

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2013

Bill Number: S.70 Draft 1.3 **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: March 16, 2013 **Status of Bill: (check one):**

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

Recommended Position:

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

Analysis of Bill

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

While the bill initially proposed to allow the direct sale of raw milk at farmers markets, draft 1.3 of 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. This draft of S.70 does not allow the spontaneous sale of raw milk to random customers at farmers markets. This draft also proposes a requirement for all raw milk producers to register with the Agency of Agriculture and for the Agency to issue licenses to the Tier 2 producers rather than registration certificates. 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 obtained 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
- E. The producer must deliver a brochure to the customer at the time of pick-up that includes warning information about the potential health risks associated with consuming the product, similar to that which is contained within signage posted at the farm of production.

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

There is a need for the portion of this bill that mandates registration of all raw milk producers with the Agency of Agriculture. Based on inspection data accumulated by the Agency to date, the majority of raw milk producers in Vermont are out of compliance with important customer warning signage and labeling and with animal health requirements intended to help ensure the resulting product is free of *certain* pathogens. Further, the Agency is currently forced to inspect producers in a reactionary manner. The Agency only has awareness of those producers who are making an attempt to be in compliance with certain portions of existing language in Chapter 152 of 6 VSA (such as completing the required TB and brucellosis testing). Those who are not in compliance with these public health-related requirements fall under the Agency's radar and therefore are not

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inspected, continue to remain non-compliant, and pose a greater public health risk through the sale of their product. A registration requirement for all raw milk producers would eliminate this impediment and allow the Agency to do a more appropriate job protecting public health and safety. It is the opinion of the Agency that there is not a need for the other components of S.70.

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

The Agency of Agriculture would be impacted fiscally as a result of the need to develop and implement a licensing program for these producers without the ability to charge the license fee that would cover the administrative and inspection costs associated with the issuance of licenses. The programmatic implications for the Agency would be that farmers markets would need to be inspected periodically to assure compliance with the mandates in this bill. Often, these inspections might have to be performed on weekends and in the evenings, resulting in increased overtime payment to inspection staff and potentially increased mileage and fuel costs for use of state Fleet vehicles.

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, some 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 will support the bill; some farmers market managers will support; some consumers who will find it more convenient to pick up product from the farmers market rather than from the farm of production

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 individual physicians, and pediatricians in Vermont are all likely to 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. Some commercial dairy farmers and co-ops are likely to oppose the bill for the answers cited in Q.5.

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

The Agency of Agriculture has concerns about the sale of raw milk direct to consumers in Vermont for all of the aforementioned reasons. However, the Agency's role during this legislative session has been to provide information around this issue. 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.*

While there are likely no modifications that could be made that would result in the Agency of Agriculture supporting this bill in its entirety, the Agency would support the addition of language that mandates that any producer delivering product at a farmers market must be in compliance with existing requirements in Chapter 152 of 6 VSA. The reason for this is that producers who are delivering at farmers markets have a greater potential to attract a larger customer base as compared to those who do not. If this larger customer base purchases raw milk from a producer who is not maintaining minimum sanitation, animal health and labeling standards, then the resultant risk to public health is amplified. If the delivery of raw milk at farmers markets is ultimately allowed, the language in Section 2778 that defines the characteristics of that delivery comports with the intent of existing Chapter 152 language that helps to ensure that raw milk consumers have adequate information needed to make a decision as to whether they want to consume the product or allow their children to consume the product.

Secretary/Commissioner has reviewed this document: Diane Bothfeld **Date:** 3/17/13