

Idaho Session Laws

Chapter 359 of 2010

HOUSE BILL NO. 675

BY WAYS AND MEANS COMMITTEE

AN ACT RELATING TO RAW MILK; AMENDING TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 11, TITLE 37, IDAHO CODE, TO PROVIDE THAT CERTAIN ACTIVITY SHALL NOT CONSTITUTE THE SALE OR RETAIL SALE OF RAW MILK OR RAW MILK PRODUCTS, TO PROVIDE CONDITIONS, TO PROVIDE FOR REGISTRATION, TO PROHIBIT CERTAIN ACTIVITIES, TO PROVIDE FOR VIOLATIONS AND PENALTIES, TO PROVIDE FOR CIVIL ACTIONS, TO PROVIDE FOR ADMINISTRATION AND ENFORCEMENT BY THE IDAHO STATE DEPARTMENT OF AGRICULTURE, TO PROVIDE FOR RULEMAKING AND TO PROVIDE FOR HOLD ORDERS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 37, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 11, Title 37, Idaho Code, and to read as follows:

CHAPTER 11 ACQUISITION OF RAW MILK

37-1101. ACQUISITION OF RAW MILK AND RAW MILK PRODUCTS BY OWNER. (1) The acquisition of raw milk or raw milk products from cows, sheep or goats by an owner of such cows, sheep or goats for use or consumption by the owner or members of the owner's household shall not constitute the sale or retail sale of raw milk or raw milk products and shall not be prohibited. The acquisition of raw milk or raw milk products from cows, sheep or goats by an owner of a cow share, sheep share or goat share for use or consumption by the owner or members of the owner's household shall not constitute the sale or retail sale of raw milk or raw milk products and shall not be prohibited provided the following conditions are met:

(a) Unless otherwise permitted by the Idaho state department of agriculture, no more than seven (7) cows, fifteen (15) sheep or fifteen (15) goats may be kept as part of a cow share, sheep share or goat share program.

(b) The owner of a cow share, sheep share or goat share shall receive raw milk or raw milk products directly from the farm or dairy where the cow, sheep, goat or dairy herd is located and the farm or dairy shall be registered pursuant to subsection (2) of this section. A person who is the owner of a cow share, sheep share or goat share in a cow, sheep, goat or dairy herd may receive raw milk or raw milk products on behalf of another owner of the same cow, sheep, goat or dairy herd. A person who is not an owner of a cow share, sheep share or goat share in the same cow, sheep, goat or dairy herd shall not receive raw milk or raw milk products on behalf of the owner of a cow share, sheep share or goat share.

(c) The raw milk or raw milk products are obtained pursuant to the ownership of a cow, sheep, goat, cow share, sheep share or goat share. A cow share, sheep share or goat share is an undivided ownership interest in a cow, sheep, goat or herd of cows, sheep or goats, created by a written contractual relationship between an owner and a farmer that includes a bill of sale, stock certificate or other written evidence satisfactory to the director of the Idaho state department of agriculture of a bona fide ownership interest in the cow, sheep, goat or dairy herd. Such written contractual relationship shall also include boarding terms under which the cow, sheep, goat or dairy herd are boarded, milked and cared for. Such written contractual relationship shall also clearly set forth that the share owner is entitled to receive a share of milk or milk products from the cow, sheep, goat or dairy herd and contain a conspicuous notification that the milk or milk products are raw and not pasteurized.

(d) Information describing the standards used by the farm or dairy with respect to herd health, and in the production of milk from the herd, is provided to the share owner by the farmer together with results of tests performed on the cows, sheep or goats that produced the milk, tests performed on the milk and an explanation of the tests and test results.

(e) A farm or dairy operating a cow share, sheep share or goat share program with more than three (3) cows, seven (7) sheep or seven (7) goats shall test such raw milk or raw milk products at a frequency of at least four (4) separate months during any consecutive six (6) month period. Each batch of raw milk shall test negative for drugs. Milk quality tests and drug tests shall be conducted utilizing testing methods approved by the Idaho state department of agriculture. In no event shall such raw milk or raw milk products contain:

(i) More than fifteen thousand (15,000) bacteria per milliliter;

(ii) More than twenty-five (25) coliform per milliliter;

(iii) More than five hundred thousand (500,000) somatic cells per milliliter of raw milk from a cow or more than seven hundred fifty thousand (750,000) somatic cells per milliliter of raw milk from a sheep or goat.

(f) Whenever three (3) of the last five (5) consecutive bacteria, coliform, or somatic cell tests exceeds any of the milk quality standards listed in this section, the cow share, sheep share or goat share owners shall be notified and no milk shall be offered for human consumption until such time it meets the standard.

(g) Milk testing positive for drugs shall not be used for human consumption.

(h) All cows, sheep or goats kept as part of a cow share, sheep share or goat share program shall be tuberculosis and brucellosis free and shall be tested for tuberculosis and brucellosis annually.

(2) Registration of a farm or dairy as required by subsection (1) (b) of this section shall be accomplished by delivering to the Idaho state department of agriculture a written statement containing:

- (a) The name of the farmer, farm or dairy;
- (b) A valid, current address of the farmer, farm or dairy; and
- (c) A statement that raw milk or raw milk products are being produced at the farm or dairy.

(3) No person who obtains raw milk or raw milk products in accordance with this section shall sell such raw milk or raw milk products. Unless otherwise permitted by the Idaho state department of agriculture, it shall be unlawful for an owner of a cow, sheep, goat, cow share, sheep share or goat share to sell, offer for sale or advertise for sale to any person or distribute to any restaurant or food establishment, grocery store or farmers market any raw milk or raw milk products produced as provided herein. Any person who violates the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be subject to a fine not exceeding two hundred dollars (\$200) or imprisonment in the county jail not to exceed three (3) months, or by both such fine and imprisonment. The director of the Idaho state department of agriculture may bring civil actions to enjoin violation of the provisions of this section.

(4) No producer of raw milk or raw milk products as provided in this section shall publish any statement that implies approval or endorsement by the Idaho state department of agriculture.

(5) The Idaho state department of agriculture is charged with the responsibility of administration and enforcement of this chapter and is empowered to promulgate and enforce rules not inconsistent with this chapter.

(6) The Idaho state department of agriculture is authorized to issue a hold order to stop the distribution of raw milk or raw milk products when it is deemed necessary to protect human health.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.

April 11, 2010 — Signed by GOVERNOR.

April 11, 2010 — Chaptered. Chapter No. 359

April 11, 2010 — Enacted