

SUBJECT: Regulating sale of raw milk

COMMITTEE: Public Health — committee substitute recommended

VOTE: 6 ayes — Crossover, Naishtat, Guerra, R. Miller, Zedler, Zerwas

4 nays — Blanco, Coleman, S. Davis, Sheffield

1 absent — Collier

WITNESSES: For — Judith McGeary, Farm and Ranch Freedom Alliance; Margaret Errickson; Mark Hutchins; Anna Macnak; Troy Perry; (*Registered, but did not testify*: Glynn Schanen and Daphne Hackenberg, Farm and Ranch Freedom Alliance; Andrew Smiley, Sustainable Food Center; and 26 individuals)

Against — James Terrell, Select Milk Producers, Inc.; Christopher Perkins and Zachary Thompson, TACCHO; Stuart Walker, Texas Environmental Health Association; Lisa Swanson, Texas Pediatric Society; (*Registered, but did not testify*: Albert Cheng, Harris County Public Health and Environmental Services; Jennifer Smith, Texas Association of City and County Health Officials; Duane Galligher, Texas Environmental Health Association; David Reynolds, Texas Osteopathic Medical Association)

On — Darren Turley, Texas Association of Dairymen; Troy Alexander, Texas Medical Association; (*Registered, but did not testify*: Andrew Calcote, Texas Department of State Health Services)

BACKGROUND: Under 25 Texas Administrative Code, part 1, ch. 217, subch. B, sec. 217.32, raw milk may be sold by a dairy producer directly to a consumer but only at the point of production, typically a farm. Dairy producers may sell raw milk in this manner as long as they possess a Grade A Raw for Retail Milk Permit and comply with all sections in the Milk and Dairy chapter of the code for that permit.

DIGEST:

CSHB 91 would allow the sale of raw milk or raw milk products directly to consumers in Texas at either a seller's place of business, a consumer's residence, or farmers' markets. The bill would not authorize the sale of raw milk or raw milk products to or on the grounds of a grocery store, supermarket, or similar market. The seller would be required to have a permit authorizing the sale of raw milk at retail.

The bill would require raw milk sellers to label containers in which the milk would be sold with information regarding the permit holder and the date that the milk was packaged. The label also would be required to contain a disclaimer that the raw milk was unpasteurized and that consuming raw foods could carry certain risks.

CSHB 91 would implement certain raw milk testing and handling requirements, including allowing an individual to receive test results from the inspection of raw milk and requiring the adoption of rules for the safe storage, handling, and transportation of raw milk. The bill also would allow producers to contract with others for the transportation and delivery of raw milk. Producers who failed to follow rules and regulations developed for transport and delivery of raw milk would be held jointly and severally liable for relevant violations.

The bill would take effect September 1, 2015.

SUPPORTERS  
SAY:

CSHB 91 would broaden access to an already legal product. It would remove economic barriers to producers and help consumers who, under current law, must often drive long distances to purchase raw milk. All foods carry a risk of causing food-borne illness, even when they are as heavily regulated as food from commercial producers. Raw milk is not appreciably more dangerous than other raw foods, such as oysters or sushi, and it should not be restricted more aggressively than other similar types of food.

CSHB 91 would allow consumers to make their own choices about the foods they judge to be safe. There is an enthusiastic market for raw milk, and efforts to restrict its distribution disrupt free enterprise. Raw milk

presents a potentially lucrative market for dairy producers, and CSHB 91 would place Texas at the forefront of prescribing appropriate requirements for its sale before its projected popularity made it difficult to regulate.

Raw milk already is subject to many regulations to ensure it meets certain safety standards, and CSHB 91 would further ensure that the sale of raw milk occurred in limited situations and under protective guidelines.

**OPPONENTS  
SAY:**

CSHB 91 would increase the risk of serious food-borne illnesses, which can cause injury or even death. Raw milk has not been shown to provide any health benefits that exceed the nutrition or wholesomeness of pasteurized dairy products that are widely available, so the risks of increasing access to this product are not outweighed by any potential benefit that cannot be obtained through more common and safe alternatives. Illnesses resulting from increased access to raw milk would not only harm the reputation of raw milk, but they could affect the entire dairy business.

Pasteurization is one of the most effective public health tools developed, and CSHB 91 would ignore its proven safety benefits. The fact that food-borne illness can occur even in heavily regulated commercial food production highlights the dangers of broadening access to something much less tested and processed. In addition, the costs to the state in investigating and treating a possible increase in food-borne illnesses related to raw milk could be considerable.