




State of Wisconsin


LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 06/18/2013 (Per: RCT)

Appendix B

Appendix A  The drafting file for LRB 13-0773 (used to create 13-2542)
(Senator Grothman)

Appendix B  The drafting file for LRB 11s0260 (used to create 13-0773)
(Senator Grothman)

has been transferred to the drafting file for

2013 LRB-2542

(Senator Grothman)



State of Wisconsin
LEGISLATIVE REFERENCE BUREAU

Appendix A

LRB BILL HISTORY RESEARCH APPENDIX

The drafting file for

2011 LRBs0260 (For: Senator Grothman)

has been transferred to the drafting file for

2013 LRB-0773 (For: Senator Grothman)



RESEARCH APPENDIX -
PLEASE KEEP WITH THE DRAFTING FILE

Date Transfer Requested: 12/10/2012 (Per: RCT)

* If the draft history is requested in the file transferred, the search process will include reviewing the draft history to ensure that all draft history is included in the file transferred. If the draft history is not included in the file transferred, the draft history will be included in the file transferred.

2011 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB108)

Received: 11/22/2011

Received By: btradewe

Wanted: As time permits

Companion to LRB:

For: Glenn Grothman (608) 266-7513

By/Representing: Regina Kolbow

May Contact:

Drafter: btradewe

Subject: Agriculture - other

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Sen.Grothman@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Raw milk sales, including quality standards

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe 11/23/2011	wjackson 12/06/2011		_____			
/P1		wjackson 01/09/2012	rschluet 12/07/2011	_____	sbasford 12/07/2011		State
/P2			jmurphy 01/09/2012	_____	sbasford 01/09/2012		

FE Sent For:

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Senate Substitute Amendment (SSA-SB108)

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/?	btradewe 11/23/2011	wjackson 12/06/2011	<i>smg</i>	<i>KM</i>			
/P1		<i>/p2 wlj 1/9</i>	rschluet 12/07/2011		sbasford 12/07/2011		

FE Sent For:

<END>

2011 DRAFTING REQUEST

Senate Substitute Amendment (SSA-SB108)

Received: 11/22/2011

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See attached

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/?	btradewe	/pl WJ 12/6		_____	_____	_____	_____

FE Sent For:

<END>

Tradewell, Becky

From: Kolbow, Regina
Sent: Monday, November 21, 2011 4:14 PM
To: Tradewell, Becky
Cc: Mattke, Rachel; Julian, Jamie; Burri, Lance; Churchill, Jolene
Subject: Raw Milk Changes

Becky,

Senator Grothman would like a sub drafted for SB 108 with the changes below. If you have any questions you can call him on his cell at 262-689-8421 or you can call me at 608-205-3095.

Thank you for your help and have a Happy Thanksgiving.

Sincerely,

Regina Kolbow
Office of Senator Grothman
Room 10 South, State Capitol
Phone: 608-266-7513
Toll Free: 1-800-662-1227

[Senator Grothman's State of the Family Report](#)

*All communications are subject to open records under Chapter 19, Wis. Stats.

Changes:

1. Delete the 20 cows provision
2. Add:
 - I. Labeling - On the label will be the name of Farm and Raw Milk-Not Pasteurized.
 - II. Direct from farm to consumer sales only.
 - III. Raw milk will meet or exceed Grade A Testing Standards
 - a. Somatic Cell Count of <450,000 for Raw Milk Sellers.
 - b. Standard Plate count of < 20,000Current milk quality standards in Wisconsin include the following requirements:
 - 1) No visible adulteration or objectionable odor.
 - 2) Standard plate counts of <100,000 cfu for Grade A
 - 3) No drug residues, antibiotics
 - 4) Somatic Cell Count <750,000.
 - 5) Temperature <45 degrees F for Grade A
 - 6) Water test
 - IV. Register with DATCP as a Raw Milk Seller

11/21/2011

Unofficial Text (See Printed Volume). Current through date and Register shown on Title Page.

sive accumulations of manure on the udders and flanks of milking animals.

(3) **COWYARD.** A cowyard shall be graded for proper drainage, and shall be kept free of standing pools of water and accumulations of manure or feed waste. In loafing pens, manure shall be removed or clean bedding added with sufficient frequency to prevent excessive accumulation of manure on the udders and flanks of milking animals. Accumulations of waste feed shall be promptly removed. Manure packs shall be properly drained and shall provide a reasonably firm footing. Swine shall be kept out of the cowyard.

(4) **STATIONARY FEEDERS IN COWYARD.** Stationary feeders in a cowyard shall be fully surrounded by a paved surface on which milking animals stand while feeding. The paved surface shall extend at least 12 feet in all directions from the feeder, except that a paved surface installed before January 1, 1979, shall extend at least 8 feet in all directions from the feeder. If the distance between a feeder and another building or permanent structure is less than the paved surface width prescribed under this subsection, the paved surface shall extend to the building or other permanent structure.

