

HOUSE BILL NO. 521

INTRODUCED BY S. GREEF

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A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE DISTRIBUTION AND ACQUISITION OF RAW MILK FOR PERSONAL USE AND CONSUMPTION; LIMITING DEPARTMENT OF LIVESTOCK POWERS OVER THE DISPENSING AND ACQUIRING OF RAW MILK; PROVIDING A LICENSING EXCEPTION; LIMITING CERTAIN POWERS OF THE BOARD OF MILK CONTROL; AND AMENDING SECTIONS 81-2-102, 81-21-102, 81-23-103, AND 81-23-405, MCA."

WHEREAS, Montana's livestock lien laws recognize the right of dairy animal owners to board their animals at a location other than their own property; and

WHEREAS, the state of Montana recognizes the right of dairy animal owners to consume raw milk produced by those animals when the animals are boarded on the owner's property; and

WHEREAS, owners of dairy animals should have the right to consume milk from those dairy animals regardless of on whose property the animals are boarded.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Raw milk for personal use or consumption.** (1) The requirements of this chapter do not apply to:

(a) the dispensing of raw milk for personal use or consumption from a cow, goat, or sheep to an independent or partial owner of that cow, goat, or sheep; or

(b) the acquisition of raw milk for personal use or consumption from a cow, goat, or sheep by an independent or partial owner of that cow, goat, or sheep.

(2) A person dispensing raw milk under this section may not dispense raw milk from more than three cows, six goats, or six sheep.

**NEW SECTION. Section 2. Distribution and acquisition of raw milk.** Pursuant to [section 1], the requirements of this chapter regarding milk pricing control do not apply to:

(1) the dispensing of raw milk for personal use or consumption from a cow, goat, or sheep to an

1 independent or partial owner of that cow, goat or sheep; or  
2 (2) the acquisition of raw milk for personal use or consumption from a cow, goat, or sheep by an  
3 independent or partial owner of that cow, goat, or sheep.

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5 **Section 3.** Section 81-2-102, MCA, is amended to read:

6 **"81-2-102. Powers of department.** (1) The department may:

7 (a) supervise the sanitary conditions of livestock in this state, under the provisions of the constitution and  
8 statutes of this state and the rules adopted by the department. The department may quarantine a lot, yard, land,  
9 building, room, premises, enclosure, or other place or section in this state that is or may be used or occupied by  
10 livestock and that in the judgment of the department is infected or contaminated with an infectious, contagious,  
11 communicable, or dangerous disease or disease-carrying medium by which the disease may be communicated.  
12 The department may quarantine livestock in this state when the livestock is affected with or has been exposed  
13 to disease or disease-carrying medium. The department may prescribe treatments and enforce sanitary rules that  
14 are necessary and proper to circumscribe, extirpate, control, or prevent the disease.

15 (b) foster, promote, and protect the livestock industry in this state by the investigation of diseases and  
16 other subjects related to ways and means of prevention, extirpation, and control of diseases or to the care of  
17 livestock and its products and to this end may establish and maintain a laboratory, may make or cause to be  
18 made biologic products, curatives, and preventative agents, and may perform any other acts and things as may  
19 be necessary or proper in the fostering, promotion, or protection of the livestock industry in this state;

20 (c) impose and collect fees that the department considers appropriate for the tests and services  
21 performed by it at the laboratory or elsewhere and for biologic products, curatives, and preventative agents made  
22 or caused to be made by the department. In fixing these fees, the department shall take into consideration the  
23 costs, both direct and indirect, of the tests, services, products, curatives, and agents. All fees must be deposited  
24 in the enterprise fund account established in 81-2-116 for the use of the animal laboratory functions of the  
25 department.

26 (d) subject to subsection (2), adopt rules and orders that it considers necessary or proper to prevent the  
27 introduction or spreading of infectious, contagious, communicable, or dangerous diseases affecting livestock and  
28 alternative livestock in this state;

29 (e) (i) adopt rules and orders that it considers necessary or proper for the inspection, testing, and  
30 quarantine of all livestock and alternative livestock imported into this state; and

1 (ii) adopt rules and orders that it considers necessary or proper governing inspections and tests of  
2 livestock and alternative livestock intended for importation into this state to prevent the introduction or spreading  
3 of infectious, contagious, communicable, or dangerous diseases affecting livestock and alternative livestock;

4 (f) adopt rules and orders that it considers necessary or proper for the supervision, inspection, and  
5 control of the standards and sanitary conditions of slaughterhouses, meat depots, meat and meat food products,  
6 dairies, milk depots, milk and its byproducts, barns, dairy cows, factories, and other places and premises where  
7 meat or meat foods, milk or its products, or any byproducts thereof intended for sale or consumption as food are  
8 produced, kept, handled, or stored. An authorized representative of the department may take samples of a  
9 product so produced, kept, handled, or stored for analysis or testing by the department. The records of the  
10 samples and their analysis and test, when identified as to the sample by the oath of the officer taking it and  
11 verified as to the analysis or test by the oath of the chemist or bacteriologist making it, are prima facie evidence  
12 of the facts set forth in them when offered in evidence in a prosecution or action at law or in equity for violation  
13 of 81-9-201, 81-20-101, 81-21-102, 81-21-103, part 1, 2, or 3 of this chapter, or a rule or order of the board  
14 adopted thereunder. These standards, insofar as they relate to dairies or milk and its byproducts, may not include  
15 standards of weight or measurement. This subsection (1)(f) does not apply to the dispensing of raw milk for  
16 personal use or consumption or the acquisition of raw milk for personal use or consumption by an independent  
17 or partial owner of a cow, goat, or sheep.

