

Regular Session, 2014

HOUSE BILL NO. 247

BY REPRESENTATIVES ORTEGO AND DANAHAY

AGRICULTURE/MILK: Authorizes the sale of raw milk by a farmer to a consumer

1 AN ACT

2 To amend and reenact R.S. 40:921(A) and 922(A) and to enact Subpart C of Part VII of
3 Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of
4 R.S. 40:931 through 936, relative to the sale of milk; to authorize the sale of raw cow
5 milk; to authorize the sale of raw goat milk; to establish sanitary regulations for the
6 production of goat milk; to authorize the sale of cheeses made from raw milk; to
7 provide for labeling requirements; to provide for rulemaking authority; and to
8 provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 40:921(A) and 922(A) are hereby amended and reenacted and
11 Subpart C of Part VII of Chapter 4 of Title 40 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 40:931 through 936, is hereby enacted to read as follows:

13 §921. Grade A requirements; powdered whole milk and powdered skim milk
14 labeling requirements

15 A. ~~All~~ Except for the sale of raw milk pursuant to R.S. 40:931 et seq., all
16 fluid milk, cream, buttermilk, and milk beverages sold, offered for sale, or delivered
17 for the purpose of human consumption as such, shall be Grade A according to
18 specifications in the rules and regulations promulgated by the Department of Health
19 and Hospitals, hereinafter referred to as the "department"; provided that a person

1 may sell properly labeled milk of a quality less than Grade A for a period of thirty
2 days under permit from the department, provided it is labeled as to grade.

3 * * *

4 §922. Rules and regulations prescribing sanitary standard requirements and grade
5 labeling requirements

6 A. The department is hereby empowered and shall hereby have the authority
7 to promulgate rules and regulations prescribing the sanitary standard requirements
8 of all milk sold or offered for sale in this state, other than raw milk sold pursuant to
9 R.S. 40:931 et seq., provided that no rules and regulations shall be promulgated
10 setting up standards lower than those as set forth in the U.S. Public Health Service
11 Milk Ordinance and Code.

12 * * *

13 SUBPART C. SALE OF RAW MILK PRODUCTS

14 §931. Definitions

15 In this Subpart, unless the context otherwise requires, the following
16 definitions shall be applicable:

17 (1) "Incidental sales of goat milk and whole milk that has not been
18 pasteurized" means those sales where the average monthly number of gallons sold
19 does not exceed five hundred gallons.

20 (2) "Raw milk" means goat milk and whole milk that has not been
21 pasteurized.

22 (3) "Whole milk" means the lacteal secretion obtained by the complete
23 milking of one or more healthy cows, properly fed and kept, that when offered for
24 sale contains at least three and one-fourth percent of butterfat and eight and
25 one-fourth percent solids not fat. The term "whole milk" shall not include lacteal
26 secretion obtained within fifteen days before or five days after calving or a longer
27 period if necessary to render the milk practically colostrum free.

1 §932. Incidental sales of raw milk permitted; location; advertising

2 Notwithstanding any provision of law to the contrary, nothing in this Part
3 shall be construed to prohibit incidental sales of goat milk or whole milk that has not
4 been pasteurized, for the purpose of human consumption, directly to consumers at
5 the farm where the milk is produced or preclude the advertising of incidental sales
6 of goat milk or whole milk that has not been pasteurized.

7 §933. Sale of whole milk that has not been pasteurized; labeling

8 A. With respect to whole milk that has not been pasteurized, the seller shall
9 do all of the following:

10 (1) Post at the point of sale a sign that is no smaller than two feet by four feet
11 that includes all of the following information in large, clear text:

12 (a) The name and address of the farm with the seller's contact information.

13 (b) The following statement: "This product, sold for personal use and not
14 for resale, is fresh whole milk that has NOT been pasteurized. Neither this farm nor
15 the milk sold by this farm has been inspected by the state of Louisiana. The
16 consumer assumes all liability for health issues that may result from the consumption
17 of this product."

18 (2) Affix a label to the bottle or package that includes all of the following
19 information:

20 (a) The name and address of the farm with the seller's contact information.

21 (b) The following statement: "This product, sold for personal use and not
22 for resale, is fresh whole milk that has NOT been pasteurized. Neither this farm nor
23 the milk sold by this farm has been inspected by the state of Louisiana. The
24 consumer assumes all liability for health issues that may result from the consumption
25 of this product."

26 B. A farmer who sells fresh unpasteurized whole milk shall permit
27 inspection of the farmer's cows and barns by any customer upon request.

1 §934. Sale of goat milk that has not been pasteurized; labeling

2 A. Incidental sales of goat milk that has not been pasteurized shall not be
3 prohibited if all of the following conditions are met:

4 (1) The milk is sold directly to the consumer on the premises where the milk
5 is produced.