(5) **STOCK WATERING DEVICES AND PORTABLE FEEDERS IN COWYARD.** Stock watering devices and portable feeders shall be located in an area which is well drained and provides reasonably firm footing for animals using the facilities.

(6) **TOILETS.** (a) Every dairy farm shall have one or more sanitary toilets, conveniently accessible by persons engaged in milking operations. A conveniently accessible toilet may include a toilet in a farm residence or other farm building.

(b) Toilets under par. (a) shall comply with chs. Comm 62 and NR 812. Toilets shall be kept in clean and sanitary condition.

(7) **PEST CONTROL.** Insects, rodents and other pests shall be controlled, as necessary, to prevent the contamination of milk and milk contact surfaces of equipment and utensils. Pesticides shall not be stored, handled or used in a manner which might contaminate milk, milk contact surfaces, feed or water.

Note: Pesticide storage and use must comply with ss. 94.67 to 94.71, Stats., and ch. ATCP 29. Pesticides must be registered for use by the U.S. environmental protection agency or by the department. Pesticides shall not be stored, handled or used in a manner inconsistent with label directions, or in a negligent manner.

(8) **ANIMAL DRUG STORAGE.** No animal drug or medicinal item may be kept in or immediately adjacent to dairy farm facilities used for dairying operations unless the animal drug or medicinal item is designed or prescribed for use on dairy animals. Animal drugs and medicinal items stored immediately adjacent to the milking barn, milking parlor or milkhous shall be protected from the elements, and shall be stored above the floor, on racks or in a cabinet. Animal drugs and medicinal items shall be stored in a manner which prevents contamination of milk, and equipment and utensils coming in contact with milk. Animal drugs and medicinal items shall be clearly labeled to indicate their identity and intended use, and prescription drugs shall be labeled as provided under s. ATCP 60.13 (6). Animal drugs and medicinal items intended solely for non-lactating animals shall be kept separate from those used on lactating animals.

History: Cr. Register, July, 1989, No. 403, eff. 8-1-89, cr. (8), Register, June, 1992, No. 438, eff. 7-1-92; CR 01-125 r. and rscr. (6), Register December 2002 No. 564, eff. 1-1-03, corrections in (6) (b) made under s. 13.93 (2m) (b) 7., Stats., Register December 2002 No. 564; CR 07-006 am. (2), (3) and (4), Register January 2008 No. 625, eff. 2-1-08.

Subchapter IV — Milk Quality Standards: Examination of Milk From Dairy Farms

ATCP 60.15 Milk quality standards. Milk received or collected from a dairy farm shall comply with all of the following standards at the time of receipt or collection:

(1) **VISIBLE ADULTERATION AND ODORS.** The milk shall not be visibly adulterated, or have any objectionable odor, or be abnormal in appearance or consistency.

(2) **BACTERIAL COUNT.** The bacterial count of grade A milk, as determined by a standard plate count or plate loop count under this subchapter, shall not exceed 100,000 per ml. The bacterial count of grade B milk shall not exceed 300,000 per ml. Except as provided under s. ATCP 60.18 (5), a dairy plant is not required to reject milk shipments in response to a violation of this subsection unless the department suspends or revokes the milk producer's license or grade A permit, or issues a holding order or disposal order under s. ATCP 60.30.

(3) **DRUG RESIDUES.** The milk shall not contain any drug residue.

(4) **SOMATIC CELL COUNT.** The somatic cell count of cow or sheep milk, as determined by a direct microscopic somatic cell count or an electronic somatic cell count under this subchapter, shall not exceed 750,000 cells per ml. The somatic cell count of goat milk, as determined by the Pyronin Y Methyl green stain test, shall not exceed 1,500,000 cells per ml. Except as provided under s. ATCP 60.20 (6), a dairy plant is not required to reject milk shipments in response to a violation of this subsection unless the department suspends or revokes the milk producer's license or grade A permit, or issues an order affecting the milk shipments under s. ATCP 60.30.

(5) **TEMPERATURE.** If milk is received or collected from a dairy farm more than 2 hours after the most recent milking, the temperature of the milk shall not exceed 45° F. (7° C.), or 50° F. (10° C.) in the case of grade B can milk. If the milk consists of a blend of milk from 2 or more milkings, and the milk is received or collected less than 2 hours after the most recent milking, the blend temperature shall not exceed 50° F. (10° C.).

(6) **PESTICIDES AND TOXIC SUBSTANCES.** The milk shall be free of pesticides and toxic substances.

