

Bill as Introduced

HB 1278-FN - AS INTRODUCED

2010 SESSION

10-2291
08/03

HOUSE BILL **1278-FN**

AN ACT relative to milk producer-distributors.

SPONSORS: Rep. Groen, Straf 1; Rep. Palmer, Hills 6; Rep. Tucker, Rock 17; Rep. S. Smith,
Graf 7; Rep. Haefner, Hills 27; Sen. Gallus, Dist 1; Sen. Carson, Dist 14

COMMITTEE: Environment and Agriculture

ANALYSIS

This bill raises the number of quarts sold in the definition of a milk producer-distributor.

.....

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Ten

AN ACT relative to milk producer-distributors.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 1 Definitions; Producer-Distributor. Amend RSA 184:79, XI to read as follows:
- 2 XI. The term “producer-distributor” is a milk producer who is also a milk distributor and
- 3 sells more than an average of [~~20~~] 80 quarts of milk a day.
- 4 2 Effective Date. This act shall take effect 60 days after its passage.

LBAO
10-2291
11/04/09

HB 1278-FN - FISCAL NOTE

AN ACT relative to milk producer-distributors.

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2010 through 2014.

CHAPTER 53
HB 1278-FN – FINAL VERSION

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5 Approved: May 18, 2010

6 Effective Date: July 17, 2010

Committee Minutes

SENATE CALENDAR NOTICE

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

Senator Jacalyn Cilley Chairman ✓
 Senator Martha Fuller Clark V Chairman ✓
 Senator Betsi DeVries
 Senator Michael Downing ✓
 Senator Sharon Carson ✓

Start 2:21 pm
 end 2:57 pm

For Use by Senate Clerk's Office ONLY		
<input type="checkbox"/>	Bill Status	
<input type="checkbox"/>	Docket	
<input type="checkbox"/>	Calendar	
Proof:	<input type="checkbox"/> Calendar	<input type="checkbox"/> Bill Status

Date: March 19, 2010

HEARINGS

Tuesday

3/23/2010

EXECUTIVE DEPARTMENTS AND ADMINISTRATION

LOB 101

2:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

Comments: *** THE PURPOSE OF THE AMENDED NOTICE IS TO REMOVE HB 1220 AND HB 1416 AND TO ADD HB 1569-FN AND HB 1610-FN ***

2:00 PM	HB1240-FN	relative to the use of state-owned vehicles.
2:15 PM	HB1278-FN	relative to milk producer-distributors.
2:30 PM	HB1166	relative to procurement procedures of the director of plant and property management, and relative to approval of design build projects.
2:45 PM	HB1569-FN	(New Title) relative to the salaries of certain unclassified positions.
3:00 PM	HB1610-FN	(New Title) establishing a New Hampshire commission on Native American affairs and recognizing Native American residents of the state as a minority population in New Hampshire.

Sponsors:

HB1240-FN Rep. Carol McGuire	Rep. Kenneth Gould	Rep. Anne-Marie Irwin
HB1278-FN Rep. Warren Groen Sen. Sharon Carson	Rep. Stephen Palmer Rep. Suzanne Smith	Rep. Pamela Tucker Rep. Robert Haefner
HB1166 Rep. Maurice Pilotte	Rep. Lynne Ober	
HB1569-FN Rep. Ken Hawkins	Rep. Anne-Marie Irwin	Rep. Sandra Keans
HB1610-FN Rep. Daniel Carr Rep. Steven Lindsey	Rep. Robert Cushing Sen. Martha Fuller Clark	Rep. David Watters Sen. Molly Kelly
		Sen. John Gallus
		Sen. Michael Downing
		Rep. Gene Charron

Executive Departments & Administration Committee Hearing Report

TO: Members of the Senate

FROM: Patrick Murphy, *Legislative Aide*

RE: Hearing report on HB1278-FN relative to milk producer-distributors.

HEARING DATE: March 23, 2010

MEMBERS OF THE COMMITTEE PRESENT:

Senator Cilley (Dist 6), Senator Fuller Clark (Dist 24), Senator Downing (Dist 22),
Senator Carson (Dist 14)

MEMBERS OF THE COMMITTEE ABSENT:

Senator DeVries (Dist 18)

Sponsor(s):

Rep. Groen, Straf 1; Rep. Palmer, Hills 6; Rep. Tucker, Rock 17; Rep. S. Smith, Graf 7;
Rep. Haefner, Hills 27; Sen. Gallus, Dist 1; Sen. Carson, Dist 14

What the bill does:

This bill raises the number of quarts sold in the definition of a milk producer-distributor.

Supporters of the bill:

Representative Groen, Straf 1; Representative Haefner, Hills 27; Representative S.
Smith, Graf 7; Representative Sad, Ches. 2; Senator Carson, Dist 14; Senator Gallus, Dist
1; Matt Haefner; Walker Fitch; Jeff Holmes, NHFB; Robert Johnson, Farm Bureau

Those in opposition to the bill:

Representative Webb, Merr. 2

Speaking to the bill/Neutral:

None

Summary of testimony received:

