

# State of Wisconsin



2009 Senate Bill 434

Date of enactment:  
Date of publication\*:

## 2009 WISCONSIN ACT

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

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

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

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

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

1. The milk producer is registered to sell unpasteurized milk under par. (a).
2. The milk is produced and sold on the farm operated by the milk producer.
3. All sales are to individuals who will consume the milk and are not for resale.
4. Except for signs on the milk producer's farm, the milk producer does not advertise the availability of unpasteurized milk for sale.
5. The milk producer complies with all of the requirements of the milk producer's grade A dairy farm permit and the requirements in sub. (2r).
6. At the place where the milk is sold, the milk producer displays a sign that is easy for a consumer to read

and that states: "Raw milk does not provide the benefits of pasteurization. Raw milk may contain disease-causing pathogens. Individuals with suppressed or compromised immune systems, including individuals with diabetes or HIV/AIDS and individuals undergoing chemotherapy or radiation therapy, women who are pregnant or nursing, and the very young or very old should not consume raw milk."

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

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

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

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

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

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

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

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

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

**SECTION 2. Nonstatutory provisions.**

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