

As Introduced

136th General Assembly

Regular Session

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H. B. No. 406

Representatives Deeter, Dean

To amend sections 917.01, 917.02, 917.04, 917.07, 1
917.09, and 917.99 and to enact sections 917.041 2
and 917.042 of the Revised Code to regulate the 3
sale of raw milk and to name this act the Farm- 4
to-Consumer Access to Raw Milk Act. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 917.01, 917.02, 917.04, 917.07, 6
917.09, and 917.99 be amended and sections 917.041 and 917.042 7
of the Revised Code be enacted to read as follows: 8

Sec. 917.01. As used in this chapter: 9

(A) "Person" means any individual, government agency, 10
political subdivision, partnership, corporation, association, 11
co-operative association, or other business unit. 12

(B) "Co-operative association" or "agricultural 13
cooperative association" means any agricultural cooperative 14
organized under Chapter 1729. of the Revised Code and qualified 15
to do business in this state if the director of agriculture 16
finds the association has, in good faith, its entire activities 17
under the control of its members and has been and is exercising 18
full authority in the sale of milk or cream for its members. 19

(C) "Market area" means any area that the director finds 20

is a natural marketing area and designates as such. 21

(D) "Dealer" or "milk dealer" means a person who purchases 22
or receives milk from a producer for the purpose of bottling, 23
packaging, selling, processing, jobbing, brokering, or 24
distributing the milk except where the milk is disposed of in 25
the same container in which it is received, without removal from 26
the container and without processing in any way except by 27
necessary refrigeration. Any person who buys and distributes 28
milk in containers under the person's own label is a dealer. 29

(E) "Imitation" means imitation as described in 21 C.F.R. 30
101.3, as amended. 31

(F) "Milk" means the lacteal secretion, substantially free 32
from colostrum, obtained by the complete milking of one or more 33
healthy cows, goats, sheep, or other animals and intended for 34
either of the following purposes: 35

(1) To be sold for human consumption or for use in dairy 36
products; 37

(2) To be used for human consumption or for use in dairy 38
products on the premises of a governmental agency or 39
institution. 40

"Milk" does not include a blend of the lacteal secretions 41
of different species. 42

(G) "Grade A milk" means milk produced by a person holding 43
a valid producer license of the grade A milk category issued 44
pursuant to section 917.09 of the Revised Code. 45

(H) "Manufacture milk" means milk produced by a person 46
holding a valid producer license of the manufacture milk 47
category issued pursuant to section 917.09 of the Revised Code. 48

(I) "Producer" or "milk producer" means a grade A milk producer or a manufacture milk producer.

(J) "Grade A milk producer" means a person located in this state who sells or offers for sale grade A milk obtained from a cow, goat, sheep, or other animal that the person owns or controls.

(K) "Manufacture milk producer" means a person located in this state who sells or offers for sale manufacture milk obtained from a cow, goat, sheep, or other animal that the person owns or controls.

(L) "Grade A milk products" means products derived from grade A milk and having the standard of identity, quality, strength, purity, grade, and, if added, permitted optional ingredients found in the standards of identity established for the products in rules adopted by the director under section 917.02 or 3715.02 of the Revised Code, and includes:

(1) Cottage cheese;

(2) Raw, pasteurized, or aseptically processed products derived from milk and described in either of the following:

(a) The most recent published recommendations of the food and drug administration, public health service, United States department of health and human services;

(b) Rules adopted by the director.