Representative Groen, Straf 1

- In Exodus 3, Verse 8 in the Bible, the Israelites were told they were being sent into a land flowing with milk and honey. Those were ideal foods back then, and I think they're still ideal foods today. I don't mean to speak for God, but I think if God was writing the Bible today, he would probably say a land flowing with raw milk and honey, because that's how much I believe in raw milk.
- Some people are concerned about the potential side effects of raw milk, and I see all those prescription drug commercials for senior citizens, and they have a long list of side effects. When I see the side effects of raw milk, they're pretty minor compared to that. I see it as very beneficial.
- Throughout human history, the issue with food has been the race to get it to the consumer before it deteriorates to the point where it either doesn't taste good or it's actually dangerous for you. So we've come up with a number of methods: refrigeration, sanitation, and pasteurization.
- We have ultra high temperature pasteurization, where you heat it until just before it catches on fire and then quickly cool it, and you've effectively killed everything so you can store it at room temperature on the shelf for about six months. With normal pasteurization, you heat it to 161° for about 20 seconds, and you can store it on the shelf refrigerated for two to three weeks. Or the natural method, where the cow heats it to 101° and the farmer cools it, and you can store it in a refrigerator for two to three weeks.
- I see this bill as the perfect New Hampshire bill; it's a live free or die bill. For farmers it's the freedom to either be licensed or not, to be free to sell raw milk or not. For the farmer, whether he wants to operate inside or outside the system, and for consumers, it's the freedom to buy what they want and where they want, whether it's pasteurized or raw.
- I think this fits in well with the emphasis in New Hampshire of small agriculture. That's why I'm seeking to raise the limit, so that dairy farmers can sell more raw milk to their friends and neighbors.
- If farmer can't do a good job with five gallons, they're probably not going to do a good job with 20 gallons. But if they can do a good job with 5 gallons, they're probably going to do a good job with 20 gallons as well. And that's why I want to raise it, because the consumer will decide who they want to buy milk from. If they go to a place and their kids don't like it because it tastes bad or they don't feel good after they drink it, they are probably not going to buy it from that location again.
- In response to questions from the Committee Representative Groen responded that in a perfect world he would eliminate the limit all together.

Representative Haefner, Hills 27

- Discussed the overwhelming amount of support this bill had in the House.

Representative Webb, Merr. 2

- As much as I agree with providing more opportunities to our dairy farmers, I am concerned that raising the number of quarts of raw milk to be sold without being licensed, and thus without being subjected to either inspections of the facility and herd, or testing of the milk to be sold, raises the risk of tainted raw milk entering the marketplace and thus potentially negatively affecting the entire industry. Without some provision to address at least voluntary registration, at no cost, of the farms involved and random inspections and periodic testing of the product, at minimal cost.

Representative Sad, Ches. 2

- Testified that she supports raw milk which she purchases herself at a farm in her town.

Walker Fitch

- Has 100 cows in Milford, and has sold raw milk for 2 years. The demand for raw milk has been good. People who buy raw milk know that it's not pasteurized. Customers are very loyal. Commented that just because you buy something from the large grocery store doesn't mean its safe. Farmers have liability insurance and selling raw milk doesn't add any additional cost to the insurance.

Jeff Holmes, NHFB

- We are lucky in NH to have the ability to sell and purchase raw milk; only 15 states allow raw milk to be sold. Increasing the limit means a lot economically for farmers. Selling raw milk is a value added business.

Funding:

FISCAL IMPACT:

The Legislative Budget Assistant has determined that this legislation has a total fiscal impact of less than \$10,000 in each of the fiscal years 2010 through 2014.

Action:

Senator Carson made a motion of ought to pass and was seconded by Senator Fuller Clark. The vote was 3-0; Senator Carson will report this bill to the floor.

cm

Date: March 23, 2010
Time: 2:21 p.m.
Room: LOB 101

The Senate Committee on Executive Departments and Administration held a hearing on the following:

HB 1278-FN relative to milk producer-distributors.

Members of Committee present: Senator Cilley
Senator Fuller Clark
Senator Downing
Senator Carson

The Chair, Senator Jacalyn L. Cilley, opened the hearing on HB 1278-FN and invited the prime sponsor, Representative Warren Groen, to introduce the legislation.

Senator Jacalyn L. Cilley, D. 6: I'd like to open up the hearing on House Bill 1278. Representative Groen.

Representative Warren Groen: Thank you, Madam Chair, members of the Committee. For the record, my name is Warren Groen, representing Rochester, Strafford County District 1.

Senator Jacalyn L. Cilley, D. 6: One of my communities. Welcome to the Senate ED&A Committee.

Representative Groen: Thank you. And I have a handout, there should be five copies, one for everyone there.

In Exodus 3, Verse 8 in the Bible, the Israelites were told they were being sent into a land flowing with milk and honey. And those are ideal foods back then, and I think they're still ideal foods today. And I don't mean to speak for God, but I think if God was writing the Bible today, he would probably say a land flowing with raw milk and honey, because that's how much I believe in raw milk.

Some people are concerned about the potential side effects of raw milk, and I think of that when I watch Wheel of Fortune with my wife, and I see all those prescription drug commercials for senior citizens. And they have this long list of side effects. And when I see the side effects of raw milk, they're pretty minor compared to that. I see it as very beneficial. Some say that raw milk still has some potentially bad bacteria. And from my research I've noticed that, yeah, some of that bacteria's there but there's a good stuff there. And if we have to give up raw milk on account of that, there's probably a few other things, like kissing and some other things we may have to give up, too, because we might move some bad bacteria around. Not prepared to give that up.

Throughout human history, the issue with food has been the race to get it to the consumer before it deteriorates to the point where it's either doesn't taste good or it's actually dangerous for you. And so we've come up with a number of methods: refrigeration, sanitation, pasteurization, those kinds of things. And I'd like to look at the three methods.

Right now we have UHT, which is ultra high temperature pasteurization, where you heat it until just before it catches on fire and then quickly cool it. And you've effectively killed everything so you can store it at room temperature on the shelf for about six months. Normal pasteurization, you heat it to 161° for about 20 seconds, and you can store it on the shelf refrigerated for two to three weeks. Or the natural method, where the cow heats it to 101° and the farmer cools it, and you can store it in a refrigerator for two to three weeks.

I see this bill as the perfect New Hampshire bill, it's a live free or die bill. And not to bring up the jokes about live free and die, but for farmers it's the freedom to either be licensed or not, to be free to sell raw milk or not. For the farmer, whether he wants to operate inside or outside the system, he or she. And for consumers, it's the freedom to buy what they want and where they want, whether it be pasteurized or raw.

