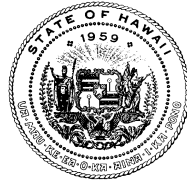


SB 451



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony in OPPOSITION to SB 451
RELATING TO DAIRY PRODUCERS

SENATOR MIKE GABBARD, CHAIR
SENATE COMMITTEE ON AGRICULTURE AND ENVIRONMENT
Hearing Date: January 30, 2019 Room Number: 224

1 **Fiscal Implications:** None

2 **Department Testimony:** The department opposes this bill.

3 The department opposes this bill, as does the United States Food and Administration's (FDA),
4 and the Centers for Disease Control and Prevention (CDC) due to the public health concerns
5 surrounding the sale/consumption of raw milk. According to the CDC, between 1993 and 2006
6 more than 1500 people have gotten ill from consuming raw milk, or raw milk cheese and other
7 products containing raw milk. In addition, the CDC reported that consuming unpasteurized milk
8 is 150 times more likely to cause foodborne illness and 13 times more hospitalizations than
9 drinking pasteurized milk products.

10 The State of Hawaii currently prohibits the sale of raw milk in any form. Hawaii Administrative
11 Rules, Title 11, Chapter 15, "Milk", Section 11-15-45, Milk and Milk Products which may be
12 sold. , states in part that "Only Grade "A" pasteurized milk and milk products shall be sold to the
13 final consumer"...

14 Please be advised that FDA and other federal and state health agencies have documented a long
15 history of the risks to human health associated with the consumption of raw milk. Clinical and
16 epidemiological studies from FDA, state health agencies, and others have established a direct
17 causal link between gastrointestinal disease and the consumption of raw milk. The microbial
18 flora of raw milk may include human pathogens present on the cow's udder and teats. Further,
19 the intrinsic properties of milk, including its pH and nutrient content, make it an excellent media
20 for the survival and growth of bacteria.

21 On August 10, 1987, FDA published in 21 CFR Part 1240.61, a final regulation mandating the
22 pasteurization of all milk and milk products in final package form for direct human consumption.
23 This regulation addresses milk shipped in interstate commerce and became effective September
24 9, 1987.

1 In this Federal Register notification for the final rule to 21 CFR Part 1240.61, FDA made a
2 number of findings including the following:

3 "Raw milk, no matter how carefully produced, may be unsafe."

4 "It has not been shown to be feasible to perform routine bacteriological tests on the raw
5 milk itself to determine the presence or absence of all pathogens and thereby ensure that
6 it is free of infectious organisms."

7 "Opportunities for the introduction and persistence of *Salmonella* on dairy premises are
8 numerous and varied, and technology does not exist to eliminate *Salmonella* infection
9 from dairy herds or to preclude re-introduction of *Salmonella* organisms. Moreover
10 recent studies show that cattle can carry and shed *S. dublin* organisms for many years and
11 demonstrated that *S. dublin* cannot be routinely detected in cows that are mammary gland
12 shedders."

13 During this rulemaking process, the American Academy of Pediatrics and numerous others
14 submitted comments in support of the proposed regulation.

15 In deciding upon mandatory pasteurization, FDA determined that pasteurization was the only
16 means to assure the destruction of pathogenic microorganisms that might be present. This
17 decision was science-based involving epidemiological evidence. FDA and the CDC have
18 documented illnesses associated with the consumption of raw milk, including "certified raw
19 milk" and have stated that the risks of consuming raw milk far outweigh any benefits.

20 In light of research showing no meaningful difference in the nutritional value of pasteurized and
21 unpasteurized milk, FDA and CDC have also concluded that the health risks associated with the
22 consumption of raw milk far outweigh any benefits derived from its consumption.

