

6 V.S.A. Chapter 152

Raw Milk Sales

Guideline for Retail Sales Direct
From Farm to Consumer

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History

- For several decades the law allowed the sale of 25 quarts per day of raw milk to be sold at the farm
- In 2008 this was raised to 50 quarts per day
- In 2009 a two tiered system was put into place with Tier I selling up to 50 quarts per day and Tier II allowed up to 160 quarts per day and allowed for delivery; but added some requirements and accountability
- In 2011 the allowable sales were changed from strictly fluid milk to fluid milk for personal consumption
- In 2014 delivery to Farmers Markets for Tier II producers was added along with changing the totals allowed to a weekly total with a requirement for milk being sold within 4 days of when it is harvested from the animal
- In 2015 TB and Brucellosis animal health testing requirements were changed from annual, to requiring all animals be done once and then animals entering the milking herd, including those born on the farm. The upper limit for sales as a Tier II producer was raised to 350 gallons per week. The testing of the milk was changed to allow the milk to be transported to the lab in containers approved by the certified lab. Suspension of milk sales was changed to be after the producer was in violation 3 out of the last 5 times. The sign required to be at the point of sale at the farm is now also required when delivering at Farmers Markets.

What are the Common Pathogens That May be in Raw Milk

- Common bacteria include *Salmonella*, *E. coli*, *Listeria*, *Campylobacter* and *Brucella*.
- CT in 2008 seven people sick with several hospitalized with one child on dialysis for E. Coli O157:H7 in raw milk
- VT 2010 there were three outbreaks of *Campylobacter* where raw milk was implicated
- **Pasteurization works** “the incidence of milk-borne illness in the US has decreased from approximately 25 per cent of all reported food borne illness outbreaks in 1938 to less than 1 per cent of reported outbreaks today.” (VT Health Department)

6 V.S.A. Chapter 152

The Statutes Related to the Sale of Unpasteurized, or Raw Milk

- Sets up two tiers of producers that could sell, give or barter raw milk directly to consumers without requiring a milk handler's license
 - 87.5 gallons (350 quarts) per week or less
 - More than 87.5 gallons up to 350 gallons (351 to 1400 quarts) per week
- For simplicity in describing the legislation Tier 1 is used for 87.5 Gallons and less; and Tier 2 will be used for the more than 87.5 up to 350 gallon group or for those that deliver
- Rules and privileges are given to each tier.

Definitions 6 V.S.A Section 2776

- 1) “Consumer” means a customer who purchases, barter for, receives delivery of, or otherwise acquires unpasteurized milk from the farm or delivered from the farm.
- 2) “Personal consumption” means the use by a consumer of unpasteurized milk for food or to create a food product made with or from unpasteurized milk which is intended to be ingested by the consumer, members of his or her household, or any nonpaying guests.
- 3) “Unpasteurized milk” or “unpasteurized (raw) milk” means milk that is unprocessed.
- 4) “Unprocessed” means milk that has not been modified from the natural state it was in as it left the animal, other than filtering, packaging, and cooling.

Privileges

May sell unpasteurized (raw) fluid milk, for personal consumption only, under the following two tier system:

- Tier 1
 - May sell, barter or give away milk on the farm where it is produced
 - May sell 87.5 gallons (350 quarts) or less per week
 - May allow customers to fill their own bottles (containers)
- Tier 2
 - May sell, barter or give away milk on the farm where it is produced
 - May sell up to 350 gallons (1400 quarts) per week
 - May deliver if milk is presold and they follow the added requirements in the statute for tier 2
- Farmers that sell 87.5 gallons per week or less may deliver if they meet Tier 2 requirements

NOTE: Personal consumption does not include taking raw milk products to a social function or otherwise distributing the products made.

Common Requirements for Both Groups

- Milk may only be sold, bartered or given directly to the end user **at the farm where it is produced** (unless Tier II requirements are met)
- Milk may be sold, bartered or given by the farm for personal consumption only.
- Milk and cannot be resold or redistributed by the buyer.
- No free samples or milk sales at farmers markets or locations other than the farm where it is produced.
- Farmers may advertise and collect payment for milk at farmers markets or other locations as long as the customer comes to the farm to pick the milk up. (Tier II may then deliver the milk to the customer's home or a Farmers Market. See delivery section later in document.)

Common Requirements - Animal Health

- Must be from healthy animals that are subject to veterinarian care and have current Rabies vaccinations, TB tests and Brucellosis tests, with results prominently posted and available to customers and the state.
 - This testing and vaccinations must be done **prior to selling any milk.**
 - Segregating a group of animals within a herd and only testing those used for producing milk for raw milk sales is not permitted.
 - All milking animals must have current rabies vaccinations with veterinarian's verification of vaccination posted.
 - TB and Brucellosis requirements are on the next page.

