

**Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0371.02 Jennifer Berman x3286

SENATE BILL 24-043

SENATE SPONSORSHIP

Roberts and Pelton B., Bridges, Pelton R.

HOUSE SPONSORSHIP

McCluskie, Martinez, McCormick, McLachlan

Senate Committees

Agriculture & Natural Resources
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING DIRECT-TO-CONSUMER SALES OF RAW MILK.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Water Resources and Agriculture Review Committee. The bill authorizes a raw milk producer (producer) that registers with the department of public health and environment (department) to engage in direct-to-consumer sales of raw milk in the state if the producer complies with certain labeling, storage, handling, and transportation requirements. The direct-to-consumer sales may take place at the location where the raw milk is produced, at the consumer's residence, or at a farmers' market or roadside market. The bill authorizes the department of agriculture to:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- Adopt rules related to the storage, handling, and transportation of raw milk intended for sale directly to consumers;
- Inspect producers' raw milk and operations;
- Enforce against a violation in court or by imposition of a civil penalty.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 62 to title
3 35 as follows:

4 **ARTICLE 62**

5 **Raw Milk**

6 **35-62-101. Definitions.** AS USED IN THIS ARTICLE 62, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "COMMISSIONER" MEANS THE COMMISSIONER OF AGRICULTURE
9 APPOINTED PURSUANT TO SECTION 35-1-107 (1).

10 (2) "DEPARTMENT" MEANS THE DEPARTMENT OF AGRICULTURE
11 CREATED IN SECTION 35-1-103.

12 (3) (a) "RAW MILK" MEANS UNPASTEURIZED COW OR GOAT MILK.

13 (b) "RAW MILK" DOES NOT INCLUDE UNPASTEURIZED HUMAN MILK.

14 (4) "RAW MILK PRODUCER" OR "PRODUCER" MEANS A FARMER,
15 FARM, OR DAIRY THAT PRODUCES RAW MILK.

16 (5) "RETAIL FOOD ESTABLISHMENT":

17 (a) EXCEPT AS PROVIDED IN SUBSECTIONS (5)(b) AND (5)(c) OF
18 THIS SECTION, HAS THE MEANING SET FORTH IN SECTION 25-4-1602 (14);

19 (b) INCLUDES A FOOD CO-OP; AND

20 (c) DOES NOT INCLUDE A FARMERS' MARKET OR A ROADSIDE
21 MARKET.

22 **35-62-102. Raw milk - direct-to-consumer sales - requirements**

1 **- rules.** (1) (a) ON AND AFTER JANUARY 1, 2025, A PERSON IN THE STATE
2 SHALL NOT SELL OR OFFER FOR SALE RAW MILK UNLESS THE RAW MILK IS
3 SOLD OR OFFERED FOR SALE IN ACCORDANCE WITH THIS SECTION.

4 (b) ON AND AFTER JANUARY 1, 2025, A RAW MILK PRODUCER THAT
5 HAS REGISTERED WITH THE DEPARTMENT OF PUBLIC HEALTH AND
6 ENVIRONMENT PURSUANT TO SECTION 25-5.5-117 (2) MAY SELL OR OFFER
7 TO SELL RAW MILK DIRECTLY TO A CONSUMER IF:

8 (I) THE SALE OR OFFER TO SELL TAKES PLACE AT THE LOCATION
9 WHERE THE RAW MILK IS PRODUCED, THE CONSUMER'S RESIDENCE, OR A
10 FARMERS' MARKET OR ROADSIDE MARKET;

11 (II) RAW MILK OFFERED FOR SALE IS PLACED IN A STERILE OR
12 SINGLE-USE CONTAINER AND SOLD NO MORE THAN FIVE DAYS AFTER THE
13 CONTAINER IS FILLED;

14 (III) WHEN TRANSPORTING THE RAW MILK FOR SALE OR DELIVERY:

15 (A) THE PRODUCER OR ANY PERSON WHO TRANSPORTS OR
16 DELIVERS RAW MILK ON BEHALF OF A PRODUCER PURSUANT TO
17 SUBSECTION (3) OF THIS SECTION MAINTAINS THE RAW MILK IN AIR
18 TEMPERATURES AT OR BELOW FORTY DEGREES FAHRENHEIT AT ALL TIMES
19 EXCEPT DURING THE TRANSFER OF THE RAW MILK FROM ONE STORAGE
20 AREA TO ANOTHER OR FROM ONE TRANSPORTATION VEHICLE TO ANOTHER;
21 AND

22 (B) THE PRODUCER OR ANY PERSON WHO TRANSPORTS OR
23 DELIVERS RAW MILK ON BEHALF OF A PRODUCER PURSUANT TO
24 SUBSECTION (3) OF THIS SECTION PROTECTS THE RAW MILK FROM
25 EXPOSURE TO DIRECT SUNLIGHT;

