

## **Texas Action Alert**

The Texas Department of State Health Services is working on new rules governing milk and dairy products in Texas. It is important that everyone who cares about having access to raw milk and farmstead cheeses speak up during this process!

For several years, raw milk farmers in Texas have struggled with the restriction that raw milk may be sold directly to the consumer "only at the point of production, i.e. at the farm." The draft rules would make it even harder, by requiring that the farmer "offer for sale and distribute raw milk directly to the final consumer only at the point of production, i.e. at the farm." This new provision would prevent people from picking up their milk through carpools, agent arrangements, etc. The draft rules also require raw milk farmers to turn over a list of their customers to the government, and prevent people from even possessing raw milk that is not labeled and graded outside of their home.

The draft rules also create extensive permitting and regulatory burdens on family farms making farmstead cheeses. Currently, small-scale cheesemakers are required to have a single food manufacturing permit, but the draft rule would require two permits, each with higher fees, and expensive infrastructure and equipment.

The draft rules are available at <http://www.dshs.state.tx.us/milk/draft.shtm>

### **TAKE ACTION**

The deadline for submitting comments on the draft rule is March 6, 2009. Please note that the agency plans to formally propose rules in April, so this is just Round One!! This is a chance to speak up relatively early in the process, which is the best time to make real changes.

Send your comments via email to [Gene.Wright@dshs.state.tx.us](mailto:Gene.Wright@dshs.state.tx.us) or by regular mail to:

Gene Wright, Manager,  
Milk and Dairy Group, Texas Department of State Health Services,  
P.O. Box 149347 MC 1987,  
Austin, Texas 78714-9347.

A sample letter is at the end of this alert. \*\*Please take a few moments to personalize the letter, in particular the opening paragraph and the explanations for why you want the suggested changes. We do not want the agency to dismiss the comments as simply "form letters." Put the letter in your own words! This sample is intended to make it easier for you to comment, not to limit what you write.\*\*

For more information, go to [www.FarmAndRanchFreedom.org](http://www.FarmAndRanchFreedom.org) or call 512-243-9404.

### **HELPFUL HINTS:**

- 1) Save a copy of your comments! This is an informal comment period, and we may need to submit the same comments again in the formal comment period.
- 2) Be very clear and tell them exactly what you want (e.g.: "I urge the agency to amend the regulations to allow Grade A raw milk producers to sell and distribute raw milk to consumers both on and off the farm.)

3) Briefly explain your reasons. Things like you want access to raw milk for your family, you don't have the time to drive out to the farm each week, you want to be able to put your milk in your own container to take it to work for lunch ... etc. The comments can be short, don't worry about going into detail.

4) Do not discuss what any farmer is currently doing, or how you get your milk. It's helpful to use personal stories to illustrate the benefits of raw milk, but stay focused on the effect of your raw milk consumption, not how you get that milk.

5) Be polite and friendly. Don't attack the agency's policies or personnel.

#### SAMPLE LETTER

Dear Mr. Wright:

Thank you for seeking comments on the agency's draft rules. I am an educated consumer, and I spend a lot of time and effort to find high-quality food for my family. I am very concerned about provisions in the draft rules that would limit my access to raw milk and artisan cheeses.

I urge the agency to make the following changes to the proposed rules:

1) Section 217.22 should be changed to allow the sale of raw milk directly to any consumer (not just the "final consumer"). Moreover, the sale and distribution of raw milk should not be limited to the point of production, but allow sales at the farm, farmers markets, farm stands, consumers' residences, private delivery locations, and through agents specifically designated by the consumer.

As a consumer, I want increased access to raw milk, not reduced access. Limiting the sale and distribution of raw milk to the final consumer at the point of production means that each individual who wants to buy raw milk must personally drive out to the farm to buy it, which costs both time and money. What health or safety reason can there be for this requirement? All it does is make it harder for consumers like me to get access to a product we want. It wastes gasoline and money, at a time when we are trying to conserve both.

2) Section 217.17(g), which requires a producer to provide a list of his or her customers to the government, should be deleted.

I value my privacy, and object to the government being provided with information on my purchases simply because I may choose to buy raw dairy products. If the milk is contaminated, then the agency can issue a public notice to that effect, just as it does with any contaminated food product.

3) The last sentence in Section 217.13 -- "It shall be unlawful for any person, elsewhere than in a private home, to have in their possession any adulterated, misbranded, or ungraded milk" -- should be deleted.

This provision could be interpreted to mean that an individual who pours milk into an unlabeled jar to take to work or a park would be acting illegally. Possession of ungraded and unlabeled raw dairy should not be illegal, regardless of the location.

4) Section 217.67 should be amended to clarify that a small-scale cheese-maker does not need a separate room for each stage of cheesemaking, as long as there are clean and sanitary areas for each stage. The section should also allow for the use of any method of pasteurization that has been proven effective, rather than requiring equipment that costs several thousands of dollars. Sections 217.61, 217.63, and 217.81 should be changed to keep the current fee schedule (based on gross sales) and allow for a single permit, rather than charging flat fees and requiring small-scale cheesemakers to hold two separate permits (dairy farm permit and a dairy product manufacturing permit).

The draft rule would be very expensive for people making farmstead cheeses on a small scale. So long as the cheese is made in a sanitary, safe fashion, the agency should not require expensive equipment and infrastructure. And someone who sells \$5,000 worth of cheeses a year should not be subject to the same fees as a large company selling millions of dollars of products.

I appreciate the difficulty the agency faces in regulating the wide range of dairy products made in Texas. But food safety does not mean regulating small farmers out of business, and the agency should not create unfair marketing barriers to products such as raw milk and farmstead cheeses. I urge you to make the changes listed above before publishing the proposed rules.

Sincerely,

Name

Address

City, State Zip

Email