

IN THE SENATE

SENATE BILL NO. 1036

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO RAW MILK; AMENDING SECTION 37-1101, IDAHO CODE, TO REVISE PRO-
2 VISIONS REGARDING THE ACQUISITION OF RAW MILK AND RAW MILK PRODUCTS;
3 AMENDING CHAPTER 11, TITLE 37, IDAHO CODE, BY THE ADDITION OF A NEW SEC-
4 TION 37-1102, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT AND A PENALTY; AND
5 DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 37-1101, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 37-1101. ACQUISITION OF RAW MILK AND RAW MILK PRODUCTS ~~BY OWNER~~. (1)
11 The acquisition of raw milk or raw milk products from cows, sheep, or goats by
12 an owner of such cows, sheep, or goats for use or consumption by the owner or
13 members of the owner's household shall not constitute the sale or retail sale
14 of raw milk or raw milk products and shall not be prohibited. ~~The acquisition~~
15 ~~of raw milk or raw milk products from cows, sheep or goats by an owner of a cow~~
16 ~~share, sheep share or goat share for use or consumption by the owner or mem-~~
17 ~~bers of the owner's household shall not constitute the sale or retail sale of~~
18 ~~raw milk or raw milk products and shall not be prohibited provided the fol-~~
19 ~~lowing conditions are met:~~

20 ~~(a) Unless otherwise permitted by the Idaho state department of agri-~~
21 ~~culture, no more than seven (7) cows, fifteen (15) sheep or fifteen (15)~~
22 ~~goats may be kept as part of a cow share, sheep share or goat share pro-~~
23 ~~gram.~~

24 ~~(b) The owner of a cow share, sheep share or goat share shall receive raw~~
25 ~~milk or raw milk products directly from the farm or dairy where the cow,~~
26 ~~sheep, goat or dairy herd is located and the farm or dairy shall be reg-~~
27 ~~istered pursuant to subsection (2) of this section. A person who is the~~
28 ~~owner of a cow share, sheep share or goat share in a cow, sheep, goat or~~
29 ~~dairy herd may receive raw milk or raw milk products on behalf of another~~
30 ~~owner of the same cow, sheep, goat or dairy herd. A person who is not an~~
31 ~~owner of a cow share, sheep share or goat share in the same cow, sheep,~~
32 ~~goat or dairy herd shall not receive raw milk or raw milk products on be-~~
33 ~~half of the owner of a cow share, sheep share or goat share.~~

34 ~~(c) The raw milk or raw milk products are obtained pursuant to the own-~~
35 ~~ership of a cow, sheep, goat, cow share, sheep share or goat share. A cow~~
36 ~~share, sheep share or goat share is an undivided ownership interest in~~
37 ~~a cow, sheep, goat or herd of cows, sheep or goats, created by a written~~
38 ~~contractual relationship between an owner and a farmer that includes a~~
39 ~~bill of sale, stock certificate or other written evidence satisfactory~~
40 ~~to the director of the Idaho state department of agriculture of a bona~~
41 ~~fide ownership interest in the cow, sheep, goat or dairy herd. Such~~
42 ~~written contractual relationship shall also include boarding terms~~

1 under which the cow, sheep, goat or dairy herd are boarded, milked and
 2 cared for. Such written contractual relationship shall also clearly
 3 set forth that the share owner is entitled to receive a share of milk
 4 or milk products from the cow, sheep, goat or dairy herd and contain a
 5 conspicuous notification that the milk or milk products are raw and not
 6 pasteurized.

7 ~~(d) Information describing the standards used by the farm or dairy with
 8 respect to herd health, and in the production of milk from the herd, is
 9 provided to the share owner by the farmer together with results of tests
 10 performed on the cows, sheep or goats that produced the milk, tests per-
 11 formed on the milk and an explanation of the tests and test results.~~

12 ~~(e) A farm or dairy operating a cow share, sheep share or goat share pro-
 13 gram with more than three (3) cows, seven (7) sheep or seven (7) goats
 14 shall test such raw milk or raw milk products at a frequency of at least
 15 four (4) separate months during any consecutive six (6) month period.
 16 Each batch of raw milk shall test negative for drugs. Milk quality tests
 17 and drug tests shall be conducted utilizing testing methods approved by
 18 the Idaho state department of agriculture. In no event shall such raw
 19 milk or raw milk products contain:~~