I think it fits in well with the emphasis on New Hampshire of small agriculture. We've got the new term called locavore. We've got organizations called Eat Local in the state. We've got a lot of farm markets. Agriculture works best in New Hampshire on a small scale. Since we've had railroads, trucks, highways, refrigeration, it hasn't been as important that we farm every available acre in New Hampshire, because we can bring it in from other places. But this is one of those things that's ideally suited to New Hampshire. And that's why I'm seeking to raise the limit, so that dairy farmers can sell more raw milk to their friends, to their neighbors, things like that.

It's been brought up, some of the problems that could come as a result of selling more raw milk. And I'd like to look at some of the issues that we've had with food. A couple of months ago we had salami from Rhode Island that had salmonella that came from the pepper that was put on the casing of the sausage. We had the spinach scare out of California. We had tomatoes. Last year, if you remember it was difficult to get a tomato on your hamburger at Burger King or MacDonal'd's, so we had the tomato scare. Had the peanut butter scare out of Georgia. Had, a few months back, *e coli* in hamburger out of Ohio. And my favorite one is out of the '80s, approximately 200,000 people got sick, about 20 some went to the hospital and several actually died from it, and it was from pasteurized milk.

And so it's something that we struggle with in all our food. It's live products, that once we separate it from the tree, the vine, the animal, whatever, it begins to decompose. And throughout history it's been a race to get it taken care of or get it eaten before it becomes dangerous. It's still there. We've just gotten much better at managing it. And I think, as a vote of confidence in the farmers in New Hampshire, as one of the members of our Committee stated, if they're not going to do a good job with five gallons, they're probably not going to do a good job with 20 gallons. But if they can do a good job with 20 gallons, they're probably going to do a good job with five gallons as well. And that's why I want to raise it, because the consumer will decide who they want to buy milk from. If they go to a place and their kids don't like it because it tastes bad or they don't feel good after they drink it, probably not going to buy it from that guy.

But I grew up on the stuff, never got sick from it. I like it and I'd like to see the farmers in New Hampshire have more freedom in that respect. Thank you. See handout from Representative Groen attached hereto and hereafter referred to as Attachment 1.

Senator Jacalyn L. Cilley, D. 6: Thank you, Representative Groen.
Senator Carson.

Senator Sharon M. Carson, D. 14: Thank you, Madam Chair, and thank you for bringing this bill forward, Representative. Do you think by allowing more milk to be sold, that people are going to be using it not only for drinking, but for making other products like cheese and for yogurt?

Representative Groen: Yes, yes, indeed. That's currently happening right now. Cheese, yogurt, kefir, which is an easy to make product from raw milk. This whole thing of making cheese at home, I don't know if it's a fad or just

an oncoming trend, but it's happening more and more. And I expect to see that happening more and more.

Senator Sharon M. Carson, D. 14: May I follow-up?

Senator Jacalyn L. Cilley, D. 6: Follow-up.

Senator Sharon M. Carson, D. 14: Does this only affect milk being sold from cows, or does this affect milk being produced by goats or other animals?

Representative Groen: It doesn't specify, it just says milk sold from the farmyard. And there's a number of regulations. They have to have a sign up, they have to label it appropriately. But it could be milk from anything.

Senator Sharon M. Carson, D. 14: Okay. If I may?

Senator Jacalyn L. Cilley, D. 6: Absolutely.

Senator Sharon M. Carson, D. 14: I'd just like to make a comment. When I was a child.

Senator Jacalyn L. Cilley, D. 6: Would you believe.

Senator Sharon M. Carson, D. 14: Would you believe my grandfather, when I was a child, took me to a farm that sold raw milk and I swore I'd never drink it again. I said no thanks.

Senator Jacalyn L. Cilley, D. 6: It's an acquired taste.

Senator Sharon M. Carson, D. 14: It's a very acquired test.

Representative Groen: Yes.

Senator Sharon M. Carson, D. 14: Thank you.

Senator Jacalyn L. Cilley, D. 6: Any further questions? Representative Groen, I just wanted to, and thank you for bringing this bill forward. As I think you know, I am a huge supporter of small farmers and eat local and sustainable agriculture. So I just want to make sure that all this does, because I kept looking at it and I wanted to go back to the original statute. Didn't have time before the hearing, so I said, well, I'll do it after the hearing. All this does is raise the amount that can be sold, as near as I can see here, and that it's my understanding that in the original statute, farmers can sell raw milk. They have to sell it on the farm.

Representative Groen: Correct.

Senator Jacalyn L. Cilley, D. 6: Or at a local farmer's market. We have, I've noticed that at the two that I go to, they're lined up outside of the building first thing in the morning to get their gallons of raw milk. So that's the case now. This doesn't, and I'm not seeing anything to even suggest that these would be sold any place else?

Representative Groen: Right, correct. There are some towns, like Portsmouth and Concord, won't allow it.

Senator Jacalyn L. Cilley, D. 6: Right.

Representative Groen: To be sold at a farmer's market, but that's a local regulation.

Senator Jacalyn L. Cilley, D. 6: Right.

Representative Groen: And I'm fine with local control, even though I'd like to see it overturned. I'm fine with local control on that. This is really the simplest bill in the world. We took that number and changed it from 20 to 80.

Senator Jacalyn L. Cilley, D. 6: And so I guess my question in that regard is, how did you get there? Why not more than that?

Representative Groen: I would love to have, remove the limit entirely. If it was up to me, I would remove the limit entirely. I spoke to a number of people, ran into a few roadblocks. People said, if you try to remove the limit entirely, you will get lots of opposition.

Senator Jacalyn L. Cilley, D. 6: Really.

Representative Groen: So I decided to take a small bite.

Senator Jacalyn L. Cilley, D. 6: Okay, alright. Well, thank you. Senator Carson.

Senator Sharon M. Carson, D. 14: Can you make ice cream out of raw milk?

Representative Groen: Absolutely.

Senator Sharon M. Carson, D. 14: Alright, I think I've found a way.

Senator Jacalyn L. Cilley, D. 6: You're coming to the farmer's market with me next time and we're going to get all of our recipes out, and this is all being recorded.

