



Wisconsin Raw Milk Update

by Pete Kennedy, Esq. - May 25, 2010

Despite passing by wide margins in the Wisconsin Legislature, on May 19 Governor Jim Doyle vetoed Senate bill 434, a bill that would have legalized the on-farm sale of raw milk by Grade A dairies if requirements contained in the bill were met. The bill had passed 25-8 in the Senate and 60-35 in the General Assembly. Doyle vetoed the bill despite indicating several weeks earlier that he was leaning towards signing it.

In his veto message, the Governor stated, "The sale of unpasteurized milk has become an increasingly contentious issue in Wisconsin and around the country. I recognize that there are strong feelings on both sides of this matter, but I must side with public health and the dairy industry." Shortly after issuing the veto, Doyle told reporters that he had to "rely on what the public health people are telling me." If all governors followed Doyle's reasoning, there would be hardly a State around that would have a law on the books legalizing the sale of raw milk. State health departments are lockstep with FDA in the desire to ban all distribution and consumption of raw milk.

As for the "safety of the dairy industry", Doyle went on to say in the veto message, "The dairy industry is the centerpiece of Wisconsin agriculture... An outbreak of disease from consumption of unpasteurized milk could damage the State's reputation for providing good, healthy dairy products, and hurt sales of pasteurized milk and other dairy products, resulting in significant financial loss for the entire dairy industry at a time when dairy farmers are already suffering."

First, there is no evidence that any outbreak of foodborne illness attributed to raw milk consumption has ever hurt the dairy industry. As State Senator Glenn Grothman (R-West Bend) asked, "Where is the drop in sales caused by the hundreds of thousands of members of dairy families, their employees, and visitors to the farms who drink raw milk now? There is none. The only danger to the reputation of milk is coming from the Dairy Business Association that is exaggerating the dangers of raw milk."

Second, if the Governor were interested in reversing the suffering of dairy farmers he would have signed the bill; the prices dairy farmers could get selling raw milk direct to consumers are more than double what they are getting from the processors. Continuing on with the existing system means more of the failed policies that have been responsible for the number of dairy farms in the State declining from 29,000 in 1995 to between 12,000 and 13,000 today.

In response to Doyle's veto, Senator Pat Kreitlow (D-Chippewa Falls), the principal sponsor of SB 434, issued a press release which stated, in part, "The Governor's veto is disappointing to the thousands of farmers and consumers who will continue to be treated like criminals for wanting nothing more than to buy or sell fresh milk off the farm... The fairness to family farmers is lost because of today's veto and that is why I call on DATCP to suspend its efforts to treat farmers as criminals when they try to meet the demands of customers for their products on the farm."

Kreitlow wasn't the only legislator asking DATCP to stop enforcement actions against raw milk producers. Grothman supported a return to the policy of the past, noting that even though the general prohibition against the sale of raw milk has been the law for many years, "DATCP, bowing to common sense, largely did not enforce the law until 2009 when new bureaucrats got a toehold in the Division of Food Safety." The new bureaucrats are Steve Ingham, the administrator for the Division of Food Safety, and Cheryl Daniels, assistant legal counsel for DATCP. Ironically, as an administrative law judge for DATCP, Daniels issued rulings in 2002 and 2004 that enabled anyone who purchased shares in an entity operating a dairy farm and possessing a Grade A permit to purchase raw milk and raw milk products from that farm. Thousands of people took advantage of the ruling to obtain raw milk from the shareholder dairies.



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Ingham would do well to revert to the enforcement policies of his predecessor Steve Steinhoff. Steinhoff was no supporter of raw milk but during at least the last five years of his tenure as administrator of the Food Safety Division he took no enforcement action against raw milk dairies he suspected were violating the law. DATCP has better things to do with its resources than to continue its pursuit of victimless crimes. The agency should not be going after raw milk producers who have injured no one and have benefited the health of many. The only injury in cases like this occurs when an enforcement action is taken against a raw milk producer and consumers who were obtaining a food they believed best for their health and the health of their families have lost their source.

Raw milk is a political issue; raw milk producers who have caused no injury should not be prosecuted by the State. Raw milk producers trying to sell at least part of their production outside of the commodity system should not be branded as criminals just because the dairy lobby has more political power than they do. It should not be a crime for raw milk producers to sell their product at retail to consumers who want the product instead of having to sell at the wholesale prices dictated by the commodity system. It should not be a crime for raw milk producers to sell to consumers who disagree with the State on what foods are best for their health.

The general prohibition against the sale of raw milk in the State of Wisconsin makes for bad law. The thousands of consumers who participate in "illegal" transactions to obtain raw milk in the State are a testimony to the need for change. The legislature will be considering a new raw milk bill next session. DATCP should use its discretion not to enforce the current raw milk law.

Click here for ***more details about the recent legislative efforts in Wisconsin*** or go to http://www.farmtoconsumer.org/state_bills-WI.html

Click here to read "***Wisconsin – How DATCP Denies Raw Milk Consumers Their Rights***" or go to <http://www.farmtoconsumer.org/news/news-10feb2010-wi.htm>