26 (IV) THE PRODUCER MAINTAINS THE RAW MILK IN ACCORDANCE
27 WITH ANY ADDITIONAL STORAGE, HANDLING, AND TRANSPORTATION

1 REQUIREMENTS THAT THE COMMISSIONER, IN CONSULTATION WITH THE
2 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, ESTABLISHES
3 PURSUANT TO RULES ADOPTED PURSUANT TO SUBSECTION (2) OF THIS
4 SECTION; AND

5 (V) THE PRODUCER AFFIXES A LABEL TO EACH CONTAINER OF RAW
6 MILK SOLD OR OFFERED FOR SALE THAT INCLUDES:

7 (A) THE PRODUCER'S NAME;

8 (B) THE CALENDAR DATE THAT THE RAW MILK WAS PACKAGED IN
9 THE CONTAINER; AND

10 (C) THE FOLLOWING STATEMENT: "THIS PRODUCT CONTAINS
11 UNPASTEURIZED MILK. CONSUMING RAW FOODS, INCLUDING RAW DAIRY
12 PRODUCTS, MAY INCREASE YOUR RISK OF FOOD-BORNE ILLNESS.
13 INDIVIDUALS AT HIGHER RISK FOR FOOD-BORNE ILLNESS INCLUDE
14 INDIVIDUALS WHO ARE PREGNANT OR NURSING, CHILDREN, THE ELDERLY,
15 AND INDIVIDUALS WITH WEAKENED IMMUNE SYSTEMS."

16 (2) ON OR BEFORE DECEMBER 31, 2024, THE COMMISSIONER, IN
17 CONSULTATION WITH THE DEPARTMENT OF PUBLIC HEALTH AND
18 ENVIRONMENT, MAY ADOPT RULES SETTING FORTH ADDITIONAL SAFE
19 STORAGE, HANDLING, AND TRANSPORTATION REQUIREMENTS FOR RAW
20 MILK THAT IS SOLD OR OFFERED FOR SALE PURSUANT TO THIS SECTION.

21 (3) A PRODUCER MAY CONTRACT WITH ANOTHER PERSON TO
22 TRANSPORT OR DELIVER RAW MILK IN ACCORDANCE WITH THIS SECTION.
23 THE PRODUCER AND SUCH OTHER PERSON ARE JOINTLY AND SEVERALLY
24 LIABLE FOR ANY VIOLATION OF THIS SECTION OR OF ANY RULE ADOPTED
25 PURSUANT TO SUBSECTION (2) OF THIS SECTION, WHICH VIOLATION IS
26 COMMITTED BY THE OTHER PERSON.

27 (4) A RAW MILK PRODUCER SHALL NOT PUBLISH ANY STATEMENT

1 THAT IMPLIES APPROVAL OR ENDORSEMENT BY THE COLORADO
2 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT.

3 (5) IN ACCORDANCE WITH SECTION 25-5.5-117 (3)(b), AN
4 AUTHORIZED AGENT OF THE DEPARTMENT MAY REQUEST FROM THE
5 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT ACCESS TO THE
6 REGISTRATION INFORMATION OBTAINED PURSUANT TO SECTION 25-5.5-117
7 (2).

8 **35-62-103. Restrictions.** (1) THIS ARTICLE 62 DOES NOT
9 AUTHORIZE:

10 (a) THE SALE OF RAW MILK TO OR ON THE PREMISES OF A RETAIL
11 FOOD ESTABLISHMENT, THROUGH USE OF A FOOD DELIVERY SERVICE, OR
12 THROUGH COMMUNITY-SUPPORTED AGRICULTURE;

13 (b) THE SALE OR OFFER FOR SALE OF RAW MILK BY ANY PERSON
14 OTHER THAN A RAW MILK PRODUCER REGISTERED PURSUANT TO SECTION
15 25-5.5-117 (2); OR

16 (c) THE SALE OR OFFER FOR SALE OF RAW MILK FOR A PURPOSE
17 OTHER THAN HUMAN CONSUMPTION UNLESS IT HAS BEEN TREATED WITH
18 A DYE APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH AND
19 ENVIRONMENT, AS DESCRIBED IN SECTION 25-1-114 (1)(i).

20 **35-62-104. Inspections - commissioner to enforce - penalties.**

21 (1)(a) THE COMMISSIONER IS RESPONSIBLE FOR ENFORCING THIS ARTICLE
22 62. THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE SHALL BE
23 GRANTED ACCESS DURING REGULAR BUSINESS HOURS TO BUSINESS
24 PREMISES, FACILITIES, VEHICLES, AND RECORDS PERTINENT TO ACTIVITIES
25 REGULATED UNDER THIS ARTICLE 62.

26 (b) IF THE COMMISSIONER DETERMINES THAT THIS ARTICLE 62 OR
27 THE RULES THAT THE COMMISSIONER ADOPTS PURSUANT TO THIS ARTICLE

1 62 ARE BEING VIOLATED, THE COMMISSIONER OR THE COMMISSIONER'S
2 DESIGNEE MAY CAUSE "STOP SALE NOTICES" TO BE PLACED ON ALL RAW
3 MILK BEING SOLD OR OFFERED FOR SALE IN VIOLATION OF THIS ARTICLE 62
4 OR OF THE RULES. A PERSON SHALL NOT SELL OR OTHERWISE DISPOSE OF
5 ANY RAW MILK FOR WHICH A "STOP SALE NOTICE" HAS BEEN ISSUED UNTIL
6 THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE CANCELS THE
7 "STOP SALE NOTICE".