(M) "Manufactured milk products" means all products, other than raw milk for sale to the ultimate consumer and grade A milk products, that are derived from milk and are for human consumption, including:

(1) Butter;

(2) Natural or processed cheese;	77
(3) Evaporated, condensed, and dry products;	78
(4) Frozen desserts;	79
(5) Such other products derived from milk as the director may specify by rule that have the standard of identity, quality, strength, purity, grade, and, if added, permitted optional ingredients found in the standards of identity established for the product in rules adopted by the director under section 917.02 or 3715.02 of the Revised Code.	80 81 82 83 84 85
(N) "Dairy products" means milk, raw milk for sale to the ultimate consumer, grade A milk products, and manufactured milk products.	86 87 88
(O) "Frozen desserts" means frozen desserts, including the mixes, described in 21 C.F.R. 135, as amended, unless otherwise specified by the director by rule.	89 90 91
(P) "Milk plant" means a grade A milk plant or manufacture milk plant.	92 93
(Q) "Grade A milk plant" means a place, including a governmental operation, where grade A milk or a grade A milk product is collected, handled, controlled, processed, stored, pasteurized, ultra-pasteurized, repasteurized, aseptically processed, bottled, or prepared for distribution, but does not include a place where a grade A milk product is purchased in packaged form and is stored and handled for the sole purpose of sale to the ultimate consumer.	94 95 96 97 98 99 100 101
(R) "Manufacture milk plant" means a place, including a governmental operation, where manufacture milk or a manufactured milk product is collected, handled, controlled, manufactured,	102 103 104

processed, stored, pasteurized, ultra-pasteurized, 105
repasteurized, commercially sterilized, aseptically processed, 106
bottled, or prepared for distribution, but does not include a 107
place where a manufactured milk product is purchased in packaged 108
form and is stored and handled for the sole purpose of sale to 109
the ultimate consumer. 110

(S) "Raw milk" means unpasteurized milk from a cow, goat, 111
or sheep. 112

~~(S)~~(T) "Raw milk for sale to the ultimate consumer" means 113
the raw milk sold or offered for sale by a raw milk retailer_ 114
licensed in accordance with this chapter. 115

(U) "Raw milk for sale as animal feed" means the raw milk 116
sold or offered for sale for nonhuman consumption by a raw milk 117
feed retailer licensed in accordance with this chapter. 118

~~(T)~~(V) "Raw milk retailer" means a person who, ~~prior to~~ 119
~~October 31, 1965, was engaged continuously in the business of~~ 120
~~selling or offering~~ sells or offers for sale raw milk directly 121
to ultimate consumers and who holds a valid license to do so in 122
accordance with this chapter. 123

~~(U)~~(W) "Raw milk feed retailer" means a person who sells 124
or offers for sale raw milk for animal consumption, but not for 125
human consumption, and who holds a valid license to do so in 126
accordance with this chapter. 127

(X) "Processor" or "milk processor" means a grade A milk 128
processor or a manufacture milk processor. 129

~~(V)~~(Y) "Grade A milk processor" means a person who 130
operates or controls a milk plant, transfer station, receiving 131
station, or milk transport cleaning facility that is located in 132
this state or from which grade A milk or grade A milk products 133

are sold or offered for sale for human consumption, as 134
applicable. 135

~~(W)~~ (Z) "Manufacture milk processor" means any person who 136
operates or controls a manufacture milk plant, transfer station, 137
receiving station, or milk transport cleaning facility that is 138
located in this state or from which manufacture milk or 139
manufactured milk products are sold or offered for sale for 140
human consumption, as applicable. 141

~~(X)~~ (AA) "Weigher, sampler, or tester" means a person who, 142
in order to determine volume, weight, or composition for the 143
purpose of determining price, weighs, tests, or samples either 144
of the following: 145

(1) Milk at a dairy farm; 146

(2) Milk or cream purchased by a dealer from a milk 147
producer or co-operative association. 148

~~(Y)~~ (BB) "Hauler" or "milk hauler" means a person who owns 149
or leases a vehicle or conveyance used to transport raw milk, 150
but does not include a producer transporting raw milk that the 151
producer has produced. 152

~~(Z)~~ (CC) "License" means a license issued under section 153
917.09 of the Revised Code and includes a registration issued 154
under division (J) of that section. 155

Sec. 917.02. (A) The director of agriculture may do any of 156
the following: 157

(1) Adopt rules in accordance with Chapter 119. of the 158
Revised Code regulating all of the following: 159

