

Fiscal Note & Local Impact Statement

127th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **S.B. 95** DATE: **March 28, 2007**
STATUS: **As Introduced** SPONSOR: **Sen. Cates**
LOCAL IMPACT STATEMENT REQUIRED: **No — No local cost**
CONTENTS: **Revises the statutes governing raw milk**

State Fiscal Highlights

STATE FUND	FY 2008	FY 2009	FUTURE YEARS
General Revenue Fund			
Revenues	- 0 -	- 0 -	- 0 -
Expenditures	Potential increase	Potential increase	Potential increase
Dairy Industry Fund (Fund 4R2)			
Revenues	Potential gain	Potential gain	Potential gain
Expenditures	Potential increase	Potential increase	Potential increase

Note: The state fiscal year is July 1 through June 30. For example, FY 2007 is July 1, 2006 – June 30, 2007.

- This bill would allow Grade A milk producers to give or sell raw milk under certain conditions. One such requirement would be that producers obtain a valid raw milk retailer license to sell raw milk, the fee for which is currently set at \$15 annually by administrative rule (although there are currently no active licenses). As such, the Dairy Industry Fund (Fund 4R2) may realize a gain in revenue from license fees.
- There is likely to be an increase in expenditures from the Dairy Industry Fund (Fund 4R2) or the GRF, both of which fund the Department of Agriculture's Dairy Division, to compensate and reimburse two additional Milk Sanitation Board members (estimated to be approximately \$3,600), write rules, carry out administrative functions such as licensing, and perform inspections. The exact amount of the increase to carry out administrative functions and perform inspections would be dependent on how many producers would obtain raw milk retailer licenses.

Local Fiscal Highlights

- No direct fiscal effect on political subdivisions.



Detailed Fiscal Analysis

Background

Current law prohibits the sale of raw milk from cows or goats directly to consumers. However, Ohio law permits dairy farmers to sell milk directly to consumers, but the farmer must meet pasteurization and other requirements and be licensed and inspected as a milk producer.

Changes made by the bill

The bill would allow Grade A milk producers to give, sell, offer for sale, or expose for sale raw milk to the ultimate consumer as long as the producer: (1) holds a valid raw milk retailer license, (2) makes sales on the premises where the milk is produced, (3) displays a conspicuous notice that the product is not pasteurized and may contain disease-producing organisms, and (4) ensures that all final delivery containers used for the sale of raw milk to the consumer have a label with the disclaimer that the product has not been pasteurized and may contain disease-producing organisms. The final sale containers must also have been filled, capped, and stored properly.

Current law allows the Director of Agriculture to adopt rules regarding the regulation of dairy products and related licenses. Corresponding to the bill providing for the sale of raw milk at milk producer facilities, the bill requires the Director of Agriculture to adopt additional 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 to the ultimate consumer. These rules are to be no more stringent than the Grade A pasteurized milk ordinance of the Food and Drug Administration to the extent those provisions do not conflict with the laws of this state. The bill also allows the Director to adopt rules that regulate the required notices and procedures for hand-filling, hand-capping, and on-premises storage of raw milk in containers used for the sale of raw milk to the consumer. The bill adds a provision that the statutes regarding raw milk do not apply to an individual who owns an animal for the purpose of personal consumption of the dairy products that animal produces.

Finally, the bill makes changes to the Milk Sanitation Board by adding two members, which are to be two raw milk retailers and by creating a standing subcommittee of the Milk Sanitation Board to review any raw milk issues.

State Fiscal Effects

Milk sanitation board member costs

Under current law unchanged by the bill, the Department of Agriculture must provide the Milk Sanitation Board with the personnel, office space, and incidentals necessary for it to perform its duties and exercise its powers. Members are compensated in an amount determined by division (J) of section 124.15 of the Revised Code and are reimbursed for actual and necessary expenses incurred in the

performance of their duties. The Department of Agriculture reported that in recent years, each member of the Milk Sanitation Board, which meets an average of four times per year, has been compensated at approximately \$1,000 per year. Assuming the Board continues to meet four times per year (and the additional members attend all meetings) and are reimbursed an average of \$200 per member per meeting for actual and necessary expenses, board member compensation costs would increase by approximately \$2,000 per fiscal year and reimbursements would increase by up to \$1,600 per fiscal year. In sum, the Dairy Inspection Fund (Fund 4R2) would likely experience a \$3,600 increase in expenditures per fiscal year as a result of the addition of two members to the Milk Sanitation Board if the Board continues to meet four times per year.

Raw milk retailer licensing

As the bill requires a valid raw milk retailer license to sell raw milk, the Dairy Industry Fund (Fund 4R2) may realize a gain in revenue from license fees. The Department of Agriculture is uncertain of the number of milk producers that would opt to sell raw milk on their premises, but such producers would most likely only comprise a small niche of producers. For example, Pennsylvania licenses approximately 40 farms to sell raw milk according to a December 2004 *Pittsburgh Post-Gazette* article. Pennsylvania is one of 28 states that allow for the sale of raw milk for human consumption. There are over 3,600 licensed Grade A milk producers in Ohio, which includes tank trucks and other transporters, processors, and transfer and receiving stations.

Though there are no active raw milk retailer licenses,¹ the annual license fee for the raw milk retailer license is currently set by administrative rule at \$15. This amount is the same charged for many other dairy-industry licenses, such as those for milk dealers, milk haulers, milk processors, milk producers, and milk weighers, samplers, and testers. As noted above, current law only authorizes raw milk to be given or sold by persons who, prior to 1965, were engaged continuously in the business of selling raw milk directly to the ultimate consumer. There is likely to be a gain in revenue to Dairy Industry Fund (Fund 4R2) from the issuance of new raw milk retailer licenses corresponding to the number of producers that choose to go obtain such a license.

Consequently, there is likely to be an increase in expenditures from the Dairy Industry Fund (Fund 4R2) and the GRF, both of which fund the Department of Agriculture's Dairy Division, to write rules, carry out administrative functions such as licensing, and perform inspections, as the Department does not currently engage in these activities in regard to raw milk retailers. The amount of the increase would be dependent on how many producers would obtain raw milk retailer licenses.

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¹ A March 2006 *Cleveland Plain Dealer* article noted that the last dairy farm in Ohio that was grandfathered into selling raw milk to consumers, Young's Dairy in Clark County, abandoned its license in 2003 after a salmonella outbreak in Ohio. However, the outbreak was not traced to Young's Dairy products.