18 (g) adopt rules and orders that seem necessary or proper for the supervision and control of  
19 manufactured and refined foods for livestock and the manufacture, importation, sale, and method of using a  
20 biologic remedy or curative agent for the treatment of diseases of livestock. However, as far as practicable, the  
21 standards approved by the United States department of agriculture must be adopted.

22 (h) install an adequate system of meat inspection in accordance with 81-9-216 through 81-9-220 and  
23 81-9-226 through 81-9-236 that must provide ways and means for shipping home-grown and home-killed meats  
24 into any city in this state. As far as practicable, the rules must conform with the meat-inspection requirements of  
25 the United States department of agriculture.

26 (i) slaughter or cause to be slaughtered any livestock in this state known to be affected with or that has  
27 been exposed to an infectious, contagious, communicable, or dangerous disease, when the slaughter is  
28 necessary for the protection of other livestock, and destroy or cause to be destroyed all barns, stables, sheds,  
29 outbuildings, fixtures, furniture, or personal property infected with any infectious, contagious, communicable, or  
30 dangerous disease when they cannot be thoroughly cleaned and disinfected and the destruction is necessary

1 to prevent the spreading of the disease;

2 (j) indemnify the owner of any property destroyed by order of the department or pursuant to any rules  
3 adopted by the department under 81-20-101, 81-21-102, 81-21-103, or part 1, 2, or 3 of this chapter;

4 (k) require persons, firms, and corporations engaged in the production or handling of meat, meat food  
5 products, dairy products, or any byproducts thereof to furnish statistics of the quantity and cost of the food and  
6 food products produced or handled and the name and address of persons supplying them any of the products.

7 (2) (a) As used in subsection (1)(d), "order" means a command, direction, or instruction issued by the  
8 department, board, or board's administrator in circumstances that clearly constitute an existing imminent peril to  
9 the public health, safety, or welfare or to animal health or welfare.

10 (b) An order under subsection (1)(d) may last no more than 5 years and may be altered or rescinded as  
11 necessary to address the circumstances set out in subsection (1)(d). An order may not be used to create a  
12 permanent program.

13 (c) As used in subsection (2)(b), "program" means a legislatively or administratively created function,  
14 project, or duty of an agency.

15 (3) When in the exercise of its powers or the discharge of its duties it becomes necessary for employees  
16 of the department to investigate facts and conditions, they may administer oaths, take affidavits, and compel the  
17 attendance and testimony of witnesses."

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19 **Section 4.** Section 81-21-102, MCA, is amended to read:

20 **"81-21-102. Licensing of milk plants and dairies selling milk or cream for public consumption.**

21 (1) ~~Except as provided in [section 1],~~ it is unlawful for the following businesses to operate in this state without  
22 first obtaining a license from the department:

23 (a) a dairy selling milk or cream for public consumption in the form in which it is originally produced;

24 (b) a condensed, evaporated, or powdered milk plant;

25 (c) a fluid milk plant.

26 (2) A license expires on December 31 of the year issued. The department may, following the procedures  
27 in the Montana Administrative Procedure Act, deny, suspend, or revoke a license when it determines that a  
28 person to whom the license is issued has failed to comply with the rules of the department or has failed to conduct  
29 the person's establishment in a sanitary manner. All license fees collected must be deposited into the general  
30 fund.

1           (3) The department may issue a restraining order prohibiting a dairy from selling or giving away milk or  
2 cream not produced or handled under the laws of this state or the rules of the department. It is unlawful for a  
3 dairy, while restrained, to sell or give away for public consumption milk or cream produced or handled by the  
4 dairy, and it is also unlawful for a dairy products manufacturing plant, milk plant, or cream station to purchase or  
5 use the cream or milk from a dairy while the dairy is restrained.

6           (4) The department shall establish license fees for the following facilities:

7           (a) a condensed, evaporated, or powdered milk factory;

8           (b) a fluid milk plant; and

9           (c) a dairy.

10          (5) A person violating this section is guilty of a misdemeanor."

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12          **Section 5.** Section 81-23-103, MCA, is amended to read:

13          **"81-23-103. General powers of department and board.** (1) ~~The~~ Except as provided in [section 2], the  
14 board shall supervise, regulate, and control the milk industry of this state, including the production, processing,  
15 storage, distribution, and sale of milk sold for consumption in this state. The board shall conduct hearings and  
16 make determinations under this chapter and under board rules and orders promulgated pursuant to this chapter.  
17 This chapter does not affect the status, force, or operation of any provision of public health laws, county board  
18 of health rules, or municipal ordinances for the promotion or protection of the public health.

19          (2) The department may cooperate with the department of public health and human services, a county  
20 or city board of health, or the department of agriculture in enforcing this chapter.

21          (3) The department shall assist the board by investigating all matters pertaining to the production,  
22 processing, storage, distribution, and sale of milk in this state and by bringing proceedings to enforce the orders  
23 of the board. The department, in exercising its enforcement duties, may subpoena milk dealers, their records,  
24 books, and accounts, and any other person from whom information may be desired or considered necessary to  
25 carry out the purposes and intent of this chapter. The department may take depositions of witnesses who are sick  
26 or absent from the state or who cannot otherwise appear in person before the department at its offices. The  
27 department shall give at least 10 days' notice to the proposed witness.

28          (4) The department shall provide staff to the board as provided in 2-15-121 to assist in technical,  
29 enforcement, and regulatory activities."

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