



FOOD SAFETY AND SECURITY Fact Sheet

Raw Milk Regulation

Overview


Although pasteurization has significantly improved public health, there has been an increased demand for raw milk in recent years. In response, more states have legalized the intrastate sale of raw dairy, and Robert F. Kennedy, Jr., Secretary of the Department of Health and Human Services (HHS), has indicated that he may lift the FDA's ban on the interstate sale of raw milk and introduce voluntary raw milk standards for states to adopt. To prepare for these potential federal regulatory changes, states should be aware of their authority to regulate the intrastate sale of raw milk and consider implementing regulations that further minimize consumer risk. Additionally, states should review and revise their raw milk regulations to proactively address the legalization of the interstate sale of raw milk.

This Fact Sheet will first present a background on raw milk and the impact of pasteurization on public health. Next, it will describe the recent rise in the popularity of raw milk and the primary motivators of the trend. Finally, it will discuss the current federal and state regulation of raw milk, potential federal regulatory changes, and strategies for states to prepare for this change.

Raw Milk and Pasteurization

Raw milk is animal milk “that has not been pasteurized to kill harmful germs.”¹ Research indicates that approximately one-third of raw milk samples contain at least one type of harmful pathogen, such as *Campylobacter*, *Salmonella*, or *Listeria*.² Consuming food contaminated with these germs can cause foodborne illness, which may produce symptoms ranging from diarrhea, stomach cramping, vomiting, paralysis, kidney failure, or even death.³

Pasteurization is the process of briefly heating a liquid to a high temperature to kill harmful organisms, such as those found in raw milk.⁴ While Louis Pasteur invented pasteurization in 1864 to prevent beer and wine from



spoilage, a Danish professor was the first to apply the process to milk in 1870. The results demonstrated that pasteurization improved milk sanitation without significantly impacting its taste or nutritional quality.⁵ The U.S. began mandating pasteurization throughout the 1900s to reduce disease outbreaks linked to dairy consumption. In 1909, Chicago became the first city to mandate milk pasteurization.⁶ To encourage other cities and states to follow this trend, the U.S. Public Health Service introduced the Standard Milk Ordinance (now known as the Pasteurized Milk Ordinance) in 1924, which outlined optimal dairy pasteurization standards.⁷ This promotion by the federal government eventually led to Michigan (in 1947) becoming the first state to mandate milk pasteurization. Over the next few decades, other states adopted milk pasteurization laws, and in 1987, the U.S. Food and Drug Administration (FDA) prohibited the interstate sale of unpasteurized dairy.⁸

The widespread pasteurization of milk significantly improved public health. Before pasteurization, 25 percent of foodborne illness cases were attributed to dairy consumption; today, that proportion is less than 1 percent.⁹ Pasteurization also played a crucial role in reducing the rates of infectious diseases such as typhoid fever, tuberculosis, and diphtheria.¹⁰ For example, the incidence of typhoid fever dropped from approximately 100 per 100,000 individuals in 1900 to 1.7 today.¹¹ Finally, pasteurization contributed to the dramatic decline in the infant mortality rate, from approximately 151 deaths per 1,000 live births in the early 1900s to just 6 today.¹²


Even with these advancements in public health, foodborne illness continues to burden the U.S. The Centers for Disease Control and Prevention (CDC) estimates that 48 million Americans contract a foodborne illness each year. Of those infected, 128,000 are hospitalized and 3,000 die. Vulnerable populations, including children under 5, adults over 65, pregnant individuals, and the immunocompromised, are disproportionately impacted by this condition, as they are “not only at [an] increased risk of contracting a foodborne illness[,] but are also more likely to have a lengthier illness, undergo hospitalization, or even die.”¹³ Beyond the public health impact, foodborne illness imposes an economic burden. In fact, researchers estimate that the U.S. spent \$75 billion on the condition in 2023¹⁴

Given the detrimental public health and economic consequences of foodborne illness, and the demonstrated safety and effectiveness of pasteurization, pasteurized milk should remain the standard for dairy consumption. Yet, increased demand for raw milk cannot be ignored.

The Recent Rise in Popularity of Raw Milk

Although the pasteurization of milk has significantly improved public health, demand for raw dairy products has skyrocketed in recent years. From 2023 to 2024, weekly raw milk sales increased between 21 and 65 percent.¹⁵ Despite this increase, raw milk remains a niche interest, with only 4.4 percent of the U.S. population having reported drinking raw milk at least once in 2019.¹⁶

There are several factors driving this trend. First, a number of influencers, celebrities, politicians, medical professionals, and political commentators have made unfounded health claims on social media and podcasts asserting that raw dairy is more nutritious and possesses healing properties not found in pasteurized products.¹⁷ Proponents frequently claim that raw dairy is nutritionally superior to pasteurized milk because it contains higher levels of milk proteins, vitamins, minerals, and “beneficial bacteria.” Additionally, advocates claim that unlike pasteurized dairy, raw milk treats conditions such as asthma, allergies, and lactose



intolerance, while also preventing conditions such as osteoporosis. Although these claims have been debunked by scientific studies,¹⁸ the demand for raw dairy continues to grow.

