

Amendment No. 358

Senate Amendment to Senate Bill No. 418	(BDR 51-1073)
Proposed by: Senate Committee on Health and Human Services	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will REMOVE the 2/3s majority vote requirement from S.B. 418.

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.



SENATE BILL NO. 418—SENATORS PARKS AND
OHRENSCHALL (BY REQUEST)

MARCH 21, 2019

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the distribution and sale of raw milk.
(BDR 51-1073)FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to dairy products; ~~abolishing the county milk commission of each county in which a county milk commission has been appointed; transferring the powers and duties of each county milk commission to the Director of the State Department of Agriculture;~~ requiring an owner or operator of a food establishment in which certified raw milk and products are sold to ensure proper storage and post certain health warnings; revising requirements for the labeling of and warning regarding certified raw milk; removing certain qualifications required for a person to serve as a member of a county milk commission; requiring ~~the Director~~ each county milk commission to adopt certain regulations governing the production, distribution and sale of certified raw milk; providing that raw milk certified by the ~~Director~~ county milk commission of the county in which it was produced may be sold anywhere in this State; removing certain limitations of the sale or dispensing of raw milk; providing an exemption from certain requirements relating to raw milk for certain owners of dairy cows, sheep or goats; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1.5 of this bill requires each owner or operator of a food establishment in which certified raw milk and products made from it are sold to ensure that: (1) the certified raw milk and products made from it are stored in a separate refrigerator at the food establishment; and (2) certain health warnings concerning the consumption of raw milk are posted in the food establishment. Section 1.5 also sets forth the requirements for the labeling of and warning regarding certified raw milk. Section 3.5 of this bill removes certain limitations on the sale or dispensing of raw milk. Section 3.5 also exempts certain owners of dairy cows, sheep or goats from certain requirements relating to certified raw milk and products made from it. Section 3.5 allows the sale of any raw milk obtained from those animals only if the raw milk is sold directly to a consumer at the premises where the raw milk is produced.

Existing law requires the appointment of a county milk commission in each county in which certified raw milk or certified raw milk products are produced for public consumption and authorizes each county milk commission to regulate the production, distribution and sale of certified raw milk and certified raw milk products in that county. (NRS 584.207, 584.208) ~~[Sections 1-3 of this bill abolish the county milk commission in each county in which a county milk commission has been appointed and transfer the powers and duties of each county milk commission to the Director of the State Department of Agriculture.] Section 2 of this bill [requires, rather than authorizes, the Director to adopt regulations to establish certain fees and charges.] removes certain qualifications that are required for a person to serve as a member of a county milk commission. Section 2 also requires [the Director to conduct certain daily tests, regular inspections and analyses and] a county milk commission to adopt certain regulations. Such regulations must include, without limitation, requirements for the labeling of certified raw milk, procedures for [daily] testing and requirements that an applicant for certification maintain liability insurance in a specified amount to insure against any potential adverse effect on human health that may result from the consumption of raw milk produced by the applicant. Section 3 of this bill provides that certified raw milk and products made from it may be sold anywhere in this State if the milk has been: (1) cooled in a certain manner after being drawn from a cow or goat; and (2) certified by the [Director. Sections 4 and 5 of this bill provide for the orderly transition of the powers and duties of each county milk commission to the Director.] county milk commission.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[NRS 584.205 is hereby amended to read as follows:~~

~~584.205 1. In addition to the initial inspection of new applicants, the Director shall, except as otherwise provided in subsection 2, direct a periodic inspection, not less than annually, of all facilities belonging to permittees to ascertain whether the services, facilities and equipment continue to comply with the regulations referred to in NRS 584.195.~~

~~2. Except as otherwise provided in NRS 584.208 and the regulations adopted pursuant to that section, milk and milk products, including certified raw milk and products made from it, imported from outside the State of Nevada may be sold in this state without inspection by the Director if the requirements of paragraph (a) or (b) are met:~~