Senator Sharon M. Carson, D. 14: It just dawned on me. I didn't know if you could do it.

Representative Groen: You can make lots of good things out of raw milk.

Senator Sharon M. Carson, D. 14: Okay, thank you.

Senator Jacalyn L. Cilley, D. 6: Thank you very much.

Representative Groen: Thank you.

Senator Jacalyn L. Cilley, D. 6: Representative Haefner.

Representative Bob Haefner: Thank you, Madam Chair and Senators. Just for the record, name's Bob Haefner. I represent Hillsborough 27 which is Hudson, Litchfield and Pelham. And I'm here to support raw milk.

This passed our Committee with, I believe it was 16 to 1 vote. And by the way, the dissenting vote is going to speak, I believe, today.

Senator Jacalyn L. Cilley, D. 6: Well, we actually have a majority report and a minority report on this.

Representative Haefner: Alright. And it passed in the House with, I forget the exact number, but it was something in the order of magnitude of 300 to 35 or something of that magnitude.

Representative Groen: 343 to 8.

Representative Haefner: Thank you.

Senator Jacalyn L. Cilley, D. 6: Approximately.

Representative Haefner: And there's a couple of dairy farmers behind me that will speak to the detail. I think this is a good bill. Our dairy farmers have been in trouble for well over a year. Prices had started to come up and now they're forecast to go back down. They can get more money for raw milk and I think this is something that we should do to help them if they choose to

do it. And this is a choice they have, as well as it is that we can go and buy the raw milk if we choose to do that.

Thank you.

Senator Jacalyn L. Cilley, D. 6: Okay. Questions? Thank you very much, Representative Haefner. And on that note of the dissenting voice, Representative Webb.

Representative Leigh Webb: Good afternoon, Madam Chair.

Senator Jacalyn L. Cilley, D. 6: So nice to see a stalwart fellow who's going to defend the minority report, which I'm assuming he wrote.

Representative Webb: Seeing it's the one I wrote! Yes. It would only be fitting that I would defend what I wrote. For the record, Representative Leigh Webb, Merrimack District 2, Franklin and Hill.

And the reason I wrote that dissenting opinion was simply because of conversations I'd had with the Department of Agriculture, who expressed these concerns. I am here only as a voice of caution. I am not, and I want to make this very clear, in opposition to the sale of raw milk. In fact, the contrary is true. I believe we should support our dairy farmers and allow this product. It's a wonderful product. I'm not disagreeing with that.

All I'm here to say is simply that the reason the original exists with that minimum amount, was there was a certain expectation that without licensing - and that's what this is about, understand that - that a producer could distribute, without the license, a minimum quantity of raw milk because there was an expectation that milk wouldn't go very far afield. That that raw milk would probably stay within relatives, friends, family, and therefore if there was a problem with that milk being tainted, it wouldn't get press. Wouldn't get really recognized and it could be dealt with locally. The more we allow to be sold, the more we encourage it to go further afield.

And considering that, don't forget, this amount can be cumulative. You could have your farm stand either at the property or at a local venue, you could be accumulating that milk for days and even weeks and be selling literally hundreds of gallons. That could have been stored properly, could have been transported properly, in which case there would be absolutely no problem. But if somewhere along that line it wasn't stored properly and there was a problem and that milk became tainted. And it was taken across the border to the State of Massachusetts or one of our neighboring states, and someone got sick and that ended up in the media, which has happened in the sale of raw milk. That could hurt the industry that we are sworn to protect.

And also it becomes a possible public health issue. This is not something that I think we wish to support as a legislative body. And that's the only reason that I ask that you view this subject with a little bit of caution, is that we don't want to go on record as saying that there are mass producers, large producers of raw milk in this state that abide by the rules, that are licensed. And when I say licensed, I mean regulated. When I say regulated, I mean subject to inspection and testing. By passing the bill and upping those limits, that means that these people not only will not be on the radar screen of our Department of Agriculture, because they won't need to be. They won't need to register with the Department of Agriculture, so they won't need to be licensed and therefore they will not need to be inspected. That's a modicum of protection that will not be afforded this group when you raise that limit.

And that's all I'm here to say and I just want you to take that into consideration.

Senator Jacalyn L. Cilley, D. 6: Representative Webb, this goes back to one of my original questions. Aren't they restricted to solely selling it on the farm or at a farmer's market?

Representative Webb: As far as I know, that's true.

Senator Jacalyn L. Cilley, D. 6: But I guess I'm not sure how it goes far afield? I mean, even today with the 20 quarts, they can take ...

Representative Webb: Yeah, farther afield in the sense of the greater the quantities. In order to be profitable, you have to sell to a larger number of people. Just because it's on the farm stand or at a farmer's market, doesn't mean that you're not going to advertise that product, because you're going to have more product to sell. When I say farther afield, I mean people coming to that farmer's market because it's advertised, so that they can make a profit with their product.

It just means that more people, because of the sheer quantity of milk to be sold, more people will be buying it. More people means it can be spread further. And if someone's coming from out of state to buy it, that means they may not be transporting it under the best of conditions back home before they consume it. This to me, and this is, I say this just as a cautionary note, to me this jeopardizes the entire industry, which I am not comfortable with doing. Only because of the lack of inspection and lack of regulation, lack of knowledge by the Department of Agriculture, that these farms are continuing to sell this product. It's a good product, I'm not suggesting that it couldn't be.

Senator Jacalyn L. Cilley, D. 6: Representative Webb, I'm wondering if you've had an opportunity to review, and I think Representative Groen did a very, you know, sound job of painting a picture of how with all the regulation and all of the oversight that we have with many of our food supplies, there have been some serious, serious outbreaks of diseases, you know, on a wide variety of products. Are you aware, because they are selling raw milk across the country. In fact, I think some states actually allow it to be sold in stores. Are you aware of any instances in which there have been significant problems with raw milk?