History: Cr. Register, July, 1989, No. 403, eff. 8-1-89; am. (4), Register, June, 1991, No. 426, eff. 7-1-01; am. (3), Register, June, 1992, No. 438, eff. 7-1-92; CR 01-125 am. (2) and (4), Register, December 2002 No. 564, eff. 1-1-03; correction in (4) made under s. 13.93 (2m) (b) 7., Stats., Register December 2002 No. 564; CR 07-006 am. (4) Register January 2008 No. 625, eff. 2-1-08; CR 10-055 am. (4) Register November 2010 No. 659, eff. 12-1-10.

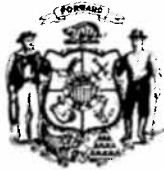
ATCP 60.16 Examining milk by sight and smell. A person who receives or collects milk from a milk producer shall examine the milk by sight and smell, and shall reject all milk which has an objectionable odor, which is abnormal in appearance or consistency, or which is visibly adulterated. Rejected milk may not be received or commingled with milk from another milk producer. If a milk producer disputes the rejection of milk, the person who initially rejects the milk shall contact the dairy plant operator procuring the milk, and the dairy plant operator shall examine or test the milk prior to accepting or rejecting the milk. The dairy plant operator shall report the examination or test results to the department within 7 business days in a form approved by the department.

History: Cr. Register, July, 1989, No. 403, eff. 8-1-89; CR 07-006 am. Register January 2008 No. 625, eff. 2-1-08.

ATCP 60.17 Collecting milk samples. (1) **SAMPLE REQUIRED.** A dairy plant operator who receives a milk shipment from a milk producer shall collect a representative milk sample from that shipment. A person licensed under s. 97.17 or 98.146, Stats., shall collect the sample before the dairy plant operator commingles the milk with milk from any other producer or shipment.

(2) **SAMPLE COLLECTED BY MILK HAULER.** A milk hauler who collects a bulk milk shipment from a dairy farm shall collect the milk sample under sub. (1) for the dairy plant operator. The milk hauler shall collect the sample at the dairy farm, according to ch. ATCP 82. The milk hauler shall promptly deliver the sample to the dairy plant operator, or to a milk testing laboratory designated by the dairy plant operator.

(2m) **SAMPLE COLLECTED FROM BULK TRANSPORT CONTAINER.** A person who receives a bulk transport container at a dairy plant



State of Wisconsin
2011 - 2012 LEGISLATURE

Barack (23)

5026911



LRB-0506/2
RCT:wlj:md

stays T.M.N.Y.

Senate substitute amendment

to **2011 SENATE BILL 108**

*BY
Wed.
12/7*

olide

May 26, 2011 - Introduced by Senators GROTHMAN, DARLING, S. FITZGERALD, GALLOWAY, HANSEN, HOLPERIN, KAPANKE, LASEE and LEIBHAM, cosponsored by Representatives PRIDEMORE, DANOU, CLARK, KOOYENGA, KRUG, THIESFELDT and TIFFANY. Referred to Committee on Agriculture, Forestry, and Higher Education.

please regenerate

1 **AN ACT to amend** 97.22 (2) (a); and **to create** 97.20 (2) (e) 1m., 97.22 (11) and
2 97.24 (2m) of the statutes; **relating to:** the sale of unpasteurized milk products
3 and an exemption from rules and licensing and permitting requirements for
4 certain dairy farms.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the sale of unpasteurized (commonly called raw) milk and other milk products and prohibits the sale to consumers of milk or milk products that are not grade A milk or milk products. Current law requires a dairy farmer to have a milk producer license from the Department of Agriculture, Trade and Consumer Protection (DATCP) and requires a grade A permit from DATCP to sell grade A milk. Also under current law, DATCP promulgates rules governing the operation of dairy farms and the testing and quality of milk.

substitute amendment

This ~~bill~~ allows a dairy farmer with a license and a grade A permit to register with DATCP for the purpose of selling unpasteurized milk and milk products. ~~The bill also allows a dairy farmer who does not have a license or a grade A permit to register with DATCP if the farmer milks fewer than 20 cows. A dairy farmer who registers with DATCP may sell unpasteurized milk and milk products directly to a consumer on the farm if the dairy farmer or the consumer provides a sanitary container, the container is filled in a sanitary manner, and the dairy farmer posts a sign stating "Raw milk products sold here. Raw milk products are not pasteurized."~~

Analysis by LRB

SENATE BILL 108

Also, under the bill, DATCP's rules governing the operation of dairy farms and the testing and quality of milk do not apply to a registered dairy farmer without a license or a grade A permit if the farmer milks fewer than 20 cows.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 97.20 (2) (e) 1m. of the statutes is created to read:

2 97.20 (2) (e) 1m. A dairy farm manufacturing or processing milk products, as
3 defined in s. 97.24 (2m) (a), if the milk producer is authorized to sell milk products
4 under s. 97.24 (2m) (p)^d.

