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Bill Analysis

Legislative Service Commission

S.B. 95

127th General Assembly
(As Introduced)

Sens. Cates, Clancy, Schuler

BILL SUMMARY

- Eliminates current law authorizing raw milk to be given or sold only by persons who, prior to 1965, were engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers, and instead authorizes grade A milk producers to give or sell raw milk to the ultimate consumer under specified conditions.
- Revises the definition of "raw milk retailer."
- Requires the Director of Agriculture to adopt rules governing the production, labeling, inspection, and sampling of raw milk that is not to be pasteurized prior to gift, sale, offer for sale, or exposure for sale to the ultimate consumer, and requires the rules to be no more stringent than specified federal grade A pasteurized milk provisions.
- Authorizes the Director to adopt rules that regulate required notices warning that raw milk has not been pasteurized and may contain disease producing organisms and that establish procedures and standards regarding the packaging and storage of raw milk.
- Specifies that an existing prohibition against the use of goat's, sheep's, or another animal's milk for human consumption unless it is incorporated into certain dairy products does not apply to raw milk that is given or sold in accordance with the bill.
- Specifies that the Dairy Law does not apply to an individual who owns an animal for the purpose of personal consumption of the dairy products produced by that animal.

- Requires the Director to appoint two raw milk retailers to the Milk Sanitation Board.
- Requires the Board to create a standing subcommittee to review and consider any raw milk issue relevant to the Dairy Law and to report findings and make recommendations to the Board, and requires the subcommittee members to be raw milk retailers or consumers of raw milk.

CONTENT AND OPERATION

Production of raw milk for gift or sale

Current law prohibits a raw milk retailer from selling, offering for sale, or exposing for sale raw milk¹ to the ultimate consumer except a raw milk retailer who, prior to October 31, 1965, was engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers, holds a valid raw milk retailer license issued under the Dairy Law, and is subject to the rules regulating the sale of raw milk adopted under that Law (sec. 917.04). Under current law, "raw milk retailer" means a person who, prior to October 31, 1965, was engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers (sec. 917.01(T)).

The bill eliminates the provision that authorizes raw milk to be sold or offered or exposed for sale only by persons who, prior to October 31, 1965, were engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers and accordingly eliminates references to the 1965 date from the definition of "raw milk retailer" (secs. 917.01(T) and 917.04). The bill instead defines "raw milk retailer" as a person who has been issued a raw milk retailer license under current law and authorizes a grade A milk producer² to give,

¹ Current law defines "milk" as the lacteal secretion, substantially free from colostrum, obtained by the complete milking of one or more healthy cows, goats, sheep, or other animals and intended for either of the following purposes: (1) to be sold for human consumption or for use in dairy products, or (2) to be used for human consumption or for use in dairy products on the premises of a governmental agency or institution. "Milk" does not include a blend of the lacteal secretions of different species. (Sec. 917.01(F).)

² Under current law, "grade A milk producer" means a person located in this state who sells or offers for sale grade A milk obtained from a cow, goat, sheep, or other animal that the person owns or controls, and "grade A milk" means milk produced by a person holding a valid producer license of the grade A milk category issued under current law (sec. 917.01(J) and (G)).

sell, offer for sale, or expose for sale raw milk to the ultimate consumer if the producer complies with all of the following: (1) the producer holds a valid raw milk retailer license issued under current law, (2) the gift, sale, offer for sale, or exposure for sale occurs on the premises where the raw milk is produced, and (3) the producer displays a notice, in a conspicuous place and complying with the requirements established in rules adopted under the bill (see below), with the words "this product has not been pasteurized and may contain disease producing organisms" (secs. 917.01(T) and 917.04).

In addition, the bill revises current law that prohibits a person from failing to label, in accordance with rules adopted under the Dairy Law, all final delivery containers used for the sale of raw milk to ultimate consumers with the words "this product has not been pasteurized and may contain disease-producing organisms." The bill instead requires all final delivery containers used for the sale of raw milk to ultimate consumers by grade A milk producers to have a label, complying with the requirements established in rules adopted under the bill, with the words "this product has not been pasteurized and may contain disease producing organisms" and to have been filled, capped, and stored in compliance with the procedures and standards established in rules adopted under the bill (sec. 917.04).

The bill requires the Director of Agriculture to adopt rules in accordance with the Administrative Procedure Act establishing requirements governing the production, labeling, inspection, and sampling of raw milk that is not to be pasteurized prior to gift, sale, offer for sale, or exposure for sale to the ultimate consumer as authorized under the bill. The rules must be no more stringent than the Grade A Pasteurized Milk Ordinance of the United States Food and Drug Administration, 2005 Revision, to the extent those provisions do not conflict with Ohio laws. (Sec. 917.02(B)(3).)

The bill authorizes the Director to adopt rules in accordance with the Administrative Procedure Act that regulate the size and placement of notices required to be displayed by a grade A milk producer for the sale of raw milk to the ultimate consumer. The bill also authorizes the adoption of rules that establish procedures and standards for the hand-filling, hand-capping, and on-premises storage of raw milk in single-use or reusable final delivery containers that are used for the sale of raw milk to the ultimate consumer by a grade A milk producer. (Sec. 917.02(A)(1)(n) and (o).)

Current law prohibits a person from using for human consumption goat's milk, sheep's milk, or another animal's milk, except to manufacture dairy products that are described in federal law or recognized as nonstandardized traditional products normally manufactured from the animal's milk. The bill specifies that this prohibition does not apply to the gift, sale, offering for sale, or exposing for sale of raw milk to the ultimate consumer in accordance with the bill. (Sec.

917.05(G).) The bill also specifies that the Dairy Law does not apply to an individual who owns an animal for the purpose of personal consumption of the dairy products produced by that animal (sec. 917.25).

Milk Sanitation Board

Current law creates the Milk Sanitation Board consisting of the Director of Agriculture or the Director's authorized representative, the Director of Health or the Director's authorized representative, and seven members appointed by the Director of Agriculture representing various entities in the milk industry. The bill requires the Director also to appoint two raw milk retailers to the Board and, before making any such appointment, to consult with any statewide trade organizations that represent raw milk retailers.

Under existing law, the three members of the Board who are milk producers cannot be members or representatives of the same co-operative association. With the addition of the two raw milk retailers to the Board, the bill instead specifies that the five members who are milk producers or raw milk retailers cannot be members or representatives of the same co-operative association.

Current law specifies the terms of office for the initial members on the Board and requires the members thereafter to serve three-year terms that expire on December 31. The bill specifies that of the initial appointments made after the bill's effective date, one raw milk retailer must serve for a term ending December 31, 2007, and one raw milk retailer must serve for a term ending December 31, 2008. As under current law for the existing members on the Board, the new members representing raw milk retailers, after the initial appointments, must serve three-year terms that expire on December 31. (Sec. 917.03.)

Under existing law, the Milk Sanitation Board must create three standing subcommittees and may create other subcommittees consisting of board members or nonmembers to review and consider any issue relevant to the Dairy Law and to report findings and recommendations to the Board. Each of the required standing subcommittees must consist of eight members. One of the subcommittees must represent grade A milk production and processing, one must represent manufacture milk production and manufacturing, and one must represent frozen dessert manufacturers. The bill requires the Board to create another standing subcommittee to review and consider any raw milk issue relevant to the Dairy Law and to report findings and make recommendations to the Board. The standing subcommittee must consist of eight members and must represent raw milk production. The Director must appoint members of the standing subcommittee who are raw milk retailers or consumers of raw milk. (Sec. 917.031.)

HISTORY

ACTION

DATE

Introduced

03-06-07

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