



State of Wisconsin
2013 - 2014 LEGISLATURE



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**SENATE SUBSTITUTE AMENDMENT 1,
TO SENATE BILL 236**

November 13, 2013 – Offered by COMMITTEE ON FINANCIAL INSTITUTIONS AND RURAL ISSUES.

1 **AN ACT to renumber and amend** 97.22 (6); and **to create** 97.20 (2) (e) 1m., 97.22
2 (1) (dm), 97.22 (3m), 97.22 (6) (c), 97.22 (9), 97.24 (1) (cg) and 97.24 (2m) of the
3 statutes; **relating to:** the sale of unpasteurized milk.

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 (which is defined to include cream) that is not grade A milk. 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 production of milk, including the construction and operation of dairy farms, and the testing and quality of milk.

This substitute amendment creates a grade 1 unpasteurized milk permit, issued by DATCP, and allows a dairy farmer who holds a milk producer license and a grade 1 unpasteurized milk permit to sell unpasteurized milk directly to consumers on the farm. The substitute amendment specifies standards for bacterial content and somatic cell counts (an indicator of animal health) in grade 1 unpasteurized milk and requires the unpasteurized milk to be free of antibiotic drug residues. The substitute amendment also imposes requirements relating to milk testing and sampling, signs and labeling, and recordkeeping. DATCP's rules relating to the

production of milk that will be pasteurized apply to the production of grade 1 unpasteurized milk as long as they are not more stringent than the requirements imposed by the substitute amendment.

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 that is
3 unpasteurized, if the milk producer holds a grade 1 unpasteurized milk permit.

4 **SECTION 2.** 97.22 (1) (dm) of the statutes is created to read:

5 97.22 (1) (dm) "Grade 1 unpasteurized milk" has the meaning given in s. 97.24
6 (1) (cg).

7 **SECTION 3.** 97.22 (3m) of the statutes is created to read:

8 97.22 (3m) GRADE 1 UNPASTEURIZED MILK PERMIT. No milk producer may sell or
9 distribute milk from the milk producer's dairy farm as grade 1 unpasteurized milk
10 without a valid grade 1 unpasteurized milk permit issued by the department for that
11 dairy farm. A grade 1 unpasteurized milk permit expires on April 30 annually and
12 is not transferable between persons or dairy farms. A grade 1 unpasteurized milk
13 permit may be issued in the form of an endorsement on a milk producer license under
14 sub. (2).

15 **SECTION 4.** 97.22 (6) of the statutes is renumbered 97.22 (6) (intro.) and
16 amended to read:

17 97.22 (6) DAIRY FARM INSPECTION; FREQUENCY. (intro.) The department shall
18 inspect do all of the following:

19 (a) Inspect every dairy farm other than a grade A dairy farm or dairy farm with
20 a grade 1 unpasteurized milk permit at least once every 2 years, and shall inspect,

1 **(b) Inspect** every grade A dairy farm at the frequency required by the
2 department by rule under s. 97.24.

3 **SECTION 5.** 97.22 (6) (c) of the statutes is created to read:

4 97.22 **(6)** (c) Inspect every dairy farm with a grade 1 unpasteurized milk permit
5 once every 2 years.

6 **SECTION 6.** 97.22 (9) of the statutes is created to read:

7 97.22 **(9)** STANDARDS FOR GRADE 1 UNPASTEURIZED MILK. (a) *Quality standards.*

8 The quality standards for grade 1 unpasteurized milk are as follows:

9 1. The milk is free of Campylobacter, Salmonella, Listeria monocytogenes, and
10 Escherichia coli O157:H7.

11 2. The milk is free of antibiotic drug residue.

12 3. The standard plate count of the milk is no more than 10,000 bacteria per
13 milliliter.

14 4. The somatic cell count of the milk is no more than 600,000 cells per
15 millimeter.

16 5. The coliform count of the milk is no more than 10 bacteria per milliliter.

17 **(b) Milk testing.** 1. A milk producer with a grade 1 unpasteurized milk permit
18 shall demonstrate compliance with the standards under par. (a) as follows:

19 a. For the standards under par. (a) 1. and 2., through monthly tests.

20 c. For the standards in par. (a) 3. to 5., through tests performed in at least 4 of
21 each 6 consecutive months.

22 1m. If an antibiotic is administered to a milking animal, a milk producer with
23 a grade 1 unpasteurized milk permit may not sell milk from that milking animal
24 until testing of the milk shows that it is free of antibiotic drug residue.

1 2. A milk producer with a grade 1 unpasteurized milk permit shall have each
2 test required under subd. 1. or 1m. conducted by a laboratory with approval to
3 conduct the test from the department, the food safety agency of another state, or the
4 federal food and drug administration.

5 (c) *Sampling.* A milk producer with a grade 1 unpasteurized milk permit shall
6 take a representative sample of milk on each day of production, freeze the sample,
7 and preserve the frozen sample for not less than 15 days.

8 (e) *Sign and labeling.* 1. At the place where grade 1 unpasteurized milk is sold,
9 a milk producer with a grade 1 unpasteurized milk permit shall display a sign that
10 is easy for a consumer to read and that states: “Raw milk does not provide the
11 benefits of pasteurization. Raw milk may contain disease-causing pathogens.
12 Individuals with suppressed or compromised immune systems, including
13 individuals with diabetes or HIV/AIDS and individuals undergoing chemotherapy
14 or radiation therapy, women who are pregnant or nursing, and the very young or very
15 old are at higher risk from these pathogens.”

16 2. A milk producer with a grade 1 unpasteurized milk permit shall affix to the
17 container in which grade 1 unpasteurized milk is sold a label that identifies the
18 product, states that the product is not pasteurized, and bears the name and address
19 of the milk producer, the date of the sale, and the statement in subd. 1.

20 (f) *Recordkeeping.* A milk producer with a grade 1 unpasteurized milk permit
21 shall maintain a record of each sale of grade 1 unpasteurized milk that includes all
22 of the following information:

- 23 1. The product sold.
- 24 2. The quantity sold.
- 25 3. The date the product was produced.

1 4. The name, address, and telephone number of the person who bought the
2 product.

3 (g) *Access to information and samples.* 1. A milk producer with a grade 1
4 unpasteurized milk permit shall make product samples and test results available for
5 inspection by the department, the department of health services, or a local health
6 department, as defined in s. 250.01 (4), at any reasonable time.

7 2. If the department, the department of health services, a federal agency, or a
8 local health department is investigating an illness or infection that may have been
9 caused by the consumption of milk produced by a milk producer with a grade 1
10 unpasteurized milk permit, the milk producer shall make sales records available for
11 inspection by the department, the department of health services, the federal agency,
12 or the local health department.

13 (h) *Applicability of requirements.* 1. If a requirement in a rule promulgated
14 under sub. (8) or s. 97.24 (3) is more stringent than a requirement in pars. (a) to (g),
15 the department may not apply the requirement in the rule to the production,
16 processing, or sale of grade 1 unpasteurized milk.

17 2. Except as provided in pars. (a) to (g), the department may not apply
18 requirements to the production, processing, or sale of grade 1 unpasteurized milk
19 that are more stringent than the requirements that apply to the production,
20 processing, or sale of grade A milk.

21 **SECTION 7.** 97.24 (1) (cg) of the statutes is created to read:

22 97.24 (1) (cg) “Grade 1 unpasteurized milk” means milk that is not pasteurized,
23 that is produced in compliance with the standards in s. 97.22 (9) (a) to (c), and that
24 is produced, processed, and distributed in compliance with the applicable standards
25 under sub. (3) and s. 97.22 (8).