5 **SECTION 2.** 97.22 (2) (a) of the statutes is amended to read:

6 97.22 (2) (a) *License required.* ~~No~~ Except as provided in sub. (11), no person
7 may operate a dairy farm as a milk producer without a valid license issued by the
8 department for that dairy farm. A license expires on April 30 annually and is not
9 transferable between persons or dairy farms. ~~Every~~ Except as provided in sub. (11),
10 every milk producer shall comply with standards applicable to the production of milk
11 and fluid milk products under this chapter and rules promulgated under this
12 chapter.

13 **SECTION 3.** 97.22 (11) of the statutes is created to read:

14 97.22 (11) EXCEPTION. (a) A license is not required under sub. (2) for a milk
15 producer registered under s. 97.24 (2m) (c) to sell unpasteurized milk and milk
16 products under s. 97.24 (2m) (e).

17 (b) The rules promulgated under sub. (8) and s. 97.24 (3) do not apply to a milk
18 producer registered under s. 97.24 (2m) (c) or to milk or milk products produced by
19 a milk producer registered under s. 97.24 (2m) (c).

SENATE BILL 108

1 SECTION 4. 97.24 (2m) of the statutes is created to read:

2 97.24 (2m) SALE OF UNPASTEURIZED MILK AND MILK PRODUCTS. (a) In this
3 subsection, "milk products" means buttermilk, kefir, yogurt, cottage cheese, ice
4 cream, butter, and cheese.

5 (b) A milk producer who has a grade A dairy farm permit under s. 97.22 (3) may
6 register with the department for the purposes of par. (d).

7 (c) A milk producer who does not have a grade A dairy farm permit under s.
8 97.22 (3) or a milk producer license under s. 97.22 (2) may register with the
9 department for the purposes of par. (e) if the milk producer milks fewer than 20 cows.

10 (d) The department may not specify additional requirements for registration
11 under par. (b) or (c).

12 (e) Notwithstanding subs. (2) (b) and (3), a milk producer may sell
13 unpasteurized milk and milk products directly to a consumer on the milk producer's
14 dairy farm if all of the following apply:

- 15 1. The milk producer is registered under par. (b) or (c).
- 16 2. For each sale, either the milk producer or the consumer provides a sanitary
- 17 container for the milk or milk product that has been prepared in a sanitary manner
- 18 and the container is filled in a sanitary manner.

Insert
3-18

19 4. At the place where the milk and milk products are sold, the milk producer
20 displays a sign that is easy for a consumer to read and that states: "Raw milk
21 products sold here. Raw milk products are not pasteurized."

Insert
3-21

(END)

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0260/P1ins
RCT:.....

1 **Analysis insert A**

2 **Analysis insert**
the container is labeled with the name of the dairy farm and a statement that
the product is not pasteurized,

3 DATCP's current rules include milk quality standards concerning the
appearance and odor of milk, bacterial count, somatic cell count (largely white blood
cells), drug residues, and pesticides and toxic substances in milk. The rules also *include*
requirements for cooling milk and for a dairy farm's water supply.

* This substitute amendment prohibits a dairy farmer from selling
unpasteurized milk products if the milk does not comply with these milk quality
standards, except that the standards for bacterial count and somatic cell count are
more stringent under this substitute amendment than under DATCP's current rules.

3 **Insert 3-18**

4 3. The milk producer affixes to the container a label that includes the name of
5 the milk producer and, for milk, the words, "Raw milk—not pasteurized" or, for a
6 milk product, "Raw milk product—not pasteurized."

7 **Insert 3-21**

8 (e) A milk producer registered under par. (b) may not sell unpasteurized milk,
9 or milk products made from that milk, if any of the following ^{applies} apply:

10 1. The unpasteurized milk has a somatic cell count that exceeds 450,000 cells
11 per milliliter.

12 2. The unpasteurized milk has a bacterial count that exceeds 20,000 per
13 milliliter.

14 3. The unpasteurized milk does not comply with s. ATCP 60.15 (1), (3), or (6),
15 Wis. Adm. Code.

16 4. The unpasteurized milk is not cooled to 45 degrees Fahrenheit or less within
17 2 hours after milking.

the milk producers

5. The water supply used for ~~farm~~ operations does not comply with s. ATCP
60.08, Wis. Adm. Code.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0260/P1dn

RCT: /.....

Wlj

Date

This is a preliminary version of the substitute amendment to SB 108. I am not certain that I have captured the intent of this request with regard to the milk quality standards.

Should the draft specify penalties for violating the milk quality standards? If it does not, the penalties in current s. 97.72 will apply.

Please review the entire draft and let me know if there are any questions or concerns.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0260/P1dn
RCT:wlj:rs

December 7, 2011

This is a preliminary version of the substitute amendment to SB 108. I am not certain that I have captured the intent of this request with regard to the milk quality standards.

