HB 1449

Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE
First Reader

House Bill 1449 (Delegate Szeliga, *et al.*)
Health and Government Operations

Public Health - Milk Products - Direct-to-Consumer Sale of Raw Milk for Human Consumption

This bill permits the direct-to-consumer sale of raw milk for human consumption by a person who obtains a permit from the Secretary of Health. To qualify for a permit, an applicant must comply with specified requirements related to the health of the animal(s) from which raw milk is to be produced, a safe and sanitary water supply, the applicant's ability to produce bacteriologically safe raw milk, and specified sampling of raw milk. A permit holder must allow the Secretary to inspect their dairy farm, review records, draw samples, conduct tests, and take other necessary action. The bill establishes requirements for ongoing testing, monitoring, bottling, packaging, and labeling of raw milk for human consumption, and provisions regarding the suspension or revocation of permits. The Secretary may adopt regulations to carry out the bill. The bill does not apply to the sale of raw milk by a dairy farm with three or fewer cows or 10 or fewer goats.

Fiscal Summary

State Effect: General fund expenditures for the Maryland Department of Health (MDH) increase by $573,400 in FY 2026 for personnel, equipment, testing, service contracts, and related costs, as discussed below. Future year expenditures reflect annualization, elimination of one-time costs, ongoing costs, and inflation. Revenues increase by an indeterminate but likely minimal amount beginning in FY 2026 from permit fees.

(in dollars)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
GF Revenue	-	-	-	-	-
GF Expenditure	$573,400	$459,600	$473,000	$486,900	$500,800
Net Effect	($573,400)	($459,600)	($473,000)	($486,900)	($500,800)

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

Local Effect: Local health department (LHD) expenditures may increase beginning in FY 2026 for personnel, as discussed below. Revenues are not affected.

Small Business Effect: Meaningful.

Analysis

Bill Summary:

Permit to Sell Raw Milk for Human Consumption

A permit expires one year from its effective date, unless renewed for another one-year term. Before a permit expires, its holder may renew the permit if the holder (1) is otherwise entitled to a permit; (2) pays a renewal fee that is equal to the initial permit fee; and (3) submits a renewal application.

Before a new raw milk permit is issued:

- the Secretary must inspect the applicant's dairy farm and determine that the farm complies with all requirements;
- the applicant must have a licensed veterinarian examine and test the animal or herd from which raw milk is produced and provide a written report that the animal or herd is in apparent good health and free from communicable diseases, brucellosis, and tuberculosis;
- if the applicant does not use a public or municipal water supply system, they must test the dairy farm water supply, as specified and provide confirmation that the water is safe and sanitary and that equipment meets specified requirements; and
- the applicant must provide documentation of their ability to produce bacteriologically safe raw milk.

The applicant must have an MDH-approved sampler draw three separate samples of commingled milk from the bulk tank, drawn at least seven days apart on an unannounced basis, and submit the samples to a State-approved dairy laboratory or to MDH for analysis. If a test of the first sample concludes that no pathogenic bacteria are present, the second and third samples do not need to be tested, and the raw milk must be determined to be bacteriologically safe. If pathogenic bacteria are present, the bill specifies additional testing required to determine that the raw milk is bacteriologically safe.

Permit Suspension or Revocation

The Secretary may suspend or revoke a permit if the holder violates the bill or related regulations. Generally, before suspending a permit, the Secretary must give notice to the

permit holder by certified mail at least five days before the date the Secretary intends to suspend and alert the permit holder of the right to request a hearing.

If the basis of suspension or revocation is that pathogenic bacteria or foreign substances have been detected in the raw milk or that the raw milk poses a threat to consumer health and safety, the Secretary is not required to give notice and must request that the holder voluntarily cease all raw milk sales. If the permit holder complies, the Secretary must consider the voluntary cessation of sale as a mitigating factor when determining any penalty or sanction. If the holder *does not* comply, the Secretary must:

- refer the matter to the LHD and recommend that the LHD take action to cease the sale of raw milk by the permit holder;
- consult with the Office of the Attorney General (OAG) to determine whether the Secretary should pursue an injunction to prohibit the sale of raw milk by the permit holder;
- provide the permit holder with notice of the right to request a hearing;
- suspend or revoke the permit of a holder who does not request a hearing within the time required; and
- recommend to the permit holder that they (1) inform customers of the request to cease production and (2) provide customers with the basis of that request.

The Secretary may take administrative action against a permit holder for any violations of the bill's requirements. The Secretary may request that OAG obtain an injunction to (1) prevent an individual from selling raw milk without the required permit, or (2) prevent an ongoing violation of the bill's requirements.