6 (2) No more than nine producing goats are located on the premises where the
7 milk is produced.

8 (3) All of the following conditions, which apply to the milking of goats
9 involved in legal incidental sales of raw goat milk, are satisfied:

10 (a) The milking takes place in a clean environment on a cement or
11 comparable floor.

12 (b) The milking place is enclosed by a wall or screen to prevent insects from
13 entering the milking area.

14 (c) A fly trap is located in the milking area.

15 (d) Sterile containers are used in the milking process and for storage.

16 (4)(a) A sign is posted at the point of sale that is no smaller than two feet by
17 four feet that includes all of the following information in large, clear text:

18 (i) The name and address of the farm with the seller's contact information.

19 (ii) The following statement: "This product, sold for personal use and not
20 for resale, is fresh goat milk that has NOT been pasteurized. Neither this farm nor
21 the milk sold by this farm has been inspected by the state of Louisiana. The
22 consumer assumes all liability for health issues that may result from the consumption
23 of this product."

24 (b) There is a label affixed to the bottle or package that includes all of the
25 following information:

26 (i) The name and address of the farm with the seller's contact information.

27 (ii) The following statement: "This product, sold for personal use and not
28 for resale, is fresh goat milk that has NOT been pasteurized. Neither this farm nor
29 the milk sold by this farm has been inspected by the state of Louisiana. The

1 consumer assumes all liability for health issues that may result from the consumption
2 of this product."

3 B. Raw goat milk may be stored in a separate sterile place from pasteurized
4 goat milk.

5 C. A farmer who sells fresh unpasteurized goat milk shall permit inspection
6 of the farmer's goats and barns by any customer upon request.

7 §935. Sale of cheese made from raw milk; location; labeling

8 A. Notwithstanding any other provision of law to the contrary, cheese made
9 from goat milk or whole milk that has not been pasteurized may be sold or offered
10 for sale for the purpose of human consumption if all of the following conditions are
11 met:

12 (1) The cheese is cured at a temperature of not less than thirty-five degrees
13 Fahrenheit for not less than sixty days.

14 (2) The cheese is offered for sale by the cheese producer directly to the
15 consumer only on the premises of the farm where the cheese is produced.

16 (3) A sign is posted at the point of sale that is no smaller than two feet by
17 four feet that includes all of the following information in large, clear text:

18 (a) The name and address of the farm with the seller's contact information.

19 (b) The following statement: "This product, sold for personal use and not
20 for resale, is cheese made from goat milk or whole milk that has NOT been
21 pasteurized. Neither this farm nor the milk sold by this farm has been inspected by
22 the state of Louisiana. The consumer assumes all liability for health issues that may
23 result from the consumption of this product."

24 (4) The cheese producer has clearly labeled each container of cheese made
25 from goat milk or whole milk that has not been pasteurized with the following
26 information:

27 (a) The name and address of the farm with the seller's contact information.

28 (b) The following statement: "This product, sold for personal use and not
29 for resale, is cheese made from goat milk or whole milk that has NOT been

1 pasteurized. Neither this farm nor the cheese sold by this farm has been inspected
 2 by the state of Louisiana. The consumer assumes all liability for health issues that
 3 may result from the consumption of this product."

4 B. A farmer who sells cheese made from goat milk or whole milk that has
 5 not been pasteurized shall permit inspection of the farmer's cows or goats and barns
 6 by any customer upon request.

7 §936. Rules and regulations

8 The Department of Health and Hospitals may promulgate, in accordance with
 9 the Administrative Procedure Act, any rules and regulations necessary for the
 10 administration of this Subpart.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Ortego

HB No. 247

Abstract: Authorizes the sale of goat milk or whole milk that has not been pasteurized by the producer to the consumer on the premises where the raw milk is produced.

Present law requires all fluid milk, cream, buttermilk, and milk beverages sold, offered for sale, or delivered for the purpose of human consumption to be Grade A according to specifications in the rules and regulations promulgated by the Dept. of Health and Hospitals (DHH).

Proposed law retains present law but adds an exception for raw milk sold pursuant to proposed law.

Present law authorizes DHH to promulgate rules and regulations prescribing the sanitary standard requirements of all milk sold or offered for sale in this state, provided that no rules and regulations shall be promulgated setting up standards lower than those as set forth in the U.S. Public Health Service Milk Ordinance and Code.

Proposed law retains present law but adds an exception for raw milk sold pursuant to proposed law.

Proposed law defines "incidental sales of goat milk and whole milk that has not been pasteurized" as those sales where the average monthly number of gallons sold does not exceed 500 gallons.

Proposed law defines "raw milk" as goat milk and whole milk that has not been pasteurized.

Proposed law defines "whole milk" as the lacteal secretion obtained by the complete milking of one or more healthy cows, properly fed and kept, that when offered for sale contains at least 3-1/4% of butterfat and 8-1/4% solids not fat.