23 There are numerous documented outbreaks of milkborne disease involving *Salmonella* and
24 *Campylobacter* infections directly linked to the consumption of unpasteurized milk in the past 20
25 years. Since the early 1980's, cases of raw milk-associated campylobacteriosis have been
26 reported in the states of Arizona, California, Colorado, Georgia, Kansas, Maine, Montana, New
27 Mexico, Oregon, and Pennsylvania. An outbreak of Salmonellosis, involving 50 cases was
28 confirmed in Ohio in 2002. Recent cases of *E. coli* O157:H7, *Listeria monocytogenes* and
29 *Yersinia enterocolitica* infections have also been attributed to raw milk consumption.

30 In the court case *Public Citizen v. Heckler*, 653f. Supp. 1229 (D.D.C. 1986), the federal district
31 court concluded that the record presents "overwhelming evidence of the risks associated with the
32 consumption of raw milk, both certified and otherwise". The court stated that the evidence FDA
33 has accumulated concerning raw milk "Conclusively shows that raw and certified raw milk are
34 unsafe" and "There is no longer any question of fact as to whether raw milk is unsafe".

1 State health and agricultural agencies routinely use the U.S. Public Health Service/FDA
2 Pasteurized Milk Ordinance (PMO) as the basis for the regulation of Grade "A" milk production
3 and processing. The PMO has been sanctioned by the National Conference on Interstate Milk
4 Shipments (NCIMS) and provides a national standard of uniform measures that is applied to
5 Grade "A" dairy farms and milk processing facilities to assure safe milk and milk products.
6 Section 9 of the PMO specifies that only Grade "A" pasteurized milk be sold to the consumer.

7 In summary, since raw milk may contain human pathogens, the consumption of raw milk
8 products increases the risk of gastrointestinal illness due to the likelihood that it may contain
9 infective doses of human pathogens. Other pathogens known to be transmitted by raw milk
10 consumption could lead to serious illness, or even death, in the segment of our population that is
11 the most vulnerable. This includes children and infants, our elderly, and any person who is
12 immunocompromised due to illness or treatment of illnesses. The only method proven to be
13 reliable in reducing the level of human pathogens in milk and milk products is by those milk
14 products being produced and processed under sanitary conditions and subsequently being
15 properly pasteurized. The U.S. Food and Drug Administration; therefore, strongly advises
16 against the consumption of raw milk.

17 References related to this subject may be found in the following documents:

- 18 • *American Journal of Public Health*, -- November 21, 1997
- 19 • *Journal of the American Medical Association* -- October 1984, May 1999, March 3, 1989
- 20 • *Journal of Public Health Policy, Inc.* -- September 1981
- 21 • *Morbidity and Mortality Weekly* -- June 28, 2002
- 22 • *Journal of Food Protection* -- Volume 61, Number 10, 1998
- 23 • *United States Department of Agriculture (USDA)* -- Fact Sheet -- July 1995

24
25 Proposals to allow for both cow sharing and raw milk for animal/pet consumption are being
26 proposed to "back-door" existing regulations and the intent is to divert consumption to humans.

27
28 Thank you for the opportunity to testify on this measure.

DAVID Y. IGE
Governor

JOSH GREEN
Lt. Governor



DENISE ALBANO
Chairperson, Board of Agriculture

PHYLLIS SHIMABUKURO-GEISER
Deputy to the Chairperson

State of Hawaii
DEPARTMENT OF AGRICULTURE
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**TESTIMONY OF DENISE ALBANO
CHAIRPERSON, BOARD OF AGRICULTURE**

BEFORE THE SENATE COMMITTEE ON AGRICULTURE & ENVIRONMENT

**JANUARY 30, 2019
1:15 P.M.
CONFERENCE ROOM 224**

**SENATE BILL NO. 451
RELATING TO DAIRY PRODUCERS**

Chairperson Gabbard and Members of the Committee:

Thank you for this opportunity to provide testimony on Senate Bill 451, which proposes the sale of unpasteurized milk and the establishment of cow share programs. The Department has the following concerns with this measure and defers to the Department of Health regarding public health.

