



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

H.B. 406
136th General Assembly

Bill Analysis

Version: As introduced

Primary Sponsors: Reps. Deeter and Dean

Racheal Vargo, Research Analyst

SUMMARY

Raw milk for the ultimate consumer

- Legalizes the sale of raw milk in Ohio for human consumption.
- Prohibits a person from selling, offering for sale, or exposing for sale raw milk to the ultimate consumer unless the person holds a raw milk retailer license issued by the Department of Agriculture.
- Establishes application processes to obtain a raw milk retailer license.
- Requires a person whose religion prohibits the person from obtaining a raw milk retailer license to instead register with the Director of Agriculture.
- Prohibits a person from failing to label all final delivery containers used for the sale of raw milk to ultimate consumers with the words “RAW MILK: This product has not been pasteurized and may contain harmful bacteria.”
- Prohibits a person from selling raw milk to the ultimate consumer without providing a liability waiver that acknowledges the risks of consuming raw milk and obtaining the signature of the purchaser on that waiver.
- Prohibits a person from selling, offering for sale, or exposing for sale raw milk unless the person does so on the farm where the raw milk is produced or at a registered farm market.
- Requires a raw milk retailer to test for salmonella, listeria, e. coli O157:H7, campylobacter, and staphylococci once per month.
- Prohibits a person from selling raw milk to the ultimate consumer if the raw milk does not pass the pathogen testing and other testing required under the bill.
- Establishes criminal penalties for violations of all of the prohibitions and requirements specified above.

Raw milk for animal feed

- Creates a raw milk feed retailer license for producers that sell raw milk as animal feed.
- Prohibits a person from selling, offering for sale, or exposing for sale raw milk as animal feed unless the person holds a raw milk feed retailer license.
- Establishes application processes to obtain a raw milk feed retailer license.
- Requires a person whose religion prohibits the person from obtaining a raw milk feed retailer license to register with the Director of Agriculture.
- Prohibits a person from failing to label all final delivery containers used for the sale of raw milk as animal feed with the words “RAW MILK FOR ANIMAL FEED: NOT FOR HUMAN CONSUMPTION.”
- Prohibits a person who holds a valid raw milk feed retailer license from selling raw milk for human consumption unless the person also holds a valid raw milk retailer license.

Testing

- Requires a raw milk retailer and a raw milk feed retailer to test all milking animals for brucellosis and tuberculosis.
- Requires a raw milk retailer and raw milk feed retailer to test the water source used in raw milk production once per month.
- Requires the Director or the Director’s designee to routinely inspect and sample farms that produce raw milk for sale to the ultimate consumer and for sale as animal feed.

Rules for raw milk

- Requires the Director to adopt rules governing the sanitary production, storage, transportation, manufacturing, handling, sampling, testing, examination, and sale of raw milk to the ultimate consumer and for animal feed.
- Specifies that the rules must include a requirement that a raw milk retailer or raw milk feed retailer enroll in a quality milk production service program.
- Requires the rules to establish requirements governing the use of labels to be placed on final delivery containers used for the sale of raw milk to ultimate consumers and for animal feed.
- Specifies that the rules must include a requirement that each label contain the name and address of the farm where the raw milk was produced and the date of bottling.

Name of the bill

- Names the bill the “Farm-to-Consumer Access to Raw Milk Act.”

DETAILED ANALYSIS

Raw milk sales

The bill legalizes the sale of raw milk in Ohio for human consumption and provides for the licensure of producers who sell raw milk for animal feed. Under the bill, raw milk is unpasteurized milk from a cow, goat, or sheep.¹ In order to sell raw milk under the bill, a person must obtain either a raw milk retailer license (sales to humans) or a raw milk feed retailer license (sales for animal feed) from the Department of Agriculture.² Currently, selling raw milk is technically illegal. The reason for this is that only a raw milk retailer who was engaged continuously in the business of selling or offering for sale raw milk directly to ultimate consumers prior to October 31, 1965, can sell, offer for sale, or expose for sale raw milk to the ultimate consumer. There are no retailers in Ohio that currently meet this criteria. It appears that the only mechanism by which a consumer may legally obtain raw milk in Ohio is by owning a cow either on its own or through herd share agreements, which have been upheld in Ohio's courts.³