In addition to unfounded health claims, the Food Freedom movement has increased demand for raw dairy. Members of the Food Freedom movement primarily advocate for “cottage food” laws, which allow individuals to prepare and sell certain low-risk foods, such as baked and canned goods, with limited regulations.¹⁹ Despite milk not being a low-risk food, members of the movement have begun to advocate for fewer restrictions on the production and sale of unpasteurized dairy, which has gained traction for the movement.²⁰

Lastly, a factor driving recent raw dairy consumption is the growing distrust of the government and food industry. Distrust of the government stems from skepticism about science-based regulations, which accelerated during the Covid-19 pandemic. As a result, the government’s promotion of pasteurization has led many skeptics to consume raw milk.²¹ Similarly, there is an increased suspicion toward the food industry because of “food recalls, a perceived lack of transparency, and distrust of artificial ingredients,” which have driven consumers to seek out minimally processed, locally sourced foods such as raw dairy.²²

Together, these factors have collectively caused the surge in the sale and consumption of raw dairy across the United States. However, federal and state regulation serves to constrain the increase in consumption of raw milk.

The Regulatory Framework of Raw Milk

The federal government regulates the interstate sale of raw milk, while states regulate the intrastate sale of these products.


Federal Regulation of Raw Milk

The U.S. Constitution grants Congress the power to regulate interstate commerce, which is the sale of goods that cross state lines.²³

Pursuant to its Commerce Clause authority, Congress enacted the Public Health Service Act in 1912, collecting in one statute various provisions through which the federal government engaged in programs and practices to protect the public health, explicitly including preventing the spread of disease. Amendments made in 1938 created the FDA and authorized the Agency to promulgate regulations that “prevent the introduction, transmission, or spread of communicable diseases” from one state to another.²⁴ Additionally, Congress enacted the Food, Drug, and Cosmetic Act, which authorizes the FDA to prevent adulterated or misbranded food from entering into interstate commerce.²⁵

With this authority, the FDA enacted a rule prohibiting the interstate sale or distribution of unpasteurized milk and milk products, except for specific types of cheeses that have been aged for at least 60 days at 35 degrees Fahrenheit.²⁶

As the demand for raw dairy has increased, the FDA continues to enforce its interstate ban. Additionally, both the FDA and CDC have issued non-binding guidance on the topic. The FDA published a report debunking the



alleged benefits of consuming raw dairy and sent a warning letter to Desert Farms for promoting unsubstantiated health claims about raw camel milk.²⁷ In addition, the CDC sent a letter to state health officials encouraging stricter unpasteurized dairy regulations.²⁸

State Regulation of Raw Milk

While the Constitution grants the federal government the authority to regulate interstate commerce, states maintain the authority to regulate intrastate commerce, meaning the sale of products produced and sold within the state's boundaries.²⁹

State laws regulating the intrastate sale of raw milk typically fit into five categories: states that allow (1) retail sales, (2) direct-to-consumer sales, (3) herd share arrangements, (4) sales for pet consumption, and those that prohibit (5) the sale for human consumption.

Most states have laws in more than one category. For instance, Indiana prohibits the sale of raw milk for human consumption but allows it for pet consumption.³⁰ Another example is Arizona, which authorizes the retail and direct-to-consumer sale of raw milk.³¹

Currently, sixteen states allow the retail sale of raw dairy.³² This category is the most inclusive of the five because states that permit the retail sale of unpasteurized milk typically allow other forms of sale. For instance, in addition to the retail sale of raw milk, Alaska permits direct-to-consumer sales, herd shares, and pet consumption sales.³³

Many states that authorize the retail sale of raw milk impose additional requirements on producers to reduce the health risks of consuming raw dairy. For example, several states mandate warning labels on raw milk packaging,³⁴ which increases consumer awareness of the risks of raw dairy consumption.³⁵ Additionally, several states require producers to regularly test the raw milk for pathogens,³⁶ which reduces consumer risk of foodborne illness.³⁷

Thirty-six states permit the direct-to-consumer sale of raw dairy.³⁸ **Of these thirty-six states, fifteen also permit the retail sale of raw milk.**³⁹ Direct-to-consumer refers to laws that authorize raw milk to be sold on farms, at farmers' markets, and delivered directly from a farm to the consumer.