(a) The sanitary production, storage, transportation, 160
manufacturing, handling, processing, sampling, testing, 161

examination, and sale of dairy products; 162

(b) The suspension and revocation of licenses issued under 163
section 917.09 of the Revised Code, provided that the rules are 164
in accordance with and do not conflict with section 917.22 of 165
the Revised Code; 166

(c) Terms and renewal periods, registration requirements, 167
categories, and fees for licenses issued under section 917.09 of 168
the Revised Code, except that the fee for a producer's license 169
shall not exceed fifteen dollars; 170

(d) Examinations that must be passed prior to issuance of 171
a weigher, sampler, or tester license and inspections that must 172
be passed prior to issuance of any other type of license issued 173
under section 917.09 of the Revised Code; 174

(e) Procedures for issuing and renewing licenses under 175
section 917.09 of the Revised Code; 176

(f) Information that an applicant for a license issued 177
under section 917.09 of the Revised Code is required to provide 178
on the application for licensure; 179

(g) Standards for equipment or materials used for the 180
production, processing, and handling of dairy products; 181

(h) Records to be kept by persons holding a license issued 182
under this chapter and the inspection and auditing of books and 183
records of those persons, and any other records that are 184
required to be kept by other rules adopted under this section; 185

(i) Security arrangements and evidence of financial 186
responsibility for milk dealers, to ensure prompt payment to 187
milk producers; 188

(j) Standards of identity, quality, strength, purity, 189

grading, and labeling of dairy products; 190

(k) The production, processing, and handling of dairy 191
products and the prompt and accurate payment for milk and cream 192
by milk dealers, but not the establishment or control of the 193
price of milk and cream; 194

(l) Criteria for the equipment, methods, or materials to 195
be used in performing weighing, volumetric measuring, sampling, 196
and testing of milk and its components when such an operation is 197
used as the basis for determining payment for milk delivered to 198
or purchased by dealers; 199

~~(m) The size and placement of labels and of words on 200
labels required by section 917.04 of the Revised Code to be 201
placed on final delivery containers used for the sale of raw 202
milk to ultimate consumers. 203~~

The director shall have exclusive authority to administer 204
and enforce rules adopted under division (A) (1) of this section. 205

(2) Enter into, with the approval of the milk sanitation 206
board created in section 917.03 of the Revised Code, an 207
agreement with a public or private entity that the director 208
determines is properly qualified for the performance of any of 209
the inspections and analyses required by this chapter; 210

(3) Adopt rules by reference to all or any part of the 211
following recommendations: 212

(a) The grade A pasteurized milk ordinance, as amended, 213
and the "grade A condensed and dry milk products and condensed 214
and dry whey" supplement I to the grade A pasteurized milk 215
ordinance of the food and drug administration, public health 216
service, of the United States department of health and human 217
services, to the extent those provisions do not conflict with 218

the laws of this state; 219

(b) The most recent recommendations for milk for 220
manufacturing purposes and its production and processing 221
published in final form in the Federal Register by the United 222
States department of agriculture, to the extent those 223
recommendations do not conflict with the laws of this state. 224

(4) Administer and enforce this chapter and rules adopted 225
under it and appoint inspectors and other personnel necessary to 226
carry out this chapter and those rules; 227

(5) Embargo a dairy product that the director reasonably 228
suspects, believes, or determines is adulterated as described in 229
section 3715.59 of the Revised Code or is misbranded as 230
described in section 3715.60 of the Revised Code; 231

(6) Adopt by reference all or any part of the rules 232
governing the dairy industry adopted by the United States food 233
and drug administration and the United States department of 234
agriculture; 235

(7) Annually, not later than ninety days after the end of 236
the state fiscal year, determine the expense of administering 237
and enforcing this chapter and rules adopted under it during the 238
preceding state fiscal year and report the determinations to the 239
milk sanitation board. 240

(B) The director shall do ~~both~~ all of the following: 241

(1) Adopt rules in accordance with Chapter 119. of the 242
Revised Code establishing requirements for continuing education 243
courses for weighers, samplers, and testers licensed under 244
section 917.09 of the Revised Code; 245

(2) Review continuing education courses for weighers, 246

samplers, and testers licensed under section 917.09 of the Revised Code and grant approval to those that meet the requirements established in rules adopted under division (B) (1) of this section.