~~(a) The milk and milk products have been produced, pasteurized, processed, transported and inspected under statutes or regulations substantially equivalent to the Nevada milk and milk products statutes and regulations.~~

~~(b) The milk and milk products have been awarded an acceptable milk sanitation, compliance and enforcement rating by a state milk sanitation rating officer certified by the United States Public Health Service.~~

~~3. Whenever the Director has reasonable grounds to believe that a seller of milk or milk products, including certified raw milk and products made from it, is violating any of the regulations adopted by the Director [for any county milk commission] relating to the sanitation and grading of milk and milk products, including certified raw milk and products made from it, or that the seller's facilities or products fail to meet the regulations, or that the seller's operation is in any other manner not in the best interests of the people of this state, the Director may conduct a reasonable inspection, and if any violation or other condition inimical to the best interests of the people of this state is found, to take corrective action pursuant to NRS 584.180 to 584.211, inclusive.] (Deleted by amendment.)~~

Sec. 1.5. Chapter 584 of NRS is hereby amended by adding thereto a new section to read as follows:

1 1. Each owner or operator of a food establishment in which certified raw
2 milk and products made from it are sold shall:

3 (a) Ensure that the certified raw milk and products made from it are stored
4 in a commercial grade refrigerator which is separate from any other refrigerator
5 used to store dairy products, food or beverages at the food establishment; and

6 (b) Post at least one sign within 5 feet of the separate refrigerator required
7 pursuant to paragraph (a) and in a location conspicuous to the patrons of the
8 food establishment. Each sign must be not less than 8 1/2 inches by 11 inches in
9 size, must set forth a notice in boldface type that is clearly legible and must be in
10 substantially the following form:

11
12 HEALTH WARNING: There are health risks associated with the
13 consumption of raw milk. According to the Centers for Disease Control
14 and Prevention, the consumption of raw milk is 150 times more likely to
15 cause food-borne illness than pasteurized milk.

16
17 2. The letters in the words "HEALTH WARNING" in each sign posted
18 pursuant to subsection 1 must be written in not less than 40-point type and the
19 letters in all other words in the sign must be written in not less than 30-point type.

20 3. In addition to any requirement for the labeling of certified raw milk
21 adopted pursuant to NRS 584.207, the text used on all labeling must be printed in
22 at least 8-point font and not in italics. Each label must include a notice in
23 substantially the following form:

24
25 WARNING: Certified raw milk and products made from it may
26 contain disease-causing microorganisms. The persons who are at the
27 highest risk of disease from those microorganisms include newborn
28 infants, elderly persons, pregnant women, persons taking corticosteroids,
29 antibiotics or antacids and persons suffering from chronic illnesses or
30 other conditions that weaken the immunity of those persons to diseases.

31
32 4. As used in this section, "food establishment" has the meaning ascribed to
33 it in NRS 446.020.

34 **Sec. 2.** NRS 584.207 is hereby amended to read as follows:

35 584.207 1. Certified raw milk is unpasteurized, marketed milk which
36 conforms to the regulations and standards adopted by the county milk commission
37 [Director] for the production and distribution of certified raw milk and certified raw
38 milk products [i]n the county in which they are produced.

39 2. In each county in which certified raw milk or certified raw milk products
40 are produced for public consumption, there must be a county milk commission to
41 regulate the production and distribution of those products. The board of county
42 commissioners shall appoint to the commission three members for terms of 4 years,
43 all of whom are eligible for reappointment. [The members must all be residents of
44 the county and have the following respective qualifications:

45 —(a) One member must be a physician licensed in this State and a member of the
46 medical society of the state;

47 —(b) One member must be a veterinarian licensed in this State and a member of
48 the county or regional veterinarian association; and

49 —(c) One member must be a representative of the public at large.]

50 3. A county milk commission shall:

51 (a) Elect one of its members as chair and adopt appropriate rules to govern:

52 (1) The time and place of its meetings;

53 (2) Its rules of procedure; and

(3) Its recordkeeping and other internal operations.