Some states restrict the sale of raw milk to direct-to-consumer because states where the retail sale of raw milk is legal have a 3.6 times greater number of outbreaks compared to states where the sale is only allowed on farms.⁴⁰ To further reduce the risks associated with raw milk, some states that allow the direct-to-consumer sale impose additional requirements on producers, such as warning labels and pathogen testing.⁴¹ Additionally, some states restrict the type or amount of milk a dairy may produce or the size of an eligible dairy farm. For example, Oklahoma restricts direct-to-consumer sale to dairies that produce no more than 100 gallons of raw milk per month.⁴² Likewise, Montana limits direct-to-consumer sales to dairies with no more than five lactating cows, ten lactating goats, or ten lactating sheep.⁴³

Fourteen states expressly permit herd share agreements through law, regulation, case law, or policy.⁴⁴ A herd share is an arrangement where multiple consumers own a share of an animal and receive

a portion of the milk in return.⁴⁵ Nine of the fourteen states that allow herd shares also permit the sale of milk through other means.⁴⁶

While producers sell raw milk for pet consumption in most states, only eleven states expressly allow this type of sale through law, regulation, case law, or policy.⁴⁷

Some states that expressly allow the sale of raw milk for pet consumption impose restrictions such as requiring the milk to be dyed or requiring a warning label to be included on the label. For example, Washington requires raw milk producers to dye the milk before selling for pet consumption.⁴⁸ Alternatively, Georgia requires a container holding raw milk sold for pet consumption to include the following warning label: “NOT FOR HUMAN CONSUMPTION - THIS PRODUCT HAS NOT BEEN PASTEURIZED AND MAY CONTAIN HARMFUL BACTERIA.”⁴⁹

Seven states and Washington D.C. explicitly prohibit the sale of raw milk for human consumption.⁵⁰

Only two of the seven states and D.C. permit the sale of raw milk through other means. These two states—Indiana and Maryland—each permit the sale of raw milk for pet consumption.⁵¹

As the demand for raw milk has increased, states have legalized and lessened their restrictions on the sale and consumption of these products. For instance, eight states—Iowa, Montana, North Dakota, Alaska, Georgia, Wyoming, Louisiana, and Delaware—passed laws in the last four years legalizing the sale of raw milk.⁵² Thus, while it is still illegal to sell raw dairy across state lines, it has become overwhelmingly permissible to do so within state borders.

State	Retail	Direct-to-Consumer	Pet Consumption	Herd Share	Sale for Human Consumption Prohibited
Alabama					X Ala. Admin. Code r. 420-3-16-.12
Alaska	X Alaska Admin. Code 18 § 32.070(b); 32.070(v)(3)	X Alaska Admin. Code 18 § 32.070(b)	X Alaska Admin. Code 18 § 32.060	X Alaska Stat. § 17.20.015	
Arizona	X Ariz. Rev. Stat. Ann. § 3-606	X Ariz. Rev. Stat. Ann. § 3-606			
Arkansas		X Ark. Code R. § 20-59-248 *Only goat, sheep, or whole cow milk			



		**Not to exceed 500 gallons per month			
State	Retail	Direct-to- Consumer	Pet Consumption	Herd Share	Sale for Human Consumption Prohibited
California	X CA Food & Agric. Code § 35891	X CA Food & Agric. Code § 35891			
Colorado				X Colo. Rev. Stat. § 25-5.5- 117	
Connecticut	X Conn. Gen. Stat. § 22-173a	X Conn. Gen. Stat. § 22-173a		X Conn. Gen. Stat. § 22- 129(c)	
Delaware		X Del. Code Ann. 3 § 3179			
District of Columbia					X D.C. Mun. Regs. 25, A § 702
Florida					X Fla. Stat. § 502.091
Georgia		X Ga. Code Ann. § 26-2-451	X Ga. Comp. R. & Regs. 40-5-8- .02(18)		
Hawaii					X Haw. Code. R. § 11-15-46
Idaho	X Idaho Amin. Code r. 02.04.13.012	X Idaho Amin. Code r. 02.04.13.012		X Idaho Amin. Code r. 02.04.13.040	
Illinois		X Ill. Admin. Code 77 § 775.55		X Ill. Admin. Code 77 § 775.55	
Indiana			X Ind. Code Ann. § 15-19-7-40(7)		X Ind. Code Ann. § 15-18-1-21
Iowa		X Iowa Code § 195.5			



