

House Bill 2616

Sponsored by Representative MCLAIN; Representatives GAMBA, HOLVEY, HUDSON, SMITH DB, Senator THATCHER (at the request of Friends of Family Farmers) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes sale of unpasteurized milk from small-scale farm through delivery service or at farmers' market or other farm-to-consumer sales location if milk is labeled as unpasteurized. Provides that violation of labeling requirements may be subject to civil penalty and maximum of 364 days' imprisonment, \$6,250 fine, or both.

Establishes certain safety-related requirements regarding sale of unpasteurized milk, or dairy products from unpasteurized milk, for human consumption.

Repeals general prohibition on sale of unpasteurized milk from cows.

A BILL FOR AN ACT

1
2 Relating to unpasteurized milk; amending ORS 621.012, 621.117, 621.122, 621.991 and 621.995; and
3 repealing ORS 621.116.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 621.012 is amended to read:

6 621.012. (1) The provisions of ORS 621.062, 621.070, 621.072, 621.076, 621.084, 621.088, [621.116,]
7 621.117 and 621.259 and standards developed under ORS 621.060, 621.083 or 621.224 do not apply to
8 a person owning not more than three dairy cows that have calved at least once, nine sheep that
9 have lactated at least once or nine goats that have lactated at least once[.].

10 (2) [*but such*] **The person may sell the fluid milk from [*those*] the animals described in sub-**
11 **section (1) of this section** for human or other consumption without complying with the provisions
12 of ORS 621.062, 621.070, 621.072, 621.076, 621.084, [621.116,] 621.117 or 621.259 or standards developed
13 under ORS 621.060, 621.083 or 621.224 only if:

14 [(1)] (a) The milk is sold directly to [*the*] a consumer:

15 (A) At the premises where produced; **or**

16 (B) **Through a delivery service or at a farmers' market or another farm-to-consumer**
17 **sales location, as long as any unpasteurized milk that is sold as described in this subpara-**
18 **graph is labeled as unpasteurized;** and

19 [(2)] (b) No more than two producing dairy cows, nine producing sheep or nine producing goats
20 are located on the premises where the milk is produced.

21 (3) **The State Department of Agriculture shall adopt rules governing the labeling of milk**
22 **sold under subsection (2)(a)(B) of this section.**

23 **SECTION 2.** ORS 621.117 is amended to read:

24 621.117. (1) A distributor, producer-distributor or dairy products plant licensee shall not sell or
25 offer or expose for sale any dairy product or fluid milk for human consumption unless the milk used
26 in the dairy product or fluid milk:

27 (a) Has been pasteurized; or

28 (b) Is **cow**, goat or sheep's milk that was produced by a disease-free herd[.].

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **(2) [except that] Notwithstanding subsection (1)(b) of this section and ORS 621.124**, if not
 2 more than one reactor animal appears when the **cow**, goat or sheep herd is tested for brucellosis,
 3 the milk, dairy products or fluid milk may still be sold if the animal is slaughtered and no additional
 4 reactor animals appear when the herd is retested, as provided in ORS chapter 596 and regulations
 5 promulgated thereunder. If one or more reactor animals appear when the herd is retested, no milk,
 6 dairy products or fluid milk from the herd may be sold until the herd regains a brucellosis-free sta-
 7 tus.

8 **(3) A distributor, producer-distributor or dairy products plant licensee that sells or offers**
 9 **for sale unpasteurized fluid milk, or dairy products from unpasteurized milk, for human**
 10 **consumption, as described in this section, shall:**

11 **(a) Receive training;**

12 **(b) Receive certification by a third-party entity that is approved by the State Department**
 13 **of Agriculture and imposes safety standards and protocols for low-risk production of**
 14 **unpasteurized milk;**

15 **(c) Develop and implement a risk analysis and management plan;**

16 **(d) Conduct regular testing; and**

17 **(e) Comply with any other requirements established by rule by the department.**

18 **(4) The department shall adopt rules to implement subsection (3) of this section.**

19 **SECTION 3. ORS 621.116 is repealed.**

20 **SECTION 4.** ORS 621.122 is amended to read:

21 621.122. (1) A person [shall] **may** not operate or permit the operation of any pasteurization
 22 equipment except under the direct personal supervision of a person licensed as a pasteurizer oper-
 23 ator under ORS 621.266.

24 (2) A distributor, producer-distributor or dairy products plant licensee [shall] **may** not sell, offer
 25 or expose for sale any milk or cream that has not been pasteurized or produced by a disease-free
 26 **cow**, goat or sheep herd, except to another distributor, producer-distributor or dairy products plant
 27 licensee for the manufacture of milk, fluid milk or dairy products.