Raw milk retailer license

As indicated above, in order to sell raw milk for human consumption to an ultimate consumer under the bill, a person needs to obtain a license to do so from the Department. A raw milk retailer license is valid for one year after issuance. It must be renewed in the same manner as the initial license.⁴ The bill prohibits a person from acting as or holding the person's self out as a raw milk retailer unless the person holds a valid raw milk retailer license. Whoever violates that prohibition is guilty of a second degree misdemeanor on the first offense and a first degree misdemeanor on each subsequent offense.⁵ Furthermore, the bill prohibits any person from selling, offering for sale, or exposing for sale raw milk to the ultimate consumer except a person who holds a valid raw milk retailer license. A violation of this prohibition is a first degree misdemeanor on a first offense and a fifth degree felony on each subsequent offense.⁶

To obtain a license, an applicant must submit an application to the Director of Agriculture on a form prescribed by the Director. An applicant also must submit a fee in an amount specified by the Director. Before the license is issued, an applicant must pass an inspection. The Director must not issue the license if the Director determines the applicant is not in compliance with the requirements of or rules adopted under Ohio's Dairy Products Law.⁷

A person's whose religion prohibits the person from obtaining a raw milk retailer license must register with the Director in lieu of obtaining a license. An applicant must register on a form

¹ R.C. 917.01(S).

² R.C. 917.04(A) and 917.99(F).

³ *Carol Schmitmeyer v. Ohio Department of Agriculture* (2006), No. 06-CV-63277.

⁴ R.C. 917.09(A).

⁵ R.C. 917.09(C) and 917.99(A).

⁶ R.C. 917.04(A) and 917.99(F).

⁷ R.C. 917.09(D), (E), and (F).

prescribed by the Director and must meet any other registration requirements adopted in rules. The Director must notify the applicant that the applicant is registered to lawfully operate as a raw milk retailer upon receiving the applicant's registration form and determining that the applicant has satisfied all requirements for registration. A registration is subject to all provisions governing licenses. A registration may be renewed, suspended, and revoked under the same terms as a license.⁸

Labeling

The bill prohibits a person from failing to label, in accordance with rules adopted by the Director, all final delivery containers used for the sale of raw milk to ultimate consumers with the words "RAW MILK: This product has not been pasteurized and may contain harmful bacteria." Whoever recklessly violates this prohibition is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense.⁹

Sales requirements

The bill prohibits a person from selling raw milk to the ultimate consumer without providing a liability waiver, developed by the Department, that acknowledges the risks of consuming raw milk to the ultimate consumer and obtaining the signature of the purchaser. It also prohibits a person from purchasing raw milk without signing the waiver. A person that sells raw milk to the ultimate consumer must keep and maintain the waiver at least two years after the waiver is signed.¹⁰ In addition, the bill prohibits a person from selling, offering for sale, or exposing for sale raw milk unless the person does so on the farm where the raw milk is produced or at a registered farm market. Whoever recklessly violates these prohibitions and requirements is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense.¹¹

Pathogen testing

A raw milk retailer must test for salmonella, listeria, e. coli O157:H7, campylobacter, and staphylococci once per month. A retailer must use an accredited laboratory to perform the tests. Whoever recklessly violates this provision is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense. The bill prohibits a person from selling raw milk to the ultimate consumer if the raw milk does not pass this testing and other testing required under the bill. A raw milk retailer must immediately suspend raw milk sales if brucellosis, tuberculosis, or any other communicable disease is detected. Whoever recklessly violates that prohibition is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense.¹²

⁸ R.C. 917.09(J).

⁹ R.C. 917.04(B) and 917.99(G).

¹⁰ R.C. 917.04(C) and 917.99(G).

¹¹ R.C. 917.04(F) and 917.99(G).

¹² R.C. 917.04(D) and (E) and 917.99(G).

