

Montana Milk Producers Association
Testimony Opposing HB 245

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SENATE
PUBLIC HEALTH, WELFARE & SAFETY
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Bill No. HB 245

The Montana Milk Producers Association is opposed to HB 245 for a number of different reasons that I will outline below. It has been said that licensed dairy producers are just opposed to the sale of raw milk. While we would rather not see raw milk legalized in Montana because of the potential impacts to our businesses we believe that if the Legislature is going to move forward with legalizing the sale of raw milk the process should be very clear and very well thought out.

We oppose the sale of raw milk because milk is a perishable product with well documented human health concerns if not handled properly and if not pasteurized. Milk is considered a staple and producers of milk bear a significant burden of providing a safe, healthy, and fresh product. A responsibility that we take very seriously. In the even there is a food borne illness outbreak the consumption of ALL milk, including the pasteurized milk that we produce, will be affected.

There are references to cantaloupe and spinach food borne illness out breaks – please do more research on these crops that created the problems – these were organic operations that wanted the freedom to operate and sell products outside of the traditional agricultural practices. Similar to raw milk – these producers wanted to meet a niche market with a “healthier” product. Didn’t prove true.

If you as the legislature choose to move this bill forward please consider the following issues:

(1) Herd Share Exemption.

- a. On page 2, lines 20 and 21, it is very clear that raw milk purchased through a herd share is EXEMPT from all of the requirements of section 1 – including the number of animals in the herd and any testing requirements.
- b. Lines 22-26 make it clear that the sale is in a share in the herd – not a subscription to milk production.
 - i. There is no detail regarding the term of ownership. For example, could I go in and buy a “share” in a cow for the day that I am picking up milk or is there some minimum term that must be met?
 - ii. Livestock are assessed per capita fees – how will this fee be assessed? How will the Department of Livestock be notified of the change in ownership?
 - iii. Who is going to review the bills of sale or stock certificates and associated contracts that are required on lines 24-26?
 - iv. What if the cow dies? This is an ownership interest with a risk of loss.
- c. There is no notice requirement to the Department of Livestock so there is no way for them to know who is even doing a herd share and wouldn’t be able to enforce the contract – including the notification requirement on line 26.
- d. From a numbers perspective:
 - i. 1 cow produces (on the low side) 50 lbs of milk per day. One gallon of milk weighs, on average, 8.6 lbs. That means that each cow will produce 5.8 gallons of milk per day. $50/8.6=5.8$ gallons
 - ii. If share owners receive:
 1. 1 gallon per day – 1 cow could be owned by 5 individuals (with a bit of milk left over)
 2. 1 gallon every other day – 1 cow could be owned by 11 individuals
 3. 1 gallon per week – 1 cow could be owned by 40 individuals
 4. If there are 10 cows with 1 gallon per week contracts that would mean there could be 400 owners.
- e. Additionally, HB 245 does not discuss what must be done with any milk that is not “picked up” by share owners. Remember, this milk is completely exempt from any sampling, inspection, and testing requirements.

The herd share exemption should be removed from the bill. If it is not removed please amend the bill to include:

1. Testing requirements similar to the small herd exemption
 2. Clarification on the term of ownership
 3. Reporting to the Department of Livestock of the following:
 - a. The initiation of a herd share herd
 - b. Copies of the contracts for when shares are sold so that the Department can ensure the statutes are being followed and that the per capita assessments are properly assessed.
 4. A requirement that milk that is not picked up by a share owner must be discarded.
- (2) **Constitutional Concerns:** Equal Protection: Cost of implementing the small herd exemption permit. The gist of the constitutional concern is based on the equal protection clause. If this bill were passed two different types of milk producers will be treated differently in that one is required to pay fees and one is not. This is clearly not treating all milk producers equally.
- a. Licensed producers (68 total in MT) pay \$406,000 per year for the program that provides oversight to dairy production. This number is based on the historic actual cost of implementing the program.
 - b. Under HB 245 the raw milk producers pay a minimal \$20 permit fee and pay for the testing costs. However, the testing cost is not the full cost of a milk inspection program.
 - c. **This is an issue of fairness.**
 - i. **Sampling:** – Licensed: 100% by producer / Raw Milk: Paid 100% by Department of Livestock
 - ii. **Manufacturer Inspection** -- Licensed: 100% by producer / Raw Milk: Paid 100% by Department of Livestock
 - iii. **Shipping samples** Licensed: 100% by producer / Raw Milk: Paid 100% by Department of Livestock
 - iv. **Testing samples:** Licensed: 100% by producer / Raw Milk: Paid 100% by Producer
 - v. **Travel for sampling and inspection:** Licensed: 100% by producer / Raw Milk: Paid 100% by Department of Livestock
 - d. Licensed producers pay 15.5 cents per hundredweight of milk that they produce to fund the enforcement program. **(32.23.301, ARM)**
 - i. For a cow producing 50 lbs per day that amounts to 7.75 cents per day per cow.
- (3) The Department of Livestock doesn't have any money –\$ 0. Yet the raw milk producers want to put the burden of their program on the Department and/or other parts of the ag industry in Montana. This simply isn't fair and should not be allowed.

By the sponsors own fiscal note, the raw milk producer's claim that the cost for the program will only be \$5900 per biennium. Therefore, the bill should be amended to state that raw milk producers are responsible for ALL costs – not just testing. The bill should also be amended to allow the Department of Livestock to adopt rules to implement this program by assessing fees, just like they do with licensed producers, on the raw milk producers

Please table HB 245 or at a minimum amend the bill so that it treats all producers in Montana equally.