Despite advances in animal health, milking hygiene, and processing technology, milk born disease outbreaks continue to occur. Since milk is derived from animals, it carries an inherent risk of being contaminated with pathogens from its source (cows, goats, sheep, and the farm environment). A key factor in the prevention of milk borne disease is the avoidance of raw milk consumption. The consumption of raw milk and raw milk products is a public health and milk safety issue.

As such, the Department of Agriculture questions the appropriateness of placing this measure in Chapter 157, HRS, which pertains to milk control. The intent of Chapter 157 is to maintain stability and fairness within the state's dairy industry and marketplace. Stability and fairness within the industry is maintained by laws and administrative rules which include, but not limited to the establishment of milk sheds,



determination and adjustment of total and individual milk quotas, establishment of minimum price paid to milk producers by the processor, ensuring that proper payments are made to producers by the processor, collection of license fees based on the value of milk produced by dairies, and determination of the distribution, use, and packaging of milk intended for human consumption within milk sheds. The proposed measure does not relate to any parameters of milk control. The Department of Agriculture does not regulate raw milk. The Hawaii Department of Agriculture respectfully defers this bill to the Hawaii Department of Health.

Thank you for the opportunity to testify on this measure.

SB-451

Submitted on: 1/29/2019 6:36:05 AM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
David Penn	Testifying for South Mountain Ranch	Comments	No

Comments:

Good afternoon, mahalo for hearing SB451, Relating to Dairy Producers.

We are one of a growing number of small farms pursuing the husbandry of domestic dairy water buffalo as a local, sustainable source of highly nutritious food for our island society. We support the intent of this bill to facilitate the State's ability to meet a growing demand for locally-produced unpasteurized dairy products.

We propose the following amendments (numbered 1-5 below) that we believe would clarify and simplify State regulation of milk that comes from dairy animals other than the cow.

1. Subtitle this bill as Dairy Producers Enhancement Act, to be codified as a new chapter in Hawai'i Revised Statutes Title 11, Agriculture and Animals. Chapter 158 seems like an appropriate codification, as it would follow Chapter 157, Milk Control Act. We believe that squeezing the provisions of SB451 into Chapter 157 is less than ideal, given that the definition of "milk" in the Milk Control Act is limited to milk from the cow, only, and that the overall purpose and application of Chapter 157 seems aimed, primarily, at regulating the economy of milk from the cow, only. Also, we encourage the Legislature to incorporate appropriate amendments that are based on more robust and detailed legislation (enacted and proposed) from other jurisdictions, domestic and foreign, and from NGOs that focus on related issues.

2. Reorganize the contents of the proposed statute to include a stand-alone definition section in which "domestic dairy animal" specifically includes, at least, domestic cow, goat, horse, sheep, and water buffalo; "milk" encompasses the lacteal secretions of a domestic dairy animal; and the definitions of "milk products" and its various types follow accordingly.

3. Move the word "shall" from the end of section (b) to the beginning of each following subsection labelled (b)(1) to (b)(4).

4. Move section (c) into a new section (b)(5) to read "shall not sell or resell unpasteurized milk or unpasteurized milk products obtained through a herdshare agreement."

5. Rewrite section (d) to read:

(d) A producer of unpasteurized milk shall not: (1) publish a statement that implies approval or endorsement by the department of health; and (2) transport, ship, mail, or otherwise provide for the delivery of unpasteurized milk from one island to another, within the State, under a herdshare agreement.

Thank you for considering this testimony on SB45, Relating to Dairy Producers.

SB-451

Submitted on: 1/30/2019 8:02:52 AM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
michelle rose	Testifying for cloudwater farm LLC	Support	No

Comments:

Aloha Honorable Representatives and Senate,

Our farm Fully supports the SB451 measure set forth to hear today.

Many potential customers would buy our RAW goats milk if it were legal to sell. The market price is \$ 30.00 per gallon.

Please make this nutrient rich food available to our community.