Should the draft specify penalties for violating the milk quality standards? If it does not, the penalties in current s. 97.72 will apply.

Please review the entire draft and let me know if there are any questions or concerns.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov

Tradewell, Becky

From: Kolbow, Regina
Sent: Tuesday, December 13, 2011 8:18 PM
To: Tradewell, Becky
Subject: Changes to SUB for SB 108
Importance: High
Attachments: Draft #3 of SB# 108 12-8-11.pdf

Becky,

Could you make the attached updates to our raw milk bill sub.

Summary of changes:

✓ Page 1 line 7. Changed means to "includes but not limited to" Buttermilk changed to "cultured buttermilk" Deleted cottage cheese and replaced with "Whey".

Page 1 Line 9. Changed grade A permit to "meets or exceeds Grade A testing standards of somatic cell count, bacterial count and water test"

✓ Page 2 line 1 & 2. changed sanitary to "clean" put a period after milk product and deleted rest of line 2 & 3

✓ Page 2 Line 4. Deleted all of line 4 dealing with cooling temperature and time. We felt that the tests of somatic cell and bacterial count will insure good quality raw milk. The cooling temperature and time has to do with bulk tanks and not all the raw milk sellers will have bulk tanks.

Thanks!

Sincerely,

Regina Kolbow
Office of Senator Grothman
Room 10 South, State Capitol
Phone: 608-266-7513
Toll Free: 1-800-662-1227

Senator Grothman's State of the Family Report

*All communications are subject to open records under Chapter 19, Wis. Stats.

12/14/2011

Tradewell, Becky

From: Kolbow, Regina
Sent: Tuesday, December 20, 2011 12:12 PM
To: Tradewell, Becky
Subject: RE: Changes to SUB for SB 108

Hi, Becky!

Just left you a message. If you have any questions please call me at 608-205-3095. Thanks and have a Merry Christmas!

Sincerely,

Regina Kolbow
Office of Senator Grothman
Room 10 South, State Capitol
Phone: 608-266-7513
Toll Free: 1-800-662-1227

Senator Grothman's State of the Family Report

*All communications are subject to open records under Chapter 19, Wis. Stats.

From: Tradewell, Becky
Sent: Thu 12/15/2011 3:40 PM
To: Kolbow, Regina
Subject: RE: Changes to SUB for SB 108

Regina,

Is the intent of the second instruction that a dairy farmer would not be required to have a grade A permit in order to sell raw milk and milk products directly to consumers? If so, I will need to make additional changes because current law prohibits the sale to consumers of milk and milk products that are not grade A. Note that the provisions concerning somatic cell count, bacteria count, and water supply are all on the next page of the draft.

Also, if the definition of "milk products" is changed as you have requested, it may not be clear exactly what products, other than the listed ones, may be sold under the proposal. This could result in confusion and ultimately in litigation. Do you want to go ahead with that change?

Please let me know if you have questions.

Becky Tradewell
Managing Attorney
Legislative Reference Bureau
608-266-7290

From: Kolbow, Regina
Sent: Tuesday, December 13, 2011 8:18 PM
To: Tradewell, Becky

12/27/2011

Subject: Changes to SUB for SB 108

Importance: High

Becky,

Could you make the attached updates to our raw milk bill sub.

Summary of changes:

Page 1 line 7. Changed means to "includes but not limited to" Buttermilk changed to "cultured buttermilk" Deleted cottage cheese and replaced with "Whey".

Page1 Line 9. Changed grade A permit to "meets or exceeds Grade A testing standards of somatic cell count, bacterial count and water test"

Page 2 line 1 & 2. changed sanitary to "clean" put a period after milk product and deleted rest of line 2 & 3

Page 2 Line 4. Deleted all of line 4 dealing with cooling temperature and time. We felt that the tests of somatic cell and bacterial count will insure good quality raw milk. The cooling temperature and time has to do with bulk tanks and not all the raw milk sellers will have bulk tanks.

Thanks!

Sincerely,

Regina Kolbow

Office of Senator Grothman
Room 10 South, State Capitol
Phone: 608-266-7513
Toll Free: 1-800-662-1227

Senator Grothman's State of the Family Report

*All communications are subject to open records under Chapter 19, Wis. Stats.

12/27/2011

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608 266 0341)

Library (608 266 7040)

Legal (608 266 3561)

LRB

12/22/11 Telephone call with Rogier and Jolene Plante:

Most of the farmers will also sell milk to dairy plants, but some of the small ones do not want to. And they do not want to be licensed or have a grade A permit, partly because you have to have a contract with a dairy plant to get those. The lack of a requirement for a license should not be based on number of cows as it was in the bill.

They want to be required to comply with grade A milk quality standards (except for testing).

RLT

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0260/P2dn

RCT:/...