- 20 ~~(i) More than fifteen thousand (15,000) bacteria per milliliter;~~
- 21 ~~(ii) More than twenty-five (25) coliform per milliliter;~~
- 22 ~~(iii) More than five hundred thousand (500,000) somatic cells per
 23 milliliter of raw milk from a cow or more than seven hundred fifty
 24 thousand (750,000) somatic cells per milliliter of raw milk from a
 25 sheep or goat.~~

26 ~~(f) Whenever three (3) of the last five (5) consecutive bacteria, col-
 27 iform, or somatic cell tests exceeds any of the milk quality standards
 28 listed in this section, the cow share, sheep share or goat share owners
 29 shall be notified and no milk shall be offered for human consumption un-
 30 til such time it meets the standard.~~

31 ~~(g) Milk testing positive for drugs shall not be used for human consump-
 32 tion.~~

33 ~~(h) All cows, sheep or goats kept as part of a cow share, sheep share or
 34 goat share program shall be tuberculosis and brucellosis free and shall
 35 be tested for tuberculosis and brucellosis annually.~~

36 (2) The acquisition of raw milk or raw milk products from cows, sheep,
 37 or goats by an owner of a cow share, sheep share, or goat share for use or con-
 38 sumption by the owner or members of the owner's household shall not consti-
 39 tute the sale or retail sale of raw milk or raw milk products and shall not be
 40 prohibited. The owner of a cow share, sheep share, or goat share shall re-
 41 ceive raw milk or raw milk products directly from the farm or dairy where the
 42 cow, sheep, goat, or dairy herd is located. Such farm or dairy shall be reg-
 43 istered.

44 (3) Registration of a farm or dairy as required by subsection (1) (b) (2)
 45 of this section shall be accomplished by delivering to the Idaho state de-
 46 partment of agriculture a written statement containing:

- 47 (a) The name of the farmer, farm or dairy;
- 48 (b) A valid, current address of the farmer, farm or dairy; and
- 49 (c) A statement that raw milk or raw milk products are being produced at
 50 the farm or dairy.

1 ~~(3) (4) No person who obtains raw milk or raw milk products in accor-~~
 2 ~~dance with this section shall sell such raw milk or raw milk products. Unless~~
 3 ~~otherwise permitted by the Idaho state department of agriculture, it shall~~
 4 ~~be unlawful for an owner of a cow, sheep, goat, cow share, sheep share or goat~~
 5 ~~share to sell, offer for sale, or advertise for sale to any person or distrib-~~
 6 ~~ute to any restaurant or food establishment, grocery store, or farmers mar-~~
 7 ~~ket any raw milk or raw milk products produced as provided herein in this sec-~~
 8 ~~tion. Any person who violates the provisions of this section shall be guilty~~
 9 ~~of a misdemeanor and upon conviction shall be subject to a fine not exceeding~~
 10 ~~two hundred dollars (\$200) or imprisonment in the county jail not to exceed~~
 11 ~~three (3) months, or by both such fine and imprisonment. The director of the~~
 12 ~~Idaho state department of agriculture may bring civil actions to enjoin vio-~~
 13 ~~lation of the provisions of this section.~~

14 ~~(4) (5) No producer of raw milk or raw milk products as provided in this~~
 15 ~~section shall publish any statement that implies approval or endorsement by~~
 16 ~~the Idaho state department of agriculture.~~

17 ~~(5) (6) The Idaho state department of agriculture is charged with the~~
 18 ~~responsibility of administration and enforcement of this chapter and is em-~~
 19 ~~powered to promulgate and enforce rules not inconsistent with this chapter.~~

20 ~~(6) (7) The Idaho state department of agriculture is authorized to is-~~
 21 ~~sue a hold order to stop the distribution of raw milk or raw milk products~~
 22 ~~when it is deemed necessary to protect human health.~~

23 SECTION 2. That Chapter 11, Title 37, Idaho Code, be, and the same is
 24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 25 ignated as Section 37-1102, Idaho Code, and to read as follows:

26 37-1102. ENFORCEMENT -- PENALTY. The director of the department of
 27 agriculture may bring civil actions to enjoin violations of this chapter or
 28 rules promulgated to implement the provisions of this chapter. Anyone com-
 29 mitting a violation of the provisions of this chapter or rules promulgated
 30 to implement the provisions of this chapter shall be subject to a fine of up
 31 to two hundred dollars (\$200).

32 SECTION 3. An emergency existing therefor, which emergency is hereby
 33 declared to exist, this act shall be in full force and effect on and after
 34 July 1, 2023.