8 (c) (I) IF AN AUTHORIZED PERSON FROM THE DEPARTMENT
9 REQUESTS TO INSPECT A PRODUCER'S RAW MILK, IT IS UNLAWFUL FOR THE
10 PRODUCER OR THE PRODUCER'S EMPLOYEE OR AGENT TO REFUSE TO
11 SUBMIT THE RAW MILK FOR INSPECTION OR TO REFUSE TO STOP A VEHICLE
12 FROM TRANSPORTING THE RAW MILK.

13 (II) ANY AUTHORIZED AGENT OF THE DEPARTMENT MAY, WHILE
14 ENFORCING THIS ARTICLE 62, SEIZE AND HOLD AS EVIDENCE ANY
15 CONTAINER OF RAW MILK RECEIVED, PACKED, STORED, DELIVERED FOR
16 SHIPMENT, LOADED, OR IN TRANSIT IN VIOLATION OF THIS ARTICLE 62.

17 (2) THE DEPARTMENT, UPON RECEIPT OF A COMPLAINT BY A THIRD
18 PARTY OR ON ITS OWN MOTION, MAY TEST A PRODUCER'S RAW MILK;
19 INSPECT A PRODUCER'S RAW MILK STORAGE, HANDLING, OR
20 TRANSPORTATION OPERATIONS; OR REQUEST RECORDS FROM A PRODUCER
21 REGARDING THE PRODUCER'S RAW MILK PRODUCTION OPERATION.

22 (3) IF THE DEPARTMENT DETERMINES THAT A PERSON HAS
23 VIOLATED THIS ARTICLE 62 OR ANY RULE ADOPTED PURSUANT TO SECTION
24 35-62-102 (2), THE COMMISSIONER MAY:

25 (a) REQUEST THAT THE ATTORNEY GENERAL'S OFFICE OR THE
26 DISTRICT ATTORNEY OF THE JUDICIAL DISTRICT IN WHICH THE ALLEGED
27 VIOLATION OCCURRED, ON THE DEPARTMENT'S BEHALF, BRING AN ACTION

1 IN A COURT OF COMPETENT JURISDICTION PURSUANT TO SECTION 35-1-110;
2 OR

3 (b) UPON NOTICE AND AN OPPORTUNITY TO BE HEARD, IMPOSE A
4 CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED FIVE HUNDRED DOLLARS
5 PER VIOLATION. EACH CONTAINER OF RAW MILK SOLD IN VIOLATION OF
6 THIS ARTICLE 62 CONSTITUTES A SEPARATE VIOLATION.

7 **SECTION 2.** In Colorado Revised Statutes, 25-5.5-117, **amend**
8 (3) as follows:

9 **25-5.5-117. Raw milk.** (3) (a) Retail sales of raw, unpasteurized
10 milk ~~shall not be allowed~~ ARE PROHIBITED, EXCEPT AS AUTHORIZED IN
11 ARTICLE 62 OF TITLE 35 FOR DIRECT-TO-CONSUMER SALES. Resale of raw
12 milk ~~obtained from a cow share or goat share~~ is strictly prohibited. Raw
13 milk that is not intended for pasteurization shall not be sold to or offered
14 ~~for sale at farmers' markets~~, educational institutions, health-care facilities,
15 nursing homes, governmental organizations, or any RETAIL food
16 establishment UNLESS THE RAW MILK IS SOLD OR OFFERED FOR SALE IN
17 ACCORDANCE WITH SECTION 35-62-102.

18 (b) UPON REQUEST OF AN AUTHORIZED AGENT OF THE
19 DEPARTMENT OF AGRICULTURE, THE DEPARTMENT SHALL PROVIDE THE
20 AUTHORIZED AGENT WITH ACCESS TO REGISTRATION INFORMATION
21 OBTAINED PURSUANT TO SUBSECTION (2) OF THIS SECTION, INCLUDING THE
22 NAMES, LOCATIONS, AND CONTACT INFORMATION OF FARMERS, FARMS,
23 AND DAIRIES REGISTERED.

24 **SECTION 3. Act subject to petition - effective date.** This act
25 takes effect at 12:01 a.m. on the day following the expiration of the
26 ninety-day period after final adjournment of the general assembly; except
27 that, if a referendum petition is filed pursuant to section 1 (3) of article V

1 of the state constitution against this act or an item, section, or part of this
2 act within such period, then the act, item, section, or part will not take
3 effect unless approved by the people at the general election to be held in
4 November 2024 and, in such case, will take effect on the date of the
5 official declaration of the vote thereon by the governor.