Wlj

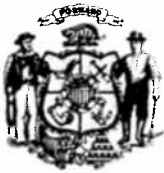
Date

This is a redraft of the substitute amendment for SB 108. Please review it carefully. Note that the somatic cell count and bacterial count standards in the first version of this draft were more stringent than the current grade A standards. Based on instructions provided in a telephone conversation with Regina and Jolene, this draft uses the current grade A standards.

I changed the definition of "milk products" as requested, except that our drafting style does not use "but not limited to." Using "includes" rather than "means" in the definition may result in confusion about exactly what products other than the listed ones may be sold under the authority of the raw milk permit. As the administrating agency, DATCP may decide the matter, except that if there is a lawsuit, a court will decide.

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell
Managing Attorney
Phone: (608) 266-7290
E-mail: becky.tradewell@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE

50280/P2
5000 (m 12/27)



LRB-0306/2
RCT:wlj:md

Senate Substitute Amendment

stays rmm -

to **2011 SENATE BILL 108**

* LRS - note base document *

Date

May 26, 2011 - Introduced by Senators GROTHMAN, DARLING, S. FITZGERALD, GALLOWAY, HANSEN, HOLPERIN, KAPANKE, LASEE and LEIBHAM, cosponsored by Representatives PRIDEMORE, DANOU, CLARK, KOYENGA, KRUG, THIESFELDT and TIFFANY. Referred to Committee on Agriculture, Forestry, and Higher Education.

Regen

- 1 AN ACT to amend 97.22 (2) (a); and to create 97.20 (2) (e) 1m., 97.22 (11) and
- 2 97.24 (2m) of the statutes; relating to: the sale of unpasteurized milk products
- 3 and an exemption from rules and licensing and permitting requirements for
- 4 certain dairy farms.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the sale of unpasteurized (commonly called raw) milk and other milk products and prohibits the sale to consumers of milk or milk products that are not grade A milk or milk products. Current law requires a dairy farmer to have a milk producer license from the Department of Agriculture, Trade and Consumer Protection (DATCP) and requires a grade A permit from DATCP to sell grade A milk. Also under current law, DATCP promulgates rules governing the operation of dairy farms and the testing and quality of milk.

Analysis link A ↓

note

This bill allows a dairy farmer with a license and a grade A permit to register with DATCP for the purpose of selling unpasteurized milk and milk products. The bill also allows a dairy farmer who does not have a license or a grade A permit to register with DATCP if the farmer milks fewer than 20 cows. A dairy farmer who registers with DATCP may sell unpasteurized milk and milk products directly to a consumer on the farm if the dairy farmer or the consumer provides a sanitary container, the container is filled in a sanitary manner, and the dairy farmer posts a sign stating "Raw milk products sold here. Raw milk products are not pasteurized."

SENATE BILL 108

substitute amendment
 Also ~~under the bill~~, DATCP's ^{other} rules governing the operation of dairy farms and ^{who does not have} the testing and quality of milk do not apply to a registered dairy farmer ~~without~~ a license or a grade A permit if the farmer milks fewer than 20 cows.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 97.20 (2) (e) 1m. of the statutes is created to read:

2 97.20 (2) (e) 1m. A dairy farm manufacturing or processing milk products, as
3 defined in s. 97.24 (2m) (a), if the milk producer is authorized to sell milk products
4 under s. 97.24 (2m) (e).

5 **SECTION 2.** 97.22 (2) (a) of the statutes is amended to read:

6 97.22 (2) (a) *License required.* ~~No~~ Except as provided in sub. (11), no person
7 may operate a dairy farm as a milk producer without a valid license issued by the
8 department for that dairy farm. A license expires on April 30 annually and is not
9 transferable between persons or dairy farms. ~~Every~~ Except as provided in sub. (11),
10 every milk producer shall comply with standards applicable to the production of milk
11 and fluid milk products under this chapter and rules promulgated under this
12 chapter.

13 **SECTION 3.** 97.22 (11) of the statutes is created to read:

14 97.22 (11) EXCEPTION. (a) A license is not required under sub. (2) for a milk
15 producer registered under s. 97.24 (2m) ^{but who does not} ~~(a) to~~ sell unpasteurized milk and milk ^{milk or milk products}
16 products ^{as authorized} under s. 97.24 (2m) (e). ^{other than}

17 (b) Except as provided in s. 97.24 (2m) (e) 5. and 6.,
18 producer registered under s. 97.24 (2m) (c) ^{described in par. (a)} or to milk or milk products produced by
19 a milk producer registered under s. 97.24 (2m) (c) ^{described in par. (a)}

SENATE BILL 108

1 SECTION 4. 97.24 (2m) of the statutes is created to read:

2 97.24 (2m) SALE OF UNPASTEURIZED MILK AND MILK PRODUCTS. (a) In this
3 subsection, "milk products" ^{include cultured} means ~~buttermilk~~, kefir, yogurt, ^{whipped} cottage cheese, ice
4 cream, butter, and cheese.

