

MAINE STATE LEGISLATURE

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Date: 3/28/14 Report A L.D. 1786 (Filing No. H-761)

AGRICULTURE, CONSERVATION AND FORESTRY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
126TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1278, L.D. 1786, Bill, "An Act To Allow the Sale of Unregulated Farm-produced Dairy Products at the Site of Production"

Amend the bill by striking out the title and substituting the following:

'An Act To Exempt Dairy Farms That Sell Certain Milk and Milk Products at the Site of Production from Licensing and Inspection'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 7 MRSA §2900, sub-§14, as enacted by PL 1999, c. 679, Pt. A, §1, is amended to read:

14. Not pasteurized or unpasteurized. "Not pasteurized" or "unpasteurized" means any milk or milk product that has not been subjected to the temperature and time requirements of pasteurization using equipment designed for pasteurization or has not been aseptically processed and packaged.

Sec. 2. 7 MRSA §2901-A, as amended by PL 1999, c. 679, Pt. A, §3, is further amended to read:

§2901-A. Standards and labeling

Notwithstanding any other requirements of this chapter and except as provided by section 2902-B, milk and milk products, defined in accordance with standards then in effect that have been adopted by the United States Government and labeled in conformity with labeling requirements then in effect that have been adopted by the United States Government, are considered to conform with the definitions and labeling requirements set forth in this chapter; except that containers of milk and cream packaged in Maine must also bear the name and address of the Maine licensed milk distributor and sufficient information to identify the milk plant where packaged.

Sec. 3. 7 MRSA §2901-C, first ¶, as enacted by PL 1999, c. 679, Pt. A, §5, is amended to read:

COMMITTEE AMENDMENT

1 A person required to obtain a permit or license under this section, section 2902-A or
2 rules adopted under section 2910 ~~or pursuant to former section 2902~~ may not sell,
3 transport or transfer milk or milk products prior to obtaining the appropriate license or
4 permit.

5 **Sec. 4. 7 MRSA §2901-C, sub-§§6 and 7** are enacted to read:

6 **6. Exemption.** A milk distributor who sells unpasteurized milk or an unpasteurized
7 milk product is exempt from the licensing requirements under subsection 1 if the
8 following conditions are met:

9 A. The sale of the unpasteurized milk or unpasteurized milk product in its final form
10 must be made directly to the end consumer on the premises of the dairy farm where
11 the unpasteurized milk or unpasteurized milk product is produced, including a farm
12 stand or eating establishment, as defined in Title 22, section 2491, subsection 7,
13 located on property contiguous to the dairy farm;

14 B. The milk distributor must allow each person who purchases unpasteurized milk or
15 an unpasteurized milk product to visually inspect the dairy farm where the
16 unpasteurized milk or unpasteurized milk product is produced. For purposes of this
17 paragraph, the milk distributor may require a person who chooses to inspect the dairy
18 farm to follow sanitary procedures determined by the milk distributor;

19 C. The milk distributor may not promote the unpasteurized milk or unpasteurized
20 milk product in any manner other than in person or a face-to-face exchange between
21 the milk distributor and the end consumer;

22 D. Prior to selling unpasteurized milk or unpasteurized milk products under this
23 subsection, the milk distributor must complete a course in the sanitation of milk
24 offered by the University of Maine Cooperative Extension. The milk distributor must
25 successfully complete a course under this paragraph at least every 3 years;

26 E. The milk distributor must sample source water and recirculating water on the
27 dairy farm at least once a year, maintain records of all sampling results at the dairy
28 farm and post the most recent sampling results in a conspicuous place in locations
29 where sales may occur. This paragraph does not apply if the water source of the
30 dairy farm is a public water system; and

31 F. The unpasteurized milk or unpasteurized milk product must be sold in a package
32 that:

33 (1) Meets all labeling requirements under chapter 101, subchapter 5 and sections
34 2902-B and 2910;

35 (2) Has a label containing the name, address and phone number of the milk
36 distributor; and

37 (3) Has a label with the following statement: "This food has been produced by a
38 milk distributor that is exempt from licensing and inspection by the State of
39 Maine."

40 **7. Commissioner's authority to investigate foodborne illness.** Notwithstanding
41 subsection 6, when the commissioner is investigating an outbreak of foodborne illness

COMMITTEE AMENDMENT

1 and has reason to believe that unpasteurized milk or an unpasteurized milk product being
2 sold under this section is adulterated as determined in Title 22, section 2156, the
3 commissioner may inspect the dairy farm where the unpasteurized milk or unpasteurized
4 milk product was produced and may detain, embargo or condemn the unpasteurized milk
5 or unpasteurized milk product in accordance with Title 22, section 2159.