~~(b) [The Director shall]~~

~~(a)]~~ Adopt written regulations which must be approved by the Director, governing the production, distribution and sale in the county of certified raw milk and products made from it, to protect the public health and safety and the integrity of the product. The regulations must include, without limitation:

(1) Requirements for the labeling of certified raw milk;

~~(2) Procedures for [the daily]~~ any testing required pursuant to paragraph
~~(d)]~~ (b) of subsection 4; and

(3) Requirements that an applicant for certification maintain liability insurance in a specified amount to insure against any potential adverse effect on human health that may result from the consumption of raw milk produced by the applicant. It and

~~(4) Any fees and charges as are reasonably necessary to defray the costs and expenses incurred by the Director in the performance of his or her duties under this section.]~~

(c) [(b)] Certify raw milk and the products thereof for any applicant producing raw milk within the county, whose product and methods of production, distribution and sale comply with the regulations and standards adopted by the county milk commission.

4. A county milk commission may:

~~(a) Establish and collect such [Director]~~

~~(c) Collect any] fees and [for] charges as appear reasonably necessary to defray the costs and expenses incurred by it in the performance of its duties under this section, [imposed in accordance with the regulations adopted pursuant to paragraph (a)] and expend any money so collected as is necessary for such performance.~~

~~(b) Conduct [the performance of his or her duties under this section.~~

~~(d) Require] such [daily] tests, [regular] inspections and analyses as are necessary to enable it [the Director] to perform its [his or her] duties under this section and employ such personnel and equipment as it [he or she] deems necessary therefor.~~

5. [(3.) Each applicant for certification must, as a condition for entertaining his or her application and as a condition for any certification granted, submit for testing by the county milk commission [Director] such samples as the county milk commission [he or she] requests, and allow inspections by the county milk commission or its agents [him or her] at any reasonable times, of any or all of the facilities, equipment, herds or other property employed in the applicant's dairy operations, including, without limitation, all of the applicant's books and records relating thereto.

Sec. 3. NRS 584.208 is hereby amended to read as follows:

584.208 1. Certified raw milk and products made from it may be sold anywhere in this State if the milk has been:

(a) Cooled to 45 degrees Fahrenheit or less immediately after being drawn from the cow or goat and maintained at or below that temperature until it is delivered to the consumer, at which time it may not contain more than 10 coliform bacteria per milliliter or more than 10,000 bacteria per milliliter; and

(b) Certified by the county milk commission of the county in which it was produced. [Director]

2. No person may come in contact with or be near raw milk before it is sold to the consumer unless the person maintains scrupulous cleanliness and is not afflicted with any communicable disease or in a condition to disseminate any disease which can be transmitted by milk. No person may handle milk to be sold as raw unless the

1 person has a physical examination before any employment requiring the person to
2 do so and every 3 months thereafter while continuing in the employment.

3 3. The Director shall adopt regulations governing:

4 (a) Inspections to determine the health of cows and goats which produce milk
5 for sale as raw milk.

6 (b) Inspections of dairy farms which produce milk for sale as raw milk and
7 establishing minimum standards of cleanliness and sanitation for the farms.

8 (c) Examinations of all persons who come in contact with raw milk before it is
9 sold to a consumer.

10 (d) Other matters connected with the production and sale of raw milk which
11 the Director deems necessary to protect the public health.

12 **Sec. 3.5. NRS 584.209 is hereby amended to read as follows:**

13 584.209. ~~[1. In addition to the]~~ The provisions of NRS ~~584.205, 584.207,~~
14 ~~584.208, [1] and section 1.5 of this act, and any regulations or standards adopted~~
15 ~~pursuant thereto, do not apply to a person owning not more than a monthly~~
16 ~~average of five lactating dairy cows that have calved at least once, ten sheep that~~
17 ~~have lactated at least once or ten goats that have lactated at least once, and any~~
18 ~~raw milk obtained from those animals may be sold for dispensed;~~