5 (b) A milk producer who has a grade A dairy farm permit under s. 97.22 (3) may
6 register with the department for the purposes of par. (e).

7 (c) A milk producer who does not have a grade A dairy farm permit under s.
8 97.22 (3) or a milk producer license under s. 97.22 (2) may register with the
9 department for the purposes of par. (e) if the milk producer milks fewer than 20 cows.

10 (d) The department may not specify additional requirements for registration
11 under par. (b) or (c).

12 (e) Notwithstanding subs. (2) (b) and (3), a milk producer may sell
13 unpasteurized milk and milk products directly to a consumer on the milk producer's
14 dairy farm if all of the following apply:

- 15 1. The milk producer is registered under par. (b) or (c),
- 16 2. For each sale, either the milk producer or the consumer provides a ^{clean} sanitary
17 container for the milk or milk product that has been prepared in a sanitary manner
18 and the container is filled in a sanitary manner.

19 ~~4.~~ At the place where the milk and milk products are sold, the milk producer
20 displays a sign that is easy for a consumer to read and that states: "Raw milk
21 products sold here. Raw milk products are not pasteurized."

(END)

note

LPS: Please leave
the paragraph letters
as is.

Insert
22
3-21

Insert 3-18

1 2. For each sale, either the milk producer or the consumer provides a sanitary
2 container for the milk or milk product that has been prepared in a sanitary manner
3 and the container is filled in a sanitary manner.

4 3. The milk producer affixes to the container a label that includes the name of
5 the milk producer and, for milk, the words, "Raw milk—not pasteurized" or, for a
6 milk product, "Raw milk product—not pasteurized." (added)

IN 5
3-18

7 4. At the place where the milk and milk products are sold, the milk producer
8 displays a sign that is easy for a consumer to read and that states: "Raw milk
9 products sold here. Raw milk products are not pasteurized."

10 (e) A milk producer registered under par. (b) may not sell unpasteurized milk,
11 or milk products made from that milk, if any of the following applies:

12 1. The unpasteurized milk has a somatic cell count that exceeds 450,000 cells
13 per milliliter.

14 2. The unpasteurized milk has a bacterial count that exceeds 20,000 per
15 milliliter.

16 3. The unpasteurized milk does not comply with s. ATCP 60.15 (1), (3), or (6),
17 Wis. Adm. Code.

18 4. The unpasteurized milk is not cooled to 45 degrees Fahrenheit or less within
19 2 hours after milking.

20 5. The water supply used for the milk producer's operations does not comply
21 with s. ATCP 60.08, Wis. Adm. Code.

22

(END)

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0260/P2ins
RCT:.....

no milk or milk products other than

1 **Analysis insert**

This substitute amendment allows a dairy farmer to register with DATCP for the purpose of selling unpasteurized milk and milk products directly to consumers on the farm. The bill provides that a dairy farmer who is registered is not required to obtain a milk producer license or a grade A permit if the dairy farmer does not send any milk to a dairy plant (also called a processor), but ~~only~~ sells unpasteurized milk and milk products on the farm. A dairy farmer who registers with DATCP may sell unpasteurized milk and milk products if all of the following apply:

*Sold
at*

1. The dairy farmer or the consumer provides a clean container. ✓
2. The milk or milk product is labeled with the name of the milk producer and with an indication that the milk or milk product is not pasteurized. ✓
3. The dairy farmer posts a sign stating "Raw milk products sold here. Raw milk products are not pasteurized." ✓
4. The unpasteurized milk complies with the DATCP rules for grade A milk concerning appearance and odor, bacterial count, drug residues, somatic cell count (a measure of milk quality), and pesticides and toxic substances. ✓
5. The milk producer complies with the DATCP rules concerning the water supply for dairy operations. ✓

2 **Insert 3-21**

- 3 5. The unpasteurized milk that the milk producer sell^s or uses to make the milk
- 4 products complies with the standards for grade A milk in s. ATCP 60.15 (1), (2), (3),
- 5 (4), and (6), Wis. Adm. Code. ✓
- 6 6. The water supply used for the milk producer's operations complies with s.
- 7 ATCP 60.08, Wis. Adm. Code.

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0260/P2dn
RCT:wlj:jm

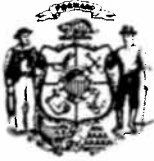
January 9, 2012

This is a redraft of the substitute amendment for SB 108. Please review it carefully. Note that the somatic cell count and bacterial count standards in the first version of this draft were more stringent than the current grade A standards. Based on instructions provided in a telephone conversation with Regina and Jolene, this draft uses the current grade A standards.