If the Secretary determines that a supply of raw milk or raw milk products is considered unsafe or a threat to public health, the Secretary may seize, condemn, denature, or destroy the products without compensation to the owner. The Secretary may prohibit the sale of raw milk or raw milk products if (1) they consider the product to be unsafe or a threat to public health or (2) the permit holder violates the bill's requirements.

Opportunity for a Hearing

Generally, before the Secretary denies a permit application, takes any action against a permit holder, or rejects a submitted label, the Secretary must give the applicant or permit holder an opportunity for a hearing. The Secretary must give notice and hold the hearing in accordance with the Administrative Procedure Act. Within 48 hours of receiving notice of the Secretary's action, a person whose permit has been or will be suspended may request a hearing. The Secretary must hold the hearing within 72 hours of receiving the request. If after due notice the person does not appear, the Secretary may hear and determine the

matter without that person being present. A person aggrieved by a final decision of the Secretary in a contested case may take a direct judicial appeal.

Sell-by Dates

A person may not sell or offer for sale raw milk after the sell-by date printed on the cap or container. Generally, the sell-by date may not be later than 17 days after the day immediately following the milk's production date.

At least once each calendar year, the Secretary must sample containers of raw milk for human consumption before delivery to a consumer and analyze each sample to determine compliance with bacteriological requirements before the container's labeled expiration date. If two or more samples exceed the bacteriological limits, the Secretary must require the permit holder to use a shortened sell-by period. If required to use a shortened sell-by period, the permit holder may submit samples to MDH and, if the Secretary determines the sample complies with the bacteriological requirements, the seller may resume using the full sell-by period.

Temperature Requirements

Raw milk must be cooled to 40 degrees Fahrenheit or less within two hours after milking. The blend temperature after the first and subsequent milkings may not exceed 50 degrees Fahrenheit.

Ongoing Testing of the Animal or Herd by Permit Holder

Each permit holder must monitor the health of the animal or herd from which the raw milk is produced to ensure they are in general good health and free from brucellosis and tuberculosis. At least every 13 months, each permit holder must provide confirmation from a licensed veterinarian that the animal or herd has been determined to be free from brucellosis and tuberculosis. Each permit holder must have a licensed veterinarian examine the animal or herd annually and issue a written report stating that the animal or herd is in general good health and free from communicable disease. The holder must retain a copy of the report for at least three years and make a copy available for inspection by the Secretary on request.

Ongoing Water Supply Testing by Permit Holder

Each permit holder must ensure that the dairy farm's water supply, including recirculated cooling water, is safe and sanitary. Unless the dairy farm uses a public or municipal water system, the water supply must be tested at the permit holder's expense at least once every six months and whenever a repair or alteration is made to the water supply system. The

permit holder must retain a record of the testing for at least one year and make the record available for inspection by the Secretary on request.

Ongoing Raw Milk Testing by Permit Holder

At least twice a month, each permit holder must conduct testing of the raw milk to demonstrate that the bacterial, coliform, and somatic cell counts do not exceed specified limits and that there are no positive results for drug residue, using specified techniques.

At least every six months, each permit holder must conduct testing from a sample drawn from the bulk tank to demonstrate that there are no salmonellae, listeria monocytogenes, campylobacter, or E. coli bacteria. Testing must be conducted at a laboratory operated or approved by MDH.

Noncompliant Samples

If two of the immediately preceding four raw milk samples tested do not comply with the temperature, drug residue, coliform, somatic cell, or bacteria requirements, the Secretary must provide the permit holder with written notice that they are in violation of the bill's requirements. If three of the immediately preceding five raw milk samples tested do not comply, the Secretary must suspend or revoke the permit.

Samples Positive for Pesticide, a Drug, or Bacteria

If a raw milk sample tests positive for a pesticide at or above actionable levels established by the U.S. Environmental Protection Agency (EPA), the permit holder must (1) immediately cease the sale of raw milk; (2) investigate and determine the cause of the contamination, report the result of the investigation to the Secretary, and correct the cause of the contamination; and (3) refrain from selling raw milk until testing shows that the sample is free of pesticide residue or below actionable EPA levels, the permit holder submits test results, and the Secretary approves the resumption of raw milk sales.

If a raw milk sample tests positive for a drug, the permit holder must (1) immediately cease the sale of raw milk; (2) investigate and determine the cause of the contamination, report the result of the investigation to the Secretary, and correct the cause of the contamination; and (3) refrain from selling raw milk until a sample is shows the sample to be free of drug residue, the permit holder submits the test results, and the Secretary approves the resumption of raw milk sales.