19 ~~— (a) Solely to a hauler of milk or to a processing facility which is permitted or~~
20 ~~regulated by a state or federal agency; or~~

21 ~~— (b) Only if the raw milk is labeled "FOR ANIMAL FOOD - NOT FOR~~
22 ~~HUMAN CONSUMPTION" in letters at least 3 inches high on each container of~~
23 ~~the raw milk and only if the raw milk is altered with an approved donaturant~~
24 ~~consisting of:~~

25 ~~— (1) Finely powdered charcoal;~~

26 ~~— (2) FD&C Blue No. 1, FD&C Blue No. 2 or Ultramarine Blue; or~~

27 ~~— (3) FD&C Green No. 3, FD&C Red No. 3 or FD&C Red No. 40.~~

28 ~~2. The Director may impound and dispose of any adulterated milk or milk~~
29 ~~product or misbranded milk or milk product in any manner prescribed by the~~
30 ~~Director.~~

31 ~~3. As used in this section:~~

32 ~~— (a) "Adulterated milk or milk product" means any milk or milk product for~~
33 ~~which one or more of the conditions prescribed in 21 U.S.C. § 342 exist.~~

34 ~~— (b) "Misbranded milk or milk product" means any milk or milk product:~~

35 ~~— (1) That is packaged in a container which displays or is accompanied by~~
36 ~~any false or misleading written, printed or graphic matter; or~~

37 ~~— (2) For which one or more of the conditions prescribed in 21 U.S.C. § 343~~
38 ~~exist.~~

39 ~~— (c) "Sold or dispensed" means any transaction involving the transfer or~~
40 ~~dispensing of raw milk by barter or contractual agreement or in exchange for any~~
41 ~~form of compensation, including, but not limited to, the sale of shares or interests in~~
42 ~~a cow, goat or other lactating mammal or herd.] sold directly to a consumer at the~~
43 ~~premises where the raw milk is produced.~~

44 **Sec. 4. ~~[1. Any regulation or standard adopted by a county milk~~**
45 **~~commission pursuant to NRS 584.207 remains in force until amended or repealed~~**
46 **~~by the Director of the State Department of Agriculture.~~**

47 ~~— 2. Any contract or other agreement entered into by a county milk commission~~
48 ~~is binding upon the Director of the State Department of Agriculture and may be~~
49 ~~enforced by him or her.~~

50 ~~— 3. Any action taken by a county milk commission remains in effect as if taken~~
51 ~~by the Director of the State Department of Agriculture.] (Deleted by amendment.)~~

1 **Sec. 5.** ~~{1. Notwithstanding any other provision of law to the contrary, the~~
2 ~~Director of the State Department of Agriculture shall be deemed to be the successor~~
3 ~~of each county milk commission appointed pursuant to NRS 584.207.~~

4 ~~2. The current term of membership of any person who, on June 30, 2019, is a~~
5 ~~member or chair of a county milk commission appointed pursuant to NRS 584.207~~
6 ~~expires on July 1, 2019.~~

7 ~~3. Any certificate or permit issued by a county milk commission remains~~
8 ~~valid for the period for which the certificate or permit was issued, if the holder of~~
9 ~~the certificate or permit otherwise remains qualified to hold the certificate or permit~~
10 ~~during that period.~~

11 ~~4. Any certified raw milk or product made from it which is certified by the~~
12 ~~county milk commission of the county in which it was produced before July 1,~~
13 ~~2019, shall be deemed to be certified by the Director of the State Department of~~
14 ~~Agriculture on or after that date, unless otherwise provided by the Director.]~~

15 **(Deleted by amendment.)**

16 **Sec. 6.** This act becomes effective ~~1.~~

17 ~~1. Upon~~ **upon** passage and approval ~~.~~ **.** ~~For purposes of adopting regulations~~
18 ~~and any other preparatory administrative tasks that are necessary to carry out the~~
19 ~~provisions of this act; and~~

20 ~~2. On July 1, 2019, for all other purposes.]~~