

**Senate File 77 - Introduced**

SENATE FILE 77

BY SORENSON

**A BILL FOR**

1 An Act allowing certain milk and products using milk to be  
2 transferred directly by operators of dairy farms, and making  
3 penalties applicable.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 159.6, subsection 7, Code 2013, is  
2 amended to read as follows:

3 7. Regulation and inspection of foods, drugs, and other  
4 articles, as provided in Title V, subtitle 4, but chapter 205  
5 of that subtitle shall be enforced as provided in that chapter.  
6 Except as expressly authorized in subtitle 4, the department  
7 shall not regulate any of the following:

8 a. Producing, processing, labeling, or marketing of milk,  
9 if the milk is produced by a person operating a dairy farm in  
10 compliance with section 192.145.

11 b. Manufacturing, labeling, or marketing of a milk product  
12 or dairy product, if the milk product or dairy product is  
13 manufactured by a person operating a dairy farm in compliance  
14 with section 192.145.

15 Sec. 2. Section 191.2, subsection 5, unnumbered paragraph  
16 1, Code 2013, is amended to read as follows:

17 ~~All~~ Except as provided in subsection 5A, bottles,  
18 containers, and packages enclosing milk or milk products shall  
19 be conspicuously labeled or marked with the following:

20 Sec. 3. Section 191.2, Code 2013, is amended by adding the  
21 following new subsection:

22 NEW SUBSECTION. 5A. A person who operates a dairy farm as  
23 provided in chapter 192 and who sells milk or a milk product  
24 to an individual in compliance with section 192.145 is not  
25 required to label or mark a container which contains the milk  
26 or milk product.

27 Sec. 4. NEW SECTION. 191.9A **Exception for on-farm sale of**  
28 **dairy products.**

29 A person who operates a dairy farm as provided in chapter 192  
30 and who sells a dairy product to an individual in compliance  
31 with section 192.145 is not required to label or mark a  
32 container which contains the dairy product.

33 Sec. 5. Section 192.103, Code 2013, is amended to read as  
34 follows:

35 **192.103 Sale of grade "A" milk to final consumer —**

1 **impoundment of adulterated or misbranded milk.**

2 1. Only grade "A" pasteurized milk and milk products  
3 shall be sold to the final consumer, or to restaurants, soda  
4 fountains, grocery stores, or similar establishments, +, except  
5 in as follows:

6 a. In an emergency, the sale of pasteurized milk and milk  
7 products which have not been graded, or the grade of which is  
8 unknown, may be authorized by the secretary, in which case,  
9 such products shall be labeled "ungraded".

10 b. A person who operates a dairy farm may sell milk or  
11 a milk product to an individual in compliance with section  
12 192.145.

13 2. No person shall within the state produce, provide, sell,  
14 offer, or expose for sale, or have in possession with intent  
15 to sell, any milk or milk product which is adulterated or  
16 misbranded; except, in an emergency, the sale of pasteurized  
17 milk and milk products which have not been graded, or the grade  
18 of which is unknown, may be authorized by the secretary, in  
19 which case such products shall be labeled "ungraded".

20 3. Any adulterated or misbranded milk or milk product  
21 may be impounded by the secretary or authorized municipal  
22 corporation and disposed of in accordance with applicable laws  
23 or regulations.

24 **Sec. 6. NEW SECTION. 192.144 Definitions.**

25 As used in this subchapter, unless the context otherwise  
26 requires:

27 1. "*Dairy product*" means a product, other than a milk  
28 product, in which milk is the principal ingredient at any  
29 temperature and in either a manufactured or unmanufactured  
30 state. To the extent that it is not classified as a milk  
31 product, a dairy product includes but is not limited to butter,  
32 cheese, cream, cottage cheese, ricotta cheese, kefir, or ice  
33 cream.

34 2. "*Manufacture*" means to convert or condition personal  
35 property by changing the form, composition, quality, or

1 character of a product, and includes activities associated with  
2 a creamery or cheese factory.

3 Sec. 7. NEW SECTION. 192.145 On-farm production,  
4 processing, manufacturing, and marketing.

5 1. A person who operates a dairy farm may do any of the  
6 following:

7 a. Produce milk at the dairy farm or process the milk at the  
8 dairy farm, if the person does not sell the milk. Nothing in  
9 this paragraph prevents the person from disposing of the milk  
10 without receiving compensation.