Kansas		X Kan. Stat. Ann. § 65-792			
Kentucky		X 902 Ky. Admin. Regs. 50:120 *Only goat milk **Prescription required	X 12 Ky. Admin. Regs. 3:012(9)		
State	Retail	Direct-to-Consumer	Pet Consumption	Herd Share	Sale for Human Consumption Prohibited
Louisiana			X La. Stat. Ann. § 3:1394(A)(14)		
Maine	X Me. Rev. Stat. Ann. 7 § 2902-B	X Me. Rev. Stat. Ann. 7 § 284 *Only if the municipality adopts an ordinance permitting direct-to- consumer sales			
Maryland			X Md. Code Regs. 15.18.09.13		X Md. Code Ann., Health-Gen. § 21-434
Massachusetts		X 330 Mass. Code Regs. § 27.06		X ⁵³	
Michigan				X ⁵⁴	
Minnesota		X Minn. Stat. Ann. § 32D.20			
Mississippi		X Miss. Code Ann. § 75-31- 65(3) *Only goat milk **Limited to producers with no more than 9 goats			
Missouri		X Mo. Rev. Stat. § 196.935			



Montana		X Mont. Code Ann. 50-49- 203(8); 50-49- 202(6) *Limited to dairies with no more than 5 lactating cows, 10 lactating goats, or 10 lactating sheep			
State	Retail	Direct-to- Consumer	Pet Consumption	Herd Share	Sale for Human Consumption Prohibited
North Carolina			X 2 N.C. Admin. Code 9G.2010	X N.C. Gen. Stat. § 106- 266.35(d)	
North Dakota		X N.D. Cent. Code § 4.1-25- 40.1		X N.D. Cent. Code § 4.1- 25-40	
Nebraska		X Neb. Rev. Stat. § 2-3969(3)			
New Hampshire	X N.H. Rev. Stat. Ann. § 184:30-a	X N.H. Rev. Stat. Ann. § 184:30-a	X N.H. Code Admin. R. Ann. Agric. 1203.02(i)		
New Jersey					X N.J. Stat. Ann. § 24:10-57.18
New Mexico	X N.M. Stat. Ann. § 25-8-1				
Nevada	X Nev. Rev. Stat. § 584.208 *Limited to producers who are certified by the county milk commission	X Nev. Rev. Stat. § 584.208 *Limited to producers who are certified by the county milk commission			
New York		X N.Y. Comp. Codes R. & Regs. 1 § 2.3(b)			
Ohio				X ⁵⁵	



Oklahoma		X Okla. Stat. 2 § 7-414 *Not to exceed 100 gallons of milk per month			
State	Retail	Direct-to- Consumer	Pet Consumption	Herd Share	Sale for Human Consumption Prohibited
Oregon	X Or. Rev. Stat. § 621.117 *Only goat or sheep milk	X Or. Rev. Stat § 621.012 *Limited to dairies with no more than 2 producing cows, 9 producing sheep, or 9 producing goats			
Pennsylvania	X 7 Pa. Code § 59a.402	X 7 Pa. Code § 59a.402	X 7 Pa. Code § 9.34		
Rhode Island		X R.I. Gen. Laws § 21-2-2 *Only goat milk **Prescription required			
South Carolina	X S.C. Code Regs. 61-34.III	X S.C. Code Regs. 61-34.III			
South Dakota		X S.D. Codified Laws § 39-6-3			
Tennessee				X Tenn. Code Ann. § 53-3- 119	
Texas		X 25 Tex. Admin. Code § 217.31	X ⁵⁶		
Utah	X Utah Code Ann. § 4-3-503(3)	X Utah Code Ann. § 4-3-503(2)(b)		X Utah Code Ann. § 4-3- 502	
Virginia					X 2 Va Admin. Code 5-490-5




Vermont		X Vt. Stat. Ann. 6 § 2777			
State	Retail	Direct-to-Consumer	Pet Consumption	Herd Share	Sale for Human Consumption Prohibited
Washington	X Wash. Rev. Code § 15.36.012; Wash. Admin. Code § 16-101-800	X Wash. Rev. Code § 15.36.012; Wash. Admin. Code § 16-101-800	X Wash. Rev. Code § 15.37.100	X Wash. Rev. Code § 15.36.012	
West Virginia	X W. Va. Code § 19-1-7	X W. Va. Code § 19-1-7			
Wisconsin		X Wis. Admin. Code ATCP § 65.52(4) *Only incidental sales			
Wyoming	X Wyo. Stat. Ann. § 11-49-103	X Wyo. Stat. Ann. § 11-49-103		X 010-0003 Wyo. Code R. § 8(g)(i)	

Potential Federal Action

Despite the public health benefits of pasteurization, HHS Secretary Kennedy has suggested that he may spearhead a change in the federal regulation of raw milk. For instance, Secretary Kennedy announced on X (formerly Twitter) that the “FDA’s war on public health is about to end... includ[ing] its aggressive suppression of...raw milk.”⁵⁷ Further, there are reports that Secretary Kennedy asked the owner of a California-based raw dairy company, Mark McAfee, to be an “advisor to the FDA on raw milk policy and standards development.” In an interview with NOTUS, McAfee stated that as a Raw Milk Advisor, he would draft national raw milk standards based on the Raw Milk Institute’s standards for legalization. The Raw Milk Institute’s standards for legalization include:

