

Department of Legislative Services
2016 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 79 (Delegates Morhaim and Kipke)
Health and Government Operations

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

This bill exempts the distribution of raw milk and raw milk products from regulations governing the production, processing, labeling, and distribution of milk products where the distribution 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 \$92,000 in FY 2017 for the Department of Health and Mental Hygiene (DHMH) to hire additional employees to investigate and respond to increased raw milk disease outbreaks and for necessary additional laboratory testing and materials. Future years reflect annualization and inflation. General fund revenues are not affected.

(in dollars)	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	92,000	112,000	116,100	120,400	124,900
Net Effect	(\$92,000)	(\$112,000)	(\$116,100)	(\$120,400)	(\$124,900)

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 distribute 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 U.S. 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 potential benefits.

According to the National Conference of State Legislatures, 31 states allow consumers to purchase raw milk directly either from a farmer's market or retail stores or through a cow-share program, depending on statute. In the other 19 states, the sale of raw milk to consumers is prohibited.

CDC reports that the number of outbreaks of disease caused by unpasteurized milk increased from 30 during the three-year period of 2007 through 2009 to 51 during the three-year period of 2010 through 2012. These 81 outbreaks caused 979 illnesses and 73 hospitalizations. Most outbreaks were caused by *Campylobacter* in unpasteurized milk which was purchased within states where the sale of unpasteurized milk was legal. However, 18.5% of the outbreaks occurred in states where the sale of unpasteurized milk

was prohibited; in these cases, the source was determined to be dairy farms, cow or herd shares, or unknown. 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 \$91,992 in fiscal 2017, which accounts for the bill's October 1, 2016 effective date. This estimate reflects the cost of hiring one additional full-time epidemiologist and one part-time public health laboratory scientist to investigate and respond to increased disease outbreaks and to perform laboratory testing on any suspected cases of raw milk contamination. It includes salaries, 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 distribution 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 tasks. 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. Further, these samples require sophisticated testing and each series of tests may take anywhere from a few days to a few weeks to complete; moreover, extensive training is

required for a public health laboratory scientist to be trained and proficient in testing techniques. Although DLS advises that this bill *alone* does not appear to necessitate hiring additional full-time staff within that administration, it does appear that hiring an additional part-time employee is justified.

The administration advises that given the extensive training and the skill set required to perform this kind of testing that a part-time employee is not practical. Thus, DLS advises that a part-time employee is likely the minimal staffing required to fully test and investigate any possible additional samples of bacterial pathogens in milk.

Positions	1.5
Salaries and Fringe Benefits	\$72,486
Operating Expenses	12,006
Laboratory Testing Materials	<u>7,500</u>
Total FY 2017 State Expenditures	\$91,992

Future year expenditures reflect full salaries 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 likely have to hire additional employees to handle the caseload.

Additional Information

Prior Introductions: HB 3 of 2014 received a hearing in the House Health and Government Operations Committee and was subsequently withdrawn.

Cross File: None.

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

Fiscal Note History: First Reader - February 1, 2016
min/ljm

Analysis by: Kathleen P. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510