If a raw milk sample tests positive for the presence of salmonellae, listeria monocytogenes, campylobacter, or E. coli bacteria, the permit holder must (1) immediately cease the sale of raw milk; (2) investigate and determine the cause of the contamination, report the result

of the investigation to the Secretary, and correct the cause of the contamination; and (3) refrain from selling raw milk until two consecutive samples taken at least two days after the cessation of sales show the samples to be free of the bacteria, the permit holder submits the test results, and the Secretary approves the resumption of raw milk sales.

Packaging

For raw milk packaged for sale or delivery at a location other than the farm where it is produced, the permit holder must conduct the bottling and capping (or filling and closure of containers other than bottles) in a room separate from the milk room by mechanical means of filling and capping or closing the container. The closure of the container must protect the pouring lip to its largest diameter.

For raw milk packaged for delivery at the location where it is produced, the permit holder may bottle and cap or fill and close raw milk in containers in a milk room facility. The permit holder must complete this in a sanitary manner using easily cleanable equipment that has been cleaned and sanitized.

A container must (1) be filled and closed without any part of a hand contacting with bottle caps or the container's inner surface; (2) be stored in a clean and dry area off the floor and protected from any source of contamination; and (3) not be filled by the consumer.

The permit holder must obtain and keep bottle caps for raw milk containers in sanitary containers. The permit holder must conduct the washing of returnable bottles or containers in a room that is separate from any room that is devoted to bottling and capping or the filling and closure of containers.

Labeling

For raw milk packaged for sale in containers not owned by the consumer, the labeling of containers and caps must be approved by the Secretary before sale. A label must:

- clearly label the product as raw milk;
- include the fluid volume;
- include the name and address of the distributor or producer;
- state that the product is to be refrigerated;
- not contain any false or misleading statements; and
- include a specified consumer advisory statement.

Within 10 business days of receiving a complete application for label approval, the Secretary must issue a written approval or denial to the permit holder. The Secretary must

assign an approved label a unique serial number and provide that number to the permit holder, along with a copy of the label, in the written approval. The Secretary must retain a copy of each written approval. A denial of a label must state the reasons for the denial and provide notice to the permit holder of the right to an administrative hearing.

A raw milk container or cap must clearly indicate a sell-by date after which the raw milk may not be sold or offered for sale. The sell-by date must be (1) preceded by the words "sell by," "not to be sold after," or "not to be sold after the date stamped above"; (2) conspicuously and legibly marked in a contrasting color; and (3) separate and distinct from any other number, letter, or intervening material on the cap or container.

For raw milk packaged for sale in containers owned by the consumer, a permit holder must post a specified consumer advisory statement.

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 must 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 may periodically reinspect the property, buildings, equipment, and their operation.

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

Raw milk may be sold as pet food in Maryland. Raw milk distributed as pet food must contain a specified label that the raw milk is not for human consumption. Raw milk may not be registered for use as pet food if it is packaged in containers that resemble containers intended for milk for human consumption or stored at retail with or near milk or milk products intended for human consumption.

State Revenues: Under the bill, an applicant for a permit must pay an initial permit fee and permit holders must pay a renewal fee equal to the initial permit fee. Thus, MDH general fund revenues increase by an indeterminate amount beginning in fiscal 2026 from permit fees. Actual revenues depend on the amount of the fees set by MDH and the total number of permits issued.

For illustrative purposes only, should the initial and renewal permit fee be set at $100 (the current fee for a farmstead cheese processor or milk processor), and an estimated

50 permits are issued, MDH general fund revenues increase by $5,000 annually beginning in fiscal 2026.

State Expenditures: To implement the bill's requirements, MDH expenditures increase significantly for testing costs, equipment, service contracts, personal protective equipment (PPE), and personnel, as discussed below.

Testing Costs

Assuming 50 permits are issued, for initial applicants, MDH must:

- draw three samples from each applicant's bulk tank (150 total samples) to test for pathogens at a cost of $173 per sample or as much as $25,950 in fiscal 2026 should all samples need to be tested; and
- conduct additional testing of violative samples (samples that do not meet specified requirements), which is estimated to occur in 6% of samples – or 9 samples among initial permit applicants – at a cost of $601 per sample or a total cost of $5,409 in fiscal 2026.