- Legalizing the sale of raw milk in retail stores, on farms, through herd shares, and more.
- Requiring farmers to attend risk mitigating training.
- Requiring monthly pathogen testing.
- Requiring that milk be chilled to less than 40 degrees Fahrenheit within one hour of milking.
- Requiring herds be free from Tuberculosis, Brucellosis, and Johnes.
- Prohibiting the comingling of raw milk from multiple farms.⁵⁸



McAfee stated that the FDA would publish these standards, similar to the Pasteurized Milk Ordinance, and encourage voluntary state adoption, resulting in raw milk being legal and uniformly regulated across the U.S.⁵⁹

Congress or the FDA Could Legalize the Interstate Sale of Raw Milk

Although Kennedy has not mentioned raw milk or McAfee since he was confirmed as the Secretary of HHS, if he resumes the initiative, there are several routes HHS may take to make raw milk more widely available. First, under the Commerce Clause, Congress could pass a law legalizing the interstate sale of raw milk. Alternatively, the FDA could lift its ban on the interstate sale of raw milk.

If the FDA repeals its ban on the interstate sale of raw milk, the decision could be challenged under the Administrative Procedure Act (APA). The APA establishes procedures agencies must follow when issuing, amending, or rescinding a rule. Additionally, the APA “establishes standards for judicial review of certain types of agency actions,” including formal rules that are rescinded.

The APA instructs courts to “set aside agency action, findings, and conclusions that are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” In determining whether an agency action meets the arbitrary and capricious standard, courts evaluate whether there is a “rational connection between the facts found and the choice made” and whether there is a “reasoned explanation” for the change in agency approach.⁶⁰

If challenged, the FDA could likely successfully argue that there is evidence suggesting that the prohibition on the interstate sale of raw milk creates a black market that increases the risk of foodborne illness for consumers. Additionally, legalizing and regulating raw milk on a national level could reduce the incidence of associated foodborne illness from a fractured regulatory system that causes consumer confusion and an increase in consumption of unregulated raw milk. Therefore, repealing the FDA rule that bans the interstate sale of raw milk would likely withstand a challenge under the APA.

The FDA Could Draft National Raw Milk Standards and Encourage or Incentivize State Adoption

The FDA could draft national raw milk standards and publish them as a policy statement rather than a formal rule. Guidance documents are not subject to judicial review under the APA; therefore, the standards could not be challenged.⁶¹

There are two ways the FDA could influence states to adopt the national standards. First, the FDA could advocate for states to voluntarily adopt them, similar to how states adopted the Pasteurized Milk Ordinance or the Model Aquatic Health Code. Second, Congress could incentivize states to adopt the national standards through linking certain federal funds to adoption of the standards.

The Constitution grants Congress the power to spend for the “general Welfare.”⁶² With this authority, Congress may place conditions on state funding to incentivize action, provided that (1) clear notice of the conditions is given, (2) the conditions are related to the purpose of the funding, (3) the conditions are not coercive, and (4) it



does not otherwise violate the Constitution.⁶³

While withholding federal funds for state-administered food programs such as the Supplemental Nutrition Assistance Program (SNAP) could be found to be related to raw milk standards, the connection could be found too attenuated to justify withholding of SNAP funds from states that do not adopt the federal raw milk standards. Further, a court could find that withholding SNAP funds simply to allow raw milk sales is coercive because most states regulate the sale of raw milk yet heavily depend on SNAP funds.⁶⁴ Alternatively, Congress could incentivize states to adopt the federal raw milk standards by offering new funds to cover the costs associated with legalizing and regulating raw milk. If challenged, a court would likely uphold such an incentive, as it is both related to the state action and is not coercive.

Opportunities for States to Respond

States can take preventative action by reviewing raw milk laws and revising to (i) minimize consumer risk and (ii) address the legalization of the interstate sale of raw milk.

Minimizing Consumer Risk

Certain raw milk regulations are more effective at minimizing consumer risk than others. For example, states where the retail sale of raw milk is legal have a 3.6 times greater number of outbreaks compared to states where the sale is only allowed on farms.⁶⁵ Additionally, requiring producers to obtain a permit before selling raw milk “provide[s] a log of producers to track consumption and outbreaks,” mandatory warning labels improve consumer awareness of product risks, periodic animal and milk testing minimizes foodborne outbreaks, and cooling raw milk to forty degrees Fahrenheit or less within two hours slows bacteria growth.⁶⁶

Addressing Potential Changes in the Federal Regulation of Raw Milk

Currently, all state raw milk regulatory frameworks address the intrastate sale of raw milk. Therefore, if the federal government legalizes the interstate sale of raw milk, states may not be prepared for raw milk entering the state from across state lines.