11 b. Produce milk at the dairy farm or process the milk at  
12 the dairy farm, if the person sells the milk to an individual,  
13 regardless of whether the milk is unpasteurized or ungraded.  
14 The milk must be sold to the individual on a retail basis  
15 and not for resale. The person may deliver, or cause to be  
16 delivered, the milk to a location specified by the individual.  
17 An individual who receives the milk shall not resell it.

18 2. A person who operates a dairy farm may manufacture a  
19 milk product or dairy product at the dairy farm by using milk  
20 produced at the dairy farm, if any of the following apply:

21 a. The person does not sell the milk product or dairy  
22 product. Nothing in this paragraph prevents the person  
23 from disposing of the milk product or dairy product without  
24 receiving compensation.

25 b. The person sells the milk product or dairy product to  
26 an individual, regardless of whether the milk product or dairy  
27 product is unpasteurized or ungraded. The milk product or  
28 dairy product must be sold to the individual on a retail basis  
29 and not for resale. The person may deliver, or cause to be  
30 delivered, the milk product or dairy product to a location  
31 specified by the individual. An individual who receives the  
32 milk product or dairy product shall not resell it.

33 3. A person who operates a dairy farm shall not be subject  
34 to regulation by the department for acting in compliance with  
35 this section. Such regulation includes but is not limited

1 to labeling requirements under chapter 191 or licensing,  
2 permitting, or inspection requirements under this chapter or  
3 chapter 194.

4 Sec. 8. NEW SECTION. 194.22 On-farm production, processing,  
5 manufacturing, and marketing — exception.

6 This chapter does not apply to any of the following:

7 1. Producing, processing, labeling, or marketing of milk,  
8 if the milk is produced by a person operating a dairy farm in  
9 compliance with section 192.145.

10 2. Manufacturing, labeling, or marketing of a milk product  
11 or dairy product, if the milk product or dairy product is  
12 manufactured by a person operating a dairy farm in compliance  
13 with section 192.145.

14 Sec. 9. CODE EDITOR DIRECTIVE. The Code editor is directed  
15 to divide chapter 192 into subchapters.

16 EXPLANATION

17 BACKGROUND. This bill amends provisions affecting persons  
18 who operate dairy farms, including provisions for the  
19 processing of milk and the manufacture of milk products, and  
20 dairy products on such farms. The provisions are administered  
21 and enforced by the department of agriculture and land  
22 stewardship.

23 Generally, statutory provisions and departmental rules  
24 regulating milk are based on model legislation referred to  
25 as the "Grade 'A' Pasteurized Milk Ordinance" (Code section  
26 192.101A). The "Grade 'A' Pasteurized Milk Ordinance" defines  
27 a milk product as including cream, sour cream, dry milk,  
28 concentrated milk, eggnog, buttermilk, and yogurt. All food  
29 offered or exposed for sale must be labeled (Code section  
30 191.1). This includes labeling the milk or milk product as  
31 "raw" (Code section 191.2(5)(e)). All milk must be sold on  
32 the basis of grade (Code section 194.10) and only grade "A"  
33 pasteurized milk and milk products can be sold to the final  
34 consumer (Code section 192.103). Grade "B" milk may be sold  
35 for manufacturing purposes (21 IAC 68.2). All dairy farms

1 selling grade "A" or grade "B" milk must be issued a permit  
2 by the department of agriculture and land stewardship (21 IAC  
3 68.2).

4 The bill provides that these regulatory provisions do not  
5 apply to a person who operates a dairy farm. The person may  
6 produce milk and dispose of it or sell it to an individual on  
7 a retail basis. The operator may also deliver the milk to a  
8 location specified by the individual. The bill also provides  
9 that the regulatory provisions do not apply to the operator of  
10 a dairy farm who manufactures a milk product or dairy product,  
11 who may dispose of the product or sell it in the same manner as  
12 milk. A milk product is defined by the "Grade 'A' Pasteurized  
13 Milk Ordinance" and includes cream or yogurt. A dairy product  
14 includes a product other than a milk product whose principal  
15 ingredient is milk (e.g., ice cream).

16 A person who violates the bill's provisions is guilty of a  
17 simple misdemeanor (Code section 189.21). A simple misdemeanor  
18 is punishable by confinement for no more than 30 days or a fine  
19 of at least \$65 but not more than \$625 or by both.