28 (3) Except as permitted by ORS 621.003, 621.012, 621.060 and 621.076, a person [shall] **may** not
 29 knowingly sell, offer or expose for sale any milk or cream that has not been pasteurized or produced
 30 by a disease-free **cow**, goat or sheep herd, except to a distributor, producer-distributor or dairy
 31 products plant licensee for the manufacture of milk, fluid milk or dairy products.

32 (4) A distributor, producer-distributor or dairy products plant licensee [shall] **may** not sell, offer
 33 or expose for sale any milk, fluid milk or dairy product processed or manufactured by the distribu-
 34 tor, producer-distributor or licensee unless [*all of the milk or cream constituents from cows have been*
 35 *pasteurized and*] all milk or cream constituents from **cows**, goats or sheep were produced by a
 36 disease-free herd or have been pasteurized.

37 (5) A person [shall] **may** not knowingly sell, offer or expose for sale any dairy product unless
 38 all of the milk or cream constituents [*of the product from cows have been pasteurized and all con-*
 39 *stituents*] from **cows**, goats or sheep were produced by a disease-free herd or have been pasteurized.

40 (6) Excepting cottage cheese and any cheese required to be pasteurized by rule of the State
 41 Department of Agriculture, the pasteurization requirement of subsections (4) and (5) of this section
 42 [shall] **does** not apply to cheese that has been aged for at least 60 days from the date of manufac-
 43 ture. The manufacture date must appear on the cheese or its container.

44 (7) A person [shall] **may** not falsely represent by word, design, device or by any other means
 45 that any milk, cream, fluid milk, dairy product, frozen dessert mix or frozen dessert has been

1 pasteurized.

2 (8) A distributor, producer-distributor or dairy products plant licensee [*must*] **shall** provide for
3 the grading of all milk transported, received or purchased by the distributor, producer-distributor
4 or licensee as required by ORS 621.056, 621.057, 621.084 and 621.226 and regulations adopted under
5 ORS 621.096.

6 (9) A person [*shall*] **may** not alter, remove or tamper with any condemnation tag affixed by the
7 State Department of Agriculture or a grader pursuant to the provisions of ORS 621.203 or 621.226.

8 (10) A distributor, producer-distributor or dairy products plant licensee or grader [*shall*] **may**
9 not:

10 (a) Negligently sample, weigh or test any milk or cream.

11 (b) Fraudulently manipulate any weight, sample or test of milk or cream.

12 (c) Make a false entry or record of the weight, or test of milk or cream on any statement, record
13 or invoice.

14 **SECTION 5.** ORS 621.991 is amended to read:

15 621.991. Violation of any provision of ORS 621.056, 621.057, 621.062, 621.070, 621.072, 621.076,
16 621.084, 621.088, 621.117, 621.122, 621.124, 621.161, 621.166, 621.183, 621.198, 621.207, 621.226, 621.259,
17 621.335, 621.340, 621.345, 621.418, 621.445 or 621.730 or any rule or standard adopted under ORS
18 **621.012**, 621.060, 621.083, 621.096, 621.224 or 621.261, or failure to pay a fee assessed under ORS
19 621.166, is a Class A misdemeanor.

20 **SECTION 6.** ORS 621.995 is amended to read:

21 621.995. (1) In addition to any penalty available under ORS 561.190 or 621.991, the State De-
22 partment of Agriculture may impose a civil penalty for a violation of ORS 621.056, 621.057, 621.062,
23 621.070, 621.072, 621.076, 621.084, 621.088, 621.117, 621.122, 621.124, 621.161, 621.166, 621.183, 621.198,
24 621.207, 621.226, 621.259, 621.335, 621.340, 621.345, 621.418, 621.445 or 621.730 or of rules, regulations
25 or standards adopted under ORS **621.012**, 621.060, 621.083, 621.096, 621.224 or 621.261. For the pur-
26 poses of this section, each day a violation continues after the period of time established for com-
27 pliance shall be considered a separate violation unless the department finds that a different period
28 of time is more appropriate to describe a specific violation event.

29 (2) The department may adopt rules establishing a schedule of civil penalties that may be im-
30 posed under this section. Civil penalties imposed under this section may not exceed \$10,000 for each
31 violation.

32 (3) When the department imposes a civil penalty under subsection (1) of this section, the de-
33 partment shall impose the penalty in the manner provided by ORS 183.745, except that the written
34 application for a hearing must be received by the department no later than 10 days after the date
35 of mailing or personal service of the notice of civil penalty.

36 (4) Moneys received by the department from civil penalties imposed under this section shall be
37 deposited in the General Fund to the credit of the Department of Agriculture Account.

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