

**TESTIMONY OF RONALD DYER, DIRECTOR
QUALITY ASSURANCE & REGULATIONS
DEPARTMENT OF AGRICULTURE, CONSERVATION AND
FORESTRY**

**BEFORE THE JOINT STANDING COMMITTEE ON
AGRICULTURE, CONSERVATION AND FORESTRY
FOR LD 1786**

**“An Act To Allow the Sale of Unregulated Farm-produced Dairy Products at
the Site of Production”**

SPONSORED BY: Representative Noon of Sanford.

DATE OF HEARING March 4, 2014

Senator Vitelli, Representative Dill, members of the Joint Standing Committee on Agriculture, Conservation and Forestry, I am Ron Dyer, Director of Quality Assurance & Regulations at the Maine Department of Agriculture, Conservation and Forestry (DACF), speaking in support of an amended version of LD 1786 **“An Act To Allow the Sale of Unregulated Farm-produced Dairy Products at the Site of Production”**

This bill facilitates direct sales of dairy products sold on the same farm where the product is produced by exempting those sales from state licensing and inspection requirements if certain conditions are met.

I have attached our recommended draft amended bill which places the proposed exemption in the licensing section of existing law and includes the Commissioner’s authority to investigate products in the event of a related food-borne illness. The department’s version seeks to have the statute support previous long-standing policy that is not supported by the current statute. We believe putting the exemption in this section provides better clarity for both the producers and the department going forward.

DACF strongly supports many programs to help small farmers in selling raw milk and homemade food products, and we take great pride in the ongoing work to

assure we remain as flexible as possible to the needs of the small producers. While we believe the Committee and Department should fully acknowledge and consider the widely known risks of consuming raw milk, we believe the bill before you sets a reasonable balance by ensuring an informed consumer is buying directly on-farm from their farmer. Both the farmer and consumer will be fully aware the product is not pasteurized based on the labeling requirements contained in the proposed bill as well as in the Department proposed version of the bill.

Thank you for your time. Department staff and I will be happy to answer questions now and to provide more detailed information during the work session.

An Act To Exempt On Farm Sales Of Raw Milk and Raw Milk Products

Be it enacted by the People of the State of Maine as follows:

7 MRSA §2901-A, as amended by PL 1999, c. 679, Pt. A, §3, is further amended to read:

§ 2901-A. Standards and labeling

Notwithstanding any other requirements of this chapter, milk and milk products, defined in accordance with standards then in effect that have been adopted by the United States Government and labeled in conformity with labeling requirements then in effect that have been adopted by the United States Government, are considered to conform with the definitions and labeling requirements set forth in this chapter; except that containers of milk and cream packaged in Maine must also bear the name and address of the Maine licensed milk distributor and sufficient information to identify the milk plant where packaged and all sales of not pasteurized milk and milk products must include the labeling requirements under §2902-B.

7 MRSA §2901-C. LICENSES AND PERMITS is amended to read:

§2901-C. LICENSES AND PERMITS

A person required to obtain a permit or license under this section, section 2902-A or rules adopted under section 2910 or pursuant to former section 2902 may not sell, transport or transfer milk or milk products prior to obtaining the appropriate license or permit. All off farm sales and wholesale transactions of not pasteurized milk or not pasteurized milk products must comply with all licensing and permit requirements of this Chapter.

6. Exemption. A dairy farm which sells not pasteurized milk or not pasteurized milk products is exempt from licensing under Sec. 1. of this subsection provided the following conditions are met.

- a) The not pasteurized milk or not pasteurized milk product is sold only directly from the person's own farm or farm stand located on property contiguous to the farm;
- b) The not pasteurized milk or not pasteurized milk product is labeled pursuant to the provisions of 7 M.R.S., Chapter 601, §2902-B.(1); all applicable requirements of Maine Rules 01-001 Chapter 329: Rules Governing Maine Milk And Milk Products, Section XIV – Labeling (A); and 7 M.R.S., Chapter 101, Subchapter 5: Maine Fair Packaging and Labeling Act;

- c) The dairy farm places a clearly visible sign at the point of sale for the not pasteurized milk or not pasteurized milk product that contains the name, address and telephone number of the person's farm and the following statement in letters that are at least one (1) inch in height: "Milk and milk products sold on this farm are not pasteurized and are not licensed or inspected by the State of Maine Dairy Inspection Program."

7 MRSA §2902-B. SALE OF UNPASTEURIZED MILK AND MILK PRODUCTS is amended to read:

5. Sale of heat-treated cheese at eating establishment. Notwithstanding subsection 2, heat-treated cheese may be offered for consumption at an eating establishment as defined in Title 22, section 2491, subsection 7 provided the menu identifies items on the menu that contain or are made with heat-treated cheese and provides notice that heat-treated cheese is not pasteurized using the words "not pasteurized" on the menu and the heat treated cheese is produced in a facility that is licensed and inspected under §2901-C.

7 MRSA §2910-B. COMMISSIONER'S AUTHORITY IN THE SALE OF UNLICENSED DAIRY PRODUCTS

When the Commissioner is investigating an outbreak of a foodborne illness and has reason to believe that outbreak is related to an unlicensed dairy product exempted under 2901-C the Commissioner shall have authority to visit the unlicensed farm for purposes inspecting and collecting samples of the products as the Commissioner finds necessary and may detain, embargo or condemn those products in accordance with MRS 22, section 2159.

§2910-BC. Dairy Improvement Fund

The commissioner shall administer the Dairy Improvement Fund established under Title 10, section 1023-P in accordance with this section and Title 10, section 1023-P. All money received by the fund from any source, including revenue distributed under Title 8, section 1036, subsection 2-A, paragraph M, must be deposited with the Finance Authority of Maine and credited to the fund. Money credited to the fund must be used to provide loans to assist dairy farmers in making capital improvements to maintain and enhance the viability of their farms and to pay the administrative costs of processing loan applications and servicing and administering the fund and loans made from the fund. Repayment of these loans and interest on the loans must be credited to the fund to be available for the same purposes. [2011, c. 625, §1 (NEW).]

SUMMARY

This bill exempts from state licensing and inspection requirements dairy farms who sell small quantities of not pasteurized milk and not pasteurized milk products directly to consumers from the farm or farm stand.