I changed the definition of "milk products" as requested, except that our drafting style does not use "but not limited to." Using "includes" rather than "means" in the definition may result in confusion about exactly what products other than the listed ones may be sold under the authority of the raw milk permit. As the administrating agency, DATCP may decide the matter, except that if there is a lawsuit, a court will decide.

Please contact me with any questions or redraft instructions.

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State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0260/P2
RCT:wlj:jm

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
SENATE SUBSTITUTE AMENDMENT ,
TO 2011 SENATE BILL 108

1 AN ACT *to amend* 97.22 (2) (a); and *to create* 97.20 (2) (e) 1m., 97.22 (11) and
2 97.24 (2m) of the statutes; **relating to:** the sale of unpasteurized milk products
3 and an exemption from rules and licensing and permitting requirements for
4 certain dairy farms.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the sale of unpasteurized (commonly called raw) milk and other milk products and prohibits the sale to consumers of milk or milk products that are not grade A milk or milk products. Current law requires a dairy farmer to have a milk producer license from the Department of Agriculture, Trade and Consumer Protection (DATCP) and requires a grade A permit from DATCP to sell grade A milk. Also under current law, DATCP promulgates rules governing the operation of dairy farms and the testing and quality of milk.

This substitute amendment allows a dairy farmer to register with DATCP for the purpose of selling unpasteurized milk and milk products directly to consumers on the farm. The bill provides that a dairy farmer who is registered is not required to obtain a milk producer license or a grade A permit if the dairy farmer does not send any milk to a dairy plant (also called a processor), but sells no milk or milk products

other than unpasteurized milk and milk products sold on the farm. A dairy farmer who registers with DATCP may sell unpasteurized milk and milk products if all of the following apply:

1. The dairy farmer or the consumer provides a clean container.
2. The milk or milk product is labeled with the name of the milk producer and with an indication that the milk or milk product is not pasteurized.
3. The dairy farmer posts a sign stating "Raw milk products sold here. Raw milk products are not pasteurized."
4. The unpasteurized milk complies with the DATCP rules for grade A milk concerning appearance and odor, bacterial count, drug residues, somatic cell count (a measure of milk quality), and pesticides and toxic substances.
5. The milk producer complies with the DATCP rules concerning the water supply for dairy operations.

Under the substitute amendment, DATCP's other rules governing the operation of dairy farms do not apply to a registered dairy farmer who does not have a license or a grade A permit.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 97.20 (2) (e) 1m. of the statutes is created to read:

2 97.20 (2) (e) 1m. A dairy farm manufacturing or processing milk products, as
3 defined in s. 97.24 (2m) (a), if the milk producer is authorized to sell milk products
4 under s. 97.24 (2m) (e).

5 **SECTION 2.** 97.22 (2) (a) of the statutes is amended to read:

6 97.22 (2) (a) *License required.* ~~No~~ Except as provided in sub. (11), no person
7 may operate a dairy farm as a milk producer without a valid license issued by the
8 department for that dairy farm. A license expires on April 30 annually and is not
9 transferable between persons or dairy farms. ~~Every~~ Except as provided in sub. (11),
10 every milk producer shall comply with standards applicable to the production of milk
11 and fluid milk products under this chapter and rules promulgated under this
12 chapter.

1 **SECTION 3.** 97.22 (11) of the statutes is created to read:

2 **97.22 (11) EXCEPTION.** (a) A license is not required under sub. (2) for a milk
3 producer registered under s. 97.24 (2m) (b) who does not sell milk or milk products
4 other than unpasteurized milk and milk products as authorized under s. 97.24 (2m)
5 (e).

6 (b) Except as provided in s. 97.24 (2m) (e) 5. and 6., the rules promulgated under
7 sub. (8) and s. 97.24 (3) do not apply to a milk producer described in par. (a) or to milk
8 or milk products produced by a milk producer described in par. (a).

9 **SECTION 4.** 97.24 (2m) of the statutes is created to read:

10 **97.24 (2m) SALE OF UNPASTEURIZED MILK AND MILK PRODUCTS.** (a) In this
11 subsection, “milk products” includes cultured buttermilk, kefir, yogurt, whey, ice
12 cream, butter, and cheese.

13 (b) A milk producer may register with the department for the purposes of par.
14 (e).

15 (d) The department may not specify additional requirements for registration
16 under par. (b).

17 (e) Notwithstanding subs. (2) (b) and (3), a milk producer may sell
18 unpasteurized milk and milk products directly to a consumer on the milk producer’s
19 dairy farm if all of the following apply:

20 1. The milk producer is registered under par. (b).

21 2. For each sale, either the milk producer or the consumer provides a clean
22 container for the milk or milk product.

23 3. The milk producer affixes to the container a label that includes the name of
24 the milk producer and, for milk, the words, “Raw milk—not pasteurized” or, for a
25 milk product, “Raw milk product—not pasteurized.”