After a permit is issued, MDH must:

- conduct testing of raw milk at least twice each month per permit holder (for a total of 100 samples per month/1,200 samples per year) for bacteria, coliform, somatic cells, and drug residue at a cost of $91 per sample or $9,100 per month/$109,200 per year;
- conduct testing of raw milk from the bulk tank at least every six months per permit holder (at least 2 samples per permit holder or a total of 100 samples per year) for campylobacter, salmonella, listeria monocytogenes, and E. coli at a cost of $173 per test or $17,300 annually;
- test at least one container of raw milk each calendar year per permit holder (50 samples per year) for bacteria, coliform, somatic cells, drug residue, salmonella, listeria monocytogenes, campylobacter, and E. coli at a cost of $264 per sample or $13,200 annually; and
- conduct additional testing of violative samples, which is estimated to be 6% of samples (an estimated 27 samples per year) at a cost of $601 per sample or a total cost of $16,277.

Additional testing will also be required to investigate outbreaks, the cost of which is not reflected in this analysis. Testing will be conducted by MDH's Dairy Laboratory within the Division of Environmental Sciences.

Equipment

Due to the current avian flu outbreak, testing will be conducted in the biosafety level 3 (BSL-3) suite. This requires a one-time expenditure of $124,300 in fiscal 2026 for five pieces of additional equipment:

- a VIDAS KUBE salmonella/listeria screening system ($50,000);
- a regulated tri-gas incubator with nitrogen generator for campylobacter testing to mitigate exposure of staff to avian influenza virus while testing ($30,000);
- a bacterial pathogen screening system ($24,000);
- a biosafety cabinet to expand capacity ($15,000); and
- an EZ reader for drug residue testing ($5,300).

Service Contracts and Personal Protective Equipment

MDH notes that the equipment required for testing are under service contracts, totaling $28,622 annually. Furthermore, scientists must wear PPE while conducting laboratory testing at a cost of $6,240 annually.

Personnel

MDH advises that additional staff are needed, including one part-time (50%) administrator to issue, renew, and oversee permits and approve applications for labels; one full-time environmental health specialist to inspect each dairy farm prior to issuing a permit (and as needed once a permit is issued) and conduct the required sampling; and one full-time scientist to assist with the volume of testing required under the bill. To support these personnel, travel and automobile expenses of $55,842 are also required in fiscal 2026.

Total Estimated Expenditures

Thus, MDH general fund expenditures increase by $573,369 in fiscal 2026, which accounts for the bill's October 1, 2025 effective date. This estimate reflects the cost of hiring one part-time (50%) administrator, one full-time environmental health specialist, and one full-time scientist. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. It also includes the cost of testing (the full cost of initial testing and nine months of follow-up testing to reflect the bill's effective date), one-time only equipment, vehicle and travel costs, service contracts, and PPE. Actual expenditures for testing will vary based on the number of permits issued and the results of samples (which may require additional testing).

	FY 2026	FY 2027
Positions	2.5	-
Salaries and Fringe Benefits	$194,162	$250,443
Testing for Initial Permits	31,359	-
Ongoing Testing for Permit Holders	116,983	155,977
One-time Only Equipment	124,300	-
Vehicle and Travel Costs	55,842	14,602
Service Contracts and PPE	27,707	35,273
Other Operating Expenses	23,016	3,290
Total State Expenditures	**$573,369**	**$459,585**

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

In future years, expenditures increase by an additional indeterminate amount to issue new permits, including initial and ongoing testing costs. The number of applications that may be received in future years is unknown.

Other Agencies

Any additional workload on the Office of Administrative Hearings or OAG under the bill can be handled with existing budgeted resources.

Local Expenditures: Under the bill, if the Secretary requests that a permit holder voluntarily cease all raw milk sales due to pathogenic bacteria or foreign substances being detected and the holder does not comply, the Secretary must refer the matter to the LHD and recommend that the LHD take action to cease the sale of raw milk by the permit holder. The Maryland Association of County Health Officers advises that this enforcement work would be new for LHDs and would therefore require new training, expertise, and procedures. To that end, most LHDs may require additional personnel depending on the number of noncompliant permit holders in each jurisdiction.

Small Business Effect: The ability to sell raw milk directly to a consumer for human consumption may allow additional sales opportunities for small business dairy farms. However, such farms must obtain a permit and comply with the bill's requirements and may be subject to penalties or sanctions for violations of the bill.

Additional Comments: In 1987, the U.S. Food and Drug Administration (FDA) issued a regulation to prohibit the interstate sale of raw milk. However, the FDA does not regulate the sale or distribution of raw milk within a given state.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Office of the Attorney General; Judiciary (Administrative Office of the Courts); Maryland Department of Agriculture; Maryland Department of Health; Department of Natural Resources; Office of Administrative Hearings; U.S. Food and Drug Administration, Department of Legislative Services

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