



State of Wisconsin
2009 - 2010 LEGISLATURE

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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2009 SENATE BILL 434**

March 23, 2010 - Offered by COMMITTEE ON AGRICULTURE AND HIGHER EDUCATION.

1 **AN ACT** *to create* 97.24 (2g) and (2r) of the statutes; **relating to:** the sale of
2 unpasteurized milk, granting rule-making authority, providing an exemption
3 from emergency rule procedures, and extending the time limit for emergency
4 rules.

Analysis by the Legislative Reference Bureau

Current law generally prohibits the sale of unpasteurized (commonly called raw) milk from cows, sheep, or goats for human consumption.

This substitute amendment authorizes a dairy farmer with a grade A dairy permit to sell unpasteurized milk on the farm to a consumer if the dairy farmer registers with the Department of Agriculture, Trade and Consumer Protection (DATCP) and satisfies other requirements specified in the substitute amendment. The authorization to sell unpasteurized milk for human consumption ends on December 31, 2011. To sell unpasteurized milk, a farmer must keep daily samples of the milk, maintain records of each sale, and have the milk tested for certain disease-causing microorganisms, including Salmonella. The substitute amendment prohibits the farmer from advertising the availability of unpasteurized milk, except that it allows signs on the farm. The substitute amendment also requires the dairy farmer to provide information, on a sign where the milk is sold and on the label of

the milk container, concerning unpasteurized milk, including that unpasteurized milk may contain organisms that can cause disease.

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

1 **SECTION 1.** 97.24 (2g) and (2r) of the statutes are created to read:

2 **97.24 (2g)** INTERIM REGISTRATION FOR SALE OF UNPASTEURIZED MILK FOR HUMAN
3 CONSUMPTION. (a) A milk producer may register with the department to sell
4 unpasteurized milk for the purposes of par. (b) if the milk producer holds a grade A
5 dairy farm permit under s. 97.22 (3).

6 (b) Notwithstanding subs. (2) (b) and (3), a milk producer may sell
7 unpasteurized milk for human consumption if all of the following apply:

8 1. The milk producer is registered to sell unpasteurized milk under par. (a).

9 2. The milk is produced and sold on the farm operated by the milk producer.

10 3. All sales are to individuals who will consume the milk and are not for resale.

11 4. Except for signs on the milk producer's farm, the milk producer does not
12 advertise the availability of unpasteurized milk for sale.

13 5. The milk producer complies with all of the requirements of the milk
14 producer's grade A dairy farm permit and the requirements in sub. (2r).

15 6. At the place where the milk is sold, the milk producer displays a sign that
16 is easy for a consumer to read and that states: "Raw milk does not provide the
17 benefits of pasteurization. Raw milk may contain disease-causing pathogens.
18 Individuals with suppressed or compromised immune systems, including
19 individuals with diabetes or HIV/AIDS and individuals undergoing chemotherapy
20 or radiation therapy, women who are pregnant or nursing, and the very young or very
21 old should not consume raw milk."

1 7. Either the milk producer or the consumer provides a sanitary container for
2 the milk that has been prepared in a sanitary manner and the container is filled in
3 a sanitary manner.

4 8. The milk producer affixes to the container a label that includes the statement
5 in subd. 6., the name and address of the milk producer, and the date of the sale.

6 (c) The department may suspend the registration under par. (a) of a milk
7 producer who violates this subsection or sub. (2r).

8 (d) The department may suspend the registration under par. (a) of a milk
9 producer when 2 of the last 4 test results provided to the department under sub. (2r)
10 (c) detect any of the pathogens listed in sub. (2r) (c) in a 25 gram sample.

11 (e) The department shall promulgate rules specifying registration forms for
12 par. (a) and procedures for administration of and compliance with this subsection
13 and sub. (2r).

14 (f) This subsection does not apply after December 31, 2011.

15 **(2r)** PRODUCTION OF UNPASTEURIZED MILK INTENDED FOR HUMAN CONSUMPTION. A
16 milk producer who sells unpasteurized milk for human consumption under sub. (2g)
17 shall do all of the following:

18 (a) Every day that the producer offers unpasteurized milk for sale for human
19 consumption, take a representative sample of the unpasteurized milk, freeze the
20 sample, and preserve the frozen sample for not less than 15 days or for another period
21 specified by the department by rule.

22 (b) For each sale of unpasteurized milk for human consumption, make a record
23 of the name and address of the purchaser and the date of sale and maintain the record
24 for not less than one year.

1 (c) Each month obtain a test from a laboratory approved by the department of
2 a representative 25 gram sample of the unpasteurized milk for Salmonella,
3 Campylobacter, Listeria, and Escherichia coli O157:H7 and provide the results to the
4 department.

5 (d) Make samples under par. (a) and records under par. (b) available for
6 inspection by the department upon reasonable notice.

7 **SECTION 2. Nonstatutory provisions.**

8 (1) RULE MAKING. No later than the first day of the 2nd month beginning after
9 the effective date of this subsection, using the procedure under section 227.24 of the
10 statutes, the department of agriculture, trade and consumer protection shall
11 promulgate the rules required under section 97.24 (2g) (e) of the statutes, as created
12 by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency
13 rules promulgated under this subsection remain in effect until January 1, 2012.
14 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not
15 required to provide evidence that promulgating a rule under this paragraph as an
16 emergency rule is necessary for the preservation of the public peace, health, safety,
17 or welfare and is not required to provide a finding of emergency for a rule
18 promulgated under this subsection.

19 (END)