(3) Adopt rules in accordance with Chapter 119. of the Revised Code governing the sanitary production, storage, transportation, manufacturing, handling, sampling, testing, examination, and sale of raw milk to the ultimate consumer and for animal feed. The rules shall include a requirement that a raw milk retailer or a raw milk feed retailer enroll in a quality milk production service program that is approved by the director. The rules also shall establish requirements governing the use of labels required by section 917.04 of the Revised Code to be placed on final delivery containers used for the sale of raw milk to ultimate consumers and for the sale of raw milk as animal feed, including a requirement that each label contain the name and address of the farm where the milk was produced and the date of bottling.

Sec. 917.04. (A) No raw milk retailer person shall sell, offer for sale, or expose for sale raw milk to the ultimate consumer except a raw milk retailer person who, prior to October 31, 1965, was engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers, holds a valid raw milk retailer license issued under section 917.09 of the Revised Code, ~~and is subject to the rules regulating the sale of raw milk adopted under this chapter.~~

(B) No person shall fail to label, in accordance with rules adopted by the director of agriculture under section 917.02 of the Revised Code, all final delivery containers used for the sale of raw milk to ultimate consumers with the words

"~~this~~ RAW MILK: This product has not been pasteurized and may 277
contain disease-producing organisms harmful bacteria." 278

(C) (1) No person shall sell raw milk to the ultimate 279
consumer without providing a liability waiver, developed by the 280
department of agriculture, that acknowledges the risks of 281
consuming raw milk to the ultimate consumer and obtaining the 282
signature of the purchaser. 283

(2) No person shall purchase raw milk without first 284
signing a liability wavier acknowledging the risks of consuming 285
raw milk. 286

(3) A person that sells raw milk to the ultimate consumer 287
shall keep and maintain the liability waiver for a minimum of 288
two years after the waiver is signed. 289

(D) A raw milk retailer shall test for salmonella, 290
listeria, e. coli O157:H7, campylobacter, and staphylococci once 291
per month. The raw milk retailer shall use an accredited 292
laboratory to perform the tests. 293

(E) (1) No person shall sell raw milk to the ultimate 294
consumer if the raw milk does not pass the required testing 295
described in this section and section 917.042 of the Revised 296
Code. 297

(2) A raw milk retailer shall immediately suspend the sale 298
of raw milk if brucellosis, tuberculosis, or any other 299
communicable disease is detected. 300

(F) No person shall sell, offer for sale, or expose for 301
sale raw milk unless the person does so on the farm where the 302
raw milk is produced or at a registered farm market. 303

Sec. 917.041. (A) No person shall sell, offer for sale, or 304

expose for sale raw milk as animal feed except a person who 305
holds a valid raw milk feed license issued under section 917.09 306
of the Revised Code. 307

(B) No person shall fail to label, in accordance with 308
rules adopted by the director of agriculture under section 309
917.02 of the Revised Code, all final delivery containers used 310
for the sale of raw milk as animal feed with the words "RAW MILK 311
FOR ANIMAL FEED: NOT FOR HUMAN CONSUMPTION." 312

(C) No person who holds a valid raw milk feed license 313
shall sell raw milk for human consumption unless the person also 314
holds a valid raw milk retailer license in accordance with this 315
chapter and does so in accordance with this chapter and rules 316
adopted under it. 317

Sec. 917.042. (A) (1) A raw milk retailer and a raw milk 318
feed retailer shall ensure the testing of all milking animals 319
for brucellosis and tuberculosis conducted by a licensed 320
accredited veterinarian in a manner and frequency determined by 321
the director of agriculture. 322

(2) A raw milk retailer shall report every brucellosis and 323
tuberculosis test result to the director in a manner determined 324
by the director. 325

