

**Senate Bill No. 201**

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Passed the Senate August 30, 2008

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*Secretary of the Senate*

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Passed the Assembly August 22, 2008

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to add Article 1.5 (commencing with Section 33461) to Chapter 5 of Part 1 of Division 15 of the Food and Agricultural Code, relating to milk, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 201, Florez. Dairy farms: raw milk: testing: standards.

Existing law requires dairy farms to comply with various sanitation and cleanliness requirements and provides various safety and cleanliness standards for milk. Specifically, existing law prohibits market milk from containing, among other things, more than 10 coliform bacteria per milliliter if it is to be sold as raw milk to the consumer. Existing law also provides that guaranteed raw milk is market milk that conforms to certain specified minimum requirements, including, among others, that it be cooled, as specified, and so maintained until it is delivered to the consumer, at which time it is to contain no more than a certain amount of bacteria per milliliter or no more than 10 coliform bacteria per milliliter.

This bill would provide alternative requirements for dairy farms that produce and process guaranteed raw milk, or Grade A raw milk, to be sold to the consumer and would state that dairy farms choosing to comply with the alternative requirements do not have to comply with those existing requirements. Specifically, under the alternative requirements, this bill would require a dairy farm that produces and processes raw milk, as defined, to develop and maintain an individualized Hazard Analysis Critical Control Point plan for each critical process in the production of raw milk on the dairy farm, and would require the plan to be approved by the Department of Food and Agriculture and the State Department of Public Health, as specified. This bill would require training for certain dairy farm employees on the Hazard Analysis Critical Control Point plan, as specified. This bill would authorize the department to suspend or revoke its approval of a dairy farm's plan under certain specified circumstances and would provide the procedure for that suspension and revocation.

This bill would prohibit a dairy farm that produces and processes raw milk pursuant to the alternative requirements from receiving any raw milk from any other source for purposes of processing that raw milk, except as specified.

This bill would require a dairy farm that produces and processes raw milk pursuant to the alternative requirements to have its raw milk tested twice per week by a state accredited laboratory for certain bacteria and would require the test results to be transmitted electronically to the dairy farm, the Department of Food and Agriculture, and, upon request, the State Department of Public Health. The bill would provide that, except for the test results of a certain bacteria, the data and results from the tests shall be used for informational purposes only and shall not be used for enforcement purposes. This bill would also require the dairy farms' raw milk to be tested once a month for certain pathogens that cause illness in humans, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known, and may be cited, as the Fresh Raw Milk Act of 2008.

SEC. 2. Article 1.5 (commencing with Section 33461) is added to Chapter 5 of Part 1 of Division 15 of the Food and Agricultural Code, to read:

Article 1.5. Fresh Raw Milk Program

33461. For the purpose of this article, the following definitions shall apply:

(a) "Dairy farm that produces and processes raw milk" means a vertically integrated operation that includes a dairy farm and processing plant owned and operated by the same entity that produces guaranteed raw milk, or Grade A raw milk, to be sold to the consumer.

(b) "Hazard Analysis Critical Control Point plan" has the same meaning as in Section 113801 of the Health and Safety Code.

33462. A dairy farm that produces and processes raw milk shall provide the secretary with written notification of its intent to

comply with this article at least 30 days before submitting any information required by this article.

33463. (a) A dairy farm that produces and processes raw milk shall develop and maintain an individualized Hazard Analysis Critical Control Point plan for each critical process in the production and processing of raw milk on the dairy farm.

(b) The plan shall be approved or rejected by the department and the State Department of Public Health within 60 days of receipt.

(c) If the plan is not accepted, the department, in consultation with the State Department of Public Health, shall provide a written statement detailing the reasons for not approving the plan.

(d) A dairy farm that produces and processes raw milk in compliance with this article shall comply with the plan as approved by the department and the State Department of Public Health.

(e) Prior to implementation, any material change to an approved plan shall be approved by the department and the State Department of Public Health pursuant to subdivisions (b) and (c).

(f) A third party specializing in the auditing of Hazard Analysis Critical Control Point plans who has been approved by the department may conduct audits of a dairy farm that produces and processes raw milk pursuant to this article to ensure compliance with the plan. Those audits shall be conducted at a frequency determined by the secretary.

(g) The results of the audits pursuant to subdivision (f) shall be transmitted electronically, upon completion, by the auditor to the dairy farm that is the subject of the audit, the department, and, upon request, the State Department of Public Health.