Our farm strongly supports the bill drafted by DON Heacock regarding Water Buffalo farming.

In at least 20 states, the selling of RAW milk is legal and safe.

Mahalo,

Michelle Rose

Cloudwater Farm LLC

Donald E. Heacock
Kaua'i Organic AgroecoSystems (KOA)
PO Box 1323
Lihu'e, Kaua'i, HI 96766
koadonheacock@yahoo.com
Cell: 808-645-0532

30 January 2019

To: Representative Nakashima
Fm: Don Heacock, Owner/Operator of KOA
cc. Representatives Tokioka and Morikawa

Subject: Strong support for HB 536 "Relating to Dairy Producers"

Dear Representative Nakashima and Committee members,

I strongly support HB 536, conditional upon adoption of recommended amendments listed below, because it will allow consumers access to safe and nutritious unpasteurized (raw) milk and their products by legalizing the sale of raw milk and their products and enhancing food security in Hawaii.

Unpasteurized, nutritious and healthful "real milk" contains beneficial digestive enzymes, beneficial probiotics, is high in vitamins C, B12, B6 and D. Pasteurization denatures these enzymes, destroys the vitamins, promotes the growth of pathogens, and is associated with human allergies, tooth decay, colic in infants, growth problems in children, osteoporosis, arthritis, heart disease and cancer.

Scientific, peer-reviewed, studies show that children fed raw milk have more resistance to tuberculosis than children fed pasteurized milk (Lancet, p 1142, 5/8/37; that raw milk is very effective in preventing scurvy and protecting against flu, diphtheria and pneumonia (Am. J. Dis. Child., Nov.2017); that raw milk prevents tooth decay, even in children who eat large amounts of sugar (Lancet, p 1142, 5/8/37); that raw milk is better than pasteurized milk in promoting growth and calcium absorption (Ohio Agric. Exper. Station Bull. 518, p 8, 1/33; that a substance present in raw cream (but absent in pasteurized cream) prevents joint stiffness and the pain of arthritis (Ann. Rev. Biochemistry, 18: 435, 1944); and that children who drink raw milk have fewer allergenic skin problems and far less asthma than do children who drink pasteurized milk (Lancet 2001, p 358; 1933, p. 1129).

Whitehead and Lake (2018) show that since 2005 there has been a 74% decline in unpasteurized (raw) milk associated illnesses in the USA, while at the same time there has been a 357% increase in raw milk producers and a significant increase in legal raw milk sales nationwide. Much of this advancement in food safety is believed to be a result of the work of the Raw Milk Institute's (RMI's) Dairy Farmer Training Program, and their associated development of "Common Standards" (Attached

below) that raw milk producers need to follow to assure the sanitation procedures necessary to produce safe raw milk .

Finally, I recommend the following amendments to HB 536:

1. Because HRS Title 11, Agriculture and Animals, Chapter 157, the Milk Control Act focuses only on regulating milk from cows, it may be better to establish a new Chapter 158, entitled “Raw Dairy Producers Enhancement Act” This new chapter 158 would include the sale of raw milk/products from domestic cows, goats, sheep and water buffalo.

2. On p.2, line 11-13, delete the phrase “two cows per farm” and amend to read: provided that the farm and its facilities from which raw milk or raw milk products originates has adopted and implemented the dairy farmer training program and the “Common Standards” developed by the Raw Milk Institute (rawmilkinstitute.org) which assure the safety and quality of raw milk; therefore please include language into HB 536 that includes incorporation of these “Common Standards” (Attached below) as an amendment and include the “Raw Milk Producers Training Program”, which was developed by the Raw Milk Institute (rawmilkinstitute.com) in California.

3. P. 3, line 4, (3), “Regulate sharing of cows...what does this mean? How will it prevent spread of cattle diseases? May want to delete this line, see reasons on page 4 and 5 of “Common Standards” attached below.