(B) A raw milk retailer and raw milk feed retailer shall 326
test the water source used in raw milk production once per 327
month. Such a retailer shall use an accredited laboratory to 328
perform the tests. 329

(C) The director or the director's designee shall 330
routinely inspect and sample farms that produce raw milk for 331
sale to the ultimate consumer and raw milk for sale as animal 332
feed. 333

(D) The director shall make all testing documents and 334
inspection results available to the public on the department of 335
agriculture's web site. 336

Sec. 917.07. The dairy industry fund is hereby created in 337
the state treasury. All inspection fees and license fees 338
collected under this chapter shall be deposited into the fund 339
together with all fine moneys received by the treasurer of state 340
pursuant to division ~~(F)~~ (H) of section 917.99 of the Revised 341
Code and any other moneys collected under this chapter. 342

Moneys credited to the dairy industry fund shall be used 343
to operate and pay expenses of the division of dairy in the 344
department of agriculture. 345

Sec. 917.09. (A) The director of agriculture may issue the 346
following types of licenses: 347

(1) Producer; 348

(2) Processor; 349

(3) Milk dealer; 350

(4) Raw milk retailer, which shall be valid for one year 351
after issuance and renewed in the same manner as an initial 352
license; 353

(5) Weigher, sampler, or tester; 354

(6) Milk hauler~~;~~; 355

(7) Raw milk feed retailer, which shall be valid for one 356
year after issuance and renewed in the same manner as an initial 357
license. 358

(B) The director may adopt rules establishing categories 359
for each type of license that are based on the grade or type of 360

dairy product with which the licensee is involved. 361

(C) Except as provided in section 917.091 of the Revised 362
Code and division (J) of this section, no person shall act as or 363
hold the person's self out as a producer; processor; milk 364
dealer; raw milk retailer; weigher, sampler, or tester; ~~or~~ milk 365
hauler; or raw milk feed retailer unless the person holds a 366
valid license issued by the director under this section. 367

(D) Each person desiring a license shall submit to the 368
director a license application on a form prescribed by the 369
director, accompanied by a license fee in an amount specified in 370
rules adopted under section 917.02 of the Revised Code. The 371
applicant shall specify on the application the type of license 372
and category requested and shall include any other information 373
required by rules adopted under section 917.02 of the Revised 374
Code. 375

(E) Each applicant for a weigher, sampler, or tester 376
license or registration, prior to issuance of the license or 377
registration, shall pass an examination that is given in 378
accordance with section 917.08 of the Revised Code and rules 379
adopted under section 917.02 of the Revised Code. 380

Each applicant for any other type of license issued under 381
this section, prior to issuance of the license, shall pass an 382
inspection that is made in accordance with rules adopted under 383
section 917.02 of the Revised Code. 384

(F) The director shall not issue a license to an applicant 385
unless the director determines, through an inspection or 386
otherwise, that the applicant is in compliance with the 387
requirements set forth in this chapter and the rules adopted 388
under it. 389

(G) Examinations that must be passed prior to issuance of 390
a weigher, sampler, or tester license, inspections that must be 391
passed prior to issuance of any other type of license issued 392
under this section, procedures for issuing and renewing 393
licenses, and license terms and renewal periods shall comply 394
with rules adopted under section 917.02 of the Revised Code. 395

(H) Suspension and revocation of licenses shall comply 396
with section 917.22 of the Revised Code and rules adopted under 397
section 917.02 of the Revised Code. 398

(I) Each licensed weigher, sampler, and tester annually 399
shall meet the continuing education requirements established in 400
rules adopted under division (B) of section 917.02 of the 401
Revised Code. 402

(J) A person whose religion prohibits the person from 403
obtaining a license under this section, in place of a license, 404
shall register with the director as a producer; processor; milk 405
dealer; raw milk retailer; weigher, sampler, or tester; ~~or~~ milk 406
hauler; or raw milk feed retailer. 407