Common Requirements - Animal Health (continued)

TB and Brucellosis

- All animals tested prior to the sale of any milk.
- All animals entering the herd, including those born on the farm unless those entering the herd meet one of the following:
 - i. The dairy animal has a negative USDA approved brucellosis test within 30 days prior to the importation in the state.
 - ii. The dairy animal has a negative USDA approved TB test within 60 days prior to the importation in the state.
 - iii. The dairy animal leaves and then subsequently reenters the producer's herd from a state or Canadian province that is classified as "certified free" of brucellosis and "accredited free" of TB or an equivalent classification.

Common Requirements for Both Groups

- Animals udders and teats cleaned and sanitized prior to milking
- Animals housed in a clean dry environment
- Milking equipment of sanitary construction, cleaned after each milking, and sanitized prior to the next milking
- Milking done in a clean environment appropriate for maintaining cleanliness

Common Requirements for Both Groups

- A potable water supply tested every three years **or whenever it is modified** must be available for washing and sanitizing of the milk handling equipment and packages as well as hand washing.
- If an animal is treated with antibiotics its milk must be tested and found free of antibiotics prior to being offered for sale.
 - Testing for antibiotic residue must be done utilizing a test validated for the drug used in the treatment (FDA Approved test kits must be used)

Record Keeping and Reporting Requirements for Both Groups

- A producer shall keep a composite sample of each day's milk frozen for two weeks. This sample will be made available to the Agency of Agriculture if requested.
 - It is recommended that at least two samples are taken so that if someone gets sick, there will be a duplicate sample for you or your insurance company to use. Producers should consider keeping the samples for 30 days but are not required to.
- A producer shall maintain a list of all customers including addresses, telephone numbers, and email when available.
- A producer shall maintain list of transactions for at least one year with customer name, date of purchase, and amount purchased

Labeling Requirements for Both Groups

- Date milk obtained from animal. If multiple days milk in the tank or milk-can then the date would be that of the oldest milk in the container. Milk can not be transferred to the customer beyond 4 days from this date.
- Name, address including zip code, and telephone number of the producer
- Common name for the type of animal (cattle, goat, sheep, etc.) or a picture
- The words “Unpasteurized (Raw) Milk. Not Pasteurized. Keep Refrigerated” on the principle panel clearly readable at least 1 / 8 inch high
- Also required is the warning shown on the next page.

Labeling Requirements for Both Groups

- On principal display panel at least 1 / 16 of an inch high the following warning:
“This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.”

Temperature Requirements for Both Groups

- Milk shall be cooled to below 40°F within 2 hours of the end of milking and held there until it is obtained by the consumer.
 - Milk needs to be cooled rapidly in a sanitary fashion (bulk tanks are not a requirement).
 - Cooling media around containers must be sanitary such as water from a tested supply changed often (recommended daily) or other acceptable means
 - If cooled by placing containers in a water bath or similar means be sure the container is immersed in the water to the milk line but the cap or cover is not submersed
 - Packaged milk must be held below 40°F and out of direct sunlight until it is delivered to the consumer (sunlight can give milk an oxidized off-flavor is a fairly short period of time)

Storage and Cleaning of Storage Container

Both Groups

- You must have enough cooler(s) capacity to hold your largest day of sales
- Bulk Milk Storage Container (Bulk Milk Tank, Stainless Steel Cans or other approved vessel) must be cleaned and sanitized after each emptying.
- Bulk Milk Storage Container must be emptied within 24 hours from the first time milk is removed.
- Milk may be stored up to 72 hours if no milk is removed.
- If the bulk milk storage container is not emptied, cleaned and sanitized daily there must be a written log posted in a prominent place that gives the times when milking, cleaning and sanitizing occur. This can be a calendar with the information written on it as long as it is easily read and labeled as the Milking/Cleaning Log (or equally clear statement).
- Milk cannot be sold (transferred in any way) to the customer if over 4 days old.

Customer Inspection and Signage For Both Groups

- Customers shall be offered a tour of the farm and any area associated with the milking operation.
- A sign is to be posted that has one inch text and clearly readable in a place easily seen by customers. The sign is to state:

“Unpasteurized (Raw) Milk. Not Pasteurized. Keep Refrigerated”

And

“This product has not been pasteurized and therefore may contain harmful bacteria that can cause illness particularly in children, the elderly, and persons with weakened immune systems and in pregnant women can cause illness, miscarriage, or fetal death, or death of a newborn.”

Tier 2 Requirements

- All of Tier 1 plus the following
- Must register with the Agency.
 - A form is available on line or from the Agency and asks for the name, mailing address, 911 physical location (if not the same as the mailing address), phone number and email if the farm has one.
 - The Agency will then note the first passed inspection, The first date of passing results from an accredited lab and note the date the Agency accepted the registration. A copy of the registration will be sent to the farm once accepted so that you will have it if you choose to deliver at a farmers market.
- Annually inspected by the Vermont Agency of Ag inspectors
 - This inspection will be scheduled for the first visit and then be unannounced in future years. Multiple inspection may occur if needed.

