutritional difference and warns 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 the Centers for Disease Control and Prevention have concluded that the health risks associated with consuming raw milk far outweigh any benefits.

A survey conducted by the National Association of State Departments of Agriculture in 2008 found that 29 states authorize the sale of raw milk for human consumption in some manner. Most of those 29 states allow direct raw milk sales only at a producing farm; the others allow the sale of raw milk at retail stores separate from the farm.

According to an article in the journal *Clinical Infectious Disease*, 68 disease outbreaks occurred between 1993 and 2006 that are suspected or confirmed to be associated with unpasteurized milk products, about 5.2 per year. In 2006, unpasteurized milk-related disease outbreaks affected about 225 people nationwide.

However, DHMH estimates that there will be about 1,064 new cases of reported diseases annually as a result of the sale of raw milk to the public. The estimate is based on the number of outbreaks traceable to raw milk consumption in other states that allow direct raw milk sales from a producing farm.

Given the range of estimates on the number of diseases and disease outbreaks traceable to raw milk, it is difficult to estimate the number of outbreaks that will result under the bill. However, Legislative Services advises that disease reports under the bill will increase.

State Revenues: DHMH advises that it will likely require farmers who choose to produce raw milk under the bill to pay an annual registration fee. While DHMH has not decided how much it would charge, such a fee could approximate the \$100 currently charged for milk producers. Therefore, general fund revenues increase by \$5,000 in

fiscal 2010 to charge an estimated 50 farmers who choose to produce raw milk under the bill an estimated \$100 registration fee. Future years are constant and reflect annual fee collection at the same level from the same number of producing farmers. However, revenue increases could vary significantly depending on the number of farmers who choose to produce raw milk under the bill and how much DHMH decides to charge for any registration associated with the production of raw milk.

State Expenditures: General fund expenditures increase by \$142,137 in fiscal 2010 to hire: one additional sanitarian – to inspect and sample raw milk on at least a monthly basis and to enforce regulations developed under the bill – and one additional epidemiologist to handle additional cases of reported diseases. The estimate also reflects DHMH laboratory costs related to the monthly testing of one sample of milk from each of the estimated 50 raw milk producers at a cost of \$61 per test. The estimate includes salaries, fringe benefits, one-time start up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$93,969
Operating Expenses	39,578
Start-up Costs	<u>8,590</u>
Total Fiscal 2010 State Expenditures	\$142,137

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% increases in ongoing operating expenses.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Department of Health and Mental Hygiene, Department of Legislative Services

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