The person claiming the exemption from licensure shall 408
register on a form prescribed by the director and shall meet any 409
other registration requirements contained in rules adopted under 410
section 917.02 of the Revised Code. Upon receiving the person's 411
registration form and determining that the person has satisfied 412
all requirements for registration, the director shall notify the 413
person that the person is registered to lawfully operate as a 414
producer; processor; milk dealer; raw milk retailer; weigher, 415
sampler, or tester; ~~or~~ milk hauler; or raw milk feed retailer. 416

A registrant is subject to all provisions governing 417
licensees, such as provisions concerning testing, sampling, and 418

inspection of dairy products. A registrant is subject to 419
provisions governing issuance of a temporary weigher, sampler, 420
or tester license under section 917.091 of the Revised Code. A 421
registration shall be renewed, suspended, and revoked under the 422
same terms as a license. 423

(K) Notwithstanding the requirements for a license or 424
registration under this section, the director shall issue a 425
license or registration to operate as a producer; processor; 426
milk dealer; raw milk retailer; weigher, sampler, or tester; ~~or~~ 427
milk hauler~~;~~; or raw milk feed retailer as applicable, in 428
accordance with Chapter 4796. of the Revised Code to an 429
individual if either of the following applies: 430

(1) The individual holds a license or registration in 431
another state. 432

(2) The individual has satisfactory work experience, a 433
government certification, or a private certification as 434
described in that chapter as a producer; processor; milk dealer; 435
raw milk retailer; weigher, sampler, or tester; ~~or~~ milk hauler~~;~~; 436
or raw milk feed retailer as applicable, in a state that does 437
not issue the applicable license or registration. 438

Sec. 917.99. (A) Whoever violates division (C) of section 439
917.09 of the Revised Code is guilty of a misdemeanor of the 440
second degree on a first offense and a misdemeanor of the first 441
degree on each subsequent offense. 442

(B) Whoever violates section 917.13 or 917.14 of the 443
Revised Code is guilty of a misdemeanor of the first degree on a 444
first offense, a felony of the fifth degree on a second offense, 445
and a felony of the fourth degree on each subsequent offense. 446

(C) Whoever violates division (A), (B), (C), (D), or (G) 447

of section 917.05 of the Revised Code is guilty of a misdemeanor 448
of the fourth degree. 449

(D) Whoever violates division (E) or (F) of section 917.05 450
of the Revised Code is guilty of a misdemeanor of the second 451
degree on a first offense and a misdemeanor of the first degree 452
on each subsequent offense. 453

(E) Each day of violation of a provision described in 454
divisions (A) to (D) of this section constitutes a separate 455
offense. 456

(F) Whoever recklessly violates division (A) of section 457
917.04 of the Revised Code or division (A) of section 917.041 of 458
the Revised code is guilty of a misdemeanor of the first degree 459
on a first offense, a felony of the fifth degree on a second 460
offense, and a felony of the fourth degree on each subsequent 461
offense. 462

(G) Whoever recklessly violates division (B), (C), (D), 463
(E), or (F) of section 917.04 of the Revised Code, division (B) 464
or (C) of section 917.041 of the Revised Code, or division (A) 465
or (B) of section 917.042 of the Revised Code is guilty of a 466
misdemeanor of the second degree on a first offense and a 467
misdemeanor of the first degree on each subsequent offense. 468

(H) The court imposing a fine under ~~divisions (A) to (D)~~ 469
~~of~~ this section shall order that not less than fifty per cent of 470
the fine be disbursed to the treasurer of state for deposit into 471
the dairy industry fund created in section 917.07 of the Revised 472
Code. Subject to that minimum percentage, the court's order 473
shall specify the percentage of the fine that the clerk of the 474
court shall disburse to the treasurer of state. The clerk of the 475
court shall disburse the remainder of the fine to the county 476

treasurer. 477

Section 2. That existing sections 917.01, 917.02, 917.04, 478
917.07, 917.09, and 917.99 of the Revised Code are hereby 479
repealed. 480

Section 3. Sections 1 and 2 of this act take effect on 481
January 1, 2027. 482

Section 4. This act shall be known as the Farm-to-Consumer 483
Access to Raw Milk Act. 484