Representative Webb: Not recently. And I would have to go back some many years. You have to understand my background. I lived in Los Angeles for 37 years before realizing my mistake and coming back to my roots here in New England. Besides which it was very difficult to be a Lakers fan, I mean a Celtics fan in Los Angeles. It was Lakers property.

There was a significant outbreak of a problem with Altadena Dairy in a community just north of Los Angeles. This was a large producer and they had a problem. And it really took a long time for them to recover from that horrible publicity. Now was that industry regulated? Yes. Is regulation or inspection a guaranty that that product will forever be good? No. But are we comfortable with removing even that modicum of protection for these farmers that could in fact extremely negatively impact the larger producers or all producers of this product in this state? And that's the only thing I wish to raise.

Senator Jacalyn L. Cilley, D. 6: Thank you. Any questions for Representative Webb? Thank you very much.

Representative Webb: Thank you.

Senator Jacalyn L. Cilley, D. 6: I was just ... oh.

Representative Tara Sad: Madam Chair? Might I? I put down not to speak, but if I might change my mind?

Senator Jacalyn L. Cilley, D. 6: Well, I guess you can change your mind. I think the Chair of the Agriculture Department would, you know, have much to offer. But I don't see you here as either, am I missing? Oh, there you are, okay.

Representative Sad: Thank you, Madam Chair.

Senator Jacalyn L. Cilley, D. 6: Welcomed to ED&A Committee.

Representative Sad: Why, thank you very much. For the record, my name is Tara Sad. I'm Chair of the Environment and Agriculture Committee and I represent Cheshire County District 2, the Towns of Alstead, Marlow, Nelson, Roxbury, Sullivan, Stoddard and Walpole.

I come from dairy country. We have more dairy farms than any other town in the state, and I just want to testify in favor of raw milk. I go out of my way a mile and a half down the dirt road to buy my raw milk, that I drink on a daily basis. I know the farmer. Anyone who buys milk from this farmer, knows the farmer. There is going to be no danger of not knowing where the food is coming from and that to me is about as safe as you can get. And so that's why I'm in support of it. And it's delicious, I highly recommend it.

Senator Jacalyn L. Cilley, D. 6: And I would assume that following the hearing, you'll be able to share with Senator Carson ...

Senator Sharon M. Carson, D. 14: No.

Senator Jacalyn L. Cilley, D. 6: All of the recipes.

Representative Sad: I think refrigeration might have helped a lot.

Senator Sharon M. Carson, D. 14: I would like to learn how to make cheese, though, I think that would be very interesting.

Senator Jacalyn L. Cilley, D. 6: Do you have a question?

Senator Sharon M. Carson, D. 14: I'm not sure.

Senator Jacalyn L. Cilley, D. 6: Besides the recipes.

Senator Sharon M. Carson, D. 14: No, that's okay, thank you, Madam Chair.

Representative Sad: Thank you.

Senator Jacalyn L. Cilley, D. 6: Any other questions? Thank you very much for coming and for giving your support.

Representative Sad: Thank you.

Senator Jacalyn L. Cilley, D. 6: Walter Fitch.

Mr. Walker Fitch: It's actually Walker Fitch.

Senator Jacalyn L. Cilley, D. 6: I'm sorry, it's Walker.

Mr. Fitch: Yup.

Senator Jacalyn L. Cilley, D. 6: Yes, thank you.

Mr. Fitch: Good afternoon. My name is Walker Fitch from Fitch Farm LLC. I'm actually one of the dairy farmers that was spoken about. We milk 100 cows in Milford and we sell, you know, the limit of raw milk. We bottle it. We're a commercial dairy, it's not our main business, more of a supplement income.

We've only been doing it, this is our second year doing it. We started because there was a market for it. We have a farm stand too, where we raise vegetables. My brother runs a good sized orchard, so we sell apples. So this was something that people wanted, so we put it in the refrigerator to see if sold, and it does. There's a pretty good demand for it.

All of our bottles have labels on them, explaining it's raw milk. We don't, I imagine there is a good limit on it, but we don't keep it in the refrigerator any longer than three days. That way people can get the freshest they can.

As far as, you know, obviously I'm in support of raising the limit. I feel that people should be able to choose if they want it or not. You don't have to drink it if you don't like it, that's fine. If you do, great, you know, nobody's forcing anything on anybody. It's just a matter of choice. I don't think there's a person that ever buys raw milk that doesn't realize there's a possible risk of bacteria because it's not pasteurized. So, you know, people realize it.

I don't really feel, I myself personally, I feel safer eating the products from my farm, my own vegetables, milk. Not only do they taste like night and day better, but at least I know exactly where they come from. I know what's in it. I know who's handled it, it's me. And then the people that buy our product are, you know, like the lady behind me said it's a personal thing. Everybody that buys off us knows us. We have very loyal customers. Never heard any complaints yet. We've got people that want to buy cheese, or buy milk for cheese and they'll buy, they could buy the limit all at one time. Five gallons for cheese is pretty common.

I just feel just because things are raw and everything in the grocery store doesn't necessarily mean it's safe in the grocery stores. There's still the handling process that goes on there, and we don't really know that things are

handled properly in the stores. Like the consumer doesn't really know who touched what. At least at my place, they can actually meet the person that's producing the product.

I guess that's all I have to say.

Senator Jacalyn L. Cilley, D. 6: Mr. Fitch, my recollection of, you know, of bugs, you know, disease carrying organisms I guess would be a better phrase for it. Is that you pretty much know the food source that certain organisms come from. Do I recall that correctly? I mean, how easy is it to say this disorder comes from a dairy source?

Mr. Fitch: I guess I'd have to ask you to be more specific on that. You know like, you're talking about say, an *e coli* bacteria?

Senator Jacalyn L. Cilley, D. 6: Yeah, I'm wondering how difficult it would be to, I mean, thinking about Representative Webb's comment. And, you know, he's not wrong to be concerned about this. That in light of, as I said, I've had a fair amount of time to review a lot of things that have gone wrong with pasteurized milk, regulated products and so on. How difficult is it to trace the, you know, a problem back to a specific food source?