To address this issue, states should review their raw milk laws and adjust language as needed. While states cannot ban the interstate sale of raw milk, they may regulate the intrastate market, which may incidentally include goods from across state lines. Accordingly, states may revise their regulations to address events such as the resale of raw milk produced in other states. Doing so will minimize public health risks from greater access to raw milk.

Conclusion

While the federal government could likely legalize the interstate sale of raw milk and draft national raw milk standards for state adoption, states can proactively respond by strengthening regulation of the intrastate sale of raw milk and adjusting regulation language to account for these potential regulatory changes.

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This document was developed by Anna Kate Cagle, J.D., M.P.H. and was reviewed by Kathleen Hoke, J.D., Director, Network for Public Health Law – Eastern Region and Professor, University of Maryland Carey School of Law. The Network promotes public health and health equity through non-partisan educational resources and technical assistance. These materials provided are provided solely for educational purposes and do not constitute legal advice. The Network's provision of these materials does not create an attorney-client relationship with you or any other person and is subject to the [Network's Disclaimer](#).

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- ² See John A. Lucey, *Raw Milk Consumption*, 27 NUTRITION TODAY 189, 190 (2015).
- ³ U.S. CTRS. FOR DISEASE CONTROL & PREVENTION, *Raw Milk*, <https://www.cdc.gov/food-safety/foods/raw-milk.html#:~:text=Symptoms%20of%20foodborne%20illness%20from,%2C%20stroke%2C%20or%20even%20death> (last visited Apr. 3, 2025).
- ⁴ U.S. FOOD & DRUG ADMIN., *supra* note 1.
- ⁵ Russell W. Currier & John A. Widness, *A Brief History of Milk Hygiene and Its Impact on Infant Mortality from 1875 to 1925 and Implication for Today: A Review*, 81 J. FOOD PROTECTION 1713, 1715 (2018); U.S. FOOD & DRUG ADMIN., *Raw Milk Misconceptions and the Danger of Raw Milk Consumption* (last updated Mar. 5, 2024), <https://www.fda.gov/food/buy-store-serve-safe-food/raw-milk-misconceptions-and-danger-raw-milk-consumption>.
- ⁶ S.A. Rankin et al., *A 100-Year Review: A Century of Dairy Processing Advancements—Pasteurization, Cleaning and Sanitation, and Sanitary Equipment Design*, 12 J. DAIRY SCI. 9903, 9904 (2017).
- ⁷ Lucey, *supra* note 2, at 189.
- ⁸ CTRS. FOR DISEASE CONTROL & PREVENTION, *Research Anthology: Raw Milk*, <https://www.cdc.gov/phlp/php/publications/research-anthology-raw-milk.html> (last visited Apr. 3, 2025).
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- ¹³ U.S. FOOD & DRUG ADMIN., *People at Risk of Foodborne Illness* (last updated Jan. 16, 2025), <https://www.fda.gov/food/consumers/people-risk-foodborne-illness>.
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- ²³ U.S. CONST. art I, § 8, cl. 3.
- ²⁴ 42 U.S.C. § 264. For history on the Public Health Service Act and related federal provisions in public health, see *Images from the History of the Public Health Service* by Ramunas Kondratas, Ph.D. printed in 1994 by the U.S. Department of Health and Human Services and the Public Health Service, available at https://www.nlm.nih.gov/exhibition/phs_history/index.html.
- ²⁵ 21 U.S.C. § 331.
- ²⁶ 21 C.F.R. § 1240.61(a); 133; 133.111(a).
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- ³¹ ARIZ. REV. STAT. ANN. § 3-606.
- ³² CA FOOD & AGRIC. CODE § 35891; WASH. ADMIN. CODE § 16-101-800; IDAHO ADMIN. CODE r. 02.04.13.012; 18 ALASKA ADMIN. CODE 18 § 32.070(b); UTAH CODE ANN. § 4-3-503(3); N.M. STAT. ANN. § 25-8-1; S.C. CODE REGS. 61-34.III; W. VA. CODE § 19-1-7; 7 PA. CODE § 59a.402; CONN. GEN. STAT. § 22-173a; N.H. REV. STAT. ANN. § 184:30-a; ME. REV. STAT. ANN. 7 § 2902-B; ARIZ. REV. STAT. ANN. § 3-606; NEV. REV. STAT. § 584.208; WYO. STAT. ANN. § 11-49-103; OR. REV. STAT. § 621.117 (only goat or sheep milk).
- ³³ ALASKA ADMIN. CODE 18 § 32.060; 32.070(b); 32.070(v)(3); ALASKA STAT. § 17.20.015.
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- ³⁶ *E.g.*, 7 PA. CODE § 59a.408; N.M. STAT. ANN. § 25-8-1.
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- ³⁸ 25 TEX. ADMIN. CODE § 217.31; OKLA. STAT. 2 § 7-414; KAN. STAT. ANN. § 65-792; NEB. REV. STAT. § 2-3969(3); WYO. STAT. ANN. § 11-49-103; S.D. CODIFIED LAWS § 39-6-3; N.D. CENT. CODE § 4.1-25-40.1; ARK. CODE R. § 20-59-248; MO. REV. STAT. §