Tier 2 Requirements

- Bottles (containers) must be filled by the producer
 - The customers cannot fill their own bottles
- Bottles (containers) cleaned by producer unless the customers have their names and address on their bottles (containers).
 - Either way the producer is responsible that the bottles (containers) are clean before filling.

Tier 2 Testing Requirements

- A producer must have the milk tested twice each month by an FDA accredited lab by submitting samples in the container(s) required by the lab and be below the following limits:
 - Total bacteria count - 15,000 cfu/ml - Total coliform count - 10 cfu/ml
 - Somatic cell count: 225,000/ml for cattle; 500,000/ml for goats
- All results must be forwarded to the Agency within 5 days
- Whenever two of the last four counts for the same test are over the limit a warning letter will be issued by the Agency stating you must stop selling milk if you have three sample results in the last five that are over the limit for the same test.
- Results must be kept for a year and prominently posted where customers can see.

Persons that wish to have their milk tested should contact an accredited lab for specific methodology and handling.

The contact for the state lab is Romeo Cyr (802) 585-4436 for details and scheduling.

The state lab will accept samples in 2 ounce universal vials (total of 3 vials: one for temperature control and two for testing); 18 ounce whirl-pack bags (two bags: one for temperature control and one for testing) or a full container of milk as sold to the consumers.

Tier 2 Requirements

- Every year, on or before March 1, the producer must report total gallons sold in the previous 12 months.
 - This is interpreted to mean the preceding calendar year's 12 month period.
 - These results should be mailed to:

Dairy Section
Vermont Agency of Agriculture, Food and Markets
116 State St.
Montpelier, VT 05620-2901

Or emailed to: agr.dairy@state.vt.us
- May sell up to 350 gallons (1400 quarts) per week

Tier 2 Requirements

Delivery

- May deliver to a customer's home
- May deliver to a Farmer's Market if the following are met:
 - The producer notifies the Agency that they will be delivering at the Farmer's Market (by email or other acceptable means) stating the day(s) of the week the market occurs.
 - Registration given by the Agency and warning sign that is required at the point of sale at the farm (Slide 17) must be displayed in a prominent place clearly visible to consumers.
 - May only deliver to customers who have paid for the milk prior to the market opening.
 - Milk is kept cold (40°F or below) and protected from direct sunlight at the market.

Tier 2 Delivery

- Only can sell and deliver within the state of Vermont
- Customers must have purchased the milk in advance
- Must deliver directly to the customers home's or a refrigerated unit at the customers home that is capable of storage below 40°F
- Must protect from sunlight and maintain the milk below 40°F throughout delivery
- You must have enough portable coolers or other means to hold your largest day of sales and be able to demonstrate that to the Agency's inspector.
- Can contract with someone to deliver for them but the producer and delivery person are jointly and severally liable that the rules are followed.

Educational Dairy Product Classes Utilizing Raw Milk

- Educational classes showing consumers how to make foods utilizing raw milk can be held following the principles of Chapter 152
 - They must be held at the farm where the milk was produced
 - A sample of the milk utilized in the class must be frozen and saved for at least two weeks (can be the same sample frozen for normal sales)
 - Classes must be held in clean and sanitary location.
 - A sign equivalent to the consumer information sign that is posted at point of sale, must be clearly displayed during the class.
 - The attendees must all have been offered a tour of the farm's production areas prior to the class
 - A list of attendees with contact information must be kept by the farm for one year.
 - Samples of the foods made may be consumed by the class but not otherwise distributed.
 - Any fees charged need to clearly be identified as payment for the educational opportunity rather than as a payment for dairy products produced during the class.
 - The classes cannot be used as a marketing method to sell dairy products other than raw milk.

Dairy Product Making Classes Other Than on the Farm Where the Milk is Produced

- The following class scenarios are considered acceptable by the Agency as long as the classes are held for educational purposes and not as a means of selling dairy products.
 - Classes using pasteurized milk as a base; in a Health Department licensed food establishment such as a school cafeteria or a restaurant; or licensed dairy plant. Products made may be sampled.
 - Classes in other locations may demonstrate how to make products but no sampling of the final product may occur.
- If you have other ideas for classes you should discuss them with the dairy section at the Agency to see if there is a way to accommodate what you are trying to do within the statutory language.

Resources for Information

- Dairy Section of the Vermont Agency of Agriculture
 - (802) 828-2433
- Romeo Cyr at the Laboratory Section of the Vermont Agency of Agriculture
 - (802) 585-4436
- The Dairy Practices Council has educational guidelines on a variety of dairy subjects - www.dairypc.org
- Rural Vermont has guides for both farmers and consumers of raw milk (802) 223-7222