6 **Sec. 5. 7 MRSA §2902-B, sub-§3**, as amended by PL 2005, c. 270, §3, is further
7 amended to read:

8 **3. Exception.** This section does not apply to cheese that has been aged at a
9 temperature above 35 degrees Fahrenheit for at least 60 days prior to sale and is produced
10 by a milk distributor who is licensed under section 2901-C, subsection 1. The licensing
11 requirement under this subsection does not apply to an eating establishment as provided
12 in section 2901-C, subsection 6, paragraph A.

13 **Sec. 6. 7 MRSA §2902-B, sub-§5**, as reallocated by PL 2005, c. 683, Pt. A, §12,
14 is amended to read:

15 **5. Sale of heat-treated cheese at eating establishment.** Notwithstanding
16 subsection 2, heat-treated cheese may be offered for consumption at an eating
17 establishment as defined in Title 22, section 2491, subsection 7 provided as long as the
18 menu identifies items on the menu that contain or are made with heat-treated cheese and
19 provides notice that heat-treated cheese is not pasteurized using the words "not
20 pasteurized" on the menu, and the heat-treated cheese is produced by a milk distributor
21 who is licensed under section 2901-C, subsection 1. The licensing requirement under this
22 subsection does not apply to an eating establishment as provided in section 2901-C,
23 subsection 6, paragraph A.'

24 **SUMMARY**

25 This amendment, which is the majority report, strikes and replaces the bill. The
26 amendment provides that the term "unpasteurized" has the same meaning as "not
27 pasteurized." Current law defines a "milk distributor" as any person who offers for sale
28 or sells to another person any milk or milk products in their final form. The amendment
29 provides that a milk distributor who sells unpasteurized milk or an unpasteurized milk
30 product is exempt from licensing requirements if the following conditions are met.

31 1. The sale of the unpasteurized milk or unpasteurized milk product in its final form
32 is made directly to the end consumer on the premises of the dairy farm, including a farm
33 stand or eating establishment located on property contiguous to the dairy farm.

34 2. The milk distributor allows each person who purchases unpasteurized milk or
35 unpasteurized milk product to visually inspect the dairy farm where the unpasteurized
36 milk or an unpasteurized milk product is produced. The milk distributor may require a
37 person who chooses to inspect the dairy farm to follow sanitary procedures determined by
38 the milk distributor.

39 3. The milk distributor does not promote the unpasteurized milk or unpasteurized
40 milk product in any manner other than in person or a face-to-face exchange between the
41 milk distributor and the end consumer.

1 4. Prior to selling unpasteurized milk or an unpasteurized milk product, the milk
2 distributor must complete a course on the sanitation of milk offered by the University of
3 Maine Cooperative Extension. The milk distributor must complete this course at least
4 every 3 years.

5 5. The milk distributor must sample source water and recirculating water on the dairy
6 farm at least once a year, maintain records of all sampling results at the dairy farm and
7 post the most recent sampling result in a conspicuous place in locations where sales may
8 occur. This requirement does not apply if the dairy farm's water is from a public source.

9 6. The unpasteurized milk or unpasteurized milk product must be sold in a package
10 that meets applicable labeling requirements in law and has a label containing the name,
11 address and phone number of the milk distributor and the following statement: "This
12 food has been produced by a milk distributor that is exempt from licensing and inspection
13 by the State of Maine."

14 The amendment also provides that the Commissioner of Agriculture, Conservation
15 and Forestry may inspect a dairy farm when investigating an outbreak of foodborne
16 illness.

FISCAL NOTE REQUIRED
(See attached)



126th MAINE LEGISLATURE

LD 1786

LR 2736(02)

An Act To Allow the Sale of Unregulated Farm-produced Dairy Products at the Site of Production

Fiscal Note for Bill as Amended by Committee Amendment

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

A(H-761)

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional costs to the Department of Agriculture, Conservation and Forestry to allow certain unpasteurized milk or unpasteurized milk product sellers to be exempted from certain license requirements and allowing the department to inspect farms and detain products when investigating foodborne illness outbreaks are expected to be minor and can be absorbed within existing budgeted resources.