196.935; IOWA CODE § 195.5; MINN. STAT. ANN. § 32D.20; MISS. CODE ANN. § 75-31-65(3); ILL. ADMIN. CODE 77 § 775.55; WIS. ADMIN. CODE ATCP § 65.52(4); GA. CODE ANN. § 26-2-451; N.Y. COMP. CODES R. & REGS. 1 § 2.3(b); 330 MASS. CODE REGS. § 27.06; VT. STAT. ANN. 6 § 2777; DEL. CODE ANN. 3 § 3179; MONT. CODE ANN. 50-49-203(8); 902 KY. ADMIN. REGS. 50:120; ME. REV. STAT. ANN. 7 § 284; NEV. REV. STAT. § 584.208; N.H. REV. STAT. ANN. § 184:30-a; OR. REV. STAT § 621.012; 7 PA. CODE § 59a.402; R.I. GEN. LAWS § 21-2-2; UTAH CODE ANN. § 4-3-503(2)(b); W. VA. CODE § 19-1-7; ALASKA ADMIN. CODE 18 § 32.070(b); ARIZ. REV. STAT. ANN. § 3-606; S.C. CODE REGS. 61-34.III; WASH. REV. CODE § 15.36.012; WASH. ADMIN. CODE § 16-101-800.

³⁹ Alaska, Arizona, California, Connecticut, Idaho, Maine, Nevada, New Hampshire, Oregon, Pennsylvania, Utah, West Virginia, South Carolina, Washington, and Wyoming.

⁴⁰ Lia Koski et al., *Foodborne Illness Outbreaks Linked to Unpasteurized Milk and Relationship to Changes in State Laws – United States, 1998-2018*, 150 EPIDEMIOLOGY & INFECTION 1, 6 (2022).

⁴¹ E.g., 7 PA. CODE § 59a.402; ARIZ. REV. STAT. ANN. § 3-606.

⁴² OKLA. STAT. 2 § 7-414(A)(1).

⁴³ MONT. CODE ANN. 50-49-203(8); 50-49-202(6).

⁴⁴ ALASKA STAT. § 17.20.015; COLO. REV. STAT. § 25-5.5-117; CONN. GEN. STAT. § 22-129(c); IDAHO ADMIN. CODE r. 02.04.13.040; ILL. ADMIN. CODE 77 § 775.55; MICH. DEPT. AGRIC. & RURAL DEV., FOOD & DAIRY DIV., *Policy # 1.40: Fresh Unprocessed Whole Milk*, <https://farmandranchfreedom.org/wp-content/uploads/2021/01/Michigan-raw-milk-Policy-1.40.pdf> (Mar. 12, 2013); MASS. EXEC. OFF. ENERGY & ENV'T AFF., *Massachusetts Department of Agricultural Resources, Division of Animal Health Regulation Interpretation Regarding Cow Share or Herd Share Agreements and Application of 330 CMR 27*, <https://www.mass.gov/doc/cow-share-policy-0/download> (Nov. 15, 2010); N.C. GEN. STAT. § 106-266.35(d); N.D. CENT. CODE, § 4.1-25-40; *Schmitmeyer v. Oh. Dept. of Agric.*, No. 06-CV-63277 (Dec. 29, 2006); TENN. CODE ANN. § 53-3-119; UTAH CODE ANN. § 4-3-502; 010-0003 WYO. CODE R. § 8(g)(i); WASH. REV. CODE § 15.36.012.

⁴⁵ Timothy J. Mayer, “Don’t Have a Cow Man!”: *Recognizing Herd Share Agreements for Raw Milk*, 25 HEALTH MATRIX 383, 391 (2015).

⁴⁶ Connecticut, Idaho, Illinois, Massachusetts, North Carolina, North Dakota, Utah, Washington, and Wyoming.