4. P. 3, line 16, amend to read: ...otherwise treated with heat not over 105 degrees F. Since it is necessary to produce “mozzarella di bufala”, the original mozzarella made from raw milk from water buffalo, by warming it to 105 degrees F.

5. P. 3, line 17, add Ghee (clarified butter) to list of “Raw milk products”.

Mahalo for giving me this opportunity to comment on this important subject. Please pass HB536 with these recommended amendments.

Aloha no e malama pono,

Don Heacock, KOA Owner/Manager

Attached: “Common Standards” for safe and healthy raw milk



Common Standards

Mission

“The mission of the Raw Milk Institute is to improve human health and the immune system by training and mentoring farmers; educating consumers; establishing national raw milk guidelines; outreach to farmers, consumers, regulators, universities, the media, and other groups; listing producers, and supporting research.”

There are three fundamental components to the Raw Milk Institute farmer mentoring program:

- **Common Standards** that all *Listed* farmers follow (
- **Risk Analysis and Management Program (RAMP)**, food safety program specific and appropriate to farm (size (
- **Training and Education** (

The following Common Standards are guidelines used by dairy farmers in the production of raw milk. All farmers *Listed* with Raw Milk Institute make every effort to achieve these Common Standards with transparency and integrity.

Common Standards for *Listed* Raw Milk farmers:

1. Have a Risk Analysis and Management Plan (RAMP) for raw milk production
2. Raw Milk shall not contain zoonotic pathogens including: *Salmonella spp.*, *E. coli* O157:H7, *Campylobacter spp.*, and *Listeria monocytogenes*.
 - a. Testing and testing frequency will depend on each farmers individual RAMP
3. Test for coliform bacteria*

- a. Testing frequency will depend on each farmers individual RAMP
 - b. Target: a rolling three- month average of less than 10 coliforms per ml raw milk.
4. Test for Standard Plate Count (SPC)
- a. Testing frequency will depend on each farmers individual RAMP
 - b. Target: a rolling three-month average of less than 5,000 per ml raw milk.
5. Sell raw milk for direct human consumption only from their own farm
- a. Commingling of raw milk from other dairies is not permitted.
6. Provide documentation and assurance that herds are tuberculosis (TB) free and tested one time per year OR meet local TB requirements.
7. Provide documentation or assurance that herds are brucellosis free.

RAMP Food Safety Plan (Risk Analysis and Management Program)

* Bactoscan or other equivalent testing methods are also approved

All *Listed* farmers have a basic food safety plan- a **RAMP**- that assists them in the achievement of the Raw Milk Institute’s Common Standards. With technical assistance provided by RAWMI, each *Listed* farmer develops their own specific RAMP with size appropriate frequency of monitoring, sampling and testing. This comprehensive plan identifies potential risks that are present at the farm. Management practices are set up to reduce, manage, or mitigate those potential risks.

**Individual RAMPs include:
for the following risks:**

1. Animal introduction onto farm (transportation and trade risks) a. New animal risk introduction and risk mitigation
 - i. Health screening animals for potential bacterial hazards
 - ii. Segregating animals introduced into the herd
2. Milk handling and management
 - a. Training of milking team and milking protocols
 - b. Protection and security of raw milk after milking is complete.
 - c. Cleaning protocols and documentation
3. Environmental sources
 - a. Water sources
 - b. Water administration systems
 - c. Manure management
 - d. Bedding management
 - e. Wild animals/rodents
 - f. Land and soil issues
 - g. Weather
4. Feed sources
 - a. Purchased feed
 - b. Silage

- c. Water feeder management
- 5. Human factors
 - a. Health of milking team
 - b. Risk introduction by people
- 6. Nutritional factors
 - a. Nutritional management of the cow
 - b. Nutritional plan for reduction of pathogen development or shedding in manure.