Mr. Walker Fitch: I think it would be easier to trace it. Well, we'll take for instance they had an *e coli* scare in lettuce. There was a neighboring dairy farmer, I don't know how many miles down the road, and they blamed it on him. Possible cow manure spreading. That was the first place they went, they figured *e coli*, it's got to be the farmer. It wasn't. You know, I don't know, maybe one of the workers, who knows what out in the field.

Senator Jacalyn L. Cilley, D. 6: I won't ask you to elaborate on that.

Mr. Fitch: Well, I won't go into detail either. But they, you know, the first thing that people thought of was, you know, had to do with cattle. But it turned out it wasn't.

As far as getting sick off a product, you know, it would be inspected. Then the milk in the rest of the tank would be inspected. Say it was *e coli* or something like that, it would still show up in the bulk part of it.

Senator Jacalyn L. Cilley, D. 6: Okay.

Mr. Fitch: But, you know, like in my business where I'm a commercial business, so we make a lot of milk. And our systems are all sanitized and everything's run through stainless steel.

Senator Jacalyn L. Cilley, D. 6: For the commercial milk, not for the raw milk.

Mr. Fitch: For the commercial part of it.

Senator Jacalyn L. Cilley, D. 6: Okay.

Mr. Fitch: But I think, you know, if somebody did get sick off the products, I think it could be traced back to the farmer pretty easy.

Senator Jacalyn L. Cilley, D. 6: Final question for me. Do you know all of the people who buy your milk? They know you, you know all of them? I mean, is there, you know, are there people stopping from, you know, from Massachusetts or Maine or Vermont? Not Vermont, they have enough of their own cows.

Mr. Fitch: And there's farms in Mass, too. You know, where it's sold on the farm. In all honesty, I didn't really realize about the farmer's markets. I don't know if my town will do that or not.

Senator Jacalyn L. Cilley, D. 6: Talk to Representative Sad.

Mr. Fitch: I'd have to look into that.

Senator Jacalyn L. Cilley, D. 6: Huge.

Mr. Fitch: You have basically local people, surrounding the local towns. People aren't, you know, they're not going to drive three hours to your farm to get milk, because by the time they get home, unless they've got a cooler, it's going to be warm anyway. So basically, we have, you know, we know most of the people that buy. It's a pretty personal thing.

Senator Jacalyn L. Cilley, D. 6: Okay, alright. Any further questions?
Senator Fuller Clark.

Senator Martha Fuller Clark, D. 24: I just have a question about liability. How are you protected in case someone were to get sick from raw milk or, I'm sure ...?

Mr. Fitch: That's the responsibility of the farmer.

Senator Martha Fuller Clark, D. 24: Right.

Mr. Fitch: You need to get insurance, or not. I mean, there's a risk of selling any product.

Senator Martha Fuller Clark, D. 24: Right.

Mr. Fitch: I mean, if I sold, say I sold tomatoes, which I do. Not me, my brother does that. But I mean, say somebody got sick off that, you've got to have liability insurance.

Senator Martha Fuller Clark, D. 24: Is it more expensive for you to acquire liability insurance to sell raw milk or they don't make a distinction?

Mr. Fitch: No, no. It's still, I mean it's noted that we're selling raw milk, but it's not, it's not out of reach of a price. You know, it's like an insurance. I think it's a smart move to have.

Senator Martha Fuller Clark, D. 24: I would agree.

Mr. Fitch: I mean, if a farmer decides not to, I don't know, that's his choice.

Senator Martha Fuller Clark, D. 24: Sure. But I just wondered if, you know, follow-up, that if you had to pay more in order to get insurance for raw milk? So thank you for the information.

Mr. Fitch: I was wondering if we had to when we did it, but it turned out not too bad.

Senator Jacalyn L. Cilley, D. 6: Are there further questions for Mr. Fitch? Thank you very much for coming to testify.

Mr. Fitch: Thank you.

Senator Jacalyn L. Cilley, D. 6: I think the last speaker that I have is Jeff Holmes from the New Hampshire Farm Bureau. Well, I'll go back through the list after you, Mr. Holmes.

Mr. Jeff Holmes: Thank you, Madam Chair.

Senator Jacalyn L. Cilley, D. 6: Welcome to... I recognize you, we had dinner together.

Mr. Holmes: A couple times, yeah.

Senator Jacalyn L. Cilley, D. 6: Yes.

Mr. Holmes: Good afternoon to you and the Committee. I appear in support of this bill, both personally and representing the New Hampshire Farm Bureau.

I'm a product of 40 plus years of raw milk consumption myself. Feel pretty good. And the two or three years I didn't consume milk, I was at college. I lived in a fraternity kitchen, so I got an overload of bacteria at that point, too, and survived that as well.

Senator Jacalyn L. Cilley, D. 6: I thought in a fraternity house you'd have the other products that would help erase almost any bacteria.

Mr. Holmes: Whatever works. Unfortunately, with most issues in dairy, there's no unanimous consensus on what's right and what's wrong. Across the country, there's less than 15 states that allow raw milk sales to begin with, so we're very fortunate to have that ability in New Hampshire and in Vermont as well.

There's sort of a history of food borne illness in raw milk, but a lot of those stories sort of predate pasteurization and sanitation, and soaps and acids and sanitizers. So they're not your grandfather's cleaning materials any more, we do a lot better job than we ever did before. And it's sort of a history of raw milk being a "unhealthy" product that's sort of dragging us know.

Senator Jacalyn L. Cilley, D. 6: Actually, Jeff, before you move too far afield from the 15 states that allow the sale of raw milk, have you looked at the quantities that they allow and how it compares to this bill and what we have in current statute?

Mr. Holmes: No, I haven't. While you're looking at that quantity, I think the five to twenty gallon limit is meaningful. It's not just a number picked out of the air, it's a meaningful increase. On our farm we sold raw milk since I can remember, just mostly to neighbors and relatives, like you had said before. So we know our customers and we've always been a smallish dairy farm. We milk 70 head now and we were probably 45 cows when I was growing up.

