House Bill 2616

Sponsored by Representative MCLAIN; Representatives GAMBA, HOLVEY, HUDSON, SMITH DB, Senator
THATCHER (at the request of Friends of Family Farmers) (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject
to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the
measure as introduced.

Authorizes sale of unpasteurized milk from small-scale farm through delivery service or at
farmers’ market or other farm-to-consumer sales location if milk is labeled as unpasteurized. Pro-
vides that violation of labeling requirements may be subject to civil penalty and maximum of 364
days’ imprisonment, $6,250 fine, or both.

Establishes certain safety-related requirements regarding sale of unpasteurized milk, or dairy
products from unpasteurized milk, for human consumption.

Repeals general prohibition on sale of unpasteurized milk from cows.

A BILL FOR AN ACT

Relating to unpasteurized milk; amending ORS 621.012, 621.117, 621.122, 621.991 and 621.995; and
repealing ORS 621.116.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 621.012 is amended to read:

621.012. (1) The provisions of ORS 621.062, 621.070, 621.072, 621.076, 621.084, 621.088, [621.116],
621.117 and 621.259 and standards developed under ORS 621.060, 621.083 or 621.224 do not apply to
a person owning not more than three dairy cows that have calved at least once, nine sheep that
have lactated at least once or nine goats that have lactated at least once,[].

(2) [but such] The person may sell the fluid milk from [those] the animals described in sub-
section (1) of this section for human or other consumption without complying with the provisions
of ORS 621.062, 621.070, 621.072, 621.076, 621.084, [621.116], 621.117 or 621.259 or standards developed
under ORS 621.060, 621.083 or 621.224 only if:

[(1)] (a) The milk is sold directly to [the] a consumer:
(A) At the premises where produced; or
(B) Through a delivery service or at a farmers’ market or another farm-to-consumer
sales location, as long as any unpasteurized milk that is sold as described in this subpara-
graph is labeled as unpasteurized; and

[(2)] (b) No more than two producing dairy cows, nine producing sheep or nine producing goats
are located on the premises where the milk is produced.

(3) The State Department of Agriculture shall adopt rules governing the labeling of milk
sold under subsection (2)(a)(B) of this section.

SECTION 2. ORS 621.117 is amended to read:

621.117. (1) A distributor, producer-distributor or dairy products plant licensee shall not sell or
offer or expose for sale any dairy product or fluid milk for human consumption unless the milk used
in the dairy product or fluid milk:
(a) Has been pasteurized; or
(b) Is cow, goat or sheep's milk that was produced by a disease-free herd[,].
(2) [except that] Notwithstanding subsection (1)(b) of this section and ORS 621.124, if not more than one reactor animal appears when the cow, goat or sheep herd is tested for brucellosis, the milk, dairy products or fluid milk may still be sold if the animal is slaughtered and no additional reactor animals appear when the herd is retested, as provided in ORS chapter 596 and regulations promulgated thereunder. If one or more reactor animals appear when the herd is retested, no milk, dairy products or fluid milk from the herd may be sold until the herd regains a brucellosis-free status.

(3) A distributor, producer-distributor or dairy products plant licensee that sells or offers for sale unpasteurized fluid milk, or dairy products from unpasteurized milk, for human consumption, as described in this section, shall:

(a) Receive training;

(b) Receive certification by a third-party entity that is approved by the State Department of Agriculture and imposes safety standards and protocols for low-risk production of unpasteurized milk;

(c) Develop and implement a risk analysis and management plan;

(d) Conduct regular testing; and

(e) Comply with any other requirements established by rule by the department.

(4) The department shall adopt rules to implement subsection (3) of this section.

SECTION 3. ORS 621.116 is repealed.

SECTION 4. ORS 621.122 is amended to read:

621.122. (1) A person [shall] may not operate or permit the operation of any pasteurization equipment except under the direct personal supervision of a person licensed as a pasteurizer operator under ORS 621.266.

(2) A distributor, producer-distributor or dairy products plant licensee [shall] may not sell, offer or expose for sale any milk or cream that has not been pasteurized or produced by a disease-free cow, goat or sheep herd, except to another distributor, producer-distributor or dairy products plant licensee for the manufacture of milk, fluid milk or dairy products.

