



Farm-to-Consumer Legal Defense Fund®

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Via email to Judy Marks, KS Senate Ag Committee
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January 19, 2022

Before the Kansas House Agriculture Committee:
Written Testimony of the Farm-to-Consumer Legal Defense Fund
Opponent of Kansas SB 346 as currently drafted.

Introduction

The Farm-to-Consumer Legal Defense Fund (FTCLDF) represents independent farmers and consumers in Kansas and elsewhere to support the viability of small farms, including raw milk producers in Kansas. FTCLDF files this written testimony on behalf of the organization and its members. The FTCLDF opposes SB 346 as currently drafted.

Kansas SB 346 was introduced sometime on Friday, 14, 2022, the Friday before a Holiday weekend. Today, January 18, 2022, the Senate Ag Committee has already set the matter for hearing on Thursday, January 20, 2022, at 8:30 am. Accordingly, as an initial matter, FTCLDF objects to the rushed introduction and hearing scheduled in this manner. Such short notice creates an obstacle for interested parties to attend the hearing and present testimony.

FTCLDF's Opposition to SB 346

SB 346 is a new and unnecessary expansion on the regulation of raw milk in Kansas. Previously, the Senate Ag Committee drafted legislation based on input from stakeholders and raw milk producers, which does not appear to be considered in drafting the new bill.

In 2020, legislation was introduced to regulate labeling and advertising for the sale of raw milk in S.B. 308 (2020). Senate

committee members worked with various stakeholders and after receiving feedback proposed bill language that required a label on raw milk and raw milk products indicating that the product is not pasteurized. This version also required that any advertising “not be false or misleading.” This final version of S.B. 308 was not advanced because of the legislature’s closing as a result of COVID-19. In 2021, similar labeling language was introduced but did not advance.

There is no reason to introduce legislation that further regulates this safe and nutritious product. Yet the new bill, S.B. 346 would also require that the label include that raw milk “could contain bacteria that may cause foodborne illness.” Under the prior version of the bill, consumers will be notified that the product is not pasteurized. That is sufficient notice to consumers who already understand the risks involved by communicating directly with the producers.

More importantly, FTCLDF opposes Section 6 (c), which would permit the Secretary of Agriculture the ability to declare “an imminent health hazard” and take action. This provides the Secretary far too much discretion and provides no guidelines or basis on which the Secretary can make such a declaration. Despite the fact that it is clear that raw milk is lawful, it is not at all clear that the law would prohibit the Secretary from deciding that any raw milk or raw milk product could cause “an imminent health hazard.” Such conclusion would contradict years of state policy concerning raw milk and raw milk products and grants authority to the Secretary well beyond what careful deliberation of policy has led to the current law.

Raw Milk is a Safe and Nutritious Product

- **Published, peer-reviewed scientific studies show health benefits from raw milk.** Multiple studies have found that drinking “farm” (raw) milk protects against asthma and allergies.¹ A 2015 study found that raw milk consumption reduced the risk of rhinitis, respiratory tract infections, ear infections, and fever by around 30% compared to the

¹ See Riedler, J. et al. 2001. Exposure to farming in early life and development of asthma and allergy: a cross-sectional survey. *Lancet* 358:1129-33. Perkin, M.R. and D.P. Strachan. 2006. Which aspects of the farming lifestyle explain the inverse association with childhood allergy? *J Allergy Clin Immunol*. 117(6):1374-8. Waser, M. et al. 2006. Inverse association of farm milk consumption with asthma and allergy in rural and suburban populations across Europe. *Clinical and Experimental Allergy* 37:661-670. Perkin, M.R. 2007. Unpasteurized milk: health or hazard? *Clinical and Experimental Allergy* 37:627-630.

consumption of ultra-pasteurized milk.² Pasteurization denatures proteins, inactivates enzymes, and destroys heat-sensitive vitamins.

- **Raw milk is not a high-risk food.**

Nationwide, there are an average of 134 illnesses per year attributed to raw milk, out of an estimated nine and a half **million** people who drink it. There were similar numbers of illnesses attributed to pizza (104 illnesses/yr avg) and far more to deli sandwiches (243 illnesses/yr avg).

- **The Center for Disease Control data shows few Kansas illness caused by raw milk.**

During the period 1998 – 2017, the CDC data indicates that there were 16 illnesses attributed to raw milk or cheese in Kansas, and zero hospitalizations. Compared to other food illnesses, this is quite low and poses little risk to Kansas consumers.³

- **Any further legislation will harm raw milk producers and consumers.**

Farmers in general are struggling to make ends meet. The increased demand by consumers for farm fresh products, including raw milk, has been a lifeline to many farmers. Members of the Farm-to-Consumer Legal Defense Fund emphasize the need for this business to stay afloat. Kansas legislation should support small farmers' ability to make a living and contribute to the local economy. Furthermore, many consumers seek out raw milk for the health benefits cited above. To further restrict production or advertising of this healthy product would interfere with consumers' ability to find healthy food of their choice

Conclusion

For the reasons stated herein, the FTCLDF and its members opposed SB 346

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² G. Loss et al., Consumption of unprocessed cow's milk protects infants from common respiratory infections, *J. of Allergy and Clinical Immunology* 134: 56-62 (2015).

³ <https://www.Cdc.gov/norsdashboard>