

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2014**

**Bill Number:** S.70 as passed by House and Senate **Name of Bill:** An act relating to the sale of raw milk at farmers markets

**Agency/ Dept:** Agency of Agriculture, Food and Markets **Author of Bill Review:** Dr. Kristin Haas

**Date of Bill Review:** May 7, 2014 **Status of Bill: (check one):**

☐ Upon Introduction      ☐ As passed by Senate Ag committee      ☒ As passed by both bodies  
☐ Fiscal

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**Recommended Position:**

☐ Support      ☐ Oppose      ☒ Remain Neutral      ☐ Support with modifications identified in #8 below

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**Analysis of Bill**

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**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

S.70 proposes to allow the delivery of raw milk that has been pre-purchased by the customer to that same customer for pick up at a farmers market, by Tier 2 producers only. S.70 does not allow the spontaneous sale of raw milk to random customers at farmers markets. In instances where milk is delivered to pre-identified customers at farmers markets, that delivery must conform to the same standards as exist for milk delivered to the customers' homes, including the following:

- A. The customer must have visited the farm and been offered a tour prior to pickup of product at the farmers market
- B. The customer must have made the purchase in advance of delivery at the farmers market
- C. The raw milk must be maintained at a temperature of 40 degrees F or below while at the farmers market
- D. The producer intending to deliver raw milk to customers at the farmers market must notify the Agency of that intent as well as of other traceability information pertaining to the intent

S.70 also changes the maximum production limits from a daily allowance to a weekly allowance. S.70 removes the requirement for vendors dispensing raw milk at farmers markets to provide a brochure to those customers that contains equivalent health warning information as the signage required to be posted at the point of production. (this requirement was included in a previous draft of the bill contemplated during the 2013 session), but it does clarify legislative intent that any customer receiving delivery of raw milk at a farmers market must have visited the farm of production and have been offered a tour prior to picking up product at a farmers market.

S.70 requires that the farm delivering raw milk to farmers markets must be a vendor at the farmers market.

**2. Is there a need for this bill?** *Please explain why or why not.*

It is the opinion of the Agency that there is either not a need for S.70 at this time or at best a poorly documented/unsubstantiated need for the law. Currently, there are only 3 Tier 2 raw milk producers in the state; S.70, if enacted, could benefit those producers, but there would be no benefit to the majority of VT raw milk direct sales producers who fall into the Tier 1 category. Additionally, if enacted, the law could have a negative impact on the Vermont Brand and the reputation of the Vermont dairy industry as it has been

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demonstrated that the incidence of human illness related to consumption of raw milk, including some permanently debilitating conditions most likely to affect children such as Hemolytic Uremic Syndrome, is greater in states that allow the sale of raw milk to consumers. A relaxation of existing VT law to include delivery of raw milk at farmers markets further amplifies this human health risk by increasing the chance of mishandling and improper storage pre- and post-delivery. This, in turn, puts consuming Vermonters at greater risk for illness.

### **3. What are likely to be the fiscal and programmatic implications of this bill for this Department?**

The fiscal and programmatic implications for the Agency would be that farmers markets would need to be inspected to assure compliance with the mandates in this bill. Often, these inspections would have to be performed on weekends and in the evenings, resulting in increased overtime payment to inspection staff and increased mileage and fuel costs for use of state Fleet vehicles. Additionally, if Agency staff are sent to farmers markets to ensure compliance by the raw milk sector, it would be prudent to also inspect other devices and food commodities for compliance (red meat, poultry, scales, etc) while there. Cross training existing staff to perform a broader range of duties or hiring temporary employees to do the same will take time away from other essential duties expected to be performed by the Agency.

### **4. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?**

The Vermont Department of Health (VDOH) might be impacted programmatically and fiscally by this bill if its passage results in an increased incidence of human illness associated with the consumption of raw milk. VDOH responds to reports of food-borne illness with epidemiologic investigation, supported by the Agency of Agriculture. These investigations require additional FTE work hours and sometimes diagnostic testing, which is associated with a cost to taxpayers.

### **5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc)**

If the allowable sale of raw milk is expanded in any manner, the likelihood of foodborne illness incidence in Vermont is increased. A foodborne illness outbreak linked to the consumption of raw milk would likely negatively impact the dairy industry as a whole due to resulting public perception of dairy products. Vermont is enjoying a growing farmstead cheese industry and is continuing to try to support the commercial dairy industry, sectors of our state's agriculture that contribute to our working landscape and account for a significant portion of Vermont's economy. Loss of public confidence in Vermont's dairy industry would cause damage to the Vermont Brand. Many commercial dairy operators and farmstead cheese operators are opposed to the sale of raw milk in Vermont. Additionally, for these same reasons, most insurance companies will not insure raw milk producers, and most companies that will, raise their premiums to cover the increased associated liability.

## **6. Other Stakeholders:**

### **6.1 Who else is likely to support the proposal and why?**

Rural Vermont and individual producers who feel that delivery at farmers markets will increase their revenue support the bill; some farmers market managers may support; some consumers who find it more convenient to pick up product from the farmers market rather than from the farm of production support the bill.

### **6.2 Who else is likely to oppose the proposal and why?**

The Vermont Veterinary Medical Association and individual dairy veterinarians, the Vermont Department of Health, the Vermont Medical Association and many individual physicians, and many

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pediatricians in Vermont oppose S.70 based on an understanding that consumption of raw milk poses an increased health threat for the elderly, children and immune-compromised individuals. Most commercial dairy farmers and co-ops oppose the bill for the answers cited in Q.5. On a national scale, the American Medical Association, the American Academy of Pediatricians, the American Veterinary Medical Association, the American Association of Public Health Veterinarians, the National Mastitis Council, and the National Environmental Health Association recommend against the consumption of raw milk.

**7. Rationale for recommendation:** *Justify recommendation stated above.*

The Vermont Agency of Agriculture shares the concerns of the aforementioned state and national entities about the sale of raw milk direct to consumers in Vermont for all of the reasons mentioned in this document.

However, the Agency's role during this legislative session has been to provide expertise around this issue to the Legislature and to answer their questions when asked. The development of this policy is the responsibility of the Vermont Legislature rather than that of the Agency of Agriculture, Food and Markets.

**8. Specific modifications that would be needed to recommend support of this bill:** *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.*

The Agency of Agriculture remains neutral on this bill but encourages the Governor to take into account the potential amplified public health risks and the potential for damage to the Vermont Brand associated with expanding the delivery of raw milk in VT to customers at farmers markets.

**Secretary/Commissioner has reviewed this document:**     Diane Bothfeld     **Date:** 5/8/14