(3) Except as permitted by ORS 621.003, 621.012, 621.060 and 621.076, a person [shall] may not knowingly sell, offer or expose for sale any milk or cream that has not been pasteurized or produced by a disease-free cow, goat or sheep herd, except to a distributor, producer-distributor or dairy products plant licensee for the manufacture of milk, fluid milk or dairy products.

(4) A distributor, producer-distributor or dairy products plant licensee [shall] may not sell, offer or expose for sale any milk, fluid milk or dairy product processed or manufactured by the distributor, producer-distributor or licensees unless all of the milk or cream constituents from cows have been pasteurized and all milk or cream constituents from cows, goats or sheep were produced by a disease-free herd or have been pasteurized.

(5) A person [shall] may not knowingly sell, offer or expose for sale any dairy product unless all of the milk or cream constituents [of the product from cows have been pasteurized and all constituents] from cows, goats or sheep were produced by a disease-free herd or have been pasteurized.

(6) Excepting cottage cheese and any cheese required to be pasteurized by rule of the State Department of Agriculture, the pasteurization requirement of subsections (4) and (5) of this section [shall] does not apply to cheese that has been aged for at least 60 days from the date of manufacture. The manufacture date must appear on the cheese or its container.

(7) A person [shall] may not falsely represent by word, design, device or by any other means that any milk, cream, fluid milk, dairy product, frozen dessert mix or frozen dessert has been
pasteurized.

(8) A distributor, producer-distributor or dairy products plant licensee [must] **shall** provide for the grading of all milk transported, received or purchased by the distributor, producer-distributor or licensee as required by ORS 621.056, 621.057, 621.084 and 621.226 and regulations adopted under ORS 621.096.

(9) A person [shall] **may** not alter, remove or tamper with any condemnation tag affixed by the State Department of Agriculture or a grader pursuant to the provisions of ORS 621.203 or 621.226.

(10) A distributor, producer-distributor or dairy products plant licensee or grader [shall] **may** not:

(a) Negligently sample, weigh or test any milk or cream.

(b) Fraudulently manipulate any weight, sample or test of milk or cream.

(c) Make a false entry or record of the weight, or test of milk or cream on any statement, record or invoice.

**SECTION 5.** ORS 621.991 is amended to read:

621.991. Violation of any provision of ORS 621.056, 621.057, 621.062, 621.070, 621.072, 621.076, 621.084, 621.088, 621.117, 621.122, 621.124, 621.161, 621.166, 621.183, 621.198, 621.207, 621.226, 621.259, 621.335, 621.340, 621.345, 621.418, 621.445 or 621.730 or any rule or standard adopted under ORS 621.012, 621.060, 621.083, 621.096, 621.224 or 621.261, or failure to pay a fee assessed under ORS 621.166, is a Class A misdemeanor.

**SECTION 6.** ORS 621.995 is amended to read:

621.995. (1) In addition to any penalty available under ORS 561.190 or 621.991, the State Department of Agriculture may impose a civil penalty for a violation of ORS 621.056, 621.057, 621.062, 621.070, 621.072, 621.076, 621.084, 621.088, 621.117, 621.122, 621.124, 621.161, 621.166, 621.183, 621.198, 621.207, 621.226, 621.259, 621.335, 621.340, 621.345, 621.418, 621.445 or 621.730 or of rules, regulations or standards adopted under ORS **621.012**, 621.060, 621.083, 621.096, 621.224 or 621.261. For the purposes of this section, each day a violation continues after the period of time established for compliance shall be considered a separate violation unless the department finds that a different period of time is more appropriate to describe a specific violation event.

(2) The department may adopt rules establishing a schedule of civil penalties that may be imposed under this section. Civil penalties imposed under this section may not exceed $10,000 for each violation.

(3) When the department imposes a civil penalty under subsection (1) of this section, the department shall impose the penalty in the manner provided by ORS 183.745, except that the written application for a hearing must be received by the department no later than 10 days after the date of mailing or personal service of the notice of civil penalty.

(4) Moneys received by the department from civil penalties imposed under this section shall be deposited in the General Fund to the credit of the Department of Agriculture Account.