⁴⁷ ALASKA ADMIN. CODE 18 § 32.060; GA. COMP. R. & REGS. 40-5-8-.02(18); IND. CODE ANN. § 15-19-7-40(7); 12 KY. ADMIN. REGS. 3:012(9); LA. STAT. ANN. § 3:1394(A)(14); MD. CODE REGS. 15.18.09.13; N.H. CODE ADMIN. R. ANN. AGRIC. 1203.02(i); 2 N.C. ADMIN. CODE 9G.2010; 7 PA. CODE § 9.34; OFF. TEX. STATE CHEMIST, *Feed Industry Memorandum No 3-15*, [https://otscweb.tamu.edu/Laws/PDF/Feed/FdInd-3-15.pdf#:~:text=\(c\)%20Applications%20for%20a%20license%20must%20be,BEEN%20PASTEURIZED%20AND%20MAY%20CONTAIN%20HARMFUL%20BACTERIA](https://otscweb.tamu.edu/Laws/PDF/Feed/FdInd-3-15.pdf#:~:text=(c)%20Applications%20for%20a%20license%20must%20be,BEEN%20PASTEURIZED%20AND%20MAY%20CONTAIN%20HARMFUL%20BACTERIA) (last updated Dec. 19, 2024); WASH. REV. CODE § 15.37.100.

⁴⁸ WASH. REV. CODE § 15.37.100.

⁴⁹ GA. COMP. R. & REGS. 40-5-8-.02(18).

⁵⁰ ALA. ADMIN. CODE R. 420-3-16-.12; D.C. MUN. REGS. 25, A § 702; FLA. STAT. § 502.091; HAW. CODE. R. § 11-15-46; IND. CODE ANN. § 15-18-1-21; MD. CODE ANN., HEALTH-GEN. § 21-434; N.J. STAT. ANN. § 24:10-57.18; 2 VA ADMIN. CODE 5-490-5.

⁵¹ IND. CODE ANN. § 15-19-7-40(7); MD. CODE REGS. 15.18.09.13.

⁵² See Marc Novicoff, *How Raw Milk Went From a Whole Foods Staple to a Conservative Signal*, POLITICO (March 10, 2024, 7:00 AM), <https://www.politico.com/news/magazine/2024/03/10/the-alt-right-rebrand-of-raw-milk-00145625>; SB 273, 152 Gen. Assemb. (DE. 2024); HB 467, State Legislature, Reg. Session (LA. 2024).

⁵³ MASS. EXEC. OFF. ENERGY & ENV'T AFF., *Massachusetts Department of Agricultural Resources, Division of Animal Health Regulation Interpretation Regarding Cow Share or Herd Share Agreements and Application of 330 CMR 27*, <https://www.mass.gov/doc/cow-share-policy-0/download> (Nov. 15, 2010).

⁵⁴ MICH. DEPT. AGRIC. & RURAL DEV., FOOD & DAIRY DIV., *Policy # 1.40: Fresh Unprocessed Whole Milk*, <https://farmandranchfreedom.org/wp-content/uploads/2021/01/Michigan-raw-milk-Policy-1.40.pdf> (Mar. 12, 2013).

⁵⁵ *Schmitmeyer v. Oh. Dept. of Agric.*, No. 06-CV-63277 (Dec. 29, 2006).

⁵⁶ OFF. TEX. STATE CHEMIST, *Feed Industry Memorandum No 3-15*, [https://otscweb.tamu.edu/Laws/PDF/Feed/FdInd-3-15.pdf#:~:text=\(c\)%20Applications%20for%20a%20license%20must%20be,BEEN%20PASTEURIZED%20AND%20MAY%20CONTAIN%20HARMFUL%20BACTERIA](https://otscweb.tamu.edu/Laws/PDF/Feed/FdInd-3-15.pdf#:~:text=(c)%20Applications%20for%20a%20license%20must%20be,BEEN%20PASTEURIZED%20AND%20MAY%20CONTAIN%20HARMFUL%20BACTERIA) (last updated Dec. 19, 2024).

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⁵⁸ RAW MILK INSTITUTE, *Raw Milk Legalization Policy Brief*, <https://static1.squarespace.com/static/5c930aceaf4683e69e2cd577/t/67d2ed1d48b2c70a57743b55/1741876509984/RAWMI+Policy+Brief+on+Raw+Milk+Legalization.pdf> (last visited Apr. 4, 2025).

⁵⁹ Margaret Manto, *Is it Even Possible for RFK Jr. to Make Raw Milk Safe?*, NOTUS (Dec. 18, 2024 5:00AM), <https://www.notus.org/trump-transition/rfk-raw-milk>.

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⁶³ *S.D. v. Dole*, 483 U.S. 203, 207–12 (1987).

⁶⁴ See *Nat'l Fed'n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 585–88 (2012).

⁶⁵ Lia Koski et al., *Foodborne Illness Outbreaks Linked to Unpasteurized Milk and Relationship to Changes in State Laws – United States, 1998-2018*, 150 EPIDEMIOLOGY & INFECTION 1, 6 (2022).

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