

MAINE STATE LEGISLATURE

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SMY
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L.D. 312

Date: 6/12/15

Minority

(Filing No. H-408)

AGRICULTURE, CONSERVATION AND FORESTRY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
FIRST REGULAR SESSION.

COMMITTEE AMENDMENT "A" to H.P. 206, L.D. 312, 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 Allow the Sale of Unregulated Farm-produced Milk or Milk Products at the Site of Production'

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-§4, as enacted by PL 1999, c. 679, Pt. A, §1, is repealed.

Sec. 2. 7 MRSA §2900, sub-§10-A is enacted to read:

10-A. Milk production facility. "Milk production facility" means any place or premises where one or more cows, goats or sheep are kept and from which milk or milk products are provided, sold or offered for sale.

Sec. 3. 7 MRSA §2901-A, as amended by PL 1999, c. 362, §7 and c. 679, Pt. A, §3, is further amended to read:

§2901-A. Standards and labeling

Notwithstanding any other requirements of this chapter, 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 and except that all sales of unpasteurized milk and unpasteurized milk products must comply with the labeling and notice requirements under section 2902-B.

COMMITTEE AMENDMENT

ROFE

COMMITTEE AMENDMENT "A" to H.P. 206, L.D. 312

1 **Sec. 4. 7 MRSA §2901-C, first ¶**, as enacted by PL 1999, c. 679, Pt. A, §5, is
2 amended to read:

3 A person required to obtain a permit or license under this section, section 2902-A or
4 rules adopted under section 2910 or pursuant to former section 2902 may not sell,
5 transport or transfer milk or milk products prior to obtaining the appropriate license or
6 permit. All off-farm sales and wholesale transactions of unpasteurized milk or
7 unpasteurized milk products must comply with the licensing and permit requirements of
8 this chapter.

9 **Sec. 5. 7 MRSA §2901-C, sub-§6** is enacted to read:

10 **6. Exemption.** A milk producer who sells unpasteurized milk or unpasteurized milk
11 products is exempt from licensing under subsection 1 if the following conditions are met:

12 A. The unpasteurized milk or unpasteurized milk product is sold from the milk
13 producer's milk production facility or from a farm stand located on the milk
14 producer's property contiguous to the milk producer's milk production facility;

15 B. The unpasteurized milk or unpasteurized milk product is labeled pursuant to the
16 provisions of chapter 101, subchapter 5 and section 2902-B and to rules adopted
17 under section 2910;

18 C. The milk producer places a clearly visible sign at the point of sale for the
19 unpasteurized milk or unpasteurized milk product that contains the name, address and
20 telephone number of the milk production facility and the following statement in
21 letters that are at least one inch in height: "Milk and milk products sold on this farm
22 are not pasteurized and are not licensed or inspected by the State of Maine";

23 D. The milk producer does not advertise the unpasteurized milk or unpasteurized
24 milk product in any manner other than in a face-to-face exchange;

25 E. The milk producer successfully completes a course in dairy sanitation offered by
26 the University of Maine Cooperative Extension and displays a certificate of
27 completion in a conspicuous place where sales occur. The milk producer shall
28 complete a course under this paragraph at least once every 3 years; and

29 F. The milk producer samples water at its source and circulating water on the milk
30 production facility at least once a year, maintains records of all sampling results at the
31 milk production facility and posts the most recent sampling results in a conspicuous
32 place where sales occur.

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

35 **5. Sale of heat-treated cheese at eating establishment.** Notwithstanding
36 subsection 2, heat-treated cheese may be offered for consumption at an eating
37 establishment as defined in Title 22, section 2491, subsection 7 provided if the menu
38 identifies items on the menu that contain or are made with heat-treated cheese and
39 provides notice that heat-treated cheese is not pasteurized using the words "not
40 pasteurized" on the menu and the heat-treated cheese is produced in a facility that is
41 licensed or permitted under section 2901-C.

42 **Sec. 7. 7 MRSA §2910-C** is enacted to read:

X OF 10

COMMITTEE AMENDMENT "A" to H.P. 206, L.D. 312

1 §2910-C. Commissioner's authority in the sale of unlicensed milk or milk products

2 When the commissioner is investigating an outbreak of a foodborne illness and has
3 reason to believe that outbreak is related to unpasteurized milk or an unpasteurized milk
4 product exempted from licensing under section 2901-C, subsection 6, the commissioner
5 may enter at reasonable times a milk production facility that is producing unpasteurized
6 milk or an unpasteurized milk product exempted under section 2901-C, subsection 6 for
7 the purposes of inspecting and collecting samples of the exempted unpasteurized milk or
8 unpasteurized milk product and may detain, embargo or condemn that milk or milk
9 product in accordance with Title 22, section 2159.

10 **Sec. 8. Maine Revised Statutes amended; revision clause.** Wherever in the
11 Maine Revised Statutes, Title 7, chapter 601 the words "dairy" or "dairy farm" appear or
12 reference is made to those words, those words are amended to read or mean, as
13 appropriate, "milk production facility," and the Revisor of Statutes shall implement this
14 revision when updating, publishing or republishing the statutes.'

15 **SUMMARY**

16 This amendment, which is the minority report, replaces the bill. It establishes a
17 framework within the Maine Revised Statutes for the direct sale of unpasteurized milk
18 and unpasteurized milk products at the milk production facility at which the product is
19 produced by exempting those sales from state licensing and inspection requirements if
20 certain conditions are met.

21 Specifically, this amendment:

- 22 1. Establishes conditions that must be met before gaining an exemption;
- 23 2. Establishes labeling requirements for unpasteurized milk and unpasteurized milk
24 products;
- 25 3. Reaffirms that all off-farm sales and wholesale transactions for unpasteurized milk
26 and unpasteurized milk products are required to comply with the licensing and permit
27 requirements;
- 28 4. Establishes that heat-treated cheese must be produced in a licensed and inspected
29 facility; and
- 30 5. Defines the term "milk production facility" and replaces the terms "dairy" or
31 "dairy farm" with "milk production facility" in the relevant chapter of law.

32 **FISCAL NOTE REQUIRED**

33 (See attached)



127th MAINE LEGISLATURE

LD 312

LR 1372(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 "A" (CH-408)

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

Fiscal Note

| | FY 2015-16 | FY 2016-17 | Projections FY 2017-18 | Projections FY 2018-19 |
|---------------------------|------------|------------|---------------------------|---------------------------|
| Net Cost (Savings) | | | | |
| General Fund | \$1,875 | \$2,500 | \$2,500 | \$2,500 |
| Revenue | | | | |
| General Fund | (\$1,875) | (\$2,500) | (\$2,500) | (\$2,500) |

Fiscal Detail and Notes

The bill allows milk producers selling not pasteurized milk or milk products to be exempt from licensing if the sale is conducted in a certain manner, the producer completes a course in dairy sanitation and the producer samples their source water. There will be an estimated General Fund revenue reduction of \$1,875 in fiscal year 2015-16 and of \$2,500 annually in subsequent fiscal years from fewer sales of milk distributor licenses. The Department of Agriculture, Conservation and Forestry has indicated that a Consumer Protection Inspector position is necessary for the enhanced inspection process required by the exemption criteria. As no funding or position is provided in the bill, any impact on other services or programs cannot be determined at this time.