So this 15 gallon increase is a meaningful dollar value for a small producer, if you're wholesaling a product at a buck and a half a gallon. And I don't know what Walker is selling his for, but I've heard \$5 is maybe an average figure for raw milk sales and you're looking at \$50 a day that somebody could increase his gross sales without changing anything, selling the same amount of product and having the same inspections and everything else that goes

along with that. So it's especially meaningful for a small, one family type farm, this increase.

We're not, we have a certain amount of quality testing as a commercial producer that we have, are able to look at what our milk is in terms of bacterial qualities and some other quality tests throughout the month. We look at four or five loads that they test routinely for bacteria. So we can get a pretty good handle if there's a problem coming or going in terms of that. So that's a benefit that we haven't had over the years, and we really have a pretty good handle on what the quality of the milk is, on an ongoing basis. But like I said, automated washing.

I think most commercial farms that, you know, do sell a little raw milk on the said, it's just sort of a value added type thing for them. And the huge farms, this isn't going to make a big deal for, but the small dairy farms can definitely benefit from this increase. And I think it would be a good thing for the dairy industry to do this.

Senator Jacalyn L. Cilley, D. 6: Okay, are there questions for Mr. Holmes?
Senator Carson.

Senator Sharon M. Carson, D. 14: Thank you, Madam Chair. Mr. Holmes, does the Farm Bureau keep a list of the farmers that are selling raw milk, whether it's for cow or goat?

Mr. Holmes: No, we just do it by commodity. Probably be registered with the Department of Agriculture possibly, that information.

Senator Sharon M. Carson, D. 14: Okay, thank you.

Senator Jacalyn L. Cilley, D. 6: Any further questions?

Mr. Holmes: We're inspected by HHS, Health and Human Services, as you probably are aware of.

Senator Jacalyn L. Cilley, D. 6: Actually, I wasn't. You are inspected even for small quantity. Now you mentioned you have a commercial farm. Mr. Fitch has a commercial farm. I'm wondering about the folks that don't have a commercial farm, they would simply have, you know, a few head of cattle that they've chosen to sell raw milk from.

Mr. Holmes: Yeah, and I don't know how prevalent...

Senator Jacalyn L. Cilley, D. 6: I mean, you know that there's a growth, sort of a growth spurt out there in the small farm, you know, participant and that one of the arguments that would be made. And I didn't hear it from Representative Webb, but I know there are some that are making this argument. That because there are people getting into it. You come from a farm tradition. There are people entering this occupation and career that don't come from that tradition, and may not be as knowledgeable about, you know, maintenance and care and so on, of...

Mr. Holmes: I think his point, Representative Groen, that the first five gallons out is going to be just like the next 15.

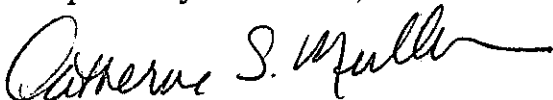
Senator Jacalyn L. Cilley, D. 6: Good point.

Mr. Holmes: So the increase really doesn't affect that. I wouldn't tell you to do away with it entirely if you're worried about that, but that's

Senator Jacalyn L. Cilley, D. 6: No, that's a good point. Okay. Any further questions? With that, thank you very much. I see Matt Haefner signing in, in support. Senator Gallus, signing in, in support. Representative Suzanne Smith, in support. Senator Carson, in support. And Rob Johnson from the Farm Bureau, also in support. Is there anybody else here who wanted to speak to this bill? Okay, with that I'll close the hearing on House Bill 1278-FN.

Hearing concluded at 2:57 p.m.

Respectfully submitted,



Catherine S. Mullen
Senate Secretary
3/24/10

1 Attachment

Complete Document

Can Be Viewed

In Bill Folder

Attachment 1

RAW-MILK-FACTS.COM

The Health Benefits of Raw Milk

Home

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There's little mention in the mainstream media these days, of traditional foods having healing properties. Sure, there's a ton of hype touting unfermented soy products, vegetable oils and supplements as modern saviors, but in reality, these items have risk-to-benefit ratios like many drugs do (1).



Few people are aware that clean, raw milk from grass-fed cows was actually used as a medicine in the early part of the last century (2)(3). That's right. Milk straight from the udder, a sort of "stem cell" of foods, was used as medicine to treat, and frequently *cure* some serious chronic diseases (4). From the time of Hippocrates to until just after World War II, this "white blood" nourished and healed uncounted millions.

Clean raw milk from pastured cows is a complete and properly balanced food. You could live on it exclusively if you had to. Indeed, published accounts exist of people who have done just that (5)(6). What's in it that makes it so great? Let's look at the ingredients to see what makes it such a powerful food (7).

Proteins

Our bodies use amino acids as building blocks for protein. Depending on who you ask, we need 20-22 of them for this task. Eight of them are considered *essential*, in that we have to get them from our food. The remaining 12-14 we can make from the first eight via complex metabolic pathways in our cells.

Raw cow's milk has all 8 essential amino acids in varying amounts, depending on stage of lactation (8). About 80% of the proteins in milk are caseins- reasonably heat stable and, for most, easy to digest. The remaining 20% or so are classed as whey proteins, many of which have important physiological effects (bioactivity) (9). Also easy to digest, but very heat-sensitive (10), these include key enzymes (11) (specialized proteins) and enzyme inhibitors, immunoglobulins (antibodies) (12), metal-binding proteins, vitamin binding proteins and several growth factors.

Current research is now focusing on fragments of protein (peptide segments) hidden in casein molecules that exhibit anti-microbial activity (13).

Lactoferrin (14), an iron-binding protein, has numerous beneficial properties including (as you might guess) improved absorption and assimilation of iron, anti-cancer properties and anti-microbial action against several species of bacteria responsible for dental cavities (15). Recent studies also reveal that it has powerful antiviral properties as well (16).