Procedures, protocols, documentation

- 7. Testing procedures for indicator bacteria including: *Coliforms* and *SPC*
- 8. Testing procedures (if utilized in specific RAMP) for potential zoonotic bacteria including *Salmonella*, *Listeria*, *Campylobacter* and *E. coli O157:H7*.
- 9. Checklists that document annual, monthly, weekly and daily management practices.
- 10. Protocols for action steps in the event of substandard results.

Additional RAWMI Training:

- 1. Farm bio-security – how to protect your herd
- 2. Know your enemy- basic microbiology, bacteria, the good and the bad
- 3. Preventive herd health medicine
- 4. Consumer education and outreach

5. Media management and communication skills

6. Recall and critical incident management.

* Bactoscan or other equivalent testing methods are also approved

SB-451

Submitted on: 1/25/2019 4:17:10 PM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

SB-451

Submitted on: 1/28/2019 11:41:37 AM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Hattie Gerrish	Individual	Support	No

Comments:

Aloha Senators,

I am in support of this bill and urge the committee to pass without amendments. The majority of states allow some form of raw milk sales, and I think it is high time that Hawai`i allow it too. I believe that herd share agreements is one of the best avenues to legalization because it encourages willing consumers and producers to come together in a relationship that ensures transparency and accountability. I am glad that this bill includes dairy goats and sheep, as they provide milk with unique health benefits and special qualities prized for cheese making.

I have been caring for cows and milking by hand my entire life, and I enjoy raw milk, butter, yogurt, and cheese, but many people who enjoy raw dairy are not able to access it legally. I know that small farms like mine, where I can be personally responsible for every step of milk production, can ensure a high quality of product impossible for large operations.

I am a young farmer on the Hamakua Coast of Hawai`i Island, and it is my wish to remain here and make a living from feeding my community using sustainable farming practices. I look forward to the day when my family, and other "micro dairies" are able to supply delicious, locally produced, milk and milk products to consumers, who like me, prefer milk un pasteurized for health reasons or taste preferences. I am aware, from conversations with community members, that there is considerable demand for raw milk. This bill will stimulate small scale local dairy production, avoiding the drawbacks of large scale, conventional dairy production. My family has been milking and hand crafting cheese for four generations, three of them in Hawai`i. It is my wish that the legislature grant me and other small farmers the ability to provide raw dairy legally to people who prefer it, and I am grateful for your consideration of this bill.

SB-451

Submitted on: 1/28/2019 8:31:55 PM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
James Long	Individual	Support	No

Comments:

SB-451

Submitted on: 1/29/2019 3:01:00 AM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Randy Gonce	Individual	Support	No

Comments:

SB-451

Submitted on: 1/29/2019 12:53:57 PM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Faith Chase	Individual	Support	No

Comments:

Aloha Decision Making Committees:

I was raised on a ranch and milked our Jersey cow every day. I listened to my mother persists the benefits of raw milk during my youth to her employer who was a family medical doctor. She had the support of our rural community and successfully traded with other ranchers, farmers and gardeners with great satisfaction and with never experineing any health detriments. As I become a parent I realized the importance of her persitstence for a pure food source.

Mst importantly, I understand that public testimony will soon beginby the direction of the Department of Agrculture to adopt the re-entry of water buffalo and I believe it most importnat to add an amendment to include water buffalo milk.

Thank you for making these considerations, Faith Chase

SB-451

Submitted on: 1/29/2019 4:31:09 PM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
petra zoeller	Individual	Support	No

Comments:

SB-451

Submitted on: 1/29/2019 5:10:32 PM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Brittany Anderson	Individual	Support	No

Comments:

The opportunity for rural communities to supply their neighbors with raw milk and raw milk products is a valuable income generator for many women farmers across the state. Raw milk, when handled and stored properly, is as safe as pasteurized milk. I fully support this bill and I hope you will too.

SB-451

Submitted on: 1/30/2019 1:00:20 PM

Testimony for AEN on 1/30/2019 1:15:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jean Brokish	Individual	Support	No

Comments: