

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Committee Substitute

for

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for

Senate Bill 387

BY SENATOR KARNES

[Originating in the Committee on the Judiciary;

reported on February 2, 2016.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §19-1-7, relating to shared animal ownership agreements to consume raw
3 milk; permitting a responsible party to acquire a percentage ownership interest to consume
4 raw milk; setting forth required provisions for shared animal ownership agreements;
5 requiring responsible party to acquire percentage ownership interest in milk-producing
6 animal; requiring payment for percentage ownership for care and boarding of milk-
7 producing animal; providing for receipt of a share of raw milk pursuant to an agreement;
8 requiring written document acknowledging the inherent dangers of consuming raw milk;
9 providing immunity to herd seller for inherent dangers of consuming raw milk; providing
10 no waiver of immunity to herd seller for dangers caused by negligence of herd seller;
11 prohibiting responsible party from distributing, selling or reselling raw milk received
12 pursuant to shared ownership agreement; requiring herd seller to file shared animal
13 ownership agreement with Commissioner of Agriculture; requiring certain additional
14 information be provided by herd seller to Commissioner of Agriculture; requiring herd seller
15 meet animal health requirements established by state veterinarian; requiring parties and
16 physicians to report illnesses related to consumption of raw milk; requiring parties to
17 shared animal ownership agreement and physicians to report illnesses directly related to
18 consuming raw milk; requiring Commissioner of Agriculture contact other parties
19 consuming raw milk from same herd seller upon receipt of report of illness; providing
20 administrative penalties; permitting a person against whom a penalty is imposed to
21 administratively contest that penalty; and providing rule-making authority.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
2 section, designated §19-1-7, to read as follows:

ARTICLE 1. DEPARTMENT OF AGRICULTURE.

§19-1-7. Shared animal ownership agreement to consume raw milk.

1 (a) Notwithstanding any other provision of the law to the contrary, a responsible party may
2 enter into a written shared animal ownership agreement to consume raw milk in which he or she:

3 (1) Acquires a percentage ownership interest in a milk-producing animal;

4 (2) Agrees to pay another for the percentage ownership interest for the care and boarding
5 of the milk-producing animal at the dairy farm;

6 (3) Is entitled to receive a fair share of the animal's raw milk production as a condition of
7 the contractual agreement;

8 (4) Agrees to sign a written document acknowledging the inherent dangers of consuming
9 raw milk that may contain bacteria, such as Brucella, Campylobacter, Listeria, Salmonella and E.
10 Coli, that has not been pasteurized to remove bacteria and that is particularly dangerous to
11 children, pregnant women and those with compromised immunity. The responsible party then
12 agrees to release the herd seller of liability for the inherent dangers of consuming raw milk but
13 not for those dangers that are caused by negligent acts or omissions of the herd seller; and

14 (5) Agrees not to distribute raw milk. The sale or resale of raw milk obtained from a herd
15 share is strictly prohibited.

16 (b) The signed and executed shared animal ownership agreement shall be filed by the
17 herd seller with the Commissioner of Agriculture and shall contain the names, addresses and
18 phone numbers of the herd seller and the responsible party so that either party may be contacted
19 in the event of an illness.

20 (c) The herd seller shall meet the animal health requirements for milk-producing animals
21 established by the state veterinarian in accordance with state and national standards including
22 the following:

23 (1) Raw milk from milk-producing animals intended for consumption shall be from a herd
24 that tested negative within the previous twelve months for brucellosis, tuberculosis and other
25 diseases as required by the state veterinarian. Additions to the herd shall test negative for the
26 diseases within the previous thirty days before introduction into the herd; and

27 (2) Milk-producing animals producing bloody, stringy or abnormal milk, but with only slight
28 inflammation of the udder, shall be excluded from the milking herd until reexamination shows that
29 the milk has become normal. Milk-producing animals showing chronic mastitis, whether producing
30 abnormal milk or not, shall be permanently excluded from the milking herd.

31 (d) Parties to a shared animal ownership agreement and physicians who become aware
32 of an illness directly related to consuming raw milk shall report the illness to the local health
33 department and the Commissioner of Agriculture. Upon receipt of such a report, the
34 Commissioner of Agriculture or his or her designee shall contact and warn other parties
35 consuming raw milk from the same herd seller.

36 (e) The Commissioner of Agriculture may impose an administrative penalty not to exceed
37 \$100 for a person who violates the provisions of this section. Any penalty imposed under this
38 subsection may be contested by the person against whom it is imposed pursuant to article five,
39 chapter twenty-nine-a of this code.

40 (f) The Commissioner of Agriculture, in consultation with the Department of Health and
41 Human Resources, may propose rules for promulgation in accordance with the provisions of
42 article three, chapter twenty-nine-a of this code in compliance with raw milk dairy industry
43 standards.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.