

MAINE STATE LEGISLATURE

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Date: 3/28/14 Report C

L.D. 1786
(Filing No. H-762)

AGRICULTURE, CONSERVATION AND FORESTRY

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

COMMITTEE AMENDMENT ^B 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 Support Dairy Farms'

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 and lodging place, as defined in Title 22, section 2491, subsection 6,
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; and

22 D. The unpasteurized milk or unpasteurized milk product must be sold in a package
23 that:

24 (1) Meets all labeling requirements under chapter 101, subchapter 5 and sections
25 2902-B and 2910;

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

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

31 **7. Commissioner's authority to investigate foodborne illness.** Notwithstanding
32 subsection 6, when the commissioner is investigating an outbreak of foodborne illness
33 and has reason to believe that unpasteurized milk or an unpasteurized milk product being
34 sold under this section is adulterated as determined in Title 22, section 2156, the
35 commissioner may inspect the dairy farm where the unpasteurized milk or unpasteurized
36 milk product was produced and may detain, embargo or condemn the unpasteurized milk
37 or unpasteurized milk product in accordance with Title 22, section 2159.

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

40 **3. Exception.** This section does not apply to cheese that has been aged at a
41 temperature above 35 degrees Fahrenheit for at least 60 days prior to sale and is produced

1 by a milk distributor who is licensed under section 2901-C, subsection 1. The licensing
2 requirement under this subsection does not apply to an eating and lodging place as
3 provided in section 2901-C, subsection 6, paragraph A.

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

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

15 **SUMMARY**

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

22 1. The sale of the unpasteurized milk or unpasteurized milk product in its final form
23 is made directly to the end consumer on the premises of the dairy farm, including a farm
24 stand or eating and lodging place located on property contiguous to the dairy farm.

25 2. The milk distributor allows each person who purchases unpasteurized milk or an
26 unpasteurized milk product to visually inspect the dairy farm where the unpasteurized
27 milk or unpasteurized milk product is produced. The milk distributor may require a
28 person who chooses to inspect the dairy farm to follow sanitary procedures determined by
29 the milk distributor.

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

33 4. The unpasteurized milk or unpasteurized milk product must be sold in a package
34 that meets applicable labeling requirements in law and has a label containing the name,
35 address and phone number of the milk distributor and the following statement: "This
36 food has been produced by a milk distributor that is exempt from licensing and inspection
37 by the State of Maine."

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

FISCAL NOTE REQUIRED
(See attached)



Approved: 03/19/14 *MAC*

126th MAINE LEGISLATURE

LD 1786

LR 2736(03)

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

B(H-762)

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.