Proposed law provides that the term "whole milk" shall not include lacteal secretion obtained within 15 days before or five days after calving or a longer period if necessary to render the milk practically colostrum free.

Proposed law provides that nothing in proposed law shall be construed to prohibit incidental sales of goat milk or whole milk that has not been pasteurized directly to consumers at the farm where the milk is produced or preclude the advertising of incidental sales of goat milk or whole milk that has not been pasteurized.

Proposed law requires the seller of whole milk that has not been pasteurized to do all of the following:

- (1) Post at the point of sale a sign that is no smaller than two feet by four feet that includes all of the following information in large, clear text:
 - (a) The name and address of the farm with seller's contact information.
 - (b) The following statement: "This product, sold for personal use and not for resale, is fresh whole milk that has NOT been pasteurized. Neither this farm nor the milk sold by this farm has been inspected by the state of La. The consumer assumes all liability for health issues that may result from the consumption of this product."
- (2) Affix a label to the bottle or package that includes all of the following information:
 - (a) The name and address of the farm with the seller's contact information.
 - (b) The following statement: "This product, sold for personal use and not for resale, is fresh whole milk that has NOT been pasteurized. Neither this farm nor the milk sold by this farm has been inspected by the state of La. The consumer assumes all liability for health issues that may result from the consumption of this product."

Proposed law requires a farmer who sells fresh unpasteurized whole milk to permit inspection of the farmer's cows and barns by any customer upon request.

Proposed law authorizes the incidental sales of goat milk that has not been pasteurized if all of the following conditions are met:

- (1) The milk is sold directly to the consumer on the premises where the milk is produced.
- (2) No more than nine producing goats are located on the premises where the milk is produced.
- (3) All of the following conditions, which apply to the milking of goats involved in legal incidental sales of raw goat milk, are satisfied:
 - (a) The milking takes place in a clean environment on a cement or comparable floor.
 - (b) The milking place is enclosed by a wall or screen to prevent insects from entering the milking area.
 - (c) A fly strap is located in the milking area.
 - (d) Sterile containers are used in the milking process and for storage.

- (4) A sign is posted at the point of sale that is no smaller than two feet by four feet that includes all of the following information in large, clear text:
- (a) The name and address of the farm with seller's contact information.
 - (b) The following statement: "This product, sold for personal use and not for resale, is fresh goat milk that has NOT been pasteurized. Neither this farm nor the milk sold by this farm has been inspected by the state of La. The consumer assumes all liability for health issues that may result from the consumption of this product."
- (2) There is a label affixed to the bottle or package that includes all of the following information:
- (a) The name and address of the farm with the seller's contact information.
 - (b) The following statement: "This product, sold for personal use and not for resale, is fresh goat milk that has NOT been pasteurized. Neither this farm nor the milk sold by this farm has been inspected by the state of La. The consumer assumes all liability for health issues that may result from the consumption of this product."

Proposed law authorizes raw goat milk to be stored in a separate sterile place from pasteurized goat milk.

Proposed law requires a farmer who sells fresh unpasteurized goat milk to permit inspection of the farmer's goats and barns by any customer upon request.

Proposed law authorizes the sale of cheese made from goat milk or whole milk that has not been pasteurized for the purpose of human consumption if all of the following conditions are met:

- (1) The cheese is cured at a temperature of not less than 35 degrees Fahrenheit for not less than 60 days.
- (2) The cheese is offered for sale by the cheese producer directly to the consumer only on the premises of the farm where the cheese is produced.
- (3) There is a sign posted at the point of sale a sign that is no smaller than two feet by four feet that includes all of the following information in large, clear text:
 - (a) The name and address of the farm with seller's contact information.
 - (b) The following statement: "This product, sold for personal use and not for resale, is cheese made from goat milk or whole milk that has NOT been pasteurized. Neither this farm nor the milk sold by this farm has been inspected by the state of La. The consumer assumes all liability for health issues that may result from the consumption of this product."
- (4) The cheese producer has clearly labeled each container of cheese made from goat milk or whole milk that has not been pasteurized with the following information:
 - (a) The name and address of the farm with the seller's contact information.
 - (b) The following statement: "This product, sold for personal use and not for resale, is cheese made from goat milk or whole milk that has NOT been pasteurized. Neither this farm nor the cheese sold by this farm has been

inspected by the state of La. The consumer assumes all liability for health issues that may result from the consumption of this product."

Proposed law requires a farmer who sells cheese made from goat milk or whole milk that has not been pasteurized to permit inspection of the farmer's cows or goats and barns by any customer upon request.

Proposed law authorizes DHH to promulgate any administrative rules and regulations necessary for the administration of proposed law.

(Amends R.S. 40:921(A) and 922(A); Adds R.S. 40:931-936)