33464. (a) A dairy farm that produces and processes raw milk pursuant to a Hazard Analysis Critical Control Point plan shall provide Hazard Analysis Critical Control Point plan training for employees who work in the production and processing of raw milk. Training given to employees shall be documented as to date, trainer, and subject.

(b) Verification of critical limits specified in a Hazard Analysis Critical Control Point plan shall be conducted by a laboratory approved by the department prior to implementation of the Hazard Analysis Critical Control Point plan. Documentation of laboratory verification shall be maintained with the Hazard Analysis Critical Control Point plan for the duration of its implementation.

(c) The entity operating a dairy farm that produces and processes raw milk pursuant to a Hazard Analysis Critical Control Point plan shall designate at least one person to be responsible for verification of the Hazard Analysis Critical Control Point plan. Training for the designated person shall include the seven principles of Hazard Analysis Critical Control Point planning and the contents of the Hazard Analysis Critical Control Point plan, as described in Section 114419.1 of the Health and Safety Code. Hazard Analysis Critical Control Point plan training records of the designated person shall be retained for the duration of employment, or a period of not less than two years, whichever is greater.

(d) Any critical limit monitoring equipment shall be suitable for its intended purpose and shall be calibrated as specified by its manufacturer. The dairy farm that produces and processes raw milk shall maintain all calibration records for a period of not less than two years.

33465. (a) The department, in consultation with the State Department of Public Health, may suspend or revoke its approval of a Hazard Analysis Critical Control Point plan without prior notice if the department finds any of the following:

(1) The plan poses a public health risk due to changes in scientific knowledge or the hazards present.

(2) The dairy farm that produces and processes raw milk does not have the ability to follow its Hazard Analysis Critical Control Point plan.

(3) The dairy farm that produces and processes raw milk does not consistently follow its Hazard Analysis Critical Control Point plan.

(b) The department shall provide written notice of the suspension or revocation of approval to the dairy farm that produces and processes raw milk within 10 days of its action.

(c) Within 30 days of written notice of suspension or revocation of approval, the dairy farm that produces and processes raw milk may request a hearing to present information as to why the Hazard Analysis Critical Control Point plan suspension or revocation should not have taken place or to submit Hazard Analysis Critical Control Point plan changes.

(d) The hearing shall be held within 15 working days of the receipt of a request for a hearing. Upon written request of the dairy farm that produces and processes raw milk, the hearing officer

may postpone any hearing date, if circumstances warrant that action.

(e) The hearing officer shall issue a written notice of decision within five working days following the hearing. If the decision is to suspend or revoke approval, the reason for suspension or revocation shall be included in the written decision.

33466. A dairy farm that produces and processes raw milk is prohibited from receiving any raw milk from any other source for purposes of processing that raw milk, unless that source is a California dairy farm that produces and processes raw milk in accordance with the standards for raw milk as set forth in this article.

33467. (a) A dairy farm that produces and processes raw milk shall have its raw milk tested twice per week by a state accredited laboratory for coliform, E. Coli 0157:H7, and standard plate count. The raw milk shall be tested from a location determined as most appropriate to enhance public health and safety by the secretary, in consultation with the State Department of Public Health.

(b) The results of the tests conducted pursuant to subdivision (a) shall be transmitted electronically, upon completion, by the laboratory to the dairy farm that is the subject of the tests, the department, and, upon request, the State Department of Public Health.

(c) Except for the test results for E. Coli 0157:H7, data and results from the tests conducted pursuant to this section shall be used for informational purposes only and shall not be used for enforcement purposes.

33468. A dairy farm that produces and processes raw milk shall have its raw milk sampled and tested at least once per month by the department for pathogens that cause illness in humans, including, but not limited to, *Campylobacter jejuni*, E. Coli 0157:H7, *Listeria monocytogenes*, and salmonella. The department shall deem raw milk containing an amount of any such pathogen sufficient to cause illness in humans as nonconforming. The raw milk samples may be taken from a location determined as most appropriate to enhance public health and safety by the secretary, in consultation with the State Department of Public Health.

33469. (a) A dairy farm that produces and processes raw milk in compliance with this article shall not be required to comply with the coliform requirements of Sections 35781, 35861, and 35891.

(b) A dairy farm that produces and processes raw milk that does not choose to opt in to this article shall comply with the coliform requirements of Sections 35781, 35861, and 35891.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent California’s raw milk dairies from being closed because of their inability to consistently achieve the 10 coliform bacteria limit for raw milk required under existing law, it is necessary that this act take effect immediately.

Approved \_\_\_\_\_, 2008

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*Governor*