

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

House Bill 4911

By Delegates Hornby, Summers, Chiarelli, Thorne,

Foster, Devault and Dillon

[Originating in the Committee on Health and Human

Resources; Reported on February 13, 2024]

1 A BILL to amend and reenact §19-1-7 of the Code of West Virginia, 1931, as amended, relating to
2 raw milk; removing the requirement of a herd share agreement; permitting the sale of raw
3 milk; requiring certain information to be provided on the raw milk; and limiting liability.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. DEPARTMENT OF AGRICULTURE.

§19-1-7. Sale of 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 the~~
7 ~~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 not~~
13 ~~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 herd~~
17 ~~seller with the Commissioner of Agriculture and shall contain the names, addresses, and phone~~
18 ~~numbers of the herd seller and the responsible party so that either party may be contacted in the~~
19 ~~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 the~~
22 ~~following:~~

23 ~~(1) Raw milk from milk-producing animals intended for consumption shall be from a herd~~
24 ~~that tested negative within the previous 12 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 30 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 of~~
32 ~~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 §29A-5-1 et~~
39 ~~seq. 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 ~~§29A-3-1 et seq. of this code in compliance with raw milk dairy industry standards.~~

43 ~~(g) Notwithstanding any provision of code to the contrary, raw milk may be sold without the~~
44 ~~parties entering into a written shared animal ownership agreement if the raw milk is to be used:~~

45 ~~(1) As an ingredient in the preparation or making of a nonedible product, such as a soap or~~
46 ~~lotion; or~~

47 ~~(2) As feed for another animal: *Provided*, That the sale of raw milk to be used as animal~~
48 ~~feed is subject to the provisions of §19-14-1 *et seq.* of this code~~

49 (a) Notwithstanding any other provision of the law to the contrary, sales of raw milk are
50 permitted in West Virginia as long as the containers are clearly labeled as ungraded raw milk, with
51 the name of the seller and the date of production.

52 (b) A person who sells raw milk shall be immune from suit and liability, for a claim for
53 personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act,
54 error, or omission that occurred: *Provided*, That a person is not protected from suit or liability for
55 damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct.

NOTE: The purpose of this bill is to permit the sale of raw milk in West Virginia.

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