



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2009 Assembly Bill 628

**Assembly Substitute
Amendment 1**

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Assembly Bill 628

Assembly Bill 628 relates to the sale of unpasteurized, or raw, milk. The bill allows a person who holds a Grade A dairy permit to apply for and receive from the Department of Agriculture, Trade, and Consumer Protection (DATCP) a permit to sell raw milk and milk products. It allows a holder of such a permit to sell raw milk and butter, cream, and buttermilk made from raw milk if: (1) either the producer or purchaser provides a sanitary container and the container is filled in a sanitary manner; and (2) the producer posts a sign where the sale takes place indicating that the milk products for sale do not provide the protection of pasteurization. The bill provides a limited waiver of liability for the producer in the event that a person dies or is injured as a result of consuming raw milk sold by the producer.

Assembly Substitute Amendment 1

Assembly Substitute Amendment 1 replaces the provisions of the bill with an interim registration program, ending on December 31, 2011, for the limited sale of raw milk under specified conditions and subject to specified regulation. Specifically, it provides as follows:

Registration

The substitute amendment replaces the permit to sell raw milk products with a requirement that the producer register with the DATCP.

Sales

The substitute amendment limits sales to fluid milk. The milk must be sold on the farm where it is produced, and sold by the producer to the consumer, not for resale. Except for on-farm signage, the producer may not advertize the availability of raw milk for sale.

Notices

The substitute amendment expands the notice required under the bill to include a statement that certain categories of persons who may be particularly susceptible to illness from contaminated milk should not consume raw milk. It also requires that the producer affix a label on the milk container that includes the same statement, as well as the producer's name and address and the date of the sale. Also, either the producer or the consumer must provide a sanitary container for the milk and the container must be filled in a sanitary manner.

Health Protections; Testing and Record-Keeping

The substitute amendment requires that a producer who sells raw milk must comply with all requirements of his or her Grade A dairy permit. In addition, the producer must have his or her product sampled for specified pathogens at least once per month and must submit the test results to the DATCP.

The substitute amendment requires that a producer who sells raw milk must freeze a sample of each day's product and maintain the frozen sample for at least 15 days or another time specified by the DATCP in rules. In addition, the producer must make a record of each sale, including the name and address of the buyer and the date of the sale, and maintain the record for at least one year. The producer must make the samples and sales records available to the DATCP for inspection upon reasonable notice.

Enforcement

The substitute amendment specifies that the DATCP may suspend a producer's registration to sell raw milk if any pathogens are detected in a 25-gram sample of milk in any two of four consecutive monthly samples. In addition, the DATCP may suspend a producer's registration for violation of the requirements related to the production and sale of raw milk that are created by the substitute amendment.

Rules

The substitute amendment directs the DATCP to promulgate rules specifying registration forms and procedures for the administration of and compliance with the testing and record-keeping requirements. It requires the DATCP to promulgate these rules as emergency rules not later than the first day of the second month after the effective date of the requirement. It waives the requirement of a finding of emergency for the use of the emergency rule-making procedures in this case.

Sunset

The substitute amendment specifies that the authority of a person registered with the DATCP to sell raw milk does not apply after December 31, 2011.

Liability

The substitute amendment omits the limited waiver of liability in the bill.

Legislative History

Assembly Substitute Amendment 1 was offered by Representatives Danou, Hilgenberg, and Clark on March 26, 2010. On March 30, 2010, the Assembly Committee on Rural Economic Development recommended adoption of Assembly Substitute Amendment 1 on a vote of Ayes, 8; Noes, 1 and recommended passage of the bill, as amended, by the same vote.

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