Two other players in raw milk's antibiotic protein/enzyme arsenal are *lysozyme* and

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Testimony

State of New Hampshire

HOUSE RECORD

Second Year of the 161st General Court
Calendar and Journal of the 2010 Session

Vol. 32

Concord, N.H.

Friday, February 12, 2010

No. 14

Contains: Reports and Amendments for February 17, House Bills Amended by the Senate,
Hearings, Meetings and Notices

HOUSE CALENDAR

ENVIRONMENT AND AGRICULTURE

HB 1278-FN, relative to milk producer distributors.

MAJORITY: OUGHT TO PASS.

Rep. Pamela Z Tucker for the Majority of Environment and Agriculture: This bill allows NH farmers to increase the amount of raw milk sold from 20 quarts a day to 80 quarts a day. Raw milk generally sells in the range of \$5 - \$9 a gallon versus \$1.50 a gallon when sold to a processor. Farmers will now have the ability to sell more milk at a higher price, helping them in these difficult economic times. This bill also gives the consumer more choice and supports local businesses and NH made products. There have been no reported cases of bad milk in NH under the current conditions. If one was to arise, the source would be identified immediately. Vote 12-1.

MINORITY: INEXPEDIENT TO LEGISLATE.

Rep. Leigh A Webb for the Minority of Environment and Agriculture: As much as the minority of the committee agrees with the majority in providing more opportunities to our dairy farmers, the minority is concerned that raising the number of quarts of raw milk to be sold without being licensed, and thus without being subjected to either inspections of the facility and herd, or testing of the milk to be sold, raises the risk of tainted raw milk entering the marketplace and thus potentially negatively affecting the entire industry. The minority could not comfortably support this bill without some provision to address at least voluntary registration (at no cost) of the farms involved and random inspections and periodic testing of the product (at minimal cost).

Voting Sheets

Senate ED&A Committee

EXECUTIVE SESSION

Bill # HB 1278-FN

Hearing date: 3-23-10

Executive session date: 3-23-10

Motion of: OTP

VOTE: 3-0

Made by
Senator: Cilley
 Fuller Clark
 DeVries
 Downing
 Carson

Seconded
by Senator: Cilley
 Fuller Clark
 DeVries
 Downing
 Carson

Reported
by Senator: Cilley
 Fuller Clark
 DeVries
 Downing
 Carson

Motion of: _____

VOTE: _____

Made by
Senator: Cilley
 Fuller Clark
 DeVries
 Downing
 Carson

Seconded
by Senator: Cilley
 Fuller Clark
 DeVries
 Downing
 Carson

Reported
by Senator: Cilley
 Fuller Clark
 DeVries
 Downing
 Carson

<u>Committee Member</u>	<u>Present</u>	<u>Yes</u>	<u>No</u>	<u>Reported out by</u>
Senator Cilley, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Fuller Clark, Vice-Chair	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator DeVries	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Downing	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Senator Carson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

*Amendments: _____

Notes: _____

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: March 23, 2010

THE COMMITTEE ON Executive Departments and Administration
to which was referred House Bill 1278-FN

AN ACT relative to milk producer-distributors.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS

BY A VOTE OF: 3-0

AMENDMENT # s

Senator Sharon M. Carson
For the Committee

Cathy Mullen 271-3067

New Hampshire General Court - Bill Status System

Docket of HB1278

Docket Abbreviations

Bill Title: relative to milk producer-distributors.*Official Docket of HB1278:*

Date	Body	Description
12/10/2009	H	Introduced 1/6/2010 and Referred to Environment and Agriculture; HJ 6 , PG.234
01/07/2010	H	Public Hearing: 1/28/2010 10:00 AM LOB 308
02/03/2010	H	Executive Session: 2/4/2010 2:30 PM LOB 308
02/08/2010	H	Majority Committee Report: Ought to Pass for Feb 17 RC (Vote 12-1); HC 14 , PG.605
02/08/2010	H	Minority Committee Report: Inexpedient to Legislate; HC 14 , PG.605
02/17/2010	H	Ought to Pass: MA RC 343-8 ; HJ 18 , PB.995-997
03/10/2010	S	Introduced and Referred to Executive Departments and Administration
03/18/2010	S	Hearing: March 23, 2010, Room 101, LOB, 2:15 p.m.; SC12
03/24/2010	S	Committee Report: Ought to Pass 3/31/10; SC13
03/31/2010	S	Ought to Pass, MA, VV; OT3rdg; SJ 12 , Pg.269
03/31/2010	S	Passed by Third Reading Resolution; SJ 12 , Pg.271
04/07/2010	S	Enrolled; SJ 13 , Pg.285
04/12/2010	H	Enrolled; HJ 32 , PG.1577
05/24/2010	H	Signed by the Governor 05/18/2010; Effective 07/17/2010; Chapter 0053

NH House

NH Senate

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COMMITTEE REPORT FILE INVENTORY

HB 1278-FN ORIGINAL REFERRAL

_____ RE-REFERRAL

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2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

DOCKET (Submit only the latest docket found in Bill Status)

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CALENDAR NOTICE on which you have taken attendance

HEARING REPORT (written summary of hearing testimony)

HEARING TRANSCRIPT (verbatim transcript of hearing)

List attachments (testimony and submissions which are part of the transcript) by number [1 thru 4 or 1, 2, 3, 4] here: _____

SIGN-UP SHEET

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

____ - AMENDMENT # _____ ____ - AMENDMENT # _____
____ - AMENDMENT # _____ ____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

AS INTRODUCED ____ AS AMENDED BY THE HOUSE
 FINAL VERSION ____ AS AMENDED BY THE SENATE

____ PREPARED TESTIMONY AND OTHER SUBMISSIONS (Which are not part of the transcript)

List by letter [a thru g or a, b, c, d] here: _____

EXECUTIVE SESSION REPORT

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

House Record

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DATE DELIVERED TO SENATE CLERK

9-14-10

Catherine S. Muller
COMMITTEE SECRETARY