Raw milk feed retailer license

Currently, raw milk can be sold as animal feed in Ohio under the Commercial Feed Law. Under that Law, a person who sells raw milk as commercial feed must submit labels and nutritional information for their products to the Director of Agriculture. According to the Department, raw milk is generally sold as pet food under that Law. The bill creates new requirements for the sale of raw milk as animal feed. Specifically, it prohibits the sale of raw milk as animal feed unless a person has a raw milk feed retailer license, which is created by the bill. Under the bill, raw milk for sale as animal feed is raw milk sold or offered for sale for nonhuman consumption by a raw milk feed retailer licensed in accordance with Ohio's Dairy Law.¹³

A raw milk feed retailer license is governed by the same procedures regarding its issuance as a raw milk retailer license. Thus, a raw milk feed retailer license is valid for one year after issuance, it must be renewed in the same manner as the initial license, and a person with religious objections may register as a raw milk feed retailer rather than obtain a license.¹⁴ Furthermore, the bill prohibits a person from acting as or holding the person's self out as a raw milk feed retailer unless the person holds a valid raw milk feed retailer license. Whoever violates that prohibition is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense.¹⁵ Additionally, the bill prohibits a person from selling, offering for sale, or exposing for sale raw milk as animal feed unless the person holds a valid raw milk feed retailer license. Whoever recklessly violates that prohibition is guilty of a first degree misdemeanor on the first offense, a fifth degree felony on the second offense, and a fourth degree felony on each subsequent offense.¹⁶

Labeling and selling

The bill prohibits a person from failing to label, in accordance with rules adopted by the Director, all final delivery containers used for the sale of raw milk as animal feed with the words "RAW MILK FOR ANIMAL FEED: NOT FOR HUMAN CONSUMPTION." It also prohibits a person who holds a valid raw milk feed retailer license from selling raw milk for human consumption unless the person also holds a valid raw milk retailer license. Whoever recklessly violates these prohibitions is guilty of a second degree misdemeanor on a first offense and a first degree misdemeanor on each subsequent offense.¹⁷

Testing

The bill requires a raw milk retailer and a raw milk feed retailer to test all milking animals for brucellosis and tuberculosis. The tests must be conducted by a licensed accredited veterinarian and in a manner and frequency determined by the Director. A raw milk retailer must report every brucellosis and tuberculosis test result to the Director in a manner determined by

¹³ R.C. 917.01(U).

¹⁴ R.C. 917.09.

¹⁵ R.C. 917.09(C) and 917.99(A).

¹⁶ R.C. 917.041(A) and 917.99(F).

¹⁷ R.C. 917.041 and 917.99(G).

the Director. Additionally, a raw milk retailer and raw milk feed retailer must test the water source used in raw milk production once per month. Such retailers must use an accredited laboratory to perform the tests. Whoever recklessly violates these provisions is guilty of a second degree misdemeanor on the first offense and a first degree misdemeanor on each subsequent offense.

The Director or Director’s designee must routinely inspect and sample farms that produce raw milk for sale to the ultimate consumer and for sale as animal feed. The Director must make all testing documents and inspection results available to the public on the Department’s website.¹⁸

Rules for raw milk

The bill requires the Director to adopt rules 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 must include a requirement that a raw milk retailer or raw milk feed retailer enroll in a quality milk production service program. The program must be approved by the Director. The rules also must establish requirements governing the use of labels to be placed on final delivery containers used for the sale of raw milk to ultimate consumers and for animal feed. The rules must include a requirement that each label contain the name and address of the farm where the raw milk was produced and the date of bottling.¹⁹

Name of the bill and effective date

The bill is officially named the “Farm-to-Consumer Access to Raw Milk Act.” The bill also includes a special effective date of January 1, 2027.²⁰

HISTORY

Action	Date
Introduced	08-05-25

ANHB0406IN-136/ar

¹⁸ R.C. 917.042 and 917.99(G).

¹⁹ R.C. 917.02(B).

²⁰ Section 3 and 4.